



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM230Nov17

In the matter between:

Trans Hex Group Ltd

Primary Acquiring Firm

And

West Coast Resources (Pty) Ltd

Primary Target Firm

Panel : Norman Manoim (Presiding Member)
: Medi Mokuena (Tribunal Member)
: Fiona Tregenna (Tribunal Member)
Heard on : 06 December 2017
Order Issued on : 06 December 2017
Reasons Issued on : 20 December 2017

Reasons for Decision

Approval

- [1] On 06 December 2017, the Competition Tribunal ("Tribunal") unconditionally approved the transaction involving Trans Hex Group Ltd and West Coast Resources (Pty) Ltd.
- [2] The reasons for approving the proposed transaction follows.

Parties to the proposed transaction

Primary acquiring firm

- [3] The primary acquiring firm is Trans Hex Group Limited ("Trans Hex"), a public company incorporated in accordance with the laws of the Republic of South Africa. Trans Hex is jointly controlled by Cream Magenta 140 (Pty) Ltd, Metacap 14 (Pty) Ltd and RAC.¹
- [4] Trans Hex controls numerous firms in South Africa and holds a 40% shareholding in the target firm. Trans Hex is engaged in diamond exploration and mining with operations in South Africa and Angola. In addition, Trans Hex is also involved in cutting and polishing diamonds in South Africa and the market of diamond worldwide.²

Primary target firms

- [5] The primary target firm is West Coast Resources (Pty) Ltd ("WCR"), a private company incorporated in accordance with the company laws of Republic of South Africa. WCR is not controlled by any firm and does not control any firm.³
- [6] WCR is engaged in the exploration, mining and supplying of rough diamonds from the Namaqualand Region to the international market. WCR is not active in the supply and the marketing of its diamonds to the end customer. In this regard, Trans Hex contract manages WCR's operations in Namaqualand.

¹ Cream Magenta is controlled by Cool Ideas (Pty) Ltd ("Cool Ideas"). Cool Ideas is in turn controlled by Christina Helmien Wiese Trust ("CHW Trust"). The trustee of the CHW Trust is Christina Helmien Wiese. Metacap is controlled by Capstone 597 (Pty) Ltd ("Capstone"). Capstone is controlled by the Caroline Claire Wiese Trust ("CCW Trust") and the trustee of CCW Trust is Caroline Claire Wiese.

² Trans Hex's mining operations are conducted through its South African Baken and Bloeddrif mine.

Proposed transaction and rationale

- [7] In terms of the Share Sale Agreement, Trans Hex intends to increase its shareholding in WCR from 40% to 67.2% by acquiring these shares from RAC. Post-merger Trans Hex will acquire control WCR.

Impact on competition

- [8] The Commission considered the activities of the merging parties and found that the proposed transaction presented a horizontal overlap in the production of rough diamonds and internationally and a vertical overlap as Trans Hex supplies and markets WCR's product to the end customer. The Commission found that post-merger the merged entity will have a low market share and that the proposed transaction will not result in any foreclosure concerns.
- [9] As such the Commission submitted that the proposed merger is unlikely to lessen or prevent competition in the international market for the production and supply of rough diamonds. The Commission therefore recommended that the proposed transaction be approved unconditionally.
- [10] We concur with the Commission's finding. However the transaction can simply be evaluated on the basis that it is an internal restructuring within the same control group. Trans Hex by acquiring a majority interest in WCR is able to consolidate its interest in the latter for accounting purposes. However for control purposes WCR remains subject to the same control group as it did pre-merger. The merger thus does not lead to any change in incentives.


Public interest

- [11] The merging parties confirmed that the proposed transaction will not have any negative effect on employment in South Africa.

[12] The proposed transaction further raises no other public interest concerns.

Conclusion

[13] In light of the above, we conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. In addition, no public interest issues arise from the proposed transaction. Accordingly, we approve the proposed transaction unconditionally.



Mr Norman Manoim

20 December 2017

DATE

Mrs Medi Mokuena and Prof Fiona Tregenna concurring

Tribunal Case Manager : Ms Busisiwe Masina
For the merging parties : Mr Sivuyise Lutshiti of Bowmans
For the Commission : Ms Nonhlanhla Msiza and Zanele Hadebe