

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No.: 15/LM/MAR11

In the matter between:

**CAXTON AND CTP PUBLISHERS AND PRINTERS
LIMITED**

Applicant

and

MEDIA24 LIMITED

1st Respondent

PAARL COLDSET (PROPRIETARY) LIMITED

2nd Respondent

**THE NATAL WITNESS PRINTING AND
PUBLISHING COMPANY LIMITED**

3rd Respondent

In re:

MEDIA24 LIMITED

Primary Acquiring Firm

PAARL COLDSET (PROPRIETARY) LIMITED

Primary Acquiring Firm

And

**THE NATAL WITNESS PRINTING AND
PUBLISHING COMPANY (PROPRIETARY)
LIMITED**

Primary Target Firm

Panel : N Manoim (Presiding Member), A Wessels (Tribunal Member) and A Ndoni (Tribunal Member)

Heard on : 6 September 2011

Decided on : 7 September 2011

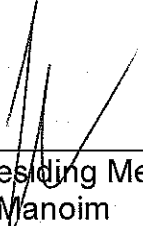
ORDER

Having heard the parties to the application for intervention, the Tribunal orders the following:

1. The applicant is granted leave to intervene in the merger proceedings before the Tribunal under the above case number, such intervention being limited to the likely effect of the merger between the merging parties under section 12A(2) of the Competition Act, 1998 ("the Act"), with specific reference to the following issues:
 - 1.1. Whether the merger would lead to foreclosure of firms in the newspaper publishing market(s) by reason of foreclosure of inputs provided by the proposed merged firm in the upstream coldset printing market;
 - 1.2. Whether the merger would lead to predatory pricing and or/bundling by the proposed merged firm in the newspaper publishing market(s);
 - 1.3. Whether there has been prior implementation of a merger in respect of the acquisition of control over the Natal Witness and/or African Web and if so, when; provided that this issue will be limited to the application of the facts to an analysis of the economic issues in the merger, including the determination of the relevant counterfactual(s) and actual effects on prices, but will not include, except insofar as is necessary to the economic analysis, the question of whether or not an acquisition was lawful; and
 - 1.4. Consideration of the adequacy of the conditions proposed by the Commission, insofar as they purport to address the issues referred to in paragraphs 1.1 and 1.2 above and/or any remedy proposed by the applicant to address the theories of harm in paragraphs 1.1 and 1.2 above.

2. The applicant's participation in the merger hearing shall include the right to:
 - 2.1. Attend pre-hearing conferences;
 - 2.2. Have access to, and inspect any documents filed by any of the merging parties and other participants in the merger proceedings, provided that any confidential information shall unless otherwise directed be limited to the applicant's legal representatives and experts on condition they provide appropriate undertakings to respect and protect the confidentiality;
 - 2.3. Call for the discovery of further documents from the merger parties and other participants in the merger proceedings;
 - 2.4. Request the Tribunal to direct, summon and/or order any person to appear at the merger hearing and/or to produce documents relevant to the merger hearing;
 - 2.5. Participate in any interlocutory proceedings in respect of the merger hearing;
 - 2.6. Adduce oral and documentary evidence at the merger hearing;
 - 2.7. Cross-examine any of the witnesses of the merger parties and any other participants of the merger hearing; and
 - 2.8. Present argument at the merger hearing.

3. The participation rights granted in paragraph 2 above will be subject to:
 - 3.1. Limitations on their exercise imposed by the Tribunal from time to time during the course of proceedings to ensure the expedition and efficiency of the hearings;
 - 3.2. Adherence by the applicant to any timetable set by the Tribunal for attending to any pre-hearing procedures and filing of any processes in this matter;
 - 3.3. The requirement that the applicant produce its list of proposed witnesses by no later than three business days after date of receipt of the confidential record; provided further that if the applicant seeks to call any witness already being called by the Commission in this matter the Commission shall have priority to lead such witness; and
 - 3.4. The applicant indicating the nature of remedy it will seek the Tribunal to impose by a date to be indicated by the Tribunal.
4. The Commission must, subject to appropriate confidentiality undertakings, provide the applicant with the confidential record of its proceedings within three business days of this order.
5. The costs of this application are reserved pending determination of the merger at the main hearing.



Presiding Member
N Manoim

Concurring: A Wessels and A Ndoni