

SOUTH AFRICA / JUDGMENT

Computershare South Africa v JSE Limited and Others (IM141Dec19; DSC175Mar20) [2020] ZACT 94 (2 April 2020)

[2020] ZACT 94

COURT

Competition Tribunal

BEFORE

M Mazwai, Y Carrim, T Vilakazi

CASE / FILE NUMBER

IM141Dec19; DSC175Mar20

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THE COMPETITION TRIBUNAL OF SOUTH AFRICA

IM141Dec19/DSC175Mar20

In the application for further and better discovery between:

Computershare South Africa Applicant

and

JSE Limited First

Respondent

Link Market Services South Africa (Pty) Ltd Second Respondent

In re: the application for the reconsideration of the intermediate merger between

IM141Dec19

JSE Limited Primary

Acquiring Firm

Link Market Services South Africa (Pty) Ltd Primary Target Firm

And

Competition Commission Respondent

Computershare South Africa Intervenor

Panel M Mazwai (Presiding Member)

Y Carrim (Tribunal Panel Member)

T Vilakazi (Tribunal Panel Member)

Heard on : 02 April 2020

Decided on : 02 April 2020

ORDER

HAVING read the documents filed of record and considered the matter, the following agreement between Computershare South Africa ("CSA"), JSE Limited ("the JSE") and Link Market Services South Africa (Pty) Ltd ("LSA") regarding CSA's interlocutory application to compel discovery from the JSE and LSA is hereby made an order:

1. The documents sought by CSA under item 9.1 of the application have been provided by the JSE and thus the request is satisfied.
2. In response to the documents sought under item 18 of CSA's application, the JSE will provide an affidavit deposed to by an appropriate person with personal knowledge of the facts stating that the JSE does not have in its possession or control any documents relating to complaints of actual or perceived conflicts of interest on the part of the JSE, which will be provided no later than 17h00 on 03 April 2020.
3. In response to the documents sought under item 19 of CSA's application, the JSE has provided copies of pricing schedules or similar documents reflecting exchange-related fees including listing, trading, clearing, BDA and/or other relevant fees for the 2014 to 2019 financial years and thus the request is satisfied.
4. In response to the documents sought under item 23, the JSE confirms that it does not have monthly management accounts in its possession or control but will provide all its monthly financial information decks for the 2014 to 2019 financial years, which are auto-produced for the executive committee on a monthly basis from the JSE's general ledger. Such documents will be made accessible through Webber Wentzel's HiQ document sharing platform to protect their confidentiality, such that they cannot be downloaded or shared, but information can be highlighted and copied across into an excel spreadsheet for the purposes of analysing the data.
5. In response to the documents sought under item 35 of CSA's application, LSA and its subsidiary Link Investor Services (Pty) Ltd ("LIS") will provide:

5.1. all their respective monthly management accounts, for the 2014 to 2019 financial years, reflecting the relevant financial data in the most disaggregated form in which such monthly management accounts were produced, being in no less detailed form than the January 2014 sheets provided by the merging parties to CDH on 1 April 2020. Such documents will be made accessible through Webber Wentzel's HiQ document sharing platform to protect their confidentiality, such that they cannot be downloaded or shared, but information can be

highlighted and copied across into an excel spreadsheet for the purposes of analysing the data; and

5.2. a written statement from an appropriate person at Link Market Services Limited stating that, throughout such period, nothing further by way of monthly management accounts was prepared and/or received by LSA or LIS and that no fuller, more detailed, or disaggregated monthly management accounts as recorded in paragraph 5.1 above were prepared concerning LSA or LIS by the seller in the proposed transaction, being Link Market Services Ltd, based in Australia. Such written statement is to be provided no later than 17h00 on 08 April 2020.

6. CSA will not pursue its requests for revenue information from the JSE and LSA under items 22 and 35 of its application.
7. The information will be provided in accordance with the prevailing confidentiality regime between the parties.

Ms. M Mazwai Presiding Member

Date: 2 April 2020 Date

Concurring: Ms Y Carrim and Dr T Vilakazi

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CASE PAGE <https://chat.esheria.ai/case-law/south-africa/computershare-south-africa-v-jse-limited-and-others-unknown-topic-act-2020>

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