

SOUTH AFRICA / JUDGMENT

Investec Bank Limited v MB Technologies Investments (Proprietary) Limited

(020446) [2015] ZACT 26 (23 March 2015)

[2015] ZACT 26

COURT
Competition Tribunal

BEFORE
M Mokuena, A A Roskam, I I Valodia

CASE / FILE NUMBER
020446

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COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 020446

In the matter between:

Investec Bank Limited.....Primary Acquiring Firm

And

MB Technologies Investments (Proprietary) limited.....Primary Target Firms

Panel: Medi Mokuena (Presiding Member)

: Anton A Roskam (Tribunal Member)

: Imraan I Valodia (Tribunal Member)

Heard on: 4 March 2015

Order Issued on: 4 March 2015

Reasons Issued on: 23 March 2015

Reasons for Decision (non-confidential)

Approval

[1] On 4 March 2015 the Competition Tribunal (“Tribunal”) unconditionally approved the merger between Investec Bank Limited (“investee”) and MB Technologies investments (Proprietary) Limited (“MBT”).

[2] The reasons for approving the proposed transaction follow.

Parties to transaction

Primary acquiring firm

[3] The primary acquiring firm is Investec, an international specialist banking group that provides a variety of financial products and services to a niche client base. It is a company incorporated in South Africa and a wholly-owned subsidiary of Investec Limited. Investec Limited is not controlled by any single firm.

Primary target firm

[4] MBT is active in the information technology (“IT”) sector as a seller and distributor of IT equipment. MBT is a private company incorporated in South Africa.

Proposed transaction and rationale

[5] The proposed transaction, through which Investec is exercising certain rights, is the acquisition by Investec of ... of the shares held in MBT.

Impact on competition

[6] The Commission found no horizontal overlap between the merging parties as Investec is an international banking group which provides financial services as opposed to MBT which is a seller and distributor of IT equipment. Further, Investec did not have a controlling interest in any company that sells or distributes IT hardware or equipment.

[7] The Commission identified a vertical relationship between the merging parties as Investec procures IT hardware and equipment from MBT. The Commission on analysing the effect of this relationship found that there were many players in the market such as Pinnacle Holdings and Mustek Electronics who supply IT hardware and equipment throughout South Africa. The Commission therefore concluded that the proposed transaction was unlikely to raise any foreclosure issues.

[8] Therefore the Commission recommended that the transaction be approved as there is no horizontal overlap and it does not raise any foreclosure concerns. We agree with the Commission’s recommendation and find that the transaction is unlikely to substantially lessen or prevent competition.

Public interest

- [9] The merging parties confirmed that the proposed transaction will not result in an adverse impact on employment.¹ The proposed transaction further raises no other public interest concerns.

Conclusion

- [10] 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 transactions. Accordingly we approve the proposed transaction unconditionally.

23 March 2015

DATE

Imraan Valodia

Medi Mokuena and Anton Roskam concurring

Tribunal Researcher: Aneesa Ravat

For the merging parties: Natalie von Ey of Cliffe Dekker Hofmeyr Inc.

For the Commission: Amanda Mfuphi, Seema Nunkoo and Xolela Nokele

¹Inter alia merger record page 6

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