

SOUTH AFRICA / JUDGMENT

Momentum Group Ltd v Momentum Short-Term Insurance Company Ltd (66/LM/Jun12) [2012] ZACT 79 (3 September 2012)

[2012] ZACT 79

COURT

Competition Tribunal

BEFORE

Y Carrim, A Wessels, A Ndoni

CASE / FILE NUMBER

66/LM/Jun12

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COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 66/LM/Jun12

In the matter between:

Momentum Group LimitedAcquiring Firm

And

Momentum Short-Term Insurance Company LimitedTarget Firm

Panel : Yasmin Carrim (Presiding Member) Andreas Wessels (Tribunal Member)

Andiswa Ndoni (Tribunal Member)

Heard on : 31 July 2012

Order issued : 31 July 2012

Reasons

issued on : 03 September 2012

Reasons for Decision

Approval

On 31 July 2012 the Competition Tribunal (“Tribunal”) unconditionally approved the proposed merger between Momentum Group Limited and Momentum Short-Term Insurance Company Limited. The reasons for approval of the proposed merger follow below.

Parties to transaction

The primary acquiring firm is Momentum Group Limited (“Momentum”), a company incorporated under the company laws of the Republic of South Africa. Momentum is controlled by MMI Holdings Limited (“MMI Holdings”), a public company listed on the JSE Securities Exchange.

The primary target firm is Momentum Short-Term Insurance Company Limited (“MSTI”), a company incorporated under the company laws of the Republic of South Africa. Pre-merger MSTI is jointly owned and controlled by Momentum (50%) and OUTsurance Holdings Limited (“OUTsurance”) (50%). MSTI does not control any firms.

The core business activities of the MMI Holdings Group are long-term insurance, asset management, savings, investment, health-care administration and employee benefits. It also provides short-term insurance through the above-mentioned joint venture with OUTsurance, i.e. MSTI.

MSTI is part of the Momentum Retail business unit. It markets and sells short-term insurance products (specifically motor, household and business insurance) through independent brokers and agents.

Proposed transaction and rationale

Momentum already owns 50% of the issued share capital of MSTI. In terms of the proposed transaction Momentum intends to acquire the remaining 50% of the issued share capital of MSTI from OUTsurance.

Momentum submitted that the acquisition of MSTI will inter alia create the necessary intellectual property, skills and capacity within MMI Holdings to leverage during future opportunities that could present itself in the short-term insurance industry both locally and internationally.

In terms of MSTI’s perspective, the current shareholding structure is not optimal for its success. OUTsurance would therefore prefer to sell its stake in MSTI, as the business strategy and marketing positioning of MSTI is better aligned with that of MMI Holdings.

Relevant market(s) and impact on competition

There is an overlap in the activities of the merging parties in respect of the provision of the short-term insurance. According to the merging parties, if narrower short-term insurance segments are considered, their activities only overlap with regards to the segments (i) property; and (ii) liability. The merged entity’s post-merger national market share in the broad market for the provision of short-term insurance, as well as in each of the narrower segments, will be less than 5%. Competitors in the market for short-term insurance include Santam, Mutual & Federal,

Hollard, OUTsurance and Zurich. The proposed transaction is therefore unlikely to substantially prevent or lessen competition in any relevant market.

Public interest

The merging parties confirmed that the proposed transaction will have no adverse effects on employment in South Africa.¹ The proposed deal raises no other public interest concerns.

CONCLUSION

We approve the proposed transaction unconditionally.

03 September 2012

A Wessels DATE

Y Carrim and A Ndoni concurring

Tribunal researcher: Thabo Ngilande

For the merging parties: Webber Wentzel

For the Commission: Mogalane Matsimela

¹See pages 5 and 83 of the merger record.

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