

SOUTH AFRICA / JUDGMENT

RH Bophelo Operating Company (Pty) Ltd v Perthpark Properties (LM154Feb20) [2020] ZACT 16 (14 April 2020)

[2020] ZACT 16

COURT

Competition Tribunal

BEFORE

Mondo Mazwai, Imraan Valodia, Fiona Tregenna

CASE / FILE NUMBER

LM154Feb20

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COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM154Feb20

In the matter between:

RH Bophelo Operating Company (Pty) Ltd

Primary Acquiring Firm

And

Perthpark Properties in respect of the Shares and Primary Target Firm

Claims in Rondebosch Medical Centre (Pty) Ltd and

Broadcount Investments (Pty) Ltd in respect of

property known as Rondebosch Medical Centre

Hospital Property

Panel: Ms Mondo Mazwai (Presiding Member)

Prof. Imraan Valodia (Tribunal Member)

Prof. Fiona Tregenna (Tribunal Member)

Heard on: : 11 March 2020

Order Issued on: 11 March 2020

Reasons

Issued on: 14 April 2020

REASONS

FOR DECISION

Approval

1. On 11 March 2020, the Competition Tribunal unconditionally approved a proposed merger transaction whereby RH Bophelo Operating Company (Pty) Ltd intends to acquire control of Rondebosch Medical Centre and Rondebosch Medical Centre Hospital Property.
2. The reasons for our approval follow.

Parties to the transaction

Primary Acquiring Firm

3. RH Bophelo Operating Company (Pty) Ltd (“RH Bophelo”) is a listed company that holds various equity interests in a number of private hospitals which are located in the North West and Gauteng Provinces. It also has a sole interest in a medical operating management, services and facilities company which operates and manages three hospital facilities. Two of these hospital facilities are located in the Free State and one is in Gauteng. RH Bophelo also manages a number of medical facilities in the North West and in Mpumalanga.
4. The Public Investment Corporation (“PIC”) controls RH Bophelo.

Primary Target Firm

5. The Rondebosch Medical Centre (“RMC”) provides acute hospital services which include medical services, paediatric services, intensive care services and maternity services.
6. The Rondebosch Medical Centre Hospital Property (“Hospital Property”) comprises a collective gross leasable area (GLA) of 17 700m². RMC is located on this property.
7. RMC already holds a 30% shareholding in RH Bophelo. The remainder of the shares are held by Perthpark Properties and other minority shareholders.

Proposed transaction

8. The proposed transaction entails RH Bophelo increasing its 30% shareholding in RMC to a 100% shareholding; and the acquisition of ownership and control over the Hospital Property.
9. In 2008, RH Bophelo acquired a 30% shareholding in RMC with an option to increase its shareholding by a certain percentage within four years after the acquisition of the 30% shareholding. RH Bophelo therefore wishes to offer to exercise its option and to acquire an additional stake in RMC, the Hospital Property, and RMC Pharmacy.

10. In terms of the proposed transaction, RH Bophelo will acquire (i) the remaining 70% shareholding and loan claims in RMC; (ii) sole control of the Hospital Property, and (iii) the entire share and claims for RMC Pharmacy through RMC. Upon implementation of the proposed transaction, RH Bophelo will exercise direct control over RMC and the Hospital Property; and indirect control over the RMC Pharmacy through RMC.
11. RH Bophelo submitted that the proposed transaction will, inter alia, bolster RH Bophelo's asset base in the Western Cape Province and in line with its mandate, provide affordable private hospital

costs. RMC submitted that in a market dominated by three large hospital groups[1], RH Bophelo provides a platform for stand-alone BEE hospitals such as RMC to join, which allows for, inter alia, access to capital for the growth and expansion of services offered by RMC and synergies between RMC and other private hospitals.

Competition Assessment

12. The Commission found that there was a horizontal overlap in the activities of the parties in the provision of acute multidisciplinary inpatient private hospital services; and considered this to be the relevant product market.
13. It found however that there was no geographic overlap in the activities of the merging parties since none of the hospitals in which the acquiring group (including the PIC) has a controlling interest, are located in the Western Cape.
14. In the national market (for the provision of acute multidisciplinary inpatient hospital services), the Commission found that hospitals compete on price and non-price factors. RH Bophelo's hospitals and RMC are part of the National Hospital Network ("NHN")

and negotiate tariffs on their behalf and other independent hospital groups. The Commission was of the view that the proposed transaction

was unlikely to result in tariff changes at RMC.

15. At the hearing the merging parties confirmed that there would be no changes to tariff negotiations through the NHN (at a national level), and that there may be some synergies in procurement.[2]
16. For the reasons above, we were satisfied that the proposed transaction was unlikely to substantially prevent or lessen competition in the relevant market.

Public interest

17. The merging parties submitted that no job losses will occur as a result of the proposed transaction. Employees were notified of the transaction and no concerns were raised.
18. No other public interest issues arise from the proposed transaction.

Conclusion

19. In view of the above, we were satisfied that the proposed transaction was unlikely to substantially prevent or lessen competition in any relevant market. In addition, the proposed transaction will not result in job losses or have adverse effects on any other public interest issues.
20. We therefore approved the proposed transaction without conditions.

14 April 2020

Date

Ms Mondo Mazwai

Prof. Fiona Tregenna and Prof. Imraan Valodia concurring

Tribunal Case Manager: Ndumiso Ndlovu

For the Merging Parties: P Bodlo of Motsoeneng Bill Attorneys Inc.

For the Commission: S Moshoma and R Maphwanya

[1] These are Netcare Limited, Mediclinic Southern Africa, and Life Healthcare group Holdings Limited.

[2] Transcript p7 lines 9-16 and p8 lines 10-18

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Prepared on 14 October 2026 · Esheria