

COMPETITION TRIBUNAL OF SOUTH AFRICA

CASE NO: 66/LM/JUN08

In the matter between:

PRIMETIME TRADING 6 (PTY)LTD

Acquiring Firm

and

TOURISM INVESTMENT CORPORATION LIMITED

Target firms

Panel : N Manoim (Presiding Member), Y Carrim (Tribunal Member), and
M Mokuena (Tribunal Member)

Heard on : 20 August 2008

Order issued on : 20 August 2008

Reasons issued on : 17 September 2008

REASONS FOR DECISION

APPROVAL

1. On 20 August 2008 the Tribunal approved the merger between the
aforementioned parties. The reasons for the decision follow:

THE TRANSACTION

2. This proposed transaction is an offer by a consortium of investors led by Union
Square Properties 100 (Proprietary) Limited ("Guma Tourism Holdings"), a BEE
company, via Primetime Trading 6 ("Bidco") which is the primary acquiring firm,
to the shareholders of Tourism Investment Corporation Limited ("Tourvest"), the

primary target firm. Tourvest's major shareholder is Imperial Holdings Limited ("Imperial") (61.8%).

3. In terms of the proposed transaction Bidco, which is a wholly owned subsidiary of Cherry Moss Trade and Investments 186 (Proprietary) Limited ("Holdco")¹, will acquire the entire issued share capital of Tourvest, except for certain shares held as treasury shares and/or unallocated shares for the benefit of employees ("Excluded Shares"). Guma Tourism Holdings will hold 51.03% of the shares in Holdco, thus controlling Holdco and Bidco. Old Mutual Life Assurance Company (South Africa) Limited ("OMLACSA") (which through underlying companies holds in excess of 50% of shares in Nedbank), will hold 30.54% of the shares in Holdco and will enjoy certain limited rights of control over Holdco. The Industrial Development Corporation of South Africa Limited ("IDC") (13.24 %) and a management trust (5.19 %) are the remaining shareholders of Holdco, but will not be in a position to exercise control over Bidco.

THE TRANSACTION RATIONALE

4. Imperial intends to use the sale proceeds from this transaction to reduce its existing debt. For the Guma Group this is an opportunity to expand its operations into the tourism industry. Tourvest management regards the proposed transaction as an opportunity to comply with BEE requirements in terms of the draft tourism Charter, while OMLACSA sees this as an attractive investment opportunity.

RELEVANT PRODUCT MARKET

¹ Brevity Trade 531 (Pty) Ltd ("New Opco") is a wholly owned subsidiary of Holdco which will acquire the shares in the target companies as well as the businesses and assets of the transferor companies.

5. A horizontal overlap exists in that Tourvest and Nedbank are both active in the market for provision of travel related foreign exchange services in which they both sell foreign bank notes and travelers' cheques in South Africa.
6. There is also a vertical relationship between Tourvest and Nedbank which arises from a contract in which Tourvest Financial Services supplied Nedbank with notes and repurchase surplus notes from them on a wholesale basis.

COMPETITION EVALUATION

Horizontal Analysis

7. The Commission found that in the market for the sale of foreign bank notes, the merged entity has an estimated post merger market share of approximately 22.1%, with a market share accretion of 5.2% post merger. They also found that there are other significant players in this market such as Bidvest Bank, Standard Bank SA, Absa Bank and First National Bank.
8. In the market for the sale of travelers' cheques, the Commission found that the merged entity has a post merger market share of approximately 30.1%, with a market share accretion of 10.6% post merger. Similarly, the Commission submitted that there are other significant players in this market that compete with the merging parties such as Standard Bank SA, Bidvest Bank, Absa Bank, FX Africa, First National Bank and Tower Bureau de Change.
9. At the hearing, the merging parties confirmed that there is no exclusive distribution relationship between Tourvest and American Express, which is currently the only supplier of travelers' cheques in South Africa.²

² Mr Mcdonic from Tourvest submitted that Tourvest only has exclusive rights to use the American Express Foreign Exchange *branding* from American Express International to 2019, and emphasized that this does not have any effects on the sale of travelers' cheques in South Africa. See pg. 4 of the transcript.

10. The Commission also assessed the combined markets for the sale of foreign notes and travelers cheques in South Africa and found that the merged entity has a post merger market share of 24.3% with a market share accretion of 6.7%. In this broad market, the Commission also found that there are many players that strongly compete with the merging parties such Bidvest Bank, Standard Bank, Absa Bank, First National Bank and FX Africa.

Vertical Analysis

11. The Commission submitted that the vertical relationship between Tourvest and Nedbank is unlikely to raise any input foreclosure concerns as there is no commercial incentive for Tourvest to only supply Nedbank post merger. In addition, it was submitted that foreign notes can be directly and easily imported by obtaining permission from the South African Reserve Bank, with approval which can take approximately 24 hours. The Commission also found that there are no customer foreclosure concerns as Nedbank's purchases from other suppliers, in any event, make up a very insignificant share of their total sales.

CONCLUSION

12. Given the low market share accretion post merger as well as the strong presence of competition in the relevant markets, we find that this merger will not result in any substantial lessening or prevention of competition. Accordingly, we approve the merger without conditions.
13. There are no public interest issues.

N Manoim

Tribunal Member

Y Carrim and M Mokuena **concur** in the judgment of N Manoim

17 September 2008

Date

For the merging parties : Cliffe Dekker

For the Commission : M. Dasarath (Mergers and Acquisitions)

Tribunal Researcher: L Xaba