



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 87/LM/OCT11

In the matter between:

ETHOS PRIVATE EQUITY FUND VI

Acquiring Firm

And

KEVRO (PTY) LTD

Target Firm

Panel : Norman Manoim (Presiding Member)
Yasmin Carrim (Tribunal Member)
Takalani Madima (Tribunal Member)
Heard on : 07 December 2011
Order issued on : 07 December 2011
Reasons issued on : 22 December 2011

Reasons for Decision

Approval

- 1] On 07 December 2011, the Competition Tribunal ("Tribunal") approved the large merger between Ethos Private Equity Fund VI ("Ethos Fund VI") and Kevro (Pty) Ltd ("Kevro"). The reasons for approving the proposed transaction follow below.

The Parties to the transaction

- 2] The primary acquiring firm is Main Street 942 (Pty) Ltd ("Main Street"), a firm

incorporated in terms of the laws of the Republic of South Africa. It is controlled by Ethos Fund VI, which has a 72% interest. Rael Hodes and Steven Isaacson each have a 10.5% interest. Ethos Fund VI is advised by Ethos Private Equity Fund (“Ethos”)¹. Ethos controls a number of firms, one of them being Busby Investments (Pty) Ltd (“Busby”), which is relevant to the transaction as will be explained below.

- 3] Ethos is a private equity advisor which makes investments on behalf of its advisors, through private equity funds. The funds that Ethos invests in are involved in a number of areas, however, only its one investment, in a retail chain called Busby, could potentially be regarded as overlapping with the business of Kevro ².
- 4] The primary target group is the Kevro Group³ and shareholders who hold more than a 10% interest in Kevro are as depicted below.

Shareholder name	Interest
Melkbos Trust	22.705%
Kevro Promotions	20.000%
The Sky High Living Trust	18.800%
The Jacode Trust	10.800%
Steven Isaacson	9.600%

- 5] The firms within the Kevro Group are corporate and promotional product suppliers. The Kevro Group’s main products are its own brand BARRON and third party products, such as Nike and CAT. The Kevro Group operates as a wholesaler and does not retail.
- 6] Kevro is a corporate and promotional product supplier in Africa, offering a comprehensive range of clothing and a wide range of gifting products and branding services.

1 Ethos also advises Ethos Fund V, Ethos Fund I (which has an 8.5% interest in Juta Holdings (Pty) Ltd) and Ethos Fund IV (which has interests in Savcio Holdings (Pty) Ltd and Ethos Technology Fund

2 The areas which Ethos has investments in are: baking equipment and systems to retail outlets (such as supermarkets and convenience stores), commercial catering and kitchen equipment to food services outlets, refrigeration display systems to retail outlets and glass doors in refrigeration applications

3 Kevro (Pty) Ltd, Kevro KZN (Pty) Ltd, Kevro Cape (Pty) Ltd, Kevro Eastern Cape (Pty) Ltd, Copperstone Trading CC, App-ly Branding Solutions (Pty) Ltd and Safrics (Pty) Ltd

- 7] In terms of the transaction, Ethos (acting through Main Street) will acquire 72% of Kevro's issued share capital. Prior to the current acquisition, Kevro will buy the minority shareholders of Kevro Cape, Kevro KZN, Copperstone and App-ly out. However, with regards to Safrics, Kevro will only acquire 50%, whilst the remaining 50% will be held by Kevin Berkowitz. Upon completion of the transaction, Ethos will have control over the target group and joint control regarding Safrics.

The Rationale

- 8] The merging parties submitted that the rationale for the acquisition is that it is a good investment for Ethos, which it hopes will bring good returns. The rationale for the shareholders of Kevro is that it is an opportunity to receive a financial return on their investment in the various target firms.

The relevant market and the impact on competition

- 9] Ethos controls Busby through Ethos Fund V and will control Kevro through Ethos Fund VI. Even though these are different funds, we accept for the purpose of this transaction that Ethos will control both firms. However, although Busby is involved in an adjacent market to that of Kevro, its product offering and mode of business differs. Busby is engaged in the distribution of predominantly branded leather products, such as Aldo, Guess and Nine West for retail purposes. The Busby products are usually distributed to its own retail stores, as well as to other retail chains such as Truworths and Stuttafords. Kevro, on the other hand, wholesales and typically adds the required corporate branding onto the plain or sometimes minimally-branded Nike or CAT products. This will then be distributed to the corporate client. Put more simply, Kevro's products are for the workplace and are sold through resellers, whilst Busby's are for the leisure and fashion market and are sold through its retail outlets.

- 10] Due to the retailing and distribution differences in operations between Busby

and Kevro, and the differences in their product offerings, there are no competition concerns raised, and as such, the transaction does not result in a horizontal overlap.

11] Busby has made minor purchases of corporate gift products from Kevro but they are too insignificant to raise any vertical concerns.

Conclusion

12] This transaction raises no public interest concerns.

13] The Tribunal agrees with the recommendation of the Commission that, in light of the other large competitors active in those markets and that the transaction does not result in a substantial overlap in the activities of the parties, the acquisition of the Kevro Group is unlikely to result in substantial prevention or lessening of competition in the relevant market. Accordingly, we approve the above merger unconditionally.

NORMAN MANOIM

22 December 2011
DATE

Yasmin Carrim and Takalani Madima concurring

Tribunal Researcher: Nicola Ilgner
For the merging parties: Webber Wentzel
For the Commission: Dineo Mashego