

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 115/LM/Oct08

In the matter between:

Optimum Coal Holdings (Pty) Ltd

Acquiring Firm

and

AKA Resources (Pty) Ltd

Target Firm

| | | |
|-------------------|---|---|
| Panel | : | D Lewis (Presiding Member), Y Carrim (Tribunal Member) and N Manoim (Tribunal Member) |
| Heard on | : | 03 December 2008 |
| Order issued on | : | 03 December 2008 |
| Reasons issued on | : | 08 December 2008 |

Reasons for Decision

Introduction

[1] On 03 December 2008 the Tribunal approved the acquisition by Optimum Coal Holdings (Pty) Ltd of AKA Resources (Pty) Ltd. The reasons follow below.

Parties

[2] The primary acquiring firm is Optimum Coal Holdings (Pty) Ltd ("Optimum Coal Holdings"), a company incorporated under the laws of the Republic of South Africa. Optimum Coal Holdings is not controlled by any single firm.

[3] Optimum Coal Holdings controls the following firms:

- Optimum Coal Mine (Pty) Ltd,
- Optimum Coal Terminal (Pty) Ltd,

- Ilitha Resources (Pty) Ltd,
- Universal Pulse Trading 75 (Pty) Ltd,
- Chaldean Trading 46 (Pty) Ltd,
- Grey Jade (Pty) Ltd and
- Point Blank Trading 122 (Pty) Ltd.

[4] The primary target firm is AKA Resources (Pty) Ltd (“AKA Resources”), a company incorporated under the laws of the Republic of South Africa. AKA Resources is solely controlled by AKA Resources Holdings (Pty) Ltd, which is in turn controlled by AKA Capital (Pty) Ltd. AKA Resources controls Main Street 431 (Pty) Ltd and Siyanda Coal (Pty) Ltd.

Transaction

[5] In terms of the structure of the transaction, Optimum Coal intends to acquire the entire issued share capital of AKA Resources. On completion, AKA Resources will be controlled by Optimum Coal.

Rationale

[6] This transaction presents Optimum Coal with an opportunity to grow its coal business.

[7] AKA Resources submits that the proposed transaction presents it with an opportunity to realise a return on its investment.

Parties Activities

[8] Optimum Coal is a coal mining and exploration group which is involved in the production of thermal coal for the generation of electricity and production of synthetic fuel.

[9] AKA Resources is an investment holding company which does not trade. Its subsidiaries, i.e. Main Street and Siyanda Coal are involved in the production of thermal coal.

Competition Analysis

[10] There is an overlap between the activities of the merging parties in respect of the production of thermal coal. The geographic market for this market is national. The merging parties' combined post-merger market share is approximately 5.2%. Competitors of the merging parties include Eyesizwe Coal, Xstrata Coal, Ingwe Coal, BHP Billiton, Anglo Coal and Kumba.

[11] This transaction is unlikely to substantially prevent or lessen competition in the market for the production of thermal coal as the merging parties' combined post-merger market share remains low.

Public Interest

[12] The transaction does not raise any significant public interest concerns.

D Lewis

08 December 2008
Date

N Manoim and Y Carrim concurring.

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| Tribunal Researcher: | I Selaledi |
| For the merging parties: | Glyn Marais Inc |
| For the Commission: | T Ravhugoni |