



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 11/LM/Mar10

In the matter between:

Life Healthcare Group (Pty) Ltd

Acquiring Firm

And

Amabubesi Hospitals (Pty) Ltd

Target Firms

Bayview Private Hospital (Pty) Ltd

Panel : Norman Manoim (Presiding Member),
Yasmin Carrim (Tribunal Member)
and Andreas Wessels (Tribunal Member)

Heard on : 02 June 2010

Order issued on : 02 June 2010

Reasons issued on : 09 June 2010

Reasons for Decision

Approval

[1] On 02 June 2010, the Tribunal unconditionally approved the merger between Life Healthcare Group (Pty) Ltd (“LGH”) and Amabubesi Hospitals (Pty) Ltd (“Amabubesi”). The reasons for approving the transaction follow.

The Transaction

[2] The proposed transaction is for the acquisition of 100% shareholding by Life Healthcare Group (Pty) Ltd (“LGH”) in Amabubesi Hospitals (Pty) Ltd (“Amabubesi”) and consequently Bayview Private Hospital (Pty) Ltd (“Bayview”).

The parties and their activities

[3] The primary acquiring firm is LGH, a key player in the South African healthcare sector which is controlled by numerous shareholders. LGH’s primary business is acute hospital care. This includes a geographical spread of acute care hospitals and same day surgical centres in Southern Africa. LGH’s private facilities are complemented by related healthcare services that integrate the healthcare delivery system covering the full spectrum of medical care.

[4] The target firms are Amabubesi and Bayview. Amabubesi has a wholly owned subsidiary in Bayview Hospital. Bayview hospital is an independent hospital falling under the umbrella of the National Health Network.

[5] Bayview hospital provides hospital services including the following specialities: cardiology and cardiothoracic surgery; orthopaedic surgery; urology; ear, nose and throat surgery; gastroenterology; general surgery and endoscope surgery; gynaecology; neurosurgery and neurology; ophthalmology; vascular and endovascular surgery.

The relevant market

[6] The product market is that of the provision of private hospital services.

[7] Hospitals compete with one another on several levels. They may compete on price (tariffs) at a national level and on a non-price basis on a local level. The relevant geographical market is therefore the national and local

market. A dualistic approach¹ was followed to analyse the geographical market and to consider the national and the local market.

[8] The national market is defined by reference to pricing negotiated between hospital groups and medical aid schemes which apply nationally. The market share accretion post the proposed transaction, in the national market, is one that is of no significant concern.

[9] The relevant hospitals, in considering the local market, are those situated in the areas close to the target hospital, i.e. Bayview. Bayview hospital supplies private hospital services in the Mossel Bay area in the Southern Cape Province. LGH's nearest hospital to the Bayview is Life Knysna hospital ("Life Knysna") which is approximately 124 km away and a 1 hour 30 minutes drive from Bayview.

[10] Bayview Hospital is not in close proximity to Life Knysna. In applying the fixed radius test there is no local geographic overlap in the activities of the merging parties and in using the variable radius test, none or very few of the patients at Life Knysna come from the Mossel Bay area.² The Commission submitted that the specialists at Life Knysna confirmed that they have just one practise and that there is difficulty in commuting between Life Knysna Hospital and Bayview Hospital and at the extreme, specialists would re-locate their homes in order to practice at these hospitals. This confirms that Life Knysna and Bayview hospitals could not be said to be in the same geographical market. Therefore there is no geographical overlap in the activities of the merging parties at a local level.

The impact on competition

[11] Due to the very low accretion in market shares at the national level and regional level there are insignificant competition concerns.

[12] The merging parties submit further that based on the current pricing strategies employed by the two hospitals on a similar case mix, the cost of

¹ As in the Nectare Hospital Group and Community Hospital. Case No: 68/LM/Aug06

² Competition Commission Merger Report, Life Healthcare Group (Pty) Ltd and Amabubesi Hospitals (Pty) Ltd and Bayview Private Hospital (Pty) Ltd at Page 13. CC Case No 2010Mar4963

healthcare per day at LHG is considered to be lower than that at the Bayview Hospital. Currently Bayview forms part of the National Health Network. This network was granted an exemption by the Competition Commission in which the independent hospitals were offered the ability to provide greater competition in the market for private healthcare which is currently dominated by the three large hospitals groups. Post the merger transaction, Bayview will adopt the national pricing strategy of LHG.

[13] In relation to the effect of the merger on patients, the majority of patients affiliated to private hospitals are affiliated to medical aid schemes. Since medical aid schemes mostly negotiate with hospital groups at a national level, the effect on patients due to the proposed transaction is not significant. Further, Bayview hospital will have other hospitals exerting competitive constraints upon the merging hospitals.

[14] Competition concerns are unlikely to arise as a result of the proposed transaction as there is no potential of adverse affects on the ability of other hospitals to compete for the doctors' referral or to negate the countervailing power of medical aid schemes.

Public interest

[15] It is not contemplated that there will be any retrenchments as a result of the proposed transaction and no other public interest concerns arise.

Conclusion

[16] The transaction does not result in a significant prevention and lessening of competition in the market for private hospital services and is approved without conditions.

09 June 2010

Yasmin Carrim

DATE

Norman Manoim and Andreas Wessels concurring.

Tribunal Researcher : Mahashane Shabangu
For the Merging parties : Bowman Gilfillan
For the Commission : Nazeera Ramroop