



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 017962

In the matter between:

Desert Star Trading 496 (Pty) Ltd

Acquiring Firm

And

M-Tech (Pty) Ltd

Target Firm

Panel	:	Yasmin Carrim (Presiding Member) Takalani Madima (Tribunal Member) Andiswa Ndoni (Tribunal Member)
Heard on	:	11 December 2013
Order issued on	:	11 December 2013
Reasons issued on	:	14 January 2014

Reasons for Decision

Approval

1. On 11 December 2013 the Competition Tribunal (the "Tribunal") unconditionally approved an acquisition by Desert Star Trading 496 (Pty) Ltd ("Desert Star") of M-Tech (Pty) Ltd ("M-Tech").
2. The reasons for the approval of the proposed transaction follow.

The Parties and their activities

3. The primary acquiring firm is Desert Star, a wholly-owned subsidiary of RBH Services Holdings (Pty) Ltd ("RBH Service"). RBH Services is in turn a wholly-owned subsidiary of Royal Bafokeng Holdings (Pty) Ltd ("Royal

Bafokeng Holdings"). Royal Bafokeng Holdings' sole shareholder is Royal Bafokeng Nation Development Trust ("Royal Bafokeng Trust"), which is not controlled by any firm. Apart from RBH Services, Royal Bafokeng Holdings directly and indirectly controls a number of subsidiaries, including Fraser Alexander Group, MOGS, Elbroc Mining Products (Pty) Ltd and Stope Technology Services (Pty) Ltd. Desert Star does not directly or indirectly control any firm.

4. Desert Star and RBH Services are investment holding companies and do not provide any goods and services. Royal Bafokeng Holdings is a community-based investment company that manages and develops the Royal Bafokeng Nation's entire portfolio of commercial assets. Its commercial investments are spread across the mining, infrastructure, industrial, financial and oil and gas services sectors.
5. Royal Bafokeng Holdings' subsidiary relevant for the purposes of this transaction is Fraser Alexander Group, which provides services to companies active in the mining sector. These services include wet tailing disposal, related wastes and hydraulic re-mining solutions, the handling of dry bulk materials and the construction of infrastructure required by other subsidiaries of Royal Bafokeng Holdings.
6. The primary target firm is M-Tech, a firm incorporated in terms of the laws of the Republic of South Africa. M-Tech's shares are held by Desert Star 25.1% and Flownex International (Pty) Ltd – 74.9%. M-Tech wholly-owns Enerflow Holdings (Pty) Ltd, which in turn wholly-owns Enerflow Installations 1 (Pty) Ltd.
7. M-Tech is multi-disciplinary engineering company that offers diverse engineering services and products in South Africa. In particular, M-Tech mainly specializes in the design, manufacture and sale of energy systems which include, among others, thermal fluid systems, turbo machinery, heat exchangers and compressed air, water and gas networks, heat pumps, mine cooling systems ventilating and conditioning systems.

Proposed transaction and rationale

8. In this transaction Desert Star intends to acquire additional 25% shares in M-tech, thereby increasing its shareholding in M-Tech from 25.1% to 50.1%. Post-merger, Desert Star will have sole control over M-tech.
9. According to the merging parties, Eskom is M-Tech's largest customer. Desert Star is black-owned and is increasing its shareholding in M-Tech to 50.1% in order to comply with Eskom's BEE requirements in its procurement policy. The parties submitted that this, along with M-Tech's proven track record and leading technology, will enhance M-Tech's competitive position when tendering for contracts with Eskom.

Competition analysis

10. The Commission found that there is no horizontal overlap in the activities of the merging parties as none of the firms within the acquiring group are active in the market for the design, manufacture and sale of energy systems wherein M-Tech is active. Further, competitors of M-tech such as HVAC International and Bluhm Burton Engineering indicated to the Commission that they are not aware of any subsidiary of Royal Bafokeng Holdings that offers similar services to M-Tech.
11. There is a vertical relationship in the activities of the merging parties as M-Tech provides services in relation to the design, manufacture and sale of energy systems to Fraser Alexander Group. The Commission, however, found that the proposed transaction is unlikely to result in any input foreclosure as the revenue derived by M-Tech from offering its services to Fraser Alexander Group is minimal and there are a number of other firms such as HVAC International, PowerTech IST Otokon, Bluhm Burton Engineering, Tekniheat, Hatch Africa and Eon Consulting which would continue to constrain the merged entity post-merger. The Commission also found that customer foreclosure is unlikely to occur as M-Tech is the only

firm that currently provides services in relation to the design, manufacture and sale of energy systems to Fraser Alexander Group.

Public interest

12. The merging parties confirmed that the proposed transaction will have no adverse effect on employment and will not result in any retrenchments in South Africa.¹ The proposed transaction raises no other public interest concerns.

Conclusion

13. For the reasons mentioned above, we approve the proposed transaction unconditionally.



Ms Yasmin Carrim

14 January 2014
Date

Dr. Takalani Madima and Ms Andiswa Ndoni concurring

Tribunal researcher: Ipeleng Selaledi

For the merging parties: Nicola Gaganakis of Read Hope Phillips Inc

For the Commission: Reabetswe Molotsi

¹ See merger record, pages 52. Also see paragraph 7.1 of the Commission's merger report.