



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 019372

In the matter between:

Tsogo Investment Holding Company (Pty) Ltd

Acquiring Firm

And

Tsogo Sun Holdings Ltd

Target Firm

Panel	:	Yasmin Carrim (Presiding Member) Andreas Wessels (Tribunal Member) Fiona Tregenna (Tribunal Member)
Heard on	:	22 October 2014
Order issued on	:	22 October 2014
Reasons issued on	:	19 November 2014

Reasons for Decision

Approval

1. On 22 October 2014 the Competition Tribunal (the "Tribunal") unconditionally approved an acquisition by Tsogo Investment Holding Company (Pty) Ltd ("TIHC") of Tsogo Sun Holdings Ltd ("Tsogo Sun").
2. The reasons for the approval of the proposed transaction follow.

The Parties and their activities

3. The primary acquiring firm is TIHC, a company incorporated in accordance with the company laws of the Republic of South Africa. TIHC is controlled

by Hosken Consolidated Investments Ltd ("HCI") which is listed on the Johannesburg Securities Exchange Ltd ("JSE"). HCI is not controlled by any single shareholder. Its largest shareholders are the Southern African Clothing and Textile Workers' Union ("SACTWU") and Mr. M.J.A. Golding with 32.2% and 6.78% shareholding respectively.

4. HCI controls several firms in South Africa. Relevant for purposes of this transaction is HCI's controlling interest (51.7%) in Niveus Investments Ltd ("Niveus"), a company incorporated in the Republic of South Africa and listed on the JSE. Niveus wholly-owns the following firms: (i) Vukani Gaming Corporation (Pty) Ltd, Galaxy Bingo International South Africa (Pty) Ltd and Cherry Mass Trade and Invest 188 (Pty) Ltd. In addition, Niveus has a 60% controlling interest in Kuruman Casino. TIHC currently jointly controls the primary target firm, i.e. Tsogo Sun.
5. The HCI group is a black empowerment investment holding company with investments in sectors such as media and broadcasting, clothing and textiles, transport, industrial, property, casino and non-casino gaming and entertainment. Niveus' subsidiaries are involved in gaming and leisure activities such as Bingo, Limited Pay-out Machines ("LPMs") and bookmaking business or spot betting. Kuruman Casino is located in Kuruman, Northern Cape Province, and is due to be operational in December 2014.
6. The primary target firm is Tsogo Sun, a company incorporated in accordance with the company laws of the Republic of South Africa. Tsogo Sun is jointly controlled by TIHC and SABSA Holdings Ltd ("SABSA") with 41.3% and 39.6% respectively. SABSA is controlled by SABMiller plc ("SABMiller") which is listed on the JSE and the London Stock Exchange. Tsogo Sun controls several firms in South Africa.
7. Tsogo Sun's business activities are divided into two main operating divisions, i.e. Tsogo Sun Gaming (ownership and operation of gaming and entertainment complexes in South Africa) and Tsogo Sun Hotels

(ownership, leasing and managing of hotels across South Africa, the rest of Africa, the Middle East and the Seychelles. In addition, Tsogo Sun has commercial property interests¹ such as the Palazzo Towers, the Pivot, the building abutting the Southern Sun Cape Sun Hotel and the property which previously housed the Grace Hotel.

Proposed transaction and rationale

8. In terms of the proposed transaction HCI, through TIHC, intends to acquire additional shares in Tsogo Sun to increase its shareholding to more than 50% of the issued share capital of Tsogo Sun. Post-merger, HCI will ultimately acquire sole control over Tsogo Sun.
9. HCI submitted that this transaction presents an opportunity for it to acquire a greater interest Tsogo Sun and to increase its exposure to the attractive investment opportunity therein.
10. SABMiller submitted that it conducted a strategic review of its holding in Tsogo Sun and following completion of this review, it resolved that gaming and hotels are not core to its operations and has decided to exit its investment in Tsogo.

Competition Analysis

11. In assessing the competitive effects of the proposed transaction, the Commission considered whether casinos compete with other forms of gambling such as bingos, LPMs and betting. Although the Commission found that the products and services offered by casinos are distinct from other forms of gaming (i.e. bingos, LPMs and betting) it did not find it necessary to conclude on the relevant product market but analyzed the effects of this transaction on the narrow market for casino gaming.

¹ Other than in respect of leasing premises to retail businesses such as restaurants and shops located at its gaming and hotel locations.

12. In the narrow market for casino gaming the activities of the merging overlap as Tsogo Sun operates casinos throughout South Africa and HCI, through Niveus, controls Kuruman Casino. The Commission found that Tsogo Sun does not own casinos in the Northern Cape Province and that Tsogo Sun's casino which is closed to Kuruman casino is the Goldfields casino in Welkom, Free State Province.

13. The Commission further established that Kuruman casino and Goldfields casino are about 408 km and 5 hours' drive from each other. Due to the distance and driving time between Kuruman and Goldfields casinos, the Commission found that the two casinos are unlikely to exert a competitive constrain on each other and consequently concluded that there is no geographic overlap between the activities of the parties in the market for casino gaming. Accordingly, the Commission found that the proposed transaction is unlikely to substantially lessen or prevent competition in the market for casino gaming.

Public interest

14. 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.² The proposed transaction raises no other public interest concerns.

Conclusion

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



Ms. Yasmin Carrim

19 November 2014

Date

Mr. Andreas Wessels and Professor Fiona Tregenna concurring

² See merger record, pages 14. Also see paragraph 7.1 of the Commission's merger report.

Tribunal Researcher : Ipeleng Selaledi
For the primary acquiring firm : Lizel Blignaut of Edward Nathan
Sonnenbergs
For the primary target firm : Anthony Norton of Nortons Inc.
For the Commission : Tshegofatso Radinku