



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM201Jan17

In the matter between

HUAWEI TECHNOLOGIES SOUTH AFRICA (PTY) LTD

Acquiring Firm

And

**GROWTHPOINT PROPERTIES LIMITED IN RESPECT OF
HARROWDENE OFFICE PARK**

Target Firm

Panel	: Ms Mondo Mazwai (Presiding Member)
	: Ms Andiswa Ndoni (Tribunal Member)
	: Mrs Medi Mokuena (Tribunal Member)
Heard on	: 15 February 2016
Order Issued on	: 15 February 2016
Reasons Issued on	: 15 February 2017

REASONS FOR DECISION

Approval

- [1] On 15 February 2017, the Competition Tribunal ('Tribunal') approved the transaction between Huawei Technologies South Africa (Pty) Ltd ('Huawei SA') and Growthpoint Properties Ltd ('Growthpoint') in respect of Harrowdene Office Park ('Harrowdene').
- [2] The reasons for the approval follow.

Parties to the transaction and their activities

Primary Acquiring Firm

- [3] The primary acquiring firm is Huawei SA, a company incorporated in accordance with the laws of the Republic of South Africa which controls no other firm.
- [4] Huawei SA is a wholly owned subsidiary of Huawei Technologies (Netherlands) B.V ('Huawei BV'). Huawei B.V is not controlled by any firm and controls only one other firm active in South Africa, Huawei Technologies Africa (Pty) Ltd ('Huawei Africa').
- [5] Huawei SA acts as Huawei BV's regional business for the Southern African region, providing platform support, such as management guidelines in relation to policies and operations, to other Huawei entities in the region.
- [6] Huawei B.V offers telecomm operators, enterprises and consumer solutions and services in the Information and Communications technology sector. Huawei SA provides products and solutions to mobile network operators, businesses as well as consumers across the full information technology spectrum. Huawei SA does not own any property letting enterprises from which it derives income in South Africa.

Primary Target Firms

- [7] The primary target property is Harrowdene, currently owned by Growthpoint. Harrowdene office park is classified as Grade A Office Space located in Woodmead in the Gauteng province.¹

¹ 128 Western Service road Woodmead, Johannesburg.

Proposed transaction and rationale

- [8] In terms of the Sale of Letting Enterprise Agreement ('Sale Agreement') Huawei SA intends to acquire Harrowdene Office Park (comprising immovable property, buildings, leases and contracts) from Growthpoint. Upon the implementation of the transaction Huawei SA will own Harrowdene Office Park together with the existing lease agreements concluded between Growthpoint and various tenants which occupy the property.
- [9] Upon expiry of the leases, Huawei will use Harrowdene office park as its head office and does not intend to operate the property as a property letting enterprise from which to derive rental income.
- [10] In terms of rationale, Huawei SA submits that it has outgrown its current leased properties and the target property has been identified as suitable property from which to centralise its operations and establish a local brand image reflecting its commitment to the South African market.
- [11] Growthpoint submits that the proposed transaction is an attractive offer which allows for the realisation of investment in relation to the property.

Relevant market and impact on competition

- [12] The Commission found that the proposed transaction does not result in any horizontal overlaps as Huawei SA does not own any Grade A office properties in the Republic of South Africa.

Public interest

- [13] The merging parties submitted, which was confirmed by the Commission, that the proposed transaction will not have a negative public interest effects.²

² Page 51 of the Merger record, page 9 of the Commission's recommendations.

Conclusion

[14] In light of the above, we conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. In addition, no public interest issues arise from the proposed transaction. Accordingly, we approve the proposed transaction unconditionally.


Ms Mondo Mazawi

15 February 2017

Date

Ms Andiswa Ndoni and Mrs Medi Mokuea

Tribunal Researcher: Alistair Dey-van Heerden

For the Merging Parties Vani Chetty of Baker McKenzie

For the Commission: Amanda Mfuphi