



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM117Jul18

In the matter between

D Capital Fund 1 (Pty) Ltd

Primary Acquiring Firm

And

Proconics (Pty) Ltd

Primary Target Firm

Panel	: Ms A Ndoni (Presiding Member)
	: Prof. I Valodia (Tribunal Member)
	: Prof. F Tregenna (Tribunal Member)
Heard on	: 1 Aug 2018
Order Issued on	: 1 Aug 2018
Reasons Issued on	: 30 August 2018

REASONS FOR DECISION

Approval

- [1] On 1 August 2018, the Competition Tribunal ("Tribunal") unconditionally approved the proposed transaction in terms of which D Capital Fund 1 (Pty) Ltd ("the Fund") is acquiring control over Proconics (Pty) Ltd ("Proconics").
- [2] The reasons for the approval of the proposed transaction follow.

Parties to the transaction

Primary Acquiring Firm

- [3] The acquiring firm is the Fund, a private company incorporated under the laws of South Africa. The Fund is jointly controlled by Dlundlobala Capital (Pty) Ltd ("Dlundlobala Capital") and Corvest 200 (Pty) Ltd ("Corvest 200"), with a 55%/45% equity interest respectively. Dlundlobala Capital is not controlled by any firm.¹ Corvest 200 is controlled by RMB Private Equity Holdings ("RMB"), which is in turn controlled by First Rand Investment Holdings (Pty) Ltd ("First Rand Investment"). First Rand Investment is a wholly-owned subsidiary of First Rand Ltd ("First Rand").
- [4] The Fund controls Capital Agri Fund 1 (Pty) Ltd, an investment vehicle seeking to invest in agricultural investments. In addition to the Fund, Dlundlobala Capital controls Rudan Engen 1 Stop Shop (Pty) Ltd, and has a 28.36% equity interest in Proconics.
- [5] The abovementioned firms will hereunder be referred to as the "acquiring group". The acquiring group is active in the private equity sector, predominantly focused on, *inter alia*, diversifying its portfolios by investing in unlisted companies and participating in management buy-outs and buy-ins.

Primary Target Firm

- [6] The primary target firm is Proconics, a private company incorporated under the laws of South Africa. Proconics is not controlled by any firm, nor does it control any firm. The shareholders of Proconics are: (i) Elizabeth Moolman ("Ms Moolman") with a 41.45% shareholding; (ii) Dlundlobala Capital with a

¹ Its shareholders consist of nine individuals and one trust, each not holding more than 14.28% shareholding.

28.36% shareholding; (iii) Roland Matthysen Family Trust ("RMFT") with a 28.36% shareholding; and (iv) Melvin Keith Jones ("Mr Jones") with a 1.83% shareholding.

- [7] Proconics is an electrical and instrumentation, control and mechanical engineering and design company that also offers Engineering Procurement and Construction (EPC)² services.

Proposed transaction and rationale

- [8] The proposed transaction aims to facilitate a management buyout. The management buyout will be effected by a number of steps that will see the Proconics management acquire control of Proconics. Ultimately, the Fund intends to acquire 49% of the issued share capital in Proconics. Post-merger, Proconics will be ultimately jointly controlled by the Fund and the Proconics management.

Relevant market and impact on competition

- [9] The Competition Commission ("Commission") found that the proposed transaction does not result in a horizontal overlap between the merging parties' activities. This is because no firm in the acquiring group is active in the market for the provision of engineering specialist services, detailed engineering and design and construction management services. The Commission further found that there is a pre-existing relationship between the merging parties. This is due to the fact that the acquiring group already has an equity interest in Proconics.

² An EPC is a form of contracting arrangement where the EPC contractor is responsible for all the activities from design, procurement, construction to commission and handover of the project to the customer.

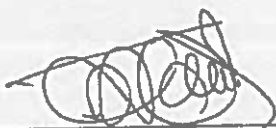
[10] The Commission therefore concluded that the proposed transaction is unlikely to lead to a substantial prevention or lessening of competition in any relevant market. The Commission further concluded that the nature of the proposed transaction makes it unlikely for it to alter the structure of any market. We concur with the Commission's conclusion.

Public interest

[11] The merging parties confirmed that the proposed transaction will not have any adverse effects on employment.³ The proposed transaction raises no other public interest concerns.

Conclusion

[12] In light of the above, we concluded 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 approved the proposed transaction unconditionally.



Ms Andiswa Ndoni

30/08/2018
Date

Prof. Imraan Valodia and Prof. Fiona Tregenna concurring.

Tribunal Case Manager : Kgothatso Kgobe

For the Merging Parties : I Dihadlha of Bowmans

For the Commission : Z Siyo

³ Commission's report, page 14 and page 44 of the Merger Record.