



## COMPETITION TRIBUNAL OF SOUTH AFRICA

**Case No:LM208Nov18**

In the matter between:

**Thebe Investment Corporation (Pty) Ltd**

**Primary Acquiring Firm**

And

**Pride Milling Company (Pty) Ltd**

**Primary Target Firm**

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Panel	:	Yasmin Carrim (Presiding Member)
	:	Mondo Mazwai (Tribunal Member)
	:	Fiona Tregenna (Tribunal Member)
Heard on	:	30 January 2019
Order Issued on	:	30 January 2019
Reasons Issued on	:	27 February 2019

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### **Reasons for Decision**

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### **Approval**

[1] On 30 January 2019, the Competition Tribunal ("Tribunal") unconditionally approved the transaction involving Thebe Investment Corporation (Pty) Ltd and Pride Milling Company (Pty) Ltd.

[2] The reasons for approving the proposed transaction follow.

## **Parties to the proposed transaction**

### *Primary acquiring firm*

- [3] The primary acquiring firm is Thebe Investment Corporation (Pty) Ltd ("Thebe"), a firm incorporated in accordance with the laws of the Republic of South Africa.
- [4] Thebe is jointly controlled by Batho Batho Trust, Main Street 1485 (Pty) Ltd, Main Street 1547 (Pty) Ltd, Sanlam Life Insurance Ltd and Umhlomulo Equity Participation (Pty) Ltd.
- [5] Thebe is an investment holding company that has investments mainly in tourism, mining resources, infrastructure, renewable energy, petrochemicals, telecommunications, financial services and healthcare.
- [6] Of relevance to the proposed transaction is the Thebe Group's interest in Compass Food Group which provides a variety of food catering services which utilise the maize products manufactured and distributed by Pride.

### *Primary target firm*

- [7] The primary target firm is Pride Milling Company (Pty) Ltd ("Pride Milling"), a company incorporated in terms of the company laws of South Africa.
- [8] Pride Milling is jointly controlled by Mr CJP Jordaan and Mr JA Bothma who hold 73% and 27% shares respectively. Pride Milling does not control any firm.

## **Proposed transaction and rationale**

- [9] In terms of the proposed transaction, Thebe Group intends to acquire 30% of the issued share capital in Pride currently held between Mr Jordan and Mr

Bothma. Upon implementation of the proposed transaction, Pride will jointly be controlled by the Thebe Group.

. According to the Acquiring Firm, the objective is to have a black controlled company that will be positioned to transform the white maize milling and processing sector by being the only transformed business in the sector.

- [10] Pride Milling is entering into the proposed transaction to improve its Broad-Based Black Economic Empowerment ("BEE") status.<sup>1</sup>

### **Impact on competition**

- [11] The Commission considered the activities of the merging parties and found that the proposed transaction would not result in a horizontal overlap as Pride's activities are limited to the manufacturing and distribution of milled maize products in South Africa. Although the Thebe Group has activities in the agricultural sector, these pertain to the distribution of fresh produce and not in the manufacture and distribution of milled maize product.
- [12] The Commission also found that the proposed transaction would result in the vertical integration of Pride Milling and Compass Group. This is because Thebe Group currently holds a non-controlling 41% stake in the Compass Group which provides catering services in Gauteng. Thus, from a competition law point of view, Pride Milling will be in a position to supply maize products to Compass Group. However, such vertical integration will not have the effect of substantially lessening or preventing competition in the relevant market.
- [13] Furthermore, the Commission submits that none of the competitors of Pride identified the Thebe Group or Compass Group as a significant customer in respect of the procurement of maize products.

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<sup>1</sup> To have a strategic partner in Thebe for further expansion and to unblock value for shareholders.

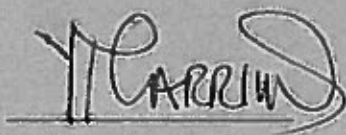
- [14] Given the above, the Commission concluded that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market in South Africa.

#### **Public interest**

- [15] The merging parties confirmed that the proposed transaction will have no adverse effect on employment in South Africa.<sup>2</sup>
- [16] The proposed transaction raises no other public interest concerns.

#### **Conclusion**

- [17] 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 Yasmin Carrim**

**27 February 2019**

**DATE**

**Ms Mondo Mazwai and Prof Imraan Valodia concurring**

Tribunal Case Manager	:	Ms Busisiwe Masina
For the merging parties	:	Mr Jim Motlanthe Mkhabela Huntley Attorneys
For the Commission	:	Mr Tumiso Loate

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<sup>2</sup> Merger Record, pages 17.