



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM109Sep19

In the matter between

Momentum Metropolitan Investments (Pty) Ltd

Primary Acquiring Firm

and

The Short-Term Insurance Business of Alexander
Forbes Limited.

Primary Target Firm

Panel	: Enver Daniels (Presiding Member)
	: Yasmin Carrim (Tribunal Member)
	: Andreas Wessels (Tribunal Member)
Heard on	: 14 November 2019
Order Issued on	: 14 November 2019
Reasons Issued on	: 11 December 2019

REASONS FOR DECISION

Approval

- [1] On 14 November 2019, the Tribunal unconditionally approved a transaction in terms of which Momentum Metropolitan Strategic Investments (Pty) Ltd (“MMS”) acquired sole control of The Short-Term Insurance Business of Alexander Forbes Limited.
- [2] The reasons for the approval follow.

Parties to the transaction

Primary Acquiring Firm

- [3] MMS is a company duly incorporated in accordance with the laws of the Republic of South Africa. MMS is ultimately controlled by Momentum Metropolitan Holdings Limited (“Momentum Metropolitan”), a public company listed on the Namibia Stock Exchange and the Johannesburg Stock Exchange. Momentum Metropolitan is not controlled by any firm.¹ MMS and all related firms will be referred to as the MMI Group.
- [4] The MMI Group is a financial services company that offers long- and short-term insurance, employee benefits cover, asset management, investments and savings, healthcare administration, and health risk management.

Primary Target Firms

- [5] The primary target firms are Alexander Forbes Insurance Company Limited (“AFI”); Alexander Forbes Administration Services (Pty) Ltd (“AF Administration”); and Alexander Forbes Direct (Pty) Ltd (“AF Direct”).
- [6] The abovementioned firms are ultimately owned by the Alexander Forbes Group Holdings Limited (“AFGH”). AFGH is listed on the Johannesburg Stock Exchange and is not controlled by any single shareholder.² The firms provide personal and commercial lines of short-term insurance. The aforementioned firms will collectively be referred to as the Target Firms.

¹ The following shareholders hold in excess of 5% shareholding in Momentum Metropolitan: Rand Merchant Insurance Holdings Limited (26.78%); Allan Gray (Pty) Ltd (11.34%); the Public Investment Corporation (9.2%) and Kagiso Tiso Holdings (Pty) Ltd (6.56%).

² AFGH's largest shareholders are Mercer Africa Limited (33%); African Rainbow Capital Financial Services Holdings (Pty) Ltd (8.9%); and Alexander Forbes Isilulu Community, forfeitable share trusts and treasure shares (8.7%).

Proposed transaction and rationale

- [7] The MMI Group will acquire 100% of the issued share capital of the Target Firms from AFGH. Upon implementation, MMI will operate and control the businesses of the Target Firms.
- [8] Regarding rationale, the acquiring firm submitted that the acquisition is part of the MMI Group's strategy of growing their insurance business to achieve sufficient scale. The target firm submitted that the disposal is in line with a change in strategy. The firm will move towards an advice-led and capital-light model such that AFGH will focus on its core consulting.

Relevant market and impact on competition

- [9] The Commission found a horizontal relationship between the activities of the merging parties as both MMI Group and Target Firms are involved in the provision of short-term insurance products.
- [10] Consequently, the Commission considered the effects of the proposed transaction in the national market for the provision of short-term:
- a. Insurance products (generally);
 - b. Property insurance products;
 - c. Motor insurance products;
 - d. Accidental and health insurance products;
 - e. Liability insurance products; and
 - f. Miscellaneous insurance products.

[11] In assessing the effect of the transaction on competition, the Commission based its market share calculations off the latest available data from the Prudential Authority.³

Broad Short-Term Insurance Market

[12] Based on the market share estimates, the merged entity will have approximately 8.6% market share post-merger with an accretion of 1.3%.⁴ Given that the market share accretion is less than 2%, the Commission pronounces that the merger is unlikely to present an SLC in this market.

Narrow Market for Short-Term Insurance

[13] In the narrow short-term markets for property, motor, accident and health, liability and miscellaneous products; the highest combined estimated market share is approximately 24.2% with an accretion of less than 2%.

Creeping Merger Analysis

[14] MMI Group has stated that its growth strategy is to look out for possible acquisition opportunities. The MMI Group has acquired the following firms over the last three years:

- a. Dec 2016 (Large Merger) – Acquired shares in Standard General Insurance Company Limited (“Stangen”). Stangen transferred rights and obligations as primary insurer of certain life policies on to Guardrisk (part of MMI Group).
- b. Jan 2017 (Large Merger) – Acquired the entire issued share capital of RMBSI personal lines, commercial lines and smart device insurance business managed by CIB (Pty) Ltd.

³ The PA’s data collates the total gross written premiums for each line of short-term insurance business, for each of the short-term insurance providers in South Africa.

⁴ Please see Table 1 page 19 of the Commission’s Recommendation

- c. March 2016 (Small Merger) – Acquired 49% of the issued share capital of Human Robot (Pty) Ltd and obtained negative control over the company.
- d. Feb 2017 (Small Merger) – Acquired the entire issued share capital of C&G Underwriting Managers from Natsure (Pty) Ltd.
- e. Oct 2017 (Small Merger) – Acquired the entire issued share capital of Marine Underwriting Manager (Pty) Ltd from Mitre Risk Capital (Pty) Ltd.

[15] The Commission noted that although MMI has been on an acquisition path in the last three years, its market share in relation to the provision of short-term insurance products has remained below the 35% threshold in terms of the Competition Act's test for dominance.

[16] However, MMI has indicated its intention to expand via acquisitions, which may lead to MMI Group acquiring a dominant market position in the future. The Commission has pledged to remain vigilant in its assessment of further acquisitions by the MMI Group.

[17] In view of the foregoing, the Commission concluded that the transaction is unlikely to result in a substantial prevention or lessening of competition in any of the relevant markets.

Public interest

Employee Concerns

[18] The MMI Group confirmed that the transaction will not result in any merger-specific retrenchments. The employees of the MMI Group raised no concerns regarding the transaction. However, Bronia Everton, the employee representative of the Target Firms, submitted a list of grievances effectively stating that employees were concerned about their job security as well as their employment terms and conditions.

[19] In particular, they were concerned about the mergers impact on their working hours, provident funds, retirement funds, medical aids, leave days, long service

awards and having to incur additional travelling costs due to the office relocation.

- [20] The merging parties responded by stating that the employees of the Target Firms will be transferred to MMI Group in terms of Section 197 of the Labour Relations Act. Therefore, the terms and conditions will remain the same or substantially the same. Employment benefits will not be affected as a result of the proposed transaction.

Pensioner Concerns

- [21] Furthermore, the Commission received a complaint from a pensioner who fears he may lose his cover. The individual had asked to remain anonymous. The client of the Target Firm is concerned that post-merger, he may lose his personal accident insurance cover. The Commission conveyed his complaint to the merging parties who indicated that the concern raised is not merger specific and, in any event, the merged entity cannot unilaterally amend insurance policy terms and conditions retrospectively.
- [22] In addition to finding that the concern raised was pre-existing, the Commission also found that the matter does not fall within the ambit of the public interest provisions of the Competition Act (as amended). Nonetheless, the Commission provided some guidance as to which regulators may be able to assist the pensioner.

Conclusion

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



Mr. Enver Daniels

11 December 2019

Date

Ms. Yasmin Carrim and Mr. Andreas Wessels concurring.

Tribunal Case Manager : Andiswa Nyathi

For the Merging Parties : Judd Lurie; Katherine McLean; and Kathryn Lloyd of
Bowmans.

For the Commission : Wiri Gumbie and Zanele Hadebe