



competitiontribunal
south africa

fax form

to	Paul Cleland Werksmans Inc	fax	011 535 8600
	Legal Services Competition Commission		44283
ref	54/LM/Jul11	date	20 October 2011
from	Tebogo Mputle	pages	5 (including this page)
re	Reasons		

This message is intended only for the use of the addressee and may contain information that is privileged and confidential. If you are not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone.

Attached please find the Tribunal's reasons for the decision in the above matter.

Regards

Tebogo Mputle

CC: Lindiwe Khumalo - 44296



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No:54/LM/Jul11

In the matter between:

Investec Bank Limited

Acquiring Firm

And

Ferro Industrial Products (Pty) Ltd

Target Firm

Panel	:	Norman Manoim (Presiding Member) Andiswa Ndoni (Tribunal Member) Medi Mokuena (Tribunal Member)
Heard on	:	21 September 2011
Order issued on	:	21 September 2011
Reasons issued on	:	20 October 2011

Reasons for Decision

Approval

[1] On 21 September 2011 the Competition Tribunal ("Tribunal") approved the large merger between Investec Bank Limited ("Investec") and Ferro Industrial Products (Pty) Ltd ("Ferro"). The Tribunal's reasons for approving the transaction are set out below.

The Parties to the transaction

- [2] The primary acquiring firms are Investec Bank Limited, a firm incorporated under the laws of the Republic of South Africa and the Management Shareholders of Ferro Industrial Products. Investec is controlled by Investec Limited,¹ a firm listed on the Johannesburg Stock Exchange.
- [3] The primary target firm is Ferro Industrial Products (Pty) Ltd,² a firm incorporated in terms of the laws of the Republic of South Africa. Ferro is controlled by Blackstar Group Plc ("Blackstar") which currently holds 54% share interest therein with the remaining 46% being held by the Management Shareholders.
- [4] The parties have concluded a Sale of Shares and Claims Agreement in terms of which (i) Investec will acquire 49% of the issued share capital in Ferro together with a cession of the loan account claims held by Blackstar against Ferro; and (ii) Certain of the Management Shareholders will acquire 5% of the issued share capital in Ferro.
- [5] Post merger, Investec will have control of Ferro with its 49% shareholding while the Management Shareholders will collectively hold 51%.

The activities of the parties

- [6] The acquiring firm, Investec is an international specialist banking and asset management group providing a diverse range of services and financial products to a niche client base mainly in the United Kingdom, Australia and South Africa.
- [7] Investec operates through 6 main divisions namely Asset Management; Wealth and Investment; Property Activities; Private Banking; Investment Banking and Capital Markets.
- [8] The target firm, Ferro manufactures plastics, glass colouring, enamels, ceramics and powder coatings and was initially a subsidiary of Ferro USA until it was bought out from its USA parent company in 1990.
- [9] Ferro operates through 5 divisions namely Powder Coatings division; Glass Decorating and Colouring division; Plastic Masterbatch division; Enamels division and the Spectrum Ceramics division.

¹ <http://www.investec.co.za/#home.html>

² <http://www.ferrosa.co.za/>

The Rationale

[10] Investec previously held a controlling interest in Ferro before disposing of it to Blackstar in 2008. Investec therefore sees this transaction as investment in a familiar firm that has proven to be very well managed and profitable.

[11] Blackstar wants to exit from its investment in Ferro and sees this transaction as a means of achieving that objective.

The Relevant Market and the Impact on Competition

[12] There is no overlap in the activities of the parties and even though Investec holds interests in chemical companies, particularly in the supply of resins and chlor-alkali derivative products used for water treatment, it does not hold any interests in the industrial chemical sector in which Ferro operates.

[13] The Commission also found that there is no possibility of vertical integration between the activities of the merging parties.

[14] In light of the above and the Commission's analysis, the proposed transaction will not likely lead to preventing or lessening competition in the relevant markets.

Public Interest

[15] The merging parties submitted that the proposed transaction raises no public interest concerns.

Conclusion

[16] In light of the Commission's analysis and recommendations, the merger does not raise any major competition concerns and furthermore no public interest concerns arise.

[17] Accordingly, the above merger is approved without conditions.


N Manoim

20 October 2011
DATE

A Ndoni and M Mokuena concurring.

Tribunal Researcher: Songezo Ralarala

For the Merging Parties: Paul Cleland from Werksmans Attorneys

For the Commission: Lindiwe Khumalo

Tebogo Mputle

From: Tebogo Mputle
Sent: Thursday, October 20, 2011 12:43 PM
To: 'Paul Cleland'; Lindiwe Khumalo
Cc: Songezo Ralarala; Lerato Motaung
Subject: Reasons - 54/LM/Jul11
Attachments: 20111020123216277.tif

Dear All

Please see the attached Tribunal's reasons and kindly confirm receipt.

Regards

Tebogo Mputle