



**competitiontribunal**  
*south africa*

## *fax form*

<b>to</b>	Paul Cleland Werksmans Attorneys	<b>fax</b>	011 535 8739
	Legal Services Competition Commission		44283
<b>ref</b>	64/LM/Aug11	<b>date</b>	03 November 2011
<b>from</b>	Tebogo Mputle	<b>pages</b>	4 (including this page)
<b>re</b>	Reasons		

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

Regards

Tebogo Mputle

CC: Bheki Masilela - 44582



## COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No:64/LM/Aug11

In the matter between:

**INVESTEC**

Acquiring Firm

And

**MB TECHNOLOGIES**

Target Firm

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Panel	:	Norman Manoim (Presiding Member), Andiswa Ndoni (Tribunal Member) Medi Mokuena (Tribunal Member)
Heard on	:	26 September 2011
Order issued on	:	26 September 2011
Reasons issued on	:	27 October 2011

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### Reasons for Decision

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#### Approval

[1] On 26 September 2011 the Competition Tribunal ("Tribunal") approved the large merger between Investec Bank Limited ("IBL") and MB Technologies (Pty) Ltd. The reasons for approving the proposed transaction follow below.

#### The Parties to the transaction

[2] The primary acquiring firm is Investec Bank Limited ("IBL"), an international banking group, principally providing financial services. IBL provides advisory and private equity, investing and wealth management, cash investment and banking services, lending and finance and also trading. IBL also has interest in numerous sectors amongst others chemicals, construction, engineering, petrochemicals,

minerals, food, hotel, IT and Investment. IBL is controlled by Investec Limited ("Investec").

- [3] The primary target firm is MB Technologies (Pty) Ltd ("MBT"), a private company incorporated in terms of the laws of the Republic of South Africa. MBT provides services within the information technology sector ("IT") predominantly the sale of IT equipment. MBT also provides brokerage services relating to procuring finance for its customers for the purchase of IT equipment ("financial brokering services") but does not itself provide actual capital or financing.
- [4] IBL lent monies to one of the shareholders of MBT (The Agusta Trust) as well as an individual linked to the Trust (Leo Baxter). As security for the loan, IBL was granted various forms of security which included a pledge and cession by the Agusta Trust of all shares which it held in MBT and RB MBT. In April 2010 an agreement was reached between IBL, Leo Baxter and the Baxter entities where it was contemplated that the Agusta Trust would sell its entire shareholding in RB MBT and approximately 11.98% of its shareholding in MBT to IBL. In terms of the Merger Agreement IBL is acquiring 45% of the issued share capital in MBT. RB MBT has an 81.07% shareholding interest in MBT this is the issued share capital prior to the transaction. Post transaction, the direct shareholding in MBT will be Investec 45% and RB MBT 55%. On 1 April 2011, RB MBT and IBL concluded a shareholder's agreement to govern their relationship as shareholders of MBT which agreement includes certain reserved matters or "minority protections" in favour of IBL. Accordingly, IBL has the ability to exert material influence over MBT from 1 April 2011.

### **The Rationale**

- [5] IBL is exercising its option to take control of assets over which the security has been registered, by levying the execution of assets, in the event of default. From the perspective of the sellers they acknowledge that IBL had certain security interests which it wished to exercise and this transaction allows IBL to exercise those rights without any disruption to the affairs of MBT.

### **The relevant market and the impact on competition.**

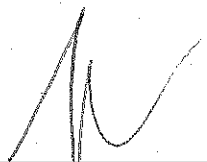
- [6] Investec Bank Limited is an international banking group, principally providing financial services. It provides advisory and private equity, investing and wealth management, cash investment and banking services, lending and finance and also trading whilst MBT is an IT equipment distribution firm. It provides services within the IT sector, specifically the sale of IT equipment. The only services related to finance that the primary target firm provides is financial brokering services for its clients that purchase IT equipment. The primary target firm does not itself provide capital or financing.
- [7] The Commission took into account that Investec has a 25% stake in IT through MSG Africa, a managed security service provider (MSSP), focusing mainly on e-mail security, web security, e-mail hosting and e-mail archiving. The services of MBT are different from those of MSG Africa and therefore there is no horizontal overlap in the activities of the merging parties with regards to IT services.

[8] The Commission found that there is a vertical integration in the activities of the merging parties as Investec purchases laptops from MBT and MBT can be in a position to refer its clients to Investec as it is active in financial brokering. The Commission however took into account that the vertical overlap with regard to the sale of laptops is minimal and accounts to about 0.7% of MBT's turnover and there are other alternative sources for the provision of laptops. With regards to financial brokering the Commission noted that there are other big financial brokering companies like PSG and Allan Gray that the customers can use. In light of the above, the Commission submitted that the reciprocal vertical relationships brought about by the merger are minimal.

[9] The Commission found that there is no overlap in the activities of the merging firms as IBL is not active in the provision of IT equipment. The proposed transaction also raises no public interest concerns.

### **CONCLUSION**

[10] We agree with the Commission's conclusions and accordingly, the merger is approved without conditions.

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**NORMAN MANOIM**

27 October 2011  
**DATE**

**A Ndoni and M Mokuena concurring.**

Tribunal Researcher: Thabo Ngilande

For the merging parties: Werksmans Attorneys

For the Commission: Mr Bheki Masilela  
Ms Lindiwe Khumalo

\* \* \* Communication Result Report ( 3. Nov. 2011 13:14 ) \* \* \*

1)  
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Date/Time: 3. Nov. 2011 12:52

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