



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM182Sep17

In the matter between:

**Main Street 1522 (Pty) Ltd
and Main Street 1523 (Pty) Ltd**

Primary Acquiring Firms

And

**Ahead Trading (Pty) Ltd
and Six Sense Marketing (Pty) Ltd**

Primary Target Firms

Panel	: Norman Manoim (Presiding Member)
	: Mondo Mazwai (Tribunal Member)
	: Fiona Tregenna (Tribunal Member)
Heard on	: 25 October 2017
Order Issued on	: 25 October 2017
Reasons Issued on	: 20 November 2017

Reasons for Decision

Approval

- [1] On 25 October 2017, the Competition Tribunal ("Tribunal") unconditionally approved the proposed transaction between Main Street 1522 (Pty) Ltd ("Main Street 1522") and Main Street Main Street 1523 (Pty) Ltd ("Main Street 1523") and Ahead Trading (Pty) Ltd ("Ahead Trading") and Six Sense Marketing (Pty) Ltd ("Six Sense").
- [2] The reasons for approving the proposed transaction follow.

Parties to the Proposed Transaction

Primary Acquiring Firms

- [3] The primary acquiring firms are Main Street 1522 and Main Street 1523, both private companies incorporated under the company laws of South Africa. Both firms are controlled by Main Street 1533 (Pty) Ltd ("Main Street 1533"). The acquiring firms do not control any other firms.
- [4] Main Street 1533 is controlled by Main Street 1534 (Pty) Ltd ("Main Street 1534"). Main Street 1534 is controlled by Sanlam Life Insurance Limited ("Sanlam Life").
- [5] Main Street 1522, 1523, 1533 and 1534 were established for the purposes of the proposed transaction and do not currently conduct any business activities. The Sanlam Group is a leading financial services group in South Africa.

Primary Target Firms

- [6] The primary target firms are Ahead Trading and Six Sense, both private companies incorporated under the laws of South Africa and owned by Henchick Holdings (Pty) Ltd ("Henchick"). Henchick is controlled by the Ezibelani Trust.
- [7] Ahead Trading operates the KFC Business. The KFC Business being acquired from Ahead Trading comprises 28 KFC retail outlets located in the Western Cape and the Northern Cape.¹ Six Sense operates the Marketing Business which performs the marketing functions for these 28 KFC stores. Six Sense also performs marketing functions for three other franchise groups that are not related to this transaction.²

Proposed Transaction

- [8] Main Street 1522 intends to acquire the 28 KFC retail outlets from Ahead Trading and Main Street 1523 intends to acquire the marketing business from Six Sense.
- [9] Upon implementation of the proposed transaction the Sanlam Group will control the 28 KFC retail outlets as well as the marketing business of Six Sense which performs the marketing functions for these 28 stores. Post-merger Six Sense will continue to provide marketing functions to the three other franchisee groups.

¹ Transcripts 25 October 2017 at page 4.

² Ibid.

Impact on Competition

[10] The Commission found that there is no overlap in the activities of the merging parties as the acquiring firms do not operate in the same market as the target firms. The proposed transaction is therefore unlikely to substantially prevent or lessen competition.

[11] At the hearing the Tribunal raised concerns regarding the information that those three independent franchisees for which Six Sense performs marketing functions, would have access to, and the possibility of coordination between the independent KFC's that may arise as a result.³ The merging parties, however, confirmed that the marketing business does not have any insight into the business operations of the KFC business.⁴

Public Interest

[12] The merging parties submit that the proposed transaction is unlikely to negatively affect employment.⁵ At the hearing the merging parties confirmed that Sanlam's intention is to grow these businesses where possible and as such the merger is more likely to give rise to job creation and will not result in any retrenchments.⁶

[13] The Commission was of the view that the proposed transaction is unlikely to raise concerns on any other public interest grounds.

Conclusion

[14] In light of the above, we conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market or raise any adverse public interest issues. Accordingly, we approve the proposed transaction unconditionally.



Mr Norman Manoim

20 November 2017

DATE

Ms Mondo Mazwai and Prof Fiona Tregenna concurring

³ Transcripts 25 October 2017 at page 6.

⁴ Ibid.

⁵ Merger Record page 276.

⁶ Transcripts 25 October 2017 at page 6.

Tribunal Researcher:

Hayley Lyle

For the merging parties:

Robert Wilson of Webber Wentzel.

For the Commission:

Rethabile Ncheche