



## COMPETITION TRIBUNAL OF SOUTH AFRICA

**Case No: LM222Nov17**

In the matter between:

**3 Health Holdco Mauritius Limited**

**Primary Acquiring Firm**

And

**Newshelf 1273 Proprietary Limited**

**Primary Target Firm**

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Panel	:	Norman Manoim (Presiding Member)
	:	Medi Mokuena (Tribunal Member)
	:	Fiona Tregenna (Tribunal Member)
Heard on	:	06 December 2017
Order Issued on	:	06 December 2017
Reasons Issued on	:	20 December 2017

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### Reasons for Decision

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### Approval

- [1] On 06 December 2017, the Competition Tribunal ("Tribunal") unconditionally approved the transaction involving 3 Health Holdco Mauritius Limited and Newshelf 1273 (Pty) Ltd.
- [2] The reasons for approving the proposed transaction follows.

## Parties to the proposed transaction

### *Primary acquiring firm*

- [3] The primary acquiring firm is 3Health Holdco Mauritius Limited ("3 Health Holdco"), a special purpose vehicle holding company established for the purposes of the proposed transaction.
- [4] 3 Health Holdco is controlled by companies that are in turn controlled by private equity investment funds that are ultimately controlled for merger control purposes by ABRAAJ Holdings ("Abraaj"), a company established in the Cayman Islands. Abraaj is a private equity investment firm focusing on investments in growth markets throughout Africa, Asia, Latin America and the Middle East. Abraaj directly and indirectly manages a number of private equity funds, which in turn directly and indirectly control a number of firms globally. In the healthcare sector, Abraaj has investments across the African continent this includes Nigeria, Kenya, Zambia and also investments in other parts of the world including India where they own the Gear Hospital Group.

### *Primary target firms*

- [5] The primary target firm is Newshelf 1273 (Pty) Ltd ("Newshelf"), a private company incorporated in accordance with the company laws of the Republic of South Africa.
- [6] Newshelf is a wholly-owned subsidiary of Joint Medical Holdings ("JMH") and owns 100% shareholding in JMH's subsidiaries whose business operations in South Africa are conducted in the private healthcare sector.<sup>1</sup> The JMH group was previously controlled by Life Healthcare which has since sold its interest back to its doctor shareholders.<sup>2</sup>

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<sup>1</sup> The JMH Group is a predominantly black-owned independent hospital group.

<sup>2</sup> We previously considered this merger as well as a consent agreement that related to the non-notification of this merger. See *Life Healthcare Group (Pty) Ltd and Joint Medical Holdings Ltd* FTN229Feb16. Please also see *The Competition Commission v Life Healthcare Group (Pty) Ltd and Joint Medical Holdings Ltd* 74/LM/Sep11 (013235).

## **Proposed transaction and rationale**

- [7] The proposed transaction involves 3 Health Holdco subscribing for 51% of the issued share capital in Newshelf. Upon implementation of the proposed transaction, 3 Health Holdco will hold 51% of the total shares in Newshelf and will therefore indirectly control the JMH Group.

## **Impact on competition**

- [8] The Commission considered the activities of the merging parties and found the proposed transaction presents no horizontal overlap in the business operations of the merging parties as the only other Abraaj controlled investment companies which has operations in South Africa is not currently active in the same market as JMH.<sup>3</sup>
- [9] Based on the above the Commission submitted that the proposed merger is unlikely to lessen or prevent competition in any affected market and recommended that the proposed merger be approved without conditions
- [10] We concur with the Commission's findings.

## **Public interest**

- [11] The merging parties confirmed that the proposed transaction will not have any negative effect on employment in South Africa. The transaction will have an important impact on the private hospital sector as it brings a new player with expertise in running low cost hospitals into the market thus helping to revive the fortunes of a hospital group in need of new investment.
- [12] The proposed transaction further raises no other public interest concerns.

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<sup>3</sup> Furthermore, the Commission found that the merging parties are not in a vertical relationship.

## Conclusion

[13] In light of the above, we conclude 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 approve the proposed transaction unconditionally.

  

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Mr Norman Mandoim

20 December 2017

DATE

Mrs Medi Mokuena and Prof Fiona Tregenna concurring

Tribunal Case Manager	:	Ms Busisiwe Masina
For the merging parties	:	Mr Shawn van der Meulen of Webber Wentzel
For the Commission	:	Mr Yariv Pavese