



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM149Aug18

In the matter between

IAPEF2 Education Holdings Ltd

Primary Acquiring Firm

And

RZT Zelpy 4472 (Pty) Ltd

Primary Target Firm

Panel	: Mr Norman Manoim (Presiding Member)
	: Ms Yasmin Carrim (Tribunal Member)
	: Mr Halton Cheadle (Tribunal Member)
Heard on	: 17 October 2018
Order Issued on	: 17 October 2018
Reasons Issued on	: 23 October 2018

REASONS FOR DECISION

Approval

- [1] On 17 October 2018, the Competition Tribunal ("the Tribunal") conditionally approved the large merger between IAPEF2 Education Holdings Ltd ("IAPEF") and RZT Zelpy 4472 (Pty) Ltd ("RZT").
- [2] The reasons for the approval follow.

Parties to the transaction and their activities

Primary acquiring firm

- [3] The primary acquiring firm is IAPEF, a special purpose vehicle established to facilitate this transaction. IAPEF is wholly owned by Investec Africa Private Equity Fund 2 ("Fund 2"), an investment holding company. Fund 2 is ultimately owned and controlled by Investec Limited ("Investec"), an international specialist bank and asset manager. Investec and its relevant subsidiaries in South Africa are collectively referred to as the Investec Group.

Primary target firm

- [4] The primary target firm is RZT, a holding company for a number of entities that provide higher education and training in South Africa. RZT is a private company jointly owned and controlled by the trustees of the J&M trust and Mr. Jayandra Ramnundlall.

Proposed transaction

- [5] In terms of the proposed transaction, IAPEF intends to acquire a majority of the issued share capital of RZT in two tranches. The first tranche, currently before the Tribunal, involves the purchase of sufficient shareholding to grant the Investec Group control in terms of s12(2)(a) of the Act, or ownership of more than half of the issued share capital of the target group. Despite this the J&M trust will during this period retain certain minority protections which will mean that IAPEF will have acquired joint but not sole control of the target group as a result of acquiring the first tranche. At the implementation of the second tranche, the Investec Group will acquire unfettered sole control of the target group with all minority shareholder protections being removed.
- [6] The merging parties initially sought to have both stages of the transaction approved simultaneously. However, the Commission was of the opinion that the implementation of the second tranche, and subsequent change from joint to sole control, would require proper evaluation should it occur more than 24 months after the implementation of the first tranche. This, the Commission asserted, was because of the potential for changing market conditions or anti-competitive information exchange if Investec were to acquire any more firms that competed with the target group.

- [7] Consequently, the merging parties agreed that if the second tranche was implemented more than 24 months after the first tranche, then they would notify the Commission of this in the form of a new merger filing. Further, the parties agreed that if they acquired control over any competitor of RZT, with a market share in excess of 10%, and that acquisition falls below the prevailing merger filing thresholds at the time, the Merging Parties will, in writing, inform the Commission thereof. We are satisfied that these conditions addressed concerns regarding the divisibility of the two tranches.

Relevant market and impact on competition

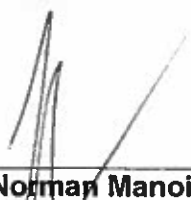
- [8] The Commission analysed the effects of the proposed transaction on the market for the provision of higher education and further learning in South Africa. The Commission found that there are no horizontal or vertical overlaps in the activities of the merging parties and that the transaction is thus unlikely to lead to a substantial lessening of Competition in any market.

Public interest

- [9] The merging parties submitted that there would be no adverse impact on employment, which was confirmed by the Commission after engaging with all relevant employee representatives. The proposed transaction further raised no other public interest concerns.

Conclusion

- [10] In light of the above, we conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. Further, no public interest issues arise from the proposed transaction. Lastly, to address any concerns regarding the implementation of the second tranche, we approve the proposed transaction subject to the conditions attached as Annexure 'A'.



Mr Norman Manoim

23 October 2018
Date

Ms Yasmin Carrim and Mr Halton Cheadle

Tribunal Researcher: Jonathan Thomson

For the merging parties
For the Commission:

Judd Lurie of Bowmans Law
Zintle Siyo and Mogau Aphane