



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case no: LM115Nov21

Raubex (Pty) Ltd

Primary Acquiring Firm

And

Bauba Resources Ltd

Primary Target Firm

REASONS FOR DECISION

- [1] On 27 January 2022, the Competition Tribunal (“Tribunal”) unconditionally approved a large merger in terms of which Raubex Proprietary Limited (“Raubex”) intends to acquire control of Bauba Resources Limited (“Bauba”).
- [2] The primary acquiring firm is Raubex, a private company incorporated under the laws of South Africa. Raubex is a wholly owned subsidiary of Raubex Group Limited (“Raubex Group”), a public company listed on the JSE Limited.
- [3] The primary target firm is Bauba, a public company incorporated under the laws of South Africa. Bauba is not controlled by any single firm or combination of firms.

Proposed transaction

- [4] Raubex currently holds 24% of the issued share capital in Bauba. In terms of the proposed transaction, Raubex intends to acquire an additional 28% of the issued share capital in Bauba from the sellers, thereby increasing its shareholding in Bauba to 52%. Following the implementation of the proposed transaction, Raubex will therefore have sole control of Bauba.

Merging parties' activities

- [5] The Raubex Group of companies is an infrastructure development and construction materials supply group which operates across South Africa and throughout Southern Africa.
- [6] Bauba is a mining and exploration company focusing on the mining of chrome ore and platinum group metals ("PGM") exploration.

Competition assessment

- [7] The Competition Commission ("Commission") considered the activities of the merging parties and found that there is no horizontal overlap between their activities since the primary target firm is a mining and exploration company focused on the mining of chrome ore and exploration of PGM, and none of the Raubex Group firms are engaged in mining or exploration services that are interchangeable or substitutable with such services.
- [8] The Commission noted that Raubex Group has non-controlling interests in firms that are active in the mining industry. However, the said firms are not active in mining or exploration of chrome ore and PGM exploration services. Thus, the Commission found that the proposed transaction is unlikely to result in any coordinated effects concerns related to cross directorships/shareholdings. In addition, the parties have indicated that no entity within the Raubex Group has any interest (controlling or non-controlling) in any entity that competes with Bauba and/or its subsidiaries.
- [9] The Commission found that the proposed transaction does result in a vertical overlap in that the Raubex Group currently provides Bauba with crushing and opencast mining services through its wholly owned subsidiary, SPH Kundalila Proprietary Limited. The Commission however found that input foreclosure is unlikely given Raubex Group's low market share in the provision of crushing and opencast mining services in South Africa. Furthermore, Raubex will not have incentives to engage in input foreclosure concerns as Bauba accounts for

a relatively low percentage of Raubex's turnover from crushing and opencast mining services.

[10] In relation to potential customer foreclosure, the Commission found that Bauba does not currently procure crushing and opencast mining services from any other firms. Thus, the proposed merger is unlikely to result in any customer foreclosure concerns.

[11] No third party raised any concerns with the proposed transaction.

[12] Based on the above, Commission concluded that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. We concur with this finding.

Public interest

Effect on employment

[13] The merging parties confirmed that the proposed transaction will not adversely affect employment. In particular, the merging parties submitted that they have no plans to retrench any employees as a result of the proposed transaction.¹

Effect on the greater spread of ownership

[14] Raubex Group is a 45.53% black-owned firm listed on the JSE. Raubex will acquire shares from the sellers who are not owned by Historically Disadvantaged Persons ("HDPs"). Bauba currently has an HDP ownership of less than 2.38%. This 2.38% HDP shareholding in Bauba will remain unaffected by the proposed transaction since Hlabirwa Mining (the current HDP shareholder) will continue to hold the 2.38% shareholding in Bauba post-merger.

Other public interest issues

[15] The proposed transaction raises no other public interest concerns.

¹ See Record pages 11 and 42.

Conclusion

[16] For the above reasons, we conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. Furthermore, the proposed transaction does not raise any public interest concerns.

02 February 2022

Mr Andreas Wessels
Mr Enver Daniels and Dr. Liberty Mncube concurring

Date

Tribunal Case Managers: Sinethemba Mbeki and Juliana Munyembate
For the Merging Parties: Robert Wilson and Lebogang Makhubedu of
Webber Wentzel
For the Competition Commission: Busisiwe Ntshingila and Themba Mahlangu