COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No.: LM103Oct24

In the matter between:

Slip Knot Investments 777 Proprietary Limited	**Primary Acquiring Firm**
and	
Sanlam Life Insurance Limited in respect of the rental enterprise known as Braampark Office Park	**Primary Target Firm**

Panel	:	T Vilakazi (Presiding Member)
	:	A Ndoni (Tribunal Member)
	:	I Valodia (Tribunal Member)
Heard on	:	03 November 2024 (in chambers) and 12 March 2025 (Virtual)
Date of last submission	:	27 February 2025
Order issued on	:	12 March 2025
Reasons issued on	:	10 April 2025

REASONS FOR DECISION

[1] On 12 March 2025, the Competition Tribunal ("Tribunal") unconditionally approved a large merger wherein Slip Knot Investments 777 (Pty) Ltd ("Slip Knot") intends to acquire the rental enterprise known as Braampark Office Park ("Braampark") from Sanlam Life Insurance Ltd ("Sanlam Life"). Post-merger, Slip Knot will solely control Braampark.

The parties and their activities

Primary acquiring firm

[2] The primary acquiring firm is Slip Knot, a company incorporated in South Africa, controlled by [redacted] and [redacted] is wholly controlled by the [redacted]

[3] [redacted] has interests in several firms in South Africa, including [redacted] and [redacted] its subsidiaries and all the firms it is controlled by are referred to as the "Acquiring Group".

[4] The Acquiring Group is primarily engaged in developing and leasing commercial, industrial and retail investment properties, including management of these properties. The Acquiring Group's office properties in Johannesburg are relevant for the proposed transaction.

Primary target firm

[5] The primary target firm is Braampark, a rental enterprise owned by Sanlam Life and controlled by Sanlam Limited, comprising of:

5.1. Erf 1 Braampark Township, Registration Division I.R., Gauteng, measuring 1,5262 hectares;

5.2. Erf 2 Braampark Township, Registration Division I.R., Gauteng, measuring 2,6863 hectares;

5.3. Portion 384 (a portion of Portion 66) of the Farm Braamfontein No. 53, Registration Division I.R., measuring 273 square meters; and

[1] As to [redacted]%.
[2] As to [redacted]%.
[3] The [redacted]

5.4. Portion 385 (a portion of Portion 67) of the Farm Braamfontein No. 53, Registration Division I.R., measuring 694 square meters.

[6] Braampark offers leased office space to several tenants and comprises B-grade office space located in Braamfontein, Johannesburg.

Rationale

[7] The Acquiring Group submitted that the proposed transaction presents an opportunity to [redacted] to include [redacted] and [redacted], and [redacted]. The Acquiring Group generally [redacted] in [redacted] and [redacted] in [redacted], and [redacted] which are occupied by [redacted]

[8] Sanlam Life is of the view that the proposed transaction is aimed at [redacted] in Braampark and [redacted] in [redacted] properties with [redacted] growth opportunities [redacted]

Competition assessment

Overlap

[9] The Competition Commission ("Commission") considered the activities of the merging parties and found that the proposed transaction results in a horizontal overlap as the merging parties are active in the market for B-grade office space in Braamfontein and the surrounding node.

[10] In relation to vertical concerns, the Commission found that the proposed transaction does not raise any concerns.

Product market

[11] In its assessment of the relevant product market, the Commission considered the effect of the proposed transaction in respect of the office property market within the Johannesburg CBD node and immediate surrounding nodes within a 5km radius.

Geographic market

[12] In terms of the geographic market, the Commission considered the South African Property Owners Association's Office Vacancy Report which describes the Braamfontein node as bounded by the M1 highway to the west, the railway line to the south, Joubert Street to the east and Braamfontein Ridge to the north, including the Braampark development but not the University campus.

[13] The Commission did not definitively conclude on the relevant market; however, it assessed the effect of the proposed transaction in respect of the B-grade office property market within the Johannesburg CBD and immediate surrounding nodes[4] within a 5km radius, in line with Tribunal precedent[5].

Market shares

[14] Braampark comprises 61,020 m² of B-grade office space. The merging parties submitted that a substantial portion of Braampark is currently vacant, with only 24,492 m² being occupied.

[15] The Commission assessed market shares and the level of concentration and found that the proposed transaction will result in a combined market share for the merged entity of approximately less than 15%, with a small accretion of less than 5%.

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[4] The surrounding nodes that are within a 5km radius of Braampark are Johannesburg CBD, Houghton/Killarney, Milpark, Newtown and Parktown.

[5] See *Momentum Property Investments and Bonatla Property Holdings Limited* (34/LM/JUL03); *Investec Bank Limited and Growthpoint Properties Limited in respect of the property known as 100 Grayston Drive and Merchant Place Parkade Share Block (Pty) Ltd* (LM296Mar18); and *Slip Knot Investment 777 Proprietary Limited and Liberty Group Limited in respect of the property known as Libridge* (LM008Apr24).

[16] The Commission further notes that there are at least 38 competing B-grade office properties, such as 28 Harrison and 88 Fox Street, 12 Laub Street, 66 Jorissen Street, Sunnyside Office Park, and 222 Smit Street, situated within the relevant geographic market with a total gross lettable area of 1,448,955 m2.

[17] We agree with the Commission's assessment with respect to the relevant market and the presence of a large number of competing properties offering lettable B-grade office space within the relevant market.

Creeping mergers assessment

[18] The Commission's investigation found that the Acquiring Group has been involved in 6 (six) large merger transactions over the past 3 (three) years. The transactions included: (i) light industrial property in Centurion, Pretoria; (ii) rentable Grade P office properties; (iii) [redacted] in Bellville, Cape Town; and (iv) grade A and P office property in Sandton, Johannesburg.

[19] Additionally, the Acquiring Group has acquired [redacted] properties, including [redacted] office properties located in (i) Centurion, Pretoria [redacted], (ii) Bellville, Cape Town, and (iii) Sandton, Johannesburg, which were not notifiable to the Commission as they did not meet the minimum thresholds for notification.

[20] Considering the above, the Commission found that although the Acquiring Group has previously been involved in several acquisitions relating to rental office properties, these do not currently raise significant creeping merger concerns in the office property market. The Commission will continue to monitor the Acquiring Group's property acquisitions.

[21] Based on the above, we agree that the proposed transaction does not raise any creeping merger concerns.

Conclusion on competition assessment

[22] Considering the above, we are satisfied that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market.

Public interest

Effect on employment

[23] The merging parties submitted that the proposed transaction will not have any negative effect on employment.

[24] Slip Knot's employees are not represented by any trade unions. The employees involved in the operations of the Acquiring Group are employed by a management company known as SKG Facilities Management Inland.

[25] The Acquiring Group's employee representative submitted that the employees have been notified of the transaction and expressed no concerns regarding the proposed transaction.

[26] Sanlam Life does not have any employees in respect of Braampark.

[27] The property management functions of Braampark are currently provided by Excellerate JHI and will be managed by the Acquiring Group upon transfer of the property. Post-merger, all employees currently involved in the management of Braampark will remain with JHI South Africa. Therefore, the proposed transaction will not have any adverse impact on employment.

[28] We are satisfied with the above assessment and conclude that the proposed transaction is unlikely to raise substantial employment concerns.

Effect on the promotion of a greater spread of ownership by historically disadvantaged persons ("HDPs")

[29] The merging parties submitted that the HDP ownership of Sanlam Limited is 56.96%. They further submitted that Braampark represents only [redacted]% of Sanlam Life's entire asset value[6]. The HDP ownership of Sanlam Limited and Sanlam Life will not change as a result of the proposed transaction.

[30] In terms of the Acquiring Group, the merging parties submitted that the proposed transaction would promote a greater spread of HDP ownership as the SKG Group has a [redacted]% HDP shareholding through [redacted] with a Level 2 Broad-Based Black Economic Empowerment ("B-BBEE") status.

[31] The Commission, in its recommendation, took the view that no further intervention was required in relation to this public interest ground as the merging parties had a subsidiary ([redacted]) with a high level of HDP ownership.

[32] The Tribunal requested further submissions from the parties on this matter and subsequently convened a hearing on 12 March 2025. The queries related, *inter alia*, to i) whether the HDP shareholding of a non-acquiring subsidiary can be elevated or imputed to represent the HDP ownership of the entire Acquiring Group; ii) the status of the relationship between [redacted], Slip Knot, and [redacted]; and iii) the extent of involvement and benefits derived by the HDP partner [redacted] and the Acquiring Group.

[33] The Tribunal had regard to the prior matters involving Slip Knot and the assessment of its ownership structure in those matters.[7] The Tribunal's approach has been to assess public interest issues on a case-by-case basis, noting also that the Commission's revised public interest guidelines for merger control do not provide further guidance on some of the issues raised in this case, such as how to regard the HDP status of non-acquiring subsidiaries within the same

[6] The merging parties argue that [redacted] It must be noted that only Braampark Office Park is being sold in the current transaction and not Sanlam Life's entire asset portfolio.
[7] See Tribunal Case No.: LM149Dec21, LM008April24, and LM101Sep24.

group. In this case, further information that was requested by the Tribunal and provided by the acquiring firm and the Commission carries further weight in our assessment, particularly in terms of clarifying the position and activities of [redacted] and Slip Knot.

[34] A case-by-case assessment is also required because the ownership composition and partnerships of firms may change over time. We therefore considered the issue of the ownership of Slip Knot and the Acquiring Group having regard to the specific facts and circumstances of the instant transaction.

[35] Our assessment of the various submissions, including statements at the hearing, confirms that:

35.1. Slip Knot is controlled by [redacted] ([redacted]%) and the [redacted] [redacted] HDP participants), and [redacted] is ultimately controlled by the [redacted], also [redacted] HDP shareholding. There is therefore no HDP ownership component in the firms that directly control Slip Knot, the acquirer;

35.2. [redacted] is a subsidiary of [redacted]. [redacted] relation with Slip Knot is that it shares a common ultimate shareholder, being [redacted]. [redacted] does not control Slip Knot or [redacted] and is itself [redacted]% indirectly controlled by [redacted]; and

35.3. [redacted] is not a [redacted] of Slip Knot. [redacted], as the [redacted] of Slip Knot, also controls [redacted] as to [redacted]%, which in turn controls [redacted] as to [redacted]%. The balance of the shareholding in [redacted] is held by [redacted] which is wholly controlled by an HDP in terms of the Act, [redacted]; and [redacted] also holds a [redacted]% direct shareholding in [redacted], which is the controller of [redacted] The combination of the direct shareholding of [redacted] through [redacted] and the indirect shareholding in [redacted] of [redacted] through [redacted] shares in [redacted] gives rise to the [redacted]% HDP ownership in [redacted]

[36] We are therefore dealing with a matter in which the HDP ownership composition of a subsidiary firm [redacted] that is not involved as an acquiring firm in the proposed transaction, was initially claimed to be imputable as the HDP ownership composition of the entire group inclusive of [redacted] which we have noted above has [redacted] The proposed transaction therefore raises important questions about the calculation of HDP ownership in merger transactions, debates on which we received submissions from both the merging parties and the Commission. In this regard, our assessment is guided by the specific facts of this case which we set out below.

[37] We ultimately do not agree in this matter that the HDP shareholding of [redacted] as a subsidiary can be imputed as the HDP shareholding of the entire Acquiring Group as the merging parties have argued. Specifically, we do not find that the Acquiring Group as a whole has an HDP ownership of [redacted]%. A plain reading of the facts before us makes it clear that the acquirer does not have ownership by HDPs in terms of the Act, even as the Acquiring Group may have partnerships with HDP-owned firms in terms of the Act and empowerment initiatives in terms of B-BBEE legislation in some of its subsidiary entities. Furthermore, the evidence presented to us in this specific matter is that [redacted] was in fact [redacted] and that [redacted] in the Slip Knot business.

[38] In response to questions from the Tribunal, the representative of the Acquiring Group confirmed that the group is not asking for the credentials of [redacted] to apply to the entire group.[8] This, in our view, is dispositive of the claim that the [redacted]% HDP ownership of [redacted] can be said to apply to the entire Acquiring Group, which comprises a large number of entities and units based on the group's organogram.[9]

[39] We also had regard to submissions of the Acquiring Group in support of its wider contribution to the public interest, B-BBEE and empowerment of HDPs. We

[8] Hearing Transcript, p. 24, lines 20-22.
[9] Merger Record, p. 27.

considered these submissions in the same manner that we might regard all public interest claims and effects of a proposed transaction severally and holistically (particularly those that are merger-specific).

[40] The Acquiring Group put forward that it is involved in a range of activities which seek to advance the empowerment of HDPs in its various businesses. Of relevance is the role played by [redacted] in partnership with [redacted] through [redacted] and other entities to enable [redacted] and the entities in which [redacted] to own and manage property activities (such as the [redacted][10] in which [redacted] holds [redacted], and [redacted] in the [redacted] businesses of the [redacted] of companies). [redacted] has also received benefits from [redacted] including [redacted][11] The Commission obtained confirmation from [redacted] in this regard, including information that [redacted] involvement in some of these endeavours would not have been possible without the assistance of [redacted]

[41] The proposed transaction involves the disposal of an asset by Sanlam which will ultimately be the subject of [redacted] and [redacted] by Slip Knot. In this regard, we noted the stated [redacted] of Slip Knot to [redacted] and [redacted] such as Braampark. Through this [redacted] Slip Knot states that it carries [redacted] and [redacted] following which it has been its practice to [redacted] these properties to the [redacted] portfolio, in which [redacted] is involved, once they are suitably [redacted] and [redacted] The merging parties stated that the Braampark acquisition has been structured

[10] The merging parties submitted that [redacted] participation in [redacted] only became possible due to the introduction facilitated by [redacted] In the Tribunal Case No. LM138Dec23, [redacted] fully controlled Barkophor Investments (Pty) Ltd, which acquired the Sasol DC letting enterprise from Izandla Property Fund (Pty) Ltd.
[11] Competition Commission's letter dated 27 February 2025.

on this basis[12], which, in our view, is a likely benefit of the proposed transaction that aligns with the spirit and intent of the Act in relation to section 12A(3)(c).

[42] Taking all of the above into account, we concluded that no further intervention was required in this matter on this or any other public interest consideration.

Third party views

[43] No third parties raised any concerns regarding the transaction.

Conclusion

[44] For the reasons set out above, we are satisfied that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. Furthermore, the proposed merger does not raise any public interest concerns.

[45] We, therefore, unconditionally approved the proposed transaction.

Signed by:Prof Thando Vilakazi
Signed at:2025-04-10 18:00:33 +02:00
Reason:Witnessing Prof Thando Vilakazi

Thando Vilakazi

Professor Thando Vilakazi — **10 April 2025** **Date**

Ms Andiswa Ndoni and Professor Imraan Valodia concurring.

Tribunal Case Managers:	Theresho Galane, Sinethemba Mbeki and Nomkhosi Mthethwa-Motsa
For the Merger Parties:	Vani Chetty of Vani Chetty Competition Law (Pty) Ltd.
For the Commission:	Nolubabalo Myoli and Grashum Mutizwa

[12] See Hearing Transcript, p. 25, lines 17-18; and Competition Commission's letter dated 27 February 2025, p. 4, para 15.