COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA

Case No: 42/LM/Jul01

In the large merger between:

New Republic Bank Limited, a subsidiary of Saambou Holdings Limited

and

FBC Fidelity Bank Limited, a subsidiary of Nedcor Bank Limited

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Reasons for Decision

APPROVAL

On 12 September 2001 the Competition Tribunal issued a Merger Clearance Certificate approving the merger between New Republic Bank Limited and FBC Fidelity Bank Limited without conditions in terms of section 16(2)(a). The reasons for the approval of the merger appear below.

The Parties

1. The primary acquiring firm is New Republic Bank Limited ("NRB"), a subsidiary of Saambou Bank Limited, which is ultimately controlled by Saambou Holdings Limited.

2. NRB is acquiring 13,750 rental and installment sale agreements from FBC, a subsidiary of Nedcor Bank Limited.

Background

3. FBC was placed under curatorship in October 1999. A year later, Nedcor acquired the entire issued ordinary share capital of FBC, by virtue of a scheme of arrangement in terms of section 311 of the Companies Act.

4. Prior to FBC going into curatorship in October 1999, certain brokers, engaged in the business of selling, servicing and delivering office automation equipment, would discount the rental and instalment sale agreements in favour of FBC.

5. These discounting agreements essentially took the following form:

    a. The broker entered into a discounting agreement with a bank;
    b. The bank gains approval to make available funds up to a certain limit;
    c. Brokers, having agreed with their clients that they will raise finance for the deals it brokers, completes the installment sale documentation;
    d. Once the client signs this, it is submitted to the bank advancing the finance;
    e. The bank pays out the discounted sum to the broker who then pays the proceed to the suppliers less his commission.
    f. The bank then collects the rental or installments.

6. With the continuity of FBC's rental and instalment sale agreement business being interrupted by the curatorship, FBC subsequently discontinued its relationships with the brokers. It concentrated merely on the collection of outstanding installments, as well as the disposal of blocks of agreements.

The merger transaction

7. In terms of this transaction, NRB is continuing to restructure and integrate its affairs by acquiring a portion of FBC's assets, namely some 13,750 rental and instalment sale agreements. These are discounted agreements of the type discussed above, and particularly relate to the office automation equipment supply business.

8. Nedcor, by means of this transaction, seeks to relinquish this non-core debtor's book acquired pursuant to rescuing FBC from liquidation. Nedcor lacks the infrastructure and strategic intention to expand this particular market within its own operations. Accordingly, this transaction will relieve Nedcor of the burden of managing and administering such book.

9. The assets being transferred constitute only about 9% of FBC's range of asset-based products. It will retain the installment sale and vehicle financing part of its business, as well as the franchise operations.

10. Following the merger, the assets being transferred will be integrated into Planet Finance Bank, a division of Saambou Limited and NRB will continue to conclude these agreements with the brokers.

EVALUATING THE MERGER

The relevant market

11. NRB's activities comprise a wide range of banking services, including the provision of mortgages, term loans and other advances, including instalment sales.

12. FBC provide a full range of asset-based products, including home loans, commercial property lonas; SMME franchise finance, term and personal loans and micro loans. FBC also offers transmission savings accounts and fixed or notice deposit facilities.

13. Notwithstanding the overlap between both parties with regard to the provision of like products, particularly home loans and micro loans, this transaction relates specifically to the a sale of a portion of the business of FBC to NRB, namely its rental and instalment sale agreements. The Commission accordingly defined the relevant market as the market for the <u>provision of rental sale and installment sale agreement services</u>. It seems that the market can be narrowed further, since the discounted agreements being acquired by NRB relates primarily to the financing of movable equipment, namely, office automation equipment. It is the Tribunal's view that office equipment financing is a specialised product market, separate from the market for other types of asset financing such as vehicle financing. This is so especially since it is an accepted practice in the office automation market that most of these transactions are concluded via brokers, whereas other asset finance transactions entail direct dealings with the client.

Geographical Market

14. The Commission stated that the market was national since both NRB and FBC provide their rental and installment sale agreement services throughout the country. By extension, rental and installment sale agreements with respect to office automation equipment would also be entered into on a nationwide basis. We accordingly accept this definition.

Market Shares

15. The parties and Commission relied on figures obtained from the DI900 Reserve Bank returns. When questioned by the Tribunal as to whether these figures were specific to the office equipment rental market, or included other forms of financing, such as vehicle financing, they advised that the latter position was the case. They informed us that the DI900 Reserve bank returns (from which their figures were extracted) provided no separate breakdown in respect of installment sale and rental transactions in the office automation equipment market. Therefore, in the table below the office equipment, rental and installment sale market is subsumed into the figures for other types of leases, e.g. vehicles.

Competitor Market Share in respect of rental and installment sale agreements

Institution	***Value (RM)***	***% of Total***
First National Bank	23 569	28.9%
ABSA Bank	19 532	23.9%
Standard Bank	17 658	21.6%
Nedcor Bank	11 185	13.7%
BoE Bank	2 547	3.1%
Citibank	1 204	1.5%
Saambou	**1 186**	**1.4%**
FBC Fidelity Bank	**745**	**0.9%**
TOTAL	77,626	100%

Source: NRB's Form CC4(2)Schedule 5

16. On the parties' estimates, the combined market share of the merged entity would be **2.3%** post-merger.

Impact on competition

17. While the post-merger market share of 2.3% is not significant enough to reduce competition in the market, we must consider that on the parties' admission, this figure includes other forms of asset financing, such as vehicle financing. Since these turnover figures might be quite large for banks such as Stannic and FNB, this could distort shares when we consider the narrower office equipment financing market. Were the parties able to obtain separate figures for this latter market, such market shares could well be more inflated than the figure of 2.3%.

18. After further questioning, it nevertheless appeared that the market for office equipment financing is very competitive, with all the major banks participating therein. Furthermore, entry barriers are low since banks can quite easily get involved in this type of financing provided they have adequate funds and sophisticated collection systems.

19. On balance, the Tribunal is therefore of the opinion that this transaction will not substantially lessen competition in respect of rental and installment sale transactions in the office automation equipment market.

Public Interest Considerations

20. The parties submit that this transaction will have no effect on employment.

______________ **21 September 2001**

D.H. Lewis **Date**

Concurring: N. Manoim, D. Terblanche