



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM292Feb18

In the matter between

Dipula Income Fund Limited

Primary Acquiring Firm

And

Bajascope (Pty) Ltd

Primary Target Firm

Panel	: Yasmin Carrim (Presiding Member)
	: Medi Mokuena (Tribunal Member)
	: Fiona Tregenna (Tribunal Member)
Heard on	: 14 March 2018
Order Issued on	: 14 March 2018
Reasons Issued on	: 27 March 2018

REASONS FOR DECISION

Approval

- [1] On 14 March 2018, the Competition Tribunal ("Tribunal") unconditionally approved the proposed transaction in terms of which Dipula Income Fund Limited ("Dipula") is acquiring control over Bajascope (Pty) Ltd ("Bajascope").
- [2] The reasons for the approval of the proposed transaction follow.

Parties to the transaction

Primary Acquiring Firm

Dipula is a REIT¹ listed on the JSE. Dipula is not controlled directly and indirectly by any firm. Dipula directly and indirectly controls a number of firms *inter alia*, Mergence Africa Property Investment Trust and Dipula Property Investment Trust. Dipula and its subsidiaries will be referred to as the "acquiring group". The acquiring group owns a diversified portfolio of retail, industrial and office properties. The portfolio is currently weighted towards retail properties and to a lesser extent, office and industrial properties.

Primary Target Firm

[3] Bajascape is a newly established entity which is wholly-owned by the trustees of the REC Group Property Trust ("REC Trust"). The trustees are Bradley Ivan Kark, David Solomon Brouze and Russel Hoole. Bajascape does not directly or indirectly control any firm, nor does REC Trust.

[4] Bajascape is invested in 23 immovable properties and letting enterprises. The properties consist of a single office property in Gauteng, and 22 industrial properties in Gauteng, Eastern Cape and Mpumalanga amongst other provinces. Of relevance to the proposed transaction is Bajascape's office property in Gauteng (Sandton), and its industrial properties in Gauteng (Alberton) and Eastern Cape (Port Elizabeth).

Proposed transaction and rationale

[5] It is intended that the proposed transaction be done in two steps. Prior implementation, REC Trust will dilute its investment in the abovementioned 23 properties by disposing the properties to Bajascape.² Dipula will then acquire

¹ A REIT is a Real Estate Investment Trust.

² Merger Record, page 49.

50.01% of the issued shares of Bajascape. Upon implementation of the proposed transaction, the abovementioned properties will be indirectly controlled by Dipula through its interest in Bajascape.

Relevant market and impact on competition

- [6] The Competition Commission ("Commission") found a horizontal overlap in the product market for the provision of rentable grade A office space and light industrial properties. The horizontal overlap arises as a result of the merging parties owning grade A office space in Sandton (Illovo) and industrial properties in Alberton and Port Elizabeth.
- [7] However in this market the Commission found that the merging parties' combined post-merger market share in the provision of rentable grade A office space in Illovo is less than 1%. The Commission further found that there are other market participants like Cradock Heights and Mall Offices that will exercise competitive constraints against the merged entity. The merging parties' competition assessment encompassed both the Hyde Park node and Illovo node as a single market, and they came out with a slightly different market share than the Commission's. However, the post-merger market shares on this scenario were negligible and raised no competition concerns.
- [8] The Commission found that the merging parties' combined post-merger market share in the provision of rentable industrial property would be less than 7% (with less than 3% accretion) in Alberton, and less than 15% (with less than 4% accretion) in Port Elizabeth. The Commission also found that there are other market participants like Alrode Multipark (Alberton) and Warehouse Neave (PE) that will exercise competitive constraints against the merged entity.
- [9] Due to the low market share accretions brought by the merger in the affected markets, the Commission concluded that the proposed transaction is unlikely

to substantially prevent or lessen competition in any market. We found no reason to disagree with the Commission.

Public interest

[10] The merging parties confirmed that the proposed transaction will not have any adverse effects on employment.³ The proposed transaction raises no other public interest concerns.

Conclusion

[11] In light of the above, we concluded 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 approved the proposed transaction unconditionally.



Ms Yasmin Carrim

27 March 2018

Date

Mrs Medi Mokuena and Prof. Fiona Tregenna concurring.

Tribunal Case Manager : Kgothatso Kgobe

For the Merging Parties : S Meyer of Cliffe Dekker Hofmyer

For the Commission : R Ncheche

³ Commission's report, page 16 and page 84 of the Merger Record.