



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM0138Oct20

In the matter between

Corvest 12 (Pty) Ltd

Primary Acquiring Firm

and

The Alternative Power (Pty) Ltd

Primary Target Firm

Panel	: M Mazwai (Presiding Member)
	: E Daniels (Tribunal Member)
	: A Ndoni (Tribunal Member)
Heard on	: 25 November 2020
Order Issued on	: 25 November 2020
Reasons Issued on	: 2 December 2020

REASONS FOR DECISION

Introduction

[1] On 25 November 2020, the Competition Tribunal (“Tribunal”) approved a transaction in terms of which Corvest 12 (Pty) Ltd (“Corvest 12”) acquired control of The Alternative Power (Pty) Ltd (“Alternative Power”), without conditions.

[2] The reasons for the approval follow.

Parties to the transaction

Primary Acquiring Firm

- [3] The primary acquiring firm is Corvest 12, which is owned and controlled by RMB Corvest 2 (**“RMB Corvest 2”**).
- [4] RMB Corvest 2 is ultimately controlled by FirstRand Limited, which is listed on the Johannesburg Securities Exchange (“JSE”).
- [5] No entities directly or indirectly control FirstRand.
- [6] Corvest 12 does not control any firm, however it currently holds 32.28% of the issued shares in Alternative Power, the Primary Target Firm.
- [7] Corvest 12 and all the firms controlling it will be collectively referred to as the "Acquiring Group".
- [8] Corvest 12 is an on-balance sheet provider of private equity for mid-sized management buy-outs, leveraged buyouts, development capital and funded black economic empowerment solutions.
- [9] The Acquiring Group, through its various financial services franchises, provides a universal set of transactional, lending, investment and insurance products and services.

Primary Target Firm

- [10] The primary target firm is Alternative Power, which is not controlled by any single shareholder.

- [11] The issued shares in Alternative Power are currently held by various shareholders, one of which is Corvest 12 which holds 32.28% of the issued shares.
- [12] Alternative Power does not control any firms in South Africa.
- [13] Alternative Power manufactures and sells energy drinks, energy bars and energy rolls under the brand “Switch”, to wholesalers, distributors and retailers.
- [14] It does not sell any of its products directly to end customers.
- [15] Alternative Power trades throughout South Africa, focusing on Gauteng, Limpopo, and Mpumalanga. It also exports its products to certain neighbouring countries from time to time.

Proposed transaction and rationale

- [16] Corvest 12 currently holds 32.28% of the issued shares in Alternative Power, but does not control Alternative Power pre-merger.
- [17] Pursuant to the proposed transaction, Corvest 12 intends to acquire certain additional minority protections through its 32.28% shareholding in Alternative Power. Upon the implementation of the proposed transaction, Corvest 12 will exercise control over Alternative Power as envisaged by section 12(2)(g) of the Competition Act, 89 of 1998 (as amended), (“the Act”).
- [18] There will be no purchase consideration payable by Corvest 12 for the proposed transaction as Corvest 12 paid for its existing shareholding in Alternative Power on the basis that it would have the right to acquire control at a later stage.
- [19] As far as the rationale for the transaction from the perspective of the Acquiring Firm is concerned, Corvest 12’s interest in Alternative Power is a financial

investment to diversify its investment portfolio and reflects the strategy of the FirstRand group to invest in companies with proven track records in their respective industries and stable prospects for mid-to-longer-term growth.

Relevant market and impact on competition

- [20] The Commission considered the business activities of the merging parties and found that the proposed transaction does not result in a horizontal overlap, as Corvest 12 does not provide products and services that compete with the products of Alternative Power.
- [21] Corvest 12 does not have interests in firms that provide products that could be considered to be interchangeable with those of Alternative Power.
- [22] The Commission was accordingly of the view that the proposed transaction was unlikely to change the structure of the market as it would simply result in an existing non-controlling shareholder acquiring control in terms of section 12(2)(g) of the Act. We agree with this conclusion.

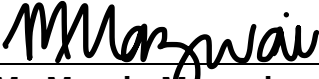
Public interest considerations

- [23] The Commission found that the proposed transaction does not raise any public interest concerns.
- [24] Corvest 12 does not have any employees. In addition, no concerns were raised by Alternative Power's employee representatives.

Conclusion

- [25] 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 Mondo Nazwai

2 December 2020

Date

Mr E Daniels and Ms A Ndoni concurring.

Tribunal Case Managers : Camilla Mathonsi; Alistair Dey-van Heerden