

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case no: LM013Apr22

In the large merger between:

K2022341645 (South Africa) Proprietary Limited

Primary Acquiring Firm

And

Five Properties in the Live Easy Portfolio

Primary Target Firms

Heard on: 21 July 2022

Order issued on: 21 July 2022

REASONS FOR DECISION

- [1] On 21 July 2022, the Competition Tribunal ("Tribunal") unconditionally approved the large merger between K2022341645 (South Africa) Proprietary Limited ("BidCo") and Five Properties in the Live Easy Portfolio.

Transaction

- [2] In terms of the proposed merger, BidCo intends to acquire 100% of the issued share capital of each of the firms which make up the Live Easy Portfolio. Upon implementation of the proposed merger, the Live Easy Portfolio will be controlled by BidCo.

Merging parties' activities

Primary acquiring firm

- [3] BidCo is an entity incorporated for the purposes of the proposed merger and does not control any other entities. Post-merger, BidCo will be controlled by 27Four Life Limited ("27Four Life") as to [REDACTED]%, Scipio Investments Proprietary Limited ("Scipio") as to [REDACTED]%, and TwentyFive 15 Proprietary Limited ("TwentyFive 15") as to [REDACTED]%.
- [4] 27Four Life's shareholding in BidCo will be controlled by Mergence Investment Managers Proprietary Limited ("MIM") which is ultimately controlled by the Mergence Group Proprietary Limited ("Mergence Group"). Mergence Group is in turn controlled by [REDACTED] in his personal capacity.
- [5] Scipio is controlled by Montgomery Investments Proprietary Limited ("Montgomery"). Montgomery is in turn jointly controlled by [REDACTED] and [REDACTED]. In addition to Scipio, Montgomery controls Agricola Investments Proprietary Limited.

- [6] TwentyFive 15 is controlled by Boofy Investments Proprietary Limited ("Boofy").¹ Boofy is in turn is controlled by Boofy Family Trust. The Boofy Family Trust does not control any other firms.²
- [7] The Acquiring Group holds and manages assets in financial, property, and industrial services. The Acquiring Group does not have a direct shareholding interest in residential property-owning entities.

Primary target firm

- [8] The Live Easy Portfolio comprises five property holding and management firms ("the Target Firms"), and are as follows: Huis Dawid Proprietary Limited ("Huis Dawid"); Optima Asset Management Proprietary Limited ("Optima"); Rivport Proprietary Limited ("Rivport"); Sciprime Proprietary Limited ("Sciprime"); and Unlocked Properties 30 Proprietary Limited ("Unlocked").³
- [9] The Target Firms are controlled by Scipio [REDACTED] Stockdale Street Investments Partnership V ("Stockdale Street") [REDACTED] and TwentyFive 15 [REDACTED] [REDACTED].⁴ The Target Firms are special purpose vehicles incorporated to develop and manage affordable housing developments and do not control any other firms.
- [10] Each of the Target Firms hold and manage a rental residential property. The rental residential properties in the Live Easy Portfolio are made up of self-contained units averaging 15 square meters. These properties consist of the following –
- 10.1. Huis Dawid, located at Johannes Ramokhoase Street, Pretoria CBD;
 - 10.2. Optima, located at the Corner of Hill Street and Kent Avenue, Ferndale;
 - 10.3. Live Easy Rivonia, located at 23A 10th Avenue, Rivonia Sandton;
 - 10.4. Sciprime, located at 53 Main Street in Marshalltown, Johannesburg CBD; and
 - 10.5. Unlocked 30, located at Suid Afrikaanse Vrouefederasie Building, 323 Nana Sita Street, Pretoria CBD.

Competition assessment

- [11] The Competition Commission ("Commission") considered the activities of the merging parties and found that the proposed merger does not give rise to any overlap. This is because BidCo and its controllers are not invested in any firm that competes with the Target Firms.
- [12] On this basis, we find that the proposed merger will not lead to any substantial prevention or lessening of competition in any relevant market.

¹ TwentyFive 15 has non-controlling interest in several firms and controlling interest in the following properties: Vistaero Hotel Bera Johannesburg, Monarchs Senior Living, Anderson Street Live Easy, Bathopele House, and Blue Mergence.

² BidCo and all the firms directly and indirectly controlling are collectively referred to as the "Acquiring Group"

³ These firms are collectively referred to as the "Target Firms"

⁴ TwentyFive 15 is involved in the day-to-day management of the Live Easy Portfolio and accordingly is deemed a controller along with Scipio and Stockdale Street.

Public interest

Employment

- [13] The merging parties provided an unequivocal statement that no retrenchments will arise as a result of the proposed merger.
- [14] BidCo, as a newly established special purpose vehicle, does not have any employees. Furthermore, pre-merger, the Live Easy Portfolio is managed by TwentyFive 15, and this will continue post-merger.
- [15] The Commission engaged the Target Firms relevant employee representative who confirmed that employees were aware of the proposed merger and no employment concerns were raised.

Spread of ownership

- [16] The Target Firms have no historically disadvantaged person ("HDP") shareholding.
- [17] [REDACTED] is a HDP shareholder and holds an effective shareholding of [REDACTED] in MIM. As previously mentioned, MIM has a [REDACTED]% shareholding in BidCo. This translates into an effective HDP shareholding of about [REDACTED]%, resulting in greater levels of HDP ownership.
- [18] In light of the above, the proposed merger is unlikely to raise employment concerns and raises a positive effect on ownership.

Conclusion

- [19] Based on the evidence set out above, we concluded that the proposed merger is unlikely to substantially prevent or lessen competition in any relevant market. Furthermore, the proposed merger does not raise any public interest concerns.

Signed by: Liberty Mncube
Signed at: 2022-08-02 08:46:31 +02:00
Reason: Witnessing Liberty Mncube

L-Mncube

Prof Liberty Mncube
Ms Yasmin Carrim and Dr Thando Vilakazi concurring

2 August 2022

Date

Tribunal Case Managers:	Baneng Naape and Leila Raffee
For the Merging Parties:	Chris Charter and Alistair Dey-van Heerden of Cliffe Dekker Hofmeyr Inc.
For the Commission:	Horisani Mhlari and Ratshidaho Maphwanya