

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case NO: 105/LM/Oct08

In the matter between

Kagiso Media Ltd

Primary Acquiring firm

And

Urban Brews Studios (Pty) Ltd

Primary Target Firm

Panel : D Lewis (Tribunal member); N Manoim (Tribunal member) and
Y Carrim (Tribunal member)

Heard on : 29 October 2008

Decided on : 29 October 2008

Reasons Issued : 24 November 2008

Reasons for decision

Approval

[1] On 29 October 2008 the Competition Tribunal issued a Merger Clearance Certificate approving the merger between Kagiso Media Ltd and Urban Brews Studios (Pty) Ltd unconditionally. The reasons for the approval appear below.

Parties

[2] The primary acquiring firm is Kagiso Media Ltd ("KML"). KML has in excess of 20 subsidiaries. It is controlled by Kagiso Trust Investments (Pty) Ltd ("KTI"), which is in turn controlled by Kagiso Charitable Trust ("Kagiso Trust"). KTI has in excess of 46 subsidiaries, including Kagiso Trust Enterprises ("KTE").¹ KTE indirectly controls Kagiso Educational Television (Pty) Ltd ("Kagiso TV").

¹ Refer to form CC 4(1) for a complete list of KML and KTI's subsidiaries.

[3] The primary target firm is Urban Brew Studios (Pty) Ltd (“UBS”). UBS is jointly controlled by Danie Ferreira and Zwelakhe Sisulu each with 50% share. UBS controls Urban Rhythm Factory (Pty) Ltd, Mtommbo Audio Solutions (Pty) Ltd, One Gospel (Pty) Ltd, Soweto TV (Pty) Ltd and Ink Fly (Pty) Ltd.

Transaction

[4] The transaction entails KML acquiring 50.1% shares in UBS. On completion of the transaction, UBS will be controlled by KML.

Rationale

[5] From KML’s viewpoint the transaction provides an opportunity to constantly evolve with customer demand and meet the current needs of investors.

[6] UBS submits that the transaction will enable it to obtain structures, finances and management depth to allow it to take advantage of new opportunities, particularly in other parts of Africa.

Parties Activities

The Acquiring Group

[7] KML is involved in the provision of services such as the production and broadcasting of audio content for radio, sale of advertising space on radio, the publication and provision of specialised academic and professional information service, outdoor billboard advertising and hosting and operating trade and consumer exhibitions. KTI is an investment holding company with interests in the industrial, financial services and resources sectors. KTE is also an investment holding company specialising in the management of small businesses.

[8] Kagiso TV is involved in the production of private videos used by business, government and interested members of the public for educational purposes. Kagiso TV also produces audiovisual content for TV broadcasting.² Kagiso Trust is involved in social development consultancy including consulting services in relation to the

² The parties submitted that Kagiso TV does not have its own studios and other infrastructure required to produce and complete an audio visual content but rather sources these from other companies.

involvement of young adults in business, government as well as urban renewal projects.

The Primary Target Firm

[9] UBS is active in the market for the production of audio visual content. This content is produced for operators of television broadcast platforms such as the SABC. UBS's subsidiaries are involved in inter alia, the production of voice overs, composition of music and sound tracks for television shows and the development of gospel music package.

Competition analyses

[10] The activities of the merging parties overlap in respect of the following: production of jingles (written music using a radio station name, slogan and frequency usually played before or after a song) and audio products, audio broadcasting services and the production of audiovisual content.

[11] The Commission submits that KML produces jingles for its radio station and UBS for their in-house use. Since in-house activities do not constitute part of the contestable market, the Commission concludes that this overlap does not have any effect on competition.

[12] For the production of audio products, the merging parties' combined post-merger market share is estimated to be 2%. For the provision of audio broadcasting services, KML has infrastructure for broadcasting of its radio stations whereas UBS currently does not have but has begun building its infrastructure in South Sudan. The Commission therefore came to the conclusion that the parties' activities overlap in this regard but not geographically since UBS's broadcasting infrastructure is based in Sudan.

[13] Both merging parties produce audiovisual content for broadcasting on free to air TV. The post merger market share for locally produced audiovisual content is estimated at 4.59%. For all content produced and broadcasted on free to air, the merging parties' combined post-merger market share is estimated to be 2.05%. The

merging parties face competition from other firms such as Endemol, Morula Pictures, Magic- Works, Red Pepper and Franz Marx Films.

[14] The transaction is unlikely to substantially prevent or lessen competition in the affected markets as the merging parties' combined post-merger market shares remain low.

Public interest

[15] The transaction does not give rise to any public interest issues and is accordingly approved without conditions.

D Lewis
Tribunal Member

24 November 2008

Date

Concurring: N Manoim and Y Carrim

Tribunal Researcher : I Selaledi
For the merging parties : Barkers Attorneys
For the Commission : Themba Mahlangu (Mergers and Acquisitions)