

COMPETITION TRIBUNAL SOUTH AFRICA

Case NO: 45/LM/May09

In the matter between:

Investec Bank Ltd

Business Venture Investments NO 1343 (Pty) Ltd Acquiring Firms

And

Stella Group Holdings (Pty) Ltd Target Firm

Panel : Y Carrim (Presiding Member); M Mokuena (Tribunal Member) and M Holden (Tribunal Member)

Heard on : 08 July 2009

Decided on : 08 July 2009

Reasons Issued on : 30 July 2009

Reasons for Decision

Approval

[1] On 08 July 2009 the Competition Tribunal issued a Merger Clearance Certificate unconditionally approving the merger between Investec Bank Ltd and Business Venture Investments No 1343 (Pty) Ltd's acquisition of Stella Group Holdings (Pty) Ltd. The reasons for the decision appear below.

Parties

[2] The acquiring firms are Investec Bank Ltd ("Investec") and Business Venture Investments No 1343 (Pty) Ltd ("Manco SPV"). These companies are incorporated under the laws of the Republic of South Africa. Investec falls within a group of companies controlled by Investec Ltd.¹ Investec controls Grayinvest Ltd and Reichmans Ltd.² Manco SPV is a newly formed entity and it does not control any firm.³

¹ Investec Ltd is a public company listed on the JSE. Investec Ltd controls the following entities in South Africa: Investec Group Data (Pty) Ltd; Investec Management Holdings (Pty) Ltd; Investec Property Group Holdings Ltd; Investec Assurance Ltd; Investec Employee Benefits Holdings Ltd; Fedsure International Ltd; Investec Securities Ltd and Investec Private Trust Ltd.

² Grayinvest Ltd controls Investec Investments Ltd and Metboard Holdings Ltd. Reichmans Ltd does not control any firm.

³ Manco SPV is jointly controlled by the following trusts: Burgundy Trust; Vienna Trust and Jubie Trust.

[3] The primary target firm is Stella Group Holdings (Pty) Ltd (“SGH”)⁴ a company incorporated under the laws of the Republic of South Africa. SGH is controlled by Richtrau No. 278 (Pty) Ltd (“Richtrau”).⁵

Transaction

[4] In terms of the proposed transaction, Investec intends to acquire 30% shares and Manco SPV 24.5% shares with minority protection rights in SGH. The other investors in SGH are Richtrau with 13%; Staff Trust with 5.5% and BEE shareholders with 27%. Post merger Investec and Manco SPV will have control over SGH.

Parties Activities

[5] The Investec Group is an international, specialist banking group that provides a diverse range of financial products and services to a niche client base. Its principal business activities can be divided into the following: investment banking,⁶ treasury and specialised finance,⁷ private client activities incorporating private banking and private client portfolio management and stock broking, and assets management.⁸

[6] Manco SPV is a newly formed shelf company which has not previously traded.

[7] Through its subsidiaries SGH owns and controls various hotels in South Africa and internationally in Namibia, Malawi, Tanzania, Kenya, Nigeria, Zambia, Ghana and Uganda which operate under the brand “Protea Hotels”.

Rationale for the Transaction

⁴ SGH controls the following entities: Protea Group Holdings (Pty)Ltd; Protea Hospitality Group(Pty)Ltd; Protea Group Holdings (Pty)Ltd; Protea Hotels Corporation (Pty)Ltd; Protea Hospitality Holdings (Pty)Ltd; Protea Hospitality Corporation (Pty)Ltd.

⁵ As part of the transaction, Richtrau will acquire 100% of the shares in and claims against SGH from Protea Group Holdings (Pty) Ltd, Australia.

⁶Investec Group’s investment banking involves corporate finance, private equity, direct investment and institutional research, sales and trading.

⁷ Its specialised finance includes non-private client deposit-taking, corporate and public sector lending, structuring and proprietary trading activities, financial markets activities and banking activities.

⁸ Its assets management involves assurance activities, portfolio management and investments products.

[8] The Investec Group views the proposed transaction as an attractive opportunity to invest in the hotel and leisure industry in South Africa. The parties submit that the industry is seen as having significant growth potential in the future.

[9] From Protea Group's perspective the proposed transaction enables it to continue a viable going concern.

Competition Analysis

[10] The Commission found that there is no overlap in the activities of the merging parties as both the acquiring firms are not involved in the activities of the target firm which is active in the hotel and leisure industry. We agree with the Commission that the proposed transaction is unlikely to substantially prevent or lessen competition.

Conclusion

[11] There are no public interest issues and accordingly the transaction is unconditionally approved.

Y Carrim

Tribunal Member

30 July 2009

Date

M Mokuena and M Holden concurring

Tribunal Researcher : Jabulani Ngobeni

For the merging parties : Cliffe Dekker Hofmeyr

For the Commission : Mogalane Matsimela (Mergers and Acquisitions)