



## COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 020016

In the matter between:

**Attacq Waterfall Investment Company (Pty) Ltd**

Acquiring Firm

and

**Micawber 832 (Pty) Ltd**

Target Firm

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| Panel             | : | Yasmin Carrim (Presiding Member)<br>Medi Mokuena (Tribunal Member)<br>Andiswa Ndoni (Tribunal Member) |
| Heard on          | : | 18 December 2014  |
| Order issued on   | : | 18 December 2014  |
| Reasons issued on | : | 20 January 2015   |

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### Reasons for Decision

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#### Approval

1. On 18 December 2014 the Competition Tribunal (the "Tribunal") unconditionally approved an acquisition by Attacq Waterfall Investment Company (Pty) Ltd ("AWIC") of Micawber 832 (Pty) Ltd ("Micawber").
2. The reasons for the approval of the proposed transaction follow.

## **The Parties and their activities**

3. The primary acquiring firm is AWIC, a private company incorporated in terms of the Laws of the Republic of South Africa. AWIC is controlled by Attacq Ltd ("Attacq"), a public company listed on the Johannesburg Securities Exchange ("JSE"). Attacq is not controlled by any firm. Attacq's five largest shareholders as at 04 July 2014 are Sanlam Life Insurance Ltd (12.92%), Lisinfo 222 Investments (Pty) Ltd (10.98%), Coronation Fund Managers (9.15%), Mergon Foundation (6.19%) and Nedbank Group (2.58%). AWIC controls a number of firms including Atterbury Attfund Investment Company Number 1 (Pty) Ltd, Atterbury Property Investments (Pty) Ltd, Aldabri 96 (Pty) Ltd and AIH International Ltd. AWIC does not control any firm.
4. The Attacq group comprises of property development firms that develop and manage assets and properties in the commercial, retail industrial and residential sectors throughout South Africa and internationally. Relevant for purposes of this transaction are the Attacq group's Grade A office properties.
5. The primary target firm is Micawber, a private company incorporated in terms of the Laws of the Republic of South Africa. Micawber is controlled by the PwC Sunninghill Property Trust ("PwC Trust"). Micawber does not control any firm.
6. Micawber is a special purpose vehicle that was created with the sole purpose of holding an investment in a Grade B office property located at Eglin Road, Sunninghill, Gauteng Province ("the target property"). According to the merging parties, the target property is currently leased to the PwC Trust and does not form part of the open market. The merging parties also submitted that the lease agreement will be ceded to AWIC on the same terms.

### **Proposed transaction and rationale**

7. In terms of the proposed transaction AWIC intends to acquire 100% of the issued share capital of Micawber and all claims that the PwC Trust may have against Micawber. Following implementation AWIC will exercise sole control over Micawber.
8. AWIC submitted that the proposed transaction offers it with an opportunity to acquire another investment asset which it believes has a favourable market value.
9. The PwC Trust submitted that it intends on moving its head office to Attacq's Waterfall Estate (which is currently being developed) and according to PwC Trust, this move will be advantageous in affording it the opportunity to consolidate part of its Gauteng operations, which are currently spread across three locations.

### **Competition Analysis**

10. Both parties own office properties in Gauteng: the Attacq group owns grade A offices and the target property is a grade B office property. Although the target property does not form part of the open market, the Commission adopted a conservative view and assessed the activities of the merging parties in the provision of office property.
11. The Commission found that the merging parties' respective grade A and B offices are located in adjacent nodes, namely, Woodmead and Sunninghill. In assessing the competitive effects of the proposed transaction, the Commission also considered the average rentals within the two nodes. The Commission found that the difference in the average rentals in the two nodes is not significant and consequently adopted the view that the two properties may constrain each other. The Commission however did not conclude on the relevant product market and assessed the market for the

provision of Grade A and B office properties in the Woodmead/Sunninghill nodes.

12. The Commission found that the merging parties will have post-merger market shares of approximately 5.8% with an accretion of 4.9%. Competitors of the merging parties within the two nodes include Acucap, Equity Estates, Atterbury, Zenprop and others. As the merging parties' post-merger market shares are low and there are other firms that will continue to compete with the merging parties post-merger, the Commission concluded that the proposed transaction is unlikely to result in a substantial lessening or prevention of competition in the relevant markets.

#### **Public interest**

13. The merging parties confirmed that the proposed transaction will have no adverse effect on employment and will not result in any retrenchments in South Africa.<sup>1</sup> The proposed transaction raises no other public interest concerns.

#### **Conclusion**

14. For the reasons mentioned above, we approve the proposed transaction unconditionally.



**Ms. Yasmin Carrim**

20 January 2015  
Date

**Mrs. Medi Mokuena and Ms. Andiswa Ndoni concurring**

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|-------------------------|---|
| Tribunal Researcher     | : Ipeleng Selaledi                            |
| For the merging parties | : Darren Smith of Edward Nathan<br>Sonnenberg |
| For the Commission      | : Hugh Dlamini                                |

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<sup>1</sup> See merger record, pages 10. Also see paragraph 7.1 of the Commission's merger report.