COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 018960

In the matter between:

LIBERTY GROUP LIMITED Primary Acquiring Firm(s)

And

MELROSE ARCH INVESTMENT HOLDINGS (PTY) LTD Primary Target Firm(s)

Panel	: Yasmin Carrim	(Presiding Member)
	: Takalani Madima	(Tribunal Member)
	: Andiswa Ndoni	(Tribunal Member)
Heard on	: 09 July 2014	
Order Issued on	: 09 July 2014	
Reasons Issued on	: 05 August 2014	

Reasons for Decision

Approval

[1] On 09 July 2014 the Competition Tribunal ("**the Tribunal**") unconditionally approved an acquisition by Liberty Group Limited of a 25% share in the property known as Melrose Arch from Melrose Arch Investment Holdings (Pty) Ltd.

[2] The reasons for unconditionally approving the proposed transaction follow hereunder.

Parties to the Transaction

Primary acquiring firm

[3] The primary acquiring firm is Liberty Group Limited ("Liberty"). Liberty is a long-term insurance company in the financial services sector and holds a property portfolio comprising assets in the hospitality, retail and office space sectors. Liberty is a wholly owned subsidiary of Liberty Holdings Limited ("Liberty Holdings") which is a public company listed on the Johannesburg Securities Exchange

[4] Liberty Holdings is a subsidiary of the Standard Bank Group Limited which is one of South Africa's largest financial institutions and is involved in the provision of a range of banking services.

Primary target firm

[5] The primary target firm is Melrose Arch Investment Holdings (Pty) Ltd ("Melrose Investments") in respect of a 25% share in the property known as Melrose Arch. Melrose Arch is a mixed use property comprising rentable office space, rentable retail space, residential space, hotel space and a gymnasium. Melrose Arch is situated at the corner of Corlett Drive and the M1 Highway, Melrose, Johannesburg.

[6] Melrose Arch is controlled by Melrose Investments, a firm incorporated in terms of the laws of the Republic and, in turn, jointly controlled by Arch Properties Fund Limited ("Arch Properties") as to 50% and Amdec Investments (Pty) Ltd ("Amdec") as to the remaining 50%. Amdec is the ultimate beneficial owner of Arch Properties.

Proposed Transaction

[7] In terms of a Sale and Purchase of Business Agreement between Liberty and Melrose Arch Investments, Liberty is to acquire a 25% undivided share in Melrose Arch.[1] Post-merger Melrose Arch will be held by Melrose Investments and Liberty as to 75% and 25% respectively.

[8] In addition to the aforementioned Sale and Purchase of Business Agreement, the parties have entered into a Co-ownership Agreement such that post-merger, Liberty and Melrose Investments will exercise joint control over Melrose Arch.

Rationale

[9] Liberty submits that its strategy is to identify and invest in current assets that will continue to grow. It views Melrose Arch as an asset likely to achieve growth and to assist in its aim of re-balancing, upgrading and restructuring of its property portfolio.

[10] Melrose Investments views further investments in and upgrades to Melrose Arch as necessary to unlock additional potential. Considerable capital is required for such investments and upgrades to be effected and the proposed transaction provides just that.

Relevant Market and Impact on Competition

[11] The Commission's investigation revealed the following relevant markets:

- The market for the provision of rental space in comparative centres within a 15km radius of the target property;
- The market for the provision of short term accommodation in four and five star hotels within a 6km radius of the target property;

[1] This includes the properties, both the fixed and movable assets, the rights and obligations in terms of the leases in place pre-merger and the goodwill associated with the letting enterprise.

- The market for the provision of rentable residential space; and
- The market for the provision of rentable P-Grade office space.

The market for rentable space in comparative centres within a 15km radius of the target property

[12] Within a 15km radius of Melrose Arch, the Commission identified two comparative centres controlled by the acquiring firm, namely Sandton City and Eastgate Shopping Centre at distances from the target property of 5.8km and 13.8km respectively. On the Commission's calculation, in this market the merged entity will hold a market share of roughly 27% with the transaction accounting for accretion of 4.5%. The merging parties however, conducting something of a more nuanced market share analysis, found that Eastgate Shopping Centre poses no constraint on the target firm and should thus be excluded from the analysis. On the merging parties' analysis the merged entity will hold a market share in the region of 11.6%.

[13] The Tribunal views the difference in market share as immaterial to the ultimate outcome and finds that the merged entity will remain constrained by numerous large players in the market. Similarly, the small accretion caused by the transaction allays any competition concerns.

The market for short term accommodation in four and five star hotels within a 6km radius of the target property

[14] Within this defined market, the Commission identified a possible overlap as the acquiring firm holds two hotels within a 6km radius of Melrose Arch (those being Sandton Sun Hotel and Sandton Sun Intercontinental Towers). The merged entity will hold an estimated market share of 13% with the transaction accounting for market share accretion of about 5%.

[15] The Commission is unconcerned with this aspect of the transaction solely on the basis that it regards 13% as a low market share.

The market for the provision of residential rental space

[16] While the Commission was unable to provide specific market share information regarding this market, it is of the opinion that the merged entity would hold minimal market share. Further, the Commission does not consider the proposed transaction to raise any competition concerns in this market since the barriers to entry are particularly low and the market is highly fragmented and competitive with both private individuals and corporates operative in this market.

The market for the provision of rentable P-Grade office space

[17] Within this market the Commission identified no geographic overlap between the merging parties' activities. This finding is based on the fact that Melrose Arch is located in the Melrose/Waverley node while other P-Grade office space owned by Liberty is located in the Sandton, Environs and Rosebank nodes. In light thereof, the Commission's investigation into this market was taken no further.

[18] Accordingly, the Commission concluded that the proposed transaction is unlikely to substantially prevent or lessen competition in the markets defined above.

Public Interest

[19] The Commission identified no public interest concerns likely to arise from the proposed transaction.

Conclusion

[20] In light of the above we conclude that the proposed transaction is not likely to substantially prevent or lessen competition in the relevant markets nor does the merger raise any public interest concerns that would alter that conclusion. Accordingly, we approve the transaction unconditionally.

05 August 2014

DATE

Ms Yasmin Carrim

Ms Andiswa Ndoni and Dr Takalani Madima concurring.

Tribunal Researcher: Shannon Quinn

For the merging parties: Vani Chetty- Vani Chetty Competition Law

For the Commission: Dineo Mashego