



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM252Dec17

In the matter between:

Business Venture Investments No. 2032 (Pty) Ltd

Primary Acquiring Firm

and

Waco International Holdings (Pty) Ltd

Primary Target Firm

Panel	: Norman Manoim (Presiding Member)
	: AW Wessels (Tribunal Member)
	: Imraan Valodia (Tribunal Member)
Heard on	: 15 January 2018
Order Issued on	: 15 January 2018
Reasons Issued on	: 26 January 2018
Non-Confidential Reasons	: 13 February 2018

Reasons for Decision (Non-Confidential)

Approval

- [1] On 15 January 2018, the Competition Tribunal ("Tribunal") approved the proposed transaction between Business Venture Investments No. 2032 (Pty) Ltd and Waco International Holdings (Pty) Ltd.
- [2] The reasons for approving the proposed transaction follow.

Parties to proposed transaction

Primary acquiring firm

- [3] The primary acquiring firm is Business Venture Investments No. 2032 (Pty) Ltd ("BidCo"), a special purpose vehicle company established specifically for the purposes of the proposed transaction.

- [4] BidCo is ultimately controlled by ABRAAJ Holdings Limited ("ABRAAJ Holdings"). Mr Arif Masood Naqvi is the sole controller of Abraaj Holdings.
- [5] In South Africa, ABRAAJ Holdings directly and indirectly manages private equity funds which directly and indirectly control Libstar Holdings (Pty) Ltd ("Libstar").
- [6] Libstar focuses on supplying the food service industry, private label segments of larger retailers, and on the manufacturing of products for brand owners as well as branded products.

Primary target firm

- [7] The primary target firm is Waco International Holdings (Pty) Ltd ("Waco"). In South Africa, Waco, through its subsidiaries, provides industrial products and services.

Proposed transaction and rationale

- [8] In terms of the Sale Agreement, BidCo will acquire 100% of the issued shares in Waco. Simultaneously, BEE investors and management will subscribe for a minority of 34.6% (BEE investors – [...] and management – 8.1%) of the ordinary shares in BidCo. Post-merger ABRAAJ will hold 65.3% of the shares in Waco and the rest by BEE investors and management.
- [9] The Commission noted that it was unaware of whether the acquisition of [...] of the shares in Waco by the BEE investors would result in any change of control. As such the Commission noted that this transaction was approved providing that the BEE investors would not acquire control as a result of this transaction.
- [10] The merging parties confirmed before us that the BEE shareholders are likely to be a consortium of various interested BEE parties, and that it is therefore unlikely that any one of those entities would acquire any form of control in Waco. The merging parties did acknowledge that if the situation arose whereby the BEE entity did acquire a form of control through its shareholding - that would be notifiable to the competition authorities.¹

¹ Transcript page 3, lines 9-18.

- [11] ABRAAJ wishes to expand and develop Waco's equipment rental and industrial service businesses in South Africa and selected markets outside of Africa and will acquire control of Waco to achieve this objective
- [12] While for the shareholders of Waco, the proposed transaction is an opportunity for the current shareholders to realize and exit their investment.

Impact on competition

- [13] The Commission found that the transaction does not result in a horizontal overlap as the acquiring group does not provide industrial products and services that can be considered substitutable or compete with the services offered by Waco.
- [14] The Commission concludes that the proposed transaction is unlikely to substantially prevent or lessen competition.
- [15] We concur with the Commission that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market.

Public interest

- [16] The merging parties confirmed that the proposed transaction will not result in any negative effect on employment as no duplication of jobs shall arise.² Further, the Commission noted that the proposed transaction does not result in a horizontal overlap and as such it is unlikely that there would be a duplication of roles that lead to job losses.
- [17] The proposed transaction further raises no other public interest concerns.

Conclusion

- [18] In light of the above, we conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. In relation to public interest, issues that were raised, were adequately addressed. Accordingly, we approve the proposed transaction without conditions.

² *Inter alia* page 10 of the Commission's Recommendation.


Mr Norman Manoim

13 February 2018
DATE

Mr AW Wessels and Prof. Imraan Valodia concurring

Case Manager: Kameel Pancham

For the Merging Parties: Natalie von Ey and Naasha Loopoo of Cliffe Dekker Hofmeyr
on behalf of the Acquiring Firm

Shawn van der Meulen and Werner Rysbergen of Webber
Wentzel on behalf of the Target Firm

For the Commission: Nonhlanhla Msiza and Zanele Hadebe