

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case no: LM162Feb25

In the large merger between:

Main Street 2075 (Pty) Ltd

Primary Acquiring Firm

And

Rance Timber (Pty) Ltd

Primary Target Firm

Panel:	I Valodia (Presiding Member) A Ndoni (Tribunal Member) T Vilakazi
Heard on:	29 May 2025
Order issued on:	30 May 2025
Reasons Issued on:	20 June 2025

REASONS FOR DECISION

Introduction

- [1] On 30 May 2025, the Competition Tribunal (“Tribunal”) conditionally approved the large merger whereby Main Street 2075 (Pty) Ltd (“BidCo”) intends to acquire 100% of the issued share capital of Rance Timber (Pty) Ltd (“Rance Timber”).
- [2] Upon implementation of the proposed merger, BidCo will exercise sole control over Rance Timber.

Parties to the transaction and their activities

Primary acquiring firm

- [3] The primary acquiring firm is BidCo, a private company incorporated in accordance with the laws of the Republic of South Africa (“South Africa”). BidCo is ultimately controlled by Mitsui & Co., Limited (“Mitsui”) and Nomura IM

Investment LLC (“Nomura”). Nomura is in turn controlled by Nomura Holdings Inc. (“Nomura Holdings”).

- [4] Mitsui and Nomura Holdings are not controlled by any individual firms.
- [5] Nomura Holdings does not control any firms in South Africa.
- [6] BidCo, all the firms controlling it and their subsidiaries are collectively referred to as the “Acquiring Group”.
- [7] The Acquiring Group’s subsidiaries in South Africa are held through Mitsui. Mitsui controls the following firms in South Africa: (i) Avon Peaking Power (RF) (Pty) Ltd, (ii) Dedisa Peaking Power (RF) (Pty) Ltd, (iii) Mitsui & Co. African Railway Solutions (Pty) Ltd and (iv) Venus Railway Solutions (Pty) Ltd.
- [8] BidCo is a newly incorporated entity for the purpose of the proposed merger and does not control any firms.
- [9] BidCo is a newly incorporated special purpose vehicle and as such does not supply any products or services. The Acquiring Group manages institutional forestry investments in Australia, New Zealand, the United States of America, Southeast Asia and Africa. In South Africa, the Acquiring Group, through Mitsui and its subsidiaries, is involved in energy generation and railroad activities. The Acquiring Group currently does not have any forestry assets or activities in South Africa.

Primary target firm

- [10] The primary target firm is Rance Timber, a private company incorporated in accordance with the laws of South Africa. Rance Timber is controlled by Famran Investments (Pty) Ltd (“Famran Investments”).
- [11] Famran Investments is controlled by the trustees of the following family trusts: [REDACTED]

[12] Famran Investments is in the process of finalising an internal reorganisation of the entities directly and indirectly controlled by it, such that post the internal reorganisation but prior to the implementation of the proposed merger, Rance Timber will directly and/or indirectly control the following firms:

- 12.1. Amathole Community Holdings (Pty) Ltd (“ACH”) as to 100%;
- 12.2. Amathole Timber Holdings (Pty) Ltd (“ATH”) as to 75%. Amathole Workers Trust (the “AW Trust”) an employee share ownership plan (“ESOP”) owns 10% of the shares in ATH;
- 12.3. Envirogro (Pty) Ltd (“Envirogro”) as to 100%;
- 12.4. CJ Rance (Pty) Ltd (“CJ Rance”) as to 100%; and
- 12.5. Amathole Forestry Company (Pty) Ltd (“AFC”) as to 75.6%. The South African Forestry Company SOC Limited (“SAFCOL”)¹ holds a 16% non-controlling interest in AFC.

[13] Rance Timber and the firms it will control after the internal reorganisation are collectively referred to as the “Target Group”.

[14] The Target Group is a vertically integrated timber operation. This includes all activities from plantation and harvesting to sawmilling and product sales through the Target Group’s operating companies CJ Rance and AFC. The Target Group also operates several in-house support functions such as finance, legal, engineering, vehicle workshops, stores and fuel depot and a saw shop.

Description of the transaction and rationale

[15] In terms of the proposed merger, BidCo intends to acquire 100% of the issued share capital of Rance Timber. Post implementation, BidCo will exercise sole control over Rance Timber.

[16] As abovementioned, prior to the implementation of the proposed merger the Target Group will undergo an internal restructuring which aims to reorganise the relevant entities within the Target Group. Following the internal reorganisation, Rance Timber will be interposed between Famran Investments and the

¹ SACOL is a state-owned enterprise.

subsidiaries of the Target Group such that Rance Timber will control the subsidiaries set out in paragraph 12 above.

- [17] In relation to the rationale, the Acquiring Group views the proposed merger as an opportunity to acquire a company [REDACTED]
[REDACTED] The proposed merger further aligns with the Acquiring Group's broader strategy [REDACTED]
[REDACTED] From the Target Group's perspective, the individuals responsible for the day-to-day management are past retirement age and wish to step back. The Target Group is of the view that the stakeholders and employees will be better served by a highly competent institutional specialist forestry investor.

Competition assessment

- [18] The Commission found that the proposed merger does not raise any horizontal or vertical overlaps as the Acquiring Group does not have forestry assets or any activities in the forestry value chain in South Africa.

Third party concerns

- [19] The Commission engaged [REDACTED]
[REDACTED] and [REDACTED] to obtain their views on the proposed merger.
- [20] The Commission found that [REDACTED] and [REDACTED] did not raise any competition or public interest related concerns.
- [21] [REDACTED] raised concerns related to the impact of foreign ownership over the limited plantation land and local sawmills on the domestic forestry sector. [REDACTED]
[REDACTED] submitted that foreign firms may prioritise exporting logs which may lead to increased costs of raw materials, reduced access to locally grown timber and weakened long term investment in the local industry. The Commission did not uncover any evidence that the Acquiring Group may have intentions to change Rance Timber's business model as they have emphasised their intention to grow the local forestry industry. The Commission further found that in the event that Rance Timber does change its business model, this is unlikely to substantially prevent or lessen competition because Rance Timber is a small player in the

market as confirmed by [REDACTED] and [REDACTED]

- [22] The Commission further received concerns from [REDACTED] related to (i) details of the proposed merger and how it would impact [REDACTED] rights in relation to its 16% non-controlling interest in AFC, and (ii) [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] The merging parties and

Commission's views are set out below.

22.1. The merging parties submitted that they had engagements with [REDACTED] related to the proposed merger and provided an unequivocal undertaking that the proposed merger will not have any adverse impact on [REDACTED] rights, nor the Target Group's obligations towards [REDACTED]. The merging parties further submitted that the concerns raised by [REDACTED] are not merger specific.

22.2. The Commission engaged with [REDACTED] and the merging parties regarding [REDACTED] concerns and noted their on-going engagements. The Commission found that [REDACTED] 16% shareholding in AFC will not be acquired as a result of the proposed merger. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

- [23] In light of [REDACTED] concerns related to the payment of dividends, the Commission requested the merging parties to undertake that AFC and ATH will declare dividends in future. In response to the request, the merging parties submitted that it is not possible to guarantee that dividends will be paid in future having regard to market conditions, working and investment capital requirements and the availability of funds from which to pay dividends. The merging parties however agreed to this request subject to the terms of the shareholders

[REDACTED] See Commission's Recommendation at paragraph 49.

agreements, the working, expansion and replacement capital requirements and the availability of funds (“Dividend Condition”).

[24] We expressed concern to the merging parties and the Commission in respect of the Dividend Condition on account of uncertainty in respect of the formulation of this condition and the likely enforceability of the commitment, particularly given the fact that the Dividend Condition required the merging parties to provide an undertaking that during the 2026 calendar year AFC and ATH will declare a dividend subject to various caveats.³

[25] In light of the above, we proposed the removal of the Dividend Condition. The Commission and merging parties did not object to the removal of the Dividend Condition.⁴ The merging parties further emphasised that they are committed to paying dividends as and when they are able to.

Creeping merger assessment

[26] In its investigation, the Commission considered whether the Acquiring Group has made any acquisitions in the forestry industry in the past three years. The merging parties indicated that the Acquiring Group has no activities or investments in the forestry industry in South Africa. Further that Rance Timber is the Acquiring Group’s first acquisition in the forestry industry in South Africa. The Commission however noted the Acquiring Group’s rationale signalled its intention to explore opportunities for expansion in the South African forestry industry. The Commission indicated that it will remain vigilant in its assessment of future transactions involving the Acquiring Group.

[27] Based on the above, we are of the view that the proposed merger is unlikely to result in a substantial lessening or prevention of competition in any relevant market(s).

Public interest

³ Email correspondence from the Competition Tribunal to the merging parties and the Commission dated 30 May 2025.

⁴ Email correspondence from the Commission dated 30 May 2025. Further see email correspondence from the merging parties dated 30 May 2025.

Employment

[28] The merging parties submit that the proposed merger will not result in any negative impact on employment and there will be no retrenchments. The Commission engaged with the employee representatives of the merging parties' employees and no employee related concerns were raised.

[29] We are of the view that the proposed merger is unlikely to have a negative impact on employment.

Promotion of a greater spread of ownership

[30] The Commission found that the Target Group has an established ESOP, namely the AW Trust for the benefit of qualifying black employees of AFC. The AW Trust holds 10% shareholding in ATH, which in turn holds 84% in AFC. The AW Trust, therefore, holds an effective 8.4% non-controlling interest in AFC.

[31] The Acquiring Group does not have any shareholding by historically disadvantaged persons ("HDPs").

[32] The merging parties submitted that participation in the AW Trust will be extended to all qualifying employees of the Target Group, particularly to include employees of CJ Rance, as the other companies within the Target Group are holding companies or dormant. The merging parties submitted that the proposed expansion would result in an additional 671 potential beneficiaries of the AW Trust. The Commission requested the merging parties to tender a condition that, within three months from the implementation of the proposed merger, the AW Trust deed would be amended to extend participation in the AW Trust to all qualifying employees in the Target Group ("ESOP Expansion Condition"). The merging parties agreed to the proposed ESOP Expansion Condition.

[33] In our consideration of the matter, we queried the impact of the ESOP Expansion Condition on the value of the benefit for existing and future beneficiaries given that the stake of the ESOP will remain 10% post-merger, whereas the number of beneficiaries to the ESOP would increase. The parties' responses are summarised below.

33.1. The merging parties submitted that the impact of the proposed ESOP Expansion Condition from a value perspective for existing and future beneficiaries, would likely be that dividends on a per-employee basis would reduce given that the dividends would be paid across a higher number of beneficiaries. The merging parties further submitted that the value of the benefits derived is likely to increase in future as a result of the investment in the Target Group by the Acquiring Group. Additionally, that from a HDP and worker ownership perspective, the proposed condition will increase and enhance the level of ownership held by HDPs and workers in the Target Group because the level of worker ownership will be spread across a broader base of HDPs, giving more HDP employees the opportunity to participate through ownership.⁵

33.2. The Commission submitted that the proposed condition may dilute the benefits of current and future beneficiaries of the ESOP, however, ATH has not previously declared any dividends, and as a result the current beneficiaries of the ESOP have not benefited to date. The Commission further submitted that as a direct result of the proposed merger and the proposed condition, a greater number of workers will benefit.⁶

[34] We further queried the impact of the proposed ESOP Expansion Condition given the respective dividend flows in the Target Group. From the post-merger organogram, it is evident that the dividends from ATH will flow to the AW Trust where the dividends will ultimately flow from to the ESOP beneficiaries.⁷ It is however noted that the dividends of CJ Rance will only flow upwards to Rance Timber, and the ESOP beneficiaries will not benefit from any dividends derived from CJ Rance. In response the Commission and merging parties made the following submissions.

34.1. The merging parties submitted that the AW Trust was established pursuant to the privatisation of state-owned plantations. As part of the privatisation, government required a 10% black ownership in respect of the company

⁵ Email correspondence from the merging parties dated 29 May 2025.

⁶ See email correspondence from the Competition Commission dated 29 May 2025.

⁷ Page 531 of the merger record.

acquiring the state plantations, in this case, ATH through AFC. CJ Rance is a private company and was not involved in nor was it a party to the state privatisation programme and has continued as a separately operated subsidiary of Famran Investments prior to the proposed merger. The merging parties further submitted that the proposed condition seeks to enhance the existing HDP and worker ownership through expanding the number of qualifying employees benefitting from participation in the AW Trust.⁸

34.2. The Commission submitted that the current beneficiaries of the ESOP (being the employees of AFC) would not have benefitted from the dividends derived by CJ Rance prior to the proposed merger. Further, post-merger, the current and future beneficiaries will not benefit from the dividends derived by CJ Rance. As such, there will be no impact on the value of the benefit from the ESOP in this regard. The Commission further submitted that CJ Rance is not a signatory to the BPU between ATH, AFC, SAFCOL and the Government of South Africa which contains provisions relating to the establishment of the AW Trust by ATH.⁹

[35] Given the fact that the proposed condition would impact the employees of AFC and CJ Rance, we enquired whether the employees of AFC and CJ Rance were informed of the proposed condition and whether any related concerns were raised. Both the Commission and the merging parties submitted that the intention to expand the AW Trust was included in the non-confidential merger filing which was shared with the respective employee representatives. The Commission submitted that no concerns were raised by employee representatives on behalf of employees in this regard.¹⁰

[36] Given the above, we are of the view that the proposed merger raises no substantial issues regarding the promotion of a greater spread of ownership.

Conclusion

⁸ Email correspondence from the merging parties dated 30 May 2025.

⁹ Email correspondence from the Commission dated 30 May 2025.

¹⁰ Email correspondence from the Commission dated 30 May 2025. Further see email correspondence from the merging parties dated 30 May 2025.

[37] For the reasons set out above, we are satisfied that the proposed merger is unlikely to substantially prevent or lessen competition in any relevant market and the proposed merger does not raise public interest concerns.

[38] In the circumstances, we approve the proposed merger on the basis of the conditions in **Annexure A** to our order dated 30 May 2025.

Signed by: Imraan Valodia
Signed at: 2025-06-20 11:17:13 +02:00
Reason: Witnessing Imraan Valodia

Imraan Valodia

Prof. Imraan Valodia
Ms Andiswa Ndoni and Prof Thando Vilakazi

20 June 2025

Date

Tribunal Case Manager:	Tarryn Sampson
For the Merging Parties:	Burton Phillips of Webber Wentzel
For the Commission:	Nomonde Mbali and Themba Mahlangu