

**COMPETITION TRIBUNAL OF SOUTH AFRICA**

Case No: LM007Apr19

In the matter between:

**Zalorno B.V. Limited**

Primary Acquiring Firm

and

**Blue Falcon 222 Trading (RF) Proprietary Limited**

Primary Target Firm

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|-------------------|------------------------------------|
| Panel             | : Norman Manoim (Presiding Member) |
|                   | : Enver Daniels (Tribunal Member)  |
|                   | : Medi Mokuena (Tribunal Member)   |
| Heard on          | : 2 May 2019                       |
| Order Issued on   | : 2 May 2019                       |
| Reasons Issued on | : 27 May 2019                      |

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**Reasons for Decision**

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**Approval**

- [1] On 2 May 2019, the Competition Tribunal ("Tribunal") unconditionally approved the proposed transaction between Zalorno B.V. Ltd ("Zalorno") and Blue Falcon 222 Trading (RF) (Pty) Ltd ("Blue Falcon").
- [2] The reasons for unconditionally approving the proposed transaction follow.

## **Parties to proposed transaction**

### *Primary acquiring firm*

- [3] The primary acquiring firm is Zalorno, a company incorporated in accordance with the laws of the Netherlands. Zalorno is wholly owned by Glencore Plc (“Glencore”). Glencore is a public company listed on the London Stock Exchange. Glencore is not controlled by any firm or individual.
- [4] In addition to Zalorno, Glencore controls several other firms globally, including African Carbon Producers (Pty) Ltd, Izimbiwa Coal (Pty) Ltd and Rhovan Pooling and Sharing Joint Venture.
- [5] Zalorno jointly controls Blue Falcon with Imalivest GP Limited (“Imalivest”), each of which have a 50% shareholding in Blue Falcon. In turn, Blue Falcon holds a 49% shareholding in Mokala Manganese (Pty) Ltd (“Mokala”).
- [6] Glencore and the firms controlled by it are, hereafter, collectively referred to as the Acquiring Group.
- [7] The Acquiring Group operates internationally as a supplier of raw materials to industrial consumers. In South Africa, the Acquiring Group’s operations are limited to the business of mining metals, minerals and energy products. In particular, these activities broadly comprise of coal mining, ferrochrome mining and production, integrated vanadium operations and the production of char and electrode paste.
- [8] The Acquiring Group does not mine manganese in South Africa or elsewhere in the world. The Acquiring Group does, however, provide marketing services for mines producing various commodities worldwide, in exchange for a fee. An example of this is the Acquiring Group’s contractual right to market all Mokala’s manganese ore output to customers internationally once Mokala commences operation.

### *Primary target firm*

- [9] The primary target firm does not currently conduct any activities. It does, however, operate as a special purpose vehicle (SPV) investment company incorporated for the purpose of holding Glencore and Imalivest's investments in Mokala.
- [10] Mokala holds a mining right over manganese ore resources situated in Kuruman, Northern Cape. It is anticipated that development of the mine will commence in the fourth quarter of 2019. The Mokala mine is projected to commence operations during October and November 2020. It will take approximately four to five years before it can be ramped up to full production.

### **Proposed transaction and rationale**

- [11] In terms of the Sale Agreement, the Acquiring Group intends on acquiring 50% of the issued share capital of Blue Falcon, currently held by Imalivest. Subsequent to the implementation of the proposed transaction, Blue Falcon will be a wholly owned subsidiary of the Acquiring Group. The proposed merger will also, indirectly, increase the Acquiring Group's interest in Mokala from 24.5% to 49%.
- [12] In terms of the rationale, Glencore is optimistic about the long-term viability of the Mokala project and its projected returns, as such Glencore wishes to increase its economic interest in the project.
- [13] From the perspective of Imalivest, the proposed transaction will allow Imalivest to realise the cash value of its investment in the Mokala project.

### **Impact on competition**

- [14] The Commission considered the activities of the merging parties and found that there are no horizontal or vertical overlaps given that the Acquiring Group already controls the Target Group. Accordingly, the activities of the Target Group are attributable to the Acquiring Group for competition law assessment purposes.

[15] In view of the above, the Commission concluded that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market.

### **Public interest**

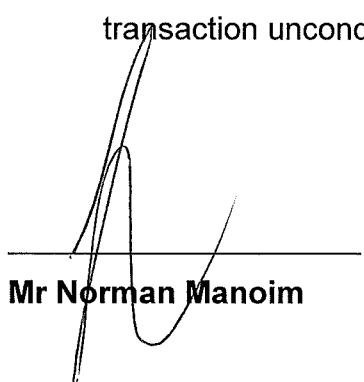
[16] The merging parties have unequivocally submitted that the proposed transaction will not result in any retrenchments or job losses.

[17] Furthermore, the Target Group does not have any employees, with the exception of Mokala which has just appointed one employee who started working on 15 April 2019.

[18] The Commission further noted that since there is no horizontal overlap between the activities of the merging parties, the proposed transaction is unlikely to result in job duplications that may result in retrenchments. This, according to the Commission, also suggests that the operations of the merging parties will remain separate post-merger.

### **Conclusion**

[19] In light of the above, we concluded that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market and raised no public interest concerns. Accordingly, we approved the proposed transaction unconditionally.



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**Mr Norman Manoim**

27 May 2019

DATE

**Mr Enver Daniels and Mrs Medi Mokuena concurring**

Case Manager: Helena Graham  
For the merging parties: Paul Cleland  
For the Commission: Zukile Sokapase and Wiri Gumbie