COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 78/LM/Dec10

In the matter between:

Capital Property Fund **Acquiring Firm**

And

Pangbourne Properties Limited **Target Firm**

Panel	:	Norman Manoim (Presiding Member) Andreas Wessels (Tribunal Member) Yasmin Carrim (Tribunal Member)
Heard on	:	02/03/2011
Order issued on	:	02/03/2011
Reasons issued on	:	09/03/2011

Reasons for Decision

Approval

1] On 02 March 2011 the Competition Tribunal ("Tribunal") unconditionally approved the proposed transaction involving Capital Property Fund and Pangbourne Properties Limited. The reasons for approval of the proposed transaction follow below.

Parties to transaction

2] The primary acquiring firm is Capital Property Fund represented by the Property Fund Managers Limited ("Capital Property"). The primary target firm is Pangbourne Property Limited ("Pangbourne").

3] Capital Property currently has 9.8% unit holdings in Pangbourne and has a portfolio of various rental properties in the industrial, office and retail space sector in different locations in South Africa and also provides asset management services which it outsources. Pangbourne is a property loan stock company which holds various rentable properties in different locations in South Africa and also provides property management services. Pangbourne's properties also include industrial space, office space and retail space.

Proposed transaction

4] The proposed transaction essentially results in Capital Property having sole control of Pangbourne. Pangbourne unit holders will swap their linked units in Pangbourne for units in Capital Property, so that Capital Property has sole control over Pangbourne.

Rationale for proposed transaction

5] For Capital Property the proposed transaction is a growth strategy which will allow it to increase market capitalisation as well as its management capacity. For Pangbourne unit holders this will provide improved liquidity.

COMPETITION ASSESSMENT

Horizontal analysis

6] There is a horizontal overlap between the activities of the merging parties in the provision of light industrial space, grade A office space and grade B office space.

7] The Commission found that there is a geographic overlap in respect of 11 light industrial properties, 6 grade B office properties and 3 grade A office properties. In all of these the Commission found the market shares to be low, and that the market share accretion resulting from the proposed merger is minimal.

8] In respect to light industrial space the Commission's investigation showed that the combined post merger market share of the merged entity is below 15%. In the Grade A office space the post merger market share is also below 15% except in the Fourway node where the merged entity will have 18% combined post merger market share. However the market share accretion is an insignificant 1.6%.

9] In respect to grade B office space the combined post merger market share is also below 15% except in the Bryanston node where the merger entity will have a high market share of approximately 86%. However, the Commission found that there are both product and geographic market constraints– the merging parties will be constrained from increasing their prices to the detriment of its tenants by grade A office space. It also found that the customers of the merging parties have some degree of countervailing power given the varied offerings within the Bryanston node as well as in other surrounding nodes such as Sunninghill and Sandton which customers can switch to.

10] At the hearing, Mr Andrew Teixeira from Capital Property also explained that Grade A office space and Grade B office space are substitutable in that they are similar both in appearance as well as the rentals payable, and that therefore it is easy for customers to switch between the two types of grades in the event of a price increase in either grade.

Vertical analysis

11] There is a vertical relationship between the merging parties since Pangbourne has been responsible for some of the current asset management functions of Capital. However the Commission submitted that post merger the functions currently conducted by Pangbourne will be outsourced to Property Fund Managers (PFM). The vertical relationship between the merging parties is unlikely to result in any significant foreclosure concerns as the merged entities' post merger market shares will remain low, and the merged entity will continue to face competition from other larger players in the property market such as Growth Point, Redefine, Old Mutual and Liberty.

PUBLIC INTEREST

12] No public interest issues arise from the proposed transaction.

CONCLUSION

13] Based on the above we conclude that it is unlikely that the proposed merger would lead to a substantial prevention or lessening of competition in the property market. Furthermore, no public interest concerns arise from this deal. Accordingly the proposed transaction is approved unconditionally.

______________________ **09/03/2011**

Y Carrim Date

N Manoim and A Wessels concurring

Tribunal Researcher:	Londiwe Senona
For the merging parties:	Vani Chetty Competition Law
For the Commission:	Themba Mahlangu