



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM087Aug22

In the matter between:

TymeBank Holdings Limited

Acquiring Firm

and

Retail Capital Limited

Target Firm

Panel : Sha'ista Goga (Presiding Member)
: Mondo Mazwai (Tribunal Panel Member)
: Fiona Tregenna (Tribunal Panel Member)

Heard on : 28 October 2022

Order issued on : 28 October 2022

Reasons issued on : 16 November 2022

REASONS FOR DECISION

Approval

- [1] On 28 October 2022, the Competition Tribunal ("Tribunal") unconditionally approved the large merger wherein TymeBank Holdings Limited ("TymeBank Holdings"), intends to acquire 100% shareholdings in Retail Capital Limited ("Retail Capital"). Upon implementation of the proposed transaction, TymeBank Holdings will acquire sole control over Retail Capital as envisaged by section 12(2)(a) of the Competition Act 89 of 1998 (the Act"), as amended.

Parties to the transaction and their activities

Primary acquiring firm

- [2] The primary acquiring firm is TymeBank Holdings. TymeBank Holdings is [REDACTED] controlled by African Rainbow Financial Services Holdings (Pty) Ltd (“ARFS”). The balance of the shareholding in TymeBank Holdings is spread between [REDACTED] shareholders.
- [3] ARFS is in turn 100% controlled by African Rainbow Capital (Pty) Ltd (“ARC”). ARC is 100% controlled by Ubuntu-Botho Investments (Pty) Ltd (“Ubuntu-Botho”). Ubuntu-Botho in turn is jointly controlled by [REDACTED]
[REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]
- [4] TymeBank Holdings, TymeBank Global, ARFS, Ubuntu Botho and all the firms that they control shall be referred to as the “Acquiring Group”.
- [5] The Acquiring Group is a financial technology company that provides digital personal banking and business banking services in South Africa.

Primary target firm

- [6] The primary target firm is Retail Capital. Retail Capital is jointly controlled by Old Mutual Life Assurance Company (SA) Limited ([REDACTED]), Crossfin Apis Financial Solutions (Pty) Ltd [REDACTED] and Como Capital (Pty) Ltd [REDACTED] with the balance held by individuals.
- [7] Retail Capital controls the following firms: Fundrr (Pty) Ltd, First Asset Finance (Pty) Ltd, First Asset Rentals (Pty) Ltd, Capital Box (Pty) Ltd, Retail Capital Europe (CY) Limited and Retail Capital International (Pty) Ltd.
- [8] Retail Capital and all the firms that they control shall be referred to as the “Target Group”.
- [9] The Target Group is a financial technology company that provides alternative non-traditional funding to small and medium enterprises (“SMEs”) which enables SMEs to access funding and cash advances with no security requirements for clients’ working capital needs.

Proposed transaction and rationale

Transaction

- [10] In terms of the proposed transaction, TymeBank Holdings intends to acquire 100% shareholdings in Retail Capital. Post-merger, the Acquiring Group will exercise sole control over the Target Group, as envisaged by section 12(2)(a) of the Act.

Rationale

- [11] The Acquiring Group submits that the proposed transaction will enable TymeBank Holdings to expand its product proposition to existing and prospective small business customers by enabling them to provide lending products to those customers. [REDACTED]

- [12] The Target Firm submits that the proposed transaction provides Retail Capital with a platform to expand its product offering to SMEs to include business banking services. [REDACTED]

Relevant market and impact on competition

- [13] While not concluding on the relevant market, based on the activities of the parties, the Competition Commission (“the Commission”) assessed the effects of the proposed transaction in the markets for (i) the provision of corporate banking services nationally and (ii) the provision of SME funding services nationally.

Corporate Banking Services

- [14] Based on the activities of the parties, the Commission assessed the effects of the proposed transaction in the market for corporate banking services including SMEs. The Acquiring Group is a new entrant in this market and launched a

business account for their corporate customers (in particular SME customers) recently, in August 2022. The Commission found that this is an indication that the Acquiring Group is unlikely to command any market power in respect of corporate banking services. The Commission notes further that the market for corporate banking services includes established players such as First Rand, Standard Bank, ABSA, Nedbank, Investec, Grindrod. The Target group is not currently active in this market and there is no horizontal or vertical overlap.

SME Funding

- [15] Based on the activities of the parties, the Commission assessed the effects of the proposed transaction in the market for the provision of SME funding. The Commission accepted that the market for SME funding comprises both micro lenders and traditional banks.
- [16] The Commission notes that there is limited public information in respect of the value of SMEs funded and the number of SMEs funded in South Africa.
- [17] However, the Commission understands from the merger between Retail Capital (Pty) Ltd and First Asset Finance (Pty) Ltd, that Retail Capital funded approximately [REDACTED] SMEs in 2018 which translates into an estimated market share in the range of [REDACTED] in the market for the provision of SME funding. As such, the Target Group has a low share of the SME funding market. The Commission further found that it is constrained by traditional banks who also offer funding and which merchants use for the provision of their financial services.
- [18] The above is consistent with the submissions by competitors of Retail Capital. A competitor submitted that the largest players in respect of SME funders include traditional banks such as Standard Bank, First National Bank, Nedbank, ABSA, and the NEF and SEDA. These sentiments are also shared by customers of the Target Group, wherein they indicate that SME funding also includes traditional banks and microlenders such as Merchant Capital, Capital Connect, Retail Capital, Cashflow Capital, Lula Lend. The Acquiring group does not currently compete in this market and there is no horizontal or vertical overlap.

Potential Portfolio effects assessment

- [19] The Commission assessed whether possible bundling issues could result from the merger should the merging parties bundle their corporate banking services (to SMEs) with their SME funding services.
- [20] The Commission found that TymeBank Holdings is a new entrant in respect of corporate banking services given that they recently launched their business

account product offering in August 2022 and therefore has no notable market share in the provision of corporate banking services.

[21] The Commission further found that TymeBank will be constrained by incumbent banks such as ABSA, FNB, Standard Bank and Capitec. As such, the Commission is of the view that the merged entity will not have market power post-merger that will give it the ability to engage in an anti-competitive tying and bundling strategy.

[22] Based on the above, the Commission is of the view that the proposed transaction is unlikely to result in any anti-competitive portfolio effects concerns or significant foreclosure concerns given the merging parties' relatively low market shares in the relevant markets. The Tribunal concurs with this assessment.

Public interest

Effect on employment

[23] The Commission engaged with the merging parties and employee representatives who submitted that the proposed transaction will not give rise to any retrenchments.

[24] Given the unequivocal statement that the proposed merger will not result in any retrenchments, the Commission formed the view that the proposed transaction is unlikely to result in any negative impact on employment.

Effect on the spread of ownership

[25] The Commission found that TymeBank Holdings is [REDACTED] controlled by an HDP firm by virtue of its shareholder ARFS.

[26] The Target Group has a [REDACTED] HDP shareholding pre-merger. As a result of the proposed merger, Retail Capital will move from [REDACTED] to [REDACTED] effective HDP shareholding post-merger by virtue of the shareholding held by TymeBank Holdings.

[27] The Commission found that the proposed transaction raised no further public interest concerns.

The Hearing

- [28] The Tribunal sought clarity from the merger parties regarding how the Commission and the merging parties measured the spread of ownership and whether or how consideration was given to the dispersion of ownership across different individuals or groups, in addition to the overall HDP shareholding.
- [29] It was clarified that the assessment was based on aggregate HDP holdings. Prior to the proposed transaction, Retail Capital has an effective HDP shareholding of [REDACTED]. Pursuant to the successful implementation of the proposed transaction, the effective HDP shareholding in Retail Capital will increase by nearly [REDACTED] to [REDACTED] by virtue of the fact that [REDACTED] of Tyme Bank Holdings' shares. The Tribunal finds that despite the absence of additional measures of dispersion, based on the overall increase in effective HDP shareholding and the spread of shareholders that comprise the firms this transaction is unlikely to have a negative effect on the spread of ownership.

Conclusion

- [30] Considering the above, the Tribunal concludes that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. Accordingly, we approve the proposed transaction unconditionally.

Signed by: Sha'ista Goga
Signed at: 2022-11-16 09:36:43 +02:00
Reason: Witnessing Sha'ista Goga

Sha'ista Goga

Ms Sha'ista Goga

16 November 2022

Date

Concurring: Ms Mondo Mazwai and Prof Fiona Tregenna

Tribunal case managers : Baneng Naape

For the merging parties : Zaid Bayhat of ENSafrica

For the Commission : Tumiso Loate and Themba Mahlangu