

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case no: LM130Nov23

In the large merger between:

Units on Jorissen Proprietary Limited

Primary Acquiring Firm

And

Varsity Stay 2 Proprietary Limited

Primary Target Firm

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| Panel: | L Mncube (Presiding Member) A Ndoni (Tribunal Member) T Vilakazi (Tribunal Member) |
| Heard on: | 30 January 2024 |
| Order issued on: | 30 January 2024 |
| Reasons Issued on: | 20 February 2024 |

REASONS FOR DECISION

Introduction

- [1] On 30 January 2024, the Competition Tribunal (“the Tribunal”) unconditionally approved a large merger between Units on Jorissen Proprietary Limited (“UoJ”) and Varsity Stay 2 Proprietary Limited (“Varsity Stay”). UoJ intends to acquire the 50% undivided share in a student accommodation property letting enterprise known as Units on Jorissen (the “Target Property”) from Varsity Stay.

Parties to the transaction and their activities

Primary acquiring firm

- [2] The primary acquiring firm is UoJ a property investment company. UoJ is controlled by South African Student Accommodation Impact Investments Proprietary Limited (“SASAI”) a holding company that develops and owns Purpose Built Student Accommodation (“PBSA”) in South Africa. SASAI mobilises global and local

institutional capital for investment in PBSAs. SASAI is not controlled by an individual shareholder.¹

- [3] In addition to the Target Property SASAI wholly owns Units on Park Street Proprietary Limited, Units on Station Square Proprietary Limited, and Nala Units Proprietary Limited. SASAI and its subsidiaries will hereinafter collectively be referred to as the “Acquiring Group”.

Primary target firm

- [4] The primary target firm is the Target Property, a student accommodation property letting enterprise. The Target Property is jointly controlled by Varsity Stay and UoJ, the primary acquiring firm in the instant transaction.
- [5] Varsity Stay, the seller in this transaction is a wholly owned subsidiary of the Feenstra Group Proprietary (“Feenstra”) and has no subsidiaries other than its share in the Target Property.

Proposed transaction and rationale

Transaction

- [6] In terms of the sale agreement UoJ will acquire the remaining 50% undivided share in the Target Property from Varsity Stay. Post-merger, UoJ will own and control 100% of the Target Property.

Rationale

- [7] The Acquiring Group wishes to increase its gross asset value. From the seller’s perspective, Varsity Stay wishes to dispose of its interest in the Target Property as, its sole shareholder, Feenstra, already has an interest in a PBSA in close proximity to the Target Property.

¹ SASAI’s shareholders are Momentum Metropolitan Life Limited, Eskom Pension and Provident Fund, the International Finance Corporation, the Danish Sustainable Development Goals Investment Fund K/S and Government Institutions Pension Fund.

Competition assessment

Product market

- [8] The merging parties overlap in the supply of student accommodation.
- [9] The Tribunal has previously decided in *Respublica*² and *Urban Impact*³ that the provision of rentable space in residential properties used for student accommodation constitutes a relevant product market.
- [10] In a more recent case⁴, the Tribunal raised the question whether university residence accommodation necessarily forms part of the same market as private student accommodation. It was not necessary to conclude on the precise scope of the relevant product market in that case since nothing turned on it.
- [11] In the current case, we considered the impact of the proposed transaction on the market for the supply of rentable space in residential properties used for student accommodation. We did not receive any evidence suggesting a departure from this approach.

Geographic market

- [12] Regarding the supply of rentable space in residential properties used for student accommodation, the Tribunal has previously accepted that the relevant geographic market for the supply of rentable space in residential properties used for student accommodation is an 8 kilometre radius from the Target Property (see *Respublica*). The Tribunal did not receive any evidence suggesting departure from the above approach.
- [13] The Acquiring Group does not own any other rentable student accommodation properties within 8 kilometres of the Target Property. The Commission found that there was no geographical overlap. Given that the merger does not raise any competition concerns, it is not necessary to conclude on the precise scope of the geographic market.

² Respublica Student Living (Pty) Ltd & Midrand Varsity Lodge (Pty) Ltd, Masingita Estates (Pty) Ltd, Sam King Investments Holdings (Pty) Ltd re target properties Midrand Student Village & White House Lodge (Tribunal Case No. LM245Mar16).

³ Urban Impact Properties (Pty) Ltd & Pulse Student Lifestyle (Pty) Ltd (Tribunal Case No: LM099Jun18).

⁴ Growthpoint Student Accommodation Holdings (RF) Ltd & Feenstra Group Developments (Pty) Ltd in respect of the immovable property and letting enterprise known as Brooklyn Studio (Tribunal Case No: LM174Jan23).

Impact on competition

- [14] The Commission and merging parties submitted that the Acquiring Group controls the Target Property pre-merger, due to the Acquiring Group's 50% shareholding in the Target Property. As such, the merger will not result in any market share accretion and the competitive position of the Acquiring Group will remain unchanged post-merger.
- [15] No third party raised any competition concerns about this aspect of the proposed merger.
- [16] Consequently, we do not believe that the proposed transaction will give rise to a likely substantial prevention or lessening of competition in any relevant market.

Public interest

Employment

- [17] The merging parties submitted that there will be no job losses nor changes to employment conditions as a result of the proposed transaction.
- [18] The Commission concluded that there will be no negative effect on employment as a result of this merger. The Commission engaged the employee representatives of Varsity Stay and the company that conducts the property management functions in respect of the Target Property. They confirmed that all employees that they represent were notified and no concerns were raised.
- [19] We conclude based on the above, that the proposed transaction is unlikely to raise any employment concerns post-merger.

Spread of ownership

- [20] The Acquiring Group has 3.51% of its shareholding held by historically disadvantaged persons ("HDPs") and Varsity Stay does not have any shareholding held by HDPs.
- [21] The Commission found that the transaction results in an increase in the promotion of a greater spread of ownership by HDPs by 1.75%.

[22] We conclude based on the above, that the proposed transaction is likely to promote the spread of ownership post-merger.

Conclusion on public interest

[23] We are not aware of any other public interest concerns arising in this case.

Conclusion

[24] We conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market and the proposed transaction does not raise any other public interest concerns.

[25] Accordingly, we approve the proposed transaction unconditionally.

Signed by: Liberty Mncube
Signed at: 2024-02-20 14:11:37 +02:00
Reason: Witnessing Liberty Mncube



Prof. Liberty Mncube

20 February 2024

Date

Ms. Andiswa Ndoni and Prof. Thando Vilakazi concurring.

Tribunal Case Manager:

Bobedi Seleke

For the Merging Parties:

Mia de Jager of Adams & Adams

For the Commission:

Mishkah Abdool Sattar and Themba Mahlangu