COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA

Case No.: 38/LM/May05

In the large merger between:

Dunns Stores (Pty) Limited

and

Shoe City Holdings (Pty) Limited

REASONS FOR DECISION

Approval

1. On 13 June 2005 the Competition Tribunal issued a Merger Clearance Certificate approving unconditionally the merger between Dunns Stores (Pty) Ltd ("Dunns") and Shoe City Holdings (Pty) Ltd ("Shoe City"). The reasons for this decision follow.

The merging parties

2. The primary acquiring firm is **Dunns**, a wholly owned subsidiary of Pepkor Limited ("Pepkor Limited"), ultimately controlled by Pepkor Holdings Limited ("Pepkor").[1]

3. The primary target firm is Shoe City, a South African incorporated company owned by a number of shareholders.[2] Shoe City controls Shoe City (Pty) Ltd ("Shoe City subsidiary").

The Merger Transaction

4. Dunns would acquire 90% of the issued share capital and shareholders' claims against Shoe City from various shareholders of Shoe City. Post-

1 The major shareholders of Pepkor, previously known as Castellina, are: Titan Nominees (Pty) Ltd ("Titan Nominees") (36.8%); Old Mutual Life Assurance Company (South Africa) Limited ("OMLACSA") (20.5%); South African Private Equity Trust III ("SAPET") (11.8%); Pepkor Holdings Ltd Share Incentive Trust (10%); and Capital Africa Limited ("CAL") (8.7%). *See the letter from the merging parties' attorneys dated 11 May 2005.*

2 The following are the shareholders of Shoe City: South African Private Fund I ("SAPEF I") and Tarkus Holding B.V. ("Tarkus"), collectively (58.3%); S Michel Family Trust (management) (15%); T Rebeiro Family Trust (management) (10%); F Ramos Family Trust (management) (1%); J Ettisch Family Trust (management) (2%); DG Rodwell Family Trust (10.9%); and Citizens Corporation (Pty) Ltd ("Citizens") (2.2%). *See page 273 of the record.*

merger, Pepkor – through its wholly owned subsidiary Dunns – would hold 90% shareholding in Shoe City. Pepkor will thus be vested with sole control over Shoe City.[3] We were told at the hearing that the four family trusts who represent certain executive members in the company would retain the remaining 10% of the issued share capital.[4]

Rationale for the transaction

5. According to the parties the private equity funds, Tarkus and SAPEF seek to sell their interests in Shoe City in that they have reached their investment targets and therefore the investors wish to exit this investment. This is particularly motivated by the fact that Shoe City is currently prospering in the local footwear industry and therefore shareholders can expect good returns if their investment is realised now.

6. Pepkor considers the acquisition as complementary to its offerings in footwear because Shoe City also has a cash-only, value-based business strategy that sits comfortably with Pepkor's own business strategy. Pepkor would be able to compete directly with other stockists of branded wear notably the Edgars and Foschini group of companies. However, Brait as a shareholder of Pepkor has an added benefit of retaining an interest in Shoe City.[5]

The relevant market

Product market

7. The transaction involves a number of firms involved directly or indirectly in the retail market through investment and private equity whose activities are irrelevant for our purposes. The only relevant firms for our analysis would be Pepkor, which is in direct competition with Shoe City. This is explained in detail below.

8. Pepkor and Pepkor Ltd are investment holding companies that form **Pepkor Group**, which in turn trades as **Dunns**, **Pep** and **Ackermans**.[6] Globally *Pep, Dunns and Ackermans* collectively have 2 000 stores of which 1 345 are located in South Africa. *Pep, Dunns and Ackermans* have

3 The merger comprises several interlinked transactions in the following stages: (1) Dunns will acquire 60.44% of the issued share capital of and shareholders' claims against Shoe City from Tarkus, SAPEF and Citizen; (2) Dunns will acquire 60.44% of the issued share capital of and shareholders' claims against Shoe City from the Michel Family Trust, the Ribeiro Family Trust, the Ramos Family Trust, and the Ettisch Family Trust; and (3) Dunns will acquire 10.90% of the issued share capital of and shareholders' claims against Shoe City from the Rodwell Family Trust. (See pages 56, 61 and 65 of the record).
4 See Mr Cilliers' testimony, page 4 of the transcript of 13 June 2005.
5 See page 67 of the record.
6 See Pepkor Group Structure (page 88 of the record).

approximately 920, 150 and 275 retail stores in South Africa respectively.[7] These 3 groups are commonly involved in the retail of ladies' wear; men's wear; boys wear; girls wear; school wear; foot wear (men's, ladies' and children's shoes); cellular telephone products; and other product accessories such as hand bags, belts, jewellery, and cosmetics. In addition, Pep is also involved in the retail of textiles, whereas Ackermans retails infants' wear and home ware.

9. **Shoe City** is an investment holding company with a chain of 63 cash-only value-based footwear stores countrywide.[8] Its customer base is the middle to lower income group. Shoe City's stores sell men's, ladies' and children's shoes.

10. Shoe City competes with Pepkor in the retail of footwear. Therefore, an overlap exists with respect to the retailing of footwear. However, the Commission contended that the broader footwear category could be generally divided into 3 product lines: (1) men's footwear; (2) ladies' footwear; and (3) children's footwear. It further analysed the market from both broad and narrow perspectives.

Geographic market

11. We were advised that the merging parties adopt a national pricing strategy when selling their products. In special circumstances, Pepkor allocates budget to counter localised competition from independent stores in the form of regional competitions, specials or markdowns. Moreover, Store Managers usually alert regional managers to special promotions within their areas and at their discretion regional managers would then allocate a budget to counter such competitive activity. According to the Commission the merging parties' assertion suggests that the geographic markets are local, while the Commission preferred a national market

Impact on competition

12. The merging parties provided us with the market share figures which are reproduced below.

Retailer	Men's footwear	Ladies' footwear	Children's footwear	Total Footwear
Pepkor	15.1%	10.7%	36.2%	18.7%
Shoe City	8.7%	3.7%	2%	4.7
Merged entity	23.8%	14.3%	38.1%	23.5%

Source: Retail Liaison Committee (RLC)

7 See the Commission's Report (page 7).

8 That is, Gauteng (21); Western Cape (12) Limpopo (6); Eastern Cape (6); Free State (5); Kwazulu-Natal (4); Mpumalanga (4); North West (3); and Northern Cape (2).

13. The following figures reflect the market shares in the broader footwear market: **Edcon (34%); Woolworths (25%); Pepkor (18.7%); Foschini Group (14%); Shoe City (4.7%); Mr Price (2%); and Others (1.8%)**.[9] While the Commission conceded that penetrating this market with a few outlets / stores is relatively easy, it nevertheless contended that the barriers to establishing a new national chain were extremely high. However it pointed out that the accretion in market share in each of the market segments is relatively slight. It appears that post-merger Pepkor will only gain 2% resulting in it having a significant 38.1% market share in the children's footwear market. Other major retail stores such as Edgars, Woolworths and Pick 'n Pay Hypermarket exist in this market.

14. From the market share figures above, it appears that Pepkor has 18.7% market share whilst Shoe City – which the Commission does not consider to be a significant competitor - enjoys a mere 4.7% in the broader footwear market. The merged entity would have a combined post-merger market share of 23.4% within the broader market (including all types of footwear). This will result in the merged entity being the third largest retailer of footwear following Edcon (34%) and Woolworths (25%). It was the Commission's contention that the additional market share that would be gained by Pepkor would be relatively low. It appears there are numerous other players retailing in the same range of products as the merging parties in addition to the big and popular players.

Public Interest

15. The merging parties advised us that they do not anticipate any job losses pursuant to the merger.

Finding

16. In light of the information submitted to us, the Tribunal's view is that competition would remain in the footwear retailing market post-transaction. We agree with the Commission's submission that the transaction would not prevent or lessen competition substantially. We accordingly approve this merger unconditionally.

______________ 24 June 2005

David Lewis **Date**

9 The RLC did not provide the parties with separate market shares for the other market participants. These were market shares figures from the RLC together with the parties' estimates.

Concurring: Norman Manoim and Yasmin Carrim

For the merging parties:	Coreen Fouché *(Jan S. De Villiers Attorneys)*
For the Commission:	Edwell Mtantato assisted by Maarten van Hooven (*Mergers & Acquisitions*)