



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 016576

In the matter between:

Land and Agricultural Bank of South Africa

Acquiring Firm

And

**The Operating Lending Book of
Suidwes Agriculture (Pty) Ltd**

Target Firm

Panel	:	Norman Manoim (Presiding Member) Imraan Valodia (Tribunal Member) Medi Mokuena (Tribunal Member)
Heard on	:	21 May 2013
Order issued on	:	21 May 2013
Reasons issued on	:	03 June 2013

Reasons for Decision

Approval

On 21 May 2013, the Competition Tribunal ("Tribunal") approved the merger between Land and Agricultural Bank of South Africa ("LandBank") and The Operating Lending Book ("Lending Book") of Suidwes Agriculture (Pty) Ltd ("Suidwes"). The reasons for approving the proposed transaction follow below.

Parties to the transaction

[1] The primary acquiring firm is LandBank an entity incorporated and governed through the Land and Agriculture Development Bank Act.¹ LandBank is a specialist financier of agriculture and rural development,

¹ Act no 15 of 2002.

which provides wholesale and retail lending to agricultural cooperatives and emerging farmers. Such funds can be in the form of revolving loans, long-term mortgages and insurance operations.

[2] The primary target firm is the Lending Book of Suidwes. The Lending Book is used to provide retail funds directly to agricultural clients who require such capital to fund their farming and agro-processing activities. Suidwes is a company incorporated in terms of the laws of the Republic of South Africa as a wholly-owned subsidiary of Suidwes Investment Limited ("Suidwes Limited"), which in turn is controlled by Suidwes Holdings (RF) Limited ("Suidwes Holdings").

Rationale for the transaction

[3] Mr Derek Linde of Suidwes testified that his company wants to exit the lending market because of its risk profile and thus wants to concentrate on its core business as a provider of agricultural services.²

Relevant markets and impact on competition

[4] The Commission and the merging parties submitted the relevant product market to be the market for the provision of wholesale financing and retail financing in the agricultural industry. As such, there is horizontal overlap in the activities of the merging parties as they both active in the market for retail financing in the agricultural industry.

[5] Although the transaction also has vertical aspects to it, since LandBank provides wholesale trading to the Lending Book the Commission found no reason to have concerns as the amount of the total value of wholesale funding by LandBank to the Lending Book is very minimal.

[6] In addition to this, the Commission submitted that the proposed transaction would not lead to any input foreclosure as there are many

² See Transcript of hearing para 10, page 7.

alternatives to the merged entity that customers could switch to post merger.

[7] The merging parties submitted during the hearing that the Commission did not err in defining the geographic market as national even though the target firm operates at regional level, as post-merger it will be able to operate at a more national level as it will no longer have limited capacity.³

Market share

[8] Post merger, the merged entity will have a market share of 24.8% in the retail funding market to the agricultural industry. Although this figure is high the accretion in market share from the Lending Book will only be 1.8%, which the Commission submitted did not raise any concerns, as the merged entity would continue to compete with firms such as ABSA, MGK and Senwes, post merger.⁴

Barriers to Entry

[9] The merging parties acknowledged that barriers to entry are high but argued that they were not insurmountable in both relevant product markets. These range from regulatory barriers to high capital outlay. For one to enter the market for the wholesale of funding in the agricultural industry, a capital outlay of R65 million is required, and R875 million as capital outlay in the wholesale lending market is required.⁵

Our Analysis

[10] Although we agree with much of the Commission's reasoning we would place a different emphasis on the facts. Whilst the merger takes the form of an acquisition of an asset, in substance it leads to the removal of

³ See Transcript of hearing para 20, page 7.

⁴ See para 11, page 20 of Commission's Referral Report.

⁵ See merger record in Competitiveness Report submitted by merging parties on page 254-256.

Suidwes as a competitor in the agricultural loan market. This much was conceded at our hearing.⁶ Suidwes will post merger become an agent for the LandBank in sourcing loans.

[11] Secondly, whilst the Commission has identified the retail loan market as national it also emerged at the hearing that Suidwes had a regional focus confined to the area where its co-operative business had traditionally existed.

[12] Despite this we still consider that the Commission's conclusion that the merger raises no competition concerns is correct, as Suidwes operations were small, its competitiveness was declining and post merger the Landbank will become a more effective competitor nationally in agricultural loan provision.

CONCLUSION

[13] There are no significant public interest issues and we accordingly approve the transaction without conditions.

Norman Manoim

03 June 2013
DATE

Imraan Valodia and Medi Mokuena concurring.

Tribunal Researcher: Caroline Sserufusa

For the merging parties: Rick van Rensburg for ENS

For the Commission: Rakgole Mokolo

⁶ See Transcript of hearing para 10 page 6.