

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM242Mar15

In the matter between:

Pick 'n Pay Retailers (Pty) Ltd

Primary Acquiring Firm

And

Trio Belville (Pty) Ltd

Primary Target Firm

Panel	:	Andreas Wessels (Presiding Member) Prof Fiona Tregenna (Tribunal Member) Medi Mokuena (Tribunal Member)
Heard on	:	27 May 2015
Order issued on	:	27 May 2015
Reasons issued on	:	03 June 2015

Reasons for Decision

Approval

[1] On 27 May 2015, the Competition Tribunal ("Tribunal") unconditionally approved the large merger between Pick 'n Pay Retailers (Pty) Ltd ("Pick 'n Pay Retailers") and Trio Belville (Pty) Ltd ("Trio Belville") in respect of (i) the Boston Franchise Pick 'n Pay Supermarket and the Franchise Pick 'n Pay Liquor store ("the Boston Store"); and (ii) the Welgemoed Franchise Pick 'n Pay Supermarket and the Franchise Pick 'n Pay Liquor store ("the Welgemoed store").

[2] The reasons for approving the transaction follow.

Parties to the transaction

[3] The primary acquiring firm is Pick 'n Pay Retailers. Pick 'n Pay Retailers is a wholly-owned subsidiary of Pick 'n Pay Stores Limited ("Pick 'n Pay"), a public company listed on the Johannesburg Stock Exchange.

[4] Pick 'n Pay is a multi-format, multi-channel retailer. It operates *inter alia* supermarkets in various formats that focus on the supply of fast moving consumer goods.

[5] The primary target firms are the Boston Store and the Welgemoed Store, which are both controlled by Trio Belville pre-merger. Trio Belville is a private company incorporated in accordance with the laws of the Republic of South Africa.

[6] Both the Boston Store and the Welgemoed Store are Pick 'n Pay franchise supermarkets with adjacent liquor stores. The stores are respectively located in Boston and Welgemoed in the Western Cape.

Proposed transaction

[7] Pick 'n Pay Retailers intends to acquire the entire issued share capital of the Boston Store and the Welgemoed Store (hereinafter collectively referred to as the "target stores") as going concerns from Trio Belville.

Competition assessment

[8] The Competition Commission ("Commission") considered the activities of the merging parties and found that there is a horizontal overlap in the retail sale of grocery products and liquor products. The Commission also found that there is a vertical relationship between the merging parties since Pick 'n Pay Retailers supplies goods to the target stores.

[9] The Commission identified two relevant product markets i.e. the retail sale of (i) grocery products; and (ii) liquor products. In both instances the Commission in its competition analyses considered a geographic market of a three kilometre radius from the target stores.

[10] Although the post-merger market shares of Pick 'n Pay in the retail sale of both grocery products and liquor products in a three kilometre radius from the Boston Store will be relatively high, the Commission was comfortable that the merged entity will continue to face competition in the retail sale of grocery

products from Spar Welgedagte, Checkers Willowbridge and Food Lovers Market Willowbridge and players such as Tops (Spar) Welgedagte, Picardi Rebel, Glen Liquor and Checkers Willowbridge in the retail sale of liquor products.

[11] The same applies to the Welgemoed Store, but again the Commission was comfortable that the merged entity will continue to face competition in the retail sale of grocery products from players such as Shoprite Checkers (Parrow and Belville), Checkers Oakdale and Spar Parrow and players such as Checkers Parrow, Tops/Spar Parrow and Vinolentia Liquor in the retail sale of liquor products.

[12] We concur with the Commission that the proposed transaction is unlikely to substantially prevent lessen competition in the identified relevant product markets given that a sufficient number of alternatives are still available to consumers in the immediate geographic areas surrounding the target stores.

[13] In relation to the above-mentioned vertical relationship the Commission found that the target stores purchase stock from Pick 'n Pay Retailers and the Pick and Pay distribution centres. The Commission however found that since the majority of products procured by the target firms are currently procured in-house, the proposed transaction will not alter the structure of the market. The Commission thus concluded that the proposed transaction is unlikely to result in any post-merger foreclosure concerns. We agree with the Commission's conclusion.

Public interest

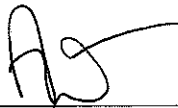
[14] The merging parties confirmed that the proposed transaction will not have any adverse effect on employment in South Africa.¹

¹ See pages 10 and 78 of the merger record.

[15] The proposed transaction furthermore raises no other public interest concerns.

CONCLUSION

[16] We agree with the Commission's finding that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. In addition, the proposed transaction raises no public interest concerns. We therefore approve the proposed transaction without conditions.



Mr Andreas Wessels

03 June 2015

DATE

Prof Fiona Tregenna and Ms Medi Mokuena concurring

Tribunal Researcher:

Caroline Sserufusa

For the merging parties:

Warwick Radford of Nortons Inc

For the Commission:

Kgashane Kgomo