

SOUTH AFRICA / JUDGMENT

EOH Intelligent Infrastructure Proprietary Limited v Paterson Candy International (South Africa) Proprietary Limited (LM063Jul15) [2015] ZACT 77 (19 August 2015)

[2015] ZACT 77

COURT

Competition Tribunal

BEFORE

Yasmin Carrim, Mondo Mazwai, Imraan IValodia

CASE / FILE NUMBER

LM063Jul15

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COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM063Jul15

In the matter between:

EOH Intelligent Infrastructure Proprietary Limited Primary Acquiring Firm and

Paterson Candy International (South Africa) Proprietary Limited Primary Target Firm

Panel

:Yasmin Carrim (Presiding Member)

: Mondo Mazwai (Tribunal Member)

: Imraan IValodia (Tribunal Member)

Heard on

: 6 August 2015

Order Issued on

: 6 August 2015

Reasons

Issued on : 19 August 2015

Reasons

for Decision

Approval

[1] On 6 August 2015, the Competition Tribunal ("Tribunal") unconditionally approved the merger between EOH Intelligent

Infrastructure Proprietary Limited ("EOH") and Paterson Candy International (South Africa) Proprietary Limited ("PCI").

[2] The reasons for approving the proposed transaction follow.

Parties to transaction

Primary acquiring firm

[3] The primary acquiring firm EOH is a company incorporated in accordance with the laws of South Africa. It is controlled by EOH

Holdings Limited which is a company listed on the Johannesburg Stock Exchange.

[4] EOH's lines of business, amongst others, include IT Management, IT outsourcing, and Industrial Technologies.

Primary target firm

[5] The primary target firms is PCI which is a company incorporated in accordance with the laws of South Africa.

[6] PCI is a contractor for the construction of water treatment plants for the water and wastewater treatment sector. PCI would provide process and plant design, project management, equipment manufacture, materials supply, installation and commissioning services to implement appropriate water treatment plants.

Proposed transaction and rationale

[7] The proposed transaction involves EOH purchasing the shares of the target firm from all its listed shareholders.

[8] EOH submits that the transaction would enable it to provide-additional product and.service offerings which it would add to its existing product and service portfolio. The proposed transaction would enable PCI to recoup their investment and allow PCI better growth opportunities as it creates access to a larger group.

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Impact on competition

- [9] According to the Competition Commission ("the Commission") the proposed transaction does not result in a horizontal overlap because EOH provides consulting, technology and business process outsourcing whereas PCI is primarily involved in the provision of water and wastewater treatment plants.
- [10] The Commission identified a vertical relationship between the firms since a business unit of EOH, Automation Specification, provided electrical subcontractor services to the target firm.
- [11] The Commission found that the value of the services provided to PCI is low. PCI submitted that electrical services are procured by means of a tender based on price and technical requirements and that this process will continue post-merger. The Commission further contacted the City of Cape Town, a customer of Automation Specification, and WEC Projects a competitor of PCI. Both have submitted that there are a number of firms that could provide such electrical services. The Commission is therefore of the view that the proposed transaction would unlikely substantially prevent or lessen competition.
- [12] We concur with the Commission's competition assessment, i.e. that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. We further agree that it is unlikely that the transaction would result in vertical concerns.

Public interest

- [13] The merging parties confirmed that the proposed transaction will not result in an adverse impact on employment. [1]The proposed transaction further raises no other public interest concerns.

Conclusion

- [14] In light of the above, we conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. In addition, no public interest issues arise from the proposed transaction. Accordingly, we approve the proposed transaction unconditionally.

19 August 2015

DATE

Yasmin Carrim

Mondo Mazwai and Imraan IValodia concurring

Tribunal Researcher: Aneesa Ravat

For the merging parties: Michael Baxter assisted by Mike Hughes from PCI and Zunaid Mayet and Renee Fielder from EOH.

For the Commission: Nolubabalo Myoli and Nompucuko Nontombana

[1] Inter alia merger record page 6.

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