
SOUTH AFRICA / JUDGMENT

Novus Holdings Limited v ITB Manufacturing (Pty) Ltd (LM025Apr17) [2017] ZACT 15 (10 July 2017) [2017] ZACT 15

COURT

Competition Tribunal

BEFORE

AW Wessels, Imraan Valodia, Mondo Mazwai

CASE / FILE NUMBER

LM025Apr17

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COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM025Apr17

In the matter between:

NOVUS HOLDINGS LIMITED

Primary Acquiring Firm

and

ITB MANUFACTURING (PTY) LTD

Primary Target Firm

Panel

: AW Wessels (Presiding Member)

: Imraan Valodia (Tribunal Member)

: Mondo Mazwai (Tribunal Member)

Heard on

: 14 June 2017

Order Issued on

: 14 June 2017

Reasons

Issued on : 10 July 2017

Reasons

for Decision

Approval

[1] On 14 June 2017, the Competition Tribunal ("Tribunal") approved the proposed transaction involving Novus Holdings Limited ("Novus") and 1TB Manufacturing (Pty) Ltd ("1TB").

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

Parties to proposed transaction

Primary acquiring firm

[3] The primary acquiring firm is Nevus, a public company duly incorporated in accordance with the laws of the Republic of South

Africa. Nevus is controlled by Media24 (Pty) Ltd ("Media24"), which is ultimately controlled by Naspers Limited ("Naspers").

Naspers is listed on the Johannesburg Securities Exchange ("JSE") and the London Stock Exchange ("LSE"). Naspers controls various firms.

[4] Naspers is the holding company for a diversified multinational portfolio of media and e-commerce platforms. Media24 conducts the print media publication business of the Naspers group.

[5] Nevus is a commercial printing business comprising of ten specialised printing plants and one tissue plant within South Africa that provide a range of printing services and tissue production.

Primary target firm

[6] The primary target firm is 1TB, a private company incorporated in accordance with the laws of the Republic of South Africa. 1TB is controlled by various trusts ("the Stewart Family Trusts"). 1TB controls Plaslope (Pty) Ltd ("Plaslope") which is duly incorporated in accordance with the laws of the Republic of South Africa.

[7] The Stewart Family Trusts control Malakai Investments (Pty) Ltd ("Malakai") and Monospec (Pty) Ltd ("Monospec"),

henceforth to be referred to as "sister companies". The sister companies are not directly controlled by 1TB, although they are owned by similar shareholders as 1TB. As part of the proposed transaction, the businesses of Malakai and Monospec will be transferred to and absorbed by 1TB, and will thus form part of the 1TB Group being acquired in this transaction.

- [8] 1TB and its subsidiary manufacture and supply flexible packaging solutions to intermediate and end users. The sister companies are also active in plastic packaging.

Proposed transaction and rationale

- [9] On completion of the proposed transaction, which comprises several steps,[1] Novus Packaging, a special purpose vehicle wholly-owned by Novus, will hold all of the issued shares in 1TB (also see paragraph 7 above).
- [10] Novus submitted that it aims to diversify its revenue stream away from print.
- [11] 1TB submitted that the Stewart Family has undertaken to exit the business and is of the belief that the new owner will be able to grow the target business effectively.

Impact on competition

- [12] As stated above, Novus offers printing solutions for newspapers, magazines, retail inserts, commercial material, labels and books, whereas 1TB supplies flexible packaging solutions.
- [13] The Competition Commission ("Commission") further submitted that 1TB's printing facilities can only print on flexible food packages. Although Novus owns a single gravure printing machine that is capable of printing on flexible packaging film, this machine is not suitable for printing food labels as the underlying layer of the material used in the label and the ink that is used could migrate into the packaging and impact the food. Printing on food packaging is the primary business of 1TB.
- [14] After considering the activities of the merging parties the Commission ultimately concluded that there is no horizontal overlap

between the activities of the merging parties since they do not offer products or services that can be considered interchangeable by customers or consumers in South Africa.

- [15] The Commission also found a minor vertical relationship between the merging parties since Plaslope used to supply plastic bags in which one of the publications printed by Novus was inserted. As stated, the Commission concluded that this relationship was a minor one that is unlikely to result in any post-merger foreclosure concerns.
- [16] Given the above, the Commission concluded that the proposed transaction is unlikely to substantially prevent or lessen competition in any market. We concur with the Commission's

conclusion.

Public interest

- [17] The merging parties confirmed that the proposed transaction will have no negative effect on employment in South Africa.[2]
- [18] The proposed transaction furthermore raises no significant other public interest concerns.
[3]

Conclusion

[19] 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.

10 July 2017

DATE

Mr AW Wessels

Prof. Imraan Valodia and Ms Mondo Mazwai concurring

Case Manager: Kameel Pancham

For the merging parties: Tamara Dini of Bowman Gilfillan

For the Commission: Rakgole Mokolo

[1] See Commission's Report, pages 7 and 8.

[2] Merger Record, pages 16 and 70.

[3] See Commission's Report, pages 17 and 18. Also see Transcript, pages 7 and 8.

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