

SOUTH AFRICA / JUDGMENT

Steinhoff International Holdings N.V v Tekkie Town (Pty) Ltd (LM113Sep16) [2016] ZACT 103; [2017] 1 CPLR 389 (CT) (14 December 2016) [2016] ZACT 103

COURT
Competition Tribunal

BEFORE
Norman Manoim, Mondo Mazwai, Medi Mokuena

CASE / FILE NUMBER
LM113Sep16

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COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM113Sep16

In the matter between:

Steinhoff International Holdings N.V

Primary Acquiring Firm

and

Tekkie Town (Pty) Ltd

Primary Target Firm

Panel

: Norman Manoim (Presiding Member)

: Mondo Mazwai (Tribunal Member)

: Medi Mokuena (Tribunal Member)

Heard on

: 23 November 2016

Order Issued on

: 23 November 2016

Reasons

Issued on : 14 December 2016

Reasons

for Decision

Approval

[1] On 23 November 2016, the Competition Tribunal ("Tribunal") unconditionally approved the merger between Steinhoff International Holdings N.V ("Steinhoff") and Tekkie Town (Pty) Ltd ("Tekkie Town").

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

Parties to transaction

Primary acquiring firm

[3] The primary acquiring firm is Steinhoff, a company listed on the Frankfurt Stock Exchange and the JSE Limited. It is not controlled by any firm. In South Africa, Steinhoff controls a number of firms but of relevance to this transaction is its ultimate control over Pepkor (Pty) Ltd ("Pepkor"). Pepkor controls Ackermans (Pty) Ltd, Pep (Pty) Ltd, Shoe City Holding (Pty) Ltd, JD Group International (Pty) Ltd and Pepkor Specialty Stores (Pty) Ltd.

[4] Steinhoff is a diversified international value and discount retailer which is active in a number of industries ranging from furniture to building materials. Pepkor through the companies it controls is active in the retail market primarily involving clothing with ancillary activities in the retail market for shoes.

Primary target firm

[5] The primary target firm, Tekkie Town is controlled by Actis 4 PPC ("Actis") and AJVH Holding (Pty) Ltd ("AJVH").

Actis is advised by Actis Africa 4 LP which is a private equity investment fund managed by Actis GP LLP. Actis GP LLP is advised by Actis LLP which is a limited liability partnership. AJVH is controlled by the Sport City Trust whose trustees are AJ van Huyssteen, BE Mostert and D Pretorius.

[6] Tekkie Town is a retail store which sells branded sport and leisure footwear in approximately 300 stores located across South Africa. In addition but in a limited respect Tekkie Town also sells accessories, apparel and cell-phone airtime vouchers.

Proposed transaction and rationale

[7] The proposed transaction involves Steinhoff acquiring 100 percent of the ordinary issued shares in Tekkie Town. As a result of the proposed transaction, Steinhoff will control Tekkie Town.

[8] Steinhoff submitted that the proposed transaction is an attractive business for it and would be a good strategic fit for its group. Tekkie Town submitted that the proposed transaction presented it with an opportunity to gain exposure to a broader range of value retail brands and would allow its employees to broaden their career opportunities within the Steinhoff Group.

Impact on competition

[9] According to the Competition Commission's ("the Commission") findings the proposed transaction does not result in a substantial lessening of competition for reasons which follow.

[10] The Commission considered the activities of the merging parties and found a horizontal overlap in the broad market for the retail of footwear. However the Commission delineated the market further as Tekkie Town only sells branded footwear whereas Pepkor sells unbranded footwear [1]. It therefore came to the conclusion that, in the market for branded footwear, the proposed transaction would result in a minimal market share accretion of less than 1 percent and would continue to be constrained by other competitors in the market such as Sportsman's Warehouse and Total Sport.

[11] The Commission also identified a potential foreclosure concern as the distribution network of Tekkie Town is outsourced to Revert Risk Management Solutions ("RTT") whereas the distribution services of the Pepkor Group is done in-house. The Commission found that there is no risk for foreclosure as Tekkie Town's business model and operations would not change post-transaction. Further, the current contract in place between RTT and Tekkie Town would last for the next five years. Additionally, RTT only derives approximately two percent of their annual turnover for logistical services provided to Tekkie Town.

[12] In the absence of facts to the contrary, 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.

Public interest

[13] The merging parties confirmed that the proposed transaction will not result in an adverse impact on employment. [2] 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

14 December 2016

DATE

Mr Norman Manoim

Ms Mondo Mazwai and Ms Medi Mokuena concurring

Tribunal Researcher: Aneesa Ravat

For the merging parties: Lizel Blignaut of ENS Africa

For the Commission: Billy Mabatamela, Lindiwe Khumalo and Kholiswa Mnisi

[1] Even on a conservative approach using the broadly defined market of footwear in general this transaction does not present any competition concerns as the market share would be minimal at less than 5 percent See inter alia merger record page 119.

[2] Inter alia merger record page 15.

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