

SOUTH AFRICA / JUDGMENT

Super Group Holdings (Pty) Ltd v Regional Wholesale Services (Pty) Ltd (LM035Jul21) [2021] ZACT 62 (6 October 2021)

[2021] ZACT 62

COURT

Competition Tribunal

BEFORE

AW Wessels, I Valodia, A Ndoni

CASE / FILE NUMBER

LM035Jul21

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COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No.: LM035Jul21

In the matter between:

Super Group Holdings (Pty) Ltd

Primary Acquiring Firm

And

Regional Wholesale Service (Pty) Ltd

Primary Target Firm

Panel:

AW Wessels (Presiding Member)

I Valodia (Tribunal Member)

A Ndoni (Tribunal Member)

Heard on:

23 September 2021

Order Issued on: 23 September 2021

Reasons

Issued on: 6 October 2021

REASONS

FOR DECISION

[1] On 23 September 2021, the Competition Tribunal (“Tribunal”)

unconditionally approved the transaction involving Super Group Holdings (Pty) Ltd (“Super Group”) and Regional Wholesale

Service (Pty) Ltd (“RWS”).

[2] The proposed transaction involves Super Group acquiring a controlling interest in RWS.[1]

[3] Super Group is a wholly owned subsidiary of Super Group Limited (Pty) Ltd, a company listed on the Johannesburg Stock Exchange. Super Group is a supply chain management company, which deals with inter alia the sourcing, procurement, transport, and warehousing of goods and services.

[4] RWS offers regional wholesale collections and deliveries to the courier and logistics industry.

[5] The Competition Commission (“Commission”) identified horizontal overlaps in the activities of the merging parties. It assessed the impact of the proposed transaction on the following markets (without taking a definitive view regarding the precise market delineation):

5.1. the national market for the provision of courier services;

5.2. the national market for the provision of freight forwarding and clearing services; and

5.3. the national market for the provision of contract logistics and warehousing services.

[6] The Commission found that post-merger, the merger parties will have market shares of less than 15% in all of the above markets. Further, there are other companies that will continue to constrain the merger

parties in each of these markets post-merger. In addition, the Commission found that the merging parties’ business models

differ significantly and that they cannot be deemed as direct competitors.

[7] Customers and competitors raised no concerns regarding the effects of the proposed transaction on competition.

[8] The Commission also found an insignificant vertical overlap between the activities of the merging parties that we do not deal with in any detail since it is unlikely to raise foreclosure concerns.

[9] We concur with the Commission’s conclusion that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market.

- [10] The merger parties submitted that there shall be no retrenchments as a result of the proposed transaction.
- [11] The merger parties further submitted that RWS currently utilises, as part of its courier network, independently owned companies, the majority of which are owned by the Historically Disadvantaged Persons (HDPs) to carry out the delivery of parcels. It further provides funding to these independently owned companies through what is called “B- BBEE Spending” under enterprise development. They also submitted that the proposed merger would allow RWS to grow into new territories over the next two to three years in the Western Cape, Eastern Cape and KwaZulu-Natal. This growth plan is expected to increase the number of independent businesses in the courier services market.
- [12] We conclude that the proposed transaction does not give rise to any public interest concerns.

Signed by: Andreas Wessel Wessels

Signed at: 2021-10-06 14:16:52 +02:00

Reason: I approve this document

6 October 2021

Mr. A. W. Wessels

Date

Ms. Andiswa Ndoni and Prof. Imraan I. Valodia concurring

Tribunal Case Manager: D Mogapi

For the Merging Parties: B Seleke of Fluxmans Attorneys

For the Commission: M Aphane and T Masithulela

- [1] Post the transaction, the shareholding in RWS's issued share capital will be as follows: Super Group - 58%; Hugh Randall Holdings (Pty) Ltd - 32%; and Business Express of South Africa (Pty) Ltd - 10%.

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