

SOUTH AFRICA / JUDGMENT

Super Group Trading (Pty) Ltd v Digistics (Pty) Ltd (80/LM/Aug12) [2012] ZACT 99 (23 November 2012) [2012] ZACT 99

COURT

Competition Tribunal

BEFORE

Norman Manoim, Andreas Wessels, Medi Mokuena

CASE / FILE NUMBER

80/LM/Aug12

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COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No:80/LM/Aug12

[015511]

In the matter between:

Super Group Trading (Pty) LtdAcquiring Firm

And

Digistics (Pty) LtdTarget Firm

Panel : Norman Manoim (Presiding Member) Andreas Wessels (Tribunal Member) Medi
Mokuena (Tribunal Member)

Heard on : 20 September 2012

Order issued on : 20 September 2012

Reasons

issued on : 23 November 2012

Reasons for Decision

Approval

On 20 September 2012 the Competition Tribunal (the “Tribunal”) unconditionally approved the acquisition by Super Group Trading (Pty) Ltd of Digistics (Pty) Ltd. The reasons for the approval follow below.

Parties and their activities

The primary acquiring firm is Super Group Trading (Pty) Ltd (“Super Group”), a company incorporated under the laws of the Republic of South Africa. Super Group is controlled by Super Group Holdings (Pty) Ltd (“SGH”). Super Group controls the following firms: Super Group Solutions (Pty) Ltd, Extreme Lifestyle Centre (Pty) Ltd, Chataprop Holdings 98 (Pty) Ltd, Lexshell 280 Investments (Pty) Ltd and Micor Freight (Pty) Ltd.

Super Group is a supply chain management business which offers logistics and warehousing services. These services relate to the transportation of dry bulk goods (e.g. cement, coal and ready mixed concrete products) as well as food products (including frozen, chilled and dry food products). Super Group also offers fleet solutions services (vehicle leasing and rental services) and owns passenger and commercial vehicle dealerships.

The primary target firm is Digistics (Pty) Ltd (“Digistics”), a company incorporated under the laws of the Republic of South Africa. Digistics’ shareholding is held as follows: Mr. N.J Marcel (27.42%), Mr. A.P Nel (25.59%), Mr. M.S Bohata (20.37%), Mr R. Du Preez (15.74%) and Mr. J.K Scott (10.88%). Digistics does not control any firm.

Digistics operates distribution centres which specialise in distributing frozen and chilled food products to franchisee fast food outlets.

Description of the transaction

Super Group intends to acquire 50.1% of the shares in Digistics. On completion of the transaction, Super Group will have sole control over Digistics.

Rationale for the transaction

Super Group submitted that the proposed transaction represents an opportunity for it to expand and enhance its logistics services into the temperature controlled space where it currently does not have a significant presence. From the perspective of Digistics this transaction represents an opportunity for it to gain market efficiencies through the synergies created in the form of a bigger balance sheet that will lead to further growth.

Competition Analysis

There is an overlap between the activities of the merging parties in respect of the national market for the provision of logistics services (specifically for the transportation of dry, chilled and frozen food products). The merging parties’ combined post-merger market share in this market is approximately 5.4%. The merging parties compete with firms such as Bidvest, Imperial, Barloworld, Vector Logistics and others.

There is also a vertical relationship in the activities of the merging parties as Digistics has hired trucks from Super Group, which accounted for approximately 0.7% of Super Group’s overall turnover in the previous financial year. Super Group’s market share in the market for vehicle hire is minimal (approximately 4%).

Public interest

The merging parties submitted to the Commission that the proposed transaction will not have any significant effect on employment.

Conclusion

The proposed transaction is unlikely to substantially prevent or lessen competition in the market for the provision of logistics services (specifically for the transportation of dry, chilled and frozen food products) as the post-merger market share of the merging parties is low. The vertical overlap in the activities of the parties is also unlikely to lead to any foreclosure concerns as Super Group's market share in the market for vehicle hire is minimal. Further, Digistics has been using Super Group for the majority of its truck hire requirements. In addition, the proposed transaction raises no public interest concerns. Accordingly, we approve the transaction unconditionally.

23 November 2012

Norman Manoim Date

Andreas Wessels and Medi Mokuena concurring.

Tribunal researcher: Ipeleng Selaledi

For the merging parties: Andile Nikani of Fluxmans Attorneys

For the Commission: Dineo Mashego

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Prepared on 10 October 2026 · Esheria