COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 018150

In the matter between:

MacNeil (Pty) Ltd	Acquiring Firm
And	
Brands 4 Africa Distribution and Logistics (Pty) Ltd	Target Firm

Panel	:	Anton Roskam (Presiding Member) Medi Mokuena (Tribunal Member) Merle Holden (Tribunal Member)
Heard on	:	12 February 2014
Order issued on	:	12 February 2014
Reasons issued on	:	12 March 2014

Reasons for Decision

Approval

1. On 12 February 2014 the Competition Tribunal (the "Tribunal") unconditionally approved an acquisition by MacNeil (Pty) Ltd ("MacNeil") of Brands 4 Africa Distribution and Logistics (Pty) Ltd ("Brands 4 Africa").

2. The reasons for the approval of the proposed transaction follow.

The Parties and their activities

3. The primary acquiring firm is MacNeil, a private company incorporated in accordance with the laws of the Republic of South Africa. MacNeil is controlled by Aptopart (Pty) Ltd ("Aptopart"), which is in turn controlled by Humulani Investments (Pty) Ltd ("Humulani Investments"). Humulani

Investments is controlled by Invicta Holdings Ltd ("Invicta"), a public company listed on the Johannesburg Securities Exchange. Invicta is not controlled by any firm. The following entities hold more than 5% shareholding in Invicta: Titan Shareholders (22.65%), Dorsland Diamante (Pty) Ltd (13.39%) and The Sherrell Family Trust (8.35%). MacNeil controls a number of firms.[1]

4. MacNeil is a wholesale supplier of sanitary ware, brass ware, taps, plumbing fixtures, plastic piping and related products to the building material sector of South Africa and neighbouring countries. Its products include *inter alia*, taps, baths, showers, sanitary ware, accessories, water saving equipment, plastics, sinks, geysers and copper tubing.

5. The primary target firm is Brand 4 Africa, a private company incorporated in accordance with the laws of the Republic of South Africa. Brands 4 Africa is 80% controlled by the Bowl Share Trust and the remaining 20% is held by Kevin Herbert. Brands 4 Africa controls Lodge Stock and Barrel (Pty) Ltd (LSAB") and One Owl Enterprise (Pty) Ltd ("One Owl").

6. Brands 4 Africa through its subsidiaries is a distributor of various commodities primarily sourced in Southern Africa, and subsequently exported to Zimbabwe, Botswana, Zambia and Mozambique. The majority of products procured and distributed by Brands 4 Africa comprise of building supplies, hardware and related products. Brands 4 Africa owns a 5 truck fleet which offer logistical and transport services to customers for goods sourced in South Africa, but for sale in Botswana, Zambia, Zimbabwe and Mozambique.

Proposed transaction and rationale

7. MacNeil intends to acquire 60% of the issued ordinary share capital and 60% of all shareholder claims on loan account against Brands 4 Africa

[1] See pages 7 and 8 for a list of MacNeil's subsidiaries.

Brands 4 Africa. On completion of the proposed transaction, MacNeil will control Brand 4 Africa.

8. The Invicta Group submitted that it sees the proposed transaction as an opportunity to expand its African footprint.

9. The shareholders of Brands 4 Africa submitted that Brands 4 Africa will benefit from being part of a broader acquiring group as it will, *inter alia,* have additional access to funding.

Competition Analysis

10. The Commission identified a horizontal overlap in the activities of the merging parties in respect of the market for the wholesale distribution of building supplies, hardware and related products. In respect of the geographic market, the Commission found that Brands 4 Africa distributes its products in the following regions: North West, Gauteng, Kwa-Zulu Natal, Western Cape and Limpopo Provinces. MacNeil, however, distributes its products nationally.

11. The Commission was informed by competitors of the merging parties that transport costs constitute an insignificant amount to the value of the actual product and that customers of the merging parties purchase on a national level. Given these facts, the Commission defined the relevant geographic market as national. The Commission found that the merging parties' post-market share in respect of the market for the wholesale distribution of building supplies, hardware and related products is approximately 5%. Competitors of the merging parties include Matus, Dawn Group, L&G Tools, Topline Tools and others.

12. The Commission also found that there is a vertical relationship in the activities of the merging parties in that Brands 4 Africa owns 5 trucks which offer logistical and transport services and MacNeil is a wholesale distributor of building supplies, hardware and related products (and outsources the majority of its logistic requirements to independent

logistical companies). The Commission found that there are several independent logistics and transport service providers that provide their services to wholesale distributors such as PX, GG Heavy Haulage, Freight Co-ordination Services, Big Foot, Time Freight and others. The Commission therefore concluded that the proposed transaction is unlikely to result in input foreclosure concerns.

13. The Commission considered whether customer foreclosure could possibly arise in the market for the wholesale distribution of building supplies, hardware and related products. In this regard, the Commission concluded that the merging parties' post-merger market share in this market is low and there are a number of wholesale distributors that would constrain the merged entity post-merger.

Public interest

14. The merging parties confirmed that the proposed transaction will have no adverse effect on employment and will not result in any retrenchments in South Africa.[2] The proposed transaction raises no other public interest concerns.

Conclusion

15. For the reasons mentioned above, we approve the proposed transaction unconditionally.

M Mokuena

Mrs. Medi Mokuena

12 March 2014
Date

Mr. Anton Roskam and Professor Merle Holden concurring

Tribunal researcher: Ipeleng Selaledi
For the merging parties: Rick van Rensburg of Edward Nathan Sonnenbergs
For the Commission: Xolela Nokele

[2] See merger record, page 13. Also see paragraph 7.1 of the Commission's merger report.