



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 018887

In the matter between:

IMPERIAL HOLDINGS LIMITED

Primary Acquiring Firm(s)

And

PHARMED PHARMACEUTICALS (PTY) LTD

Primary Target Firm(s)

Panel : Yasmin Carrim (Presiding Member)
: Takalani Madima (Tribunal Member)
: Andiswa Ndoni (Tribunal Member)
Heard on : 09 July 2014
Order Issued on : 09 July 2014
Reasons Issued on : 31 July 2014

Reasons for Decision

Approval

[1] On 09 July 2014 the Competition Tribunal ("the Tribunal") unconditionally approved an acquisition by Imperial Holdings Limited ("Imperial") of Pharmed Pharmaceuticals (Pty) Ltd.

[2] The reasons for unconditionally approving the transaction follow hereunder.

Parties to the Transaction

Primary acquiring firm

- [3] The primary acquiring firm is Imperial, a public company listed on the Johannesburg Securities exchange and, as such, not controlled, either directly or indirectly, by any other firm. Imperial comprises the Imperial Group which is a diversified industrial services and retail group with interests in, *inter alia*, transportation, logistics, car rental, tourism and financial services.
- [4] For the purposes of the proposed transaction, it is necessary to note that Imperial's activities in the logistics sector include:
- Pharmaceutical supply chain management which it conducts through Imperial Health Sciences; and
 - Courier and express services which it conducts through EWC Express, Express Hauliers and King Transport.

Primary target firm

- [5] The primary target firm is Pharmed Pharmaceuticals ("Pharmed"), a private company incorporated in terms of the laws of the Republic and not controlled by any individual or firm. Pharmed is a pharmaceutical wholesaler carrying a diverse array of medical products. Pharmed sources either directly from manufacturers or from pharmaceutical distributors and on-sells to retailers, pharmacies, doctors and hospitals.
- [6] To a lesser extent, Pharmed is also active in the provision of courier and express services through a subsidiary, Virtual Logistics.

Proposed Transaction

- [7] The proposed transaction involves Imperial acquiring between 62% and 76% of the issued share capital in Pharmed with 43% thereof being acquired from Lenmed Health Proprietary Limited ("Lenmed") and the remainder from

minority shareholders. The transaction involves Lenmed exiting Pharmed entirely such that Pharmed is held by Imperial, as to between 62% and 76%, and the remaining minority shareholders, as to between 24% and 38%.

Rationale

- [8] Imperial Logistics' high-level strategy is to integrate distribution and wholesale services. Further, Imperial submits that it has identified opportunities in the healthcare sector and aims to establish a "*focused, integrated, specialised and independent healthcare supply chain business.*"
- [9] From Pharmed's perspective, numerous large retailers having recently entered the pharmaceuticals and wholesaling markets has impacted negatively on regional independent wholesalers like itself. Further, it appears that in order to remain competitive, considerable consolidation is required.

Relevant Market and Impact on Competition

- [10] The relevant product markets identified by the Commission are as follows:
1. The market for the wholesale distribution of pharmaceutical products; and
 2. The market for the provision of courier and express services.
- The geographic market of both these product markets was deemed to be national.

Wholesale distribution market

- [11] Within the national market for the wholesale distribution of pharmaceutical products, the Commission found that post-merger, Imperial will hold a market share of below 5% with the transaction accounting for accretion of below 4%.¹ The Commission's investigation also revealed that the merged entity will continue to face competition from large players in the market such as UPD,

¹ These market share and accretion figures are based on estimated revenue figures for the 2013 year.

UTi Pharma and Alphapharm who hold considerable estimated market shares.

- [12] Further, and similarly in mitigation of any competition concerns, the customers of wholesale distributors in this market are generally large pharmaceutical manufacturers who, due to their sheer size, wield extensive countervailing power and will pose a considerable constraint over the merged entity.

Provision of courier and express services market

- [13] In the national market for the provision of courier and express services the Commission found that the merged entity would hold a market share of between 2.5% and 7% with accretion being minimal at below 0.1%. In addition to this minimal accretion the Commission found that the merged entity would face stiff competition from large players such as DHL, FedEx and UTi Sun Couriers.

- [14] The courier services market was found to be highly fragmented with prices being largely transparent. Further, customers appear to be price sensitive and readily shift their business.

- [15] In light of the foregoing, the Commission concluded that the proposed transaction is unlikely to substantially lessen competition in the markets defined above and proposed that we approve the transaction unconditionally.

Public Interest

- [16] The Commission identified no public interest concerns likely to arise from the proposed transaction.


Conclusion

- [17] We conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in the relevant markets nor does the merger raise any

public interest concerns that would alter that conclusion. Accordingly, we approve the transaction unconditionally.

31 July 2014

DATE



Ms Yasmin Carrim

Dr Takalani Madima and Ms Andiswa Ndoni concurring.

Tribunal Researcher: Shannon Quinn

For the merging parties: Helen Fotakis- Tugendhaft Wapnick Banchetti

For the Commission: Mogau Aphane