

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 39/LM/Apr08

In the matter between:

Brandcorp (Pty) Ltd

Acquiring Firm

and

**Allied Putziger (Pty) Ltd,
F&H Machine Tools (Pty) Ltd,
TQ&A Properties (Pty) Ltd, and
Bombshop Precinct Property Holding Company (Pty) Ltd**

Target Firms

Panel : N Manoim (Presiding Member), Y Carrim (Tribunal Member) and M Mokuena (Tribunal Member)
Heard on : 11 June 2008
Order issued on : 11 June 2008
Reasons issued on : 17 June 2008

Reasons for Decision

Introduction

[1] On 11 June 2008 the Tribunal approved the acquisition by Brandcorp (Pty) of the businesses conducted by Allied Putziger (Pty) Ltd (“the Toolquip Business”) and F & H Machine Tools (Pty) Ltd as well as the respective properties and property letting businesses from which they are run, owned by TQ & A Properties (Pty) Ltd (“TQ & A”) and by Bombshop Precinct Property Holding (Pty) Ltd (“Bombshop”). The reasons follow below.

The transaction and parties

[2] The transaction involves the acquisition by Brandcorp (Pty) Ltd (“Brandcorp”) of the following businesses (referred to as the “Target Firm”):

- 1) The Toolquip Business conducted by Allied Putziger (Pty) Ltd,¹
- 2) The business conducted by F & H Machine Tools (Pty) Ltd (“The F & H Business”),²

¹ Excluding all of the shares in Amhold (Pty) Ltd

- 3) The properties and property letting businesses, TQ&A Property and Bombshop Property, from where the Toolquip Business and F& H Business are being conducted.³

[3] Brandcorp is a wholly owned subsidiary of Brandcorp Holdings (Pty) Ltd which is a subsidiary of Ethos Private Equity Fund V. Brandcorp controls various subsidiaries one of which is Matus (Pty) Ltd a company active within the same industry as the target businesses Toolquip and The F & H Business.

Rationale for the transaction

[4] Brandcorp intends to diversify its business and regards the target firm as a niche business which is complementary to its existing businesses. According to the sellers of the target firm the disposal is in the best interest of stakeholders.

Effect on Competition

[5] The target business Toolquip and the acquiring firm Brandcorp, through its subsidiary Matus, are both active in the broad market for the wholesale and distribution of engineering and industrial products to industrial end-users and resellers. Toolquip supplies the engineering and industrial market with fast moving consumables, conventional machine tools and basic computerised numeric controlled machine tools. Matus primarily distributes a broad range of engineering and industrial products to industrial and DIY resellers; its product range includes products such as garden tools, hardware tools, power tools, measuring tools and many more. Although they supply products which can be used for similar applications in some instances, the products themselves differ and accordingly their customer base is different. As indicated above Toolquip supplies engineering and manufacturing end-users while Matus focuses on DIY and industrial resellers.

[6] Within the broad market, the market for importing and distribution of engineering and industrial products, the merging parties will hold a market share of 7.37%. Although we found that the merging parties supplied

² Excluding all of the shares in Holgre Investment Holdings (Pty) Ltd

³ Erf 544 and Erf 545, Selby Extension 22 owned by TQ&A Properties (Pty) Ltd and Portion 1 of Erf 19 and Erf 20, Crown City Extension 6 owned by Bombshop Precinct Property Holding (Pty) Ltd

different categories of customers and therefore do not compete we nevertheless also considered the horizontal overlap in each product category based on the technical nature of the products. Within each of the narrowly defined product markets the merging parties' combined estimated market shares, based on sales, are below 15% and the increase in concentration within the various product categories is less than 50 points. The Commission in its investigation consulted with various customers and competitors of the merging parties who also indicated that there are numerous suppliers competing within the narrow product markets.

- [7] The second target business, the F&H Business, imports and distributes high-technology, specialised industrial machine tools used in the manufacturing sector. The parties indicated that none of the activities of the F & H Business overlap with those of Matus.
- [8] There is a vertical relationship between Toolquip and Matus. Toolquip holds a non-exclusive master agency for Mitutoyo precision measuring instruments and Matus holds a sub-agency.⁴ Toolquip distributes Mitutoyo products through Matus and various other sub-distributors and resellers into Africa. The merging parties indicated that the agency agreements are unaffected by the acquisition. Since the agencies are non-exclusive, the merger is unlikely to give the merged firm pricing power over the Mitutoyo product, post merger.
- [9] In light of the above we find that the transaction is unlikely to substantially prevent or lessen competition in the relevant product markets.

Public Interest

- [10] The transaction does not raise any significant public interest concerns.

N Manoim

Y Carrim and M Mokuena concurring.

Tribunal Researcher: R Badenhorst

For the merging parties: Edward Nathan Sonnenbergs

For the Commission: V Ranchod

17 June 2008

Date

⁴ A competitor of Toolquip, RGC Engineering (Pty) Ltd, is the only other non-exclusive distributor of Mitutoyo measuring product in Sout Africa.