

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 57/LM/Jul06

In the matter between:

Liberty Star Consumer Holdings (Pty) Ltd

Acquiring Firm

And

Retailer Brands (Pty) Ltd

Target Firm

Panel: D Lewis (Presiding Member), M Mokuena (Tribunal Member) and
Y Carrim (Tribunal Member)

Date of Hearing: 16 August 2006

Order and Reasons issued on: 16 August 2006

Reasons for Decision

APPROVAL

[1] On 16 August 2006, the Tribunal approved the merger between Liberty Star Consumer Holdings (Pty) Ltd and Retailer Brands (Pty) Ltd. The reasons for approval follow.

THE TRANSACTION

[2] In terms of the proposed transaction, Liberty Star Consumer Holdings (Pty) Ltd ("Liberty Star") will purchase from the Hylton Cohen Family Discretionary Trust and the Errol Frielick Family Trust (collectively "the sellers") all the issued shares in and all claims against Retailer Brands (Pty) Ltd ("Retailer Brands").¹ It is intended that post merger, a new company, Calshelf Investments 130, will purchase Retailer Brands as a going concern. Liberty Star will own 70% of Calshelf Investments 130 and 15% will be held by each of the two sellers.

[3] Abrina 2382 (Pty) Ltd ("Abrina") controls Liberty Star through its 76% shareholding.² Abrina is wholly owned by Royal Bafokeng Finance (Pty) Ltd

¹ The sellers each hold 50% of Retailer Brands.

² The remaining shares are held by Robin Smith (10%), Andries Van Rensburg (10%) and Gary Watson (4%).

which is in turn is controlled by the Royal Bafokeng Nation.³ Liberty Star controls Dickon Hall Foods (Pty) Ltd and Chet Industries Limited.⁴

- [4] According to the parties, as a result of the transaction, the target firm will achieve BEE status. For Liberty Star, the merger represents “a step towards its goal of establishing and developing an empowered investment group focused on the acquisition and management of food-related, household goods and personal care business in the fast-moving consumer goods sector in South Africa.”⁵

THE PARTIES' ACTIVITIES

- [5] Retailer Brands manufactures and distributes “dry” food products viz. soups, jellies, spices, spicy sauces, baking powders, colourants, food essences and corn flour.
- [6] Liberty Star is an investment holding company. Dickon Hall is a contract manufacturer and packager of a wide variety of branded food products for the proprietors of those brands on an outsourced basis viz. Mrs Ball's chutney, Knorr- Royco- and Pick n Pay choice salad dressings, Knorr meat and chicken marinades, Oxo spreads, Flora Yo-maise, Heritage mayonnaise, Halls jams, Roses jams, Family Favourite chutneys and mayonnaise, Hellman's mayonnaise and other condiments. According to the parties, these products constitute “wet” food products.
- [7] Chet Industries is a manufacturer, distributor and marketer of household and laundry detergent products, both under its own brand name as well as under retailers and wholesalers house brands. The rest of the Royal Bafokeng Nation's interests are involved in mining, construction, packaging, insurance, finance and information technology.

³ The Royal Bafokeng Nation is a community of approximately 300 000 people resident in the Rustenburg valley in the North West province of South Africa. A detailed list of the subsidiaries of the Royal Bafokeng Nation is provided from pages 2-4 of the Commission's Report.

⁴ Liberty Star's control is by virtue of its 70% interest in Calshelf Investments 125, which owns Chet Industries. The remaining 30% in Calshelf Investments 125 is held by the Kessler Family Trust. The acquisition was approved under Case No: 54/LM/Jun06.

⁵ See page 12 of the Commission's record.

IMPACT ON COMPETITION

[8] We are of the view that the transaction is unlikely to substantially prevent or lessen competition in any product market, as there is no overlap in the parties' activities. Dickon Hall manufactures "wet" food products while Retailer Brands manufactures "dry" food products.

CONCLUSION

[9] There are no public interest issues and we accordingly approve this transaction without conditions.

D Lewis

Y Carrim and M Mokuena concurring

Tribunal Researcher: M Murugan-Modise
For the merging parties: M Ball (Metier Advisory (Pty) Ltd)
For the Commission: M van Hoven (Mergers and Acquisitions)