

In the larger merger between:

Pioneer Foods (Proprietary) Limited

and

Ceres Investment Company Limited

Reasons for decision

Approval

1. The Competition Tribunal issued a Merger Clearance Certificate on 10 December 2003 approving unconditionally the merger between Pioneer Foods (Pty) Limited ("**Pioneer Foods**") and Ceres Investment Company Limited ("**CIC**"). The reasons for our decision are set out below.

The parties

2. The primary acquiring firm is Pioneer Foods, which is controlled by Pioneer Food Holdings Limited, which in turn is controlled by Pioneer Food Group Limited. Pioneer Foods controls various subsidiaries, which are active in manufacturing, properties and letting, investments, packaging, and marketing and sales.

3. The primary target firm is CIC. Pioneer Foods and CIC are presently equal shareholders of Ceres Fruit Juice Investment Holdings Limited ("CFJIH"). Pioneer Foods currently holds no shares in CIC¹.

The merger transaction

Structure

4. The merger transaction involves an offer by Pioneer Foods to all the shareholders of CIC to acquire their shares and other interests in CIC.

5. On implementation of the transaction, Pioneer Foods will become the sole shareholder of all the issued ordinary shares and other interests in CIC. In turn this means that Pioneer Foods will continue to hold 50% of the shares issued in CFJIH directly and have a further 50% interest in CFJIH, through its newly acquired shareholding in CIC. Pioneer Foods will therefore control CIC,

¹ The shareholders of CIC are individuals (90% in value, 25% of voting CIC shares) and Ceres Holdings Limited (100% in value, 75% of voting).

CFJIH and in turn, the operating subsidiary Ceres Fruit Juices (Pty) Ltd (“CFJ”).

Rationale

6. The parties submit that the rationale is that over the past few years the investment in CIC has shown sound returns, and this is the opportunity for individual owners of CIC, being mainly farmers, to capitalise on their investment in CIC.

Activities of the parties

A. The Pioneer Group

7. Pioneer Foods is a large, diverse food company in South Africa, which operates the following six business divisions:

Sasko Milling and Baking, which produces wheaten flour, maize flour, bread, rolls and buns (particularly for industrial use), bake mixes (mostly for industrial use), and long and short pasta².

Pioneer Agri, involved in the farming, grading, packing and selling of commercial eggs and broilers and the manufacturing of animal feeds³.

Bokomo Foods manufactures breakfast foods, certain frozen foods, glazed fruits and glazed cherries; cake mixes, canned and bottled jams. Bokomo Weet-Bix, Maltabella, Pro Nutro, Today, Natures Source muesli range, and Big Jack Pies are brands forming part of Bokomo Foods.

Craft Box Packaging, manufactures corrugated outer carton products.

Bokomo Africa is engaged in chicken farming, milling and baking in Namibia, Zambia, Botswana, and Uganda. Baking and milling is only done in Namibia⁴.

SAD manufactures and sells various sauces, nuts, dried fruit and dehydrated vegetables, wines and prune juice⁵.

B. CIC & CFJIH – are investment vehicles. Their only asset is the shareholding in CFJ.

C. CFJ – is the operating company whose main business is the production of pure fruit juices and fruit nectars. CFJ produces a range of fruit juices under

² Sasko Sam, Bokomo Purity, Pasta Grande, Mr. Pasta, Sasko Select Rice, Nice Rice, and White Star are well-known brands forming part of Sasko Milling and Baking.

³ Its well-known brands include Nulaid eggs, Golden gloves eggs, Tydstroom fresh and frozen chickens, and Trusty dog food (See the Commission’s recommendation page 5).

⁴ Refer to page 19 of the record.

⁵ Wellington’s, Heinz, Safari, Evergreen, Star, and Kleinbosch are well-known brands of SAD. (See Commission’s recommendation, page 5)

three brands, namely Liqui Fruit; Ceres; and Fruitree⁶. No other company within the Ceres Group produces fruit juices, but Ceres Fruit Processors Limited produces fruit concentrates/puree purchased by juice companies, *inter alia*, CFJ for fruit juice production. As indicated below, Ceres Fruit Processors Limited will, post-merger, become fully independent from and unconnected to the fruit juice operations of CFJ⁷.

The relevant product market

8. It appears from the above that CFJ and Pioneer Foods focus on different aspects of the food and beverage industries. CFJ is focused on the fruit juice industry.

9. We note that SAD, one of Pioneer Foods' business divisions, manufactures, *inter alia*, prune juice and wines. According to the Commission, the closest product sold by Pioneer that may be considered a substitute for the fruit juices manufactured and sold by CFJ is the prune juice sold by Pioneer through its Heinz/SAD division in South Africa. The fruit juice manufactured by CFJ is sold as a thirst quencher and that sold by Pioneer is for medicinal use (used to aid effective digestion primarily amongst babies and the aged). Having noted that the pure and prune juice are marketed for different intended use, the Commission's view is that Pioneer and CFJ do not compete within the same markets.

10. The parties identified three basic categories of fruit juices: pure fruit juices contain 100% fruit juice, fruit nectars contain less than 100%, but more than 20% fruit juice depending on the actual fruit (nectars usually contain 20% to 50% fruit juice) and fruit drinks contain a minimum of 6% fruit juice. Squashes contain 24% fruit juice in their undiluted form.⁸

11. The parties further submitted that in South Africa, fruit juices with 50% and more 100% fruit juice are loosely termed 'pure fruit juice' by the trade (i.e. in accordance with the specifications of the Department of Agriculture). As a result, the parties submitted that CFJ competes within the '*pure fruit juice market*'.

12. It appears from the above that no overlap exists between any of the products of Pioneer Foods and any other party to this merger. Similarly no *vertical integrated concerns* arise from this transaction⁹.

Competitive effect of the merger

13. The parties advised us that the transaction does not, post-merger, involve any of the other firms in the Ceres Group of companies, in particular neither

⁶ According to the parties, the Liqui Fruit and Ceres brands of juices are 100% pure fruit with no preservatives, no added sugar or any additives. Fruitree is nectar, which contain between 20% but less than 100% pure fruit juice. (Refer to page 32 of the record).

⁷ For more information, refer to pages 2 to 4 of the transcript dated 10 December 2003.

⁸ Refer to page 32 of the record.

⁹ Refer to page 4 of the transcript dated 10 December 2003.

Ceres Fruit Concentrates Limited nor Ceres Fruit Processors Limited. These companies are not subsidiaries of CIC, CFJIH or CFJ. The only firms that will become part of the Pioneer Foods' stable are therefore CIC, CFJIH and CFJ. They further advised us that the Ceres Group (including its subsidiaries Ceres Fruit Concentrates Limited and Ceres Fruit Processors Limited) would therefore become fully independent from and unconnected to the fruit juice operations of CFJ.

14. In summary the transaction raises no horizontal or vertical concerns.

Public interest considerations

15. The transaction will have no effect on public interest considerations as contemplated in the Competition Act. According to the merging parties, the merger will not have any effect on employment, as the business of CFJ (the operating subsidiary of CIC) will continue to operate as before the merger.

Conclusion

16. In light of the above findings, we conclude that this merger is unlikely to substantially lessen or prevent competition in any of the relevant markets. We accordingly approve this transaction unconditionally.

D. Lewis

06 January 2004
DATE

Concurring: N. Manoim, P. Maponya

For the merging parties:	Ms Petra Krusche & C.J Fouche, Jan S De Villiers Attorneys.
For the Commission:	Mr M van Hooven assisted by Ms. Rookaya Ahmed, Competition Commission