



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM177Sep18

In the matter between

Bidvest Freight (Pty) Ltd

Primary Acquiring Firm

And

Sebenza Forwarding and Shipping (Pty) Ltd

Primary Target Firm

Panel	: Ms Yasmin Carrim (Presiding Member)
	: Ms Mondo Mazwai (Tribunal Member)
	: Ms Andiswa Ndoni (Tribunal Member)
Heard on	: 13 December 2018
Order Issued on	: 13 December 2018
Reasons Issued on	: 10 January 2019

REASONS FOR DECISION

Approval

- [1] On 13 December 2018, the Tribunal unconditionally approved the proposed transaction in terms of which Bidvest Freight (Pty) Ltd ("Bidfreight") is acquiring control over Sebenza Forwarding and Shipping (Pty) Ltd ("Sebenza").

- [2] The reasons for the approval of the proposed transaction follow.

Parties to the transaction

- [3] The acquiring firm, Bidfreight is a wholly-owned subsidiary of the Bidvest Group Ltd. Bidvest is listed on the Johannesburg Stock Exchange, and is not controlled by any single firm. Pre-merger, Bidfreight has a 45% equity interest in Sebenza.
- [4] Bidvest is a diversified company active across many sectors. Of relevance to the proposed transaction is Bidvest's ownership interest in Bidfreight which consists of a group of unincorporated partnership companies which include: African Shipping Limited ("ASL"), Safcor Freight (Pty) Ltd ("Safcor") and Renfreight (Pty) Ltd ("Renfreight"), collectively trading as Bidvest Panalpina Logistics ("BPL").
- [5] BPL provides private sector freight management services, freight forwarding and clearing services in particular.
- [6] The target firm is Sebenza which is jointly-controlled by Bidfreight and the seller, Makana Investment Corporation ("MIC") with a 55% equity interest. MIC is controlled by Makana Trust with a 53.57% shareholding.¹
- [7] Sebenza is active in the market for the provision of freight forwarding and clearing services.

¹ The trustees of the Makana Trust are Petrus Malindi Gcinumuzi, Vukile Charles Mehana, Thembinkosi Paulson Ngcobo and John Michael Samuel. The remaining shareholding in MIC is held by Autshumatu Investments (Pty) Ltd and African Sky Consortium (Pty) Ltd.

Proposed transaction and rationale

- [8] Bidfreight intends to acquire 55% of the issued share capital in Sebenza from MIC, thus increasing its shareholding to 100%. Post-merger, Bidfreight will have sole control over Sebenza.
- [9] The proposed transaction was notified with another transaction whereby MIC intends to acquire the entire issued share capital of Renfreight.² The merging parties indicated that although separate, the transactions were interlinked and indivisible. However, due to the fact that the transaction was non-notifiable because it did not meet merger thresholds for a large merger, the Competition Commission ("Commission") did not consider it as an indivisible transaction and thus did not analyse the transaction in unison with the *Bidfreight/Sebenza* merger.
- [10] However, it should be noted that the Commission's estimation of the post-merger market shares (discussed below) also factored in the *MIC/Renfreight* transaction.³

Relevant market and impact on competition

- [11] The Commission found a horizontal overlap between the activities of the merging parties as both Bidfreight and Sebenza are active in the national market for the provision of freight forwarding and clearing services.
- [12] The Commission further found that the merged entity's market share will account for approximately 10% of the market, with a market share accretion of less than 1%. Further, the Commission found that the market is fragmented as

² The transaction will effectively result in MIC acquiring 11% in BPL.

³ See Transcript, page 2.

there are over 300 players in the market⁴, and the merged entity will be constrained by multinationals such as Kuehne + Nagel, DHL and DB Schenker.

[13] In view of the above, the Commission is of the view that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. We find no reason to disagree with the Commission.

Public interest

[14] The proposed transaction does not raise any public interest concerns.

Conclusion

[15] In light of the above, we concluded that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. In addition, no public interest issues arise from the proposed transaction. Accordingly, we approved the proposed transaction unconditionally.



Ms Yasmin Carrim

10 January 2019

Date

Ms Mondo Mazwai and Ms Andiswa Ndoni concurring.

Tribunal Case Manager : Kgothatso Kgobe

For the Merging Parties : L Naidu of Baker McKenzie

For the Commission : R Mokolo

⁴ See Transcript, page 6.