



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM038Jun20

In the matter between

Equites Property Fund Ltd

Primary Acquiring Firm

And

Retail Logistics Fund (Pty) Ltd

Primary Target Firm

Panel : M Mazwai (Presiding Member)
: E Daniels (Tribunal Member)
: I Valodia (Tribunal Member)
Heard on : 2 September 2020
Order Issued on : 3 September 2020
Reasons Issued on : 26 October 2020

REASONS FOR DECISION

Unconditional Approval

- [1] On 2 September 2020, the Competition Tribunal (“Tribunal”) unconditionally approved the proposed transaction in terms of which Equites Property Fund Ltd (“Equites”) intends acquiring control over Retail Logistics Fund (Pty) Ltd (“Retail Logistics”).
- [2] The reasons for the approval of the proposed transaction follow.

Parties to the transaction

- [3] The primary acquiring firm is Equites, a Real Estate Investment Trust (REIT) listed on the JSE. Equites is not controlled by any single shareholder. Equites directly and indirectly controls numerous firms viz., EA Waterfall Logistics JV, Equites Atlantic Hills and Prop-For-List, amongst others.
- [4] Equites owns and develops logistics properties in South Africa (SA) and the UK for purposes of long-term letting. Within SA, Equites owns logistics properties (i.e. distribution centres), non-logistics and commercial properties located in Gauteng, the Western Cape and Kwa-Zulu Natal provinces. Of relevance for the competition assessment in this proposed transaction are Equites' logistics properties located in Gauteng and the Western Cape.
- [5] The target firm is Retail Logistics, a newly incorporated private company which is wholly owned by Shoprite Checkers (Pty) Ltd ("Shoprite"). In turn, Shoprite is wholly owned by Shoprite Holdings Ltd.
- [6] Retail Logistics was incorporated for the purpose of establishing a joint venture (JV) between Shoprite and Equites. Currently, Retail Logistics does not conduct any business activities. Retail Logistics will own the following properties: (i) The Brackenfell Property in the Western Cape; (ii) The Centurion Property in Centurion (Gauteng); and (iii) The Cilmor Property in the Western Cape. The three properties will be collectively referred to as the "Properties".
- [7] The Properties comprise of distribution centres and warehouses that are utilised and occupied by Shoprite. The business of Retail Logistics will entail the acquisition, development, ownership, operation and leasing of retail logistics facilities only to Shoprite or its affiliates, or to third party suppliers of Shoprite or its affiliates, as the tenant, and any ancillary business directly related thereto.

Proposed transaction

[8] Equites intends to acquire 50.1% of the issued shares in Retail Logistics from Shoprite. The proposed transaction entails a series of steps which will culminate in (i) Equites acquiring sole control of Retail Logistics and (ii) the acquisition of the Properties by Retail Logistics. Post-merger, Shoprite will hold an equity interest in Retail Logistics and continue to utilise and occupy the Properties through long-term leases.

Relevant market and impact on competition

[9] The Competition Commission (“Commission”) found that the proposed transaction presents a horizontal overlap in the market for the provision of lettable light industrial property. This is because Equites owns distribution centres in Gauteng and the Western Cape, while the Properties to be owned by Retail Logistics are also distribution centres which are located in the Western Cape and Gauteng.

Light industrial property in Gauteng

[10] Retail Logistics will own one light industrial property in Centurion. On the other hand, Equites owns numerous light industrial properties in Gauteng. The Commission found that although there is a product overlap in the light industrial property portfolios of the merging parties, there is no geographic overlap. Therefore, the Equites properties are unlikely to pose any competitive constraint on the Retail Logistics property in Centurion.

Light industrial property in the Western Cape

[11] Retail Logistics will own two light industrial properties which are located in Brackenfell, Western Cape (Brackenfell and Cilmor properties). On the other hand, Equites owns numerous light industrial properties in different areas in the Western Cape. The Commission found that the proposed transaction presents a geographic overlap in the Brackenfell, Parow, Bellville and surrounding nodes

within a 15km radius of Brackenfell. The Commission found that the merged entity will have a market share of approximately <49%, with an accretion of <42%.

[12] Notwithstanding the sizable market share accretion, the Commission found that the proposed transaction will unlikely result in any structural changes within the relevant market as the Properties are already solely utilised by Shoprite and the *status quo* will be maintained post-merger. Further, the Commission found that the merged entity will be constrained by market participants who account for a combined market share of more than 50%. These include property companies like Growthpoint¹ and SA Corporate Real Estate.²

[13] Due to the above, the Commission concluded that the proposed transaction will not significantly alter the structure of the relevant market and is unlikely to result in a substantial prevention or lessening of competition. We found no reason to disagree with the Commission.

Public interest

[14] The proposed transaction raises no 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 Mondo Mazwai

26 October 2020
Date

Mr Enver Daniels and Prof. Imraan Valodia concurring.

¹ Commission's Recommendation, pg. 22.

² Commission's Recommendation, pg. 22.

Tribunal Case Manager : Kgothatso Kgobe
For the Merging Parties : P Krusche and Y Davidson of Werksmans
For the Commission : R Molotsi