competitiontribunal
south africa

# COMPETITION TRIBUNAL OF SOUTH AFRICA

**Case No: LM223Dec18**

In the matter between

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| Hirt and Carter Group Proprietary Limited | Primary Acquiring Firm |
| and | |
| First Impression Labels Proprietary Limited | Primary Target Firm |

| | |
|---|---|
| Panel | : N Manoim (Presiding Member) |
| | : M Mazwai (Tribunal Member) |
| | : I Valodia (Tribunal Member) |
| Heard on | : 06 March 2019 |
| Order Issued on | : 06 March 2019 |
| Reasons Issued on | : 19 March 2019 |

## REASONS FOR DECISION

### Approval

[1] On 6 March 2019, the Tribunal unconditionally approved a transaction in terms of which Hirt and Carter Group Proprietary Limited ("H&C") acquired sole control of First Impression Labels Proprietary Limited ("First Impression").

[2] The reasons for the approval follow.

## Parties to the transaction

*Primary Acquiring Firm*

[3] H&C, a holding company, is controlled by Blackstartiso, which in turn is controlled by Blackstar Holdings Group (Pty) Ltd ("Blackstar Holdings"). Blackstar Holdings is ultimately controlled by Tiso Blackstar Group SE. Collectively these firms will be referred to as the "acquiring group". Pertinent to this transaction is Universal Print Group (Pty) Ltd t/a Uniprint Labels ("Uniprint"), a firm within the acquiring group, which conducts activities that overlap with those of the target group.

[4] Uniprint is active in the manufacture and supply of labels for consumer, retail, automotive and industrial goods.

*Primary Target Firm*

[5] First Impression is controlled by Vaughan and Sandra Cumming, through the Cumming Family Trust ("CFT"). In addition to First Impression, the CFT controls First Impression Properties.[1] Collectively these companies will be referred to as the "target group". First Impression produces and supplies labels for consumer goods, particularly fast-moving consumer goods.

## Proposed transaction and rationale

[6] In terms of the transaction, H&C will acquire the entire issued share capital of First Impression, resulting in H&C possessing sole control over First Impression.

[7] Regarding rationale, H&C submitted that combining the businesses as proposed will bring scale and consistency. The acquiring group seeks to

[1] Transcript, 6 March 2019 (LM223Dec18). Page 1, line 23.

provide an integrated one-stop approach to branding, promotion and marketing of goods and services.

[8] The CFT submitted that it sought to realise the capital value of its investment in First Impression. Further, it submitted that the target group will benefit from access to the acquiring group's financial, administrative, and management systems.

**Relevant market and impact on competition**

[9] The merging parties are active in the manufacture and supply of a variety of labelling products. The Commission considered the activities of the parties and found that the transaction raises a horizontal overlap within the national market for the following products:

[9.1] self-adhesive labels;

[9.2] shrink sleeves;

[9.3] firm wraparound labels; and

[9.4] polyroll/base wrap labels.

[10] Accordingly, the Commission assessed the horizontal effects of the transaction on the abovementioned national product markets.

[11] The Commission found that in each respective market, the merged entity would enjoy market shares not exceeding 5%, with minimal accretion.[2] In addition, the Commission found that there were several alternative suppliers identified by customers, who will be able to constrain the merged entity.[3] Based on this, the Commission concluded that the merger is unlikely to substantially prevent or lessen competition in any market.

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[2] The exception being the national market for the manufacture and supply of self-adhesive labels, wherein the merged entity will possess a market share of 9.37%, with market accretion of 3.74%. The results of the respective national markets assessed are as follows: shrink sleeves, post-merger market share 1.79%, accretion 1.27%. Firm wraparound labels, post-merger market share 1.52%, accretion 0.56%. Polyroll/base wrap labels, post-merger market share 0.04%, accretion of 0.01%.

[3] Aquelle, Nestle and Aspen indicated that the market is highly fragmented with numerous alternatives available.

**Public interest**

[12] The Commission investigated the fact that eight Uniprint employees would be retrenched. The acquiring group submitted that the retrenchments were the result of a planned decommissioning of two printing presses that were inefficient and costly to operate, and that the replacement machine would be automated thus not requiring dedicated machine operators.[4]

[13] The South African Typographical Union ("SATU") which represents employees of the merging parties was of the view that the retrenchments were not merger specific, and therefore SATU had no concerns with the proposed transaction.[5] Accordingly the Commission concluded that the retrenchments could not be defined as merger specific.

[14] The Commission also investigated the merging parties' submission that a further employee would be retrenched in the target group. The retiring employee's contract is due to expire on 31 December 2019 and will not be renewed. The Commission considered the age and salary package of the employee, concluding that that the non-renewal is unlikely to result in a significant effect on employment.

[4] The need to decommission the presses was identified around 17 April 2017, whilst the merger negotiations began on 14 June 2018.
[5] p758 of the merger record.

## Conclusion

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

**Mr. Norman Manoim**

**19 March 2019**
**Date**

**Ms. Mondo Mazwai and Prof. Imraan Valodia concurring.**

Tribunal Case Manager : Andiswa Nyathi

For the Merging Parties : Claire Avidon *instructed* by Beatrice Steyn of Barkers

For the Commission : Seabelo Molefe and Mugau Aphane