



## COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM036May16

In the matter between:

**FRUIT AND VEG CITY (PTY) LTD**

Acquiring Firm

And

**BUTCHERY BUSINESSES OWNED BY VARIOUS GLEN  
AIRE CLOSE CORPORATIONS**

Target Firm

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Panel : Medi Mokuena (Presiding Member)  
: Anton Roskam (Tribunal Member)  
: Andiswa Ndoni (Tribunal Member)  
Heard on : 24 August 2016  
Order Issued on : 24 August 2016  
Reasons Issued on : 15 September 2016

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### Reasons for Decision

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#### APPROVAL

[1] On 24 August 2016, the Competition Tribunal approved the large merger between Fruit and Veg City (Pty) Ltd ('FVC') and Butchery Businesses owned by various Glen Aire Close Corporations ('Glen Aire Butcheries') without conditions.

[2] The reasons for the approval follow.

#### PARTIES TO THE TRANSACTION AND THEIR ACTIVITIES

*Primary Acquiring Firm*

- [3] The primary acquiring firm is FVC, a private company incorporated in accordance with the laws of the Republic of South Africa. FVC is a wholly owned subsidiary of Fruit and Veg City Holdings (Pty) Limited ('FVC Holdings') which is in turn a wholly owned subsidiary of Food lovers Holdings (Pty) Ltd ('FLM Holdco'). FLM Holdco additionally controls, among other subsidiaries, Rump and Ocean Group ('R&O Group') and Fresher's Meat Packers (Pty) Ltd ('Freshers'), which operate as the butchery offering in some of the stores trading as Fruit and Veg City ('FVC store') or Food Lovers Markets ('FLM store').
- [4] The subsidiaries of FLM Holdco, which include FVC and FLM stores, are involved in services such as wholesaling, distribution, and the retailing of fresh produce, groceries, beverages and other food related and ancillary products to end customers.

#### *Primary Target Firm*

- [5] The Glen Aire butchery businesses are owned by a number of close corporations within the Glen Aire Group,<sup>1</sup> wholly owned by either Antonio Paivia Teixeira or Silva Teixeira.<sup>2</sup> These businesses are located across South Africa, are involved in the sale of meat and chicken products to retail customers and operate from within FLM or FVC stores owned by the acquiring firm or its franchisees.

#### **PROPOSED TRANSACTION AND RATIONALE**

- [6] The proposed transaction involves an acquisition by FVC of the target businesses a going concern. Post transaction, the Glen Aire Butcheries will be wholly owned subsidiaries of FVC. Antonio Teixeira will be employed by FVC as an executive manager of FVC's butchery division.

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<sup>1</sup> These CC's are Glen Aire Hyper Meat & Chicken: Hillfox, Bloemfontein, Tygervalley, Welkom, Newton Park PE, Fig Tree PE, Kempton Park, Klerksdorp, Uitenhage, Fourways, Kimberly, East London, Secunda, Richards bay, Vanderbijlpark, Westgate Mall, Benoni.

<sup>2</sup> A couple conducting their business activities collectively and in collaboration with one another.

- [7] The rationale for the acquisition of the Glen Aire Butcheries by FVC presents an attractive investment opportunity, allowing the FVC Group to continue to grow and expand its butchery offering. In addition the FVC Group will ensure product consistency in the commensurate to the brand of the Food Lover's Market.
- [8] The Glen Aire Butcheries consider the disposal of the businesses necessary to settle debts and improve their cashflow. In addition it provides the opportunity to widen their footprint on the South African region and improve their administration by operating from within the FVC group.

#### **RELEVANT MARKETS AND IMPACT ON COMPETITION**

- [9] In its analysis, the Commission found a horizontal overlap in the market for the retail of meat, pork and chicken products, a component of the food category in the market for retail grocery products. This overlap is due to the fact that in certain FVC and FLM stores, the in-store butcheries are owned and run by the R&O Group or Fresher's, ultimately controlled by FLM Holdco.
- [10] This horizontal overlap does not however present a threat to competition because of the lack of geographic overlap between FVC and FLM stores with butcheries run by the R&O Group or Fresher's and, those with butcheries controlled by the Glen Aire Group.
- [11] The Commission additionally considered the pricing effects of the merger given that all the acquired butcheries will now be controlled by FLM Holdco. Pre-merger, there was no uniform pricing structure, with each store and butchery therein setting its own prices, taking into account its competitive environment. Indicative of this model is that prices currently differ between those stores with R&O Group butcheries and those stores with Fresher's controlled butcheries. The presence of competitors in the market influences prices. Given that the majority of the Glen Aire Butcheries are situated in

areas wherein there is strong competition, we find it unlikely that the current pricing model will change.

[12] The proposed merger thus does not present anti-competitive threats to the market for the retail of meat, pork and chicken products.

## **CONCLUSION**

[13] Although presenting horizontal overlaps in the market for the retail of meat, pork and chicken products, the lack of geographic overlap renders the effects of such market overlap nugatory.

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

[15] Accordingly, we approved the transaction without conditions.



**Ms. Medi Mokuena**

**15 September 2016**

**Date**

**Anton Roskram and Andiswa Ndoni concurring**

Tribunal Researcher: Alistair Dey-Van Heerden

For the Merging Parties: Albert Aukemer of Cliffe Dekker Hoffmeyr

For the Commission: Rakgole Mokolo