



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM167Mar20

In the matter between

**Government Employees Pension Fund being
represented by the Public Investment Corporation
SOC Ltd**

Primary Acquiring Firm

And

Alzu Agri (Pty) Ltd

Primary Target Firm

Panel	: Ms M Mazwai (Presiding Member)
	: Mr E Daniels (Tribunal Member)
	: Mr AW Wessels (Tribunal Member)
Heard on	: 11 June 2020
Order Issued on	: 11 June 2020
Reasons Issued on	: 28 July 2020

REASONS FOR DECISION

Approval

[1] On 11 June 2020, the Tribunal unconditionally approved the proposed transaction in terms of which the Government Employees Pension Fund (“GEPF”) being represented by the Public Investment Corporation SOC Ltd (“PIC”) intends to acquire joint control over Alzu Agri (Pty) Ltd (“Alzu Agri”).

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

Parties to the transaction

Primary acquiring firm

- [3] The primary acquiring firm is the GEPF, a juristic entity regulated by the Government Employee Pension Law.¹ The GEPF controls various firms, none of which are relevant to the proposed transaction.
- [4] The GEPF primarily administers pensions and other benefits for South African government employees, investing in assets such as equities and properties.
- [5] The PIC, which is representing the GEPF, is a state-owned corporation controlled by the Minister of Finance. The PIC does not control any firms, but for purposes of this transaction, holds the following relevant interests on behalf of public entities such as the Compensation Fund and Unemployment Insurance Fund:
- a. PhilAfrica Foods (Pty) Ltd (“PhilAfrica”) (14% shareholding),
 - b. RCL Foods Ltd (“RCL”) (3.82% shareholding),
 - c. Berlin Beef (Pty) Ltd (“Berlin Beef”) (33% shareholding), and
 - d. Astral Foods Ltd (“Astral”) (13.06% shareholding).

Primary target firm

- [6] The primary target firm is Alzu Agri, a wholly owned subsidiary of Du Toit Zoe 8 (Pty) Ltd (“Du Toit”). Du Toit is ultimately jointly controlled by four trusts. Alzu Agri and the various firms it controls² shall be collectively referred to as the Alzu Agri Group.

¹ 21 of 1996.

² Olivewood Trade and Invest 12 (Pty) Ltd; Alzu Logistics (Pty) Ltd; Alzu Depots (Pty) Ltd; Statutis Trading (Pty) Ltd; Alzu Pig Genetics (Pty) Ltd.

- [7] The Alzu Agri Group consists of diversified agricultural and agro-processing firms involved in, *inter alia*, maize production, animal feed production, cattle and pig breeding/genetics.

Proposed transaction and rationale

- [8] The GEPF intends to acquire 30% of the issued share capital in Alzu Agri. Post-merger, Alzu Agri will be jointly controlled by Du Toit and the GEPF.
- [9] The GEPF's rationale for the proposed transaction is to grow its return on investments with a strategic focus on agriculture and agro-processing. Alzu Agri's rationale for the proposed transaction is to acquire capital for re-investment into its various subsidiaries, thereby improving operations and increasing profits generated.

Relevant Markets and Competition Analysis

- [10] The Competition Commission ("Commission") considered the activities of the merging parties.
- [11] Although it found that the various interests held by the PIC were non-controlling interests, the Commission proceeded with an analysis that assumed a worst-case scenario where the PIC exercised control.
- [12] PhilAfrica and RCL are both producers of beef, broiler, layer, sheep, ostrich and horse feed, among others. Berlin Beef on the other hand is a feedlot operator, while Astral Foods is a fully integrated poultry producer.
- [13] The Alzu Agri Group is a diversified agricultural and agro-processing business involved in, *inter alia*, maize production, animal feed production, cattle and pig breeding/genetics.

[14] The Commission did not conclude on the relevant product markets, however it considered the proposed transaction's effect on the following product markets:

- a. the broad market for the supply of animal feed,
- b. the supply of monogastric feed market,
- c. the supply of ruminant feed market,
- d. separate markets for the supply of broilers, layers, breeders, pig, horse, beef and game (ostrich) feed; and
- e. the broad market for cattle production.

[15] The Commission did not conclude on the relevant geographical markets for the product markets listed above either, however, it considered the proposed transaction's effect in the northern region (Gauteng, Mpumalanga, North West and Limpopo provinces) because the Commission identified this as the region in which the merging parties compete.

Markets for the supply of various types of animal feed

[16] The Commission found that the Alzu Agri Group's market shares in the northern region in (i) the broad market for the supply of animal feed, (ii) the narrow market for the supply of monogastric feed, and (iii) the narrow market for ruminant feed were all approximately between 4 – 5%.

[17] The Commission also assessed separate markets for the supply of broilers, layers, breeders, pig, dairy, beef, horse and game feed in the northern region. The Commission found that none of the merged entity's market shares in these markets were likely to be above 10%, after an accretion of no more than 4% in each of the markets. This excluded the markets for horse feed and game feed, where the merged entity's market shares were likely to be 18.3% and 26.6% respectively, after accretions of 12.33% and 21.50% respectively. However, the Commission found that the horse feed and game feed market shares were likely to be overstated due to the absence of data from market participants.

[18] In addition, the Commission found that the merged entity would continue to face competition from various players in the relevant markets identified above. Furthermore, the PIC itself does not control RCL, Astral Foods and PhilAfrica, despite its interest in these entities. As a result, it concluded that the merger is not likely to change the structure of the relevant markets for animal feed, regardless of the market share accretion that will result from the transaction.

Market for cattle production

[19] In its assessment, the Commission identified a limited overlap in the sale of cattle to abattoirs between the Alzu Agri Group³ and feedlots such as Berlin Beef and Karan Beef.⁴ The Commission found that the Alzu Agri Group currently owns less than 1% of the total number of standing cattle in South Africa. It is therefore significantly smaller than other commercial feedlots that will continue to impose competitive restraints on the merged entity post-merger. As a result of the above, the Commission found that the proposed transaction is unlikely to substantially change the structure of this cattle production market.

[20] In light of the above, the Commission concluded that the proposed transaction is unlikely to result in a substantial prevention or lessening of competition in any of the above markets.

Public interest

[21] The merging parties submitted that the proposed transaction was unlikely to result in any negative effects on employment. In addition, the Food and Allied Workers Union, and employee representatives for the Alzu Agri Group⁵ did not

³ The Commission found that the Alzu Agri Group is involved in the breeding of cattle studs whose semen is sold to breeders. In some instances, old studs and cows are sold to abattoirs for slaughtering. Feedlots feed infant livestock until they are ready for slaughter, and then sell them to abattoirs.

⁴ The acquisition of Karan Beef by a PIC-controlled firm was approved by the Competition Tribunal, but has not yet been implemented. The Commission's assessed a scenario as if the transaction had been implemented.

⁵ Alzu Pig Genetics, Alzu Enterprises and Alzu Depots.

raise any concerns about the proposed transaction. The Commission found that no other public interest concerns arise.

Conclusion

[22] In light of the above, we concluded that the proposed transaction is unlikely to substantially prevent or lessen competition in the relevant markets assessed. In addition, we found that no public interest issues arise.

[23] Accordingly, we approved the transaction unconditionally.



Ms M Mazwai

28 July 2020

Date

Mr E Daniels and Mr AW Wessels concurring

Tribunal Case Managers : Camilla Mathonsi and Peter Kumbirai

For the Merging Parties : Kabelo Moja of MVMT Attorneys

For the Commission : H Mandla and M Aphane