



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM072May18

In the matter between

Rebel Packaging (Pty) Ltd

Primary Acquiring Firm

And

West Coast Paper Traders (Pty) Ltd

Primary Target Firm

Panel : Mr A Roskam (Presiding Member)
: Ms A Ndoni (Tribunal Member)
: Mrs M Mokuena (Tribunal Member)
Heard on : 19 December 2018
Order Issued on : 19 December 2018
Reasons Issued on : 23 January 2019

REASONS FOR DECISION

Approval

[1] On 19 December 2018, the Tribunal unconditionally approved the proposed transaction in terms of which Rebel Packaging (Pty) Ltd (“Rebel”) is acquiring control over West Coast Paper Traders (Pty) Ltd (“West Coast”). Rebel and West Coast will hereafter be collectively referred to as the “merging parties”.

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

Parties to the transaction

- [3] The acquiring firm is Rebel, which is a wholly-owned subsidiary of Mpact Ltd (“Mpact”). Mpact is a firm listed on the Johannesburg Stock Exchange and is not controlled by any single shareholder.
- [4] Mpact is a paper and plastic packaging manufacturer with operations in South Africa (SA), Zimbabwe, Namibia and Botswana.¹ Mpact’s paper business comprises three parts, each of which operates at a different level of the paper and paper packaging value chain. Of relevance to the proposed transaction is Mpact’s activities in the manufacture and supply of intermediate paper products, containerboard and cartonboard in particular.
- [5] Pre-merger, Rebel has a 49% negative control over West Coast.
- [6] The target firm is West Coast, which is controlled by Rebel. The remainder of the shares in West Coast are held by the Trustees of the AM Mills Family Trust (23%), the Trustees of the Mills Family Trust (5%), and the Trustees of the GW Godwin Family Trust (23%).
- [7] West Coast is a trader or converting merchant in relation to various paper products such as cartonboard and containerboard. West Coast focuses on the supply of paper materials to smaller and medium sized businesses which, *inter alia*, operate as corrugated carton manufacturers.

Proposed transaction and rationale

- [8] The proposed transaction consists of a post-implementation notification of an intermediate merger whereby Rebel acquired a 49% negative control over West Coast.² In addition, the notification involves the current transaction

¹ The business involves the production of paper and plastic packaging products, and recycling (of both paper and plastic).

² In November 2010, Rebel acquired a 49% shareholding in West Coast. The merging parties did not notify the transaction with the Commission as they believed it was not notifiable. Upon investigation the Commission

whereby Rebel intends to increase its shareholding in West Coast from 49% to 60%. Post-merger, West Coast will become a subsidiary of Rebel and will ultimately be controlled by Mpact.

Relevant market and impact on competition

[9] The Competition Commission (“Commission”) found a vertical overlap between the activities of the merging parties as Mpact manufactures industrial paper such as containerboard and cartonboard and West Coast purchases paper to break bulk and on-sell to smaller customers that are not serviced by Mpact. The Commission assessed the following markets: **(i)** the national upstream market for the manufacture and supply of containerboard; **(ii)** the national upstream market for the manufacture and supply of cartonboard with imports; and **(iii)** the national downstream market for paper merchants.

[10] In the national upstream market for the manufacture and supply of containerboard, the Commission found that Mpact has a market share of 26.27%, with the remaining share held by Sappi (36.26%), Corruveal (10.80%) among other market participants. In the national upstream market for the manufacture and supply of cartonboard, the Commission found that Mpact is the only player in the market with a market share of 71.42%, while imports constitute 28.57% of the market. Further, the Commission submitted that due to high barriers to entry and low demand in this market, Mpact has remained the only player in the market.³

[11] In the downstream market for paper merchants, the Commission found that West Coast has a market share of approximately 13% in the market for the trading of paper. The Commission further found that this is a highly fragmented market with a number of players (nationally and regionally) such

found that it was notifiable as Rebel had negative control in terms of 12(2)(g) of the Act, and thus required Mpact to notify the transaction with the share increase transaction.

³ From submissions by customers and competitors, the Commission understands that the market is small and has not grown over the years, and thus failed to attract any new entrants.

as Papercor, Peters Papers and Quicklit among several others that will constrain West Coast.

Vertical Assessment

Input & Customer foreclosure (Containerboard)

[12] In the upstream market for the supply of containerboard, the Commission found that Mpack holds a market share of 27%, thus implying that approximately 73% is held by its competitors, *inter alia*, Sappi and Neopak. Based on the estimated market shares, the Commission concluded that it is unlikely that Mpack will engage in any input foreclosure strategy.

[13] The Commission further found that West Coast sources its containerboard requirements entirely from Mpack, and thus makes it unlikely that upstream firms will be significantly foreclosed. Further, the Commission contacted the Competitors of Mpack such as Sappi and Neopak who both indicated that West Coast is not a significant customer of theirs, and thus had no concerns with the proposed transaction.

Input & Customer foreclosure (Cartonboard)

[14] In the upstream market for the supply of cartonboard (including imports), the Commission found that Mpack has the ability to engage in foreclosure strategies. This is because Mpack is the only manufacturer of cartonboard in SA. However, the Commission concluded that this is unlikely as the supply of cartonboard to West Coast and its competitors is minimal. Furthermore, the Commission is of the view that foreclosure as a result of the proposed transaction is unlikely because imports which account for approximately 30% of the sale of cartonboard will constrain Mpack.⁴

⁴ Mpack's cartonboard production breakdown: 30% is used internally, 65% is sold directly to users (some operating at a different value chain than West Coast) and 5% to West Coast and its competitors.

[15] With Mpact being the only supplier of cartonboard in the country, the Commission was of the view that it is unlikely that there will be any significant customer foreclosures even in the worst-case scenario. Furthermore, the Commission is of the view that no SA firm can be foreclosed as a result of the proposed transaction because Mpact accounts for over 80% of West Coast's procurement of cartonboard, and the remainder is accounted for by imports.

[16] In view of the above, the Commission concluded that the proposed transaction is unlikely to lead to a substantial prevention or lessening of competition in any relevant market. We have no reason to disagree with the Commission's findings.

Coordinated effects

[17] The Commission has implicated Mpact in three complaints of collusion in the paper industry affecting all levels of the value chain. The complaints relate to market division/allocation and price fixing in, *inter alia*, the market for the manufacture and supply of corrugated sheet. The Commission sought to establish what role West Coast could be involved in the cartels and the merged entity's ability to coordinate post-merger.

[18] The Commission found that West Coast is not active in all the implicated levels of the value chain. Further, the Commission is of the view that the proposed merger is unlikely to create or strengthen coordination in the markets. This is because the proposed transaction will not provide Mpact with sensitive information it previously did not have access to through its negative control, and because none of West Coast's downstream rivals compete against Mpact anywhere else in the adjacent markets.

Public interest

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

Conclusion

[20] 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.



Mr Anton Roskam

23 January 2019

Date

Mrs Medi Mokuena and Ms Andiswa Ndoni concurring.

Tribunal Case Manager : Kgothatso Kgobe

For the Merging Parties : A Roets of Nortons Inc

For the Commission : S Molefe