COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No.: 017632

In the matter between

Bidvest Group Limited Primary Acquiring Firm

And

Academy Brushware Proprietary Limited Primary Target Firm

Panel	:	Takalani Madima (Presiding Member) Mondo Mazwai (Tribunal Member) Medi Mokuena (Tribunal Member)
Heard on	:	06 November 2013
Order issued on	:	06 November 2013
Reasons issued on	:	4 December 2013

Reasons for Decision

Approval

[1] On 06 November 2013 the Competition Tribunal ("Tribunal") unconditionally approved the merger between Bidvest Group Limited ("Bidvest") and Academy Brushware Proprietary Limited ("Academy Brushware").

[2] The reasons for approving the proposed transaction follow.

Parties to transaction

[3] The primary acquiring firm is Bidvest, a public company listed on the Johannesburg Stock Exchange ("JSE") and is thus not controlled by any one firm.

Bidvest is an international services, trading and distribution company. It is involved in freight management, outsourced services, industrial and commercial products and services, printing, financial services, electrical product, inter alia.[1] Of relevance to the proposed transaction, are Bidvest's activities relating to products such as paintbrushes, paint rollers, self-adhesive tapes, general brushware, packaging and fastening products and cleaning equipment through its subsidiaries G-Fox and Company Proprietary Limited ("G-Fox"), Bidvest Afcom Proprietary Limited ("Afcom") and Buffalo Executape Proprietary Limited ("Buffalo") respectively.

[4] G-Fox is involved in the distribution of a variety of cleaning products such as general brushware, mops, feather dusters, dustpans, sanitary brushers, amongst others. Afcom is involved in the manufacturing and distribution of packaging and fastening products to commerce and industry as well as mining and agricultural sectors of the economic. Buffalo is a self-adhesive tape company, with over 3000 tape products in its range. Its products include commodity tapes such as packaging, stationery, masking and electrical tape, as well as other speciality tapes and a full range of applicators and dispensers.[2]

[5] The primary target firm is Academy Brushware a company incorporate in accordance with laws of the Republic of South Africa. Academy Brushware is not controlled by any single firm or shareholder. Academy Brushware is involved in the manufacture, importation, assembly and distribution of a range of products such as paintbrushes, paint rollers, general brushware and other cleaning equipment to wholesalers and retailers who on-sell these products to end-user customers.

Proposed transaction and rationale

[6] Through a Sale Agreement, the proposed transaction will entail the acquisition by Bidvest of the entire issued share capital of Academy Brushware, as well as all claims that the Sellers may have against the target firm.'

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[1] See pages 64-65 of the Merger record for a list and description of Bidvest's Group of companies.
[2] See pages 101-104 of the Merger record for a full description of the various products and services offered by these subsidiaries.

[7] Bidvest has identified Academy Brushware as a well established, financially strong company offering a well-branded, every consumable product to the open/contestable market. Given these positive attributes, Bidvest seeks to engage in the proposed transaction, to garner synergies, as well as to service customers more efficiently. Bidvest thus submits that through the proposed transaction, it will be able to expand further into Southern Africa.

[8] Academy Brushware on the other hand submits that Bidvest is a strategic partner that will be able to offer it financial support to fund its continued business expansion.

Competition assessment

[9] The proposed transaction results in both horizontal and vertical overlaps.

[10] Due to the wide of variety of products sold by the merging parties, the Commission decided to concentrate on the products that might give rise to Competition concerns, mainly the broader markets of paintbrushes, paint rollers, general brushware, cleaning equipment and DIY products and accessories. The relevant geographic product market is national as both merging parties operate at a national level.

[11] During its investigation the Commission found that the horizontal overlap arises as a result of both merging parties being active in the market for the distribution of tapes, although market participants submitted that the merging parties cannot be considered to be competitors.[3] This overlap will not result in any lessening of competition as there are various alternatives in the market and the market share accretion was minimal. [4] This coupled with the fact that barriers to entry in the market for the distribution of tapes are low.[5]

[12] Vertical overlaps arise as a result of Bidvest procuring the following products from Academy Brushware: paintbrushes, cleaning equipment and general brushware. Again the Commission submits that such overlaps will not result in

[3] See page 491 of the Merger record, of minutes of a meeting the Commission had with Hamilton Brushware, a competitor to the target firm.
[4] See Transcript of hearing at page 4.
[5] See Merger record at page 120 and 491 respectively.

any input or customer foreclosure post merger as they are several alternatives that will discipline the merged entity post merger such as Usabco, Hamilton Brushware, Kinghorn Brushware and LG Harris.[6] In addition to this, the products Bidvest purchases from Academy Brushware make up less than 1% of its turnover.

Views of third parties

[13] The Commission received concerns from Usabco Industries (Pty) Ltd ("Usabco"), a local manufacturer of cleaning products, general brushware and paint rollers amongst others and a competitor to the target firm. Usabco submitted that the proposed transaction was likely to have a negative impact on local production and also result in foreclosure post merger as a result of the vertical integration that will arise post merger.[7] Usabco alleged that post merger, Bidvest would influence the target firm not to locally manufacture its products but rather resort to importing them. Usabco also alleged that the vertical integration would result in Bidvest procuring all its cleaning equipment from Academy Brushware post merger, and as a result foreclose other manufacturers from supplying the Bidvest Group of subsidiaries.

[14] After consultation with the merging parties as well as market participants, the Commission was satisfied that Usabco's concerns were addressed as the merging parties submitted that it had no intention of discontinuing with local production post merger, in fact to the contrary it had just invested millions of rands in its local production plant at Babelegi.[8] Local manufacturers the Commission spoke to submitted that they had no concerns with the proposed transaction foreclosing them post merger as they had other customers besides Bidvest that they were supplying to.[9]

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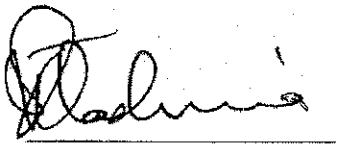
[6] See Commission report at pages 31-34 respectively.
[7] See page 485 of the Merger record, minutes of teleconference conducted by the Commission with Mr Errol Stern of Usabco.
[8] See Transcript of hearing at page 5.
[9] See Commission report at page 9.

Public interest

[15] The merging parties confirmed that the proposed transaction will have no adverse effect on employment[10] and the proposed transaction raises no other public interest concerns.

CONCLUSION

[16] We are satisfied with the findings of the Commission and thus approve the merger unconditionally.



Takalani Madima

4 December 2013
DATE

Mondo Mazwai and Medi Mokuena concurring

Tribunal Researcher: Caroline Sserufusa

For the merging parties: Lee Mendelsohn for Edward Nathans Sonnenbergs Inc

For the Commission: Tshegofatso Radinku

[10] See Merger record at page 130.