

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 24/LM/Mar06

In the matter between:

Growthpoint Properties Ltd

Acquiring Firm

And

Metboard Properties Ltd

Target Firm

Panel : M Moerane (Presiding Member), M Mokuena (Tribunal Member), and U Bhoola (Tribunal Member)

Heard on : 14 June 2006

Decided on : 14 June 2006

REASONS FOR DECISION

Approval

[1]. On 14 June 2006, the Tribunal unconditionally approved the proposed merger transaction between the abovementioned parties. The reasons for the decision follow.

Parties

[2]. The acquiring firm is Growthpoint Properties Ltd (“Growthpoint”) a variable rate stock company listed on the Johannesburg Stock Exchange on the Financial Services: real estate holding and development sector.¹ No entity directly or indirectly controls Growthpoint. The primary target firm is Metboard Properties Ltd (“Metboard”) which is also a variable rate property loan stock company listed in the Johannesburg Stock Exchange real estate holding and development sector.²

¹ A list of all the firms that hold more than 5% of the issued capital of Growthpoint can be found on page 2 of the Commission’s Report. A list of companies controlled by Growthpoint appears on page 2 of the Commission’s Report.

² Details of subsidiaries and associated companies of Tresso appear at page 124 of the Record.

Transaction

[3]. The transaction involves Growthpoint acquiring the Metboard linked units other than those already held by Growthpoint.³ After the merger, Growthpoint will own and control Metboard.

Rationale of the transaction

[4]. From Growthpoint's perspective, the acquisition will provide it with a unique opportunity to acquire industrial properties of a decent size and will contribute to an increased market capitalisation for Growthpoint. Secondly, the enlarged Growthpoint will provide a better platform to acquire future retail and commercial property. Thirdly, within an enlarged Growthpoint there will be continuity of asset management and property management skills to ensure continued focus on industrial assets.

[5]. From Metboard perspective the combined portfolio should be able to attract better debt funding rates than those of Metboard and increase competitiveness of the combined portfolio to acquire further industrial property. According to Metboard, the combined portfolio will provide Metboard linked unit holders with exposure to other property sectors. The acquisition also presents Metboard linked unit holders with an upfront capital premium without diluting their future distributions.

The merging parties activities

[6]. Both Growthpoint and Metboard are loan stock companies. Both derive their income primarily on the rentals received from tenants in properties owned by them. Growthpoint's property portfolio consist of 168 properties located throughout South Africa consisting of retail property, commercial property, industrial property, hotel, hospital and vacant land. Metboard's property portfolio consists of 159 industrial properties located throughout South Africa.

Relevant Product Market

[7]. According to the Commission, when dealing with different types of properties, a distinction can be drawn between properties depending on the uses of the property and this includes retail, office space and industrial space. We accept the parties and the Commission's submission that both the merging parties operate broadly in the property market and in the narrow product market category they overlap in respect of industrial properties only. Industrial property can further be subdivided into categories according to nature of their use. The Commission refrained from defining the relevant product market for industrial property, as it is uncertain to what extent warehousing space can be used for manufacturing purposes. However in considering the impact of the transaction on a narrow basis the Commission

³ Before this transaction, Growthpoint holds 17.69% of the issued linked units in Metboard. For a list of properties to be acquired, see pages 3-9 of the Commission's Report.

considered in its assessment that the industrial property market may be defined into the following categories: warehousing space, light industrial, heavy industrial, industrial parks, mid and mini units and motor trading. In its broader product assessment, the Commission took into account that the IPD and SAMCO only have data for broad industrial property market and that the extent to which various properties can be substituted for each other is uncertain.

Relevant Geographic Market

[8]. We accept the Commissions and the parties submission that the geographic markets for the purposes of this assessment is the zoned industrial areas by municipalities and as depicted in the Rode Report contained in the merger filing. Geographic overlap exists in respect of both the narrow and broad product market in the following nodes:

Gauteng:

- Linbro Park node (Sandton);
- Eastgate node (Sandton)
- Meadowdale node (Germiston)
- Spartan Ext2/Aeroporto (Kempton Park)
- Isando node (Kempton Park)
- Robertville node (Roodepoort)
- City Deep (Johannesburg)
- Strijdom Park node (Randburg)
- Midrand node
- Silvertondale node (Pretoria)

KwaZulu Natal:

- Isipingo node (Durban)
- New Germany node (Durban)
- Pinetown (Durban)

Eastern Cape

- New Brighton node (Port Elizabeth)

Western Cape

- Epping node
- Milnerton node

Competition Analysis of the Merger

[9]. In its competition analysis, the Commission relied on the market share data supplied by the merging parties for its assessment. The Commission in its assessment firstly considered the narrow product categories, then the broader industrial property market, and the areas of geographic overlap in respect of each product category. We will now consider both products markets.

A. Narrow Assessment

[10]. Post the merger Growthpoint's market share in each of the narrow product market will be as follows:

In the Linbro Park, it will be 1.6%; in Meadowdale 2.9%; in Spartan Ext 2/ Airport node 1.4%; in Midrand 5.9%; in Epping node 4.4%; in Milnerton 10.4%; in New Germany node 4% and in Pinetown it will be 1.3%. According to the Commission, this is unlikely to raise any competition concerns, as the market shares remain low. We agree with this conclusion.

Market for the provision of industrial warehousing in the Isipingo node

[11]. In this node, the Commission found that there is no estimated number of industrial stands available for this node. The merging parties had provided the Commission with estimated total size of the area 4 000 000m². The Commission used the estimated total size in this node and found that the acquisition of only one warehousing space in this node is unlikely to raise any serious competition concerns. Pre-merger both the merging parties had one warehousing space each in this node. We agree with this conclusion.

Market for the provision of industrial warehousing space in the New Brighton node.

[12]. In this node, the parties were unable to provide the Commission with the number of stands located in this node. However, the Commission found that Growthpoint has only one property in this node and Metboard only has one as well.

Conclusion on the narrow assessment

[13]. We agree with the commission that this transaction is unlikely to raise any serious competition concerns. The Commission also found that in the seven of the eleven markets assessed, Growthpoint is only acquiring one or two properties within the nodes identified.

B. Broad Assessment

[14]. Post the merger Growthpoint's market share in each of the broad product market will be as follows:

Below is a table reflecting the combined market share of the merged entity for industrial property

Area	Market Share
Linbro Park node	3.3%
Eastgate node (Sandton)	2.9%
Meadowdale node (Germiston)	5.8%
Spartan Ext2/ Airport node (Kempton Park)	2.3%
Isando node (Kempton Park)	7.9%
Robertville (Roodepoort)	3.75%
City Deep node	3%
Strijdom Park node (Randburg)	2.7%
Midrand node	7.2%
Pinetown node	17%
Isipingo	2%
New Germany node	4%
Epping node	3.9%
Milnerton	10.4%

[15]. In the Silvertondale node, (Pretoria) both Growthpoint and Metboard have only one industrial property each in this node. According to the Commission, any accretion in the market share is unlikely to raise any serious competition concerns. In the New Brighton node post merger, Growthpoint will only hold two properties. According to the Commission if the total size of the relevant node is considered, Growthpoint's market share is insignificant.

[16]. Based on the above analysis we agree with the Commission that no serious competition concerns are likely to arise in any of the markets above. The Commission found that the highest combined market share would be 17% in the broader industrial property market in Pinetown node. The Commission further found that of the sixteen considered, in nine of these, there is an acquisition of just two or less properties. In the remaining seven markets, other than the Midrand node, Growthpoint has a small presence.

Public interests

[17] .No public interests issues arise from this merger.

Conclusion

[18]. We conclude that the merger will not lead to a substantial lessening or prevention of competition in the identified markets and is accordingly approved.

M. Mokuena

16 August 2006
Date

M Moerane and U Bhoola concurring

Researcher: J Ngobeni

For the Merging Parties: Ms I Gaigher (Jowell Glyn Marais) For the Commission: Seema Nunkoo (Mergers and Acquisition)
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