



## COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM039Jun15

In the matter between:

**AECI LTD**

Primary Acquiring Firm

And

**SOUTHERN CANNED (PTY) LTD**

Primary Target Firm

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Panel	: Y Carrim (Presiding Member)
	: N Manoim (Tribunal Member)
	: A Ndoni (Tribunal Member)
Heard on	: 8 July 2015
Order Issued on	: 8 July 2015
Reasons Issued on	: 29 July 2015

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### Reasons for Decision

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#### Approval

- [1] On 8 July 2015, The Competition Tribunal ("**Tribunal**") unconditionally approved the acquisition by AECI Limited ("**AECI**") of the entire issued share capital in Southern Canned Products (Pty) Ltd ("**SCP**").
- [2] The reasons for approving the proposed transaction follow.

## Parties to the transaction

### *Acquiring firm*

- [3] The primary acquiring firm is AECL, a company not controlled by any one firm.<sup>1</sup> AECL controls various firms nationally and internationally. Relevant to the proposed transaction is Lake Foods (Pty) Ltd ("**Lake Foods**"), a division of AECL.
- [4] Lake Foods supplies food additives such as ascorbic acid, preservatives and thickeners to manufacturers and suppliers of speciality ingredients and commodities products and services in the dairy, beverage, wine, meat, bakery, health and nutrition industries. Lake food does not manufacture nor supply any fruit juice-based products or olive oil products.

### *Target firm*

- [5] The target firm is SCP, a company jointly controlled by Gerber Goldschmidt Group SA (Pty) Ltd, GGI AG and the management of SCP. SCP controls Olive Pride (Pty) Ltd ("**Olive Pride**").
- [6] SCP supplies bulk fruit juice concentrate, purees and pulps. It also manufactures formulated fruit concentrates and emulsions to juice brand owners in the manufacturing industry. SCP also manufactures and supplies branded olive and seed oils to retailers.

## Proposed Transaction and Rationale

- [7] AECL intends to acquire the entire issued share capital of SCP. Post - merger AECL will have sole control of SCP.

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<sup>1</sup> AECL's top shareholders include: Coronation Asset Management (Pty) Ltd, Public Investment Corporation, Kagiso Asset Management (Pty) Ltd, Old Mutual Investment Group (Pty) Ltd and Allan Gray Investment Council.

- [8] According to AECl, the proposed transaction presents growth opportunities within the food additives market. The proposed transaction will allow SCP's current shareholders to realise its investment.

### **Relevant Market and Impact on Competition**

- [9] The Competition Commission ("**Commission**") considered the activities of the merging parties to determine the relevant market. It found there is no horizontal overlap between the merging parties' activities.
- [10] The Commission found there is a vertical overlap as AECl, through Lake Foods, supplies additives and colourants to fruit juice based product manufacturers and suppliers that compete with SCP. The Commission considered the upstream market to be the market for the supply of additives and colourants and the downstream market to be the market for the manufacture and supply of fruit-juice based products.
- [11] The Commission was of the view that AECl is a small player in the upstream market, for the supply of additives and colourants, where other larger players are also present, such as Du Pont Nemours SA (Pty) Ltd, Danisco SA (Pty) Ltd, Bidfood Solutions (Pty) Ltd, Technologies Division (B.F.T) and CJ Petrow Company (Pty) Ltd.
- [12] In the downstream market for fruit juice based products, SCP has an estimated market share between 10 - 20%. There are thus other potential customers to supply additives and colourants to. Moreover the suppliers of additives and colourants indicated that they also supply to other sectors such as, agriculture, pharmaceuticals, lubricants and coatings. Therefore the Commission is of the view that the proposed transaction is unlikely to result in customer foreclosure
- [13] The transaction is therefore unlikely to raise any foreclosure concerns.
- [14] The Commission accordingly concluded that the proposed transaction is unlikely to substantially prevent or lessen competition in the relevant market. We agree with this assessment.

## **Public Interest**

- [15] The transaction does not raise any public interest concerns.

## **Conclusion**

- [16] In light of the above we concluded that the proposed transaction was unlikely to substantially prevent or lessen competition. Accordingly we approved the proposed transaction unconditionally.

  
Ms Y Carrim

29 July 2015  
DATE

## **Mr N Manoim and Ms A Ndoni concurring**

Tribunal Researcher:	Moleboheng Moleko
For the merging parties:	Tanya Haskins, Norton Rose Fulbright
For the Commission:	Hugh Dlamini, Seema Nunkoo and Xolela Nokele.