COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM128Sep15

In the matter between:

Steinhoff Doors and Building Materials (Pty) Ltd Primary Acquiring Firm

And

Iliad Africa Limited Primary Target Firm

Panel	:	Norman Manoim (Presiding Member), Andiswa Ndoni (Tribunal Member) Anton Roskam (Tribunal Member)
Heard on	:	15 December 2015
Order issued on	:	15 December 2015
Reasons issued on	:	11 January 2016

Reasons for Decision (Public Version)

Approval

[1] On 15 December 2015 the Competition Tribunal ("Tribunal") conditionally approved the large merger between Steinhoff Doors and Building Materials (Pty) Ltd ("SDBM") and Iliad Africa Limited ("Iliad). The reasons for approving the transaction follow.

Parties to the transaction

[2] The primary acquiring firm is SDBM, a company incorporated in accordance with the company laws of the Republic of South Africa ("RSA"). SDBM is a subsidiary of the JD Group Limited ("JD Group"), which in turn is ultimately controlled by Steinhoff International Holdings Limited ("SIH"). SIH is a public company listed on the Johannesburg Securities Exchange Limited ("JSE"). SIH is an integrated retailer that manufactures, sources and retails furniture and household goods in

Europe, Africa and Pacific Rim. The JD Group is a diversified and differentiated retailer of furniture, appliances, electronic goods, home entertainment and office automation, automotive, building materials, hardware and related products and a provider of insurance. These business activities are conducted through the Group's subsidiaries such as Pennypinchers, Timbercity, Hardware Warehouse, Unitraco, Tilehouse and Trusses & Timber. Of relevance to the proposed transaction is PG Bison which supplies particle board and medium density fibre board ("MDF") to hardware and building supply retailers like Pennypinchers, Timbercity, and Iliad's retail stores.

[3] The primary target firm is Iliad, a firm also incorporated in accordance with the company laws of RSA. Iliad supplies hardware and building supplies to a range of customers form large scale development and constructions groups to DIY homeowners, through its 72 retail stores nationally. Iliad's main clientele are tradesmen and small to medium sized contractors. Iliad's building material business division operates under the BUCO brand which makes up 80% of Iliad's business. Iliad also has a specialised building material division, which trades in more differentiated and value-added products such as ironmongery, wholesale plumbing hardware boards and equipment hire. Iliad's specialised division trades under brands such as Buchel, Bildware, Saflok, Citiwood amongst others.

Proposed transaction and rationale

[4] The proposed transaction involves SDBM acquiring all of the shares in Iliad by way of a Scheme of Arrangement in terms of section 114 of the Companies Act.[1] Post-merger SDBM will have sole control over Iliad.

[5] The acquiring group submits that the proposed transaction will assist it to extend its footprint to the inland regions as well. Whilst the target firm

[1] Act 71 of 2008.

submits that the proposed transaction will assist it to grow and compete with its much larger competitors.

Competition assessment

[6] The proposed transaction gives rise to a horizontal overlap. This is because both merging parties are active in the broader national market for the retailing of building supplies, hardware and related products. The proposed transaction also gives rise to a vertical overlap. This is because PG Bison, a company which Steinhoff has a minority shareholding, currently supplies raw and upgraded particle board and MDF to Iliad's BUCO hardware and building supply stores.

[7] The Commission identified the relevant product market as the national market for the retailing of building supplies, hardware and related products. The Commission found that post-merger, in the broader national market for the retailing of building supplies, hardware and related products, the merged entity will have a market share of less than 12%. It is evident from this market share that the merged entity will still face significant competition from a number of market players, such as Builders Warehouse, Build-It and Cashbuild. In addition to this, the Commission submitted that even in the affected regional markets where there is an overlap between the merging parties' stores within a 40 kilometre("km") radius in Eastern Cape, Western Cape, Mpumalanga, KwaZulu Natal and Gauteng respectively, the market is highly fragmented with the presence of big national players such as Cashbuild, Build-It and Builders Warehouse. The Commission thus concluded that the proposed transaction is unlikely to substantially prevent or lessen competition in that market. We conclude with the Commission on its findings.

[8] In relation to the vertical overlap, the Commission considered whether the merging parties, through PG Bison may have the ability to foreclose post-merger because they have high market shares (approximately

50%) in the upstream market for the supply of raw and upgraded particle board and MDF board. However the Commission concluded that the merging parties would not be able to sustain credible threat to either the rivals of its upstream business or downstream market, as Iliad's business only accounts for approximately 5% of PG Bison's sales. It is thus highly unlikely that PG Bison would partake in any foreclosure conduct as this would impact severely on its business. We agree with the Commission's findings.

Third party concerns

[9] A third party,[2] [ ] a supplier to the merging parties alleged that the proposed transaction will affect the viability and long term sustainability of its [ ]. It submitted that since Steinhoff and Iliad are both one of its large customers, the merged entity may exercise buyer power. The Commission found that the merging entity is unlikely to be able to exercise buyer power as the merged entity would have less than [ ] % of the national market for the supply of [ ]. The Commission also discovered that the merging parties have been procuring their [ ]. The proposed transaction is therefore unlikely to negatively impact the market for [ ]. We agree with the Commission on its findings.

Public Interest

[10] The proposed transaction gives rise to a duplication of roles and a relocation and integration of the merging parties' head office in Johannesburg or Cape Town, which may result in merger specific retrenchments affecting about 50 employees. To address this employment issue, the Commission and the merging parties agreed on the following employment conditions:

[2] The third party claimed confidentiality over its identity. Since the detail of the concerns might identify it as well, this public version of the reasons contains portions indicated by the brackets where words have been redacted.

retrenchments affecting about 50 employees. To address this employment issue, the Commission and the merging parties agreed on the following employment conditions:

- No retrenchments will be effected in the merging parties' stores for a period of 24 months after the approved date of the proposed transaction;

- No more than 50 retrenchments will be effected at the merging parties' head offices for a period of 18 months after the approved date of the proposed transaction; and

- The Merging parties must explore opportunities for alternative employment for any head office staff that are retrenched within the acquiring firm's group of companies.

[11] The proposed transaction raised no other public interest concerns.

CONCLUSION

[12] We agree with the Commission's findings that the proposed transaction is unlikely to substantially prevent or lessen competition in the relevant product market. We therefore approve the transaction subject to the conditions attached hereto as Annexure "A".

Mr Norman Manoim

11 January 2016
DATE

Ms Andiswa Ndoni and Mr Anton Roskam concurring.

Tribunal Researcher:	**Caroline Sserufusa**
For the merging parties:	Heather Irvine of Norton Rose Fullbright
For the Commission:	Thelani Luthuli

ANNEXURE "A"

CONFIDENTIAL

STEINHOFF DOORS AND BUILDING MATERIALS (PTY) LTD / ILIAD AFRICA LTD

CC CASE NUMBER: 2015SEP0511

CONDITIONS

1. **Definitions**

The following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings –

1.1. "**Acquiring Firm**" means SDBM;

1.2. "**Approval Date**" means the date referred to in the Tribunal's merger clearance certificate (Form CT15);

1.3. "**Commission**" means the Competition Commission of South Africa;

1.4. "**Commission Rules**" means the Rules for the Conduct of Proceedings in the Commission;

1.5. "**Competition Act**" means the Competition Act 89 of 1998, as amended;

1.6. "**Conditions**" mean these conditions;

1.7. "**Iliad**" means Iliad Africa Ltd;

1.8. "**Implementation Date**" means the date, occurring after the Approval Date, on which the merger is implemented by the merging parties;

1.9. "**Merging Parties**" mean SDBM and Iliad;

1.10. "**Proposed Transaction**" means the acquisition of control over the Iliad business by SDBM;

1.11. "**SDBM**" means Steinhoff Doors and Building Materials (Pty) Ltd;

1.12. "**Target Firm**" means Iliad; and

1.13. "**Tribunal Rules**" mean the Rules for the Conduct of Proceedings in the Tribunal.

2. Conditions to the approval of the merger

2.1. There shall be no retrenchments in the Merging Parties' stores as a result of the Proposed Transaction, for a period of twenty-four months after the Implementation Date;

2.2. The Merging Parties shall not retrench more than 50 employees at their head offices as a result of the Proposed Transaction for a period of 18 months after the Implementation Date; and

2.3. The Merging Parties undertake to explore opportunities for alternative employment within the Acquiring Firm's group of companies for the 50 employees that are retrenched at the head offices of the Merging Parties as a result of the Proposed Transaction.

3. Monitoring of compliance with the Conditions

3.1. The Merging Parties shall:

3.1.1. Inform the Commission of the Implementation Date within five days of it becoming effective.

3.1.2. Notify all of its employees and registered trade unions and/or employee-representatives, in writing of the conditions reflected in paragraph 2 above within 5 (five) business days of the Approval Date of the Proposed Transaction.

3.1.3. Submit an affidavit attesting to the notification referred to in paragraph 3.1.2 above, and provide a copy of the notice to the Commission within 5 (five) business days of the circulation of the conditions.

3.2. Twelve months after the Implementation Date, the Merging Parties shall submit a report:

3.2.1. confirming that no retrenchments occurred in any of the Merging Parties' stores as a result of the Proposed Transaction.

3.2.2. indicating the number of retrenchments at head office which have occurred as a result of the Proposed Transaction, including a description of the relevant job function and skill level which relate to the retrenchments in question.

3.3. One month after a period of 18 (eighteen) months from the Implementation Date:

3.3.1. The Merging Parties shall submit a further report to the Commission in accordance with clause 3.2.1 and clause 3.2.2 above.

3.4. Twenty-four months after the Implementation Date, the Merging Parties shall submit a final report confirming that no retrenchments have occurred in any of the Merging Parties' stores as a result of the Proposed Transaction;

3.5. In the event that the Commission determines that there has been an apparent breach by the Merging Parties of these Conditions, this will be dealt with in terms of Rule 39 of Commission Rules read together with Rule 37 of the Tribunal Rules.

3.6. The Merging Parties may at any time, on good cause shown, approach the Tribunal for the conditions to be lifted, revised or amended.

3.7. All correspondence in relation to these Conditions should be forwarded to mergerconditions@compcom.co.za