



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM083Jun17

In the matter between

Omnia Group Proprietary Limited

Primary Acquiring Firm

And

Umongo Petroleum Proprietary Limited

Primary Target Firm

Panel	: Mr Enver Daniels (Presiding Member)
	: Mrs Medi Mokuena (Tribunal Member)
	: Prof. Fiona Tregenna (Tribunal Member)
Heard on	: 4 October 2017
Order Issued on	: 5 October 2017
Reasons Issued on	: 20 October 2017

REASONS FOR DECISION

Approval

- [1] On 5 October 2017, the Competition Tribunal ("Tribunal") unconditionally approved the large merger between Omnia Group Proprietary Limited ("Omnia Group") and Umongo Petroleum Proprietary Limited ("Umongo"), hereinafter referred to as the merging parties.
- [2] The reasons for approval follow.

Parties to the transaction

Primary Acquiring Firm

- [3] Omnia Group is a subsidiary of Omnia Holdings, a public company listed on the Johannesburg Securities Exchange. Omnia Group controls a number of firms. Of relevance to the proposed transaction is Protea Chemicals (Pty) Ltd ("Protea Chemicals"). Omnia Group also owns other subsidiaries which operate in Mauritius and Namibia.
- [4] Omnia Group has an agricultural division and is a supplier of mining chemicals and explosives through its various subsidiaries. Protea Chemicals is a supplier of speciality, functional and effective chemicals and polymers. In 2015, Protea Chemicals began to supply base oils which it imports from Russia. In addition, Protea Chemicals sells monoethylene glycol (MEG) which it imports from Saudi Arabia and a range of other chemicals for coatings, adhesives etc. Omnia Group does not supply lubricants, additives or speciality products supplied by the Primary Target firm.

Primary Target Firm

- [5] Umongo is controlled by Lubricant Additives Solutions and Technology Limited and Autumn Storm Investments 294 (Pty) Ltd. Of relevance to the proposed transaction is Orbichem Petrochemicals (Pty) Ltd ("Orbichem") with which Umongo recently concluded an agreement in terms of which it will acquire Orbichem.
- [6] Umongo is a distributor of additives, base oils and other related petroleum, oil lubricants, speciality products and finished products in the Republic of South Africa (RSA) and Sub-Saharan Africa (SSA). Umongo supplies small quantities of MEG. Through Orbichem, Umongo supplies Group I base oils, white oils and other types of oils.

Proposed transaction and rationale

- [7] In terms of the Sale of Shares Agreement, Omnia Group will acquire 90% of the issued capital of Umongo. Upon implementation of the proposed transaction, Omnia Group will control Umongo.
- [8] As a result of the proposed transaction, Omnia Group will have the capability to expand its operations into base oils, lubricants and speciality additives and will have new opportunities to grow its business in the RSA as well as in SSA. Umongo submitted that it will have the ability to expand its lubricant business in SSA.

Relevant market and impact on competition

- [9] The Commission considered the activities of the merging parties and identified a horizontal overlap insofar as the provision of Group I and II base oils, MEG and white oils are concerned. The Commission also identified a vertical relationship in that the white oils produced by the merging parties are used by Omnia Group in its downstream manufacture of petroleum jelly.
- [10] In the markets for the supply of Group I and II base oils, the Commission found that the merged entity will have market shares of less than 12% and 30% respectively as Omnia Group is a very small player in the relevant markets. With regards to MEG, the Commission found that the merged entity will have a market share of less than 5%, leaving the structure of the market relatively unchanged.
- [11] In relation to the upstream market for the supply of oil, the proposed transaction results in a transfer of the white oils business of Umongo to Omnia. The post-merger market share is less than 25%. In the downstream market for the manufacture of petroleum jelly, the merged entity will only have a market share of less than 11%. In reality, the merged entity will not gain any market power in the relevant markets. In addition, the merged entity will not have the incentive to implement an input foreclosure strategy as there are alternative sources of

imported white oils which customers may switch to and purchase. Furthermore, the merged entity will not have the incentive to implement a customer foreclosure strategy because the white oils Omnia produces to manufacture petroleum jelly is supplied internally as was the position pre-merger.

- [12] In view of the above, the Commission concluded that the proposed transaction does not substantially prevent or lessen competition in any market. We accordingly agreed with the Commission's analysis.

Public interest

- [13] The merging parties submitted that the proposed transaction will not lead to any negative effects on employment as no retrenchments are envisaged. The employees of Umongo were notified of the proposed transaction and were assured and satisfied that no job losses will materialise as a result of the merger. The Commission is therefore of the view that merger is unlikely to raise employment concerns as it will not result in any duplication of roles or retrenchments. We were accordingly satisfied by the merging parties' assurances and the Commission's submissions in this regard. We have also accepted the merging parties' statement that the current outsourcing arrangements will remain in place and that no employment concerns, therefore, arise in relation to those arrangements.

Conclusion

[14] In light of the above, we concluded that the proposed transaction is unlikely to substantially prevent or lessen competition in any market or raise any adverse public interest issues. Accordingly, we approved the proposed transaction unconditionally.



Mr Enver Daniels

20 October 2017

Date

Mrs Medi Mokuena and Prof. Fiona Tregenna concurring

Case Manager : Mr Ndumiso Ndlovu.

For the Merging Parties : Ms Heather Irvine of Falcon & Hume Attorneys Inc.

For the Commission : Mr Rakgole Mokolo assisted by Mr Ratshidaho Maphwanya.