



**competitiontribunal**  
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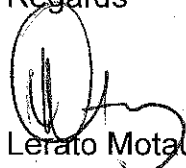
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	Legal Services Competition Commission		44283
<b>ref</b>	78/LM/Sep11	<b>date</b>	16 January 2012
<b>from</b>	Lerato Motaung	<b>pages</b>	6 (including this page)
<b>re</b>	Reasons		

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Attached please find the Tribunal's reasons for decision in the above matter.

Regards



Lerato Motaung

CC: Dineo Mashego - 44584

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## COMPETITION TRIBUNAL OF SOUTH AFRICA

**Case No: 78/LM/Sep11**

In the matter between:

**Bid Industrial Holdings (Pty) Ltd**

**Acquiring Firm**

And

**A&S Food Distributors (Pty) Ltd  
A&S Food Distributors Gauteng (Pty) Ltd  
Star Sea Wholesalers (Pty) Ltd**

**Target Firms**

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Panel	:	Andreas Wessels (Presiding Member) Andiswa Ndoni (Tribunal Member) Medi Mokuena (Tribunal Member)
Heard on	:	16 November 2011
Order issued on	:	16 November 2011
Reasons issued on	:	16 January 2012

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### **Reasons for Decision**

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#### **Approval**

[1] On 16 November 2011 the Competition Tribunal ("Tribunal") approved the large merger between Bid Industrial Holdings (Pty) Ltd ("the acquiring firm") and A&S Food Distributors (Pty) Ltd, A&S Food Distributors Gauteng (Pty) Ltd and Star

Sea Wholesalers (Pty) Ltd (collectively "the target firms"). The Tribunal's reasons for approving the transaction are set out below.

### **Parties to the transaction**

- [2] The primary acquiring firm is Bid Industrial Holdings (Pty) Ltd ("Bid Industrial") a firm incorporated in terms of the laws of the Republic of South Africa. It is controlled by the JSE listed Bidvest Group Ltd ("Bidvest").<sup>1</sup> Bidvest is not controlled by any single entity; its major shareholders include the Government Employees Pension Fund; Dinatla Investment Holdings; BB Investment Company; State Street Bank and Trust and Old Mutual Life Assurance Company South Africa.<sup>2</sup>
- [3] Bidvest controls numerous subsidiaries and is active in various industries such as freight services, financial services, automotive brands, aviation services, cleaning services and security services, to name a few. Of relevance to the competition assessment of this transaction are Bidvest's activities in the distribution of food and associated products. The relevant entity in this regard is Bidvest Foodservice (Pty) Ltd ("BFS") which acts as a trading agent of Bid Industrial.
- [4] BFS is active in the distribution of food and associated products through strategically located independent business units aimed at servicing the catering, hospitality and leisure industries. BFS operates throughout South Africa and, more specifically, divides its activities into the following geographic areas: Gauteng, KwaZulu Natal, the Free State, Mpumalanga, Limpopo, the Eastern Cape and the Western/Northern/Southern Cape.<sup>3</sup>
- [5] The primary target firms are A&S Food Distributors (Pty) Ltd ("A&S Cape"), A&S Food Distributors Gauteng (Pty) Ltd ("A&S Gauteng") and Star Sea Wholesalers (Pty) Ltd ("A&S Bloemfontein"),<sup>4</sup> all of which are firms incorporated in terms of the laws of the Republic of South Africa; they form part of the same group of companies. The target firms do not control any other firms.

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<sup>1</sup> <http://www.bidvest.com/index.php>

<sup>2</sup> [http://www.bidvest.com/major\\_shareholders.php](http://www.bidvest.com/major_shareholders.php)

<sup>3</sup> See page 64 of the record.

<sup>4</sup> <http://www.asfoods.com/>

- [6] The target firms distribute locally manufactured and imported food products to food service customers primarily in the restaurant sector. They operate mainly in Gauteng, the Free State, the Western Cape and, through a third party, also sells into KwaZulu Natal.

#### **Description and rationale for transaction**

- [7] In terms of the Sale Agreement the acquiring firm will acquire the entire business of the three target firms as going concerns.
- [8] Bid industrial stated that its rationale for the transaction is that it will enable BFS to broaden its offerings and thereby enable BFS to realise efficiencies through economies of scale and scope. Furthermore, the transaction is in line with Bidvest's strategy of investing in companies operating in the service, distribution and trading sectors, using the capacity of its South African operations to develop its local business and drive international expansion.
- [9] Due to personal reasons, the owners and the main shareholders of the target firms intend to realise their investment.

#### **Competition analysis**

- [10] The merging parties' activities overlap in the distribution of locally manufactured and imported frozen, chilled and dry food products (and associated products) to the food service industry i.e. restaurants, hotels and fast food and take away outlets. From a geographic perspective the merging parties' activities overlap in the Western Cape, Gauteng, KwaZulu Natal and the Free State.
- [11] Although the Commission did not come to a definitive conclusion on the relevant product market, it accepted, for the purposes of analysing this transaction, that the relevant product market is the distribution of locally manufactured and imported food products to the food service industry.
- [12] From a geographic market perspective the merging parties indicated that they have depots throughout the country and generally service customers regionally from such depots. They, in regard to the above-mentioned overlapping geographic regions, provided market share information on a regional (i.e. provincial) basis. The Commission concluded that the relevant geographic

markets are regional in scope and assessed the potential competition effects of the proposed transaction in the Western Cape, Gauteng, KwaZulu Natal and the Free State.

[13] There is however no need for us in this case to take a definitive view on the exact parameters of the relevant product and geographic market(s) since the proposed transaction raises no likely competition concerns even if alternative market delineations are considered.

[14] With regards to the Free State, KwaZulu Natal and Gauteng, the post-merger market shares of the merged entity in the distribution of locally manufactured and imported food products to the food service industry remain relatively low. According to the Commission's market investigation the merging parties compete with various firms in these markets such as Stamford Sales and Distributors (Pty) Ltd, Vector Logistics Ltd, Lusitania Food Products (Pty) Ltd and Digistics Logistics (Pty) Ltd.

[15] In relation to the Western Cape the post-merger market share of the merged entity would be higher than in the other provinces, but there are still a number of other players active in this potential regional market including significant players such as Vector Logistics and Digistics Logistics.

#### **Public Interest**

[16] The merging parties submitted that the proposed transaction does not raise any significant public interest concerns.

[17] At the hearing, when asked by the Tribunal to clarify certain conflicting information on possible job losses as a result of the proposed transaction, the merging parties confirmed that there was the possibility of one job loss at management level in the Western Cape but that no further job losses were anticipated as a result of the proposed transaction.

## Conclusion

[18] In light of the above we conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. Furthermore, the proposed transaction raises no public interest concerns. Accordingly we approve the proposed merger without conditions.



**A Wessels**

16 January 2012

**Date**

**A Ndoni and M Mokuena concurring**

Tribunal researcher: Songezo Ralarala

For the merging parties: Lizel Blignaut and Kesiah Frank of Edward Nathan  
Sonnenberg's

For the Commission: Dineo Mashego