

COMPETITION TRIBUNAL SOUTH AFRICA

Case No: 91/LM/Aug08

In the matter between:

Masscash Holdings (Pty) Ltd

Acquiring firm

And

Brett Four (Pty) Ltd t/a

Cambridge Food

Target firm

Panel : N Manoim (Presiding Member), Y Carrim (Tribunal Member) and M Moerane (Tribunal Member)

Heard on : 07 November 2008

Decided on : 07 November 2008

Reasons Issued : 03 December 2008

Reasons for Decision

Approval

[1] On 07 November 2008 the Competition Tribunal issued a Merger Clearance Certificate unconditionally approving the merger between Masscash Holdings (Pty) Ltd and Brett Four (Pty) Ltd trading as Cambridge Food . The reasons appear below.

Parties

[2] The primary acquiring firm is Masscash Holdings (Pty) Ltd ("Masscash") a firm incorporated under the laws of the Republic of South Africa. Masscash is a wholly owned subsidiary of Massmart Holdings Ltd (Massmart").

[3] The primary target firm is Brett Four (Pty) Ltd trading as Cambridge Food ("Cambridge") a company incorporated in accordance with the laws of the Republic of South Africa.¹

¹ Brett Four is solely controlled by Brett Andrew Latimer.

Transaction

[4] In terms of a sale of shares agreement, Masscash intends to acquire 51% of the issued share capital in Brett Four while Brett Latimer will retain 49% of the issued shares.

Rationale

[5] The parties submitted that Massmart through Masscash would like to compete more strongly in the retail grocery market, particularly in the growing mass market in the urban and peri-urban areas where large incumbents such as Shoprite, Pick n Pay and Spar are consolidating their respective market shares. In addition the parties submit that Massmart sees the proposed transaction as an opportunity to acquire an interest in a successful business in a growing market where Massmart is underrepresented.

[6] Brett Latimer who is the sole shareholder of the target firm views the proposed transaction as an attractive opportunity to realise a return on his investment, while retaining a significant stake in his business.

Parties' Activities

[7] Massmart is a retailer and wholesaler of grocery products, liquor and general merchandise throughout South Africa. It is divided into four divisions, namely Massdiscounters², Masswarehouse³, Massbuild⁴ and Masscash⁵.

[8] Cambridge is a retailer of groceries with six stores situated in Durban, Pinetown and Isipingo. Its activities include butchery, bakery, groceries (including perishable and non perishable item) fresh produce and liquor products.

Relevant Market

[9] According to the Commission the activities of the merging parties overlap in the grocery retail market targeting consumers in the LSM 2-6 category (lower- income

² This division comprises retail stores around South Africa trading under Game and Dion Wired. Whilst Game offers a wide range of general merchandise and non-perishable groceries, Dion Wired offers a wide range of Hi-Tech appliances and audio and digital products.

³ This division comprises wholesale Makro stores located in Gauteng, Western Cape, Eastern Cape and Kwa-Zulu Natal. Makro stores offer a broad range of food, liquor and general merchandise.

⁴ This division trades under three focused and complementary chains namely: Builders Warehouse, Builders Express and Builders Trade Depot stores. These stores focus on home improvement and decorative hardware products, tools, sanitary ware, builders' hardware, tiles and garden services.

⁵ Masscash is a primary supplier of essential grocery items to a broad base of consumers from individuals to small traders, entrepreneurs and feeding schemes in public and private sector. This division comprises of CWB and Jumbo stores which are primarily engaged in the wholesale distribution of grocery products, cosmetics, toiletries and hair care products. Masscash owns Shield, a voluntary buying association serving independently owned food wholesale and retail outlets.

customers), mainly catered for by independent supermarkets. The Commission therefore limited its assessment of the market to the retail segment rather than argue that the wholesale and retail stores may compete.⁶ According to the Commission Cambridge has four retail supermarket stores located in Durban, Pinetown and Isipingo whilst the acquiring firm has two grocery retail stores in the greater Durban, namely CBW store located in Durban and Jumbo store located in Durban. We agree with the Commission's geographic market definition that the relevant geographic markets are Durban and Pinetown. This is in line with our previous finding in *Pick 'n Pay Retailers (Pty)Ltd and Boxer Holdings (Pty)Ltd* where we determined that the geographic market for retail groceries is local, more specifically the "area surrounding the stores of the parties".⁷

Competition Analysis

[10] There is an overlap in the activities of the merging firms on retail sales of grocery products targeted at lower-end customers in Durban and Pinetown. Pre merger Cambridge's market share is 6.5% and CBW Jumbo's market share is 0.29%. Post merger the combined market share is 6.8% with an insignificant market share accretion of 0.29% in the market grocery retail in the greater Durban. We agree with the Commission's conclusion that the combined market share of the merged entity will be low to lead to a substantial prevention or lessening of competition in the market grocery retail targeted at lower-end consumers in the greater Durban. The Commission further submits that in the Durban CBD and Pinetown, the merging parties will have a low post merger market share in the market for grocery retail targeted at lower end consumers. In addition there are other independent supermarkets in the Durban CBD and Pinetown targeted at lower-end consumers such as Datova, Pick n Buy, Jwayelani and Star Hyper.

[11] The Commission also analysed the vertical relationship between the merging firms as Cambridge purchased products from Shield, a voluntary group owned by Masscash. The Commission's analysis revealed that if Shield were to opt to exclude other independent supermarkets in competition with Cambridge, there are other buying groups that serve independent traders in Durban and Pinetown including but not limited to, Unitrade Management Services and Independent Cash and Carry. We therefore agree with the Commission's conclusion that the proposed transaction is unlikely to give rise to any input foreclosure concerns.

⁶ This is in line with our previous decision in *Massmart Holdings Ltd and Jumbo Cash and Carry (Pty) Ltd* Tribunal case No: 47/LM/Aug01.

⁷ See our decision in case number

Conclusion

[12] There are no public interest issues. Accordingly the transaction is unconditionally approved.

Y Carrim

Tribunal Member

3 December 2008

Date

M Moerane and N Manoim concurring

Tribunal Researcher : J Ngobeni

For the merging parties : Cliffe Dekker Hofmeyr

For the Commission : Thabelo Ravhugoni (Mergers and Acquisitions)