

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 120/LM/Nov08

In the matter between:

**Industrial Development Corporation of
South Africa Limited**

Acquiring Firm

And

WM Eachus and Company (Pty) Ltd

Target Firms

Panel : D Lewis (Presiding Member), N Manoim (Tribunal Member),
and Y Carrim (Tribunal Member)

Heard on : 10 December 2008

Order Issued : 10 December 2008

Reasons Issued: 12 January 2009

Reasons for Decision

Approval

[1] On 10 December 2008, the Tribunal unconditionally approved the merger between the Industrial Development Corporation of South Africa Limited and WM Eachus and Company (Pty) Ltd. The reasons for approving the transaction follow.

The parties

[2] The primary acquiring firm is the Industrial Development Corporation of South Africa Limited ("IDC").¹ IDC is wholly owned by the Government of South Africa and controls several firms² like Foskor (Pty) Ltd ("Foskor"), Kindoc Investments Limited ("Kindoc"), Impofin (Pty) Ltd ("Impofin") and Prila 2000 (Pty) Ltd ("Prila"). IDC also controls Capstone 528 (Pty) Ltd (Capstone"), by virtue of a 10% shareholding and a number of minority protections in the shareholders' agreement.

¹ The IDC was established in terms of the Industrial Development Corporation Act 22 of 1940.

² See form CC4(2) filed by the IDC for a complete list of the firms controlled by IDC.

- [3] The primary target firm is WM Eachus and Company (Pty) Ltd (“WM Eachus”). WM Eachus is controlled equally by Raymond Gerald Eachus (“RG Eachus”), John William Eachus (“JW Eachus”), and Lindsay Montague Eachus (“LM Eachus”). The primary target firm controls the Sheraton Group³ of companies consisting of Sheraton Textiles (Pty) Ltd (“Sheraton”), Spartan Rand Warehouses (Pty) Ltd (“Spartan”) Debonair Group (Pty) Ltd (“Debonair”), the Four Posters CC (“Four Posters”) and Kolnicks CC (“Kolnicks”).

Description of the transaction

- [4] Prior to the implementation of the proposed transaction, there will be an internal restructuring in the target group in terms of which WM Eachus will become the holding company of the Sheraton Group of companies. Three stages will be followed. Firstly, Kolnicks and Four Posters will be converted from being Close Corporations to Private Companies. Secondly, all the ordinary shares in Sheraton, Spartan, Debonair, Kolnicks and Four Posters will be transferred to WM Eachus, making WM Eachus a holding company of each of the companies. Thirdly, IDC will acquire control over WM Eachus together with its subsidiaries through the acquisition of 80% of the issued shares of WM Eachus. 20% will be transferred to “Newco”, a company to be formed in order to hold the management’s stake in WM Eachus.⁴

Rationale for the transaction

- [5] From IDC’s perspective, the proposed transaction will save existing jobs in a threatened (textile) industry. IDC hopes to support the target group so that it can continue to compete in the local market for manufacturing and retail of household textiles.
- [6] The parties submitted that the proposed transaction will enable the target group to remain a viable and profitable business to avoid being wound up.

³ The Sheraton Group of companies is a family owned business established in 1922 and its structure consists of six separate entities (four private companies and two close corporations).

⁴ See record page 38.

The parties' activities

Primary acquiring firm

- [7] IDC is tasked with identifying and supporting business opportunities not addressed by the market and providing risk capital in partnership with the private sector. It provides financial support, skills development and industry knowledge to add value to entrepreneurs and businesses.
- [8] IDC has interests in various companies in different sectors of the economy, including, but not limited to chemicals, tourism, agriculture, financial services, and textiles and clothing. IDC, through Capstone, manufactures household textiles including duvets, sheets, curtains, pillows, duvet inners and pillow protectors.

The target firm

- [9] The target firm and its subsidiaries are involved in the manufacturing and retail of household textiles including duvets, sheets, curtains, pillows, duvet inners and pillow protectors.

The relevant market

- [10] The Commission and the parties submitted that there is a horizontal overlap in the activities of the merging parties in the market for the manufacturing of household textiles and that the transaction results in vertical integration as Kolnicks is active in the retail of household textiles while Capstone is active in the manufacturing of textiles.
- [11] The Commission and the parties submitted that the product market can be divided into two relevant markets. First, there is the upstream market for the manufacturing of household textiles which includes duvets, sheets, curtains, pillows, duvet inners and pillow protectors. This market, they submitted, is national as the parties distribute their products nationally. Secondly, the firms are active in the downstream market for the retail of household textiles. The Commission and the merging parties refrained from making a definitive finding on geographic market for the retail of household textiles as the parties' market shares are small whether the market share is national or regional.

Competition analysis

Horizontal analysis

Table 1: National market shares in the market for manufacturing of household textiles.

COMPETITOR	MARKET SHARE (%)
WM Eachus	15
Maytex Industries	15-20
Classic Quilters CC	15-20
Desiree Quilted Products	Less than 15
Character Linens	Less than 10
Romatex Home Textiles	Less than 15
Cotton Traders CC	Less than 10
Capstone	3
Pre merger HHI	1684
Post merger HHI	1774
Change in HHI	90

Source: merging parties

[12] The above table shows that the post merger market share will be 18% with an increase of 3%. The transaction is not likely to lead to a substantial prevention or lessening of competition as the change in HHI is below 100 and the merged entity continues to face competition from market players like Matex, Classique, Character Linens, Romatex Home Textiles and Cotton Traders.

Vertical analysis

[13] This transaction is unlikely to raise input foreclosure concerns as Capstone is not a major supplier of household textiles in South Africa and is estimated to be having 3% of that market. In addition, there are other credible suppliers of household textiles such as Maytex, Classique, Character Linens, Romatex Home Textiles and Cotton Traders which are alternatives to Capstone.

[14] The transaction is unlikely to result in customer foreclosure as currently, Kolnicks sources approximately 75% of its household textiles requirements in-house and as a result, it is unlikely that an upstream rival will be foreclosed from a potential customer. In addition, Kolnicks is a small retail chain with less than 1% of the retail market both regionally and nationally and this suggests that there are a lot of retailers to whom upstream manufacturers can sell their products to and these include Edgars, Sheet Street, Ackermans and Game Stores.

Public Interest

[15] There are no public interest issues.

Conclusion

[16] The merger is approved unconditionally.

N Manoim
Tribunal Member

12 January 2009

DATE

D Lewis and Y Carrim concurring

Tribunal Researcher : R Kariga

For the merging parties: Deneys Reitz Attorneys

For the Commission : E Ramohlola (Mergers and Acquisitions)