

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case no: LM147Jan25

In the large merger between:

Pick n Pay Retailers (Pty) Ltd

Primary Acquiring Firm

And

Plumstead Family Store (Pty) Ltd

Primary Target Firm

Panel:	I Valodia (Presiding Member) A Ndoni (Tribunal Member) G Budlender (Tribunal Member)
Heard on:	14 March 2025
Order issued on:	14 March 2025
Reasons Issued on:	26 March 2025

REASONS FOR DECISION

Introduction

- [1] On 14 March 2025, the Competition Tribunal (“Tribunal”) conditionally approved the large merger whereby Pick n Pay Retailers (Pty) Ltd (“Pick n Pay Retailers”) intends to acquire 100% of the grocery retail business owned and operated by Plumstead Family Store (Pty) Ltd (“Target Business”).
- [2] Upon implementation of the proposed merger, Pick n Pay Retailers will exercise sole control over the Target Business.

Parties to the transaction and their activities

Primary acquiring firm

- [3] The primary acquiring firm is Pick n Pay Retailers, ultimately controlled by Pick n Pay Stores Limited (“Pick n Pay”), a public company listed on the Johannesburg Stock Exchange (“JSE”).
- [4] Pick n Pay Retailers controls Score Supermarkets Trading (Pty) Ltd and Boxer Superstores (Pty) Ltd relevant to the proposed merger.
- [5] Pick n Pay Retailers is a multi-format and multi-channel retailer. It operates stores as corporate-owned or franchise stores. Pick n Pay’s operations are focused on the supply of fast-moving consumer goods (“FMCG”) which includes an array of goods such as food, groceries, clothing, health and beauty, general merchandise and liquor.
- [6] Pick n Pay Retailers, Pick n Pay and all its subsidiaries and the firms controlling it are collectively referred to as the “Acquiring Group”.

Primary target firm

- [7] The Target Business is owned by Plumstead Family Stores (Pty) Ltd (“PFS”). The shareholders of PFS own a number of firms not relevant to the proposed merger.
- [8] The Target Business does not directly or indirectly control any firms.
- [9] The Target Business is branded as a Pick n Pay Supermarket and operates as a Pick n Pay franchise in line with their multi-formatting offering. The Target Business provides many goods and services of Pick n Pay, including clothing (through Pick n Pay Clothing) and as well as liquor (through Pick n Pay Liquor). The Target Business also offers money market services of Pick n Pay.

Description of the transaction and rationale

- [10] In terms of the proposed merger, Pick n Pay Retailers intends to acquire 100%

of the grocery retail business of the Target Business. Post implementation, Pick n Pay Retailers will exercise sole control over the Target Business.

[11] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] From the Target Business's perspective, the proposed merger presents an opportunity to realise the investment in the Target Business.

Competition assessment

Horizontal assessment

[12] The Commission found that the proposed merger results in a horizontal overlap in (i) the market for the retail of grocery products and (ii) the market for the retail of liquor products within a 3 km radius of the Target Business in the Plumstead area.

[13] The Commission found that the proposed merger is unlikely to raise any competition concerns for the following reasons.

13.1. In the market for the retail of grocery products, the Commission found that although the merged entity will have a combined market share of approximately [REDACTED] (based on store count), the merged entity will continue to face competition from approximately [REDACTED] stores in the market.

13.2. In the market for the retail of liquor products, the Commission found that although the merged entity will have a combined market share of [REDACTED], the merged entity will continue to face competition from approximately [REDACTED] stores in the market.

[14] The Commission further noted that the proposed merger enables Pick n Pay Retailers to retain the Target Business within the Acquiring Group's portfolio and continue to be branded as a Pick n Pay Supermarket and will not result in any change in the market structure.

Vertical assessment

[15] The Commission further considered the vertical overlap present in the proposed merger as the Target Business has majority of its trading stock (including groceries, liquor and clothing products) supplied by the Acquiring Group.

[16] The Commission found that the Target Business procured [REDACTED] of its trading stock from the Acquiring Group (total purchased from the Acquiring Group amounted to [REDACTED] of the Target Business' total cost of foods amounting to [REDACTED]).

[17] The Acquiring Group intends to acquire the Target Business as a going concern and the post-merger the Target Business will continue to operate in the same manner as it does currently. Based on the above, the Commission found that the proposed merger is unlikely to result in vertical foreclosure concerns.

Creeping mergers assessment

[18] The Commission found that Pick n Pay Retailers has acquired a number of franchise stores which were non-notifiable mergers from 2020 to 2025. In this regard, the Commission found that the small merger acquisitions did not take place in and around the same area to raise potential significant creeping merger concerns. The Commission nevertheless indicated that it would continue to monitor the effect of these acquisitions on creeping effects.

Public interest

Employment

[19] The merging parties submitted that the proposed merger will have no negative effect on employment.

[20] The Commission engaged with the South African Commercial, Catering and Allied Workers Union ("SACCAWU") and the Joint Affirmative Management Forum ("JAMAFO") representing the employees of Pick Pay. SACCAWU and JAMAFO raised concerns that they were not consulted about the proposed merger and further raised concerns related to the downward variation of the

employment conditions. The merging parties notified SACCAWU and JAMAFO of the proposed merger and further submitted that the employees of Pick n Pay Retailers would be unaffected by the proposed merger and there will be no change to their employment contracts or their day-to-day operations.

[21] The Commission additionally engaged the trade union, the Independent Commercial Hospitality and Allied Workers Union (“ICHAWU”), representing the employees of the Target Business who raised concerns about the conditions of employment of the temporary employee services (“TES”) employees.

[22] The merging parties indicated that Pick n Pay Retailers is willing to commit to compensating the target Business’ employees at the higher rate of either (i) their current rate of pay or (ii) the rate that other comparable Pick n Pay employees are compensated at. The merging parties further committed to employing the Target Business’ employees on the same terms and conditions as well as a moratorium on merger specific retrenchments for a period of 2 years.

[23] We are of the view that the proposed merger is unlikely to have a negative impact on employment.

Promotion of a greater spread of ownership

[24] The Commission found that Pick n Pay Retailers has a shareholding by historically disadvantaged person (“HDPs”) of 12.12% and the Target Business has a shareholding by HDPs of [REDACTED].

[25] We are of the view that the proposed merger raises no substantial issues regarding the promotion of a greater spread of ownership.

Conclusion

[26] For the reasons set out above, we are satisfied that the proposed merger is unlikely to substantially prevent or lessen competition in any relevant market and the proposed merger does not raise public interest concerns.

[27] In the circumstances, we conditionally approve the proposed merger on the basis

of the conditions in **Annexure A** of our order dated 14 March 2025.

Signed by: Imraan Valodia
Signed at: 2025-03-26 15:54:49 +02:00
Reason: Witnessing Imraan Valodia



Prof. Imraan Valodia
Ms Andiswa Ndoni and Adv. Geoff Budlender

26 March 2025

Date

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For the Merging Parties:	Veronica Cadam of Fasken
For the Commission:	Tshehla Mathe and Grashum Mutizwa