

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No.: LM172Jan22

In the matter between:

Super Group Dealerships, A Division of Super Group Trading (Pty) Ltd

Primary Acquiring Firm

And

A Business of Fiat Alfa Jeep in Arnold Chatz Cars Constantia Kloof (Pty) Ltd

Primary Target Firm

Heard on: 12 April 2022

Order Issued on: 12 April 2022

REASONS FOR DECISION

- [1] On 12 April 2022, the Competition Tribunal (“Tribunal”) unconditionally approved the large merger in terms of which Super Group Dealerships, an indirect division of Super Group Trading (Pty) Ltd (“Super Group Dealerships”) intends to acquire assets owned and used by Arnold Chatz Cars Constantia Kloof (Pty) Ltd (“Arnold Chatz Cars”).¹
- [2] The transaction involves Super Group Dealerships acquiring the fixed assets, all intellectual property, all inventory, and other assets (“Target Business”) owned and used in the operation of business known as Fiat Alfa Jeep in Arnold Chatz Cars. Post-merger, the Target Business will be controlled by Super Group Dealerships and by extension, Super Group Limited (“Super Group”).
- [3] Super Group Dealerships is comprised of 47 (forty-seven) motor vehicles dealerships of which 41 (forty-one) are passenger vehicles (“PVs”) dealerships and 6 (six) are light commercial vehicles (“LVCs”) dealerships.² Of the 47 (forty-seven) dealerships, 25 (twenty-five) are based within Gauteng province, while other dealerships are based in Mpumalanga, North-West and Western Cape. Super Group Dealerships also holds franchise agreement across many original equipment manufacturers (“OEM”).³ In addition, Super Group Dealerships comprise of adjacent used vehicle sales, part sales and servicing businesses.

¹Arnold Chatz Cars, which trades as Arnold Chatz Cars Constantia Kloof, is controlled by three shareholders, namely Mr Derik Scorer (as to 51%), Mr Bradley Scorer (as to 41%) and Mark White (as to 10%). Arnold Chatz Cars is with respect to Fiat, Alfa Romeo and Jeep franchise motor dealership based in Constantia Kloof, Roodepoort, within Gauteng province.

² Super Group Trading is wholly owned subsidiary of Super Group Limited (“Super Group”), as to 79.96% of the entire issued share capital of Super Group Holdings. Super Group is publicly listed on the Johannesburg Securities Exchange. Super Group controls various subsidiaries active in logistics, transportation, warehousing, and dealership businesses. Super Group Dealerships does not control any other firm. Super Group Dealerships, its controllers and their subsidiaries will be referred to as the “Acquiring Group”.

³The franchise agreement includes Toyota, Mercedes Benz, Jeep Fiat Alfa, Peugeot, Citroen, Opel, GWM, Isuzu, Hino, Nissan, Land Rover Jaguar, Volvo, Suzuki, Renault, Mazda and Ford.

[4] The Target Business is with respect to Fiat, Alfa Romeo and Jeep franchise motor dealership based in Constantia Kloof, Roodepoort, within Gauteng province. The Target Business is comprised of (i) fixed assets (including property, furniture, fittings, workshop equipment, computer hardware and licenses to use all computer software, company vehicles, stock of used spare parts, fixtures and fittings and specialised tools) (ii) intellectual property, (iii) all inventory, including new vehicles, used vehicles, stock of new spare parts, stock consumable (iv) and all other assets owned and/or used in the operation of the business known as Arnold Chatz Cars.

Competition Assessment

[5] The Competition Commission (“Commission”) considered the activities of the merging parties and found that the proposed transaction raises horizontal overlap in the (i) market for the sale of new passenger PVs and LCVs, (ii) market for the sale of used/ pre-owned vehicles, (iii) in the market for the provision of after-sale services and parts and accessories, and (iv) market for the provision of finance and insurance services.

[6] The Commission assessed the effects of the proposed transaction in the market for the sale of new PVs and new LCVs. The Commission did not make any further assessment of the effects of the merger in the market of used/pre-owned vehicles, in the market for the provision of after-sale services and parts and accessories, and the market for the provision of finance and insurance services, as it found that these markets do not raise any concerns.

[7] The Commission defined the geographic market as market for the sale, the sale of new PVs and the sale of LCVs within Gauteng province. The Commission’s analysis revealed that the proposed transaction is unlikely to result in any change in the market structure due to low market share accretions in market for sale of PVs and LCVs within Gauteng province.

[8] In its analysis of the proposed transaction on intra-brand and inter-brand competition the Commission found that post-merger, the merged entity will continue to face intra-brand competition from alternative Fiat, Alfa Romeo, and Jeep dealerships within Gauteng due to the relatively low travelling distances amongst these dealerships. Furthermore, the Commission found that it is also unlikely to lead to a reduction of inter-brand competition within the relevant market based on the availability of various OEMs within Gauteng. In addition, the Commission found that in every area where the dealerships of the acquiring group appear to be more present is comprised of a sufficient number of competitors offering various brands.

[9] The Tribunal requested the parties to further provide an analysis of the market share of the merging parties for Fiat, Alfa Romeo, and Jeep in Gauteng or provide the size of the market for each brand for 2020. In relation to intra-brand competition, the parties submitted that the Commission has always evaluated whether the degree of competition will be influenced at the inter-brand level, it has never regarded intra-brand competition to constitute a market in and of itself, warranting market share estimates. Furthermore, the Commission’s focus is on the impact of the merger on the size of the merging parties; group sizes were not considered in the merger assessment as they have no effect on the assessment. After considering the above, the Tribunal was satisfied with the submissions in light of the assessment done by the Commission on the level of inter-brand competition within Gauteng.

[10] No third parties raised concerns regarding the effects of the proposed transaction on competition.

[11] We conclude that the proposed transaction does not substantially prevent or lessen competition in any relevant market.

Public Interest

Effect on employment

[12] The merging parties submitted that the proposed transaction will not result in any negative employment effects. The Commission contacted the employee representatives of Target Business, who indicated that they had met with the Acquiring Group, who assured them that, among other things, all black workers of the Target Business would benefit from Broad-Based Black Economic Empowerment (“B-BBEE”) share ownership within Super Group. The employee representatives expressed no concerns about the transaction.⁴

[13] The Commission concluded that the proposed transaction is unlikely to result in negative employment effects because there will be no amalgamation of dealerships which would result in the duplication of roles.

Effect on the spread of ownership

[14] The Commission also assessed the effects of the merger on greater spread of ownership. The merging parties submitted that a B-BBEE-firm, SG Tsogo Empowerment Trust (“SGT Empowerment Trust”), for the benefit of all black employees within Super Group, owns 33.47% of the shares of Super Group, with black women owning 8.25%. Post-merger, all the Target Business will accordingly become beneficiaries of the SGT Empowerment Trust. The Target Business does not have any B-BBEE shareholding.⁵

[15] After considering the above, the Commission concluded that proposed transaction does not raise any public interest concerns. We concur with this finding.

Conclusion

[16] We find 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.

04 May 2022

Ms Yasmin Carrim

Date

Ms Sha'ista Goga and Dr Thando Vilakazi concurring

Tribunal Case Managers:	Sinethemba Mbeki
For the Merging Parties:	Saskai Le Roux of Super Group Holdings
For the Competition:	Rakgole Mokolo and Grashum Mutizwa

⁴ Merger Recommendations, p23 of 27 para [49].

⁵ Merger Recommendations, p24 of 27 para [51].