



## COMPETITION TRIBUNAL OF SOUTH AFRICA

**Case No: LM160Nov20**

In the matter between:

**Bachique 813 (Pty) Ltd**

Primary Acquiring Firm

And

**Tupperware Holdings SA**

Primary Target Firm

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Panel:	Ms M Mazwai (Presiding Member) Mr E Daniels (Tribunal Member) Mr A Wessels (Tribunal Member)
Heard on:	18 December 2020
Order Issued on:	21 December 2020
Reasons Issued on:	06 January 2021

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### REASONS FOR DECISION

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#### APPROVAL

[1] On 18 December 2020, the Competition Tribunal (“Tribunal”) approved the proposed transaction whereby Bachique 813 (Pty) Ltd (“Bachique”) intends to acquire 100% of the issued share capital of Tupperware Holdings SA (Pty) Ltd (“Tupperware Holdings”).

[2] The reasons for the unconditional approval follow.

## **PARTIES TO THE TRANSACTION**

### *Primary Acquiring Firm*

- [3] The primary acquiring firm is Bachique, a newly incorporated company established for the purpose of this transaction. Bachique is jointly controlled by Trinitas Equity Partners (Pty) Ltd (Trinitas) [REDACTED] and Forbes Investment Holdings (Pty) Ltd (FIH) [REDACTED]. The remaining [REDACTED] of the shares in Bachique are held by Justin Hewett, the Chief Executive Officer of Bachique.
- [4] Bachique does not control any firms. Post-merger, Trinitas and FIH will jointly control Bachique through minority protection and veto rights. Trinitas does not control any firm except Bachique. However, Trinitas holds interest in Trinitas Private Equity Partnership with a portfolio of investment in numerous firms, relevant to the transaction is the interest held in Main Street Holdings (Pty) Ltd which controls Sunpac (Pty) Ltd ("Sunpac"). FIH is wholly owned by Hilcona Holdings Ltd, a firm incorporated in the British Virgin Islands. In South Africa, FIH control various firms.
- [5] Bachique has no business activities. The business activities of the firms which Trinitas and FIH control range from manufacturing and distribution of automotive products and commercial property investment.
- [6] The activities of Sunpac, held by Main Street Holding are of most relevance to the proposed transaction. Sunpac is a distributor of branded and private label cosmetic, oral care, haberdashery and baby products to South African retailers. Sunpac is an exclusive distributor of the international brands in South Africa with the main focus of its distribution on hair care products.

### *Primary Target Firm*

- [7] The target firm is Tupperware Holdings SA, a private company incorporated in South Africa. Tupperware Holdings SA controls Avroy Shlain Cosmetics (Pty) Ltd (ASC) and Avroy Shlain Cosmetics (Botswana) (Pty) Ltd. Tupperware Holdings SA controls Avroy Shlain Cosmetics (Botswana) (Pty) Ltd through its controlling shareholding in ASC. Tupperware Holdings SA is ultimately controlled by

Tupperware Brands Corporation (U.S). Tupperware Brands Corporation (U.S) holds its plastic products business separately through Tupperware Southern Africa (Pty) Ltd (South Africa).

[8] Tupperware Southern Africa (Pty) Ltd (South Africa) does not form part of the proposed transaction as it is not part of the target firms. Essentially, the only business of relevance to this transaction is ASC.

[9] ASC develops, markets and supplies its own range of products that includes fragrances for men and women, colour cosmetics, skin, body and ethnic hair care products and fashion accessories (handbags, scarfs and travel bags). These products are sold through beauty advisors to the end customer.

## **PROPOSED TRANSACTION**

[10] Bachique will acquire 100% of the issued share capital of Tupperware Holdings SA. Upon implementation of the proposed transaction, Tupperware Holdings SA and all firms directly or indirectly controlled by it will be controlled by Bachique.

### *Rationale*

[11] The acquiring firm is looking to expand its investment portfolio and has identified the target firm as an attractive investment opportunity to diversify and grow. In relation to the target firm, Tupperware Brands Corporation Group is looking to change its strategy and through this transaction the Tupperware Brand intends to dispose of its beauty businesses and focus its attention on its core business ( i.e., kitchen and household products, particularly plastic containers for food storage and preparation).

## **COMPETITION ANALYSIS**

[12] The Commission found that the proposed transaction results in an overlap as Sunpac and ASC operate in the broad market for manufacturing and supply of beauty and personal care products. Although Sunpac and ASC operate in the same market, the Commission found that Sunpac generates its revenue mainly from the sale of hair care products while ASC generates its revenue mainly from

the sale of fragrances. As such, the Commission found Sunpac and ASC to unlikely be each other's closest competitors.

- [13] The Commission evaluated the effects of the proposed transaction in the national market as both Sunpac and ASC supply their products nationally.
- [14] The Commission assessed the market shares of the merging parties both broadly for the sale of beauty and personal care products and narrowly for each product segment. It found that Sunpac and ASC each held market shares in the broad market for beauty and personal care products below 1% in 2019 and will thus have a combined market share of less than 2% post-merger in South Africa. The Commission identified 30 market participants in the national market that the merging parties will continue to face competition from. These market rivals include Unilever, Avon Justine, Revlon, L'Oréal, Indigo Brands, Procter & Gamble and Colgate-Palmolive, amongst others.
- [15] Furthermore, when the Commission assessed the merging parties' market shares based on the total sales in each product category (narrow product markets, comprising fragrances, hair care products, skin care products and colour cosmetics respectively), the Commission found that the merging parties will have a combined market share of less than 5% post-merger in each product category.
- [16] Therefore, the Commission was of the view that the merger is unlikely to result in any competition concerns as there are numerous competitors who will continue to constrain the merged entity post-merger. We found no reason to differ from this.

## **PUBLIC INTEREST**

- [17] The proposed transaction does not result in any public interest concerns. There will be a change in the senior executive management whereby the existing Chief Executive Officer/Managing Director of ASC will exit the business and will be replaced by the previous Managing Director of ASC, Justin Hewett who previously held the position from 2009 to 2014.

[18] Apart from this change, there are no retrenchments of employees envisaged as a result of the proposed transaction.

## **CONCLUSION**

[19] Based on the above, we are of the view that the proposed transaction is unlikely to substantially prevent or lessen competition in any of the relevant markets. Furthermore, the proposed transaction does not raise any public interest concerns. We therefore unconditionally approved the transaction.

  
Ms Mondo Mazwai

06 January 2021  
Date

### **Mr Enver Daniels and Mr Andreas Wessels**

Tribunal Case Managers:	Lumkisa Jordan and Mpumi Tshabalala
For the merging parties:	Mark Garden for ENS Africa
For the Commission:	Themba Mahlangu and Raksha Darji