COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA

Case No: 53/LM/Aug02

In the large merger between:

Edgars Consolidated Stores Limited

and

Retail Apparel Group (Pty) Ltd

Reasons

Approval

The Competition Tribunal issued a Merger Clearance Certificate on 23 September 2002 approving the merger without conditions. The reasons are set out below.

The merger

Transaction

Edgars Consolidated Stores Limited ("Edcon") has entered into an Offer of Purchase Agreement with the joint provisional liquidators of Retail Apparel Group (Pty) Ltd ("RAG") for the purchase of[1]:

a) Twenty retail RAG retail stores of which five RAG stores are situated in South Africa[2], constituting:

- The stock in trade in these stores;
- The fixed assets in these stores; and
- The intellectual property rights of RAG, including trademarks, trade names, logos, designs and signage to be used for conducting business out of premises.

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[1] Certain aspects of the transaction has changed in that Edcon will only be buying 5 stores instead of the initial 6, the offer to buy the Rustenburg RAD store is cancelled, and Edcon will also not buy the surplus stock left in RAG see par2 (b) , page 4 of the Commission's recommendation.

[2] Johannesburg, Nelspruit, Bellville, Giyani and Potchefstroom.

b) The right, title, interest and benefit in and to RAG's database of members of the RAG's loyalty programme, the "Smart fashion Club".

The parties to the transaction

The primary acquiring firm is Edcon, a public company listed in the JSE. Edcon is not controlled by any firm. The following shareholders hold more than 5% of its equity:

1)	Public Investment Commissioner (SA)	20.08%
2)	South African Breweries Ltd	19.03%
3)	United Retail Limited (SA)	9.67%
4)	Liberty Life Association of Africa (SA)	5.67%
5)	Edgars Stores Limited Staff Share Trust	5.25%

The primary target firm is RAG, with McCarthy Retail Ltd, holding 49.99% and Smart-Hold BPK holding 26.57% of its share capital. RAG was placed under provisional liquidation on 28 May 2002 following an application for its liquidation by its holding company, Retail Apparel Group Ltd.

Rational for the transaction

According to Edcon the transaction will increase the size of the debtor's ledger, which has been growing very slowly for the past two years. It also brings on board an existing profitable brand with a major presence in the non-Rand monetary region such as Botswana.

The RAG stores will post the merger be re- branded as Jet stores.[3]

Evaluating the merger

Relevant market

Edcon trades predominantly in the retailing of clothing, foorwear and accessories throughout South Africa and in neighboring countries. Edcon's major retail formats are Edgars, Jet, Sales House, Red Square, Cuthberts, Smiley's Wearhouse and ABC, which target the lower-middle to upper-middle income groups.

Edcon is also vertically integrated into the upstream market. Its manufacturing division supplies mainly men and ladies' outerwear to local suppliers, consisting of about 15% of production, as well as to foreign markets. Most of the production, however, is sold within the Edcon group.

[3] Jet is an existing brand within the Edcon group aimed at the --- market.

Rag does not manufacture any clothing and its product offering is similar to that of Edcon, consisting of clothing, footwear and accessories. It was also previously a customer of Edcon's manufacturing division. Both RAG and Edcon offer similar credit facilities.

We agree with the parties and the Commission that the relevant market consists of the retailing of the following product categories, which are sold to the low to high middle-income consumer:

1) Ladieswear and intimate wear
2) Menswear
3) Boyswear
4) Girlswear
5) Schoolwear
6) Infantswear
7) Footwear
8) Textiles (including towels, linen, etc);
9) Other (including accessories, such as belts and handbags, jewellery and cellular phones)

Since prices are set on a national basis we agree with the Commission that the geographic market is national.

Effect on competition

There are a number of retail companies and independent stores that compete with Edcon in each of the relevant product markets, such as Woolworths, Pep Stores, the Foschini Group, Truworths and Topics.

The post merger market shares of the main competitors in the various clothing retail markets are:

Product market	Edcon	Foschini	Speciality Stores	Wooltru	Pepkor	Independents
Ladieswear	19.9%	20.1%	12.6%	19.8%	12%	15.5%
Menswear	18.7%	8.7%	10.5%	20.7%	10.8%	30.6%
Boyswear	25.2%	7.2%	2.3%	17.6%	24.6%	23.2%
Girlswear	28.1%	9.9%	3.1%	18.6%	21.3%	18.8%
Schoolwear	7.8%	-	-	7.4%	9.8%	75%
Infantswear	25%	5.7%	0.8%	24%	32.3%	12.2%
Footwear	34.3%	13.7%	1.5%	24.8%	6.1%	19.5%
Textiles	17.2%	-	30.6%	27.9%	8.5%	15.9%
Other	13.1%	2.8%	5.3%	41.3%	17.6%	19.9%

From the above it is evident that Edcon is not dominant in any of the product categories, even after RAG's market share, which ranges from 0.2% to 9%, is added to that of Edcon. Since RAG's pre-merger market share will not accrue to Edcon exclusively, it is not possible to calculate the increase in the HHI after the merger. However, we agree with the Commission that the increase in the HHI should be small due to the small market share that RAG enjoyed.

Moreover, an effective competitor is not removed from the market as a result of the merger since RAG is currently placed under liquidation. The provisional liquidators of RAG have made extensive efforts to elicit alternative offers and only one other firm expressed a degree of interest in acquiring some of RAG's assets.

We are, therefore, of the view that competition will not be substantially lessened or prevented as a result of the merger.

Public interest

The parties have submitted that the retrenchments that have taken place as a result of RAG being placed under provincial liquidation are not related to the merger transaction. Edcon will offer approximately 52 employees of RAG employment. The transaction does not raise any other substantial public interest grounds.

N. Manoim **10 October 2002**

Date

Concurring: D. Lewis, P. Maponya