



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM100Jun18

In the matter between:

STURROCK GRINDROD MARITIME (PTY) LTD

Acquiring Firm

and

NOVAGROUP (PTY) LTD

Target Firm

Panel : Mondo Mazwai (Presiding Member)
: Medi Mokuena (Tribunal Member)
: Anton Roskam (Tribunal Member)

Heard on : 26 September 2018

Reasons issued on : 25 October 2018

REASONS FOR DECISION

Approval

- [1] On 26 September 2018, the Competition Tribunal unconditionally approved the large merger between Sturrock Grindrod Maritime (Pty) Ltd ("**SGM**") and Novagroup (Pty) Ltd ("**Novagroup**").
- [2] The reasons for the approval follow.

Parties to the transaction and their activities

Primary acquiring firm

- [3] The primary acquiring firm is SGM which is ultimately controlled by Grindrod Limited, collectively, referred to hereafter as the Acquiring Group.
- [4] The Acquiring Group is involved in freight logistics and shipping. The Acquiring Group's subsidiaries SGM and Grindrod Intermodal are relevant for purposes of this transaction. They are involved in a variety of maritime services including container logistics, sale and lease of containers and sale and servicing of life rafts.

Primary target firm

- [5] The primary target firm is Novagroup which is ultimately controlled by Nueva Pescanova S.L. a Spanish incorporated company.
- [6] Novagroup comprises several sub-divisions which are involved in maritime services ranging from container packing and un-packing, sale and servicing of life boats and container logistics.

Proposed transaction and rationale

- [7] In terms of the proposed transaction SGM intends to acquire 100% of the issued share capital of Novagroup and post-implementation will solely control Novagroup.
- [8] The parties submitted that the rationale of the proposed transaction is to stave off the financial difficulties faced by Novagroup and SGM's maritime safety operations subsidiary, ("SGMT"). The parties submitted further, that the product offering of the target and acquiring firms are complementary to each other and that the proposed transaction would enhance the BEE rating of Novagroup.

Relevant market and impact on competition

Horizontal assessment

- [9] The proposed transaction resulted in an overlap in the following markets: the national market for the provision of container storage services; the market for the provision of container sales; leasing and conversions in the Western Cape; Eastern Cape and Gauteng markets; the Western Cape market for the provision of warehousing services; and the national market for the provision of marine safety services.
- [10] The Commission, in its investigation of the merger, concluded that none of the above-mentioned markets resulted in high market shares post-merger. The Commission also identified several other market participants who would be able to constrain the merged entity post-merger. Accordingly, the Commission was of the view that the proposed transaction would not substantially lessen or prevent competition in any identified market.

Vertical concern

- [11] During the Commission's investigation of this merger, it received a complaint from a customer of Novagroup. The complainant submitted that the proposed merger would limit the number of agents who sell refrigerated containers in the Eastern Cape, 'reefer containers' from two to one with the likelihood that the merged entity would keep the same pricing structure.
- [12] The Commission investigated the complaint and found that aside from the merging parties there were two other available market participants who supply reefer containers. According to the Commission the complainant later confirmed that there were alternative suppliers available to it. In addition, the merging parties submitted, during the hearing, that there is no intention to align the pricing structures for reefer containers upon implementation of the proposed transaction. The Commission found that the proposed transaction did not result in a foreclosure concern.

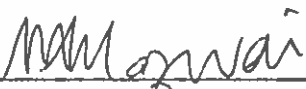
Public interest

[13] The merging parties submitted that the proposed will not have a negative effect on employment. During the hearing, it was also confirmed that all trade unions and employee representatives were served a copy of the non-confidential merger filing and none had raised concerns.

[14] The proposed transaction further raised no other public interest concerns.

Conclusion

[15] In light of the above, we conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. In addition, the concern of customer foreclosure in the Eastern Cape is unlikely as there are alternatives in the market. Further, there are no public interest issues which arise from the proposed transaction. Accordingly, we approve the proposed transaction unconditionally.


Ms Mondo Mazwai

25 October 2018
Date

Mrs Medi Mokuena and Mr Anton Roskam concurring.

Tribunal case manager	: Ms Aneesa Ravat.
For the merging parties	: Mr Rick van Rensburg of ENS together with Ms Hielda van der Mervwe of SGM and Mr Marcus Twine of Novagroup.
For the Commission	: Ms Nolubabalo Myoli and Mr Ratshidaho Maphwanya