

ECONOMIC DEVELOPMENT DEPARTMENT**NOTICE 848 OF 2015****COMPETITION COMMISSION****NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:****TRANSPACO PLASTICS (PTY) LTD****AND****EAST RAND PLASTICS DIVISION OF ASTRAPAK MANUFACTURING HOLDINGS
(PTY) LTD****2015APR0151**

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission, that it has approved the transaction involving the above mentioned firms subject to conditions as set out below:

Background

1. On 07 April 2015, the Competition Commission (Commission) received notice of an intermediate merger whereby Transpaco Plastics (Pty) (Transpaco Plastics) Ltd intends to acquire the East Rand Plastics (ERP) division of Astrapak Manufacturing Holdings (Pty) Ltd (Astrapak). Post-merger, Transpaco Plastics will wholly-own and control ERP.

Parties and their activities

2. Transpaco Plastics is a dormant company registered in accordance with the company laws of the Republic of South Africa. Transpaco Plastics is wholly-owned and controlled by Transpaco Limited (Transpaco Limited), a company registered in accordance with the company laws of the Republic of South Africa. The activities of Transpaco Limited relevant for the purpose of assessing the competitive effect of the proposed transaction

are undertaken by Transpaco Flexibles (Pty) Ltd and Transpaco Flexibles Mpumalanga (Pty) Ltd, collectively referred to as Transpaco Flexibles.

3. ERP is a business division of Astrapak currently active as a manufacturer of plastic refuse bags. It distributes plastic refuse bags under custom brand names (house brands) for the FMCG retailers as well as its brand called Garbie.

The transaction

4. In terms of Sale of Business Agreement concluded between Transpaco Plastics, Astrapak and Astrapak Limited (Astrapak Limited), Transpaco will acquire the business of ERP.

Area of overlap

5. There is a horizontal overlap between the activities of the merging parties with respect to the manufacture and supply of plastic refuse bags.

Horizontal assessment

6. The Commission finds that ERP has approximately 30% - 40% market share in the national market for the manufacture and supply of plastic refuse bags whilst Transpaco Flexibles has approximately 8% - 10% market share based on revenue. The Commission finds that the post-merger market share of the merged entity will be approximately 38% - 50%.
7. The Commission finds that Transpaco Flexibles and ERP are not direct competitors. ERP manufactures plastic refuse bags and distributes directly to the FMCG retailers under custom brands (Woolworths, Pick 'n Pay or Spar) or its own brand Garbie.
8. The Commission assessed the barriers to entry in this market and finds that they are low.
9. The Commission concludes that based on low barriers to entry, it is unlikely that firms will coordinate their behavior to the detriment of competition and consumers.

Concerns regarding the proposed transaction

10. The proposed merger results in Transpaco Plastics acquiring ERP, a business that is a direct competitor.

11. The Commission is of the view that a condition is required to ensure that the merged entity does not exchange commercially sensitive information amongst business units of Transpaco Limited. In essence, this Condition is intended to ensure the pre-merger status quo remains post-merger as the businesses of Transpaco Limited, particularly Transpaco Plastics and Transpaco Flexibles are prevented by this Condition to share any commercially sensitive information regarding their business activities in general.

Public interest analysis

12. In assessing the effect of the proposed merger on employment, the Commission considered the structure of the transaction and the rationale for the proposed transaction.
13. Given that it is unlikely that Transpaco will relocate the facilities of ERP and the fact that there will be no duplication of functions, the Commission is of the view that it is unlikely that the proposed merger will raise employment concerns.

Conclusion

14. The Commission concludes that the proposed transaction is likely to raise competition concerns. In the event Transpaco stops supplying or unilaterally increase prices for plastic refuse bags, it is likely that competition will be harmed. The Commission is therefore of the view that a Condition is required to ensure that Transpaco continues to supply plastics refuse bags, post-merger. The Commission finds that this condition will be sufficient to address the effect on competition in the market in South Africa.
15. The Commission finds that the proposed merger is unlikely to raise employment concerns as there will be no duplication of functions as a result of the proposed transaction.
16. The Commission therefore approves the proposed transaction with conditions to address the competition concerns.
17. An apparent breach by the Merging Parties of any of the Conditions shall be dealt with in terms of Rule 39 of the Rules for the Conduct of Proceedings in the Commission.

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298, or Facsimile: (012) 394 4298.