

**COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

Case No: 09/LM/Feb01

In the large merger between:

Fabvest Investment Holding Limited

and

National Cereal Holdings (Pty) Ltd

Reasons for the Competition Tribunal's Decision

APPROVAL

1. On 15 March 2001 the Competition Tribunal issued a merger clearance certificate approving the merger between Fabvest Investment Holding Limited and National Cereal Holdings (Pty) Ltd without conditions in terms of section 16(2)(a). The reasons for the approval of the merger appear below.

The merger transaction

2. The primary acquiring firm, Fabvest Investment Holdings Limited ("Fabvest"), is controlled by Fabcos Trust which has a 71% shareholding. Other shareholders of Fabvest include company staff (14%) and outside shareholders (15%). The beneficiaries of Fabcos Trust consist of members who are all individuals from previously disadvantaged communities. Fabvest controls three "shell" companies, Fabcos Investment Holdings, (a holding company for previously held shares in the leisure industry), Fabcell and Morse Investments, as well as Faboa, a holding company for investment in African Truck and Bus.
3. The primary target firm is National Cereal Holdings (Pty) Ltd ("National Cereal Holdings"). The shareholders of National Cereal Holdings consist of General Food Holdings as to 36%; the Board of Executors ("BOE") as to 33%; Fabvest Investment Holding as to 26% and National Cereal Holdings Employee Incentive Trust as to 5%.
4. Fabvest Investment Holdings ("Fabvest") is acquiring the Board of Executors' ("BOE") 33% shareholding in National Cereal Holdings (Pty) Ltd. This

acquisition would add to Fabvest's existing 26% share in National Cereal Holdings, bringing its total shareholding in the target company to 59%.

5. The merger will be effected by Fabvest's purchase from BOE of all its Ordinary Shares, Preference Shares and Claims in the target company.

EVALUATING THE MERGER

The relevant market

- f. **Fabvest is a Black Economic Empowerment investment company. The principal activity that it engages in is exercised through its subsidiary, Africa Truck and Bus, which is involved in providing and maintaining fire fighting equipment to the Airports Company of South Africa.**
7. National Cereal Holdings conducts its operations in the production, sale and distribution of cereal based foods for human and animal consumption. Specifically, it engages in the milling of maize (with products such as Iwisa, Impala, Nyala, Super Sun and Braai Pap) and wheat milling (with products such as Snowflake, Wonderbake). It also is involved in the bakery industry (Blue Ribbon bakery products and BB bakeries) as well as in value-added products such as animal feed (Silgro). Its customers are mainly supermarkets such as Checkers, Pick n Pay and Makro.
8. Both companies operate within and throughout South Africa.

Impact on competition

9. In view of the fundamentally different business activities of the primary and target firms, there is no product overlap. None of Fabvest's subsidiaries conduct similar or related activities to the target firm. Fabvest seeks to merely increase its shareholding in National Cereal Holdings to reinforce its commitment to black economic empowerment
10. BOE conducts its core business activity in the financial arena and this disposal of its shareholding in National Cereal Holdings will enable it to focus on this core business.
11. Accordingly, National Cereal Holdings will retain its market position held before the merger and the competitive nature of the industry will not be altered in any

way.

12. The Tribunal therefore endorses the Commission's view that this merger will not result in the substantial lessening or prevention of competition in any market.

Public Interest Considerations

13. The merger raises no competitiveness concerns and there are no public interest considerations which would alter this consideration.

N. Manoim

19 March 2001

Date

Concurring: D. H. Lewis, P. Maponya