

COMPETITION TRIBUNAL OF SOUTH AFRICA

CASE NO: 106/LM/OCT08

In the matter between:

NEW CLICKS SOUTH AFRICA (PTY) LTD

Acquiring Firm

and

SHARP MOVE TRADING 107 (PTY) LTD

Target firms

Panel : D Lewis (Presiding Member), N Manoim (Tribunal Member), and Y Carrim (Tribunal Member)

Heard on : 19 November 2008

Order issued on : 19 November 2008

Reasons issued on : 14 January 2009

REASONS FOR DECISION

APPROVAL

1. On 19 November 2008 the Tribunal approved the merger between New Clicks and Sharp Move. The reasons for the decision follow:

THE PARTIES

2. The primary acquiring firm is New Clicks South Africa (Pty) Ltd ("New Clicks"), a subsidiary of New Clicks Holdings Limited. The primary target firm is Sharp Move Trading 107 (Pty) Ltd trading as Direct Medicine Pharmacy and Direct Patient Support (Pty) Ltd (collectively referred to as Sharp Move Trading).

THE TRANSACTION AND RATIONALE

3. In terms of the proposed transaction New Clicks intends to acquire 60% of the issued share capital in Sharp Move. The shareholding post merger will be held as follows:

New Clicks - 60%

Vuwa Healthcare - 26%

The Short Trust - 8%

The Ponter Trust - 4%

Mr Moeti Phil Mokoele - 2%.

4. New Clicks regards the proposed transaction as an opportunity to enter into the courier pharmaceutical distribution market, thus optimizing and expanding its business. For Sharp Move, the proposed transaction will strengthen its business and provide it with the opportunity to offer a complete service to medical schemes.

RELEVANT PRODUCT MARKET

Horizontal analysis

5. The proposed merger results in horizontal integration in that both the merging parties are involved in retailing pharmaceutical products. New Clicks Holdings through New Clicks is active in the entire pharmaceutical supply chain ranging from wholesale distribution to retail pharmacies. Sharp Move is active in direct medicine pharmacy and its focus is courier distribution of chronic medication direct to patients who are supported by medical aid.
6. Premerger New Clicks has 5.3% market share and Sharp Move has 1.1%. The merging parties' combined post merger market share is 6.4%. The parties face competition from players such as Dischem, Pick 'n Pay and many other private pharmacies.

Vertical analysis

7. The proposed merger also results in vertical integration in that New Clicks will post merger, supply Sharp Move with all pharmaceutical products that it dispenses. However the Commission's investigation revealed that this does not raise any foreclosure concerns post merger as the company which previously supplied Sharp Move, Home and Hospital Dispensaries ("HHD") is owned by shareholders of Sharp Move. In addition, the representatives of HHD when interviewed by the Commission submitted that they had no concerns as there are many alternative players in this market.

CONCLUSION

8. The Tribunal finds that this merger will not result in any substantial lessening or prevention of competition in the relevant market due to the low market share accretion post merger as well as the lack of foreclosure concerns. The merger is approved without conditions.
9. There are no public interest issues.

N Manoim

Tribunal Member

14 January 2009

Date

D Lewis and Y Carrim concurring

For the merging parties : Cliffe Dekker Hofmeyr

For the Commission : K Mahlakoana

Tribunal Researcher: L Xaba