

**COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

Case No: 55/LM/Aug04

In the large merger between:

Pioneer Foods (Pty) Ltd

and

Accolade Trading Company (Pty) Ltd

Non- Confidential Version - Reasons for Decision

APPROVAL

On 22 September 2004 the Competition Tribunal issued a Merger Clearance Certificate approving the merger between Pioneer Foods (Pty) Ltd and Accolade Trading Company (Pty) Ltd in terms of section 16(2)(a). The reasons for the approval of the merger appear below.

The Parties

1. The acquiring firm is Pioneer Foods (Pty) Ltd ("Pioneer"), a wholly owned subsidiary of the Pioneer Food Holdings Ltd.
2. The primary target firm is Accolade Trading Company (Pty) Ltd controlled by Mr C M Abrams. It's privately owned and located in the Western Cape.

The Merger Transaction

3. Pioneer is acquiring the entire business as a going concern, including assets, goodwill, intellectual property and debtors.

Rationale for the Transaction

4. [CONFIDENTIAL].

The relevant product markets

5. Accolade's business comprises the purchasing and packaging and selling of dried beans, rice and peas as well as other edible foodstuffs. Pioneer is a highly diversified food group, comprising three business divisions – staple foods; branded products and another “unallocated” division which includes carton manufacturing, insurance and corporate services.
6. Both parties are therefore engaged in packaging and distributing various foodstuffs, in particular we are concerned here with the overlapping products, namely rice and coconut.
7. The Commission therefore correctly defined the market as that for the packaging and distribution of rice on the one hand and coconut on the other. We therefore need not analyse any of the other markets in which each party is active.

COMPETITIVE ANALYSIS

A. The market for the packaging and supply of Rice

8. All of the rice consumed in South Africa is imported from India and Thailand. There are no import duties on rice therefore many informal players are able to import rice relatively easily. They will repackage the rice or sell direct to wholesalers, many of them are small and compete in the KwaZulu Natal and Western Cape areas where there is an increased demand for rice amongst certain communities.
9. Pioneer sells rice under the “Nice” and “Select” brands whilst Accolade sells predominantly in the Western Cape under the “Spekko” brand.
10. The Commission analysed the market narrowly, focussing only on parboiled rice, which comprises the majority of rice consumed in South Africa. They therefore excluded speciality rices (including sushi and basmati). The Commission defined the geographic market as national because since packaging and distribution facilities are located in close proximity to the national ports, **most** market participants can distribute their products nationwide. However, evidence from the record indicates that the geographic market may in fact be regional, since certain brands of rice are only distributed in certain regions. Note, Nice Rice for example is only distributed in the Western Cape.¹ Also 70-80% of Accolades' business is conducted in the Western Cape. Furthermore the parties indicated at the hearing that listing in supermarkets

¹ See Record pages 132 and 138 .

was decided at a regional level.

11. We will not detain ourselves with the geographical extent of the market since it is clear that there are no competition concerns arising in this market.
12. The major players are Tiger Brands (the brand leader with “Tastic”) and Umgeni Products. Pioneer sells its Select and Nice brands mainly in the rural areas. It has not been able to reach large scale listing of its brands in the mainstream retail market. The merged parties combined national post-merger market share is 9.5%. Tiger is the leader with almost 53%. If the market is a regional one, the merged firm would have a very high market share in the Western Cape.

Rice Market Shares

Region	Pioneer (Sasko)	Accolade	Combined
Gauteng	0.1%	0.2%	0.3%
KZN	2.6%	0%	2.6%
Eastern Cape	5.7%	1.2%	6.9%
Western Cape	8.2%	42.2%	50.4%
North West	8.4%	0%	8.4%
Northern Cape	25.2%	0%	25.2%
Free State	0.5%	2.3%	2.8%
Limpopo	0%	0%	0%

Source: Presentation to Pioneer Foods Board of Directors

13. However the large retail chains are unlikely to be dependant on a single supplier and it is likely that Tiger and Umgeni will find that they have new opportunities in the Western Cape post merger. Secondly, given Pioneer’s objective to become a national, rather than a regional player, it is likely to divert some of its product northwards to get its brands established in those markets. In short although the markets may have been regional pre-merger they may not be so post merger. In addition the Commission found that barriers to entry into the market for the packing and distribution of rice are low. The smaller players who import rice and repackage and sell to wholesalers, located mainly in W Cape and KZN are testimony to this.
14. We agree with the Commission that in view of the low entry barriers and insignificant combined market share, this market presents no competition

concerns.

B. The market for the packaging and supply of Coconut

15. Coconut too is imported mainly from the East – the Philippines, Singapore and Indonesia. The product is dessicated coconut², used mainly in breakfast cereals, sweets, baked goods and as accompaniments to certain ethnic dishes, such as curries. The parties referred to fine and medium grated coconut, which are functionally distinguishable, the latter being used as toppings whereas the former is preferred because of the taste and texture it proffers in baked goods. However, the distinction is insignificant and therefore for our purposes, we will treat the two as interchangeable. Pioneer sells coconut through its recently acquired “Moirs” brand, while Accolade sells it via its “Imbo” brand. The parties’ primary customers are the retail chains and wholesalers.
16. Though raw grated coconut is potentially a substitute, this was excluded from the Commission’s analysis and they evaluated the narrower market to see if any competition concerns arose.
17. Once again in respect of this product, the commission concludes that the market is national.
18. According to the major retailers, there are only three players in this market – Pioneer (Moirs), Accolade and Trumps. During the hearing it emerged that in fact Tiger Brands (through its “Star” brand) was also a player in this market, even though it only had a small market share, of around 4% based on value.
19. The merged entity’s combined market shares based on AC Nielsen is:

Based on value: 70.3%

Based on volume: 66.3%

20. The Commission concluded that Accolade is an aggressive price setter, since it holds the majority of its market share based on volume. It prices low and sells high volumes. This is confirmed by the fact that its prices are over 50% cheaper than Moirs.
21. Though on any textbook definition, this merger would raise competition concerns, we do not find that there will be a substantial prevention or lessening of competition in the market for the packaging and distribution of

² Dessicated coconut is defined as being “obtained by drying ground or shredded coconut kernel after removal of brown testa. It finds extensive use in confectionaries, puddings and many other food preparations as substitute for raw grated coconut.” (Coconut Development Board Project Profiles – coconutboard.nic.in)

coconut for the following reasons:

- 21.1 Post-merger there will still be three competitors in the market via the formal retail chains, that is the merged entity's Moirs brand, Trumps and Tiger Brands' Star.
- 21.2 Statistics obtained from SARS furnished by the merging parties at the hearing reflected that of the total tonnage of dessicated coconut imported into the country, the merged entity's combined share thereof is only 19%. The other 81% of the product imported is distributed or consumed outside the formal retail trade.³ The parties advised that this would comprise industrial users such as confectionary manufacturers and estimated that approximately 57% of this figure was taken up by the informal trade, more especially traders in KwaZulu Natal and the Western Cape who distributed coconut for the ethnic cuisine trade. The Commission confirmed that in those markets where most of the coconut is sold, that is, the Western Cape and KZN, there are smaller competitors, not captured by Nielsens, who supply specialist retailers in those regions. This indicates that barriers to entry, particularly in the lower-priced brands were relatively low. The Commission's view is that imports of packaged coconut are a further **potential** source of competition to the merged entity. Accordingly, notwithstanding the existence of two other players, if the combined entity tried to raise prices, a new entrant could enter quite easily and capture market share at the expense of the merged entity.
- 21.3 Another factor persuading us that this merger will not be anti-competitive is that dessicated coconut is a relatively marginal product in the sense that it is not a must-have for many consumers, rather, it is an add-on. The parties' stated that top-end sales via the formal retail chains are by consumers who purchase mainly for baking purposes, and therefore not in large volumes or with regular frequency. In those regions where there is great demand for dessicated coconut, such as KwaZulu Natal and the Western Cape, there do seem to be other informal means of distribution channels available and entry into the distribution market is not constrained in any way.

Conclusion

We conclude that the merger will not lead to a substantial lessening of competition in the market for the packaging and distribution of either rice or coconut.

³ AC Nielsen only captures sales statistics of the top line retailers.

The Tribunal therefore approves the transaction unconditionally. There are no public interest concerns which would alter this conclusion.

D. H. Lewis

4 October 2004
Date

Concurring: N. Manoim, T. Orleyn

For the merging parties: Jan S. De Villiers Attorneys

For the Commission: M. van Hoven, Competition Commission