

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case NO: 58/LM/May08

In the matter between

Adcorp Staffing Solutions (Pty) Ltd

Primary Acquiring firm

And

Staff U Need (Pty) Ltd

Primary Target Firm

Panel : D Lewis (Tribunal member); N Manoim (Tribunal member) and
L Reyburn (Tribunal member)

Heard on : 30 July 2008

Decided on : 30 July 2008

Reasons Issued : 23 September 2008

Reasons for decision

Approval

[1] On 30 July 2008 the Competition Tribunal issued a Merger Clearance Certificate approving the merger between Adcorp Staffing Solutions (Pty) Ltd and Staff U Need (Pty) Ltd unconditionally. The reasons for the approval appear below.

Parties

[2] The primary acquiring firm is Adcorp Staffing Solutions (Pty) Ltd ("Staffing"), a private company incorporated in the Republic of South Africa. Staffing is a wholly owned subsidiary of Adcorp Holdings Ltd ("Adcorp"), a public company listed on the JSE Securities Exchange. Adcorp's major shareholders are Investec Asset Management (17.96%), Old Mutual Asset Management (11.31%), Allan Gray Asset Management (11.16%), Sanlam Asset Management (7.63%) and RMB Asset Management (5.70%).

[3] The primary target firm is Staff U Need (Pty) Ltd (“SUN”), a private company incorporated under the laws of the Republic of South Africa. SUN’s shareholders are B.C. Visagie (12.5%), M.J. Chapman (12.5%), Zondo Family Trust (27.5%), Themba Family Trust (27.5%) and Dithomo Labour Services (Pty) Ltd (20%).

Transaction

[4] In terms of the structure of the transaction, Staffing intends to acquire the businesses of SUN and Dithomo Labour Services (Pty) Ltd (“Dithomo”). The parties submit that the acquisition of Dithomo does not constitute a notifiable merger as it falls below the required threshold for intermediate mergers.¹ The Commission nevertheless considered Dithomo in its analyses of the effect of the merger on competition. On completion of the transaction, the businesses of SUN and Dithomo will be owned by Staffing.

Rationale

[5] Staffing submits that this transaction will enhance Adcorp’s position as a leading provider of flexible staffing solutions in the South African market and also benefit the Adcorp Group greatly given SUN’s particular niche industry. Further, the business of SUN complements the activities of the existing staffing solutions offered by Adcorp.

[6] For Sun the rationale is to extend the presently limited opportunities for growth, which are enhanced by accessing the greater resources available to a large group.

Parties’ Activities

Acquiring Group

¹ In the previous financial year Dithomo’s annual turnover was R 22 870 361 and its asset value was R 3 543 594.

[7] Adcorp and its subsidiaries are involved in providing comprehensive business services in human capital management. These services include permanent recruitment, effective recruitment search, response handling, mass response handling, flexible staffing and recruitment advertising. For purposes of assessing the effect of the proposed transaction on competition, the only relevant activity of the merging parties is the recruitment and placement of flexible staffing.

[8] Recruitment and placement of flexible staffing entails the recruitment and placement of part time, casual and contract workers. Flexible staffing solutions provided by the acquiring firm focus on areas such as, inter alia, recruitment and placement of blue collar workers on a contract basis as well as recruiting and placing flexible staffing solutions for call centre operations and management for professional services entities.

Primary Target Firms

[9] Sun employs flexible staffing in professional, skilled, semi-skilled and unskilled capacity for the power generation industry.

[10] Dithomo carries on the business of recruiting, selecting, training and supplying temporary staff to the power generation and mining industries².

Relevant Market

Relevant Product Market

[11] Flexible staffing solutions entail the recruitment and placement of part time, casual and contract workers. Flexible staffing solution is defined as temporary staff where the periods of employment are defined and could range from three weeks to three months.

[12] The acquiring firm provides flexible staffing solutions in the following sectors: manufacturing, food and beverages, engineering, mining, pharmaceutical, telecommunications, financial services, medical as well as state owned enterprises.

² The parties did not deem it necessary to ascertain Dithomo's market share in the mining industry as its turnover is very minimal, i.e. R 3 839,885.

The primary target firms, on the other hand, provide flexible staffing solution in the power generation and mining sectors only.

[13] In defining the relevant product market, the Commission considered whether flexible staffing constitutes a single market or whether the market should be further delineated in terms of the skills and the sectors where employees are placed. In this regard, the Commission found that when the market is defined as a single market, the market shares are diluted.

[14] The Commission therefore defined the market for flexible staffing solutions on a narrow basis and identified overlaps in the activities of the merging parties in the following sectors: power generation sector, manufacturing sector and financial intermediary, insurance, real estate, and business sector (“FIRB”)³.

Relevant Geographic Market

[15] The parties submit that flexible staffing is generally not mobile and is confined to a specific region due to the nature of the job. The geographic overlap for flexible staffing solutions for power generation and the manufacturing industries is in Gauteng and the geographic overlap for the FIRB industry is in Gauteng and Mpumalanga.

Competition Analysis

[16] The merging parties’ combined post-merger market share for flexible staffing solution for the power generation industry is estimated to be 12.54% in Gauteng (this includes market share of Dithomo). For the manufacturing industry the estimated market share is 4.70% and for the FIRB industry in Gauteng 7.02% and in Mpumalanga 0.16%. This transaction is unlikely to substantially prevent or lessen competition in the flexible staffing solution market as the post merger market shares of the merging parties remain low.

[17] The merging parties compete with firms such as Workforce, Transman and Kelly. In addition, the staffing industry has seen a number of firms entering the market in the last 3 months. These firms include, inter alia, Letsema Placement

³ This is for call centre workers.

Team, Corporate Intervention Services, Dakalo Recruitment Agency and Murray and Roberts Engineering Solutions.

Public Interest

[18] The transaction does not give rise to any public interest issues and is approved without conditions.

N Manoim

Tribunal Member

23 September 2008

Date

Concurring: D Lewis and L Reyburn

Tribunal Researcher : I Selaledi

For the merging parties : Roodt Inc.

For the Commission : Linda Chung (Mergers & Acquisitions)