



Labour Research Service

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“Knowledge is too important to be left in the hands of the bosses”

Labour Research Service Oral Submission to the Wal-Mart/ Massmart Merger Public Hearing 21 July 2011

Given that South Africa's biggest challenges by far are its massive levels of unemployment, poverty and inequality, any decisions that are made regarding foreign investment, mergers and takeovers should be made based on how they assist South Africa, and all the countries impacted by such a transaction, with dealing with these issues. Our concern is that we sit here having to make submissions on what would will protect us from the impact of such transactions because we have a hunch that companies will not behave decently unless they are forced to and that the consequences for our economic development could be serious.

Following the publication of the initial offer to purchase the entire share-capital of Massmart in September 2010, the Labour Research Service was commissioned by UNI Global Union to complete research on the structure and operations of Massmart and the conditions of the Group in order to understand the context of the deal for workers within the take-over target. In essence we looked at the impact of the merger its finalisation. The research showed that the reason perhaps that we have a hunch that there is a danger for our countries in these mergers is because the impact of this merger has already been felt by workers in Massmart. Our research does not predict what will happen after the merger is finalized except insofar as the actions of the company in the lead-up to the merger hint at the strategies of the merged entity.

The research found evidence that shop-floor workers at Massmart experienced a high level of vicitmisation and a hardening of management attitudes which they have attributed to the desire by Massmart to make itself “globally competitive’ in order to attract a global retailer as a buyer. Wal-Mart, with whom management has had a long – though how long is unclear, estimates range from over twenty years to a more conservative six years – was a clear favourite. It is noted that when Wal-Mart “started sniffing around in 2008” the management of Massmart made it clear that they were “available for sale” – becoming an attractive target for a buyer is therefore a strategy that companies implement over a number of years rather than months and makes clear their actions in this regard are evidence of what companies consider it takes to be “globally competitive” and how this must be taken into account when mergers are proposed - is decent work the price of global competitiveness, and is global competitiveness in this sense a proper engine of economic development.

Our concern, following the research which included an analysis of company documents, statements made by management concerning the place of workers in the deal and interviews with shop-floor workers in the company, which we submit to this hearing, is that companies looking to be purchased by global players, and therefore to become “globally competitive” are wont to view global competitiveness in a very limited way which is to the cost of workers that are not strategic decision makers, benefitting only those who make the deals on behalf of shareholders and themselves. The impact of these mergers then is to the benefit mostly of this small group of

people. In a statement concerning their preparedness for a takeover, the CEO of Massmart notes that – in 2009 “ It was our strategy to be bought by a global retailer; we didn’t have to wonder how we were going to deal with it, or whether our shareholders would like it, or whether management would come along...” these two groups of stakeholders appear to be the sole focus of concern in a take-over situation. And it is unlikely that either of these stakeholders would have complained as over the years dividend payouts to shareholders have increased as percentage of profit to almost 45% of PBT. It is noteworthy that in 2009 when workers had to strike for a R460 increase, the company paid a record R867 million in dividends to its shareholders. While it may be argued that the owners of capital are entitled to their cut of the profits, the question must arise as to how much of the value workers in South Africa and beyond are entitled to, since they created it. The figures show that the proportion of wealth created by the company that is applied to workers’ wages in Massmart is lower than any of its competitors.

While shareholders and management are brought along, other workers are an issue to be dealt with, not a strategic partner in these deals, these workers knew nothing officially of the plan until September 2010.

However, the preparation for the takeover was a felt reality for workers over in particular the three years leading to the public offer. At a Gordon Institute of Business Science presentation in early 2011 the CEO of Massmart stated that “this is really an exciting time for employees. And just so you are absolutely clear, our employees aren’t driving any protest: you’ll see there has been no strikes, no protests; in fact, I would suggest that they have gone so far as to tell the union not to get in the way. All good for our employees.” What this statement avoids (1) is that there had been labour unhappiness at Massmart since Wal-Mart came sniffing around, labour dissatisfaction that was reported in both Annual Reports of 2009 and 2010, the period of Massmart making itself ‘available for sale’. Where labour issues were never mentioned before, in 2009 the report states that

“... increased the stridency of populist rhetoric and the vigour of socio-economic demands, both indicative of a more open democracy. Service delivery rioters, striking workers, obstructive taxi owners, and officious youth leaders all contributed to an environment conducive to the first ever protracted dispute between certain Massmart divisions and organised labour”¹.

The 2010 Annual Report notes, “Labour relations were unfortunately strained in Massdiscounters as management sought more labour flexibility from the labour union, SACCAWU, in order to extract productivity improvements from our three-year investment in the supply chain. Unfortunately, we were unable to reach resolution and had to resort to retrenchment, which was devastating for those employees. ...”²

We are not here to talk about the retrenched workers, I believe that is outside the remit of this hearing. Pattison’s statement does though speak about the current workers at Massmart and the conditions under which they are working. Which workers did he speak to – his own management colleagues or the vast majority of the some 30,000 workers at Massmart, 38% of which are, by management’s own reports, represented by SACCAWU? The Labour Research Service did speak to some of the employees and three key points became apparent – these workers DID want the union to be involved because they were being increasingly victimized by Massmart management

¹ Massmart Annual Report 2009, p. 25

² Massmart Annual Report 2010, p. 27

in what they then understood as a long-term strategy to create a culture of repression in preparation for the deal.

The key issues highlighted by Massmart workers was that Massmart had, over the past period, been changing working conditions arbitrarily, they noted in particular:

1. Instructions are given for workers to work in departments that they do not work in and when this is pointed out to the manager then they are put before a disciplinary hearing for not carrying out instructions.
2. Disciplinary hearings don't follow procedures and dismissals or final warnings are dished out at the hearing.
3. Workers have also been given warnings and dismissed for not packing goods in the manner that it was set out for this, even though goods have never been packed in the set out manner before.
4. Workers have been dismissed for making simple errors when workers were not even given a warning before for the same kinds of mistakes.
5. At Makro it has been customary for workers who work two Saturdays a month to get a "day-off". However, management has introduced a rule that if a worker takes leave in that month then the worker loses the day off. This is clearly an attempt to get rid of the "benefit" which has not been negotiated but was customary in the company for many years.
6. Jobs that become vacant either through resignation or dismissal are not filled again and duties are allocated to existing workers
7. Conditions of employment are settled with employees individually and are often worse than what has existed before – especially making working time on a Sunday, that was considered as over time, normalise time.
8. There has been an introduction of performance management where all employees are continuously assessed according to performances standards that were not agreed and often arbitrary.

The general mood was that participants felt that due to the possible take-over workers felt intimidated in the workplace by the fact that they could lose their job and livelihood in an instant.

They believe that this situation was created so that by the time of a take-over (now merger), workers would already be used to working in an intimidating environment. An environment in which they remain for the very reasons stated by their CEO:

"...I suppose it would be fair to say that an employee of Massmart can say well, at least it is us that got bought by Wal-mart, so if it's true, and I certainly don't agree that it is true that competitors are going to suffer and suppliers are going to suffer, the employees of Massmart should be fine."

The statement itself makes no real sense – either competitors and suppliers are going to suffer, and therefore Massmart employees should feel lucky to even have a job; or they are not, in which case Massmart employees have got nothing to be grateful on this count.

By the time a merger is announced the evidence suggests that labour relations at Massmart were already strained, and working conditions sacrificed for global attractiveness. A knock-on effect which therefore feeds into how other companies will try to attain the same attractiveness.

The downgrading of working conditions for the lowest paid workers in particular is contrary to South Africa's economic development through decent work. Development begins on the shop-floor and cannot be achieved when workers are increasingly pressurized to be flexible, to accept lower conditions and general uncertainty concerning their livelihoods in both good and bad times; it must be concerned with advancing the social and economic welfare of those workers. In the face of mergers, take-overs and the like, processes must therefore be put in place to ensure, not simply for three years or more, but as a matter of economic principle, that workers can defend their rights in companies and impact on how those company decisions are made.

So when we worry about what mergers might mean for the economic development of the country, evidence already suggests we are right to be worried and that some of the damage has already been done and needs to be addressed. We therefore recommend that pressure be put on not just Wal-Mart but all entities entering our country that they allocate resources to enter into meaningful social dialogue with workers and unions in order to achieve the goal of decent work by including workers in policy and process engagements. Further that a centralised bargaining forum be established so that workers can together, and not in discrete silos, address their issues with the company.

The Labour Research Service is an independent NGO that provides research and information on the labour market.
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