

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 6/LM/JAN 08

In the large merger between:

Imperial Group (Pty) Ltd

Acquiring Firm

And

Roshcon (Pty) Ltd

Target Firm

Panel : Y Carrim (Presiding Member) U Bhoola (Tribunal Member), and M Mokuena (Tribunal Member)

Heard on : 5 March 2008

Decided on : 5 March 2008

Reasons Issued: 6 March 2008

REASONS

Approval

[1] On 5 March 2008, the Tribunal issued a merger clearance certificate unconditionally approving the merger between the abovementioned parties. The reasons for the decision follow.

Parties

[2] The primary acquiring firm is Imperial Group (Pty) Ltd (“Imperial”), a listed company which is a subsidiary of Imperial Holdings.¹ The primary target firm is Roshcon (Pty) Ltd (“Roshcon”), a subsidiary of Eskom Holdings Limited (“Eskom”), which is controlled by the South African government.²

The Transaction and its Rationale

[3] In terms of the proposed transaction, Imperial intends to acquire the MAN commercial vehicle motor dealership business of Roshcon as a going concern.³ The rationale for the proposed transaction for Imperial, is to expand its existing commercial vehicle business. For Eskom, it was submitted that the TAS Automotive Dealership, consisting of MAN commercial vehicles, does not form part of its core asset and for this reason, Eskom intends to dispose of it.

¹ The major shareholders of Imperial are: Public Investment Corporation 18.21%; Old Mutual 11.23%; Ukhamba 8.4%; and Lereko Mobility 7.25%

² Roshcon does not control any firm

³ MAN commercial vehicles are consisted within the TAS Automotive Dealership held by Eskom

The Parties' Activities

[4] Imperial has activities in the wider transportation and mobility markets.⁴ Roshcon is active in the management of a fleet of heavy transport vehicles and sells MAN trucks and spare parts, and also provides workshop services for trucks in South Africa.

The Relevant Market

[5] According to the merging parties, the relevant market is the commercial vehicle market which sells commercial vehicles in excess of 8.5 tons nationally. Both Imperial and Roshcon provide services in the commercial motor sector dealing specifically in new commercial vehicles and parts, as well as providing workshop facilities. Therefore the overlap in the activities of the merging parties exists in respect of the sale of new commercial vehicles and spare parts in South Africa.

Market Shares and Competitive Analysis

[6] Imperial holds an estimated market share of 20.5% and Roshcon has 1.2% market share. Post merger, the parties will have a combined market share of 21.7%. The market share accretion is small and the change in HHI is 49.2 points with is less than 50 points. The relevant market is not highly concentrated, and the merged entity will continue to face competition from other reputable players such as McCarthy Motor Holdings, Barloworld, Supergroup, Unitrans and Combined Motor Holdings.

Public Interest Issues

[7] There are no public interest issues. The merging parties submitted that the proposed transaction will have no negative effects on employment as employees will be retained and will not be worse off post merger.

Conclusion

[8] Based on the above, the proposed transaction is unlikely to result in a substantial lessening or prevention of competition in the identified markets and is approved unconditionally.

Y Carrim

6 March 2008

U Bhoola and M Mokuena concurring.

Tribunal Researcher: L. Xaba

For the merging parties : Tugendhaft Wapnick Banchetti and Partners

For the Commission : M Mohlala and K Kganare (Mergers and Acquisitions)

⁴AMH, a 90% held subsidiary of Imperial Holdings houses many of the motor vehicle dealership activities primarily in the imported motor vehicles sector. See pg. 7 of schedule 3 of the Commission's merger record For more details on Imperial's activities; See Tribunal decision in Imperial Holdings Ltd and Terex Africa (Pty) Ltd Case No. 88/LM/OCT06

