

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 105/LM/Dec06

In the matter between:

Imperial Holdings Limited

Acquiring Firm

And

Jurgens CI (Pty) Ltd

Target Firm

Panel : N Manoim (Presiding Member), M Mokuena (Tribunal Member)
and Merle Holden(Tribunal Member).

Heard on : 14 March 2007

Decided on : 14 March 2007

Reasons Issued: 12 April 2007

Reasons for Decision

Approval

- 1] On 14 March 2007, the Tribunal unconditionally approved the merger between Imperial Holdings Limited and Jurgens CI (Pty) Ltd. The reasons for approving the transaction follow.

The parties

- 2] The primary acquiring firm is Imperial Holdings Limited ('Imperial'), a public company duly registered on the JSE Securities Exchange. Imperial is not controlled by any single firm but has the following as its main shareholders holding the indicated percentages:

- [2.1] Public Investment Corporation 18.21%;
- [2.2] Old Mutual Group 11.23%;
- [2.3] Ukhamba 10.1%;
- [2.4] Sanlam 8.4% and
- [2.4] Lereko Mobility 7.25%.

3] Imperial controls in excess of 25 firms.¹ The firm relevant in this transaction is Tourism Holdings Rental SA (Pty) Ltd trading as Maui and Britz ('Maui and Britz').

4] The primary target firm is Jurgens CI 225 (Pty) Ltd ('Jurgens'), a company duly incorporated in terms of the Laws of the Republic South Africa. Jurgens is controlled by the Michael Delport Trust (62.44%) and Whole Life Investments (37.556%). Jurgens controls Jurgens Steelworx (Pty) Ltd, a dormant company.

The transaction

5] This transaction involves the acquisition by Imperial of 80% of the entire issued share capital of Jurgens.² In addition Imperial has a call option and the shareholders of Jurgens have a put option in their respective companies in terms of which Imperial will directly acquire the remaining 20% of the entire issued share capital of Jurgens.³

Rationale for the transaction

6] Imperial perceives the transaction as enabling it to expand its business into

1 Refer to Annexure 'B' to the CC 4 filed by Imperial.

2 Imperial will acquire the 80% issued shares in Jurgens by means of the acquisition of 48.749% of the entire issued share capital from current shareholders of Jurgens and the subscription for 31.215% of the total entire issued share capital of the company.

3 Record pp435-438.

other areas.

- 7] Mr. Delport who rebuilt the Jurgens business since he acquired it in 1989, now wishes to realise his investment.

The parties' activities

Primary acquiring firm

- 8] Imperial is a holding company which owns subsidiaries active in the transportation and logistics business. It owns a wide range of businesses that operate in these industries but the only one that concerns us in this merger is Maui and Britz, a rental company that rents motorhomes, 4x4 vehicles and motorbikes mainly to international tourists or international travel agents for their South African travel packages.⁴

Primary target firm

Jurgens

- 9] Jurgens is a manufacturer of caravans and motorhomes, and various related accessories. For the purposes of this merger the area of interest is its manufacture of motorhomes and caravans.
- 10] Jurgens owns a division which manufactures caravans under the Sprite, Jurgens, Jurgens Safari and Gypsy brands. It also manufactures motorhomes under the WJ brand. The conventional caravans market is a niche market and Jurgens is a major participant in this market. In the off-road caravan ranges Jurgens competes with other manufacturers and does not dominate this market. In the motorhome market Jurgens is a major participant. These products are sold to the distributors who then sell the products to end users or retailers.

Overlapping activities

⁴ Refer to pp84-87 of the record for details on all of Imperial's activities.

11] There is no horizontal overlap between the activities of the merging parties. The merger, however, results in vertical integration in that the target firm, through its dealer network, supplies the acquiring firm's Maui and Brits rental business with motorhomes, caravans and roof tents which the latter rents to tourists. Jurgens sells its products to a dealer network. The dealers then sell to retail buyers or rental companies such as Maui and Brits. The dealers are independently owned. At present Maui and Brits only rents Jurgens equipment and not those of any of its competitors in the motor home business, which we gather from testimony at the hearing is a very small business. Rival motor home dealers will continue to use their existing networks post merger to rent or sell their products. There are no other domestic suppliers of caravans, but overseas suppliers who enter the market have their own outlets and again Maui and Brits have not been a source of distribution for them at present.⁵ Maui and Brits state that they have 40% of the domestic market. Other firms operate in this market, which have a national network. Thus although the merger leads to some vertical integration, there need be no concern of post merger foreclosure of rivals by the merged firm.

Public Interest

12] There are no public interest issues.

Conclusion

13] This transaction does not raise competition concerns. The transaction is accordingly approved unconditionally.

N Manoim

Tribunal Member

12 April 2007

DATE

⁵ Jurgens is by far the most dominant player when it comes to conventional caravans. Its competitors are a small manufacturer of caravans in Roodepoort and a company in the East Rand that imports a range for the top end of the market conventional caravans from the UK. It does not seem as if there are other foreign companies that distribute caravans. (Record p90 and Transcript p3).

M Mokuena and M Holden concur in the judgment of N Manoim

Tribunal Researcher: R Kariga

For the merging parties: S Mayet, Tugendhaft Wapnick Banchetti and Partners.

For the Commission : K Mahlakoana and H Ratshisusu (Mergers and Acquisitions)