

COMPETITION TRIBUNAL

REPUBLIC OF SOUTH AFRICA

Case Number:19/LM/Dec99

In the large merger between

Ensemble Trading 184 (Pty) Ltd

and

part of the business of Murray and Roberts Limited

Reasons for the Competition Tribunal's Decision

Approval

The Competition Tribunal issued a Merger Clearance Certificate on 2 February 2000 approving the merger between Ensemble Trading 184 (Pty) Ltd and part of the business of Murray and Roberts Limited without conditions. The reasons for our decision to approve the merger are set out below.

The merger transaction

The primary acquiring firm is Ensemble Trading 184 (Pty) Ltd which is fully owned by Colas Societe Anonyme (Colas France). Colas France has not previously conducted business in South Africa. Colas France has registered Ensemble Trading 184 on 30 September 1999 to buy the manufacture, distribution, sale and application business relating to road and industrial binders from Murray and Roberts as a going concern.

According to the Competition Commission Murray and Roberts regards this transaction as an unbundling action while Colas France wants to enter the South African market and gain control over the "Colas" trademark, which has been licensed to Murray & Roberts.

Evaluating the merger

The Tribunal agrees with the Competition Commission that, in assessing this merger, it is not crucial whether the product market is defined narrowly as bituminous road surfacing treatment products or more widely as road surfacing products. Ensemble Trading 184, a foreign company not represented in South Africa, is acquiring part of the business of Murray & Roberts, a South African business. Since Ensemble will merely be replacing Murray and Roberts as a competitor in the relevant market the number of competitors in this market will not change, nor will the concentration level change. The merger, furthermore, does not raise public interest concerns since no jobs will be lost and a foreign investor will enter the country.

D.H LEWIS

Date

Presiding member

Concurring: N.M. Manoim and D.R. Terblanche