



## COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 92/LM/Oct12  
015735

In the matter between:

**Imperial Logistics**  
**A division of Imperial Holdings Limited**

Acquiring Firm

And

**KWS Carriers CC**

Target Firm

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Panel : Yasmin Carrim (Presiding Member),  
Medi Mokoena (Tribunal Member)  
Takalani Madima (Tribunal Member)  
Heard on : 21 November 2012  
Order issued on : 21 November 2012  
Reasons issued on : 03 December 2012

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### Reasons for Decision

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#### Approval

[1] On 21 November 2012 the Competition Tribunal ("Tribunal") approved the merger between Imperial Logistics ("Imperial Logistics"), a division of Imperial Holdings Limited ("Imperial Holdings"), the primary acquiring firm, and KWS Carriers CC ("KWS"), the primary target firm.

[2] The reasons for approving the proposed transaction follow below.

### **Parties to transaction**

[3] The primary acquiring firm is Imperial Holdings. The Imperial business is divided into five divisions with Imperial Logistics being the relevant one for the proposed transaction.

[4] Imperial Logistics is a logistics and supply chain company that focuses on delivering end-to-end logistics and supply chain management services to customers across a range of inductors from retail, petro-chemical, construction, mining and minerals, to automotive, chemical, technology ,agriculture and forestry.

[5] The target firm is KWS which operates a logistics business that focuses on the movement of bulk commodities from the source to end users and harbours for export. KWS's main customers for logistics associated with dry bulk commodities participate in the ore and metallic minerals sector.

### **Proposed transaction and rationale**

[6] The merging parties submit that the transaction involves the acquisition of a total of 60% shareholding of issued shares in KWS by Imperial Logistics.

[7] Imperial Logistics submits that the proposed transaction will broaden its footprint and exposure in an area of the mining industry in which it has little or no involvement i.e. the provision of logistics services to alloys, ores, manganese, chrome and related mineral sectors.<sup>1</sup>

[8] From KWS's perspective the proposed transaction will present KWS with various opportunities predominantly arising from access to Imperial Logistics' larger resources such as "known-how", capital and

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<sup>1</sup> See competitiveness report submitted by merging parties page 51.

purchasing power as Imperial Logistics has a sound and well established brand in the logistics business in South Africa.<sup>2</sup>

### **The relevant market and the impact on competition**

[9] The parties agreed with the Competition Commission's ("Commission") submission that there is a horizontal overlap in the activities of the merging parties in respect of the provision of transportation for dry bulk commodities. Geographically these activities do not overlap as KWS mostly operates in the Northern Cape region, and Imperial Logistics in the greater Mpumalanga and Limpopo regions respectively. This however does not constrain the merging parties from tendering business throughout the country.

[10] The Commission's assessment of the market confirmed that post merger the merging parties will have a market share of less than 15 % for the provision of transportation for dry bulk commodities.<sup>3</sup> This means that the merging entities post merger, will face sufficient competition from other competitors in the market.<sup>4</sup>

[11] Although there is vertical overlap in the activities of the merging parties, the Commission confirmed that such overlap is of little significance and as a result, will not have any negative impact on competition in the relevant market.<sup>5</sup>

[12] Therefore, we conclude that the transaction is unlikely to substantially prevent or lessen competition in any relevant market.

### **Public interest**

[13] The merging parties submitted that the proposed transaction will not result in any job losses and as a result will have no impact on public interest.<sup>6</sup>

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<sup>2</sup> See merger record page 52.

<sup>3</sup> See page 2 of transcript hearing.

<sup>4</sup> See merger record pages 61, 62 and 65.

<sup>5</sup> See page 2 of transcript of hearing.

<sup>6</sup> See merger record pages 49-50 and 65.

## CONCLUSION

[14] We unconditionally approve the merger.



**Yasmin Carrim**

03 December 2012

**DATE**

**Medi Mokuena and Takalani Madima concurring.**

Tribunal researcher: **Caroline Sserufusa**

For the merging parties: Anton Roets of Nortons Inc

For the Commission: Zanele Hadebe