

**COMPETITION TRIBUNAL  
REPUBLIC OF SOUTH AFRICA**

**Case No: 20/LM/Apr03**

**In the large merger between:**

**The Used Equipment Company (Pty) Ltd**

**And**

**Barloworld Equipment (Pty) Ltd and BLC Plant Company (Pty) Ltd**

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**Reasons for Decision**

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**APPROVAL**

**On 4 June 2003 the Competition Tribunal issued a Merger Clearance Certificate approving the merger between the Used Equipment Company (Pty) Ltd and Barloworld Equipment (Pty) Ltd and BLC Plant Company (Pty) Ltd in terms of section 16(2)(a). The reasons for the approval of the merger appear below.**

**The Merger Transaction**

1. Barloworld Equipment (Pty) Ltd ("BE") and BLC Plant Company (Pty) Ltd ("BLC") are forming a joint venture company, the Used Equipment Company (Pty) Ltd ("UEC"), which has not traded up until now. BE and BLC will each have a 50% interest in this company. This company will undertake the business of purchasing, refurbishing, marketing and selling used earthmoving equipment.

**Rationale for the Transaction**

2. This transaction is effectively an entrenchment of an existing marketing alliance between BE and BLC. BE is a subsidiary of Barloworld, and has the sole dealership for the Caterpillar brand of earth-moving equipment. They deal predominantly in new equipment, whereas BLC deals in used

earth-moving equipment of a range of brands. BE wants to move more into the used earthmoving equipment market while BLC hopes to gain the benefits of the national scale and infrastructure that BE provides. The parties have also indicated that UEC will secure significant export orders for its products.

**The Relevant Market**

- 3. BE sells used (primarily Caterpillar) equipment while BLC focuses on the purchase, repair and resale of used earthmoving equipment of all brands. Examples of such products include hydraulic excavators, skid steer loaders, wheel loaders, and a variety of other products designed primarily to move quantities of earth.
- 4. BE and BLC are essentially intermediaries or dealers in used equipment. They buy and sell used earthmoving equipment, either from construction companies or via import agents (auctioneers). Companies would sell the used equipment to the dealers in exchange for other equipment.
- 5. The product overlap is in respect of the purchase and sale of used earthmoving equipment.

6.				

**Geographic Market**

6. The trade in earthmoving equipment occurs on a national, as well as an international level, since products can be imported at very low import duties. The commission defines the geographic market as national and we will likewise confine ourselves to this narrower level of analysis.

**Impact on competition**

- 7. The parties submit that there is demand substitution between different brands of earthmoving equipment and most suppliers keep a wide range of earthmoving equipment.
- 8. The market shares of the new earthmoving equipment market were used to calculate the likely market shares of the joint venture entity in the used market. These figures do not raise competition concerns.
- 9. It further appears that entry barriers in the used earthmoving equipment

market are low, since there are many other participants who deal in all brands of used earthmoving equipment. There is in addition countervailing power from customers, who are able to source this type of equipment from a variety of suppliers. Customers can furthermore source directly from the manufacturers, thereby cutting out the intermediaries.

## **Conclusion**

We conclude that the merger will not lead to a substantial lessening of competition. There are no public interest concerns which would alter this conclusion. The merger is therefore approved unconditionally.

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**D.Lewis**

4 June 2003

Date

Concurring: U. Bhoola, L. Reyburn

For the merging parties:	Deneys Reitz Attorneys
For the Commission:	M. Worsley, M. Mohlala, Competition Commission