

In the large merger between:

Unitrans Motors (Pty) Ltd

and

The Motor Division of Senwes Ltd

Reasons for Decision

APPROVAL

On 17 January 2002 the Competition Tribunal issued a Merger Clearance Certificate approving the merger between Unitrans Motors (Pty) Ltd and the Motor division of Senwes Ltd in terms of section 16(2)(a). The reasons for the approval of the merger appear below.

The Parties

The primary acquiring firm Unitrans Motors (Pty) Ltd ("Unitrans"). Unitrans is controlled by Unitrans Motors Enterprises (Pty) Ltd, which is ultimately controlled by Unitrans Ltd.¹

The primary target firm is the Motor Division of Senwes Ltd ("Senwes"), the majority of which is controlled by Senwebel Ltd, with the remaining shares being held by a group of farmers.

Both companies operate motor vehicle dealerships. Unitrans is a franchise dealer, that is, it distributes vehicles of a number of different manufacturers in terms of franchise agreements.

¹ Unitrans' subsidiaries are the Motor Retail Division, Autocare Warranty (Pty) Ltd, Contract Lease Management (Pty) Ltd, Unitrans Finance (Pty)(Ltd) and Alisa Holdings (Pty)(Ltd). Unitrans is listed, with Murray and Roberts having shareholding of about forty odd percent, Steinhoff, the next biggest shareholder has thirteen (13) approximately, and there are a range of institutional and individual shareholders.

The merger transaction

Unitrans is acquiring ownership and control of the motor division of Senwes, specifically its **motor vehicle dealerships and petrol service stations** conducted under the Senwes names. These include 8 outlets located in Kroonstad (Toyota, VW, Delta), Vryburg (Toyota), Hartswater (Toyota, Delta) and Klerksdorp (Volkswagen and Ultra Motors). Senwes' other remaining dealerships will be either sold or closed.

The dealerships being acquired will be absorbed into Unitrans' existing administrative and management infrastructures and will augment Unitrans' product offerings to clients in areas where they already have a retail presence.²

Rationale for the Transaction

According to the parties, Senwes has invested in several so-called "platteland" dealerships in the Free State, North West and Northern Cape. They have not generated sufficient returns and are detracting from Senwes' agricultural focus, hence its desire to get out of motor retailing.

The relevant product market

The merging parties both sell new and used motor vehicles and provide parts and servicing for the following motor vehicle brands:

- Toyota
- Delta
- Volkswagen and
- Audi

New Vehicle Sales

The segments where the activities of the merging parties overlap, or where both parties are active, according to the Commission, are:

- Entry level vehicles
- Small vehicles
- Light vehicles
- Topline vehicles
- Medium vehicles and
- Station wagons.

² Unitrans dealerships: -See Annexure C1 to Competitiveness Report.

Commercial Vehicles

In the commercial vehicle market the Commission found the only area of overlap to be busses, but did not elaborate further on this market in their report. During the hearing it emerged that “busses” in this context refer to minivan busses such as Hiace.

Other product offerings

The Commission did not examine in detail the used car, after-sales servicing or spare parts markets since they found that in these markets the barriers to entry are low; there are high levels of competition in each market, therefore there are no competition concerns.

Geographical Market

Senwes has eight outlets located in Northern Cape, Free State, North West. Unitrans’ outlets are located across the country. The parties delineated the markets according to provinces – Northern Cape, Free State, North West – since this coincides with the NAAMSA classification where data is rich; also Dealer Area Responsibility is stipulated in franchise agreements. However, it was conceded that customers are not bound to a particular area when buying cars and the trend is to buy from dealers within close proximity to their work or residence, suggesting a local market.

The Commission found that the only area of overlap where both parties are active is Klerksdorp because this is where Unitrans and Senwes both have dealerships. Senwes is involved in the VW and Audi brands here and Unitrans with Toyota. Accordingly, within this geographic area of overlap, the merging parties sell different brands:

| | Klerksdorp | Kroonstad | Vryburg | Hartswater |
|------------|------------|-----------|---------|------------|
| Toyota | Unitrans | Senwes | Senwes | Senwes |
| Delta | | Senwes | | Senwes |
| Volkswagen | Senwes | Senwes | | |
| Audi | Senwes | | | |

Therefore in Klerksdorp (shaded area is area of overlap):

Unitrans sells Toyota
Senwes sells Volkswagen, Audi.

The Commission accepted the information provided by NAAMSA and NAADA, to the effect that the geographic area could conceivably be broader than Klerksdorp, since customers of the merging parties can source their vehicle requirements from the Klerksdorp, Potchefstroom or Orkney areas. The Tribunal

agrees that an analysis confined to the Klerksdorp area only would be too narrow a market definition, therefore the geographic area to be analysed should rightly be Klerksdorp including these three areas (which we shall for convenience refer to as the “greater Klerksdorp” area).

Market Shares

The market shares furnished by the Commission for the greater Klerksdorp area, in each of the overlapping market segments are as follows³:

Table 1: Competition per Segments for the greater Klerksdorp area

| Segment | Toyota | VW⁴ | Post Merger |
|----------------|---------------|-----------------------|--------------------|
| Entry Cars | 12.9 | 9 | 21.9 |
| Small Cars | 8.6 | 17.2 | 25.8 |
| Light Cars | 17 | 12 | 29 |
| Topline Cars | 2 | 30 | 32 |
| Medium Cars | 5 | 21 | 26 |
| Minivan Busses | 25 | 25 | 50 |

Source: Competition Commission Report

Effect on Competition

New Vehicles

The merger will result in the coming together of two independent dealer networks. In the affected area, the greater Klerksdorp area (including Potchefstroom and Orkney), the effect is the combining of dealer outlets which sell different brands. There can therefore be no reduction of intra-brand competition.

Further, reduction in inter brand competition is not an issue because each party’s dealership is brand specific. The parties state that outlets are managed on a brand specific basis, by separate management teams. Each brand has its own cost structure, sales targets and management team. Interbrand competition is encouraged by the retail management team and they will be unlikely to promote one brand at the expense of another. The motor manufacturers enforce this inter brand competition, as they set targets – therefore, to this extent, dealers’ power is constrained by the manufacturers. Furthermore, there are at least three other sources of supply for each segment in the greater Klerksdorp area.⁵

³ These figures are NAAMSA figures that include cars registered in that area. The Commission advised that cars purchased in another area could be reflected as a sale in the figures provided by NAAMSA. Accordingly these figures may well be inflated.

⁴ VW market share figures include sales of Audi since the Audi brand is owned by Volkswagen SA.

⁵ During the hearing the parties confirmed there is a Cargo outlet in the greater Klerksdorp area.

Although market shares in Klerksdorp alone were considerably higher, this is mitigated by the fact that customers can source these brands (Toyota, VW, Audi) from neighbouring areas such as Orkney and Potchefstroom. Taking these areas into account, the market shares become more diluted (see table 1). The parties also point out that much cross-shopping takes place by consumers, who might purchase vehicles outside their immediate vicinity.⁶ The Klerksdorp customers therefore have a choice to purchase Toyota or VW vehicles within even a 120km radius, from areas as far afield as Lichtenburg, Carletonville and Vereeniging.

Commercial Vehicles

In the bus segment, the fact that combined market shares were high and that there is only one other competitor in this market, namely Mercedes, initially raised questions from the Tribunal panel. However, in subsequent submissions, the parties and Commission assured that this would not raise competition concerns for the following reasons: firstly there are other sources of supply of minivans in the geographic area of overlap, namely Mercedes, as well as other Toyota and Volkswagen dealers. Secondly where the minivan busses form part of a fleet of vehicles, it is common practice for the purchasers to source them beyond the relevant geographical market; and thirdly the parties referred to the existence of competition from the second hand market.⁷

Public Interest Issues

According to the parties, ten head office employees will be retrenched as a result of the merger. None of the unions notified about the transaction filed an intention to participate in the proceedings or expressed any reservations regarding the merger.

Conclusion

The Tribunal accords with the Commission's finding that this transaction will not substantially lessen or prevent competition in the relevant market and accordingly approves the transaction without conditions.

D. Lewis

24 January 2002
Date

Concurring: N.M. Manoim, P. Maponya

⁶ Document 26 of record, page 2

⁷ The market shares for the sale of minivans in the greater Klerksdorp area were initially substantially higher, but later amended by the Commission in a subsequent submission, to reveal a lower combined market share, reflecting the more accurate position.