COMPETITION TRIBUNAL

REPUBLIC OF SOUTH AFRICA

Case Number: 82/LM/Jul00

In the large merger between

Ford Motor Company

and

Land Rover Group Ltd

Reasons for the Competition Tribunal's Decision

Approval

The Competition Tribunal issued a Merger Clearance Certificate on 6 September 2000 approving the merger between Ford Motor Company and Land Rover Group Ltd without conditions. The reasons for our decision are set out below.

The merger transaction

Ford is purchasing all the ordinary shares and redeemable ordinary shares in the Land Rover Group Limited in Jersey, all of the issued common shares in the capital of the U.S. company Land Rover Group USA, Inc, and the entire issued share capital of the Canadian company Land Rover Canada Newco from BMW. Although the transaction occurs wholly outside of South Africa among foreign companies the parties need the approval of the South African Competition Authorities before the South African portion of the transaction can be implemented.

The U.S. Federal Trade Commission granted early termination of its waiting period on 6 June 2000 and the EEC approved the merger on 29 June 2000.

Background

The Rover Group Ltd was a wholly owned subsidiary of BMW. BMW has reorganized Rover into two new businesses, the Rover Business (which includes Rover-branded vehicles), which is being sold to the Phoenix Consortium, a group of financial investors and former Rover managers, and the Land Rover Business (which includes Land Rover-branded vehicles), which is being sold to Ford.

This internal reorganization involves 1) the creation of new Land Rover subsidiaries and 2) the transfer of these subsidiaries, production and R&D facilities, intellectual property, inventory and staff to several newly created companies, including in particular the newly created Jersey (Channel Islands) company Land Rover Group Ltd.

Land Rover Group Ltd includes the worldwide Land Rover Business outside the USA and Canada (separate companies have been created by BMW in North America which are acquired directly by Ford) and is the owner of shares in Land Rover South Africa (Pty) Ltd.

Evaluating the merger

Ford, which is the second largest motor manufacturer in the world, is active in South Africa only in respect of its sales to Samcor and by virtue of its interests in Samcor and Ford Credit SA. Ford does not supply products or services in South Africa other than to these two companies.

Land Rover is engaged in the manufacturing, marketing, selling and distribution of 4X4 vehicles (also called utility vehicles) and related parts and accessories. It also manufactures one pickup model classified as a light commercial vehicle (LCV).

According to the parties both Ford and Land Rover are targeting younger buyers and people with higher incomes.

Whether we define the market to include all passenger vehicles, or as light commercial vehicles (LCV) only, or whether we define it more narrowly as the market for utility four-wheel drive passenger vehicles is, for purposes of this evaluation, not important. Since, as we show below, in none of these categories the post merger concentrations are sufficiently significant to be raised as competition concerns.[1]

[1] The EU in its decision, Case No COMP/M.1998-Ford/LandRover, says that: "In previous passenger vehicle cases the Commission has left open both product and geographic market definitions, the narrowest possible definition being separate segments in individual countries." Segments being the different categories such as, for instance, S class = Sports Coupe, M class = Multipurpose and J class = Sorts Utilities. In the Commission Decision of 24/05/1996 (Case No IV/M.741 – Ford/Mazda) the Commission says that "In the end it can however be left open whether, for the purposes of the competitive analysis, the car market should be considered as one product market."

The five largest producers of passenger cars, according to NAAMSA, are Volkswagen (21%), Toyota (20%), Samcor (14.2%), Daimler-Crysler (10%) and Delta (9%). Samcor's market share after the merger will increase with 2% to 16% in this market. NAAMSA only included data of companies that are part of NAAMSA and, accordingly, the data underestimates the size of the South African market and does not, for example identify competitors such as Ssangyong, Daihatsu, Subaru and KIA, all of which import vehicles into South Africa.

In the LCV market Toyota is the largest with a market share of 26,2%, Delta has 22,5, Samancor 20,6% and Land Rover 0,4%. Samancor's market share, post merger will increase to 21%.

The five largest producers of the utility four-wheel drive passenger vehicles are Delta (26.1%), Toyota (17,3%), Daimler Chrysler (16.9%), Samcor (13.4%) and Land Rover (12%). Samcor's market share will increase to 25% after the merger. (The parties provided these figures at the hearing.)

Samcor, Toyota, Delta (GM), BMW, Nissan, and Daimler Crysler have manufacturing facilities in South Africa. BMW will continue to assemble Land Rover at the BMW plant in Rosslyn for at least the next 18 months after which it will be moved it to Samcor's Silverton plant.

According to the parties Ford does not intend to decrease the staffing level, the type of business performed or the way in which Land Rover's business operates in South Africa. The transaction will have not impact on distributors of Land Rover, as dealerships are dealer owned.

The merger, therefore, does not raise any public interest concerns listed in section 16(3).

7 September 2000

N. M. Manoim **Date**

Concurring: D.H. Lewis, P.E. Maponya