COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 89/LM/Aug07

In the matter between:

Barloworld Motor (Pty) Ltd	Acquiring firm
And	
Pretoria Oos Motors (Pty) Ltd	Target firm

Panel	: D Lewis (Presiding Member), Y Carrim (Tribunal Member), N Manoim (Tribunal Member)
Heard on	: 05 September 2007
Decided on	: 05 September 2007
Reasons Issued	: 27 September 2007

REASONS

Approval

[1]. On 5 September 2007 the Competition Tribunal issued a Merger Clearance Certificate approving the merger between Barloworld Motor (Pty) Ltd (" Barloworld Motor") and Pretoria East Motors (Pty) Ltd ("PET") unconditionally. The reasons appear below.

Parties

[2]. The acquiring firm is Barloworld Motor (Pty) Ltd ("Barloworld"), a company incorporated under the laws of the Republic of South Africa. Barloworld Motor is a wholly owned subsidiary of Barloworld Ltd ("Barloworld").[1] Barloworld Motor has a 50% interest in NMI Durban South Motors (Pty) Ltd. The target firm is Pretoria East Motors (Pty) Ltd ("PET") a company incorporated under the laws of the Republic of South Africa.[2]

[1] For a list of the other Barloworld subsidiaries see page 24 of the record.
[2] The shareholders of Pretoria East Motors are D Jacobs 38%, S Jacobs 26% and Cecil Wolpe Holdings (Pty) Ltd 36%.

Transaction

[3]. In terms of the proposed transaction Barloworld Motor will acquire the entire business of PET.

Rationale

[4]. From the acquiring firm’s perspective the proposed transaction provides it with an opportunity to grow its retail business by offering an enhanced link between manufacturers and customers and a better range of products from which customers can choose from.

[5]. The target firm’s investors wish to realize their investment in their business.

Parties’ Activities

[6]. Barloworld through Barloworld Motor operates leading motor vehicle franchise dealerships in the retail markets for passenger, light and heavy commercial vehicles.

Relevant Market

[7]. According to the merging parties it appears that two product markets are affected by this transaction namely: the market for the retail sale or distribution of new motor vehicles and associated services through dealerships; and the market for retail or distribution of used motor vehicles and associated services through dealerships. This Tribunal has previously[3] approached market definition in the retail motor vehicle markets by finding that different segments could constitute distinct relevant product markets.[4] In this transaction, the Commission did not conclude on the segmentation of all vehicles sold in the relevant geographic market but concentrated on the overlap of vehicles sold by both parties and similar vehicles over all brands in the relevant market.

[8]. In relation to the geographic market, the Commission did not arrive at a firm conclusion but limited its investigation to the area of Pretoria.

[3] See our previous decisions, inter alia, *Sandown Motor Holding (Pty)Ltd and Paarl Motors (Pty)Ltd* 65/LM/Aug06; *DaimlerChrysler South Africa (Pty) Ltd and Sandown Motor Holdings (Pty) Ltd* [2001-2002] CPLR 151 (CT); *Unitrans Motors (Pty) Ltd and the Motor Division of Senwes Ltd* [2001-2002] CPLR 350 (CT).

[4] The passenger vehicle segmentation may include cars which are entry level, small, lower middle, upper middle, large, lower luxury, upper luxury, lower speciality, upper speciality, small utility, lower middle utility, upper middle utility, small minivans, and minivans. The market for commercial vehicles includes light, medium, heavy commercial vehicles, and buses and trucks.

Competition Analysis

[9]. The Commission's investigation revealed that the market for the sale of used cars does not raise any competition concerns as there are many entrants, private sales, internet sales and auctions. In the market for the retail sale of new passenger and light commercial vehicles, the Commission found that, for the period July 2006 to July 2007, Barlow had sold 612 units of passenger vehicles and 182 light commercial vehicles in the Pretoria area. Over the same period, PET had sold 306 units of passenger vehicles and 58 light commercial vehicles. [5]

[10]. The Commission's market share analysis revealed that the combined market shares for the merging parties are 2.7% for passenger vehicles and 1.7% for light commercial vehicles.[6] As can be seen from the above the merging parties' combined post-merger market shares are relatively low and do not on their own raise any serious competition concerns.

[11]. In its analysis of inter-brand competition the Commission found that in the market for the retail sales of vehicles there are a large number of manufacturers such as Nissan and Volkswagen competing with a large portfolio of brands across a wide segment of the market. The prevalence of the different brands in each market suggests that the entry of new manufacturers is relatively easy and the merged entity would continue to face inter-brand competition from other manufacturers. The Commission further considered intra-brand competition and found that the level of intra-brand competition cannot be easily assessed as pricing may not be transparent.

[12]. We agree with the Commission's conclusions that although intra-brand competition may be slightly reduced, as Barloworld Motors will, post merger, own two Toyota dealerships in the relevant geographic market, this would not impede effective competition as there is strong inter-brand competition. Accordingly we find that the transaction is unlikely to lead to a substantial lessening or prevention of competition.

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[5] See page 5 of the Commission's Report

[6] See Commission's report page5. These figures relied upon data sourced from Naamsa and provided by the merging parties.

Conclusion

[13]. The transaction does not raise any public interest concerns and the transaction is approved unconditionally.

______________________	**<u>27 September 2007</u>**
Y Carrim	**Date**
Tribunal Member	

N Manoim and D Lewis concurring

Tribunal Researcher	: J Ngobeni
For the merging parties	: Bowman Gilfillan
For the Commission	: Lindiwe Khumalo (Mergers & Acquisitions)