



## COMPETITION TRIBUNAL OF SOUTH AFRICA

Case no: LM036Jul21

In the large merger between:

**McCarthy (Pty) Ltd** (Primary Acquiring Firm)

And

**Melrose Motor Investments (Pty) Ltd** (Primary Target Firm)

Heard on: 23 August 2021

Order Issued on: 23 August 2021

### REASONS FOR DECISION

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- [1] On 23 August 2021, the Competition Tribunal unconditionally approved the large merger between McCarthy (Pty) Ltd (“McCarthy”) and Melrose Motor Investments (Pty) Ltd (“MMI”).
- [2] The transaction involves McCarthy acquiring the entire issued share capital of MMI such that post-merger, McCarthy will exercise sole control over MMI.
- [3] McCarthy is involved in the sale of new and used passenger and commercial vehicles through its various motor dealerships located throughout South Africa. McCarthy is wholly owned by Bidvest Group Ltd.<sup>1</sup> McCarthy further provides ancillary workshop services such as vehicle servicing, repairs and sales of parts in addition to acting as an intermediary in the provision of finance and insurance support services to its customers.
- [4] MMI is involved in the business of automotive retailing, specialising in the sale of new and used passenger vehicles (“PVs”) and light commercial vehicles (“LCVs”) through Melrose Nissan – its dealership located in Melrose, Johannesburg. In particular, MMI supplies the following: (i) the sale of new Nissan and Datsun passenger vehicles; (ii) the sale of light commercial vehicles; (iii) the sale of used vehicles (across various manufacturers); (iv) the provision of after-sale services (servicing and repairs); and (v) the sale of after-sale parts and accessories. MMI further acts as an intermediary in the provision of finance and insurance support services to its customers.
- [5] The Competition Commission (“Commission”) found a horizontal overlap in the activities of the merging parties, as both are involved in the retail of new and used PVs and LCVs.<sup>2</sup> The Commission assessed the impact the merger would have on the sale

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<sup>1</sup> Bidvest Group Ltd is not controlled by any single shareholder.

<sup>2</sup> The Commission found that McCarthy owned approximately 40 dealerships in Gauteng.

of new PVs and new LCVs within Melrose and the surrounding areas.<sup>3</sup> The Commission also assessed the market for the provision of scheduled maintenance and after-sales services within Melrose and the surrounding areas.<sup>4</sup>

- [6] In the market for the sale of new PVs within Melrose and the surrounding areas, the Commission found that the merged entity would have a post-merger market share below 5% following an accretion of less than 2%. In the market for the sale of new LCVs within Melrose and the surrounding areas, the Commission found that the merged entity would have a post-merger market share between 16 – 21% following an accretion between 3 – 8%.<sup>5</sup>
- [7] In both of the above markets, the Commission found that the merged entity would remain constrained by over 35 other dealerships within the area under assessment. The Commission found that the relatively low market shares above, as well as the availability of alternative suppliers of PVs and LCVs were unlikely to raise any competition concerns within Melrose and the surrounding areas.
- [8] In the market for the scheduled maintenance and after-sales in Melrose and the surrounding areas as regards Nissan PVs and LCVs,<sup>6</sup> the Commission found that the merged entity would remain amply constrained by at least six alternative new Nissan dealerships.<sup>7</sup> The Commission also found that scheduled maintenance and after-sales was included as part of the purchase price of new PVs and LCVs, and as such, customers were unlikely to be at risk of any unilateral price increases post-merger.<sup>8</sup>
- [9] No third parties raised concerns regarding the effects of the proposed transaction on competition.
- [10] The merging parties submitted that the proposed transaction would not have a negative effect on employment, particularly that it would not result in retrenchments. The National Union of Metalworkers of South Africa (“NUMSA”) and Motor Industry Staff Association (“MISA”) represent the employees of both McCarthy and MMI. MISA did not raise any concerns with the merger, and NUMSA did not provide any feedback to the Commission following several communications.
- [11] Regarding the effect of the merger on a particular industrial sector as per s 12A(3)(a) of the Act, the Commission found that McCarthy and MMI already made Nissan spare parts available to independent service providers/dealerships for purposes of service,

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<sup>3</sup> The surrounding areas include Sandton, Alexandra, Bryanston, Rivonia, Woodmead, Fourways, Hyde Park, Midrand, Soweto and Randburg. The Commission did not conclude on the relevant geographic scope, and assessed the impact of the merger within Melrose (where the target dealership was located) and these surrounding areas.

<sup>4</sup> The Commission did not assess the sale of used PVs and LCVs through dealerships as competition concerns were unlikely to arise.

<sup>5</sup> The Commission also found that these figures may be overstated as data from several manufacturers was not available.

<sup>6</sup> The retail of original equipment manufacturer spare parts and components was linked to the provision of scheduled servicing, as these parts were usually sold by dealerships during the provision of scheduled servicing for vehicles under warranty.

<sup>7</sup> (i) CMH Nissan Sandton, (ii) CMH Nissan Midrand, (iii) Group 1 Nissan The Glen, (iv) Mark White Nissan Randburg, (v) Morgan Nissan Northcliff, and (vi) Nissan Motordeal Joburg South.

<sup>8</sup> This was supported by the Commission finding that Nissans had lower demand than other brands.

maintenance or repair work. The Commission confirmed that these arrangements would continue post-merger.

- [12] We concluded that the proposed transaction was unlikely to substantially prevent or lessen competition in any relevant market, or to have a negative impact on any other aspect of the public interest contemplated in section 12A(3).

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**Mr Enver Daniels**  
**Dr Thando Vilakazi and Prof Imraan Valodia concurring.**

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**23 August 2021**

**Date**

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