competitiontribunal south africa

# COMPETITION TRIBUNAL OF SOUTH AFRICA

**Case No: LM064Jul16**

In the matter between:

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| **Nissan Motor Co. Ltd** | Primary Acquiring Firm |
| and | |
| **Mitsubishi Motors Corporation** | Primary Target Firm |

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| Panel | : Anton Roskam (Presiding Member) |
| | : Imraan Valodia (Tribunal Member) |
| | : Medi Mokuena (Tribunal Member) |
| Heard on | : 28 September 2016 |
| Order Issued on | : 28 September 2016 |
| Reasons Issued on | : 30 September 2016 |

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## Reasons for Decision

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**Approval**

[1] On 28 September 2016, the Competition Tribunal ("Tribunal") unconditionally approved the merger between Nissan Motor Co. Ltd ("Nissan") and Mitsubishi Motors Corporation ("MMC").

[2] The reasons for approving the proposed transaction follow.

**Parties to transaction**

*Primary acquiring firm*

[3] The primary acquiring firm Nissan, a firm incorporated in Japan, is controlled by Renault S.A. ("Renault"). Renault is a public company listed on the Paris Stock Exchange and is not controlled by any single firm. In South Africa, Renault holds a 40 percent interest in Renault South Africa (Pty) Ltd ("Renault South Africa").[1]

[4] Nissan manufactures and supplies vehicles under the Nissan, Infiniti and Datsun brands and is the sixth largest automaker in the world. In South Africa, Nissan under Nissan South Africa (Pty) Ltd has a production and research and development facilities. Nissan also has 116 privately owned car dealerships throughout South Africa. Renault is also active in the manufacture and supply of vehicles globally, as the eleventh largest automaker in the world, but in South Africa it only supplies and does not manufacture any vehicles.

*Primary target firm*

[5] The primary target firm is Mitsubishi Motors Corporation ("MMC") which is a firm incorporated in Japan and is listed on the Tokyo Stock Exchange and not controlled by a single firm. In South Africa, MMC does not control any firms.

[6] MMC also manufactures and supplies motor vehicles as the eighteenth largest automaker in the world. In South Africa, MMC does not manufacture any vehicles and supplies its vehicles through Imperial Holdings.

**Proposed transaction and rationale**

[7] The proposed transaction involves Nissan acquiring a 34% equity in MMC making it the largest shareholder in MMC and also giving it sole control.

[1] The remaining shares in Renault South Africa are held by Imperial Car Imports (Pty) Ltd which is a wholly owned subsidiary of Imperial Holdings Limited ("Imperial Holdings").

[ 8 ] The merging parties have submitted that the proposed transaction is in order to achieve, amongst other things, synergies and improve economies of scale.

**Impact on competition**

[ 9 ] According to the Competition Commission's ("the Commission") findings the proposed transaction does not result in a substantial lessening of competition in any market. Their findings are based on the fact that in their three identified markets, namely; the national market for small cars, the national market for sports utility cars and the national market for the supply of light commercial vehicles there is a minimal accretion of not more than 3 percent in each market. In addition, in each identified market competitors, such as Toyota South Africa and Volkswagen Group SA, were prevalent and acted as significant constraints.

[ 10 ] The Commission also evaluated various vertical effects of the proposed transaction. On whether the merger had the potential to foreclose Imperial Holdings as a distributor of MMC products, the Commission found that if the merging parties were to adopt a foreclosure strategy it was unlikely that Imperial Holdings would be affected, as Mitsubishi comprises a minor percentage of its business. The Commission also investigated whether Mitsubishi branded independent dealerships would be foreclosed as a result of the merger. The Commission found that independent Mitsubishi branded dealerships sell a variety of vehicles which would result in their businesses being unaffected.

[ 11 ] In the absence of any evidence to the contrary we concur with the Commission's competition assessment, i.e. that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. In addition we find that the merger's vertical effects would unlikely result in foreclosure.

**Public interest**

[ 12 ] The merging parties confirmed that the proposed transaction will not result in an adverse impact on employment.[2] The proposed transaction further raises no other public interest concerns.

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[2] *Inter alia* merger record page 7.

## Conclusion

[ 13 ] In light of the above, we conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. In addition, no public interest issues arise from the proposed transactions. Accordingly, we approve the proposed transaction unconditionally

**Mr Anton Roskam**

30 September 2016
**DATE**

**Prof Imraan Valodia and Medi Mokuena concurring**

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| Tribunal Researcher: | Aneesa Ravat |
| For the merging parties: | Rosalind Lake of Norton Rose Fulbright |
| For the Commission: | Reabetswe Molotsi and Thabelo Masithulela and Ratshidaho Maphwanya |