IN THE COMPETITION TRIBUNAL

THE REPUBLIC OF SOUTH AFRICA

TRIBUNAL CASE NO: 73/LM/Nov10

In the matter between:

The Economic Development Department	First Applicant
The Department of Trade and Industry	Second Applicant
The Department of Agriculture, Forestry and Fisheries	Third Applicant

And

Wal-Mart Stores Inc	First Respondent
Masmart Holdings Ltd	Second Respondent

In re: The merger between

WAL-MART STORES INC	**Acquiring Firm**

AND

MASSMART HOLDINGS LTD	**Target Firm**

Panel	:	Norman Manoim (Presiding Member), Andreas Wessels (Tribunal Member) and Yasmin Carrim (Tribunal Member)
Heard on	:	25 March 2011
Order issued	:	25 March 2011

Order: Applicants' Request for Discovery

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1. **The merging parties are ordered to make discovery of the following with reference to the paragraph numbers contained in the applicants' request dated 23 March 2011:**

1.1 **Re Item 2.3**: In relation to Bond's claim in paragraph 32.1 of his witness statement:

a. Provide the source document/s on which the claim is based

b. Any underlying data that informed the source document/s

c. Any documents informing the methodology for calculating the percentage, including, but not limited to the definition of "sourced locally".

1.2 **Re Item 2.6**: To the extent not already provided, the underlying data and measurement methodology informing figures 4 and 5 in the RBB report.

1.3 **Re item 2.12**: Copies of the ABRAS and AC Nielsen reports which support the claims made in footnote 23 and page 44 of the RBB report that "in Brazil the three major retailers account for 39% of grocery sales, while in Argentina the top four grocery retailers account for 65% of the market".

1.4 **Re Items 3.1, 3.2, 3.3, 3.5, 3.6**: To the extent not yet provided furnish all documents listed in these items.

1.5 **Re Item 4.2**: To the extent not yet provided, furnish any documents evidencing and or in support of Massmart's local procurement strategy as detailed in paragraph 6.8 of the Witness Statement by Pattison.

1.6 **Re Item 4.6**: To the extent not yet provided, all underlying documents supporting tables 7 and 8 of the RBB report.

1.7 **Re Item 4.8**: To the extent not yet provided, the documents requested in this paragraph or in respect of those obtainable in the public domain, indicate where they may be located.

2. **Tendered documents**

It is recorded that the merging parties have already tendered to produce the documents referred to in items 2.4, 2.9, 2.10 and 2.11 and accordingly no order is made in respect of them.

3. **Documents not in possession**

If any of the merging parties does not have any documents required to be produced in terms of this order in its possession, it must furnish an affidavit from the relevant person with the requisite knowledge and authority confirming this and providing an explanation as to why the document cannot be furnished.

4. **Dates**

The merging parties must make such discovery, including documents tendered, and/or furnish such affidavits as ordered by 16h00 on 5 April 2011.

Norman Manoim
Presiding Member

Concurring: Yasmin Carrim and Andreas Wessel