

# COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No.: 73/LM/Nov10

In the matter between:

**Wal-Mart Stores Inc**

and

**Massmart Holdings Limited**

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Panel : N Manoim (Presiding Member), Y Carrim (Tribunal Member) and A Wessels (Tribunal Member)

Heard on : 11 - 16 May 2011

Decided on : 31 May 2011

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## ORDER

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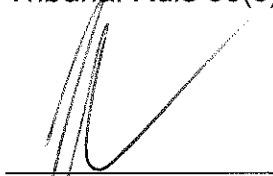
1. Further to the recommendation of the Competition Commission in terms of section 14A(1)(b) of the Competition Act, 1998 ("the Act") the Competition Tribunal approves the merger between Wal-Mart Stores Inc and Massmart Holdings Limited in terms of section 16(2)(b) of the Act, subject to the following conditions:

1.1 The merged entity must ensure that there are no retrenchments, based on the merged entity's operational requirements in South Africa,

resulting from the merger, for a period of two (2) years from the effective date of the transaction. For the sake of clarity, retrenchments do not include voluntary separation agreements, voluntary early retirement packages, and unreasonable refusals to be redeployed in accordance with the provisions of the Labour Relations Act, 1995, as amended.

- 1.2 The merged entity must, when employment opportunities become available within the merged entity, give preference to the re-employment of the 503 employees that were retrenched during June 2010 and must take into account those employees' years of service in the Massmart Group.
- 1.3 The merged entity must honour existing labour agreements and must continue to honour the current practice of the Massmart Group not to challenge SACCAWU's current position, as the largest representative union within the merged entity, to represent the bargaining units, for at least three (3) years from the effective date of the transaction.
- 1.4 The merged entity must establish a programme aimed exclusively at the development of local South African suppliers, including SMMEs, funded in a fixed amount of R100 million to be contributed by the merged entity and expended within three (3) years from the effective date of this order. This programme will be administered by the merged entity, advised by a committee established by it and on which representatives of trade unions, business including SMMEs, and the government will be invited to serve. The merged entity must report back to the Competition Commission annually, within one month of the anniversary of the effective date, about its progress. In addition the merged entity must establish a training programme to train local South African suppliers on how to do business with the merged entity and with Wal-Mart.
- 1.5 There is no order as to costs.

2. A Merger Clearance Certificate will be issued in terms of Competition Tribunal Rule 35(5)(a).

A handwritten signature in black ink, appearing to be 'N Manoim', written over a horizontal line.

Presiding Member  
N Manoim

**Concurring:** Y Carrim and A Wessels