



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM191Dec15

In the matter between:

UNITRANS AUTOMOTIVE (PTY) LTD

Primary Acquiring Firm

and

THE AUTOMALL (PTY) LTD

Primary Target Firm

Panel	: Yasmin Carrim (Presiding Member)
	: Medi Mokuena (Tribunal Member)
	: Andiswa Ndoni (Tribunal Member)
Heard on	: 27 January 2016
Order Issued on	: 27 January 2016
Reasons Issued on	: 25 February 2016

Reasons for Decision

Approval

[1] On 27 January 2016, the Competition Tribunal ("Tribunal") approved the proposed transaction between Unitrans Automotive (Pty) Ltd and The Automall (Pty) Ltd.

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

Parties to proposed transaction

Primary acquiring firm

- [3] The primary acquiring firm is Unitrans Automotive (Pty) Ltd (“Unitrans Automotive”). Unitrans Automotive is the motor retail division housed in JDG Trading Property and is wholly owned by JD Group Limited. JD Group Limited is ultimately controlled and wholly owned by Steinhoff International Holdings Limited.
- [4] Unitrans Automotive’s key service offerings are the sale of new and preowned vehicles, parts and accessories and after-market service. These services are supported by the provision of consumer credit, insurance products, fleet management services and car rental.

Primary target firm

- [5] The primary target firm is Automall, which is wholly owned by the Automall Holdings Proprietary Limited (“Automall Holdings”). Automall Holdings is jointly owned by the Mark Oostinghh Family Trust and the Peter and Mandy Houzet Family Trust. Automall does not control any firms.
- [6] Automall operates various vehicle dealerships in East London. Its offering includes a service department and a parts department. Automall’s vehicle sales activities are supported by a vehicle financing and insurance department.

Proposed transaction and rationale

- [7] In terms of the Sale of Business Agreement, Unitrans Automotive shall acquire Automall as a going concern. Pursuant to the proposed transaction, Unitrans Automotive will acquire control of Automall’s motor dealership business.
- [8] Unitrans Automotive wishes to acquire Automall as an investment whereas Automall wishes to realise their investment.

Impact on competition

- [9] An assessment of the merging parties’ activities found that there is an overlap in the sale of new passenger and new light commercial vehicles, in both the Eastern Cape and in East London.

- [10] In the East London area Unitrans Automotive operates a single brand (Toyota) dealership while Automall operates a multi-brand dealership but excluding Toyota.
- [11] The Commission assessed the transaction across all brands of motor vehicles. In response to a query raised by the Tribunal whether there would be any competition concerns arising from a possible overlap of brands, the merging parties submitted that the figures provided by the National Association of Automobile Manufacturers of South Africa ("NAAMSA")¹ includes all brands therefore the data given by NAAMSA to the Commission and used in the Commission's report illustrate the market shares in the respective relevant markets with relation to all brands of vehicles.
- [12] In the East London market the share post-merger in the market for new passenger vehicles and in the market for new light commercial vehicles will be high with a large increment. However, it was noted by the Commission that the acquiring firm operates a single brand dealership in East London and the target firm does not operate the Toyota brand in any of its dealerships in East London. Therefore the Commission concludes that the above market shares in the East London region are over-stated as other brands are not considered.
- [13] The Commission found that while the post-merger market share in the market for new passenger vehicles was nominally relatively high the merged entity was likely to face competition post-transaction from other dealerships in the regions such as Meyers Motors, Ronnies Motors and BMW Autohaus Monti
- [14] In the market for the sale of light commercial vehicles the Commission finds that while the high market share indicated an ability on the part of the merged entity to act in a unilateral manner post-transaction, the merged entity was unlikely to act in such a manner because it would still be constrained by other competitors such as Meyers Motors, Ronnies Motors and BMW Autohaus Monti.
- [15] The Commission was of the view that the proposed transaction will not change the dynamics in their respective markets. The Commission therefore concluded that the proposed transaction will not substantially prevent or lessen competition in the East London area.

¹ See Tables 1 and 2 on pages 14-15 of the Commission's report.

[16] The Tribunal questioned the merging parties with regard to an overlap with respect to two brands, namely Nissan and Renault. The merging parties submitted that the overlap is national with the exclusion of East London and the Eastern Cape.

[17] We therefore concurred with the Commission's conclusion that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market.

Public interest:

[18] The merging parties submitted that all the employees at Automall will be taken over as contemplated in section 197 of the Labour Relations Act, No 66 of 1995. The proposed transaction will therefore not have a negative effect on employment.

[19] The proposed transaction further raises no other public interest concerns.

Conclusion

[20] In light of the above, we concluded that the proposed transaction was unlikely to substantially prevent or lessen competition in any relevant market. In addition, no public interest issues arose from the proposed transaction. Accordingly, we approved the proposed transaction unconditionally.



Ms Yasmin Carrim

25 February 2016
DATE

Mrs Medi Mokuena and Ms Andiswa Ndoni concurring

Tribunal Researcher:	Kameel Pancham
For the merging parties:	Cliffe Dekker Hofmeyr
For the Commission:	Nolubabalo Myoli