



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM156Aug18

In the matter between:

Imperial Group Ltd

Acquiring Firm

and

**The Commercial and Van dealerships and the Used Vehicle
Business conducted by Maemo Motors (Pty) Ltd and the
Waterval Premises owned by Lussprop Investments (Pty) Ltd
and the Old Pretoria Premises owned by Lussin Piccolo Africa
(Pty) Ltd and Walkers Corners (Pty) Ltd**

Target Firms

Panel	: Enver Daniels (Presiding Member)
	: Imraan Valodia (Tribunal Member)
Heard on	: 31 October 2018
Order Issued on	: 31 October 2018
Reasons Issued on	: 05 December 2018

REASONS FOR DECISION

Approval

- [1] On 31 October 2018, the Competition Tribunal ("Tribunal") unconditionally approved¹ the large merger involving the acquiring firm, Imperial Group Limited ("Imperial Group") and the target firms: the Commercial and Van dealerships and the Used Vehicle Business conducted by Maemo Motors (Pty) Ltd and the Waterval Premises owned by Lussprop Investments (Pty) Ltd and the Old Pretoria Premises owned by Lussin Piccolo Africa (Pty) Ltd and Walkers Corners (Pty) Ltd, collectively referred to as the target group.²

¹ The parties consented to a Panel consisting of two members due to compassionate grounds.

² The Target Firms are broader than what is described here. The full description is contained in paragraph 5 of these reasons.

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

Parties to proposed transaction

Primary acquiring firm

- [3] The primary acquiring firm is the Imperial Group which is controlled by Imperial Holdings Limited.
- [4] The Imperial Group has a commercial vehicles division which retails and services/repairs various types of vehicles on behalf of original equipment manufacturers.

Primary target firms

- [5] In detail, the target group consists of: the business of the Maemo Motors Mercedes-Benz Passenger Vehicles dealership, the Maemo Motors Chrysler/Jeep dealership, and the Maemo Motors Mitsubishi dealership conducted as a going concern by Maemo Motors from corner N4 and R24, Waterval East, Rustenburg; the used vehicle business conducted as a going concern by Maemo Motors from the Waterval Premises; the Waterval Premises owned by Lussprop; the business of the Maemo Motors Mercedes-Benz Commercial Vehicles dealership and the Maemo Motors Mercedes-Benz Vans dealership conducted as a going concern by Maemo Motors from corner R104 and 2nd Avenue, Old Pretoria Road, Rustenburg; and the Old Pretoria Premises owned by Lussin and Walkers Corner.
- [6] The Maemo dealerships are owned by Maemo Motors which consist of two natural persons, one company and two trusts. The two target properties are owned by Lussin and Lussprop respectively.

Proposed transaction and rationale

- [7] In terms of the proposed transaction the Maemo dealerships and the two properties will be purchased by Imperial Group. In addition to the dealer franchise agreements to be entered into with Brietta Trading (Pty) Ltd and Fiat Group Automobiles South Africa (Pty) Ltd, Imperial Group will also enter into a non-exclusive dealer franchise agreement with Mercedes-Benz South Africa.

- [8] The Imperial Group has submitted that the proposed transaction would allow it to enter the Rustenburg area as it currently does not have any dealerships in close proximity. The target group's shareholders have submitted that the proposed transaction would allow it to exit the business.

Relevant market and impact on competition

- [9] The Commission identified a horizontal overlap in the sale of new passenger, light, medium and heavy commercial vehicles in the North West and greater Gauteng area. The Commission calculated the market shares using the total vehicles sold in the North West and Gauteng provinces and concluded that in all identified markets the merged entity would have an accretion of less than 5 percent. The Commission submitted that the proposed transaction would not change the market structure and would not result in a substantial lessening of competition.
- [10] The Commission also considered whether the proposed transaction would result in input or customer foreclosure as the Acquiring Group has exclusive distribution rights to Hyundai, KIA, Renault and Mitsubishi brands in South Africa (through a firm controlled by Imperial Holdings Limited), Motus Corporation (Pty) Ltd. The Target Group has non-exclusive dealership rights for brands it sells. Specifically, the vertical overlap in relation to the import and supply of passenger and light commercial vehicles of the Mitsubishi brand. The Commission submitted that customer foreclosure would be unlikely as Motus is the exclusive distributor of the Mitsubishi brand in South Africa therefore the status-quo will remain unchanged. In evaluating whether input foreclosure was likely, whether the merged entity would foreclose other dealerships who sell Mitsubishi vehicles, the Commission submitted that it would not as Imperial Group has been the exclusive distributor for some time and had not used this position to close rivals as it would defeat the commercial purpose of being an importer of motor vehicles.
- [11] We concur with the Commission's finding that the proposed transaction is unlikely to substantially prevent or lessen competition in the identified markets.

We also agree that the proposed transaction would not result in any foreclosure concerns.

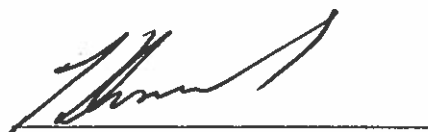
Public interest

[12] The merging parties submitted, which was confirmed by the Commission, that the proposed transaction will not have any negative effect on employment.²

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

Conclusion

[14] 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 transaction. Accordingly, we approve the proposed transaction unconditionally.



Mr Enver Daniels

5 December 2018

Date

Prof Imraan Valodia concurring

Tribunal Case Manager
For the merging parties
For the Commission

: Ms Aneesa Ravat
: Marianne Wagener of Norton Rose Fulbright
: Nolubabalo Myoli and Ratshidaho Maphwanya

² Record pages 12.