

**COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

Case No: 35/LM/Jun01

In the large merger between

Imperial Holdings Limited

and

**Megafreight Investments (Pty) Ltd
Megafreight Services (Pty) Ltd
J.H.Bachmann & Company (Pty) Ltd**

REASONS FOR THE TRIBUNAL'S DECISION

Approval

The Competition Tribunal issued a Merger Clearance Certificate on 31 July 2001 approving the merger between Imperial Holdings Ltd and Megafreight Investments (Pty) Ltd, Megafreight Services (Pty) Ltd and J.H. Bachmann & Company (Pty) Ltd without conditions. The reasons for approving the merger are set out below.

The merger transaction

In terms of the transaction:

1. Imperial Holdings Ltd ("Imperial") is acquiring 60% of the shares in Megafreight Services (Pty) Ltd from Megafreight Investments (Pty) Ltd and various minority shareholders.
2. Megafreight Services (Pty) Ltd is acquiring all the shares in J.H. Bachmann & Company (Pty) Ltd from Imperial and a minority shareholder, Mr Denzil Ashort.

Thus in effect post merger Imperial will control a larger freight business than it did before as it included the businesses of both JH Bachman and Megafreight, which were comparatively of the same size.

According to the parties the reason for the transaction is that the merged entity would become a much stronger competitor in the market. The merger will allow Imperial to increase its client base and strengthen its market penetration in various ports in South Africa as well as its buying power with the various airlines and shipping lines. Moreover, Imperial's financial backing will allow Megafreight Services to purchase the technology that it requires to enlarge its client base. The merger will also give the company international exposure.

Evaluating the merger

The relevant market

Both Megafreight Services and J.H. Bachmann offer freight clearing and forwarding services to their clients.¹ The geographic market is the national market since both parties offer their services all the ports and airports countrywide.

Impact on competition

The post-merger market shares of the of the largest players are:

Safcor*	20%
Renfreight*	20%
Union Transport	20%
Grindrod Rohlig	10%
Kuehne & Nagel	10%
Merged entity	3%
Others	17%
TOTAL	<u>100%</u>

*Although the two companies trade as separate entities Bidfreight is the holding company of both these companies.

The CR3 concentration ratio of the three largest players in this market is 60% of which one company, Bidfreight, indirectly holds 40% of the market. It is, therefore, a concentrated market in which the majority of firms are competing for less than half of the market. The merger between Imperial and J.H. Bachmann can thus be regarded as pro-competitive since two small companies are joining forces in order to compete against the dominant firms.

¹ Definition given by the International Federation of Freight Forwarders Association: It is a service offered by an agent on behalf of its clients to ensure that internationally traded goods move from point of origin to point of destination to arrive at the right time and place, in good condition, and at the most economic cost.

Public interest consideration

There are no trade unions involved and retrenchments would be dealt with in accordance with existing labour legislation. The parties indicated that retrenched staff would be able to find employment fairly easy since there is a shortage of skilled workers in this industry. The parties would also assist the retrenched employees in finding new jobs. A representative of the employees attended the hearing and indicated that staff had no objection to the transaction.

D.H. Lewis

2 August 2001

Concurring: N.M. Manoim and U. Bhoola