

**COMPETITION TRIBUNAL  
REPUBLIC OF SOUTH AFRICA**

**Case No: 96/LM/Oct05**

**In the large merger between:**

**Imperial Holdings**

**and**

**MCC Contracts (Pty) Ltd and MCC Plant Hire (Pty) Ltd**

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**Reasons for Decision**

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**Approval**

1. On 24 November 2005 the Competition Tribunal issued a Merger Clearance Certificate approving the merger between the Imperial Group Holdings and MCC Contracts (Pty) Ltd and Mutual Construction Company (TVL) (Pty) Ltd. The reasons for the decision appear below.

**The Parties**

2. The acquiring firm, Imperial Holdings ("Imperial"), is not controlled by any single entity. The shareholders who beneficially hold more than 5% of the issued share capital in Imperial are:
  - ?? The Public Investment Corporation 18.21%
  - ?? Old Mutual 11.23%
  - ?? Ukhamba 10.1%
  - ?? Sanlam 8.4%
  - ?? Lereko Mobility 7.25%
3. Imperial controls various entities involved in logistics, car and vehicle rental, tourism, lease and fleet management, motor vehicle distributorships, insurance and motor finance.
4. The primary target firms are MCC Contracts (Pty) Ltd ("MCC Contracts") and Mutual Construction Company (TVL) (Pty) Ltd t/a MCC Plant Hire,

which are both controlled by Topclass Ventures holding 81% and 63% of the issued share capital in each company respectively. Neither MCC Contracts nor MCC Plant Hire control any firms.

### The Merger Transaction

5. Imperial will acquire 50.1% of the entire issued share capital from the current shareholders in MCC Contracts and MCC Plant Hire (“the target companies”). A shareholders’ agreement provides for a put call option. In terms of this provision Imperial will on or after the 5<sup>th</sup> anniversary of the option date for an indefinite period, have a call option to purchase from the existing shareholders of the target companies the remaining 49.9% of the issued share capital of each of the target companies and the shareholders of the target companies have a reciprocal put option to oblige Imperial to purchase from them the remaining 49.9% on the same terms.

6. Post the transaction the shareholding in MCC Plant Hire will be:

??	Imperial	50.1%
??	Topclass	26.4%
??	The Vos Family trust	4.5%
??	Claasen	4.5%
??	Bethwaite	4.5%
??	Nozala <sup>1</sup>	10%

7. And in MCC Contracts:

??	Imperial	50.1%
??	Topclass	33.9%
??	Adams	1.5%
??	Pretorius	4.5%
??	Nozala <sup>2</sup>	10.0%

### Rationale for the Transaction

8. The target company requires a strategic partner with access to financial resources in order to reduce borrowing costs and to accelerate the growth of this capital intensive business. Imperial, which wishes to enter the market for heavy earthmoving equipment, was the most suitable partner.

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<sup>1</sup> This is a BEE partner.

<sup>2</sup> This is a BEE partner.

### **Effect on Competition**

9. The merger will not lead to a substantial lessening or prevention of competition since there is no product overlap in the activities of the merging parties.
10. MCC Plant Hire rents and leases earthmoving equipment to third parties and MCC Contracts is involved in surface mining operations, removing minerals from opencast mines in the coal, platinum and chrome mining as well as rehabilitating the area once mining is completed.
11. Imperial is involved in logistics, leasing and fleet management, car rental and tourism, vehicle distributorships and vehicle insurance.

### **Public Interest issues**

12. There are no significant public interest issues arising from the transaction.

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**N Manoim**

28 November 2005  
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**Date**

**Concurring: Y Carrim and M Mokuena**

For the merging parties: Safeera Mayet of Tugendhaft Wapnick Banchetti & Partners For the Commission: Seema Nunkoo
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