



## COMPETITION TRIBUNAL OF SOUTH AFRICA

**Case No:** 54/LM/Aug10

In the matter between:

**MOGS (Pty) Ltd**

**Acquiring Firm**

And

**Trident South Africa (Pty) Ltd**

**Target Firm**

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Panel : Norman Manoim (Presiding Member)  
Yasmin Carrim (Tribunal Member)  
Andreas Wessels (Tribunal Member)

Heard on : 13 October 2010

Order issued on : 13 October 2010

Reasons issued on : 09 November 2010

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### Reasons for Decision

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### Approval

[1] On 13 October 2010, the Competition Tribunal (“Tribunal”) unconditionally approved the acquisition the merger between MOGS (Pty) Ltd and Trident South Africa (Pty) Ltd. The reasons for approving the transaction follow.

### The parties and their activities

[2] The primary acquiring firm is MOGS (Pty) Ltd (“MOGS”), a company incorporated under the company laws of the Republic of South Africa.

MOGS is controlled by Royal Bafokeng MOGS (Pty) Ltd, a company part of a group of entities which fall under Royal Bafokeng Holdings (Pty) Ltd (“RBH”) (all these are referred to as the acquiring group).

- [3] MOGS provides various services to the mining (coal, gold and platinum), oil and gas sector. Amongst other things, the services include the provision of drilling services, pipeline rehabilitation, intervention and maintenance services, consulting and engineering services, electrical services and geological and environmental services.
- [4] The primary target firm is Trident South Africa (Pty) Ltd (“Trident SA”) a company incorporated under the company laws of the Republic of South Africa. Trident SA is a designer, manufacturer and supplier of mining and engineering machinery in the mining sector. It specialises in the provision of four distinct product types<sup>1</sup> and also conducts business with the view of providing products solely suitable for hard-rock, underground, rail-bound mines (i.e. not coal or salt mines).
- [5] Trident SA also produces spare and replacement parts for its machinery and renders repair services of worn out equipment. The repair work is done on a monthly basis for various mining houses which have previously bought the products.

### **The proposed transaction**

- [6] MOGS is to acquire a controlling interest (shares) in Trident SA from its existing shareholders.

### **Relevant markets and impact on competition**

- [7] The activities of the merging parties do not overlap as no firm in the acquiring group is active or provides the services provided by the target firm.
- [8] There is however a vertical relationship between the merging parties. This is because the primary target firm supplies mining machinery and

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<sup>1</sup> Loaders, locomotives, winches and DC traction motors.

equipment to firms within the acquiring group structure. The primary target firm has previously sold machinery and equipment to the primary acquiring group. These sales represented less than 10% of the target firm's total revenue generated from the sale of machinery and equipment and of the total revenue.

- [9] The acquiring firm has significant market shares in the manufacture of mining machinery. However, it was found that this market has the presence of sufficient effective competitors to curb any anti competitive behaviour by the merged entity.

**Public interest**

- [10] No public interest concerns arise as a result of this proposed transaction.

**Conclusion**

- [11] The proposed transaction is approved without conditions since it is unlikely to substantially prevent or lessen competition in any potential relevant market.

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09 November 2010

**Yasmin Carrim**

DATE

**Norman Manoim and Andreas Wessels concurring**

Tribunal Researcher : Mahashane Shabangu  
For the merging parties : H B Senekal and Amy van Buuren of  
Edward Nathan Sonnenbergs Inc  
For the Commission : Mogalane Matsimela of the Mergers and  
Acquisitions Division