

**COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

Case No: 79/LM/Dec03

In the large merger between:

Barloworld Motor (Pty) Ltd

and

Avis Southern Africa Limited

Reasons for Decision

APPROVAL

On 3 March 2004 the Competition Tribunal issued a Merger Clearance Certificate approving the merger between Barloworld Motor (Pty) Ltd and **Avis Southern Africa Limited** in terms of section 16(2)(a). The reasons for the approval of the merger appear below.

The Parties

1. The primary acquiring firm is Barloworld Motor (Pty) Ltd ("BM"), controlled by Barloworld Limited ("Barloworld").
2. The primary target firm is Avis Southern Africa Limited ("Avis"), a public company listed on the JSE and Namibian and Botswana stock exchanges. Barloworld presently accounts for 34% of the shares in Avis. Avis controls a number of car rental firms in South Africa, the majority of which do not concern us, save for the companies listed below. Avis is a holding company, under license from Avis plc and ultimately Avis Inc. in the U.S. It has operations in short and long term vehicle rental services.

The Transaction

3. Barloworld is merely acquiring the remaining 65.3% of shares in Avis that it does not already own. This will take place by means of a scheme of arrangement. Post merger Avis will be a wholly owned subsidiary of BM.

Merger Rationale

4. The merger promises Avis access to Barloworld's worldwide resources. BM wants to become a fully integrated motor company able to offer services in a wide range of related markets, like its competitors McCarthy and Imperial do. This transaction will enable it to enter the motor vehicle rental market. Currently, it is only a retailer in the market for new and used cars.

Activities of Parties

BM-retailer		AVIS			
New cars	Used cars	Avis Rent A Car	Avis Fleet Services	ZEDA	Car Mall

Barloworld

5. Barloworld is described as an international industrial brand management company. Barloworld's only activity in SA that need engage us is its **motor division**. BM is a retailer of new and used motor vehicles. It has some 50 odd dealerships throughout SA from where it sells passenger, light, medium and heavy vehicle brands. It views itself as having a market share of 8.9% of total motor sales on the distribution level in RSA.

Avis

Avis Rent A Car

6. Avis Rent A Car provides short-term vehicle rentals and services to the tourism and corporate market. It purchases its vehicles from manufacturers or suppliers. It regards itself as accounting for 38% of the short-term vehicle rental market in SA. It has 110 outlets in RSA. It incorporates Avis Van Rental (operated under a sub-license from 15 locations throughout SA) which rents out trucks.

Avis Fleet Services

7. Provides long-term vehicle rental and value added services for vehicle operators. Such value added services include vehicle sourcing,

administration, fuel management, warranty, accident management, and various other services. There are various leasing options available to customers, which incorporate different types of service. Its customers are mid-size companies, typically having a fleet of 10 cars but it also deals with larger and small companies and parastatals.

Most of this division's services are outsourced. This division is operated as a joint venture with Wesbank. Also provides vehicle financing to its customers. It regards itself as having about 20% of this market.

Zeda

8. Vehicles from Avis Rent A Car sold here. Once maintenance leases or vehicle life expires, or the vehicles are no longer suitable for use in the short-term rental market, they are sold through Zeda which has 10 branches across SA. It sells about 50% to the general public and the rest it sells in bulk to used vehicle dealers.

Car Mall

9. Vehicles from Avis Fleet Services are sold here. It disposes of about two thirds of its vehicles through 8 operations to the general public, and the rest to other second hand car dealerships on a wholesale basis.

Relevant and Geographic Markets

10. Barloworld is only active in car sales at retail level (dealership market) while Avis is only active in the short-term rental market and fleet services market. However, Avis sells, as a by-product of its rental and fleet services business, used cars that are no longer required for renting, while BM sells traded-in used cars and cars sourced from ancillary businesses and manufacturers.
11. The overlap therefore is in respect of this (somewhat secondary) market for the **sale of used vehicle**, which the Commission defines as the relevant market. The parties highlight that though there is an overlap in this secondary used car market, the merging parties do not compete directly, in that different players focus on different segments within the market, that is, Zeda, Car Mall and BM all sell second hand vehicles of differing ages and mileages.
12. The Commission define the geographic market as being local, in accordance with previous mergers in the motor vehicle industry. However, since local market shares are unavailable they provide market shares as furnished by the parties per province.

Impact on competition

Horizontal Aspects

13. The parties state that the post-merger market share in any local market will not exceed 15%. They assert however that it is probably much less than this, in fact in certain provinces they estimated that it may not exceed 7%. Other players are active in this market, such as Unitrans, CMH, Super Group and a myriad of small independent firms selling used cars. We are therefore satisfied that this market is competitive.

n. In any event, BM's core business is in selling new vehicles, its sale of used cars is therefore ancillary to this main business and they point out that the purpose of the merger is not to grow their market share in the secondary used vehicle market but to allow BM to offer a broader range of services as its competitors do.

15. We note that the rental business of Avis is under a license agreement with Avis Europe Plc, the UK parent company in London in London. Avis Inc and Avis Plc have recently acquired the rights to the Budget car rental brand. Avis Plc therefore also owns the Budget car rental brand in EU, Africa, Middle East and Asia. Budget is operated by McCarthy. Though these arrangements are not relevant to this merger, we highlighted this area as meriting close competition scrutiny in a previous merger¹. We accordingly asked the Avis representative about this at the hearing. He commented that the two companies are separately run, although they operate under a common license.

Vertical Relationships

16. There are a few vertical relationships in that Avis buys some of its vehicles from BM and provides rental services to them. BM too provides some maintenance and repair services to Avis. However these links existed pre-merger and neither firm has the incentive to benefit from a foreclosure strategy.

Conclusion

We conclude that the merger will not lead to a substantial lessening of

¹ See Bidvest Group Limited and McCarthy Limited 04/LM/Jan04

competition. The Tribunal therefore approves the transaction unconditionally. There are no public interest concerns which would alter this conclusion.

N. Manaim

8 February 2004

Date

Concurring: D. Lewis, T. Orleyn

For the merging parties: Bowman Gilfillan Attorneys

For the Commission: M. Mohlala and K. Ramathula, Competition
Commission