

# COMPETITION TRIBUNAL REPUBLIC OF SOUTH AFRICA

Case No: 09/LM/Feb02

In the large merger between:

**Sociedad Investments (Pty) Ltd**

**and**

**Furnex Stores (Pty) Ltd/ Furnex Dealers Indemnity (Pty) Ltd**

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## Reasons for Decision

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### APPROVAL

On 8 May 2002 the Competition Tribunal issued a Merger Clearance Certificate approving the merger between Sociedad Investments (Pty) Ltd and Furnex Stores (Pty) Ltd, Furnex Dealers Indemnity (Pty) Ltd in terms of section 16(2)(a). The reasons for the approval of the merger appear below.

### The parties

1. The acquiring firm is Sociedad Investments (Pty) Ltd ("Sociedad"). Sociedad is a private company, a subsidiary of Massmart Holdings Limited ("Massmart"), which has a 90% controlling interest in Sociedad .
2. Massmart is described as a high volume, low margin retailer and wholesaler of food, liquor and general merchandise. It is a public company, listed on the JSE in the retailing sector. Massmart has the following subsidiaries, which are more fully described in Table 1 below:
  - a. Masstores (Pty) Ltd – the Game and Dions retail chains;
  - b. Shield Buying & Distribution (Pty) Ltd ("Shield");
  - c. CCW Holdings (Pty) Ltd;
  - d. Browns & Weirs Cash & Carry Holdings (Pty) Ltd;

e.  
Jumbo Cash & Carry (Pty) Ltd;

f.  
Massmart Management & Finance Company (Pty) Ltd

3. The target firm is Furnex Stores (Pty) Ltd, ("Furnex") a wholesale trader or buying group that buys general merchandise for its members, consisting of independent retailers, who on sell them to the public. The parties state that Furnex operates by "agglomerating" the purchasing requirements of its 415 members or retailers in order to secure certain benefits for them. More specifically, by negotiating bulk discounts on behalf of retailers, Furnex enables the independent retailers to price competitively to the large retail chains, while it at the same time guarantees payments to suppliers.

4. Furnex Dealers' Indemnity, ("FDI"), the other target firm, provides insurance to retailers who grant credit, as well as to their customers to cover the cases of death, fire, theft, flood, etc. (in cases where such customers do not already have household cover).

### **The merger transaction**

#### **5. There are 3 agreements comprising this transaction.**

⌘ Between Sociedad, Furnex, Furnex Capital and Massmart -  
Sociedad acquires business conducted by Furnex ;

⌘ Between Sociedad and Furnex Capital – Sociedad will acquire all  
the shares in and claims on loan account of FDI from FC.

⌘ Between Fluxrab Investments No. 37 and Massmart Holdings and  
Sociedad – creating an arrangement in terms of which Fluxrab will hold 10% of the B  
shares in Sociedad and Massmart 90% of the A shares therein.

6. Post-merger, Furnex Stores would become a subsidiary of Massmart, to be  
incorporated into its Shield division.

### **Rationale for the Transaction**

7. Furnex is disposing of the business to Massmart, which promises greater benefits to members in the form of improved prices, rebate structures and settlement discounts. In addition, Furnex will be able to benefit from Massmart's expertise in merchandising, marketing and advertising, thereby contributing to increased shareholder value. By contrast, Massmart intends acquiring information technology skills, as well as gaining access to wholesaling activity in the furniture and appliance industry. Despite having a strong presence in the retail appliance industry, Massmart does not presently have a foothold in the wholesale portion of this market. The merger will also allow both Shield and Furnex to exploit synergies between their similar business models, as well as generally

achieving greater shareholder value.

### The relevant product market

8. Each Massmart subsidiary is either involved in grocery or general merchandise or both, and operate in either the wholesale or retail markets, or both, as set out below:

**Table 1: Profile of Massmart Subsidiaries**

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	?			
	?			
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	?			
	?			
	<b>Grocery</b>	<b>General Merchandise</b>	<b>Wholesale</b>	<b>Retail</b>
Makro	?			
Brown's & Weir's	?			
Shield Buying and Distribution		?		
Massdiscounters (Game & Dions)		?		
Jumbo Cash and Carry	?			

Source: Company Info and Parties' Competitiveness Report

9. While Massmart procures a range of general and grocery merchandise, Furnex is not involved in grocery products at all. They only buy general merchandise, namely furniture, white goods and other products such as hi-tech products, household appliances, clothing, DIY equipment, office supplies and cellular services. Massmart do not wholesale appliance products, only a small amount of hi-tech products and cellular service products.

10. According to the parties, the customer profile of the parties differs - the target market for Furnex is the independent furniture and appliance retailer while that for Massmart wholesalers is the independent food and liquor retailer or wholesaler. (

11. Indeed Massmart is more involved specifically in grocery products at the retail level, rather than at the wholesale level. According to the Commission, the only firms in the Massmart stable that trade at the wholesale level with general merchandise are Shield and Makro.

12. The Commission accordingly identifies the area of overlap as being general merchandise, specifically the wholesale of cellular handsets, recharge vouchers and starter packs.

13. The parties define the relevant market as that of wholesaling furniture, appliances and hi-tech products and cellular recharge vouchers through buying groups or alternative wholesaling companies to independent traders in the furniture, appliance, and hi-tech

industries throughout South Africa.

14. This latter market definition is somewhat broad, in that while having a small share in the retail furniture market, Massmart is not involved in the wholesaling of furniture whatsoever. Nor is Massmart active in the appliance wholesale market, save to a limited extent, in the high-tech appliance market. We therefore define the market as that of wholesale of high-tech products and cellular recharge vouchers.

### **Geographical Market**

15. The Commission regards the geographical market as regional (approx. 250 km radius) because general merchandise is not as high-turnover intensive as grocery products. We have no reason to dispute this definition.

### **Impact on competition**

16. Despite confining the relevant market to that of the wholesaling of hi-tech appliances and recharge vouchers, it is useful to use an industry analyst's figures based on the total turnover of the entire retail appliance market, to serve as a proxy for an estimate of their post-merger wholesale market shares.

**Table 2: Market Shares in the Wholesaling of Appliances and Hi-tech Product Category**

Firm	Share
Furnex	8%
Massmart	27%
Post-Merger	35%

*Source: Perry & Associates Market Report*

17. Furnex's market share in the market for the wholesale of appliances and high-tech products is some 8%. Massmart's market share is 27% Though post-merger this would yield a combined market share of some 35%, our concerns were eased by the fact that post-merger the members are not contracted-in to Furnex and are free to procure their suppliers from other buying groups or wholesalers. We were advised that Furnex members were also members of rival buying groups and that they would be free to continue to do so in the future. Furthermore, the parties assured the Tribunal that barriers to entry into this market are low, as evidenced by the rapid emergence of other buying groups over the last few years. Furnex competes with other buying groups such as the Shaw Group, ISER and Group Appliances, as well as importers, agents and manufacturers supplying directly to independent retailers.

**Table 3: Buying groups: Appliance and High-Tech Appliances**

<b>INSTITUTION</b>	<b>ESTIMATED MARKET SHARE</b>
The Shaw Group	33%
Furnex Stores	22%
ISER	28%
Group Appliances	17%
<b>TOTAL</b>	<b>100</b>

*Source: Parties' Competitiveness Report*

18. Taking the parties' estimates of market share figures in the cellular recharge voucher category alone, the market shares appear as follows:

**Table 4: Market Shares in the Wholesaling of Cellular Recharge Vouchers Product Category**

<b>Firm</b>	<b>Share</b>
Furnex	1.88
Massmart	1.44
Post-Merger	3.32

*Source: Parties' Competitiveness Report*

19. We accept the submissions that this market is subject to effective competition both directly from the manufacturers and the retail stores themselves, who can source the products from MTN, Cell C and Vodacom direct.

20. There is furthermore no danger of the combined entity exerting pressure on the suppliers, both of hi-tech appliances and cellular services, since they are all large companies who have the option of distributing their products via other channels.

### **Conclusion**

The Tribunal endorses the Commission's finding that this transaction will not substantially lessen or prevent competition in the relevant market and accordingly approves the transaction unconditionally. There are no public interest concerns which would alter this conclusion.

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D.H. Lewis

15 May 2002  
Date