

**COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

Case no: 50/LM/Jun05

In The Large Merger Between:

Siemens Aktiengesellschaft

Acquiring Firm

And

Flender Holding GMBH

Target Firm

Reasons for Decision

Approval

1. On 20 July 2005, the Competition Tribunal issued a Merger Clearance Certificate approving the transaction between Siemens Aktiengesellschaft and Flender Holding GMBH. The reasons for this decision follow.

The Transaction

2. The primary acquiring firm is Siemens Aktiengesellschaft ("Siemens AG").¹ Siemens has several subsidiaries around the world. In South Africa, Siemens conducts its business through Siemens Limited South Africa ("Siemens SA"). Siemens SA has the following subsidiaries in South Africa: Siemens Telecommunications (Pty) Ltd, Siemens Real Estate Management (Pty) Ltd, Siemens Demag Delavel Turbomachinery (Pty) Ltd and Siemed Services (Pty) Ltd. Siemens AG and Siemens SA will be collectively referred to as "Siemens".
3. The primary target firm is Flender Holding GmbH ("Flender Holding").² Flender Holding has the following subsidiary in South Africa: Flender Power transmission (Pty) Ltd ("Flender") which in turn has one subsidiary namely Flender Services (SA) (Pty) Ltd.
4. Siemens AG is acquiring all the issued capital in Flender Holding. According to the parties, the acquisition will enable Siemens AG to expand its interests from electrical power transmission equipment to mechanical power transmission equipment. This would enable Siemens to provide more complete drive solutions to its customers.³

¹ Listed on the German Exchange, the Swiss Stock Exchange, the New York Stock Exchange and the London Stock Exchange. Its shareholding is widely held with no single entity controlling party.

² Citigroup Incorporated owns more than 50% of the outstanding voting securities of Flender Holding.

³ During the hearing on 20 July 2005, the merging parties' attorney stated that: "... *there [was] a move towards a one-stop-shop supplier...[customers] would prefer obtaining all of the components from one supplier for various reason. These are maintenance issues as well as price. They are better able to obtain discounts from a supplier such as SEW that will be able to supply all of the components required...*" At page 3-4 of the transcript.

The Merging parties' activities

5. Siemens is active worldwide in a range of businesses. However, in South Africa, Siemens is involved in information and communication, mobile telephony, information technology, medical solutions, transportation systems, building technologies, logistics and assembly systems, automation and drives, industrial services and solutions, components, power transmission and power distribution.⁴
6. Worldwide, Flender produces mechanical power transmission equipment (such as gears, geared motors and couplings), inverters, generators and electrical motors. In South Africa, however, Flender focuses on the supply of mechanical geared motors and standard mechanical gears.

Impact on competition

Horizontal Assessment

7. In South Africa, both merging parties are involved in the broad market for power transmission. However Flender supplies mechanical power transmission equipment (including industrial gears and geared motors) and Siemens supplies electrical power transmission equipment⁵ (including motors and drives).⁶
8. According to the Commission, there are no overlaps in the activities of the merging parties, because although both Siemens and Flender participate in the provision of incomplete drive solutions, they bid for the supply of different product components.

*"...Siemens will bid for the supply of drives and electric motors (components) or for a combination of both and [therefore will] compete with other motor and drive suppliers for the tender. Flender will bid for the supply of gears or geared motors (components) or drive application systems will compete against suppliers in these markets for the tender..."*⁷

Vertical Assessment

9. The transaction does give rise to certain vertical issues, as post merger the merged entity will compete for the provision of a complete drive solution that requires a combination of various components. Flender is a supplier of gears and drive application systems while Siemens supplies electric motors and drives. According to the Commission, these are all components that may be required for the production of the final drive solution.

⁴ For a complete description of Siemens's activities in South Africa, see Pages 3-4 of the Commission's Report.

⁵ For more detail on the difference between mechanical and electrical power transmission see Pages 71-74 of the record.

⁶ According to the merging parties, Flender *does* have minor activities in electrical power transmission equipment in Europe but is not active in this market in South Africa.

⁷ See page 8 of the Commission's Report.

10. The Commission identified the following upstream markets: supply of electric motors, gears, geared motors, drives and of industrial drive applications. The downstream market is the market for the provision of complete drive solutions.
11. The Commission examined the post merger market shares in the upstream markets and concluded that there would be no risk of reduced competition in any of the markets concerned because there are alternative sources of supply and the merged entity faced several strong internationally based competitors.⁸ In the downstream market for the provision of complete drive solutions, the Commission considered the characteristics and dynamics of the market and concluded *inter alia* that:
- ~~///~~ The various component markets are highly competitive;
 - ~~///~~ Contracts for the supply of components at all market levels and for the construction of the final drive solution are based on a tender and bid process - market shares are therefore lumpy and vary depending on which bidder is rewarded the contract;
 - ~~///~~ The specifications and design of the system rests with the customer who will decide on the best bid put forward - Customers therefore exercise significant countervailing power;
 - ~~///~~ Finally, the merged entity would be a new entrant and would be competing against other fully integrated competitors such as ABB, SEW, Bearing Man and Alstom.

Conclusion

12. Having considered the merging parties' submissions and the Competition Commission's report, we are satisfied that the transaction will not substantially prevent or lessen competition in any of the markets identified above. Furthermore there are no public interest concerns which would alter our view.
13. We agree with the Commission's recommendation that the transaction be unconditionally approved.

N Manoim

12 August 2005
Date

Concurring: Y Carrim and T Orleyn

For the merging parties: V Koovejee (Deneys Reitz)
For the Commission: S Nunkoo (Mergers and Acquisitions)

⁸ See pages 9-13 of the Commission's Report.