



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM137Aug17

In the matter between:

K2017136283 (South Africa) (Pty) Ltd

Primary Acquiring Firm

And

**Crabtree Electrical Accessories SA,
(a division of Powertech Industries (Pty) Ltd)**

Primary Target Firm

Panel	: Ms Yasmin Carrim (Presiding Member)
	: Mr Enver Daniels (Tribunal Member)
	: Prof. Fiona Tregenna (Tribunal Member)
Heard on	: 20 September 2017
Order Issued on	: 20 September 2017
Reasons Issued on	: 13 October 2017

REASONS FOR DECISION

Approval

- [1] On 20 September 2017, the Competition Tribunal ("Tribunal") unconditionally approved the large merger between K2017136283 (South Africa) (Pty) Ltd ("K2017") and Crabtree Electrical Accessories SA (a division of Powertech Industries (Pty) Ltd) ("Crabtree Electrical"), hereinafter collectively referred to as the merging parties.
- [2] The reasons for approval follow.

Parties to the transaction

Primary Acquiring Firm

- [3] K2017 is a newly established firm for the purpose of this transaction and currently does not have any activities. It is wholly owned by Siemens (Pty) Ltd ("Siemens"), which is ultimately controlled by Siemens AG. K2017 and its controllers are collectively referred to as the Acquiring group.
- [4] In South Africa, Siemens AG carries on business through Siemens and operates in the following divisions: power and gas, power generation service, energy management, digital factory, process industries and drives, mobility, financial services, healthcare and real estate. Siemens produces a wide range of products which include, but are not limited to, air-circuit breakers, molded case circuit breakers, residual current devices, energy monitoring devices, load break switches and terminal blocks.

Primary Target Firm

- [5] Crabtree Electrical is a division of Powertech Industries (Pty) Ltd ("Powertech Industries"), which is ultimately controlled by Allied Electronics Corporation Limited ("Altron").
- [6] Crabtree Electrical manufactures and sells low voltage electrical infrastructure products and equipment to various developers and maintainers of such products in Southern Africa. These products include, but are not limited to, wall plugs, trunking, conduit, junction boxes, extension cords, multi plugs and adapters.

Proposed transaction

- [7] In terms of the Sale and Purchase Agreement, K2017 intends to purchase Crabtree Electrical from Powertech Industries. Post-merger, K2017 will control Crabtree Electrical. In addition, K2017 will simultaneously acquire Crabtree

(Pty) Ltd ("Crabtree"), a company incorporated and operating in Lesotho. Both transactions are indivisible from each other.

Relevant market and impact on competition

- [8] The Commission considered the activities of the merging parties and found that the proposed transaction presents a horizontal overlap in the broad market for the manufacturing and supply of low voltage equipment. Upon further investigation, the Commission found that in the narrow market for the manufacturing and supply of low voltage equipment, there is no overlap between the activities of the merging parties as Siemens product offering is different to that of Crabtree Electrical.
- [9] The competitors and customers of the merging parties confirmed the Commission's findings in that the products offered by the merging parties respectively, are not substitutable from a demand side perspective but rather complementary in nature. As such, Siemens cannot be considered as a direct competitor to Crabtree Electrical. In addition, the Commission found that there were numerous suppliers of low voltage equipment that would have the ability and that possess the capability of constraining the merged entity post-merger.
- [10] The proposed transaction is subject to a restraint of trade clause contained in the Sale and Purchase agreement whereby Powertech Industries, as the seller, is precluded from engaging in business that competes with the business operations of the Acquiring Group (including that of Crabtree Electrical) for a period of 2 years within the restraint area encompassing South Africa, Lesotho, Botswana, Malawi, Namibia, Swaziland, Zambia and Zimbabwe. The Commission considered the purpose and reasonableness of the restraint and the market power of the firm imposing the restraint. It found that the restraint serves to protect the know-how and goodwill of Crabtree Electrical's business. Ultimately, the Commission found that the restraint of trade agreement is not unreasonable or unjust and does not enhance the Acquiring Group's market power.

[11] Accordingly, the Commission is of the view that the proposed transaction is unlikely to substantially prevent or lessen competition in the broad market for the manufacture and supply of low voltage equipment or in the narrow market for the manufacture and supply of low voltage equipment. We agree with the Commission's assessment.

Public interest

[12] The merging parties submitted that the proposed transaction will not have any adverse effects on employment as no retrenchments are contemplated as a result of the proposed transaction. The Commission noted that no concerns were raised by employees and is therefore of the view that the proposed transaction does not raise any employment concerns or any other public interest concerns.

Conclusion

[13] In light of the above, we conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. In addition, no other public interest issues arise from the proposed transaction. Accordingly, we approve the proposed transaction unconditionally.



Mr Enver Daniels

13 October 2017

Date

Ms Yasmin Carrim and Prof. Fiona Tregenna concurring

Case Manager : Mr Ndumiso Ndlovu

For the merging parties : Mr Paul Coetser of Werksmans Attorneys

For the Commission : Mr Billy Mabatamela