COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA

Case No: 06/LM/Feb01

In the large merger between

Siemens Aktiengesellscraft AG

and

Atecs Mannesmann AG

Reasons For The Competition Tribunal's Decision

Approval

The Competition Tribunal issued a Merger Clearance Certificate on 28 March 2001 approving the merger between Siemens Aktiengesellschaft AG and Atecs Mannesmann AG without conditions.

The merger comprises two transactions, the Siemens transaction and the Bosch transaction, the latter being a lease transaction between Bosch and Siemens.

The approval relates to the Siemens transaction only and excludes the Bosch lease transaction, which is being filed separately as an intermediate merger.[1] The reasons for approving the merger are set out below.

The merger transaction

On 14 April 2000 Siemens and Bosch jointly purchased the engineering and automotive operations of Mannesmann. However, subsequent to that the purchase agreement was amended because of European Competition rules and the parties agreed that Siemens alone would acquire the shares in Atecs and that the purchase price paid by Bosch would be refunded. The Share Purchase Agreement was accordingly amended on 13 November 2000.

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[1] Whilst we are uncertain why the transactions were not considered as a single large merger transaction, since the two are interrelated and the one is dependant upon the fulfilment of the other, the merging parties had agreed to the Commission's characterisation and we have not been called upon to decide this.

This merger consists of two interdependent transactions, namely the Siemens transaction and the Bosch transaction. As stated above the Tribunal will only evaluate the Siemans transaction.

The Siemans transaction

Siemens Aktiengesellschaft AG (Siemens) purchased Atecs Mannesmann AG (Atecs) from Mannesman AG (Mannesmann) and Mannesmann Investment GmbH (Mannesmann Investment).

Atecs is the holding company that trades through five subsidiaries, namely:

- Mannesmann Demag Krauss-Maffei AG (Demag)
- Mannesmann Dematic AG (Dematic)
- Mannesmann Sachs (Sachs)
- Mannesmann Rexroth AG (Rexroth)
- Mannesmann VDO AG (VDO)

Atecs has one subsidiary in South Africa, Mannesmann (Pty) Ltd.

In terms of the Share Purchase Agreement Mannesmann Investment is selling its 46% shareholding in Atecs to Siemens who will indirectly acquire all the shares in Atec's five subsidiaries. At the same time Atecs will execute a capital increase in which Mannesmann will waive its subscription rights and which will result in Siemens owning 50% of the share capital of Atecs plus two shares.

Evaluating the merger

Background

Vodafone, a telecommunications company, recently acquired control of Mannesmann, who, accordingly decided to sell the engineering and automotive activities, which are conducted through its subsidiary Atecs, to Siemens.

The relevant market and impact on competition

Atecs, through its subsidiaries is involved in the following product markets in South Africa:

- **Demag** sells injection moulding machines, reaction technology and extruders.
- **VDO** supplies electronic automation products used in motor vehicles.
- **Dematic** sells cranes, handling equipment and mobile cranes.
- **Sachs** is involved in the manufacturing and distribution of clutches and assembling of heavy dampers for steering systems.

- **Mannesmann (Pty) Ltd** through its subsidiary VDO Car Communications South Africa (Pty) Ltd distributes car audio equipment.

In South Africa Siemens is involved in:

- Electric power generation, transmission and distribution
- Supplying of products, systems and services from the broad field of automation, electrical motors, drive systems
- Supplies networks, products and services in telecommunication sector
- Supplies equipment for health care
- Deals with projects such as road traffic control systems, railway signalling systems and traction technology

Although Siemens will acquire the automotive and engineering business of Atecs there are no product overlaps between Siemens' and Atec's five subsidiaries. However, vertical integration will take place in that Siemens' Automation and Drives division sells control panels used in cranes sold by Dematic.

Competition in these two product markets will, nevertheless, not be lessened because sufficient competition exists in the market for cranes with Dematic having a market share of 25%, Verlinde 20% and Toco Morris 15% and, according to market participants, Siemens is not dominant in the assembled control panel market for cranes. Brands that are dominant in this market are Telemacinic (distributed by Scneider Electrical), Lavato (distributed by Electromacanica) and Katahama (distributed by CHI Control Limited).

The merger is therefore not likely to substantially prevent or lessen competition in the relevant markets.

Public interest consideration

The parties stated that no jobs would be lost as a result of the merger. The merger will also not affect any other public interest issues raised in section 12A(3) of the Competition Act.

19 April 2001

N.M. Manoim

Concurring: D.H. Lewis and D.R. Terblanche