

**COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

Case No: 16/LM/Apr03

In the large merger between:

Bytes Technology Group Ltd

and

Xerox South Africa (Pty) Ltd

Reasons for Decision

APPROVAL

On 14 May 2003 the Competition Tribunal issued a Merger Clearance Certificate approving the merger between Bytes Technology Group Ltd (“Bytes Technology”) and Xerox South Africa (Pty) Ltd (“Xerox”) in terms of section 16(2)(a). The reasons for the approval of the merger appear below.

The Transaction

1. This transaction is essentially an acquisition of sole control of Xerox South Africa, by its one parent, Bytes Technology. Xerox Limited (a UK firm) will cease to be a shareholder in Xerox South Africa, disposing of 50% plus one share.
2. Accordingly, post-merger, Xerox South Africa will be a wholly owned subsidiary of Bytes Technology.
3. The merging parties will simultaneously conclude a distributorship agreement.

The Parties

4. The primary acquiring firm is Bytes Technology, a subsidiary of Allied

Electronics Corporation Limited (“Altron”). Bytes Technology is an investment holding company, which has numerous wholly and partly owned subsidiaries.

5. The target firm is Xerox South Africa, a jointly held subsidiary of Xerox Limited and Bytes Technology. Xerox Limited is in turn controlled by Xerox Corporation (a US firm).

Rationale for the Transaction

6. The opportunity to derive the full profit benefits motivated Bytes Technology to acquire sole control of Xerox. On the other hand, recent US legislation requires that all US companies that hold a majority share in any other company around the world should attest to the accuracy of the corporate governance and financial accounts of that subsidiary. This motivated Xerox Corporation to dispose of its shareholding in Xerox SA, since Bytes Technology enjoys management control of the target firm.

The Relevant Market

7. All the companies within the acquiring group are active in the telecommunications information technology, multi-media and power electronics sectors.
8. Xerox offers document management outsourcing services and exclusively distributes Xerox printing, copying, and paper products and related services in Southern Africa.
9. None of the companies within the Altron Group, including the subsidiaries controlled by the primary acquirer, Bytes Technology, provide products or services that are offered by Xerox. We agree with the Commissions’ conclusion that there is no horizontal product overlap between the acquiring group and Xerox.

Impact on competition

10. Bytes Technology currently enjoys management control of Xerox, the transaction will therefore not fundamentally alter the structure of the market in any way. The transaction is merely a consolidation of Bytes Technology’s interest in Xerox. Taking this and the lack of product overlap into account, it is clear that the transaction does not raise competition concerns.

11. However, the Commission highlighted the limited vertical integration that arises from the transaction. Xerox provides photocopying, printing and paper products and services to many companies within the Altron Group. The parties submit that this constitutes less than 1% of Xerox's total business. Furthermore, Xerox competes with significant players such as Hewlett Packard, Nashua and Gestetner in these markets. Thus there is no commercial incentive for the merged entity to engage in customer foreclosure.¹

12. We accept that the limited vertical integration is unlikely to substantially lessen competition.

Conclusion

10. The transaction does not result in any significant competitive change from the status quo. We conclude that the merger will not lead to a substantial lessening of competition. There are no employment or other public interest concerns, which would alter this finding. The merger is therefore unconditionally approved.

N. Manoim

09 June 2003

Date

Concurring: U.Bhoola, P. Maponya.

For the merging parties:	Werksmans
For the Commission:	M. Worsley, J. Liebenberg, Competition Commission

¹ For a detailed exposition of the competition issues that may arise through vertical integration see the Tribunal's decisions in: Mondi Limited and Kohler Cores and Tubes, a division of Kohler Packaging Limited, case no. 06/LM/Jan02 and Coleus Packaging (Pty) Ltd and Rheem Crown Plant, a division of Highveld Steel and Vanadium Corporation Limited, case no. 75/LM/Oct02

