

**COMPETITION TRIBUNAL  
REPUBLIC OF SOUTH AFRICA**

**Case no: 49/LM/Jun05**

In The Large Merger Between:

**Siemens Aktiengesellschaft Österreich**

**Acquiring Firm**

And

**VA Technologie AG**

**Target Firm**

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**Reasons for Decision**

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**Approval**

1. On 03 August 2005, the Competition Tribunal issued a Merger Clearance Certificate approving the transaction between Siemens Aktiengesellschaft Österreich and VA Technologie AG. The reasons for this decision follow.

**The Transaction**

2. The primary acquiring firm is Siemens Aktiengesellschaft Österreich ("Siemens AG Österreich"), the Austrian subsidiary of Siemens Aktiengesellschaft ("Siemens AG").<sup>1</sup> 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 its subsidiaries will be collectively referred to as "Siemens".
3. The primary target firm is VA Technologie AG ("VA Tech"), an Austrian stock corporation listed on the Vienna Stock Exchange. VA Tech has a number of subsidiaries worldwide and in South Africa its subsidiaries include: Voest Alpine Industries (SA) (Pty) Ltd, Voest Alpine Industrial Services South Africa (Pty) Ltd, VA Tech International (Pty) Ltd, Fuchs Sytemtechnik (South Africa) (Pty) Ltd and Fuchs Thermal Technology (Pty) Ltd.
4. In terms of the transaction, Siemens AG Österreich is acquiring the entire issued share capital of VA Tech through a public tender offer and will post merger, have sole control over VA Tech. According to the parties, the acquisition will enable

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<sup>1</sup> Siemens AG is 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.

Siemens to complement its existing product portfolio to benefit its customers. In addition, Siemens will be able to strengthen its activities in regions where it has a relatively weak market position.

### **The Merging parties' activities**

5. Siemens and VA Tech operate throughout the world in a number of similar sectors.<sup>2</sup> However, in South Africa, there is a limited amount of overlap in their activities.
6. 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 distribution.
7. VA Tech's South African activities are focused mainly on mechanical engineering, in particular in the field of metallurgy. It is however, also to a limited extent involved in the power transmission and distribution market.

### **Impact on competition**

#### *Horizontal Assessment*

8. In South Africa, both merging parties operate broadly in the market for power transmission and distribution. The Commission found that in this market there are however, only overlaps in respect of the market for high voltage products and the market for network automation and information systems.
9. According to the Commission and merging parties,<sup>3</sup> high voltage products include components which when combined will form a control panel referred to as a switchgear. Several switchgears combined will form a substation. A switchgear comprises various combinations of components including: circuit breakers, disconnectors, instrument transformers, reactors, arrestors and bushings. It should be noted that in the high voltage products market, VA Tech has a limited presence in that it does not produce arrestors and bushings.
10. Network and information systems comprise products, systems and solutions that are used to control electricity and to register the control- and use of electrical energy. Automation products and information systems are used both in high voltage and medium voltage networks. This market can be further segmented into the following categories:
  - network automation, including substation automation and telecontrol;

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<sup>2</sup> For a complete description of the worldwide activities of both Siemens and VA Tech, see Pages 62-66 of the record.

<sup>3</sup> See Commission's Report and merging parties' Competitiveness Report.

- protective relays; and
- energy information systems.

11. According to the Commission, in the market for network automation and information systems, the merging parties' activities overlap only in respect of protective relays, as VA Tech is not involved in the other narrow segments.

12. The Commission considered the effect of the transaction on the market shares of the merging parties in the market for high voltage products, and concluded that:

*"[t]he market shares are fairly low and are unlikely to raise any serious competition concerns. In addition, the market remains competitive with several other competitors competing with the merged entity."*<sup>4</sup>

13. In the market for energy automation and information systems, the merged entity would have a combined market share of 24.4%, and in the narrower market segment of protective relays, the merged entity would have a market share of 19.4%. In both the broad and narrow segments, the increment is 4.4% (VA Tech's pre-merger market share). In the Commission's view,

*"... VA Tech is a relatively small player in this market again, and accordingly, the change in the competitive landscape is not as significant as to pose any serious competition concerns. In addition the market remains competitive, as there are several players competing in this product category...."*<sup>5</sup>

14. The Commission was of the view that the merger did not raise any serious competition concerns from a horizontal perspective. The Commission was also of the view that there were no serious vertical concerns arising from the merger.

15. Without making a definitive finding on the relevant markets, we agree with the Commission that the transaction, as placed before us, 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.

## **Conclusion**

16. We agree with the Commission's recommendation that the transaction be unconditionally approved.

**15 August 2005**

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<sup>4</sup> Page 11 of the Commission's Report.

<sup>5</sup> Page 11 of the Commission's Report.

**N Manoim**

**Date**

**Concurring: Y Carrim and M Mokuena**

For the merging parties: V Koovejee (Deneys Reitz)

For the Commission: S Nunkoo (Mergers and Acquisitions)