



COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2016/06/408)

Dated: 18.10.2016

Notice under Section 6(2) of the Competition Act, 2002 jointly given by Konecranes PLC and Terex Corporation

CORAM:

Mr. S. L. Bunker
Member

Mr. Augustine Peter
Member

Mr. U.C. Nahta
Member

Mr. G. P. Mittal
Member

Legal Representatives of the parties: Shardul Amarchand Mangaldas & Co

Order under Section 31(1) of the Competition Act, 2002

1. On 15.06.2016, the Competition Commission of India (“**Commission**”) received a notice under sub-section (2) of Section 6 of the Competition Act, 2002 (“**Act**”) jointly given by Konecranes Plc (“**Konecranes**”) and Terex Corporation (“**Terex**”). The notice has been filed pursuant to execution of Stock and Asset Purchase Agreement (“**SAPA**”) dated 16.05.2016 between Konecranes and Terex.
2. Pursuant to SAPA, Konecranes will acquire sole control of the Material Handling and Port Solutions business (“**MHPS Business**”) of Terex (“**Proposed Combination**”), for which the latter will receive cash and shares of the former. Upon completion of the Proposed Combination, Terex will own approximately 25% of the outstanding shares of Konecranes and will have the right to nominate two directors on the Board of Konecranes.



COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2016/06/408)

3. In terms of Regulation 14 of the Competition Commission of India (Procedure in regard to transaction of business relating to Combinations) Regulations, 2011 (“**Combination Regulations**”), *vide* letter dated 05.07.2016, the parties were required to remove defects in notice and furnish certain information regarding market shares of the parties as well as their competitors. The parties filed their reply on 20.07.2016, after seeking extension of time. Since the response of the parties was not complete, another letter, in continuation of the parties’ reply, was issued on 19.08.2016 to which the parties submitted their reply on 08.09.2016, after seeking extension of time.
4. On 08.09.2016, under Regulation 16 of Combination Regulations, the parties submitted that the Proposed Combination has been cleared by the European Commission on 08.08.2016, subject to divestment of Konecranes’ global “Stahl” business (which includes its business in India). It was further submitted that Konecranes’ activities in the hoists market in India primarily formed part of Stahl business and pursuant to the divestiture of Stahl business, Konecranes’ presence in this market will be insignificant.
5. Konecranes, a Finnish public limited company, is engaged in the business of providing material handling solutions, serving a broad range of customers, including manufacturing and process industries, shipyards, ports and terminals. Konecranes’ global business is organised in two business units: Equipment and Service. The Equipment business unit offers components, cranes and other material handling solutions. The Service business unit offers specialised maintenance and modernisation services for industrial cranes, port cranes, lift trucks and machine tools through a global service network. In India also, Konecranes’ business is organised under the same business units.
6. Terex, a Delaware publicly traded company, is *inter-alia*, engaged in the business of providing lifting and material handling solutions. Terex’s business is divided into five segments, namely, (i) Aerial Work Platforms; (ii) Construction; (iii) Cranes; (iv) Material Processing; and (v) Material Handling and Port Solutions (“**MHPS**”). In India, Terex is active in all five business segments.
7. The Commission noted that the Proposed Combination relates to the MHPS business. The MHPS business comprises of designing, manufacturing and marketing of products



COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2016/06/408)

and services for lifting and material handling at manufacturing, port and rail facilities viz., (i) Industrial Cranes; (ii) Hoists (a crane component); (iii) Services for industrial material handling equipment; (iv) Port Equipment; (v) Port equipment maintenance services; and (vi) Software and software enabled consulting services for ports, logistics, and industrial applications.

8. The Commission observed that considering the activities of the parties in India, the aforesaid segment of MHPS business may be further segmented for the purposes of competition assessment of the Proposed Combination. Accordingly, the Commission considered segmenting Industrial Cranes into Standard and Process Cranes; and Hoists into Wire Rope Hoists and Chain Hoists. As regards port equipment, the Commission noted that the activities of the parties overlap in supply of Reach Stackers. As regards services, the Commission observed that the activities of the parties overlap in provision of services for industrial material handling equipment and port equipment maintenance services. However, in view of the fact that the Proposed Combination is unlikely to cause an appreciable adverse effect on competition (“AAEC”) in any of the above-mentioned segments/sub-segments, the Commission decided to leave the exact delineation of relevant market(s) open.

Industrial cranes – Standard and Process Cranes

9. As regards the industrial cranes segment, the parties submitted their estimates of market shares as per which their combined market shares in the segment of industrial cranes as well as in the sub-segments of standard and process cranes range from 10-15 percent. The Commission observed that these estimates suffered from certain data limitations and the combined market share of the parties in the overall segment of industrial cranes is expected to be in the range of 20-25 percent. The Commission further observed that the industrial cranes segment and sub-segments of standard and process cranes are characterised by presence of players such as Electromech, Sparkline, Anupam Industries, K2 Cranes and Cranex who may be regarded as major competitors of the parties.



COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2016/06/408)

Hoists – Wire Rope Hoists and Chain Hoists

10. In this regard, parties have submitted that despite the divestiture of their global Stahl business, Konecranes may continue to sell non-Stahl brand hoists in India; however, it would take significant time and marketing efforts to penetrate into the Indian hoists market. Further, the Commission observed that Konecranes' sales of non-Stahl brand hoists is presently, negligible and therefore, the resulting overlap in hoists market is insignificant to cause an AAEC in the market. The Commission also observed that hoists market in India is characterised by presence of various players such as Hercules Hoists, Hafa, CHPL-Swift, Electromech *etc.* who are likely to pose significant competition constraint to Konecranes, post the Proposed Combination.

Services for industrial material handling equipment

11. As regards the market for services for industrial material handling equipment, the Commission observed that almost all of the players involved in provision of material handling equipment were also providing services for the same and thus the service market is likely to be at least as competitive as the market for industrial material handling equipment. Given the competition dynamics of the market for industrial material handling equipment, the Proposed Combination is not likely to cause an AAEC in the services market.

Port Equipment – Reach Stackers and Port Equipment Services

12. In the reach stackers sub-segment, the market shares of Konecranes and Terex, based on their internal estimates, are in the range of 5-10 percent each leading to a combined market share in the range of 15-20 percent. As per the information given in the notice, the market is led by Hyster and Cargotec which are major players in this segment and are also active in the segment of port equipment maintenance services. Thus, considering the market shares of the parties and the presence of other significant competitors, the Proposed Combination is not likely to raise any competition concerns in either the market for supply of reach stackers or port equipment maintenance services.
13. As regards the vertical relationships emanating from the Proposed Combination, the Commission noted that the parties are engaged in activities which can be said to be at different levels of the production chain. Hoists are inputs for manufacturing of cranes



सत्यमेव जयते



Fair Competition
For Greater Good

COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2016/06/408)

and the parties sell hoists to third party crane manufacturers. Similarly, the parties procure spare parts for provision of maintenance services which implies a potential vertical linkage. However as submitted by the parties, there is no actual customer-supplier relationship between them in India. Further, considering their presence in the market for industrial cranes and hoists as detailed above, the potential vertical relationships do not appear to be significant enough to cause an AAEC in any of the markets impacted by the Proposed Combination.

14. Considering the facts on record and details provided in the notice given under sub-section (2) of Section 6 of the Act and assessment of the Proposed Combination on the basis of factors stated in sub-section (4) of Section 20 of the Act, the Commission is of the opinion that the Proposed Combination is not likely to have appreciable adverse effect on competition in India and therefore, hereby approves the same under sub-section (1) of Section 31 of the Act.
15. This order shall stand revoked if, at any time, the information provided by the parties is found to be incorrect.
16. The information provided by the parties is confidential at this stage in terms of and subject to provisions of Section 57 of the Act.
17. The Secretary is directed to communicate to the parties accordingly.