

Completed acquisition by Otis Limited of Oakland Elevators Limited

The OFT's decision on reference under section 22(1) given on 28 November 2003

PARTIES

- 1 **Otis Ltd** (Otis) is active in the manufacture, upgrading, repair and maintenance of passenger and goods lifts and escalators. It is ultimately owned by United Technologies Corporation of the US and is a leading international supplier of lift and escalator equipment and services. In the year to 30 November 2001 Otis had a turnover of £235.2 million. **Oakland Elevators Ltd** (Oakland) is involved in the design, manufacture, installation, repair, service and refurbishment of elevators of all types. In the year to 30 September 2002 it had sales of £11.6 million.

TRANSACTION

- 2 This is a completed merger – Oakland was acquired on 30 September 2003 for a consideration of £7.7 million. The statutory deadline expires on 29 January 2004, the 40 day administrative deadline is 19 December 2003. Otis informed the Office that the main focus of the merger is on the maintenance sector – it will provide Otis with additional maintenance depots, particularly outside London, and enable it to offer a wider range of maintenance and service contracts and be more competitive when bidding for service contracts.

JURISDICTION

- 3 As a result of this transaction Otis and Oakland have ceased to be distinct. The parties overlap in the supply of new lifts; the refurbishment of installed lifts; and maintenance services. The share of supply test in section 23 of the Enterprise Act 2002 (the Act) appears to be met in respect of the supply of new lifts and refurbishment services. A relevant merger situation has therefore been created.

RELEVANT MARKET

Product market

- 4 On the demand side, new buildings have some leeway in design to incorporate different types of lifts (such as scenic versus non-scenic lifts)

but the basic distinction of maintenance, refurbishment, passenger and goods lifts are unlikely to be substitutable.

- 5 On the supply side, it appears that, whilst the technical specification of passenger lifts is greater than goods lifts, the basic skills are the same and in practice companies produce both. A company active in installation of new lifts will, by default, be able to refurbish and maintain lifts although the reverse need not be true. In practice there appears to be a greater number of companies active in maintenance than installation.
- 6 Consequently, a cautious view is taken: treating the installation of new lifts separately from the sectors of maintenance and also refurbishment. Given that no competition concerns arise on this narrow definition, it is not necessary to review any wider frame of reference.

Geographic market

- 7 Imports of new lifts and component equipment into the UK is substantial and, according to the parties, is believed to represent 90 per cent of domestic consumption. However, these are installed by companies with a physical presence in the UK. It would appear unlikely that it would be financially viable (except for the largest projects) to supply and install new lifts or refurbish existing lifts without the use of engineers based in the UK. Lift manufacturers not present in the UK sell components to companies who then assemble and install these lifts.
- 8 In terms of maintenance contracts, response times are important to the extent that they can be specified in contracts alongside penalty clauses. In this respect both parties maintain service depots in a range of locations across the UK. Nevertheless, some customers who have national contracts look for a national provider of these services. It would also appear relatively easy for a provider of maintenance services to extend and establish a presence in a section of the country not currently covered if prices were to increase within that region.
- 9 Overall, it appears that the appropriate geographic frame of reference is the UK.

HORIZONTAL ISSUES

Shares of supply

- 10 Share figures are difficult to estimate in this industry due to a lack of public data. The most comprehensive figures, provided by the parties, are available from two sources:
 - The trade association, the Lift and Escalator Industry Association (LEIA) gathers information from its members. However membership is not universal but the LEIA represents the majority of the industry and the largest suppliers. Consequently any figures calculated from its estimates of sales are likely to overestimate the parties' share of supply.
 - A consultancy also provides estimates of the companies active in the

lift industry. This is derived from public turnover information and consequently if the activities of a company are wider than elevators then this would appear likely to over estimate the total industry turnover. Nor is information split between installation of new lifts, maintenance or refurbishment.

- 11 Based on information provided by the parties and the above sources, the Office has estimated shares of supply for the three sectors. Otis is one of the leading suppliers of lifts and related services in the UK with a share of supply post-merger of [20-30 per cent] (see note 1) in the supply of new lifts, [15-25 per cent] (see note 1) in supply of maintenance, and [25-35 per cent] (see note 1) in the refurbishment of lifts. The increment in each case is no greater than 2 per cent in new lifts and approximately 1 per cent in the other sectors.

Non-coordinated effects

- 12 Even on these conservative estimates, the parties' share and increment is relatively modest at about [20-30 per cent] (see note 1) with an increment of (at most) 2 per cent. Thus, whilst Otis represents the largest supplier of lifts in the UK, the increment is small and several significant suppliers remain who appear to represent effective rivals. The most prominent competitors appear to be Kone (which is of similar size), Schindler and Thyssen. In addition there are several mid sized competitors such as Stannah Lifts, Jackson Lifts and Pickering's as well as large foreign companies who appear to have a small presence in the UK at the moment such as Mitsubishi Electric. Given this structure and the degree of competitive constraint, it would not normally be expected that such a modest acquisition would be capable of giving rise to a substantial lessening of competition.
- 13 The one specific concern raised by a customer was in relation to the installation and design of bespoke lifts. The major lift manufacturers cannot meet this requirement easily as they generally produce standard lifts and Oakland was considered as the last remaining company who could offer this type of product. If the customers' comments are correct, then Otis cannot be competing for this business currently (Otis has informed the Office that it uses subcontractors for bespoke products) and thus it is debatable whether the merger represents a loss of competition. However, it also appears that other mid sized companies can provide a bespoke service.
- 14 Refurbishment and maintenance generally are less technically demanding than installation of new lifts and there are a greater range of companies active in the UK. Since no competition concerns arise within the installation of new lifts it is unlikely that a substantial lessening of competition will arise in maintenance and refurbishment. This is further supported by third parties views. Spare parts appear to be readily available both from original equipment manufacturers and the lift companies themselves. In this respect all the main companies maintain lifts from various manufacturers, with building managers and customers increasingly putting maintenance requirements out to tender including where they have a mixed portfolio of

different lifts. There is also evidence of customers switching service contracts.

Barriers to entry and expansion

- 15 The parties consider that barriers to new entry are small and have provided examples of several new entrants from the recent past. It does appear, at least in terms of maintenance, that new entry has occurred. One third party supported this view and commented that new entry was relatively frequent.
- 16 Given that competition does not appear to be lessened by the transaction there is no need to reach a conclusion here.

Buyer power

- 17 We have received no evidence to suggest that significant countervailing buyer power exists.

VERTICAL ISSUES

- 18 No significant vertical issues appear to be raised by this merger.

THIRD PARTY VIEWS

- 19 Third parties were generally unconcerned by the merger. One third party expressed specific competition concerns which are discussed in the competition analysis above.

ASSESSMENT

- 20 Whilst Otis represents the largest lift manufacturer within the UK there are factors to suggest it is still subject to significant constraints. Most importantly, it appears that the strongest competitors to Otis are Kone, Schindler and Thyssen who are established multi-national lift suppliers who were all recognised by third parties. This constraint remains post-merger. There are also a number of mid-sized suppliers and many small players particularly in the maintenance sector. The increment arising from the merger in any sector is also very modest.
- 21 The sole specific concern raised by one third party relates to the supply of bespoke lifts. In this respect it does not appear that Otis represented a viable option now and thus it is debatable whether the acquisition could represent a substantial lessening of competition in the supply of this type of lift. Nevertheless there also appear to be other companies of a similar size to Oakland who offer bespoke lifts.
- 22 On this basis, the OFT does not believe that it is or may be the case that the creation of the relevant merger situation has resulted or may be expected to result in a substantial lessening of competition within a market or markets in the United Kingdom for goods or services.

DECISION

23 This merger will therefore **not be referred** to the Competition Commission under section 22(1) of the Act.

NOTES

1. Actual figure replaced by a range at the request of the parties