ACQUISITIONS (PAPER TISSUE): THE METSA CASE

Subject: Acquisitions
Prohibitions

Industry: Paper (especially tissue, paper towels and similar products)

Parties: Metsa Tissue
SCA Molnlycke

Source: Commission Statement IP/01/147, dated 31 January 2001

(Note. This is one of the relatively rare cases in which the Commission has announced an outright prohibition of a proposed concentration. The proposal would have created or strengthened dominant positions in the supply of a variety of paper tissue products in Scandinavia; and the undertakings offered by the parties concerned were insufficient, in the Commission's opinion, to offset the competitive disadvantages of the operation. The Commission compared the undertakings unfavourably with those offered in the Metso case, which is the subject of the preceding report in this issue.)

The Commission has blocked the proposed takeover of Finnish tissue paper manufacturer Metsä Tissue by its Swedish competitor SCA Mölnlycke on competition grounds. The operation would have created or strengthened dominant market positions in a total of 26 hygienic tissue products in Sweden, Norway, Denmark and Finland. As such, it would have severely limited consumer choice for tissue products, such as kitchen towels and toilet paper, and would have enabled manufacturers to raise customer prices.

The deal would have given SCA sole control of Metsä Tissue Corp, which is currently majority-owned by Metsä-Serla Corp, also of Finland. The present merger case forms part of an extensive exchange of assets between Metsä-Serla and Svenska Cellulosa AB, the parent company of SCA. Two other deals, the acquisition of Metsä Corrugated by SCA and Modo Paper by Metsä-Serla, were cleared by the European Commission with conditions, last year.

The Commission's careful analysis of the SCA/Metsä Tissue merger showed very high market shares (up to 90% in some markets) throughout the entire Nordic region (Sweden, Norway, Denmark and Finland) for toilet paper and kitchen towels.

The operation would combine SCA's Edet toilet paper and kitchen towels with Metsa Tissue's own well known brands Lambi, Leni and Serla, leaving little room for alternative suppliers. The Commission found that Nordic supermarkets' countervailing buyer power would be insufficient to restrain the merged company's market power. The investigation also showed that with such a

powerful player no competitors would be ready to penetrate the market due to very high investment costs, including the costs of introducing a new brand. Hygienic tissue products can be divided into different categories, such as toilet paper, kitchen towels, handkerchiefs and napkins. These products are either sold through retailers ("consumer products") or to corporate customers, such as hotels, schools, hospitals etc. ("Away-from-home products" - AFH). The parties and most other tissue manufacturers have developed their own branded products but also supply supermarkets and other large consumers with private-label products. Tissue products can be transported over distances of approximately 800-1000 kilometres, beyond which supply of the relatively bulky products becomes increasingly uneconomical.

The Commission's investigation showed that the operation would lead to the creation of single dominant market positions in 21 tissue paper markets in Sweden, Norway and Denmark, to the creation of duopolistic dominant positions in two tissue product markets in Finland between the merged entity and Fort James of the United States -- and to the strengthening of dominant positions in three product markets in Finland.

SCA is a wholly owned subsidiary of the Swedish company Svenska Cellulosa AB, a forest industry and paper group that specialises in the manufacture of absorbent hygiene products, corrugated packaging and graphic papers. SCA manufactures and distributes a variety of tissue-based hygiene products throughout the European Economic Area and in Poland and Russia. Metsä-Tissue is active in the production of tissue products as well as baking and cooking papers. It is majority-owned (66%) by the Metsä-Serla Corp., a Finnish forest industry company. Metsä Tissue has production capacity in Germany, Finland, Sweden and Poland.

During the Phase II (in-depth) investigation, the parties re-submitted undertakings already offered in first phase. These undertakings, which included the divestiture of certain assets, had already been rejected in Phase I as they did not address any of the competition issues identified for consumer and AFH tissue products in Finland or for private-label consumer tissue products in Denmark. Furthermore, the proposed divestment package contained insufficient capacity in a number of product markets for the buyer to compete effectively with the merged entity and to effectively restrain SCA's market power in Sweden, Norway, Denmark and Finland.

This is only the fourteenth time the Commission has prohibited a merger since 1990, of a total of over 1,500 cases notified for regulatory clearance in the past 10 years, and this a decision of the last resort when the companies did not address or insufficiently addressed the Commission's legitimate concerns about creation or strengthening of dominant positions. The Commission has been able to clear the overwhelming majority of mergers and acquisitions involving Nordic companies either with or without conditions such as, for example, the SCA/Metsä Corrugated and Metsä-Serla/Modo cases mentioned above, the decision involving Metso and Svedala. or the April 2000 clearance of the banking merger between Merita Nordbanken and Unidanmark. ■