



EUROPEAN COMMISSION

COMPETITION DG

Policy and Strategy

Antitrust and Mergers – Policy and Scrutiny

OPINION

of the ADVISORY COMMITTEE on MERGERS

given at its meeting of 25 April 2012

regarding a draft decision relating to

Case COMP/M. M6286 Südzucker ED&F Man

Rapporteur : SPAIN

1. The Advisory Committee agrees with the Commission that the notified operation constitutes a concentration within the meaning of the Council Regulation No 139/2004.
2. The Advisory Committee agrees with the Commission that the notified operation has a community dimension within the meaning of the Council Regulation No 139/2004.
3. The Advisory Committee agrees with the Commission that, for the purpose of assessing the present operation, the definitions of the relevant **product markets** are:
 - a) separate markets for (1) the supply of white sugar to industrial processors and (2) for the supply of white sugar to retailers;
 - b) separate market for supply of raw cane sugar and for the supply of sugar beet, whereas within the supply of raw cane sugar a further distinction between preferential raw cane sugar and non-preferential raw cane sugar can be left open in this case;
 - c) market for molasses, whereas a further distinction between beet molasses and cane molasses can be left open in this case;
 - d) market for bioethanol, whereas it is not necessary to conclude on the exact product market definition in this case;
 - e) market for biofuel, whereas it is not necessary to conclude on the exact product market definition in this case;
 - f) market for feedstuff, whereas it is not necessary to conclude on the exact product market definition in this case;
 - g) market for vinasses, whereas it is not necessary to conclude on the exact product market definition in this case.

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4. The Advisory Committee agrees with the Commission that, for the purpose of assessing the present operation, the definitions of the relevant **geographic markets** are:
- a) national-wide for (1) the supply of white sugar to industrial processors and (2) for the supply of white sugar to retailers in Italy.
 - b) national-wide for the supply of white sugar to industrial processors and for the supply of white sugar to retailers in Greece; whereas it is not necessary to conclude on the exact geographic definition in this case.
 - c) covering at least the African, Caribbean and Pacific countries (ACP) and the Least Developed Countries (LDC) countries and could also comprise the main countries providing raw cane sugar under CXL (part of the GATT agreement) and exceptional Tariff Rate Quotas ("TRQ") with regard to the supply of preferential raw cane sugar; whereas it is not necessary to conclude on the exact geographic definition in this case.
 - d) EEA-wide or national for the supply of molasses whereas it is not necessary to conclude on the exact geographic market definition in this case.
 - e) EEA-wide for bioethanol, biofuel, feedstuff and vinasses whereas it is not necessary to conclude on the exact geographic market definition in this case.
5. The Advisory Committee agrees with the Commission that the proposed concentration is likely to result in a **significant impediment to effective competition** in the common market or in a substantial part of it on the market for the supply of white sugar to industrial processors in Italy.
6. The Advisory Committee agrees with the Commission that the proposed concentration is not likely to result in a **significant impediment to effective competition** in the common market or in a substantial part of it on the following markets.
- a) all markets for the supply of white sugar to industrial processors other than that mentioned in the previous question 5;
 - b) all markets for the supply of white sugar to retailers;
 - c) all the markets for the supply of raw cane sugar into the EU;
 - d) all markets for the supply of molasses;
 - e) all markets for bioethanol;
 - f) all markets for biofuel;
 - g) all markets for feedstuff;
 - h) all markets for vinasses.
7. The Advisory Committee agrees with the Commission that the **commitments** are **sufficient** to remove the significant impediments to competition on the market for the supply of white sugar to industrial processors in Italy.

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8. The Advisory Committee agrees with the Commission that, subject to full compliance with the commitments offered by the parties, and considered all commitments together, the proposed concentration does **not significantly impede effective competition** in the internal market or in a substantial part of it.
 9. The Advisory Committee asks the Commission to take into account all the other points raised during the discussion.
 9. The Advisory Committee agrees with the Commission's view that the notified concentration should **be declared compatible** with the Internal Market and the EEA Agreement in accordance with Articles 2(2) and 8(2) of the Merger Regulation and Article 57 of the EEA Agreement.
