

***Case No IV/M.1400 -
REXAM / PLM***

Only the English text is available and authentic.

**REGULATION (EEC) No 4064/89
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION
Date: 01/02/1999

*Also available in the CELEX database
Document No 399M1400*



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 1.02.1999

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EEC) No 4064/89 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus [...]. Where possible the information omitted has been replaced by ranges of figures or a general description.

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying party

Dear Sirs,

Subject: Case No IV/M.1400 – Rexam/PLM

Notification of 22/12/1998 pursuant to Article 4 of Council Regulation No 4064/89

1. The case was notified on 22 December 1998 by Rexam Plc (“Rexam”). The proposed operation consists of the acquisition by Rexam of sole control over PLM AB (“PLM”) by way of a public bid. The board of PLM recommended the offer to its shareholders.
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of the Council Regulation No 4064/89 and does not raise serious doubts as to its compatibility with the common market and the functioning of the EEA Agreement.

I. THE PARTIES

3. Rexam is a UK-based holding company active in the following sectors: (i) packaging for speciality food, healthcare, beauty and industrial products, (ii) printing, (iii) coated films and papers and (iv) building and engineering.
4. PLM is a Swedish based holding company active in the packaging sector (beverage cans and packaging made of glass and plastics).

II. THE OPERATION

5. Rexam intends to acquire sole control over PLM by way of a public bid.

III. CONCENTRATION

6. The transaction is a concentration within the meaning of article 3(1) (b) of the Merger Regulation.

IV. COMMUNITY DIMENSION

7. The operation has a Community dimension under the thresholds of Art. 1(3) of the Regulation. The combined aggregate worldwide turnover of the undertakings concerned exceeds EUR 2 500 million (Rexam 2794 Mio, PLM 1024 Mio). In each of at least 3 Member States the combined aggregate turnover of all the undertakings concerned is more than EUR 100 million and in each of at least 3 of these Member States the aggregate turnover of each of at least two of the undertakings concerned is more than EUR 25 million (France: Rexam 179.2 Mio, PLM 48.9 Mio; Germany: Rexam 91.3 Mio, PLM 237.7 Mio; the Netherlands: Rexam: 33 Mio, PLM 96.1 Mio; UK: Rexam 1082.5 Mio, PLM 158.4 Mio). The aggregate Community wide turnover of each of the undertakings concerned exceeds EUR 100 million (Rexam 1488.8 Mio, PLM 883.3 Mio). They do not achieve more than two-thirds of their turnover in one and the same Member State.

IV. THE RELEVANT MARKETS

A. Relevant product markets

8. In previous decisions¹ the Commission has found that the European packaging industry does not constitute one market but is divided in several markets based on a combination of the packaging material and the use made of the packaging product. In the present case, the only areas of material product overlap between Rexam and PLM within the EEA occur within the supply of thin-walled plastic containers, plastic cups and plastic pharmaceutical containers.
9. Thin-walled plastic containers are used for dairy products such as yoghurt, cream, ice cream and other desserts and yellow fat products such as margarine and other spreads. Thin-walled containers can be made of polypropylene (PP) or non-expanded polystyrene (PS) and can be made by two different processes: thermoforming, which involves forming and shaping flat sheets of plastic and injection-moulding, which involves melting the plastic and then injecting it inside a mould. The majority of Rexam's containers are made from PP whereas the majority of PLM's containers are made from PS.
10. According to Rexam, thin-walled containers manufactured from PP and those made from PS are interchangeable, both visually and in terms of function, and are similar in price. The same technology is used to manufacture each type and size of thin-walled container and the same machine can be used to manufacture PP or PS thin-walled containers with relatively small switching costs.
11. It follows from the market investigation that PP and PS thin-walled containers are substitutable depending upon the rigidity and temperature requirements of the end product. PP is freezable and can be used for micro-wavable products whereas PS is generally brittle and does not have the freezable characteristics of PP. The thermo-forming process is cheaper than the injection moulding process. The latter will only be used when a better rigidity is required (for instance for larger packs or for high quality small packs). Switching from one raw material to another is possible in thermo-forming applications, but requires reasonable additional investments. The production of thin-walled containers on thermoforming machines can be switched to injection moulding and vice-versa, but this requires large amounts of capital investment.

¹ Case No. IV/M.603 – Crown Cork & Seal / Carnaud Metal Box, Case No IV/M. 081–Viag / Continental Can and Case No IV/M. 1109 – Owens Illinois / BTR Packaging.

12. However, for the purpose of the present case, the definition of the relevant product market can be left open given that the operation does not lead to any problem of dominance in any of the alternative markets considered above.
13. Plastic cups are made from PP, PS or expanded polystyrene (EPS). PP and PS cups are manufactured using thermoforming or injection moulding and can, according to Rexam, be manufactured using the same machinery, whereas EPS cups are manufactured using different machinery. Rexam only produces PP cups whereas the large majority of PLM's cups are made from PS.
14. Rexam claims that both visually and in terms of price PP and PS cups are substitutable and that they are also similar in price. EPS cups have slightly different properties, but they serve the same essential function as PP and PS cups. Rexam also contends that the switching costs between PP and PS are relatively small. Therefore, Rexam submits that all three types of cups form part of the same market.
15. According to the results of the market investigation, most plastic cups can, in general, be substituted. PS cups have a better rigidity at high temperatures (as they have a higher softening point) than PP cups, but for cold drinks they can be considered as a substitute for one another. When heat retention and thermal insulation are required (for a hot soup), EPS cups are the only practical option. PP and EPS cups can generally not be used for vending machines. Most plastic cups are thermoformed as this is cheaper than injection moulding. The latter process will be reserved for applications where quality is a prime requirement (airline catering). Switching between PP and PS seems possible, but requires technical expertise, modification of equipment and training of personnel. Switching to EPS however is a costly operation because new equipment is required.
16. However, for the purpose of the present case, the definition of the relevant product market can be left open given that the operation does not lead to any problem of dominance in any of the alternative markets considered above.
17. The plastic pharmaceutical containers manufactured by Rexam and PLM are blow-moulded plastic bottles. The machinery used to manufacture pharmaceutical containers can also be used to manufacture other small plastic bottles (deodorant bottles and bottles used for oil), but not to manufacture larger bottles such as PET bottles. Rexam therefore considers that the plastic pharmaceutical containers produced by the parties form part of a much wider market for all blow-moulded plastic bottles.
18. It follows from the market investigation that plastic pharmaceutical containers can be manufactured by thermoforming, injection moulding and blow moulding. The materials used are PS, PP and polyethylene (PE).
19. However, for the purpose of the present case, the definition of the relevant product market can be left open given that the operation does not lead to any problem of dominance in any of the alternative markets considered above.

B. Relevant geographic market

20. The analysis of the relevant geographic market is the same for thin-walled containers, plastic cups and plastic pharmaceutical containers. According to Rexam, there are a number of factors which point towards European-wide markets: the transport costs are claimed to be low, the products have a high packaging density and can easily be stacked, and although sales are currently made locally, pan-European companies prefer to purchase from one or a few suppliers.
21. The market investigation has learnt that transport costs are a significant cost item (3 to 10%) for food packaging products as unit prices are low and one cannot avoid shipping a lot of air. For bulk products, such as yoghurt or vending cups, the economical transportation distance is max. 1000 km within Western Europe. Rigid plastic pharmaceutical containers are space hungry as they are not collapsible or nestable. Dependant upon the container size the impact of the transport costs on the unit cost can vary and will be more than 10% of total unit cost.
22. Although there is a strong indication that the geographic market is not European-wide, for the purpose of the present case, the definition of the relevant geographic market can be left open given that the operation does not lead to any problem of dominance in any of the alternative markets considered above.

V. ASSESSMENT

Thin-walled plastic containers

23. On an EEA level the combined market share of the parties for thin-walled containers is [$<10\%$] (Rexam [...], PLM [...]). On a national level, there is no overlap between the parties. Rexam, but not PLM, sells thin-walled containers in the UK, France, the Netherlands, Germany and Belgium. PLM sells thin-walled containers in Sweden, Denmark, Finland and Norway, whereas Rexam has no significant sales in these countries.

Plastic cups

24. On an EEA level the combined market share of the parties for plastic cups is [$<5\%$] (Rexam [...], PLM [...]). On a national level, the only area of overlap occurs in the UK where the combined market share is [$<15\%$] (Rexam [...], PLM [...]).

Plastic pharmaceutical containers

25. On an EEA level the combined market share of the parties for plastic pharmaceutical containers is less than 5% (Rexam $<5\%$, PLM $<5\%$). There is no overlap between the parties on a national level. Rexam's plastic pharmaceutical containers are only sold in the UK and PLM's containers are sold in Sweden, Denmark, Finland, and Norway.

VI. CONCLUSION

26. For the above reasons, the Commission has decided not to oppose the notified operation and to declare it compatible with the common market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of Council Regulation (EEC) No 4064/89.

For the Commission,