

***Case No COMP/M.5230 -  
CAPMAN / LITORINA /  
CEDERROTH***

Only the English text is available and authentic.

**REGULATION (EC) No 139/2004  
MERGER PROCEDURE**

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Article 6(1)(b) NON-OPPOSITION  
Date: 30/07/2008

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 30/07/2008  
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PUBLIC VERSION

MERGER PROCEDURE  
ARTICLE 6(1)(b) DECISION

**To the notifying party:**

Dear Sir/Madam,

**Subject: Case No COMP/M.5230 - CapMan/ Litorina/ Cederroth  
Notification of 24.06.2008 pursuant to Article 4 of Council Regulation  
No 139/2004<sup>1</sup>**

1. On 24 June 2008, the Commission received a notification under the EC Merger Regulation<sup>2</sup> of a proposed concentration by which the undertakings CapMan (Sweden) and Litorina Kapital III LP (Litorina, Sweden) acquire joint control of Cederroth International AB ("Cederroth", Sweden) by way of purchase of shares.

**I. THE PARTIES**

2. **CapMan**'s core business is a private equity fund investing in portfolio companies with a main focus in three investment areas in the Nordic countries: middle market buyouts, technology investments and life science investments. CapMan is present in the cosmetics and cleaning products sector through two of its portfolio companies, Lumene and Farmos.
3. **Lumene** is a Finnish-based company active in the supply of cosmetic products with a global turnover of €102 million in 2007, out of which approximately [...] was achieved in Finland, Norway and Sweden. **Farmos** is a Finnish-based company mainly active as a manufacturer of cleaning, disinfectant and industrial chemicals intended primarily for large-scale customers and also present in the retail sales of personal and home care

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<sup>1</sup> OJ L 24, 29.1.2004 p. 1.

<sup>2</sup> Council Regulation (EC) No 139/2004, OJ L 24, 29.1.2004 p. 1.

products. Farnos achieved a global turnover of €40 million in 2007, with more than [...] % in Finland.

4. **Litorina**, the other acquiring party is a private equity fund that invests in Nordic, primarily Swedish, privately held companies. Its investments are not limited to specific industries. None of Litorina's portfolio companies is active in the cosmetics and cleaning sector.
5. **Cederroth**, the target, manufactures and sells personal care products (cosmetics and toiletries), home care products (e.g. detergents), health care products (e.g. vitamins and food supplements) wound care and first aid products (e.g. plasters and bandages). Cederroth achieved a global turnover of €186 million in 2007, out of which [...] % was achieved in the Nordic countries.

## **II. THE OPERATION AND THE CONCENTRATION**

6. The notified concentration concerns CapMan's and Litorina's acquisition of Cederroth from Alberto-Culver AB. About [...] % of the shares and votes will be held by CapMan. Litorina will hold around [...] % of the shares and votes. About [...] % of the shares and votes will be held by members of the Cederroth management.
7. The board of directors will consist of up to [...] directors appointed by the shareholders meeting. CapMan shall be entitled to nominate [...] directors and Litorina shall be entitled to nominate [...] director. The remaining [...] directors, who shall be independent from CapMan and Litorina, shall be nominated jointly by CapMan and Litorina or, if no agreement could be reached, by CapMan.
8. Resolutions by the board shall, as a rule, be passed by a simple majority vote. However, certain matters require that the resolution is supported by a majority including at least one director nominated individually by each of CapMan and Litorina. Thus, Litorina has a veto right in relation to:
  - the approval of the annual budget and any material amendment thereof;
  - any material changes to the Business Plan; and
  - investments exceeding EUR [...] million.
9. The veto rights over the approval of the budget which determines the framework of the activities of the company and in particular the investments it may make as well as over any material amendments to the Business Plan and important investments confer joint control over Cederroth to CapMan and Litorina within the meaning of EC Merger Regulation. The proposed operation therefore constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

## **III. COMMUNITY DIMENSION**

10. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 2500 million: for CapMan EUR [...] million, for Litorina EUR [...] million and for Cederroth EUR 185.5 million. The Community-wide turnover of CapMan is EUR [...] million, of Litorina EUR [...] million and of Cederroth EUR [...] million. The parties' combined aggregate turnover exceeds EUR 100 million and each of CapMan's and Cederroth's turnovers exceed EUR 25 million in the following Member States: Finland, Poland and Sweden. Therefore the merger is of Community dimension within the meaning of Article 1(3) of the EC Merger Regulation.

## IV. COMPETITIVE ASSESSMENT

### HORIZONTAL OVERLAPS

11. The proposed transaction will lead to horizontal overlaps in the supply of personal care products where both Capman and Cederroth are active<sup>3</sup>.

#### *Relevant product markets*

12. Product markets in the personal care sector are usually defined on the basis of demand-side considerations, thus individual products related to specific end-use are considered as constituting separate markets. The Commission also considered in previous cases a distinction according to the sales channels<sup>4</sup>. As Cederroth is only active in the supply of cosmetics products to the retail channel (including general food trade, non-food and discount retailers, pharmacies and special trade stores), this channel therefore constitutes the only distribution channel which may be affected by the proposed transaction.
13. The market investigation has confirmed that for the purpose of the present case, body lotion, lip balm, liquid hand soap and nail polish remover, which are the only product categories where the proposed concentration would lead to affected markets, constitute relevant product markets.<sup>5</sup>

#### *Relevant geographic markets*

14. As regards the geographic scope of the markets, in previous decisions relating to personal care and cosmetics products, the Commission left open the market definition<sup>6</sup> but, given notably the importance of brands and price differences among Member States, considered markets for these types of products on a national basis. In the present case it is not necessary to determine the precise market definition, as even based on the narrowest market definition possible, i.e. at a national level, the transaction does not raise competition concerns.

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<sup>3</sup> As regards home care products, Farnos sells washing detergents and other cleaning and hygiene products primarily to the industrial and institutional sector, while Cederroth is only active in the retail channel (only in Finland has Farnos limited retail sales of washing detergents and cleaning products where both parties have small market shares, below [1-5]% for Cederroth and [5-10]% for Farnos). In a previous decision, in Case No COMP/M.2665 – Johnson Professional Holdings/DiverseyLever, sales to the industrial/institutional sector have been considered as distinct from sales to the retail channel. There would thus be no overlap on the basis of this previous market definition.

<sup>4</sup> Cases COMP/M.3149 - Procter & Gamble / Wella, M.2665 - Johnson Professional Holdings/DiverseyLever, No COMP/M.3716 - AS Watson/ Marionnaud and No COMP/M.3643 – SEPHORA / EL CORTE INGLÉS / JV

<sup>5</sup> The parties' activities also overlap in the supply of facial care products, bath and shower products, deodorants and hair care products. However, data submitted by the parties show that the proposed transaction does not give rise to affected markets in these categories under any possible product market definition.

<sup>6</sup> Cases COMP/M.4314 - Johnson & Johnson / Pfizer Consumer Healthcare and COMP/M.4193 L'Oréal/Body Shop, COMP/M. 5068 – L'Oréal / YSLB.

### Competitive assessment

15. The proposed concentration gives rise to a number of horizontal overlaps between Cederroth, on the one hand, and Lumene and Farnos, on the other hand, in the supply of personal care products sold through the retail channel in Finland, Norway, Poland and Sweden. However, only in Finland would the proposed transaction give rise to affected markets as summarised in the table below.

Finland (2007)	Cederroth	Capman	Combined entity	Market size (€million)
Body lotion	[0-5]%	[10-20]%	[10-20]%	[10-20]
Lip balm	[30-40]%	[0-5]%	[40-50]%	[0-10]
Liquid hand soap	[25-35]%	[0-5]%	[30-40]%	[10-20]
Nail polish remover	[20-30]%	[15-25]%	[35-45]%	[0-10]

16. As regards the supply of body lotion in Finland, the parties' estimated combined market share is [10-20]% with an increment of [0-5]%. Beiersdorf (under the brand "Nivea") will remain the clear market leader with a market share of [30-40]%, followed by Unilever (brand "Dove") with [20-30]%.
17. Although the combined market share of the combined entity is higher in liquid hand soap ([30-40]%) and in lip balm ([40-50]%), the addition of market share in these markets is only [1-5]%. In liquid hand soap, the parties' main competitors in Finland are Colgate-Palmolive ([25-35]%), Berner ([1-5]%) and Unilever (Dove) with [1-5]%. In lip balm, the parties' main competitors are Beiersdorf ("Labello") with a market share of around [35-45]% and Unilever ("Chesebrough" and Dove) with around [5-10]%.
18. The market investigation showed that customers did not expect any impact of the proposed transaction in the markets of body lotion, liquid hand soap and lip balm on their purchases, in particular as they confirmed that there would still be post merger a sufficient number of alternative suppliers.
19. Therefore in view of the minimal change brought about by the proposed concentration, the presence of strong competitors and the absence of concerns raised in the course of the market investigation, it is unlikely that competition problems may arise in the markets for body lotion, liquid hand soap and lip balm in Finland.
20. In the Finnish market for nail polish remover, the proposed transaction would combine the leading supplier Cederroth (active under the brand *Mirame*) with the number 3, Lumene (active under the brand *Lumene* and *Anytime*). However, it should be noted that Lumene decided to discontinue sales of one of its two nail polish remover brands (*Anytime*) as of July this year. Thus, the actual combined market share is rather limited to [30-40]%.
21. Competitors include the Finnish retail group Inex with a market share of [15-25]% in 2007, Mavala, a specialised pan-European nail cosmetics company ([10-20]%) and L'Oréal, a global cosmetics group (*Maybelline*) with [5-15]% as well as two other smaller market players, the Finnish retail chain Kesko who recently entered the market ([5-10]%) and the Dutch company Trind ([5-10]%).

22. The parties include in the market both branded and private label products as they consider that private label products, which represent approximately 25% of total sales of nail polish removers in Finland, compete on similar merits as branded goods. The parties base their view on the fact that some low to mid market branded nail polish removers, including Cederroth's brand *Mirame* compete directly with private label brands such as *Pirkka* (sold by the retail chain Kesko) and *X-tra* (sold by the retail chain Inex) and are sold at a similar retail price around [0-5]€ This would be further evidenced by the fact that when Cederroth faced a de-listing of its *Mirame* brand and consequently lost almost half of its total sales between 2005 and 2007, primarily private label products captured Cederroth's loss of sales. Indeed Inex increased its market share by [1-5]% between 2005 and 2007 and Kesko by nearly [5-10]%.
23. This interaction between branded and private label is broadly confirmed by respondents to the market investigation which in the list of close competitors to *Mirame* include both branded as well as private label products. Therefore it can be concluded that private label products are at least able to exercise significant competitive pressure on the combined entity.
24. At the request of the Commission, the parties have also submitted market share data excluding private label sales. The new entity would on that basis hold a market share of [45-55]% ([40-50]% when taking into account the withdrawal of one of the parties' brands) but still face competition from three competitors Mavala ([15-25]%), L'Oréal ([10-20]%) and Trind ([5-10]%).
25. The parties submit that Cederroth's nail polish remover is not the closest substitute to Lumene's remaining brand ("*Lumene*"). Whereas the Lumene brand is in the mid to high end market segment with a consumer retail price of around €[0-10] and primarily competes with Mavala and L'Oréal nail polish removers, Cederroth's brand *Mirame* is, as explained above, in the low to mid price market segment (prices of less than €[0-5]) competing with other branded products such as the US brands *Wetn'Wild* and *Cutex* as well as with private labels.
26. Respondents to the market investigation confirm the parties' submission that their brands *Mirame* and *Lumene* are not close competitors, notably as *Mirame* is seen as an affordable and basic product while *Lumene* is considered a much appreciated brand and more expensive product. In addition all the customers having replied to the Commission's questionnaire have submitted that they consider other current market players, branded as well as private label, as significant credible alternative competitors. Thus and in particular in the view of the presence of alternative brands and suppliers, respondents do not see any impact of the proposed concentration on the Finnish market for nail polish removers.
27. In light of the above, the Commission considers that the proposed transaction does not give rise to competition concerns as regards the Finnish market for nail polish removers.

#### **VERTICAL LINKS**

28. Cederroth is active in the production and sale of first aid products to be used in workplaces. Cederroth's estimated market share in Sweden is [35-45]% and [55-65]% in Finland. As one of CapMan's portfolio companies, OneMed, is one of Cederroth's distributors in Sweden and Finland the transaction will create a vertical link between the parties.
29. However the parties submit that the transaction is not likely to lead to any competition concern due to this vertical link. First of all, OneMed's market shares on the downstream

market for the supply of first aid products in Sweden and Finland are below [0-5]%. Secondly, there are a number of other alternative suppliers of first aid products in Sweden, such as Akla ([20-30]%), Tobin ([10-20]%), Nicam/Plusab ([5-10]%), Sterisol ([5-10]%) and Plum ([0-5]%) and in Finland (Duell Office ([5-15]%), Belttton ([5-10]%), Brendell ([0-5]%), Waloplast ([0-5]%) and Euromood ([0-5]%). Cederroth's sales to OneMed do not represent more than [0-5]% of Cederroth's total first aid sales in Sweden and Finland. Also, for OneMed, the distribution of Cederroth's first aid products is a very limited and ancillary activity. For the above reasons, there appears to be no risk that the notified concentration will lead to any input or customer foreclosure.

30. Tokmanni, another portfolio company of CapMan is a Finnish discount retailer with around [...] stores in Finland. Tokmanni purchases a range of products from Cederroth, including toiletries, household products, wound care products and health care products. As the notifying parties indicate, it cannot be excluded that Cederroth has or may have a market share in Finland exceeding 25% in one of these product categories, while Tokmanni's share of sales in the downstream market is small.
31. However there appears to be no risk that the notified concentration will lead to any input or customer foreclosure with respect to the respective positions of Cederroth and Tokmanni in the relevant markets. Indeed the sales to Tokmanni represent not more than [5-15]% of Cederroth's total sales in Finland and Tokmanni's purchases from Cederroth represent less than [0-5]% of Tokmanni's total purchases.

## **V. CONCLUSION**

32. 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 (EC) No 139/2004.

For the Commission  
(signed)  
Neelie KROES  
Member of the Commission