

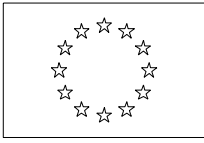
***Case No IV/M.1243 -
ALLIANCE UNICHEM
PLC / SAFA
GALENICA SA***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 27/07/1998

*Also available in the CELEX database
Document No 398M1243*



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 27.07.1998

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying party

Dear Sirs,

Subject: Case No IV/M. 1243 - ALLIANCE UNICHEM/SAFA

Notification of 25.06.1998 pursuant to Article 4 of Council Regulation N/4064/89

1. On 25/06/98 the Commission received a notification of a proposed concentration by which Alliance Unichem (Unichem), through its French subsidiary Alliance Santé Distribution, will acquire sole control of SAFA Galenica S.A. (SAFA).
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of Council Regulation (EEC) No 4064/89 and does not raise serious doubts as to its compatibility with the common market and with the functioning of the EEA Agreement.

I THE PARTIES

3. Unichem is a leading European distributor, wholesaler and retailer of pharmaceutical, medical and healthcare products. It is especially active in pharmaceutical wholesaling in the UK, France, Italy and Portugal, and in pharmaceutical retailing in the UK. SAFA is a pharmaceutical wholesaler operating mainly in Spain.

II THE OPERATION

4. Unichem, through Alliance Santé Distribution, currently owns 36.33% of the shares of SAFA. A further 12.71% are held by Mr. Garcia Vela and members of his family, a handful of shareholders have interests representing between 2 and 3% of the total share capital and the remainder is dispersed among 1,500 retail pharmacists. Unichem will acquire sole control of SAFA primarily by acquiring

Mr. Vela's shares. Simultaneously, Unichem will also put into effect an offer to purchase the shares of the existing shareholders of SAFA through "put" options. Notwithstanding the fact that Mr. Vela retains the right to postpone the transfer of his shares until 31/01/2000, in the event of postponement M. Vela has agreed to vote at the shareholders' meetings of SAFA in accordance with the wishes of Alliance Santé. As a consequence, following the transaction, Alliance Santé will, in any event, control 49% of SAFA share capital. Considering that the average level of shareholder representation at general meetings of SAFA has been 79% over the last three years, Alliance Santé will be able to cast a majority of votes at these meetings gaining sole control over SAFA, irrespective of whether or not Mr. Vela postpone the transfer of his shares and regardless of whether or not the shareholders exercise their put options.

III CONCENTRATION

5. As the operation will result in Unichem acquiring sole control of SAFA, it constitutes a concentration within the meaning of article 3(1)b of the Merger Regulation.

IV COMMUNITY DIMENSION

6. The undertakings concerned have a combined aggregate world-wide turnover in excess of ECU 5,000 million (Alliance Unichem, ECU 7 445 million; SAFA, ECU 470 million). Each of them has a Community-wide turnover in excess of ECU 250 million (Alliance Unichem, ECU 7 445million; SAFA, ECU 470 million), but they do not achieve more than two-thirds of their aggregate Community-wide turnover within one and the same Member State. Therefore, the notified operation has a Community dimension. It does not constitute a co-operation case under the EEA Agreement.

V THE RELEVANT MARKET

The relevant product market

7. The transaction involves the so called full-line wholesale which consists of the distribution of the total range of medicines, including doctor prescription only medicines, over the counter medicines (OTC), products which require special storage and handling such as analgesics and inflammables, and other parapharmaceuticals such as toiletries, health care, baby and beauty products. Full-line wholesalers offer a fast (normally within 12 hours) and frequent delivery service. In addition, they are due to keep stock lines for a very broad range of products. The above mentioned characteristics appear to be typical of this activity and are not present in other forms of distribution such as either manufacturers performing direct distribution who have clearly no wide range of products to offer to pharmacists, or short-line distributors, including parallel importers, who are generally focused on a very limited range of products. As a consequence, the relevant product market to be taken into account for the purpose of this case is to be limited to pharmaceutical full-line wholesale.

The relevant geographic market

8. The geographic market appears to be sub-national in scope due to a number of elements. Firstly, there are different national regulatory regimes applicable to wholesalers even within the EU. In addition, because of the emphasis placed by customers on the frequency and speed of the delivery service provided by full-line wholesalers, competition between them takes necessarily place within regional areas. In this respect, most full-line distributors operate on a regional basis and even large pan european wholesalers such as Unichem, despite their supranational presence, need to dispose of warehouses at regional level.

VI ASSESSMENT

9. The target company SAFA has a market share of [...] ¹ in the full-line wholesaling market in Spain. SAFA's principal competitors within Spain are Cofares, with a market share of [...] ², Federaciôn, with [...] ³, Hefame with [...] ⁴, and Cecofar with [...] ⁵. In terms of regional market shares, SAFA has a share of [...] ⁶ or more in eight of the 36 provinces within which it operates. In particular, SAFA has very significant market shares in the following provinces: Teruel [...] ⁷, Huesca [...] ⁸, Tarragona [...] ⁹, Zaragoza [...] ¹⁰, and Segovia [...] ¹¹. However, it should be pointed out that, following the transaction, there will be no addition of market shares as the acquiring company Alliance Santé is not present on the Spanish market. In addition, this market, both at the national and at the regional level, is characterised by the presence of a number of large competitors. Therefore, the transaction, even if assessed in terms of exclusion of a potential competitor from the market, will not have an appreciable impact on competition. As a consequence, from a competitive point of view, the operation does not appear to raise any special concern.

VII CONCLUSION

¹ business secret; between 10 and 20 %

² business secret; between 10 and 20 %

³ business secret; between 5 and 10 %

⁴ business secret; between 5 and 10 %

⁵ business secret; between 5 and 10 %

⁶ business secret; between 20 and 30 %

⁷ business secret; between 50 and 60 %

⁸ business secret; between 40 and 50 %

⁹ business secret; between 35 and 45 %

¹⁰ business secret; between 35 and 45 %

¹¹ business secret; between 30 and 40 %

10. 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,