

***Case No COMP/M.2552 -
NORSKE SKOG /
PETERSON***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 01/10/2001

*Also available in the CELEX database
Document No 301M2552*



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 01.10.2001

SG (2001) D/291631

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 parties

Dear Sirs,

**Subject: Case No COMP/M.2552 – NORSKE SKOG/PETERSON
Notification of 28/08/2001 pursuant to Article 4 of Council Regulation
No 4064/89¹**

1. On 28 August 2001, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 by which the Norwegian undertaking Norske Skogindustrier ASA (“Norske Skog”) and the Norwegian undertaking M Peterson & Son AS (“Peterson”) notified their intention to establish a joint venture for the production of greaseproof paper.

I. THE PARTIES

2. Norske Skogindustrier ASA (“Norske Skog”) is a Norwegian company active in the forest products industry. Its core business is the production and sale of wood-containing printing paper.
3. M. Peterson & Son AS (“Peterson”) is a Norwegian company active in the packaging industry. Its core business is the production of containerboard and corrugated boxes.

¹ OJ L 395, 30.12.1989 p. 1; corrigendum OJ L 257 of 21.9.1990, p. 13; Regulation as last amended by Regulation (EC) No 1310/97 (OJ L 180, 9. 7. 1997, p. 1, corrigendum OJ L 40, 13.2.1998, p. 17).

II. THE OPERATION

4. Peterson and Norske Skog intend to combine their production capacities of greaseproof paper by creating a full-function joint venture to be called Nordic Paper AS. Norske Skog will contribute one of its subsidiary companies, Union Geithus AS (Geithus, Norway) and Peterson will contribute two of its subsidiary companies, Peterson Scanproof AS (Greaker, Norway) and Peterson Scanproof AB (Seffle, Sweden), to the joint venture.
5. Nordic Paper AS will act as a holding company for Union Geithus AS, Peterson Scanproof AS and Peterson Scanproof AB, which will continue to operate as separate legal entities. The share distribution between Peterson and Norske Skog in respect of the joint venture will be [...] % and [...] % respectively.

III. CONCENTRATION

6. The Board of the joint venture shall consist of four members, two appointed by each party. In addition, the Company's Board shall consist of members elected pursuant to sections 6-4 and 6-5 of the Norwegian Private Limited Companies Act. The Parties shall try to implement a system whereby the subsidiaries have similar boards on which the employees are represented. One of the members appointed by Peterson is to be appointed the Chairperson of the Board. Important resolutions such as decisions regarding significant investments, business plans, budgets, the sale of shares, etc. can only take place following a resolution passed unanimously by the shareholder-elected members of the Company's board. The Company's Board shall appoint the CEO on the basis of a unanimous resolution among the shareholders' representatives. The joint venture will operate within the distinct greaseproof business area and will own the aforementioned subsidiaries. The parties shall ensure the "stand-alone" financing of the Company and its subsidiaries.
7. The notified operation concerns then the establishment of a joint venture performing on a lasting basis the functions of an autonomous economic entity and jointly controlled by the undertakings concerned. The operation therefore constitutes a concentration within the meaning of Article 3(2) of the Merger Regulation.

IV. COMMUNITY DIMENSION

8. The combined aggregate world-wide turnover of the undertakings concerned exceeds € 2.500 million (Norske Skog € [...] million, Peterson € [...] million). In each of at least three Member States, the combined aggregate turnover of all the undertakings concerned is more than € 100 million (Germany € [...] million, Italy € [...] million, Sweden € [...] million). In each of those three Member States the aggregate turnover of each party is more than € 25 million (Norske Skog: Germany € [...] million, Italy € [...] million and Sweden € [...] million). Peterson: Germany € [...] million, Italy € [...] million and Sweden € [...] million). The aggregate Community-wide turnover of each party exceeds € 100 million (Norske Skog € [...] million, Peterson € [...] million). They do not achieve more than two-thirds of their aggregate Community wide turnover within in one and the same Member State. The notified operation, therefore, has a Community dimension according to Article 1(3) of the Merger Regulation.

V. COMPETITIVE ASSESSMENT

The Relevant Product Markets

9. The parties submit that the relevant product market concerned by the proposed operation is an overall market for greaseproof paper which consists of greaseproof and imitation greaseproof paper.
10. Greaseproof paper is produced from chemical pulp. This pulp is subject to prolonged mechanical beating and subsequent coating so as to create a very dense paper with good barrier properties. Without further treatment, this greaseproof paper is particularly suitable for fat and food wrapping applications. The greaseproof paper can also be subject to a process of additional coating with different chemicals in order to give the paper a release quality. The chemicals used are primarily silicone and chromium stearate. The coating process may take place on the site by the producer through an operation on the main production process (“on machine”). Another possibility consists in coating the paper separately by using specific equipment (“off machine”). This operation may be carried out by the producers themselves or by independent converters provided with this equipment. The main end-user of siliconised greaseproof paper is the baking industry. Other applications of coated products include self-adhesive products, release liner and building laminates.
11. Imitation greaseproof paper is also produced from chemical pulp. The mechanical beating is less severe for the production of imitation greaseproof paper, and the barrier properties are achieved through an operation of coating with fluoro-organic chemicals. Fluoro-organic chemicals are generally not compatible with silicone, which makes imitation greaseproof paper less suitable for further treatment in order to obtain a paper with releasing effects. The main application of imitation greaseproof paper is, therefore, fat and food wrapping. Of the parties only Norske Skog currently produces imitation greaseproof paper.
12. There are many similarities between greaseproof and imitation greaseproof paper in relation to the production process. Both papers use chemical pulp as raw material and the two types are subject to mechanical beating. Greaseproof paper and imitation greaseproof paper can often be produced on the same machine with a short period of time required for switching between the two. The parties therefore submit that considerations of supply-side substitution would advocate for greaseproof and imitation greaseproof paper to be in the same relevant product market.
13. The parties mention another type of product that they claim is another substitute product also made from chemical pulp, namely vegetable parchment. Neither of the notifying parties produces vegetable parchment. Vegetable parchment is a high quality paper adequate for wrapping applications. This product may also be silicone-coated in order to obtain release-oriented properties. Vegetable parchment is offered at a higher price; however, it is suitable to be re-used in the baking operations more times than greaseproof paper. Although end uses are equivalent to those of the greaseproof, the production process is substantially different due to the necessity of treating vegetable parchment in sulphuric acid. The machines necessary to produce vegetable parchment cannot be used for producing greaseproof or imitation greaseproof and the contrary also applies. While the parties think that vegetable parchment is a real competitive force in the market for barrier and release papers, they do not believe that there is sufficient

substitutability between suppliers to justify its inclusion in a wider product market definition.

14. The Commission's market investigation has widely confirmed that imitation greaseproof, pure greaseproof and vegetable parchment are all adequate to be used for wrapping fat and food products including, for example, lard, butter and margarine. They basically constitute three different variations of the same product, with different qualities and accordingly different prices.
15. On the contrary, the market investigation has shown that greaseproof paper and imitation greaseproof paper are not demand-side substitutes for the release-oriented applications. Only greaseproof paper and, possibly, vegetable parchment are suitable for this particular end-use due to the technical limitations mentioned above. The parties claim that using imitation greaseproof paper for this purpose is technically possible and has been done in the past. However, the market investigation has shown that imitation greaseproof paper is generally not suitable for release-oriented applications, as it is not fit technically for additional coating treatment with silicone. Accordingly, from a demand-side point of view, only siliconised greaseproof and possibly siliconised vegetable parchment would in principle be taken into account to be part of a relevant market defined in terms of greaseproof paper for release-oriented applications.
16. The market investigation has confirmed that a certain supply side substitutability exists for the production of imitation greaseproof paper and pure greaseproof paper. However, the possibility of supply-side substitution between greaseproof and imitation greaseproof is not nearly as ubiquitous as the parties submit in the notification. Several producers are specialised in one of the two types of paper and have no plans of producing the other type, even in the event of a price rise. Others say that they may consider producing the other type of paper but that it would take some investments to do so and that there are no indications that such an investment would be profitable in the current market situation of over-capacity. The market investigation also confirmed that no supply substitutability exists between, on the one hand, imitation greaseproof and pure greaseproof and, on the other hand, vegetable parchment, due to the different production process and the use of different machines mentioned above.
17. The exact definition of the relevant product market can, however, be left open, as no competition problems arise even on the narrowest conceivable product market definitions.

The relevant geographic market

18. The parties submit that the relevant geographic market for greaseproof paper is at least EEA-wide in scope. This statement is supported by trade flow data showing that shipments throughout the EEA are common practice in the market. In fact, the main country of destination of shipments in Europe is [...] for Norske Skog and [...] for Peterson. The parties ship greaseproof paper from their mills in Norway and Sweden to destinations all over the world. The single largest market for [...] is [...].
19. Customers and competitors have generally confirmed that greaseproof paper is being shipped throughout the EEA, and even over the whole world. Customers have also largely indicated that there are no geographical constraints on the choice of suppliers located within the EEA. The proposed concentration will therefore be assessed on the assumption of an EEA-wide geographic market.

Assessment

20. Both parties are active in the production of greaseproof paper, both pure and siliconised. Only Norske Skog currently produces imitation greaseproof paper. Neither of the parties produces vegetable parchment.
21. The parties describe the markets for greaseproof papers as being characterised by over-capacity and falling prices. These markets have been in decline for over 30 years as a result of, for instance, changes in retail distribution from small family run businesses, including grocers, butchers and fish traders, to large supermarkets, with pre-packaged materials. The parties estimate that the markets have been declining at approximately 2-3% per annum. They expect this trend to continue for the next few years. The parties also explain that European greaseproof producers in 1991 saw the end of business with the Soviet Union who had been buyers of approximately 30.000 tonnes of greaseproof paper and 20.000 tonnes of imitation greaseproof per annum. According to the parties this is the single largest event accounting for the current over-capacity in the marketplace.
22. The market investigation has generally confirmed the description of considerable over-capacity in the European in the greaseproof paper industry. Furthermore, large amounts of greaseproof papers are exported from the EEA to other parts of the world. As mentioned above, the single largest market for both parties is the USA. There is less consensus on the issue of falling prices where some customers dispute this while the majority of producers and several customers confirm the statement.
23. On an overall market for greaseproof papers comprising both imitation greaseproof and pure greaseproof paper the parties estimate that their combined volume-based market share within the EEA would be some [15-25]% (Peterson about [10-20]% and Norske Skog about [0-10]%). The market investigation has shown that although the combined market share of the parties is likely to be somewhat higher than this estimate, the parties would nevertheless have less than one third of such a market. Although the parties would be the largest producer of greaseproof papers they face several significant competitors such as the Finnish company Metsa Tissue and the German companies PWA Waldhof (owned by Swedish SCA), Dresden Papier and Pfleiderer Teisnach. Two of these competitors would have about half the sales of the parties while another two would each have about one third of the sales of the parties. Given the over-capacity mentioned above the concentration does not raise competitive concerns in the overall market for imitation grease proof and pure greaseproof paper within the EEA.
24. On a market for imitation greaseproof and greaseproof paper used for wrapping purposes, the market investigation has shown that the combined market share of the parties would be below [25-35]%. Several other producers are active on the market, either in the markets of greaseproof, imitation greaseproof, or both. Furthermore, the market share estimated above does not take into consideration the competitive impact from the use of vegetable parchment for many wrapping purposes. None of the parties produce vegetable parchment. Several significant competitors are present in vegetable parchment, the largest being the Finnish company Ahlstrom (producing in France) and the Italian company Cima. The concentration therefore would not raise serious competition concerns in a market for imitation greaseproof and greaseproof paper used for wrapping purposes in the EEA.

25. Within siliconised greaseproof paper two major segments can be identified. This type of paper is used extensively in the baking sector, which in the EEA could take up to 90% of all sales of siliconised greaseproof papers. The remainder is used for various industrial applications such as a separating layer between floor tiles and laminates.
26. The production process is basically similar and any manufacturer producing siliconised greaseproof for the baking sector would be capable of producing also for industrial applications. Furthermore, producers of greaseproof paper who do not siliconise themselves would be able to deliver the raw material for independent coaters. A paper manufacturer wanting to produce different qualities than the usual will, however, always have to make tests and various quality adjustments, which may take some time. The market investigation has shown that the technical difficulties could be bigger for a greaseproof producer who wants to start producing input for independent coaters than for a producer who is already making siliconised greaseproof for some applications and now wants to produce also for other applications.
27. The market investigation has shown that there is ample spare capacity for the production of siliconised greaseproof paper. Producers generally have over-capacity for all types of greaseproof paper. Furthermore, in case of higher prices for siliconised paper in the EEA, producers could switch production away from other types of greaseproof paper or diminish their exports to areas outside the EEA.
28. If the product market definition would be as narrow as to merely comprise siliconised greaseproof baking paper in the EEA, the parties submit that their combined market share would be [25-35]%. Two other paper producers would together have about [35-45]% with the remaining [30-40]% sold by converters, who buy uncoated greaseproof paper from paper manufacturers and siliconise the greaseproof paper themselves. The market investigation has, indeed, confirmed that quantities of siliconised greaseproof paper sold by other paper producers is larger than the combined volume sold by the parties. It has also confirmed the existence of several independent converters, who indeed can and do siliconise uncoated greaseproof paper. One competitor to the parties explained that these independent converters add value in their process if they are using printing or adding patterns before siliconising. Other converters who have coating facilities, but who are currently not siliconising greaseproof papers themselves, have indicated that they do not exclude to do so, should the prices of siliconised greaseproof paper rise significantly or should there be demand to be filled in the market. Another competitive restraint is the possibility of using siliconised vegetable parchment, which is used for baking purposes when the paper is to be used several times. Ahlstrom is the most significant producer of this product. Ahlstrom's sales of siliconised vegetable parchment are of a similar magnitude to the parties' sales of siliconised greaseproof. The concentration would therefore not raise serious competition concerns in a market for siliconised greaseproof paper for baking purpose in the EEA.
29. Sales of siliconised greaseproof paper to industrial applications are considered significantly smaller than those to the baking sector. One competitor estimates that it could be as low as 10% of the total sales of siliconised greaseproof papers. Compared to the baking sector, siliconised greaseproof paper faces more substitute products in the industrial segment. Besides vegetable parchment, various types of films are also used for separation purposes because of their good release properties. The market investigation has shown that among paper producers the parties currently have a very strong position in this very small market segment. However, as described above for baking purposes, independent coaters are also active in this market.

30. Finally, the production over-capacity in the market for greaseproof papers has to be taken into consideration. Competitors have confirmed that they would indeed consider being more active in this small segment if demand or the general profitability of this small segment would increase.
31. The concentration would therefore not raise serious competition concerns in a market for siliconised greaseproof paper for industrial applications in the EEA.

VI. 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 (EEC) No 4064/89.

For the Commission

(Signed)
Mario MONTI
Member of the Commission