

***Case No COMP/M.3184 -
WOLSELEY / PINAULT
BOIS & MATERIAUX***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 03/07/2003

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 03.07.2003

SG (2003) D/230406

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 Where possible the information omitted has been replaced by ranges of figures or a general

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying party :

Dear Sir/Madam,

**Subject: Case No COMP/M.3184 – Wolseley/Pinault Bois & Matériaux
Notification of 02.06.2003 pursuant to Article 4 of Council Regulation
No 4064/89¹**

1. On 02.06.2003, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89, as last amended by Regulation (EC) No 1310/97, by which the UK undertaking Wolseley Plc (“Wolseley”) acquires within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of the French undertaking Pinault Bois & Matériaux S.A. (“PBM”)(belonging to the Pinault-Printemps-Redoute group) by way of purchase of shares.
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of the Merger Regulation and does not raise serious doubts as to its compatibility with the common market and with the EEA Agreement.

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).

I. THE PARTIES

3. Wolseley is UK based public limited company, which specialises in trade of heating and plumbing products and building materials in Europe and Northern America. Its subsidiaries are organised into three divisions: European Distribution, North American Plumbing and Heating Distribution and US Building Materials Distribution. In France, Wolseley is active through its subsidiary Brossette S.A. (“Brossette”), which specialises in the distribution of plumbing, heating and sanitary/bathroom products. Brossette and its subsidiaries operate through approximately 400 sales outlets throughout France.
4. PBM is a French company wholly controlled by Pinault-Printemps-Redoute S.A. (“PPR”). PBM distributes a wide range of building products such as heavyside products, wood panels, timber, roofing materials, joinery, insulation, interior and exterior fittings, to building professionals and individuals. Its distribution network is exclusively located in France and comprises approximately 270 outlets. PBM is also active in the importation, processing and supply of timber and timber-derived products for distribution on the French market. As with the PPR Group as a whole, it is mainly active in large-scale distribution and luxury products.

II. THE OPERATION

5. On 30 April 2003, Cofiger, on behalf of Wolseley, entered into a sale and purchase agreement with Saprodis, a subsidiary of PPR, pursuant to which Wolseley will purchase 100% of the shares forming the share capital in Saprodis’ subsidiary company PBM. The parties state that the transaction takes place in the context of the divestment strategy currently pursued by Group PPR, which is currently refocusing on its core businesses, i.e. luxury goods and large-scale business to customers distribution and thus disposing of many of its business to business activities.

III. CONCENTRATION

6. The operation will result in Wolseley acquiring sole control of PBM and its affiliates and the proposed transaction constitutes a concentration within the meaning of Article 3 of the EC Merger Regulation.

IV. COMMUNITY DIMENSION

7. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion² (Wolseley 11,523 million, PBM 1,295 million). Each of Wolseley and PBM have a Community-wide turnover in excess of EUR 250 million (Wolseley 3,599 million, PBM 1,295 million), but they do not achieve more than two-thirds of their aggregate Community-wide turnover within one and the same Member State. The notified operation therefore has a Community dimension.

V. COMPETITIVE ASSESSMENT

² Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Notice on the calculation of turnover (OJ C66, 2.3.1998, p25). To the extent that figures include turnover for the period before 1.1.1999, they are calculated on the basis of average ECU exchange rates and translated into EUR on a one-for-one basis.

8. The parties are active in the sector of distribution of building materials. It encompasses distribution, by a variety of sales channels, of a wide range of products such as building materials, timber and joinery, resurfacing products, heating, plumbing and sanitary equipment, etc. Within this sector, the parties operate both (i) in the downstream market as builders' merchants, which break down between generalist and specialist builders' merchant and (ii) in the upstream market for procurement/supply of building materials from producers/suppliers of such products.

Builders' merchant market

A. Relevant product market

9. According to the parties which refer to the industry's authorised studies on building materials merchants³, building materials include the following types of products : (i) heavyside, including bricks, blocks, aggregates, cement, plastboard and decorative concrete, (ii) lightside, including ironmongery, plumbing, drainage, heating, paint, decorating materials, kitchens and bathrooms; and (iii) timber, including sawn timber, prepared timber, manufactured joinery (doors and windows) and sheet materials.
10. Building materials are distributed through the intermediary of generalist and specialist builders' merchants. The service offered by the generalist distributors to their clients consists of providing a one-stop shopping facility for the entire range of the different products required, and of providing advice on different products as a whole. There are also specialist distributors, who concentrate on one product segment only, like for example Wolseley's subsidiary, Brossette. The service rendered by these distributors does not consist of offering a product range but in offering clients special expertise in one special segment.
11. Brossette is a specialist builders' merchant whose [...] % of the turnover is made up of heating, sanitary and plumbing products. Its range of products amounts to approximately [...] references. As to PBM, it distributes various types of products ([...] references) such as Panels, structural materials (building blocks, cement, aggregate bricks, reinforcement, shuttering), insulation materials, interior fittings, roofing, timber, outside joinery, tools, resurfacing products, exterior products, heating plumbing/sanitary ([...] % of the turnover for this category) through generalist outlets essentially.
12. It can be concluded from the previous paragraph that the overlapping activities concern the distribution of heating, plumbing and sanitary products. This category could be considered as a relevant sub-segmentation in the building materials sector insofar as it is meant to a large extent to satisfy the needs of a specific kind of customer, namely the plumbers. Furthermore, the products belonging to this category are generally sold in the common area either on the same shelves inside a generalist builder's merchant or inside a same specialist builders' merchant. The issue as to whether there is a separate market for heating, plumbing and sanitary products within the overall market for building materials could be left open, given that the proposed transaction would not lead to the creation or strengthening of a dominant position.

³ See negoce 2004 "analyse régionalisée du réseau des négociants généralistes et multi-spécialistes – Perspectives 2004", Développement-Construction, ed 2002 and Marco 2002, Développement Construction

13. The question is also whether there is a need to delineate separate relevant market of generalist builders' merchant, on the one hand, and the market of specialist builders' merchants, on the other hand.
14. The parties take the view that they are active on two different kinds of product markets for the following reasons :
 - specialist builders' merchants attract a very marginal proportion of non-professional customers (less than 3%), whereas generalist builders merchants achieve a much higher shares of sales with such customers ;
 - the surfaces areas of the two kind of outlets are different. They vary from 300-4000 m² for Brossette's stores to 5000-25000 m² for PBM's stores ;
15. The Commission has investigated the extent to which this break-down is appropriate. It emerges from the reply of third parties that a certain degree of substitutability exists between the products sold in both distribution channels. Nevertheless, most of competitors of the two kind of shops underline that they don't really compete each other. They explained this by putting forward more or less the same reasoning than that of the parties, i.e the existence of numerous differences covering different fields such as range of products, kind of customers, surface areas shops, services offered to the customers.
16. The Commission itself has already made the distinction between generalist and specialist builders' merchant but has never found necessary to take a final view regarding the exact definition of the product market since the competition analysis would not differ whatever the product market taken into consideration⁴.
17. A same conclusion can be drawn for the purpose of this decision.

B. Relevant geographic market

18. PBM is only active in France so that the transaction will have no impact in any other Member State. The parties submit that the dimension of the relevant market could be defined as national in scope if the market is assessed from the supply side or local in scope if the market is analysed from the demand side. The Commission has noted in previous cases that the market for building materials distribution, both for generalist or specialist builders' merchants could be regarded as national, given that the main players compete nationally in terms of presentation, coverage, product offering, marketing and general policy⁵. The market investigation has to a large extent confirmed that competition is driven by some national elements. In France, the number of retailers not belonging to a national network have sharply decreased over the last years⁶. In 2001, more than two-third of the sales are made by groups which are national or at least multi-regional implantation. These groups adopt a common national policy vis-à-vis their

⁴ COMP/M.1974 Compagnie de Saint-Gobain / Raab Karcher of 22.06.2000

⁵ COMP M.1873 Compagnie de Saint Gobain/Meyer International of 23.03.2000

⁶ Extract from the study Négoc 2004 enclosed to the notification "le recul très important des indépendants isolés qui procèdent à la fois de transferts au profit des groupements d'indépendants, des groupes familiaux, voire même des groupes nationaux".

suppliers (national listing of suppliers and in some cases national purchasing policy) and vis-à-vis their customers (national sign, national advertisement campaign, national retail prices policy...). We can also notice that several European groups (such as the parties for example) try to get strong positions at national levels by taking over groups, which will give them a national coverage of the whole territory.

19. Nevertheless, from a demand side perspective, there is no denying that the geographical dimension of the market would correspond to the outlets' catchment areas. The question is to know the exact radius within which consumers would go if a slightly but permanent increase of price were to happen in a given shop. The market test has provided so many different answers that it appears to be almost impossible to delineate a size of a catchment area suitable for the whole French Territory. Many elements should be taken into account : rural vs urban area, specialised vs generalist builders' merchants, attractiveness of a specific retail chain, presence or not of well-informed customers ...
20. In France, the Commission has already assessed the competition on this market at regional level (the so-called "*regions*")⁷.
21. The notifying party refers to the French national competition authority which takes the view that the outlets' catchment areas would cover a radius of 30 to 35 km around each generalist builders' merchant outlet and as much as 50 to 75 km around a specialist builders' merchant outlet. The market investigation shows to the Commission that this view can be shared for the present assessment in spite of the variety of the answers on this matter. In the course of the investigation, the merchants have not indicated shorter distance the consumer are ready to drive to reach their competitors.
22. It derives from the above that the position of the parties has to be assessed both on the national and local market.

Competitive analysis

Analysis at national level

23. In case the relevant product market encompasses both generalist and specialist builders' merchants whatever the building construction taken into consideration, the concentration will only lead to a marginal addition of market shares at the national level. On this market the parties have a combined market share of [0-10] % (Brossette [0-10]%, PBM [0-10]%). The market leader will be Point P with a market share of [10-20]%. Other important competitors are active such as Rexel, Groupe Socoda, Sonepar, Descours & Caboud, etc.
24. On the national market for builders' merchants of heating, plumbing and sanitary products the parties have a combined market share of about [10-20]% (Brossette [10-20]%, PBM [$<1\%$]). Other competitors such as DCS (Point P's subsidiary), Gapsa, Comafranc, Frans Bonhomme and Richardson are active. The addition of market shares of the parties appears to be insignificant.

⁷ COMP/M.1974 – Compagnie de Saint-Gobain / Raab Karcher of 22/06/2000

25. If separate markets for specialist's builder merchants and generalist's builders merchants were to be considered, the operation would not lead to any addition of market shares.

Analysis at local level

26. The parties were not able to provide the Commission with their local market shares on each catchment areas. Consequently, and given the parties' national position, the following method has been used : as a first step, the assessment has been based upon market shares at *départements* level which corresponds more or less to the 70 km distance catchment areas even though there are larger *départements* (French territory is broken down into around one hundred *départements*). As a second step, the *départements* analysis conclusion has been checked by examining whether there are still competitors on each local catchment areas.

Department level

27. If one takes the global market encompassing all builders' merchant markets at local level, the parties argue that of the 96 French *départements*, there are 60 *départements* where Brossette and PMB are both present. Of these 60 *départements* the parties have identified:

- 26 *départements*⁸ where the parties would hold less than 15% ;
- 25 *départements* where the parties would hold a market share between 15% and 25%⁹.
- 8 *départements* where the parties would hold a market share above 26% (up to a maximum of [50-60]%) ;

28. The markets can be considered as non-affected regarding the 26 *départements* where the parties hold a market share below 15% ;

29. As to the 26 *départements* where the parties hold a market share between 15 and 25%, we can also conclude that the present operation will not lead to any competition problems for the reasons hereafter.

30. The parties will be the market leader in 8 *départements* out of these 26 *départements*.

31. In those 8 *départements* where the new entity is the market leader, the additions of market shares are generally limited to [0-10]% and strong competitors are still present as described in the following paragraph ;

⁸ these *départements* are Alpes-Maritime, Ardennes, Ariège, Bouches-du-Rhône, Calvados, Charente, Charente-Maritime, Corrèze, Côte d'Or, Côte d'Armor, Dordogne, Eure, Finistère, Haute-Garonne, Gers, Gironde, Hérault, Indre-et-Loire, Loire-Atlantique, Loiret, Lot-et-Garonne, Maine-et-Loire, Bas-Rhin, Rhône, Seine-et-Marne, Yvelines, Somme, Tarn-et-Garonne, Vendée, Vienne, Vosges, Yonne and Essonne.

⁹ namely these *départements* are Aisne, Aude, Cher, Eure, Eure et Loire, Haute-Garonne, Gironde, Indre et Loire, Loire Atlantique, Maine et Loire, Manche, Marne, Meurthe et Moselle, Morbihan, Nord, Oise, Orne, Pas de Calais, Pyrénées Atlantiques, Pyrénées Orientales, Haut-Rhin, Paris, Seine-Maritime, Seine-Saint-Denis and Val-de-Marne.

32. In each of the 26 *départements* including therefore the 8 *départements* adressed in the last paragraph, the parties will still have to face the competition coming from either generalist builders merchants or specialist builders merchants. The parties provided a map of the French Territory drawn by the independent magazine “Négoce” which clearly shows that the overlapping activities outlets of the parties in the field of heating, plumbing and sanitary products will still be surrounded by several outlets belonging to competitors. In particular, there are on average 5 of 6 heating, plumbing and sanitary specialist competitors, many more in the most inhabited *départements* such as Haute-Garonne, Gironde or Nord and at least two even in the less inhabited ones such as Aisne or Aude. Furthermore, the presence of Generalist builders’ merchants, which sells heating, plumbing and sanitary products in their outlets can put a competitive pressure on the new entity (many of this Generalist builders belong to national outlets companies such as PBM, Gedimat, Tout Faire, Bigmat¹⁰);
33. Finally, the new entity will not hold a dominant position either as far the 7 *départements* where it holds a market share above 26% are concerned.
34. In four out of those *départements*, the combined market shares of the parties will be at their peak. Those *départements* are namely Landes ([50-60]%), Haute-Marne ([40-50]%), Sarthe ([40-50]%) and Haute-Pyrénées ([30-40]%). However, the table here below clearly shows that the new entity will have to face competition coming from several outlets in the overlapping activities of distribution of plumbing, heating and sanitary products.

Outlets selling heating, plumbing and sanitary products	Number of Specialist outlets builders’ merchants	Number of generalist builders merchants	Outlets of the parties to the transaction
Landes	9	Not known	2 specialist merchants (both of them have to deal with specialist competitors located in the same town)
Haute-Marne	1 (in Chaumont, competing directly with Brossette’s outlet located in the same town)	7	1 specialist / 7 generalists
Sarthe	9	8	3 specialists / 7 generalist builders’ merchant
Haute-Pyrénées	12	7	3 specialists / 7 generalist builders’ merchant

¹⁰ It has nevertheless to be noticed that we refer here to common national commercial policy but not necessarily to the owner of a national network

35. The same conclusions can logically be drawn in the 3 remaining out of 7 seven *départements* where the parties hold a combined market shares [above] 26% that-is-to-say Haute-Vienne ([30-40]%), Mayenne ([30-40]%) and Deux-Sèvres ([20-30]%). Strong competitors will be still present after the completion of the concentration in each of these three *départements*. These competitors belong to both specialist (at least 5 in each *département* and even 12 in *département* of Deux-Sèvres) and generalist (at least in each *département*) builders' merchant.

Catchment areas level

36. The parties have provided a list of the parties' main competitors in the catchment areas where both Brossette and PBM are present, assuming that a catchment area covers a zone of 30 km around a generalist and 75 km around a specialist. On this basis, they will face at the very least 7 competitors on the smallest possible geographical dimension (i.e. 30 km for generalist outlets). Concerning especially heating, plumbing and sanitary products, it stems from the list provided by the party that consumers will still have the choice between several outlets in each catchment areas whether this competition comes from generalist or specialist builders merchants.

Procurement/supply of building materials

37. The market for the procurement of building materials includes the sale of such materials by producers to a variety of customers such as specialist and general builders' merchants, DIY retailers and other firms. In line with previous decisional practice, the notifying parties submit that the procurement market has to be distinguished from the distribution market, even though an interrelation between these markets does exist¹¹. The Commission generally considers that a market definition broken down by product is meaningful.

38. The Commission has noted in the past that, for the non-food sector, the procurement markets could be defined to be larger than national¹². The parties consider the procurement markets to be at least EU-wide for a number of reasons: 1) no consumer preference for French products 2) products are not tailored for the French market 3) French distributors do not buy predominantly from French suppliers 4) prices are not significantly higher or lower in France than in other countries. However, since no competition problem arises in the procurement markets, the exact geographical definition of the market can be left open.

39. For the assessment of horizontal overlap, the parties submit that at least six product categories should be distinguished in the building material sector : 1) heating, plumbing, sanitary equipment 2) resurfacing products 3) roofing 4) ironmongery 5) tools 6) kitchens. On procurement of heating plumbing and sanitary materials, the combined market share of the parties amount to [10-20]% at the national level with an increment coming from Brossette as low as [0-10]%. At a wider European level this market positions will be even lower.

¹¹ Commission decision IV/M.1333 Kingfisher/Castorama of 17.12.98 ; IV/M.1221 Rewe/Meinl of 03.02.99 ; COMP/M.1684 Carrefour/Promodès of 25.01.2000 ; COMP/M.2804 Vendex KBB/Brico Belgium of 18.06.02

¹² COMP/M.1684 Carrefour/Promodès of 25.01.2000

VI. CONCLUSION

40. 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

Mario MONTI
Member of the Commission