

***Case No COMP/M.3716 -
AS WATSON /
MARIONNAUD***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 07/04/2005

***In electronic form on the EUR-Lex website under document
number 32005M3716***



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 07/IV/2005

SG-Greffe(2005) D/201645

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 Sir/Madam,

**Subject: Case No COMP/M.3716 - AS Watson/ Marionnaud
Notification of 03/03/2005 pursuant to Article 4 of Council Regulation
No 139/2004¹**

1. On 03/03/2005, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 by which AS Watson (France) SAS (“AS Watson”, France) belonging to the Hutchison Whampoa Limited group (“Hutchinson”, Hong Kong) acquires within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of Marionnaud Parfumeries SA (“Marionnaud”, France) by way of public bid announced on 14/01/2005.

I. THE PARTIES

2. AS Watson is part of a group of companies owned by Hutchinson. The group operate retail chain stores offering food and household items, health and beauty products and consumer electrical goods in the EU and Asia. In the EU the group is active in the retail sale of health and beauty products (excluding luxury products) in the UK, the Netherlands, Belgium, Latvia, Lithuania, Poland, Hungary, the Czech Republic and Germany. It is also active in the retail sale of luxury perfumes and cosmetics in the Netherlands, Belgium and Luxembourg under the trade name ICI Paris XL.

¹ OJ L 24, 29.1.2004 p. 1.

Hutchinson's other activities are not related to the activities involved in the proposed transaction.

3. Marionnaud is mainly active in the retail sale of luxury perfumes and cosmetics primarily in France but also in Switzerland, Italy, Austria, Spain, Slovakia, Romania, Bulgaria, Poland, the Czech Republic and Hungary. Except for Spain and Italy, Mariannaud does not in general sell mass beauty products and mainly focus on luxury products.

II. THE OPERATION

4. On 14 January 2005, AS Watson made a public bid for all the shares in Marionnaud which, subject to a minimum level of acceptances, would see AS Watson acquiring sole control of Marionnaud in accordance with Article 3(1)(b) of the Merger Regulation.

III. COMMUNITY DIMENSION

5. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion². Each of Hutchinson and Marionnaud have a Community-wide turnover in excess of EUR 250 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.

IV. COMPETITIVE ASSESSMENT

A. Relevant Product Market

Product market definition

6. The parties to the concentration are active in the retail sales of beauty products. The parties believe that the relevant categories are defined as: 1) luxury perfumes and cosmetics products, and 2) mass market (i.e. excluding luxury products) health and beauty products. This market definition is in line with previous Commission decisions where it has defined luxury products as high quality articles with a relatively high price, marketed under a prestige trademark³. In these decisions, the Commission also considered a possible segmentation: (i) luxury perfumes and cosmetics products, into treatment products, women's fragrances, men's fragrances, and make-up products and (ii) mass health and beauty products, by the type of retail outlet (speciality stores, supermarkets, pharmacies, etc)⁴. Nevertheless it is not necessary in the present case to decide on the precise market definition given the absence of competitive concerns.

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.

³ Case N° IV/M.1534 PPR/ Gucci

⁴ Cases No. IV/M. 312 – Sanofi/Yves Saint Laurent, IV/M.1533 – Artemis/Sanofi Beauté, COMP/M.2957 – AS Watson/Kruidvat and COMP/M.3643 – Sephora/El Corte Inglés. The final definition of these markets, however, have been left open.

Geographic market definition

7. The notifying party submit that, as regards the retail sales of luxury perfume and cosmetic products, the market is national. However, they also point out that previous Commission decisions have suggested that this market could be EEA or even world-wide⁵. However, the Commission has also indicated that, in retailing, the catchment area for an outlet is often delimited by a boundary within which the distribution outlet can be reached by car in no more than about twenty minutes⁶. From the consumers' viewpoint, depending on the geographic area under consideration, a twenty-minute car journey might offer a choice of one, two or more outlets, which offer luxury products⁷. As regards mass market health and beauty products the parties point out that the Commission has considered in the past that retail markets in this sector could be local, regional or even national in scope. The geographical definition is equally based on the retailing catchment area of each outlet; however other parameters might indicate wider geographic markets (e.g. prices, distribution networks, etc)⁸.
8. In view of the fact that the concentration would not significantly impede effective competition in the common market or in a substantial part of it the exact geographic market definitions can be left open.

B. Competitive Assessment

9. The parties to the concentration have a complementary network of retail stores within Europe. At the EEA level, the parties' combined market share for health and beauty products would not exceed 10% ([0-10]% for mass products, [0-10]% for luxury products). The activities of the parties will only overlap in three countries: Czech Republic, Hungary and Poland.
10. As regards the luxury perfumes and cosmetic market at national level, there is no overlap in any country of the EEA; therefore this market is no longer considered in this decision.
11. At the national level, the combined share of the parties for mass market health and beauty products in Czech Republic, Poland and Hungary does not exceed 10%. In these countries, AS Watson operates drugstores under the trade name Rossmann through a joint venture with Rossmann Central Europe BV, whereas Marionnaud operates specialised outlets for the sale of luxury perfume and cosmetics through a partnership with the Georgantas Group. The overlap in these countries is *de minimis* since, as indicated above, Mariounnaud focuses on luxury products and only sells a very limited range of mass market beauty products in these countries. At the local level, in only two cities the parties' combined market share will exceed 25%: [30-40]% in Katowice (Poland), and [20-30]% in Karlovy Vary (Czech Republic). In both cases,

⁵ Case No. COMP/M. 1780 LVMH/Prada/Fendi.

⁶ There are a number of Commission decisions dealing with the retail sector: see for example cases No IV/M.1086 Promodès/S21/Gruppo GS, IV/M.998 OBSI Denmark; IV/M.784 Kesko/Tuco; IV/M.558 La Rinascente/Cedis Migliarini.

⁷ Case COMP IV/M. 1534 Pinault-Printemps-Redoute/Gucci.

⁸ Case COMP/M.2957 – AS Watson/Kruidvat; the geographic definition in this case was left open.

however, Mariounnaud represents an increase of less than 0.3%. In the light of the limited presence of Marionnaud in these markets, a further sub-segmentation of these markets by the type of retail outlet would lead to a similar competitive situation or to an absence of overlaps, if we consider that drugstores and specialised perfumeries constitute two different submarkets.

12. Furthermore, in the three countries mentioned above, the parties will face competition from competitors of similar size in these markets, such as (i) Auchan, Carrefour, Geant Polska, Hypernova (Ahold) and Drogerie Natura in Poland, (ii) Droxi Drogerie, Hypernova (Ahold), Tesco and Makro in Czech Republic and (iii) Tesco, Drogerie Markt, Auchan, Cora and Azur in Hungary.
13. The Commission has not assessed the markets for the procurement of beauty products since, at national or EEA level, the parties either do not overlap or their combined market share does not exceed 10%.

V. CONCLUSION

14. 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