

***Case No COMP/M.4432 -
OERLIKON / SAURER***

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

Article 6(1)(b) NON-OPPOSITION
Date: 22/11/2006

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 22/11/2006

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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 Where possible the information omitted has been replaced by ranges of figures or a general description.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.4432 – Oerlikon/ Saurer
Notification of 16/10/2006 pursuant to Article 4 of Council Regulation
No 139/2004¹**

1. On 16/10/2006, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 (Merger Regulation) by which OC Oerlikon Corporation AG, Pfäffikon (“Oerlikon”, Switzerland), acquires within the meaning of Article 3 (1) (b) of the Merger Regulation control of the whole of Saurer AG (“Saurer”, Switzerland), 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 Council Regulation (EEC) No 139/2004 and does not raise serious doubts as to its compatibility with the common market and with the EEA Agreement.

I. THE PARTIES

3. Oerlikon, a Swiss-based technology and engineering conglomerate, is active in four business segments, i.e. (i) Oerlikon Balzers Coating (surface coating equipment and services, data storage and wafer processing for the semiconductor industry), (ii) Oerlikon Leybold Vacuum (vacuum solutions), (iii) Oerlikon Components (optical components, space components and solutions), and (iv) Oerlikon Esec Semiconductors (chip assembly equipment and processes for the semiconductor industry).

¹ OJ L 24, 29.1.2004 p. 1.

4. Saurer, a company also incorporated in Switzerland, is active in two business areas: (i) the production and supply of textile machines, and (ii) the production and supply of gears and transmission systems for use in the automotive industry and the oil and power generation industry.

II. CONCENTRATION

5. On 18 October 2006, Oerlikon, already a shareholder in Saurer, published a formal public tender offer for all publicly held shares in Saurer. Upon completion of the bid Oerlikon will acquire sole control over Saurer. The notified transaction therefore constitutes a concentration within the meaning of Article 3 (1) (b) of the Merger Regulation.

III. COMMUNITY DIMENSION

6. The parties have a combined worldwide turnover of more than € 2.5 billion and the aggregate Community-wide turnover of each of the two undertakings concerned exceeds € 100 million. Furthermore, in each of three Member States [...] the aggregate combined turnover of the undertakings concerned exceeds € 100 million and in each of these Member States the aggregate turnover of each of the two of the undertakings concerned is more than € 25 million. The concentration therefore has a Community dimension, according to Article 1 (3) of the Merger Regulation.

IV. COMPETITIVE ASSESSMENT

7. As can be seen from the above description of their activities, the parties are present in different industrial sectors, and there are no horizontal overlaps.
8. However, the transaction gives rise to vertically affected markets in the sense of the Merger Regulation due to the market position of Oerlikon and Saurer in their respective business areas: Oerlikon is a provider of coating equipment and services which are sold to customers (amongst others) who are, like Saurer, producers of textile machines and transmission systems. Indeed, Oerlikon's position in thin-film coating services is relatively strong, as is that of Saurer in textile machines (see below), and so the Commission's investigation has focussed on the possibility of the creation of input or output foreclosure effects post-merger.

1. Relevant product markets

a) Coating / coating services

9. Coating service suppliers provide a specific service in the surface treatment of tools and machine components. Coatings are produced on the basis of a certain range of commodity chemicals which then have to be applied to the surface of the tools / components in order to protect them or to improve their functionality. The service provided includes the coating of new products and the re-coating of used products. Typically, the tools / components are collected from the customer's production plant, transported to a "coating centre" and – after the coating process – returned to the customer. For large customers, in-house coating centres are operated directly on the production plant.

10. Oerlikon is active only in the specific area of *thin-film* coating. According to the parties, thin-film coatings are very different to the application of “conventional” coatings, such as hot-dip, electrolytic or chemical precipitation coatings, as they need to be applied to the tool under vacuum conditions. The coatings are in addition made of special ceramic materials which are much harder than metals. Because of their extreme hardness the function of the coating is mainly to reduce the wear of the tool whereas other types of coatings are more decorative and protective against corrosion.
11. The Commission’s investigation has confirmed that thin-film coatings are a distinct market from other coatings as far as transmission and textile machinery manufacturers are concerned.

b) Textile machines

12. In the present case, the parties suggest that the following product markets can be distinguished: (i) spinning machines for man-made synthetic fibres, (ii) texturing machines for man-made fibres, (iii) machines for non-woven man-made fibres, (iv) ring spinning machines (natural fibres), (v) rotor spinning machines (natural fibres), (vi) winding machines (natural fibres), (vii) twisting machines (natural fibres), (viii) embroidery machines.
13. Since the vertical competitive impact of the proposed transaction is limited (see below), the precise product market definition can be left open in the present case.

c) Transmission systems

14. Saurer is active in the manufacture and sale of a several different types of transmission systems. Through its subsidiary Graziano Transmission Saurer manufactures gears, gear groups and complete transmission systems for passenger cars, agricultural vehicles, construction vehicles, special vehicles, city-buses and forklifts. Saurer’s US-based subsidiary Fairfields, on the other hand, is specialized in the production of planetary gear drives (e.g. for off-shore platforms and construction equipment) and custom gears and gear assemblies (e.g. for the railway industry, underground and aboveground mining industry, pump drives etc.).
15. The parties submit that – despite the fact that there is little demand-side substitution between different types of transmission systems – due to the high degree of supply-side substitution one single market for transmission systems should be defined.
16. Since the vertical competitive impact of the proposed transaction is limited (see below), the precise product market definition can be left open in the present case.

2. Relevant geographic markets

17. According to the parties, customers usually ask for coating services to be performed within a period of 48 to 72 hours. As a consequence, thin-film coatings are typically purchased only within a radius of approximately 300 km around the plant. According to the parties the market for thin-film coating services is national in scope. The Commission’s investigation has confirmed the parties proposition.

18. The parties submit that the markets for textile machines and transmission systems are at least EEA-wide in scope, which is in line with previous Commission decisions in these sectors².

3. Assessment

a) Market position of the parties

19. According to the data submitted by the parties, Oerlikon in the thin-film coatings sector reaches a share on an EEA-wide level of more than [30-40]%. On a national basis, Oerlikon's share for thin-film coatings varies between [0-10] (e.g. [...]) and more than [70-80]% ([...]). Oerlikon is the clear market leader in [...] ([70-80]%), [...] ([60-70]%), [...] ([50-60]%), [...] ([40-50]%), [...] ([30-40]%), and [...] ([20-30]%). Oerlikon's EEA competitors include Ionbond, Eifeler, Metaplas, and Beckaert, all of whom have several plants in Europe.
20. Saurer is the EEA-wide market leader in almost all the different markets for textile machines, reaching shares of [40-50]% to [50-60]% in the markets for (i) spinning machines for manmade fibres, (ii) rotor spinning machines (natural fibres), (iii) winding machines (natural fibres), (iv) twisting machines (natural fibres), and (v) embroidery machines. Major competitors of Saurer include Rieter, Murata and Savio.
21. As regards transmission systems, the parties submit that the worldwide as well as the EEA-wide market share of Saurer in the market for transmission systems is well below [0-10]%. Major competitors of Saurer are global players such as ZF, Getrag, Magna Steyr, GKN and Dana.

b) Vertical issues

22. The Commission's investigation has shown that producers of textile machines and transmission systems constitute a minor part of the overall demand for coating services and, conversely, coating services represent a minor part of the overall component input for these products. This is evidenced by the parties' own experience; only [0-10]% of Oerlikon's sales in the year 2005 were generated through sales to customers in these sectors, and conversely Saurer's total requirements of thin-film coating amounted to € [...], which would equate to about [...]% of Oerlikon's EEA-wide sales in thin-film coating.

(1) No likelihood of output (customer) foreclosure

23. Since markets for thin-film coatings are national in scope (see above), Saurer would be able to purchase thin-film coatings exclusively from Oerlikon post-merger only in those EEA countries where it has production plants, which for transmission systems are in Italy and the UK, and for textile machinery are in Germany, Italy, Denmark, and the Czech Republic. Of these countries Oerlikon has significant market shares (see above) in [...] ([40-50]%), [...] ([30-40]%), and [...] [20-30]%), and no sales in [...].

² eg M.2763 Toray/Murata/Teijin, M.1783 - ZF/Gotha/Graziano Transmission/JV

24. Therefore, on the one hand, Saurer would not be able to source at all from Oerlikon in the Czech Republic. As far as the UK, Germany and Italy are concerned, given the relatively minor importance of textile machinery and transmission system producers as consumers of thin-film coating, even if post-merger Saurer were to switch from Oerlikon's competitors and to source thin-film coating exclusively from Oerlikon, any such switch would not seriously diminish the overall customer base of these competitors.
25. Therefore, given the national dimension of markets for thin-film coatings, and the relatively minor importance of textile machinery and transmission system manufacturers as consumers of thin-film coating, the proposed transaction would not lead to any significant strengthening of Oerlikon's market position, or to a significant impediment of effective competition in the market for thin-film coatings in any national market within the EEA.

(2) No likelihood of input (supplier) foreclosure

26. The Commission's investigation has shown that coating services play an insignificant role in the manufacture of textile machines. Firstly, coatings constitute only a *de minimis* part (generally less than [0-10]%) of the production cost and value of a textile machine. Secondly, textile machine manufacturers still prefer cheaper coatings (e.g. [...]) over the more expensive thin-film coating technology which needs to be applied under vacuum conditions. Accordingly, the *incentive* for Oerlikon to foreclose competitors of Saurer in the field of textile machines from purchases of its thin-film coatings would be very limited, since these competitors generally use other forms of coating, and would in any event be largely indifferent since, even in the few instances where thin-film coatings are used, any price increase would be minimal as a proportion of the total input cost of a textile machine.
27. For similar reasons, the risk of foreclosure in the downstream market for transmission systems can be excluded. The Commission's investigation has shown that thin-film coatings constitute only a very limited part (less than [0-10]%) of the value of a transmission system.
28. Taken together, the vertical link between the markets for thin-film coatings, on the one hand, and textile machines and transmission systems, on the other hand, is not such as to endow on the merged entity the incentive or ability to foreclose Saurer's competitors in the transmission or textile machinery sectors.

(3) Conclusion

29. Given the minor importance of thin-film coatings as an economic input to the transmission and textile machinery sectors, and conversely the minor importance of these latter sectors as an output for thin-film coatings, the creation of foreclosure effects such as to significantly lessen upstream or downstream competition can be excluded.
30. Moreover, despite Oerlikon's and Saurer's relatively strong market shares in thin-film coatings and textile machines respectively, the Commission's investigation revealed no evidence of insufficient competitive pressure from other companies active in these sectors.

31. Indeed, almost the totality of the respondents to the Commission's questionnaires stated that the proposed transaction would have no competitive impact on the relevant markets. The Commission received a reply from a supplier of thin-film coatings who claimed that there was a risk that a percentage of his sales might be diverted to the merged entity in the one particular national market in which he is operating, but the Commission was able to conclude that, even in the event that this would happen, there would be no significant impediment to competition on the relevant upstream or downstream markets in the country concerned.

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 (EEC) No 139/2004.

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