

***Case No COMP/M.4518 -
ALCOA / ORKLA / SOFT
ALLOY EXTRUSION JV***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 19/04/2007

***In electronic form on the EUR-Lex website under document
number 32007M4518***



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 19.04.2007

SG-Greffe (2007) D/202329

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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

Dear Sir/Madam,

**Subject: Case No. COMP/M.4518 - Alcoa / Orkla / Soft Alloy Extrusion JV
Notification of 12.03.2007 pursuant to Article 4 of Council Regulation
No 139/2004**

1. On 12.03.2007, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004¹ ("ECMR") by which the undertaking Alcoa Inc ("Alcoa", USA) and Orkla ASA ("Orkla", Norway) acquire within the meaning of Article 3(1)(b) of the ECMR joint control of the undertaking soft alloy extrusion JV ("JV") by way of purchase of shares in a newly created company constituting a joint venture.

I. THE PARTIES

2. **Alcoa** is a New York stock exchange listed undertaking that is globally active in all the major segments of the aluminium business, including primary aluminium, soft- and hard- alloy extrusions, flat rolled products and building systems. In 2005 Alcoa's soft alloy extrusion sales in the EEA amounted to [250,000-300,000] metric tons.
3. **Orkla** is a Norwegian group listed on the Oslo Stock Exchange, that operates globally within the branded consumer goods, specialty materials, aluminium, energy and financial investment sectors. In 2005 Orkla's soft alloy extrusion sales in the EEA amounted to [150,000-200,000] metric tons.

¹ OJ L 24, 29.1.2004 p. 1

4. The parent companies will contribute to the JV their entire soft alloy extrusion businesses, including production facilities and employees. The soft alloy aluminium extrusions business that Orkla's wholly-owned subsidiary, Sapa AB ("Sapa") is contributing to the JV has 18 facilities in 12 countries and approximately 6,000 employees. The soft alloy aluminium extrusion business that Alcoa is contributing to the JV has 22 facilities in eight countries and approximately 6,400 employees.

II. THE OPERATION

5. The planned JV is to be jointly controlled by the Parties at the outset (an IPO may take place at a later stage). None of the Parties will be able acting alone, to determine the strategic policy of the JV. Orkla will hold around 50 to 60% of the issued share capital in the JV and Alcoa will hold the remaining 40 to 50%. According to the Parties, the shareholders agreement will hold that (i.) until an IPO takes place, there will be six directors on the JV's board of directors, comprising three Sapa directors and three Alcoa directors; (ii.) no business can be concluded at any meeting of directors unless a quorum, constituting at least one Sapa director and at least one Alcoa director is present; and (iii) decisions must be made by a simple majority. The chairman of the board will not have a casting vote.
6. The JV will perform all the functions of an autonomous supplier of soft alloy extrusions. The executive team of the JV will have the authority to operate the JV. The JV will have sufficient resources and access to customers and suppliers independent of its parents.
7. Consequently, the proposed transaction constitutes a concentration within the meaning of Article 3 of the ECMR.

III. COMMUNITY DIMENSION

8. Alcoa's worldwide turnover amounted to 18,882 MEUR, its Community wide turnover was [over 250] MEUR in the 2005 financial year and the worldwide turnover of Orkla amounted to 5,743 MEUR in the 2005 financial year and its Community-wide turnover was [over 250] MEUR in that period. None of the parties derived more than two-thirds of their aggregated Community-wide turnover within one Member State.
9. The transaction therefore has a Community dimension within the meaning of Article 1(2) of the ECMR.

IV. ASSESSMENT

A. Relevant product market

10. Both parties are active in the production and supply of a large number of products including aluminium. According to the parties, only the market for soft alloy extrusion is affected.
11. Alloy extrusion is the pressing of heated billets (primary aluminium cast in a circular form) into various shapes and forms. For this, different aluminium alloys can be used. Two broad categories of alloy extrusions can be distinguished: hard alloy extrusions and

soft alloy extrusions. In line with previous practice, the Commission has identified separate product markets for soft alloy extrusions and hard alloy extrusions.²

12. The soft alloy extrusion process involves heating aluminium billets in an oven and consequently pushing them through a pre-shaped iron die by a large hydraulic press. Following this process some extrusions are cooled rapidly, by plunging them into water ; other extrusions are more slowly cooled by air. After cooling the alloy extrusion may be milled, drilled, tapped, bent, aged, anodized or painted and is sawed in transportable lengths and packed. Extrusions can be made out of different types of soft alloys (such as alloy type 6043 and 6060), which may result for example in different surface characteristics or strength characteristics of the extrusion.
13. Demand-side substitutability between different forms of extrusions is limited. Many extrusions are custom made after a design of the purchaser. End uses vary from profiles for the building industry, automotive, truck and train parts and other transport applications, to engineering applications, such as industrial heat exchangers. Some soft alloy extrusions are standardized and traded without customisation for a specific customer.
14. Suppliers of soft alloy extrusions are, however, able to switch production between the various soft alloy extrusions and market them in the short term. The pre-shaped iron dies in the hydraulic press that determines the shape of the soft alloy extrusion can be changed rapidly. According to the Parties, an average soft alloy extrusion facility would have 10 to 11 die changes per 8-hour shift. Dies would be available from many independent workshops and would not require complicated technology. The design and manufacture of a die would be inexpensive: in general a die would cost EUR 800 to EUR 5000, although some types can exceptionally be more expensive.
15. During the Commission's market investigation competitors of the parties have indicated that supply-side substitutability indeed plays an important role in the soft-alloy extrusion business. In any soft alloy extrusion product category there are many competing EEA suppliers and the most important competitors (Alcan, Hydro, Kety, Aleris, Impol and Boal) offer a wide range of extruded products of different sizes, characteristics and alloys for different end applications, such as heat exchangers, car parts and construction materials. They are also capable of various surface treatment services (anodizing, cutting, coating, painting etc.) in order to respond to customer's demands.
16. Many customers confirmed that they had no difficulties in obtaining any soft alloy extrusion from any supplier although some customers complained about switching costs linked to dies that were held by the current suppliers. This issue is further discussed below in the competitive assessment.
17. The Commission also investigated whether it would be appropriate to define separate markets for larger sized soft alloy extrusions, since only a limited number of supplier's operate large presses.³ The maximum diameter of the extrusion is determined by the maximum diameter of the press and the load capacity. To some extent it may also be

² Case Comp. M. 3225 Alcan/Pechiney and confirmed in Comp. M. 3170 Sapa/Remi Claeys Aluminium

³ This distinction was already considered in case M. 3170 Sapa/Remi Claeys.

possible for smaller presses to produce larger soft alloy extrusion through a particular "spreading" process. Moreover, several smaller sized soft alloy extrusions can be welded together into one bigger extrusion. On the other hand, customers indicated to the Commission that the result of welding parts together is not comparable with a single piece extrusion in terms of strength.

18. In conclusion, with the possible exception of very large extrusions the Commission considers that the supply side substitutability is sufficiently effective and immediate: there are a large number of soft alloy extrusion producers capable of producing and marketing every soft alloy extrusion product available from either Alcoa or Sapa in the short term, without incurrance of significant costs or risks. The question whether the segment for soft alloy extrusions produced with large extruded presses (above 14 inches) would constitute a separate relevant product market can be left open as the concentration will not give rise to competition concerns (see below).
19. Concerning a potential segmentation as to different alloy types used for the extrusion, it has to be noted that for the demand side the alloy type can be of importance. However, from the supply side there do not seem to be any significant limitations for the suppliers to extrude different alloy types. Therefore, the Commission does not consider it appropriate to distinguish between different alloy types.
20. Based on the above facts and arguments, for the purpose of this decision the exact definition of the relevant product market can be left open as the present concentration does not give rise to competition concerns under any of the possible market definitions.

B. Relevant geographic markets

21. In past decisions related to aluminium extrusions the Commission found the geographic market for soft-alloy extrusions to be EEA wide in scope, considering the significant amount of trade flows of aluminium extrusions throughout the EEA.⁴ The parties submit that the relevant geographic market for soft-alloy extrusions is at least as broad as the EEA given the existence of significant intra-Community trade flows.
22. The responses received in the market investigation confirm that most customers source extrusions also on an EEA- or even worldwide level (see also paragraph 28), even in situations where they may have, and source from, geographically close suppliers. Approximately 40% of the extrusions supplied in the EEA are sourced from outside the country of delivery. An independent report⁵ highlighted that imports in 2005 represented more than half (56%) of the sales of extruded products in Germany, France and the UK and this trend is expected to continue. As regards transport costs, the Commission's market investigation indicated that they represent only 2-4% of the final selling price. There are no major price differences for soft alloy extrusions within the EEA (as regards the -modest- price differences in the UK, the investigation has shown that they do not lead to a separate product market, see below).

United Kingdom

⁴ COMP. M. 2404 Elkem/Sapa, COMP M. 2111 Alcoa/British Aluminium, COMP M. 1161 Alcoa/Alumax, COMP M.1003 Alcoa / Inespal and COMP M.675 Alumix/Alcoa.

⁵ "European trade in extrusions" available at www.crumonitor.com . See annex 6-9 of the form CO.

23. In two recent decisions⁶ the Commission considered whether the United Kingdom represents a separate geographic market, due to price differences. In the UK prices for standardised extrusion products are on average slightly higher (about 8%) than in continental Europe.
24. The market investigation revealed certain features specific to the UK market. In particular, UK producers use more frequently a specific alloy type (6082) for standard extrusions whereas many other customers in the EEA tend to use the 6060-6063 alloy type for such extrusions. Alloy 6082 has a greater strength than alloy 6063. It also results in slower production processes and slightly higher prices. Furthermore, the structure of supply in the UK is to some extent different from that in continental Europe: independent stockists, who act as intermediaries between customers and soft alloy extrusions suppliers, are particularly strong in the UK, where they account for one third of the sales (about 15% in continental Europe).
25. In the Commission's market investigation many UK customers have characterised the UK market as national. However, it has to be stressed that most of those customers at the same time explained that they are sourcing their products on an EEA-wide basis or even globally : a large number of UK customers indicated that they have sourced soft-alloy extrusion products from outside the EEA, in a proportion between 5% and 30% of their demand. These respondents expected imports in the UK to increase, due to lower prices and quality improvements of non-EEA suppliers. Also, extruders outside the United Kingdom are capable of extruding the alloy type that is preferred in the United Kingdom without incurring any obstacles and, as the above mentioned statistics show, imports do take place to a considerable extent. The UK stockists source also from outside the UK. The parties underline that technical or regulatory barriers are lacking and that customers perceive non-EEA extrusions to be of comparable quality.
26. Based on the above facts and arguments, there are strong indications that the geographic market for soft alloy extrusions is at least EEA-wide in scope. However, it is not necessary to conclude on the definition of a separate geographical market for the United Kingdom. For the purpose of this decision this question can be left open as the proposed transaction is not likely to raise competitive concerns under any alternative product market definition.

C. Competitive assessment

27. The parties' combined market share on the EEA-wide market for the supply of soft alloy extrusions is [15-20]% on the basis of volumes, which in itself indicates that the concentration is unlikely to significantly impede effective competition within the EEA. In addition, a large number of competitors continue to operate in the EEA as shown in the table below. The data is provided by the Parties and was by and large confirmed by the Commission's market investigation.

⁶ COMP M2404 Elkem/Sapa and M3170 Sapa/Remi Claeys aluminium

| Shares of soft alloy extrusion sales in the EEA in 2005 | |
|---|-----------------|
| Alcoa | [5-10]% |
| Sapa | [5-10]% |
| Combined | [15-20]% |
| Hydro | [10-15]% |
| Alcan | [5-10]% |
| Aleris Internacional | [0-5]% |
| Alumil | [0-5]% |
| Boal | [0-5]% |
| Impol | [0-5]% |
| Kety | [0-5]% |
| AMAG | [0-5]% |
| TLM | [0-5]% |
| Others | [>50]% |
| total | 100% |

Source: estimates Notifying Parties.

28. As indicated above, customers have during the market investigation explained that they already source (also) from outside the EEA. Some customers indicated to the Commission that they were in the process of investigating sources outside the EEA. Many customers have pointed out that they intend to source bigger volumes from outside the EEA, notably from India and China, should the prices of soft alloy extrusions in the EEA increase. Therefore, the Commission considers that the potential competition from outside the EEA will constrain the JV further in addition to competition within the EEA.
29. It should also be noted that barriers to entry in the EEA are relatively low as presses and dies are readily available from a wide variety of sources. The market investigation indicated that a Greenfield entry in the soft alloy extrusion business with a single press configuration would only need an investment of 10 million Euro. The market investigation yielded no indications for regulatory or environmental barriers. The Parties underline that within the EEA there is considerable unutilised capacity for the production of soft alloy extrusions although there were also indications that this may be in the process of changing since very recently. According to the Parties, the total capacity for soft alloy extrusions within the EEA amounts to 3.5 to 4 million metric tons. They estimate that [500,000-1,000,000] metric tons of this capacity is at present unutilised. Although demand is increasing within the EEA, the idle capacity would ensure customers the possibility to source from other producers than the JV. In assessing the capacity situation, the Commission takes into account also the role that imports from outside EEA play.
30. In particular, the Commission looked also at the multi-sourcing practices of customers and any potential switching costs linked to customized dies. Customers have indicated that they purchase the same soft alloy extrusion from different sources in order to avoid dependence on one source of supply. Although customers typically enter into short term contracts from three to twelve months they indicated that they are often loyal to their suppliers. This does not mean, however, that they could not switch. Although some customers complained about switching costs linked to dies that were held by the current suppliers, the average cost of a die is low, both in absolute and relative terms. In general a die would cost EUR 800 to EUR 5000, although some types can exceptionally be more expensive. Moreover, in many cases the costs of a new die would not be invoiced to the customer. Customers have confirmed to the Commission that suppliers

of soft alloy extrusions are offering free dies. But even in the event that producers would include the price of dies in their products or customers would directly bear the costs of the dies themselves and store all dies with one supplier, the relative costs of a switch do not appear significant and only amount to around [<5] % of the price of the extruded product.

31. With regard to soft alloy extrusions with large diameters (above 16 inches) the transaction would not give rise to competition concerns since none of the parties contributes presses of diameters larger than 16 inches to the JV. For soft alloy extrusions with diameters of 14 to 16 inches, the Commission considers that although Sapa and Alcoa will contribute two 14 to 16 inch presses to the JV, several competitors to the JV will remain operating large size presses within the EEA. Therefore, the Commission concludes that the concentration would in these segments not significantly impede competition within the EEA.
32. In conclusion, in view of the low combined market shares, the number of viable competitors and the relatively low barriers for entry the Commission concludes that the concentration would not significantly impede competition within the EEA.

United Kingdom

33. The concentration will also not significantly impede effective competition within the United Kingdom, even if the United Kingdom were to be regarded as a separate geographic market. Within the United Kingdom, the combined market shares would amount to [35-40] % (Sapa [10-15] % and Alcoa [20-25] %).⁷ However, with Hydro (estimated market share of [15-20] %), Boal ([0-5] %), Alcan ([0-5] %) and Aleris ([0-5] %) and many small companies a large number of viable competitors will remain that are capable of offering a full range of extruded products. Like in the EEA as a whole, entry barriers for the UK are also relatively low. Furthermore the parties face strong competition from independent stockists, which represent an estimated one third of UK soft-alloy extrusions sales and focus on low-priced extrusions sourced mainly from foreign suppliers.
34. The parties estimate that within the UK there is at present almost [25-30] % spare capacity. Also the responses received in the market investigation indicate that the JV's competitors in the UK possess significant free capacities.
35. Also with respect to the potential market of soft alloy extrusions with a large diameter extruded with a large press, the concentration is not likely to lead to competition issues in the UK. The presses of the JV in the UK range from 7 to 10 inches. Therefore the competitive situation will not change with regard to large soft alloy extrusions in the UK.

⁷ Apart from the UK there are three other Member States in which the parties achieve in 2005 market shares above 30%, which are the Netherlands ([35-40] %), Sweden ([35-40] %) and Hungary ([50-55] %). With respect to these three Member States, the Commission did not find any indications that they eventually could represent separate geographic markets. Within these countries, imports represent 40-70% of the national sales.

36. In view of this, the concentration would not significantly impede competition within the United Kingdom.

V. CONCLUSION

37. 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