

***Case No COMP/M.4819 -
COMMSCOPE /
ANDREW***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 03/12/2007

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 03.12.2007

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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 Where possible the information omitted has been replaced by ranges of figures or a general description.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.4819 – COMMSCOPE/ ANDREW
Notification of 26/10/2007 pursuant to Article 4 of Council Regulation
No 139/2004¹**

1. On 26/10/2007, the Commission received a notification of a proposed concentration pursuant to Article 4 and following a referral pursuant to Article 4(5) of Council Regulation (EC) No 139/2004 by which the undertaking CommScope Inc. ("CommScope", USA) acquires within the meaning of Article 3(1) (b) of the Council Regulation control of the whole of the undertaking Andrew Corporation ("Andrew", USA) by way of purchase of shares. CommScope and Andrew are hereinafter referred to as "the parties".
2. After examining the notification, the Commission found that the notified transaction falls within the scope of the Merger Regulation and that it did not raise serious doubts as to its compatibility with the common market and the EEA agreement.

I. THE PARTIES

3. CommScope manufactures cables and provides cable solutions for telecommunication systems and equipment.

¹ OJ L 24, 29.1.2004 p. 1.

4. Andrew is active primarily in the supply of base station antennas, cables and other equipment to wireless telecommunication operators and original equipment manufacturers ("OEMs").

II. THE CONCENTRATION

5. Pursuant to the terms of the Merger Agreement signed on 26 June 2007, Andrew and DJRoss, Inc., an indirect wholly owned subsidiary of CommScope, will merge, with Andrew surviving as an indirect wholly owned subsidiary of CommScope. After the closing of the transaction, CommScope will have sole control over Andrew and all of its subsidiaries.
6. Thus, the transaction constitutes a concentration within in the meaning of Article 3(1)(b) of the Merger Regulation.

II. COMMUNITY DIMENSION

7. Since CommScope's Community-wide turnover is below the threshold of EUR 250 million and does not achieve a turnover of EUR 25 million in each of at least three Member States, the operation does not have a Community dimension within the meaning of Article 1 of the EC Merger Regulation.
8. However, the concentration meets the legal requirements set out in Article 4(5) of the EC Merger Regulation, as it would have required notification in six Member States: Germany, Greece, Italy, Portugal, Spain and the UK. It would also have to be notified in Norway.
9. The parties have requested the referral of the transaction to the European Commission under Article 4(5) of the EC Merger Regulation. There were no objections from the Member States. As a consequence the European Commission acquired jurisdiction on the transaction.

III. COMPETITIVE ASSESSMENT

RELEVANT MARKET

10. The transaction will create horizontal overlaps on the markets for the manufacture and sale of 50 Ω and 75 Ω coaxial cables. As bimetallic wires are used as inner conductors in coaxial cable, the transaction may also create a potential vertical relationship between the parties.

1. Relevant product market

1.1. 75 Ω and 50 Ω coaxial cables

11. The parties manufacture coaxial cables. A coaxial cable is a two-conductor transmission line used to carry radio frequency or broadband signals. Coaxial cables are commonly

categorised based on their impedance, which is measured in Ohms ("Ω"). The parties manufacture two types of coaxial cables: 50Ω coaxial cables² and 75Ω coaxial cables³.

12. According to the parties, the separate demand characteristics suggest that 50Ω and 75Ω coaxial cables constitute specific markets. 50Ω and 75Ω coaxial cables are used by different groups of customers and are not substitutable from a demand side standpoint.
13. However the parties submitted that there is significant supply-side substitutability between 75Ω trunk & distribution ("T&D") cables (used for backbone networks) and 50Ω cables. Manufacturers of T&D cables would be able to enter the 50Ω cable segment and 50Ω cable manufacturers could switch to producing T&D cables without incurring major costs.
14. The market investigation has broadly confirmed that 50 Ω and 75 Ω coaxial cables constitute separate product markets. On the one hand, from a supply side perspective, switching production from one category to the other has been considered possible and not excessively costly. On the other hand, from a demand side perspective, as suggested by the parties to the merger, a clear division into two product markets is justified: 75 Ω cables are used for distributing high frequency signals and 50 Ω cables are used for transporting high frequency power. Customers buying one type of cables are therefore different from those who buy the other kind and have different requirements (mobile operators and broadcasters of terrestrial TV for 50 Ω and Cable TV operators and fixed operators for 75 Ω). As a result, a manufacturer can not be present on any of these markets without maintaining at least dedicated sales forces and technical support teams (and most often even local production facilities) and without enjoying a degree of recognition among customers.
15. Some competitors produce both categories of cables but, nevertheless, confirm that a distinction can be drawn on the basis of different customers' requests and different functional characteristics which are considered to be unique to the application segment, connected to the end use of the cables.
16. In light of the above, the Commission has assessed the effects of the transaction on the market for 50 Ω coaxial cables and the market for 75 Ω coaxial cables, as two separate relevant product markets.

1.2. Copper strip and bimetallic wires

17. CommScope manufactures bimetallic wires. Both copper strip and bimetallic wires are used as inner conductors in coaxial cables. The results of the market investigation gave a certain support to the view of the parties that these differ due to their technical properties and uses. For the purpose of the present transaction, the exact product market definition can however be left open, since, even on the basis of the narrowest possible market definition (only for bimetallic wires), the concentration does not raise any competition concern.

² 50Ω coaxial cables are used by wireless telecommunication service providers to connect the antennas located at the top of wireless base station towers to the radios and power sources located at adjacent antenna sites.

³ 75Ω coaxial cables are used in telecommunication infrastructures, in particular by CATV operators.

2. Relevant geographic market

2.1. 75 Ω and 50 Ω coaxial cables

18. According to the parties, the geographic dimension of the relevant market for 75Ω and 50Ω coaxial cables is at least EEA-wide. The parties make no distinction between 75Ω and 50Ω coaxial cables with regard to the geographic market. Coaxial cables would be supplied world-wide under similar conditions of competition, transportation and logistic costs of coaxial cables would be limited, and there would be no barriers to global supply.
19. In the course of its market investigation the Commission received a variety of indications as to the appropriate scope of the relevant geographic market.
20. As regards 75 Ω coaxial cables, the market investigation revealed that the scope of this market may be narrower than the scope of the 50 Ω coaxial market, i.e., EEA or even national due to customer specified technical requirements (dimensions, materials used, outer conductor type, etc.). For the purpose of the present transaction, however, the scope of the relevant geographic market may be left open as the concentration does not raise any competition concern on any of the possible geographic markets.
21. As regards 50 Ω cables, the market investigation showed that there are a number of elements that point to a EEA-wide market:
 - (a) *Local consumption*: Cables tend to be supplied by production facilities close to the location where the customer is located. In fact, the main competitors (e.g., Draka NK Cables, RFS, Eupen), as well as Andrew, have manufacturing facilities in the EEA territory from which they supply European customers. According to the parties, Andrew delivers [80-100]% of its 50 Ω cables to European customers from its plant located in Scotland;
 - (b) *Strong local customers with preference for known local suppliers*: The presence of strong mobile operators located in Europe, some of which tend to prefer European suppliers, seem to have influenced some manufacturers to establish manufacturing facilities in the EEA. Some competitors consider that an established sales network (“brand recognition”) is necessary in the EEA;
 - (c) *Difficult and slow transport*: Transport of 50 Ω coaxial cables requires special conditions (special structures to be safely shipped in containers). More importantly, timing seems to be an issue. Shipment from overseas (i.e., from the U.S. or from Asia) takes between 4 to 6 weeks. Customers therefore seem to prefer to be supplied by producers who can deliver rapidly and by land transport (some of them mentioned the need to be supplied at short notice without having to maintain their own inventories as being part of their requirements);
 - (d) *Different perceived quality*: In some customers' view, the quality of the wires produced in China are still perceived as having lower quality than those produced in the EEA (although this perception may be gradually changing); hence those customers do not wish to purchase them.
22. Based on some other findings, however, it cannot be totally excluded that the geographic market for 50Ω coaxial cables is (or is in the process of becoming) world-wide in scope. A number of customers and competitors consider that 50 Ω coaxial cables are

commodity products with limited or no price differences. Standards for the production are either international or European, but not mandatory. U.S. and European standards are furthermore very close and, therefore, do not constitute barriers to trade, at least not between these two regions.

23. In light of the above, the Commission has also assessed the effects of the transaction with regard to 50Ω coaxial cables on a hypothetical world-wide market. For the reasons explained below the Commission found that, whatever the geographic market definition (EEA or world-wide), the concentration will not significantly impede effective competition in the common market or a substantial part of it. Therefore, it is not necessary, for the purpose of this decision, to decide on the exact geographic market definition.

2.2. Bimetallic wires

24. The results of the market investigation gave a certain support to the view of the parties that the relevant market for bimetallic wires is at least EEA-wide. The parties make no distinction between the overall market for copper strip, solid copper wire and bimetallic wire and the bimetallic wire segment. According to the parties, bimetallic wires are supplied world-wide under similar conditions of competition, transportation and logistic costs of copper strip, copper wire and bimetallic wires are limited, and there would be no barriers to global supply.
25. For the purpose of this decision, however, it is not necessary to decide on the exact geographic market definition (EEA or world-wide), given that in any case the concentration will not significantly impede effective competition in the common market or a substantial part of it.

II. COMPETITIVE ASSESSMENT

1. Horizontal overlap

1.1. 75 Ω coaxial cables

26. On the market for 75Ω coaxial cables, the parties' combined EEA-wide market share amounts to [10-20]%, Andrew representing an incremental market share of [below 1]%. The marginal increment of the parties' post-merger position in this market is confirmed at national level (no higher than [1%] in any Member State). According to the parties, suppliers of 75Ω coaxial cables are fragmented. While post-merger CommScope will be the largest supplier of 75Ω cables in the EEA, it will compete with numerous other suppliers, including Belden ([0-10]%), Times Fiber ([0-10]%), Nordix ([0-10]%), Hansen ([0-10]%) and a number of other smaller competitors.
27. At world-wide level, the combined market share of the parties would be [30-40]%, followed by Times Fiber with a market share of [20-30]%, Belden of [0-10]% and Hansen of [0-10]%. The increment brought by Andrew's activities would be minimal (below 1%).
28. In light of the minimum incremental market share on all levels, and in the absence of any concern expressed by the customers in the course of the market investigation, it may be concluded that the transaction will not bring about any significant impediment to effective competition in the market for 75 Ω cables neither at Member State, EEA nor at world-wide level.

1.2. 50 Ω cables

EEA-wide market

29. In the 50 Ω coaxial cables market the merged company would have a combined market share in the EEA of [30-40]% (Andrew [30-40]%; CommScope [below 1]%).
30. The increment in market share in the EEA due to the merger is very small. Furthermore, the merged entity would continue to face strong, regional competitors. In the market for 50Ω coaxial cables, Radio Frequency Systems (RFS), a subsidiary of Alcatel-Lucent, would be the largest competitor with [30-40]% market share. Draka NK Cables and Eupen would have a market share of [10-20]% and [10-20]%, respectively. RFS and Draka NK Cables were mentioned by the customers in the course of the market investigation as strong competitors who will effectively discipline the merged entity.
31. Another factor exerting competitive pressure on the EEA market is imports of 50 Ω coaxial cables into Europe which could grow in the future. At the moment, due to customers' quality demands, import penetration is low (under 10%). However, with improvements in quality overseas, imports could grow. The market investigation also supported the view of the parties that although not identical, technical standards are sufficiently similar in the EEA, in the U.S. and Asia not to constitute a barrier to entry to such imports. Several Asian cable manufacturers, such as LS Cable (Korea), have recently started to participate in tenders for the supply of 50 Ω coaxial cables in the EEA. They more and more offer products that are getting similar in quality to those provided by Western manufacturers. In 2006 they successfully competed with Andrew for a contract with [...] in Europe.

World-wide market

32. Although the information obtained in the market investigation point to a EEA-wide market, it cannot be completely excluded that the market for 50 Ω coaxial cables is evolving towards a world-wide scope. However, even in the event of a world-wide market, the merger would not raise competition concerns.
33. World-wide market shares of both companies are higher than their combined share in the EEA. Andrew is a strong global player in the market for 50 Ω coaxial cables with a market share of [50-60]%. CommScope has a share of [0-10]%. Although the world-wide market share of the merged company would be substantial (around [50-60]%), the increment in market share resulting from the merger is limited.
34. The difference between the EEA and global market shares of the parties can be attributed to their strong position in the US. The merger between CommScope and Andrew is currently also subject to review by the US Department of Justice.
35. The market investigation showed, first, that 50Ω coaxial cables are a relatively homogenous product. Thus 50Ω coaxial cables of CommScope are not closer substitutes of Andrew's than any other competitors' products are. This is confirmed by the bidding data submitted by the parties. For the past five years, CommScope and Andrew bid against each other only in a limited number of tenders. In cases when they both submitted bids there were usually several other bidders competing for the same contract.
36. The market for 50 Ω coaxial cables has the typical characteristics of a bidding market. Tenders are organized by big customers, mostly large wireless telecommunication

network operators (such as Vodafone, France Telecom/Orange and Deutsche Telekom/T-Mobile) or large integrators or OEMs (such as Nokia Siemens Networks (NSN) and Motorola). According to the parties, and this has been largely confirmed by the market investigation, these customers often use sophisticated procurement procedures. In addition, they also tend to dual- or even multi-source their requirements so as not to be dependent on one manufacturer. These large customers would have the incentive and ability to facilitate the entry, expansion or repositioning of other competitors to discipline and defeat any attempt by the combined entity to implement a sustained anticompetitive price increase or output reduction. In particular, it is to be noted that nearly [...] of CommScope's revenue in the market for 50 Ω coaxial cables can be attributed to only two big and sophisticated US customers: [...].

37. Lastly, the market investigation revealed that there is little concern among customers in relation to the merger. Companies purchasing 50 Ω coaxial cables are of the opinion that there will still be a wide choice of 50 Ω coaxial cable suppliers (including a gradual entry of Asian manufacturers) and that they will have no problems in procuring coaxial cables from various companies. Some third parties noted that the combination of the merging parties' technical expertise might result in the development of new technologies to be applied to 50 Ω cables.
38. In light of the above, it is concluded that the transaction will not bring about any significant impediment to effective competition in the market for 50 Ω cables neither at EEA nor at world-wide level.

2. Potential vertical relationship

Bimetallic wires

39. The potential vertical relationship between the parties' activities in the EEA and world-wide with respect to wire applications has also been subject to the market investigation. CommScope manufactures bimetallic wire applications primarily for captive use and to certain cable manufacturers. It does not supply them to Andrew.
40. This potential vertical relationship does not appear to raise competition concerns because CommScope's market share in the narrower market for the supply of bimetallic wires in the EEA is very small (around [0-10]%). Besides, the presence of big competitors with substantially higher market shares (e.g., Copperweld Bimetallic with a share of approximately [60-70]% and Gebauer & Griller and Fushi China, both [10-20]% each) renders it unlikely that CommScope would have the incentive and ability to foreclose any of Andrew's competitors.
41. When considering the world-wide scope of this market, the merged entity would be the third player with a market share of [20-30]%, the first being Fushi China with [30-40]% and the second being Copperweld with [20-30]%.
42. None of the competitors of Andrew considers that the merger would lead to any foreclosing effect in the supply of copper strip and bimetallic wires, which are essential inputs of 50 Ω cables. It has been noted that a sufficient number of actual and potential suppliers exists, both at EEA and at world-wide level.
43. In light of the above, it appears highly unlikely that the vertical relationship between CommScope and Andrew could ultimately have a detrimental effect for customers and could foreclose/marginalise coaxial cable manufacturers.

VI. CONCLUSION

44. 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