

***Case No COMP/M.4853 -
PPG / SIGMAKALON***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 10/12/2007

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 10.12.2007

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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 Where possible the information omitted has been replaced by ranges of figures or a general description.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.4853 – PPG / SigmaKalon
Notification of 5 November 2007 pursuant to Article 4 of Council
Regulation No 139/2004¹**

1. On 5 November 2007, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 by which the undertaking PPG Industries, Inc. ("PPG", USA) acquires within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of the undertaking SigmaKalon (BC) HoldCo B.V. ("SigmaKalon" or "SK", Netherlands) by way of purchase of shares.
2. 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 functioning of the EEA Agreement.

I. THE PARTIES

3. **PPG**, the acquiring party, is a U.S.-based diversified manufacturer and worldwide producer of coatings, sealants, adhesives, metal pre-treatment products as well as industrial and specialty chemicals.
4. **SigmaKalon**, the target, is a European manufacturer of decorative, industrial, and protective and marine coatings in Europe and selected other international markets.

¹ OJ L 24, 29.1.2004 p. 1.

II. THE CONCENTRATION

5. The notified operation consists of the acquisition of sole control by PPG of the entire business of SigmaKalon through the acquisition of its shares. It therefore constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

III. COMMUNITY DIMENSION

6. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion². Each of them 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. RELEVANT MARKETS

7. PPG and SigmaKalon are both active in the manufacture and supply of various types of coatings, such as decorative coatings, protective and marine coatings, coil coatings, metal coatings, powder coatings, packaging coatings, OEM automotive coatings, and automotive refinish coatings.
8. While SigmaKalon is mostly active as producer of decorative coatings ([70-80]% of its total sales in 2006) in Europe ([80-90]% of its total sales in 2006), PPG has a limited presence in decorative coatings in the EEA (limited to France).

Decorative coatings

Relevant product market

9. The term “decorative coatings” is used to describe various types of coatings for walls, ceilings, doors, window frames and other surfaces, which are normally used on-site both internally and externally during the construction or refurbishment of architectural structures.
10. In line with previous Commission decisions³, the parties submit that decorative coatings form one distinct product market which can be further divided into two distinct sub-markets depending on the type of the customer to which the product is sold: the retail market (sales to retailers for resale to end customers) and the trade market (sales to professionals). This distinction is due mainly to the differences in relation to products (higher technology and quality required for the products in the trade market), sales channels, and service level (on-site technical advice for the trade market).
11. The retail segment of the market for decorative coatings could be further divided into two sub-segments: private labels (retailers' brands) and manufacturers' brands. Such distinction is however not relevant for the purposes of the present decision as only SigmaKalon is active in the production of private labels (PPG has no private label activities in respect of decorative coatings in the EEA). Therefore only branded

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).

³ See, e.g., Case M. 1182 *Akzo Nobel/Courtaulds*, decision of 30 June 1998, at paragraph 9.

products will be taken into consideration for purposes of this decision. The market investigation has confirmed that decorative coatings represent a separate product market. The market investigation was not conclusive as to the relevance of the distinction between the trade and retail markets, although some respondents believe that such a distinction is necessary in consideration of the different sales process and distribution channels and distinct characteristics.

12. In any case, for the purposes of the present decision, the ultimate definition of the relevant product market can be left open since the proposed transaction does not give rise to any competition concerns, regardless of whether decorative coatings is treated as an overall product market or whether it is subdivided into separate trade and retail sub-markets.

Relevant geographic market

13. The parties submit that the scope of the geographic market for decorative coatings is national on the grounds that (i) technical and product specifications differ from country to country; (ii) as a consequence of the different specifications, prices vary from country to country; (iii) suppliers tend to have production facilities within or near the country of distribution; (iv) transportation over long distances is uneconomical; and (v) cross-border sourcing by distributors is relatively low.
14. Although some respondents to the market investigation indicated that in light of the low transportation costs and recent trends to have the same brands in different countries, the decorative coatings market could be moving to a regional or even EEA-wide scope, the market investigation broadly confirmed that the decorative coatings market has a national scope.
15. The Commission has not previously concluded on the geographic scope of the decorative coatings market and the exact definition can also be left open for the purposes of the present decision since the proposed transaction does not give rise to any competition concerns, under any alternative market definition.

Protective and marine coatings

Relevant product market

16. Protective and marine coatings (PMC) are heavy-duty coatings for application primarily to structural steel and concrete to enable them to resist corrosion, chemical attack and, where necessary, to keep underwater area of ships free from marine vegetation and animal life and abrasion.
17. The parties submit that PMC constitute a separate product market in light of their particular characteristics (PMC are not suitable for the type of equipment used by customers of other types of coatings because of their rough appearance and texture and chemical content). Moreover, the parties submit that within the market for PMC it would be possible to distinguish two different hypothetical sub-segments for protective coatings and for marine coatings and also two different hypothetical sub-segments for anti-corrosive coatings and for anti-fouling coatings, the latter being used for marine applications.
18. The market investigation has largely confirmed that PMC are distinct from other types of coatings. Almost all respondents further took the view that PMC should be divided

into protective coatings and marine coatings in light of the different applications and quality standards, as well as for the distinct end-users. Some of the respondents have also confirmed the distinction between anti-fouling and anti-corrosive, notably due to the different technologies required for the production of these two types of marine coatings.

19. For the purposes of the present decision, the ultimate definition of the relevant product market can be left open since the proposed transaction does not give rise to any competition concerns, regardless of whether PMC are treated as an overall product market or whether it is subdivided into separate sub-markets for protective and marine coatings or for anti-corrosive and anti-fouling coatings.

Relevant geographic market

20. The parties submit that the relevant geographic market for PMC is likely to be worldwide in scope on the grounds that (i) PMC are manufactured to almost identical technical and product specifications around the world, with minor adjustments for local weather conditions or environmental regulations; (ii) there are very small price variations among PMC supplied worldwide; (iii) suppliers tend to serve the worldwide market from only a few production facilities worldwide.
21. The market investigation has supported the parties' view that the market for PMC is worldwide. However, should the PMC market be further divided into protective coatings and marine coatings, the market investigation has confirmed that the marine coatings market has a worldwide scope, while some of the respondents have expressed the view that the scope of the geographic market for the protective coatings may be narrower than worldwide, being EEA-wide, regional or even national.
22. For the purposes of the present decision, the precise definition of the relevant geographic market for either the overall PMC market or potential submarkets for protective coatings (national, EEA-wide or worldwide) and marine coatings (EEA-wide or worldwide) can be left open since the proposed transaction does not give rise to any competition concerns, under any alternative market definition.

Coil coatings

Relevant product market

23. Steel coil coatings and aluminium coil coatings are supplied for coating steel and aluminium coil during the production process. The coil is later cut and the sheets used for a range of products such as metal cladding and roofing for buildings/structures, households' appliances.
24. The parties submit that coil coatings constitute a distinct product market, based on the peculiar characteristics of such coatings which are specifically designed for application to steel and aluminium coatings and not suitable for application to the type of equipment used by customers for any other type of coatings. The parties further submit that on the supply-side, all producers of coil coatings are able to produce both steel and aluminium coatings and all three types of layers of coil coatings (primer back-coat, primer and

topcoat). The Commission has previously confirmed that coil coatings constitute a distinct product market in *Akzo/Nobel Courtaulds*⁴.

25. The market investigation has largely confirmed the parties' definition of the market. Only a few respondents have expressed the view that the market for coil coatings should be further divided into steel coil coatings and aluminium coil coatings. However, in most cases, the same respondents have further acknowledged that the technology necessary to produce steel and aluminium coil coatings is the same, thus recognizing a supply-side substitutability between the two sub-segments.
26. For the purposes of the present decision, the exact definition of the relevant product market can be left open since the proposed transaction does not give rise to any competition concerns, regardless of whether coil coatings is treated as an overall product market or whether it is subdivided into separate steel and aluminium sub-markets.

Relevant geographic market

27. In the decision *Akzo/Nobel Courtaulds*, the Commission has defined the geographic market for coil coatings as being EEA-wide in scope.

Metal coatings

Relevant product market

28. Metal coatings constitute a thin film of metal bonded to a base material in order to add specific surfaces properties, such as corrosion or oxidation resistance, colour, wear resistance or optical characteristics. Metal coatings belong to the broader category of industrial coatings as they are sold mainly to the producers of the goods on which the coating needs to be applied and that have as a part of their production process an integrated paint application line.
29. The parties submit that metal coatings constitute a distinct product market, based on the peculiar characteristics of such coatings. The Commission has previously left open the market definition for metal coatings, noting that there are possible separate segments depending on end uses⁵. The parties also acknowledge that there are various types and formulations of metal coatings but stress that there is a full supply-side substitutability as all suppliers can easily produce all metal coating formulations for the different end uses and from the demand side, liquid and solid (powder) metal coatings are substitutable.
30. The market investigation has largely confirmed that metal coatings constitute a separate product market. However, the respondents have expressed different opinions on the need to further subdivide metal coatings according to the different types and formulations of metal coatings. Nevertheless, even those few competitors who believe that there should be a further distinction clearly acknowledge the full supply-side substitutability among different metal coatings.

⁴ Case M. 1182 *Akzo Nobel/Courtaulds*, decision of 30 June 1998, at paragraph 9.

⁵ Case M.1363 *DuPont/Hoechst/Herbets*, decision of 5 February 1999.

31. For the purposes of the present decision, the exact definition of the relevant product market for metal coatings can be left open since the proposed transaction not give rise to any competition concerns, regardless of the definition retained.

Relevant geographic market

32. The parties submit that the geographic market for metal coatings is EEA-wide on the grounds that (i) metal coatings are manufactured to near-identical technical and product specifications throughout the EEA and there are no obstacles to trade from region to region; (ii) suppliers tend to serve their customers from only a few production facilities located within the EEA; and (iii) transportation and packaging costs represent a small proportion of average sales value.
33. The market investigation has not provided a clear indication with regard to the geographic scope of the market for metal coatings, which is considered either national or EEA-wide. However, for the purposes of the present decision, the precise definition of the relevant geographic market for metal coatings can be left open since the proposed transaction does not give rise to any competition concerns, under any alternative market definition.

Powder coatings

Relevant product market

34. Powder coatings are used for a wide range of industrial uses and are used for coating metal. They are applied to products by means of a static electrical charge and then cured in an oven
35. The parties claim that powder coatings do not constitute a separate product market but, rather, are a type of technology that is employed to apply coatings to certain surfaces. The parties' view is in line with a previous Commission decision⁶, where the Commission stated that from the demand side the manufacture and supply of powder coatings does not constitute a separate relevant market.
36. The market investigation has widely confirmed this approach, as the vast majority of the respondents have expressed the opinion that powder coatings do not constitute a separate product market but simply represent a distinct technology. Only a few respondents took the view that powder coatings are not substitutable to liquid coatings for end users. In any event, this issue can be left open for the purposes of the present decision as the proposed transaction would also not give rise to competition concerns on a hypothetical market for powder coatings.

Relevant geographic market

37. In the decision *Akzo/Nobel Courtaulds*, the Commission concluded that, should there be a separate product market for powder coatings, its geographic scope is at least EEA-wide.

⁶ Case M.1363 *DuPont/Hoechst/Herbets*, decision of 5 February 1999.

Packaging coatings

Relevant product market

38. Packaging coatings are lacquer coatings supplied for packaging products such as cans, drums, metal tubes, caps and other closures.
39. In line with previous Commission decisions⁷, the parties submit that packaging coatings constitute a distinct product market, in light of the particular characteristics of such coatings that are specifically designed, on the one hand, to prevent any direct contact of the packaging material with the filling and, on the other hand, to protect the packaging material from any environmental influences and to provide decoration.
40. The parties indicated that it may be possible to subdivide the packaging coatings market into various segments depending on the end-use (beverage cans, food cans, closures and others) and within these segments into internal and external sub-segments.
41. However, the market investigation has broadly confirmed that packaging coatings constitute a relevant product market and that, given the strong supply-side substitutability (switching of the production between various sub-segments can be done in short time at virtually no cost) and similar technologies used in the production process of all sub-segments, there is no need to further subdivide the packaging coatings market into any sub-markets.
42. Accordingly, the Commission considers that the relevant market for the purposes of this decision should be the overall market for packaging coatings.

Relevant geographic market

43. The parties submit that the geographic market for packaging coatings is at least EEA-wide because (i) packaging coatings are manufactured to near-identical technical and product specifications throughout the EEA; (ii) there are no obstacles to trade within the EEA; (iii) there are only very small price variations among packaging coatings supplied throughout the EEA; (iv) suppliers tend to serve their costumers from only a few production facilities; (v) transportation and packaging costs represent a small proportion of average sales value ([0-5] %); and (vi) customers tend to be large, global or pan-European packaging producers, who demand global or pan-European supply.
44. The majority of respondents to the Commission's market investigation indicated that the market should be considered at least EEA-wide or even worldwide given the relatively low transportation costs and similar prices in different regions.
45. However, for the purposes of the present decision, the precise definition of the relevant geographic market for packaging coatings can be left open since the proposed transaction does not give rise to any competition concerns, under any alternative market definition.

⁷ Case M. 1182 *Akzo Nobel/Courtaulds*, decision of 30 June 1998, at paragraph 9.

Automotive refinish coatings

Relevant product market

46. Automotive refinish coatings are specially formulated products for the repair and repainting of vehicles such as cars, trucks and buses in an after-market environment.
47. The parties submit that automotive refinish coatings constitute a distinct product market, in particular from OEM automotive coatings, as they have to be of particular specification for automotive use, have low temperature bake and can be used for repair vehicles (as compared to OEM automotive coatings which are to be applied to new vehicles).
48. Although automotive refinish coatings market could be further divided into private label brands (retailers' brands) and manufacturers' brands, such distinction is not relevant for the purposes of the present decision as the parties' activities do not overlap with respect to private labels⁸. Therefore only branded products will be taken into consideration for purposes of this decision.
49. In line with previous Commission's decisions⁹, the parties submit that automotive refinish coatings constitute a distinct product market that includes all types of automotive refinish coatings. According to the parties, customers tend to source the entire range of products from one supplier, mainly for reasons connected to the guarantee. This was widely confirmed by the market investigation.
50. Accordingly, the Commission considers that the relevant market for the purposes of this decision should be the market for automotive refinish coatings.

Relevant geographic market

51. The parties submit that the geographic market for automotive refinish coatings is EEA-wide because (i) automotive refinish coatings are manufactured to almost identical technical and product specifications across the EEA; (ii) there are no tariffs or other obstacles to trade within the EEA; (iii) manufacturers use the same brand across the EEA with multilingual packaging/labelling; (iv) transportation costs within the EEA are not significant; (v) there are no national consumers preferences for specific brands; (vi) distributors are not dependent on importers for supplies of automotive refinish coatings and may source products from automotive refinish coatings suppliers located in other countries. The parties submit that this approach seems to be in line with a previous Commission decision¹⁰.
52. The market investigation has confirmed the parties' claim that the geographic scope of the automotive refinish coatings market is EEA-wide. While customers generally take the view that the geographic scope of the automotive refinish coatings market is EEA-

⁸ PPG's private label activities are confined to [...], while SigmaKalon is only active in automotive refinish coatings in [...], and moreover does not produce automotive refinish coatings for private label brands.

⁹ Case M.1363 DuPont/Hoechst/Herbets, decision of 5 February 1999.

¹⁰ Case M.1363, DuPont/Hoechst/Herbets, decision of 5 February 1999.

wide, some competitors suggested the market is even worldwide given the low transportation costs and the fact that the same suppliers are active worldwide.

53. For the purposes of the present decision, the precise definition of the relevant geographic market for automotive refinish coatings can be left open since the proposed transaction does not give rise to any competition concerns, regardless of the definition retained.

V. COMPETITIVE ASSESSMENT

Decorative coatings

54. The only limited overlap between the parties' activities in the decorative coatings market relates to decorative coatings in France. The parties' combined market share post-transaction on the overall decorative coatings market in France would amount to [20-30]% (SK: [20-30]%, PPG: less than [0-5]%). Should the retail sub-segment be considered separately, this market share would amount to only [10-20]% (SK: [10-20]%, PPG: [0-5]%) At the EEA level, the parties' combined market shares would not exceed 15% in either the overall decorative or the retail markets.
55. Given the limited combined market share of the parties, the minimal market share increment brought about by the present transaction and the fact that the market investigation confirmed that the French decorative coatings market is highly competitive, the Commission considers that the proposed transaction will not give rise to any competition concerns on the market for decorative coatings in France under any alternative market definition.

Protective and marine coatings

56. On the overall PMC market, there would be no affected market as the parties' combined market share will remain below 15% at both the EEA level (PPG: [0-5]% and SK: [5-10]%) and worldwide (PPG: [0-5]%; SK: [5-10]%). However, if the PMC market were to be split into protective coatings and marine coatings, the parties' combined market shares would be slightly higher but remaining below [20-30]% (for marine coatings: [10-20]% worldwide (PPG: [0-5]%; SK: [10-20]%) and [20-30]% EEA-wide (PPG: [0-5]%; SK: [20-30]%); for protective coatings: [5-10]% worldwide and EEA-wide (PPG: [0-5]%; SK: [0-5]%).
57. Given the fact that some respondents to the market investigation suggested that the protective coatings market could be national in scope, the parties provided figures on this basis. The combined market share of the parties post-transaction would exceed 15% only in France (PPG: [0-5]%, SK: [10-20]%), Denmark (PPG: [0-5]%, SK: [10-20]%) and the UK (PPG: [10-20]%, SK: [0-5]%).
58. Should the market for marine coatings be divided into anti-corrosive and anti-fouling marine coatings, as suggested by some of the respondents to the market investigation, the parties' market shares would exceed 15% only on the anti-fouling marine coating market ([20-30]% at the EEA level: PPG: [0-5]%; SK [20-30]%; and [10-20]% at the worldwide level: PPG: [0-5]%; SK: [10-20]%).
59. Furthermore, the market investigation has confirmed that on all alternative markets the parties will continue to face several strong competitors post-transaction, such as Akzo Nobel (which will remain the market leader at the EEA level in the overall PMC market

with a market share of [10-20]% as well as in most national markets), Jotun ([5-10]%), Hempel ([5-10]% on the overall EEA PMC market).

60. In light of the above, the Commission considers that the proposed transaction will not give rise to any competition concerns on the market for protective coatings and marine coatings in the EEA under any alternative market definition.

Coil coatings

61. On the overall market for coil coatings in the EEA, the parties will have a combined market share of just [10-20]% (PPG: [0-5]%; SK: [5-10]%)¹¹. If the coil coatings market were to be split into steel coatings and aluminium coatings, there would be no affected market for aluminium coatings (PPG: [0-5]%; SK: [5-10]%), and the parties' combined market share for steel coatings in the EEA would be [10-20]% (PPG: [5-10]%; SK: [10-20]%).
62. Furthermore, the market investigation has confirmed that the parties will continue to face strong competitors post-transaction, such as Becker Industrial Coatings (which will remain the clear market leader), Valspar, Akzo Nobel, BASF.
63. In light of the above, the Commission considers that the proposed transaction will not give rise to any competition concerns on the market for coil coatings in the EEA, under any alternative market definition.

Metal coatings

64. On the overall market for metal coatings at the EEA level, there would be no affected market, as parties' combined market share would remain below 15% (PPG: [0-5]%, SK: [5-10]%). On a national basis, the parties' combined market share would exceed 15% only in the Netherlands ([30-40]%; PPG: [0-5]%; SK [30-40]%) and in Belgium ([30-40]%, PPG: [5-10]%, SK: [20-30]%).
65. Should the market be divided in smaller segments according to the different types and formulations of metal coatings, for those segments where the parties' activities overlap, the parties' combined market share would reflect their market share on the overall market for metal coatings, both at the EEA level and at the national level.
66. Furthermore, the market investigation has confirmed that the parties will continue to face several strong competitors post-transaction, such as Materis, Valspar, Akzo Nobel, Hempel.
67. In light of the above, the Commission considers that the proposed transaction will not give rise to competition concerns on the market for metal coatings in the EEA, under any alternative market definition.

Powder coatings

68. On a hypothetical separate product market for powder coatings in the EEA, the parties' combined market share would be only [0-5]% (PPG: [0-5]%, SK: [0-5]%). The

¹¹ Should the combined market shares of the parties in volume be considered, there would be no affected market, as PPG and SK have a market share of [0-5]% and [5-10]% respectively.

proposed transaction would thus not give rise to an affected market and to any competition concerns on a hypothetical market for powder coatings in the EEA.

Packaging coatings

69. The parties' combined market share on the market for packaging coatings in the EEA will amount to [20-30]% (PPG: [20-30]%, SK: [0-5]%) whilst ICI, the parties' main competitor, would remain a clear market leader with a share of [30-40]% followed by Valspar having a market share of [20-30]%. On a worldwide level the combined market share of the parties would be less than [20-30]% (PPG: [10-20]%, SK: less than [0-5]%) whilst parties' competitors will continue to enjoy higher market shares (Valspar: [20-30]%, ICI: [20-30]%). Should national markets be considered, the parties' activities overlap only in Poland and Germany where their combined market share would amount to [30-40]% (PPG: [10-20]%, SK: [10-20]%) and less than [30-40]% (PPG: [30-40]% and SK: less than [0-5]%) respectively.

70. Given the small increment generally brought about by the present transaction (with the exception of Poland where the parties currently have similar market shares), and the fact that the parties will continue to face two strong (ICI, Valspar) and several smaller competitors (e.g. Salchi, Lindgens, DIC, Grace), the Commission considers that the proposed transaction will not give rise to any competition concerns on the market for packaging coatings in the EEA.

Automotive refinish coatings

71. The parties will have a combined market share on the EEA market for automotive refinish coatings of [20-30]% (PPG: [20-30]%, SK: less than [0-5]%) and of less than [20-30]% worldwide (PPG: [20-30]%, SK: less than [0-5]%). Given the relatively small combined market share, the limited increment brought about by the proposed transaction, and the fact that the parties will continue to face strong competitors with Du Pont remaining the market leader (with [20-30]% at both the EEA and worldwide levels), the Commission considers that the proposed transaction will not give rise to any competition concerns on the market for automotive refinish coatings in the EEA.

VI. CONCLUSION

72. 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