

***Case No COMP/M.5029 -
SONEPAR / REXEL
GERMANY***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 08/02/2008

***In electronic form on the EUR-Lex website under document
number 32008M5029***



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 8-II-2008

SG-Greffe(2008) D/200593

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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.5029 - Sonepar / Rexel Germany
Notification of 4.1.2008 pursuant to Article 4 of Council Regulation
No 139/2004¹**

1. On 4.1.2008, the Commission received a notification of a proposed concentration pursuant to Article 4 EC Merger Regulation by which the undertaking Sonepar SA ("Sonepar", France), acquires within the meaning of Article 3(1)(b) of the Council Regulation sole control of all the business activities of the undertaking Rexel SA in Germany and Luxembourg ("Rexel Germany") by way of purchase of shares.

I. THE PARTIES

2. **Sonepar** is a French family-owned group active worldwide in the wholesale distribution of electrical products and installation material. Sonepar's worldwide turnover in 2006 amounted to € 9.4 billion, out of which [...] were achieved in the EEA and € 2.4 billion in France.
3. **Rexel Germany** is also active in the wholesale distribution of electrical products and installation material, as well as heating, ventilation and air-conditioning products ("HVAC"), and household and consumer electronics in Germany and Luxembourg. It achieved a worldwide and EEA-wide turnover of € 444 million in 2006, out of which [...] were generated in Germany and [...] in Luxembourg.

¹ OJ L 24, 29.1.2004 p. 1.

II. THE OPERATION AND THE CONCENTRATION

4. On 23.10.2007, Sonepar entered into an agreement ("*the Agreement*") with Rexel SA, pursuant to which Rexel would launch a public takeover bid over Hagemeyer and – subject to a successful outcome of this takeover bid – Rexel would transfer parts of Hagemeyer to Sonepar. Sonepar and Rexel thereby agreed that Sonepar would acquire from Rexel Hagemeyer's activities in Austria, Sweden, a small part of its activities in Germany², as well as certain Hagemeyer activities outside the EU³.
5. Moreover, by a side-letter to this Agreement of the same date, the Parties agreed that they would sell to each other certain of their own activities, subject to the successful outcome of Rexel's takeover bid for Hagemeyer. Among others, they agreed that Rexel would transfer all of its activities in Germany and Luxembourg (Rexel Germany) to Sonepar.
6. Since Sonepar will gain sole control on a lasting basis over Rexel Germany, the transaction constitutes a concentration within the meaning of Article 3 (1) EC Merger Regulation.

III. COMMUNITY DIMENSION

7. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion (Sonepar: EUR 9,451 million; Rexel Germany: [...]). Each of them also has a Community-wide turnover in excess of EUR 250 million (Sonepar: [...], Rexel Germany: [...]). In addition, the undertakings concerned do not achieve two-thirds of their Community-wide turnover in one and the same Member State.

IV. COMPETITIVE ASSESSMENT

8. The proposed transaction concerns the wholesale distribution of electrical products to professionals. More specifically, wholesalers such as the parties buy these products from manufacturers and resell them to operators which either integrate them within a specific building or industrial project or install them for their own customer or directly resell them.
9. The main part of the parties' revenues is generated by the wholesale of electrical products including i) electrical installation equipment (panels, automation and transformers), ii) cables, iii) lighting sources and equipment and iv) communication and security products (detection, surveillance, access control, voice and data transmission equipment). In Germany, the parties distribute also HVAC products (heating, ventilation and air conditioning products), household and consumer electronic goods (white and brown products).

² The six Hagemeyer branches located in Stäbelow (near Rostock), Barbüttel, Glinde, Kiel, Bremen and Gütersloh.

³ Cf. the parallel cases M.4963 – Rexel/Hagemeyer and M.4949 – Sonepar/Hagemeyer.

1. Relevant product markets

10. The activities of the parties in terms of product market approach can be addressed from two perspectives: downstream markets (sales of electrical products by wholesalers to their clients) and upstream markets (procurement of electrical products by wholesalers from suppliers).

Downstream markets

11. In previous cases, the Commission considered that the wholesale distribution to professionals could be distinguished from other forms of distribution and in particular retail distribution such as DIY stores⁴. Indeed, whilst retailers may carry the basic range, they do not compete with wholesalers for immediate access to a wide range of electrical products and do not provide a high level of expertise or facilitated payment conditions. The parties agree with this approach which was also confirmed by the market investigation. Indeed, the vast majority of customers indicated in their response to the market investigation that they never purchased electrical products from retailers and only few submitted that they would only occasionally resort to retailers in case of emergency need.
12. As regards a possible further delineation of the products sold at the wholesale level, the parties consider that it is not relevant. They submit that wholesalers have to respond to the demand of customers which need to cover several stages of the installation process and provide a one-stop shopping facility. Therefore each wholesaler carries a broad product range sourced from a large number of manufacturers. This is in line with previous findings in *Hagemeyer/WF Electrical* and confirmed by the findings of the market investigation which show that customers are expecting the wholesaler to offer a wide range of electrical products, including in Germany also household and consumer goods.
13. The notifying party considers that the contemplated transaction should be assessed on a product market which includes direct sales from manufacturers of electrical products to the parties' customers. They argue that there are overlaps in terms of brand and format between the products sold by manufacturers and those sold through wholesalers and that the same customers are targeted⁵. Sonepar contends that the prices charged by wholesalers are directly subject to competitive pressure from the price level at which sales by manufacturers are achieved. Therefore Sonepar submits that direct sales and sales through wholesalers belong to the same product market.
14. In *Hagemeyer/WF Electrical*, the Commission already expressed doubts regarding the argument that direct sales by manufacturers should be included in the same market as sales by wholesalers since wholesalers offer a wide range of products from different manufacturers whereas manufacturers sell only their own products.

⁴ Decisions IV/M.990 Hagemeyer/ABB Asea Skandia of 7 October 1997 and COMP/M.2034 Hagemeyer/WF Electrical of 17 July 2000.

⁵ Sonepar estimates the proportion of sales of electrical products achieved directly by manufacturers at [40-60%] in Germany.

15. These doubts are strengthened by the notifying party's submission on the role of the wholesaler which shows that its main functions considerably differ from those of the manufacturers. Indeed, the notifying party submits that wholesalers are "middlemen" between manufacturers and professional users which have to fulfil four main different functions: logistics (availability of the products), pricing, product management (following market trends to offer the suitable product portfolio consisting of a thousands of fast moving references) and promotion (specific services to customers such as 24/7 delivery, electronic purchasing, credit facilities, etc.). Moreover, wholesalers are better placed than manufacturers to serve small orders (since manufacturers face higher process costs when they deal with small quantities). These characteristics are not contested by the notifying party. Furthermore, according to Sonepar, wholesalers have the ability to provide additional financing services such as favourable payment terms.
16. While manufacturers may have some competitive advantages such as offering specialised and qualified technical support, the market investigation confirmed that in Germany they are not competing with wholesalers for the same customers and/or for the same supply of electrical products. Some customers indeed explained in their response to the market investigation that they sometimes need to purchase from manufacturers in order to get specific products with higher technical content. However, as regards more standardized products, they can in fact not consider buying from manufacturers, since most manufacturers require a certain amount of minimum order and are often not as flexible as wholesalers in terms of coverage of the country and delivery times.
17. In particular, customers see differences between wholesalers and manufacturers as regards the limited portfolio of products and brands that is available, prices and financial conditions (credit lines for customers). Only if they need specific, highly technical products or material for large construction projects (for example public outdoor lighting, lighting for large office buildings, hot water tanks, electrical storage heaters) they consider buying directly from manufacturers. They also indicated that there is a minimum order amount for direct sales from manufacturers. Large industrial customers sometimes have a framework agreement with manufacturers for electrical products they often need, but nevertheless indicated that they source standard products or small quantities from wholesalers. Moreover, the smaller the customer, the less it is likely that it can source certain products directly from a manufacturer. These indications have broadly been confirmed by manufacturers; some of them also stated that it has been their strategic commercial decision to sell only through wholesalers.
18. In the light of the above, the Commission therefore considers that the supply of electrical products by wholesalers constitutes a distinct product market (not including direct sales by manufacturers or retailers).

Upstream markets

19. Upstream markets concern the procurement of electrical products by wholesalers from manufacturers. The notifying party submits that the markets for procurement include the sales of such electrical products to a variety of customers including wholesalers but also

DIY retailers. This is in line with past Commission decisions concerning the area of wholesale distribution⁶.

20. The Commission's practice has been to delimit procurement markets by distinguishing product families or ranges⁷. This is due to the fact that suppliers generally manufacture a limited number of categories of products which are subject to very different competitive conditions. Hence the parties provided estimates of their shares in the five main categories of electrical products that they distribute, namely cables, lighting, installation materials, HVAC and communication and security products.

2. Relevant geographic markets

Downstream markets

21. The notifying party considers the wholesale markets of electrical products to be national in scope. Indeed, they submit that the parties to the contemplated transaction as well as their competitors adopt a national distribution strategy in terms of available product range, pricing, marketing strategy and general pricing policy. They also point out that transport costs of electrical products are not an issue since many electrical products are light or added/value materials, their prices being therefore not adversely affected by transport costs or at least not to a large extent⁸.
22. The Commission has already considered that an assessment of these markets at a national level was appropriate in the light of these factors⁹. However, it also examined if other aspects pointed to the relevance of narrower geographic markets. When it appears that immediacy, proximity and local delivery are viewed as important by the professional customer concerned, the Commission typically considers the size of the typical customer catchment areas that is, the radius of the average travel distance that customers usually undertake to buy their supplies. The parties submit that the catchment areas of different outlets in the affected markets largely overlap, thus creating a continuous offer on the national scale and confirming the national scope of these markets¹⁰.
23. The parties further contend that a definition of national markets is particularly appropriate for the wholesale distribution of electrical products given the importance of on-site deliveries (to the customers' premises or a worksite they designate) as opposed to "Over The Counter" (OTC) sales where customers have to travel to the local branch. Sonepar puts forward that in Germany in 2006 [70-100%] of the sales were directly delivered on-site.

⁶ See for example decision COMP/M.3184 Wolseley/Pinault bois et matériaux of 3 July 2003.

⁷ Decision COM/M.3184 Wolseley/Pinault bois et matériaux.

⁸ Sonepar estimates transport costs to represent around [0-5%] of the turnover generated by the sales of electrical products.

⁹ COMP/M.2034 Hagemeyer/WF Electrical.

¹⁰ The notifying party has submitted maps showing the overlap in (potential) catchment areas with a radius of 80 km around the outlets in Germany and the fact that other players are active in the same areas as the parties.

24. The market investigation indicated, however, that in a few regions of Germany, notably in Northern Germany and Bavaria, competition conditions may differ from the rest of the country. Customers explained that a regional contact point is important for the business of small and medium-sized electrical installers, since the installer needs service and advice regarding the various products, as well as short delivery times. Some customers claimed that in the areas mentioned above there are not many other competitors which could effectively compete with the new merged entity in terms of product range and sales volume. The parties had therefore been asked to submit additional information and provide market data on the basis of local catchment areas within a radius of 80 km around Sonepar's outlets. This distance had been mentioned by most customers as a reasonable supply distance (even though many competitors as well as the parties themselves stated that they also supply to locations further away).
25. An analysis of this data showed that even on the basis of the narrowest possible geographic market definition (radius of 80 km) the transaction would not give rise to serious doubts as to its compatibility with the common market or a substantial part of it. It can therefore ultimately be left open whether the geographic market for the wholesale of electrical products in Germany should be defined as local, i.e. as a catchment area within a radius of 80 km around the outlets, or whether it should be defined as national. The competitive assessment is ultimately the same in both alternatives.

Upstream markets

26. According to the parties supplies of electrical products by manufacturers to their customers (including wholesalers) are still made mainly on a national basis due to national specificities as regards product standards, installation rules and habits, labels or prices. This has been acknowledged by the Commission in previous cases¹¹.
27. In the course of the market investigation, some suppliers pointed out to the existence of pan European schemes for rebates on the basis of total sales which would exist with some of the largest wholesalers, including the parties, which may speak in favour of a larger than national market definition. However this element does not alter the conclusion that the procurement markets are still national, as the market investigation has also confirmed the notifying party's submission as regards the above mentioned considerations. Suppliers of the parties have indicated that commercial negotiations were also carried out on a national basis, with discount and rebates discussed country by country basis.

3. Competitive assessment

28. On the basis of the above market definitions, the proposed transaction will give rise to an affected downstream market in Germany or affected local markets in Germany, but no affected upstream markets¹².

¹¹ For instance in decision COMP/M.2283 Schneider/Legrand of 10 October 2001.

¹² The position of the merged entity on the upstream market for procurement of electrical products in Germany would be very limited as regards the overall area of procurement of electrical products, as well as procurement of specific product categories, as mentioned above at para. 20.

General situation in Germany

29. The following table indicates market shares of the main players at the national level as estimated by the Notifying Party¹³:

German market for the wholesale distribution of electrical products 2006 (national level)			
Company	Market Share	Sales (in m EUR)	Number of Outlets
Sonepar	[10-15%]	[1000-2000]	[100-150]
Rexel Germany	[0-5%]	[250-750]	[50-100]
Combined	[15-20%]	[1200-2750]	[150-250]
6 Hagemeyer branches	[0-5%]	[0-100]	[0-10]
New Sonepar*	[15-20%]	[1500-2500]	[150-250]
New Rexel (former Hagemeyer)**	[5-15%]	[500-1500]	[55-100]
Mitegro***	[10-20%]	[1000-2000]	[150-200]
Fegime***	[5-15%]	[500-1500]	[100-150]
Würth	[5-15%]	[500-1500]	[50-100]
Deha***	[5-15%]	[500-1500]	[50-100]
VEG members****	[5-15%]	[500-1500]	Unknown
GC Group	[0-10%]	[100-500]	[>500]
Solar	[0-10%]	[100-500]	[0-50]
CEF	[0-10%]	[100-500]	Unknown
Others	[20-30%]	[2000-3000]	Unknown
Total market volume	100%	[10000-11000]	

* Cf. parallel case M.4949.

** Current Hagemeyer without 6 branches to be transferred to Sonepar, cf. parallel case M.4963.

*** Purchasing organisations, cf. fn. 14.

**** Small wholesalers which are members of the German association of electrical wholesalers VEG - Verband des Elektro-Fachgroßhandels.

30. The table shows that Sonepar will strengthen its position in Germany, but the market investigation revealed that there is a number of other competitors, including the new Rexel entity (the former Hagemeyer following closing of the parallel transaction, cf. case M.4963), which will be able to effectively compete with the merged entity. Very few concerns had been raised by customers which are active throughout the country and thus prefer to have one partner for the whole of Germany. They saw their choice of suppliers reduced from 3 to 2 (Sonepar, Rexel, Hagemeyer to Sonepar and Rexel) or 4 to 3 (the three mentioned before plus Fegime).

¹³ The market investigation indicated that the total market volume for the German market might be slightly smaller than submitted by the Notifying Party. However, the Commission's competitive assessment would not change even on the basis of a smaller market volume, as will be outlined in detail below.

31. The market investigation revealed that while it is true that only larger players with sufficient coverage can compete effectively with regard to this type of demand, there are a number of competitors which could provide the same type of coverage. In particular, *Fegime*, which has originally been founded as a purchasing association of small and medium-sized wholesalers, is currently developing a key account strategy to be able to serve also big, nationwide customers.¹⁴ The *Würth Group* is another player with coverage in most regions of Germany and potential for expansion. They had already been strong in the supply of screws and other mounting materials and entered the German market for wholesale of electrical products by acquisition of several small and medium-sized businesses. They are also active in Central and Eastern Europe. Therefore, there would remain at least 4 competitors which would be able to provide a sort of "one-stop-solution" and cover the whole country, in addition to the many small and medium-sized competitors in the various regions.

Situation in Northern Germany and Bavaria

32. Some customers raised concerns regarding unilateral effects in certain regions, where they are afraid that Sonepar might become too strong. In particular, they mentioned the coast line in the North-West and North-East of Germany, the area around Hannover and the area of Bavaria (especially Nuremberg and Munich). They stated that a regional contact point is important for the business of small and medium-sized electrical installers, since the installer needs service and advice regarding the various products, as well as short delivery times. They claim that in the areas mentioned above there are not many other competitors which could effectively compete with Sonepar in terms of product range and sales volume.

33. The Commission has therefore examined the competitive situation at the local level concerning catchment areas within a radius of 80 km around the current Sonepar outlets. On the basis of this potential geographic market definition, 87 markets would be affected. In 8 of these catchment areas – all of them located in Bavaria¹⁵ – the merged entity would have market shares of [30-40%] and more, with market share increments between [5-10%] and [15-25%]. In 2 of these catchment areas, which will be analysed in more detail below (at para. 37, 38), the merged entity would hold market shares of approximately [45-55%] (Deggendorf /Passau and Ingolstadt).

34. However, the further investigation also revealed that the *new Rexel entity* would still be present in all of these areas and would in most of them be the second biggest player with market shares ranging from [15-25%] (Nuremberg) to [30-40%] (Straubing). Moreover, *Würth*, another big wholesaler which is also active at the national level, would also be present in all these regions, with market shares up to [5-15%] (Eggenfelden, Deggendorf). Other players with outlets in almost all of the regions mentioned above, but more limited market shares are the *GC Group* and the *Gautzsch Group*.

35. The *GC Group* is a nationwide player which entered the area of electrical wholesale coming from the wholesale of sanitary products and has a very good network of outlets

¹⁴ It should be noted that purchasing alliance like Fegime, Mitegro and Deha generally only coordinate their purchasing, but not their customer management, i.e. the orders.

¹⁵ Babenhausen/Memmingen (covering also Kaufbeuren and Sonthofen), Bamberg/Hallstadt, Deggendorf/Passau, Erding, Ingolstadt, Muehldorf, Nuremberg/Fuerth, and Straubing (all in Bavaria).

throughout Bavaria, with approximately over 500 outlets in Germany in total. The *Gautzsch Group*, a member of the purchasing organisation Mitegro, which recently hired a large part of Rexel's former sales management, is rapidly expanding its business in Bavaria, with outlets in almost all of the areas mentioned above. Finally, there are local players which are quite strong in some of the areas mentioned above, such as *ELRO* in Passau ([5-15%]) or *Löffelhardt* in Babenhausen/Memmingen ([5-15%]), which is a member of the purchasing organisation DEHA, as well as a number of smaller competitors which are organised in purchasing organisations (Fegime, Mitegro, DEHA etc.).

36. Moreover, there are no apparent barriers to entry into this type of market, for example for wholesalers from neighbouring areas or other parts of Germany, or barriers to expansion for those mentioned above, which are already present in the critical areas. These players, as well as new entrants, could therefore easily expand their offer to new customers in case of a price rise after the merger. In fact, part of them has confirmed that they took such a scenario into consideration and would be prepared to react accordingly to gain market share. Customers and competitors have also confirmed that customers are usually employing a multi-sourcing strategy and that switching is possible within very short time periods of a few days.
37. As regards the situation in *Deggendorf/Passau*, Sonepar would become the strongest player, with a market share of approximately [45-55%], whereas the new Rexel entity would hold approximately [25-35%], ELRO (a local competitor) approximately [5-15%], Gautzsch also approximately [5-15%], Würth and the GC Group approximately [0-10%] each. Smaller players with market shares below are, among others, the local player P. Schmidt (member of Fegime, [0-10%]) and the national player Edmundson with [0-10%]¹⁶. This outline shows that Sonepar would become strong, but would be faced with other considerable players and potential for expansion such as Rexel, as well as ELRO, Gautzsch and Würth. Moreover, competitive constraints could be exercised by wholesalers in neighbouring areas, such as Regensburg, Straubing, Mühldorf and Eggenfelden, but also from Austrian wholesalers, since Passau is fairly close to the border and to Linz, where several major Austrian electrical wholesalers have their outlets. In this context, it should be reiterated that [70-100%] of the sales of electrical products by wholesalers in Germany are generated by on-site deliveries, which could also be effectuated from these neighbouring areas.
38. In the region around *Ingolstadt*, Sonepar would also hold [45-55%], whereas the new Rexel entity's market share would amount to [20-30%]. Further competitors are Würth ([0-10%]) and several smaller wholesalers with market shares below [0-10%]. Although the market seems to be more concentrated in this particular area, and Sonepar would have a considerable market share, there are no serious competition concerns. First, this concentration of national players with a large share of the market in that specific area can be explained by the automotive industry, notably Audi AG and its suppliers, which is fairly concentrated in that area and is looking for strong partners. Second, in assessing

¹⁶ The parties' market share estimates have led to a total market volume in excess of 100% for Deggendorf/Passau. The notifying parties explained that the proximity of the Austrian border means that a certain amount of the turnover achieved by these outlets are in fact generated by Austrian customers; however, the exact proportion of sales to German or Austrian customers would be difficult to estimate. On the other hand, this highlights the commercial exchange with Austria in this border region and the potential competitive pressure that could *vice versa* be exercised by Austrian wholesalers.

the situation in Ingolstadt, it should be taken into account that it is fairly close to neighbouring areas, such as Munich, Nuremberg, Erding and Regensburg, where additional competitors are active, which could supply into this area, thereby exercising competitive constraints on Sonepar.

39. Therefore, even on the basis of the narrowest possible geographic market definition (areas with in a radius of 80 km around the Sonepar outlets), there are no competition concerns, since there are already a number of other nationwide electrical wholesalers present in the most critical areas, and since the overwhelming majority of sales of these products is effectuated by on-site deliveries, there are also no apparent barriers to entry or expansion for wholesalers from neighbouring areas.
40. In the light of the above, competitors in the affected areas or entrants from neighbouring areas would thus be able to exercise considerable competitive constraints on the merged entity. The planned transaction does therefore not raise any serious doubts as to its compatibility with the common market or a substantial part of it.

V. CONCLUSION

41. 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