

***Case No COMP/M.5204 -
VION / GRAMPIAN***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 31/07/2008

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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 Where possible the information omitted has been replaced by ranges of figures or a general description.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.5204 - VION/ Grampian
Notification of 25/06/2008 pursuant to Article 4 of Council Regulation
No 139/2004¹**

1. On 25/06/2008, the Commission received a notification of a proposed concentration by which the undertaking VION N.V. ("VION", The Netherlands) belonging to the VION Food Group acquires control of all operative subsidiaries of Grampian Country Food Group (Holdings) Limited ("Grampian", United Kingdom) by way of purchase of shares.
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of the Council Regulation No 139/2004 ("EC Merger Regulation") and does not raise serious doubts as to its compatibility with the common market and the EEA Agreement.

I. THE PARTIES

3. **VION** is a Dutch company active in the purchase and slaughtering of livestock, the processing, production and sale of meat products. VION is mainly active in the Netherlands and Germany, with European slaughterhouses in these two countries. All shares in VION Holding N.V., the ultimate holding company of the VION Food Group, are held by the foundation Stichting Administratiekantoor SBT ("SBT"). SBT controls VION Holding N.V. solely. SBT does not carry out external business activities and does not have any subsidiary apart from VION Holding N.V.

¹ OJ L 24, 29.1.2004 p. 1.

4. **Grampian** is active in the slaughtering of livestock, processing, production and sale of meat products, mainly pork. With the exception of the (chicken) processing plants in Thailand, all manufacturing activities are in the UK. Grampian sells almost all of its output in the UK, where it mainly focuses on retail customers. Grampian has registered substantial financial losses during the last years.

II. THE CONCENTRATION

5. Pursuant to the Share Purchase Agreement signed on 14/06/2008, VION will acquire all shares in the operative subsidiaries² of Grampian Country Food Group (Holdings) Limited. As a consequence, VION will acquire sole control over Grampian within the meaning of the EC Merger Regulation. It follows that the proposed transaction constitutes a concentration within the meaning of Article 3 of the EC Merger Regulation.

III. COMMUNITY DIMENSION

6. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion³ (VION: EUR 6,996 million; Grampian: EUR 2,504 million). Each of them have a Community-wide turnover in excess of EUR 250 million (VION: 6,379 million; Grampian: EUR 2,459 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 PRODUCT AND GEOGRAPHIC MARKETS

7. The proposed transaction concerns mainly the sale of fresh and processed pork, in particular bacon and raw sausages. This is where both VION and Grampian are primarily active.
8. Grampian is furthermore active in the upstream market for meat production (i.e. the farming and slaughtering of livestock) in the UK as well as in fresh and processed non-pork meats and processing and sales of abattoir by-products. However the transaction would not lead to any horizontal or vertical issues in these markets as the parties' activities are not overlapping at all or are giving rise to combined market shares well below 15%.

A. Relevant product market definitions

Fresh pork

9. Fresh meat comprises both fresh and frozen meat (including minced meat⁴), which is not processed in any way such as by adding spices/other ingredients, cooking, smoking, or drying.

² The companies which will remain with Grampian Country Food Group Ltd only hold certain properties which no longer have operating facilities.

³ 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).

⁴ Case No. COMP/M.3337 – *Best Agrifund/Nordfleisch*, para 23, case No. COMP/M.3605 – *SOVION/HMG*, para. 56 and case COMP/M.3968, *Sovion/Südfleisch*, para 61.

10. In its previous decisions, the Commission distinguished between the different types of animal meat (“proteins”), so that fresh pork, fresh beef, fresh poultry etc, form separate product markets.⁵ It has also been the practice of the Commission to further segment these markets for fresh meats into sales to retailers (supermarkets, butchers, farm sales), caterers and industrial processors.⁶ However, for the purpose of the present transaction, the exact product market definition can also be left open as no competition issues arise irrespective of the market definition.

Processed pork

11. Processed pork products are made from raw, dried, smoked or cooked meat, which are then typically mixed with salt and spices. Although the products produced and sold by the parties can be used as part of a cooked meal, certain products such as sliced cooked meats, do not require any further cooking before consumption and are often consumed as a snack or as part of a sandwich.⁷
12. The Commission found in a previous decision⁸ that processed pork meat products market can be further sub-divided into dried sausages, cooked sausages, dried ham and cooked ham. In the case at hand the notifying party submitted information on various products of the two companies i.e., raw sausages, cooked sausages and bacon which furthermore can be sub-segmented according to the sales into different categories of customers for the sale to supermarkets, caterers and industrial processors. However, for the purpose of this case the exact definition of the relevant product market can be left open as the concentration does not raise competition issues regardless of the market definition.

B. Relevant geographic market definitions

13. In terms of geographic markets, the Commission considered the above mentioned markets as national or possibly wider in scope.⁹
14. The parties consider the geographic scope to be wider than national as transport costs for meat are limited, new packaging techniques allow the transport over longer distances and quality requirements and veterinary regulations do not seem to be obstacles to cross-border supplies. However, for the purpose of this case, the precise definition of the relevant geographic market can be left open as the concentration does not raise competition concerns irrespective of the geographic market definition.

⁵ Case No. COMP/M.1313 – *Danish Crown/Vestjyske Slagterier*, para. 22-38.

⁶ See case No. COMP/M.3605 – *SOVION/HMG* para. 56 and 57 and case COMP/M.3968 – *Sovion/Südfleisch*, para 61and 62.

⁷ In the present case the parties’ activities also overlap in a potential subsegment of processed meat, in convenience food (which is a fully or partially prepared dish or packaged food that can be prepared quickly and easily). However, the combined market share would be less than 1% in this sub-segment.

⁸ See case M.4257 – *Smithfield/Oaktree/Sara Lee/Foods Europe*.

⁹ See case No. COMP/M.2662 – *Danish Crown/Steff Houlberg*; case No COMP/M.3605 – *SOVION/HMG*; case No. COMP/M.3337 – *Best Agrifund/Nordfleisch*; case No. COMP/M.4257 – *Smithfield/Oaktree/Sara Lee/Foods Europe* and case No. COMP/M.3968 – *Sovion/Südfleisch*

V. COMPETITIVE ASSESSMENT

15. The transaction would give rise to the following affected markets: (i) sale of fresh pork to industrial processors in the Netherlands; (ii) sale of processed pork to supermarkets in the UK; (iii) sale of raw sausages to supermarkets in the UK; (iv) sale of raw sausages to caterers in the UK and (v) sale of bacon to supermarkets in the UK. In the other sub-segments of fresh pork as well as in the convenience product market, the combined market shares at the EEA-level are below 15% and at the national level there is no overlap or if overlap occurs, the combined market shares are well below 15%.

Fresh pork

16. With regard to the sale of fresh pork, the only affected market is the market for the sale of fresh pork to industrial processors in the Netherlands. Here, the new entity would have a [55-60]% combined market share (VION [55-60]% and Grampian [<1]%).
17. Although the combined market share is relatively high, the increment to VION's share post-transaction would be negligible. In 2007 Grampian sold 192 tonnes, representing [<1]% of the total fresh pork sale to industrial processors in the Netherlands. Furthermore, VION's market share could be overstated since VION's market share of [55-60]% would, according to the notifying party, also include fresh pork sold to traders (i.e. not industrial processors), which VION estimates at approximately 30% of its total volume.
18. Furthermore, there are a number of competitors active in a possible national market, namely Campaxo Vlees BV with an [5-10]% market share or Slachthuis Nijmegen B.V. with a [5-10]% market share and other smaller competitors such as Tönnies, Westfleisch, Danish Crown, Gosschalk & ZN B.V., Van Rooi Meat, Cooperl Hunaudaye, Westfort and Kerkrade with market shares ranging between [2-5] and [2-5]%.
19. It follows that due to the minimal change in the market structure and due to the presence of many other competitors, the transaction would not give rise to competition concerns with regard to a possible Dutch market for the sale of fresh pork to industrial processors.

Processed pork

20. Grampian is not active in the sale of processed pork outside the UK. In the UK-market, the only affected market is that of processed pork sold to supermarkets, where VION and Grampian hold market shares of [5-10]% and [10-15]% respectively (combined [20-25]%). However, other players such as Danish Crown ([30-35]% market share), Kerry ([10-15]%) or Cranswick ([5-10]%) are exercising important competitive pressure in the market.
21. If broken down into end products (raw sausages, cooked sausages and bacon) sold to supermarkets, caterers and industrial processors (where applicable), there would be affected markets with regard to the sale of raw sausages to supermarkets and caterers and bacon to supermarkets in the UK.

A. Raw sausages

22. With regard to the sale of raw sausages in the UK, the parties combined markets shares would be around [25-30]% (VION with a [20-25]% and Grampian with a [5-10]% market share).
23. In a possible market for raw sausages sold to supermarkets, the parties' combined market shares would be [20-25]% (VION with a [15-20]% and Grampian with a [5-10]% market share). In a possible market for raw sausages sold to caterers, the parties' combined market shares would be [25-30]% (VION with a [20-25]% and Grampian with a [<1]% market share).
24. There are a number of competitors in these possible markets: Danish Crown with market shares ranging between [5-10]% and [15-20]% depending on the sub-segment, Cranswick (between [5-10]% and [5-10]%), ABP (between [5-10]% and [5-10]%), Kerry Foods, Farmer's boy and Walkers with a [15-20]%, [10-15]% and [5-10]% respectively in the market of sale of raw sausages to supermarkets. Moreover, the main customers of raw sausages in the UK are major retailers, such as Tesco, Sainsbury's, Asda, Iceland and Morrisons, which have considerable bargaining power.
25. Consequently, the transaction would not give rise to competition concerns with regard to the sale of raw sausages in the UK.

B. Bacon

26. The parties combined share of total sales of bacon in the UK is [25-30]% (VION with a [15-20]% and Grampian with a [5-10]% market share).
27. If the market were to be broken down into sales to various customers groups, the transaction would affect the market for the sale of bacon to supermarkets where the parties hold a combined market share of [25-30]% (VION with a [10-15]% and Grampian with a 10-15% market share).
28. The parties' competitors are Danish Crown/Tulip ([15-20]%), Farmer's boy ([5-10]%), Direct Table ([5-10]%) and a number of smaller UK players. In addition, there are numerous suppliers of imported bacon, like Tönnies, Wendtland and Westfleisch. Furthermore, the parties submit that they focus on different ranges of bacon products, divided according to the quality of bacon into economy, standard and premium category, which results of their activities being, in fact, complementary.
29. It follows that there are no competition concerns with regard to the market for the sale of bacon to supermarkets in the UK.

VI. CONCLUSION

30. 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)

Meglana KUNEVA

Member of the Commission