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***Case No COMP/M.6668 -
MONDI / NORDENIA***

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

Article 6(1)(b) NON-OPPOSITION
Date: 29/08/2012

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EUROPEAN COMMISSION

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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

**Subject: Case No COMP/M.6668 - MONDI / NORDENIA
Commission decision pursuant to Article 6(1)(b) of Council Regulation
No 139/2004¹**

1. On 25 July 2012, the European Commission received notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which the undertaking Mondi plc ("Mondi", United Kingdom) acquires within the meaning of Article 3(1)(b) of the Merger Regulation sole control of the whole of Nordenia International AG ("Nordenia", Germany) by way of purchase of shares.² Mondi and Nordenia are designated hereinafter as "the Parties".

(1) THE PARTIES

2. **Mondi** is an integrated corporate group established under a dual listed company structure with listings on the London and Johannesburg Stock Exchanges. Its key operations are located in central Europe, Russia and South Africa. The Mondi Group is

¹ OJ L 24, 29.1.2004, p. 1 ("the Merger Regulation"). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ("TFEU") has introduced certain changes, such as the replacement of "Community" by "Union" and "common market" by "internal market". The terminology of the TFEU will be used throughout this decision.

² Publication in the Official Journal of the European Union No C 231, 2.8.2012, p. 5.

principally involved in the manufacture of packaging paper, converted packaging products (including corrugated packaging, industrial bags and flexible packaging) and uncoated fine paper. In addition, it has paper merchant operations and newsprint operations in South Africa, the United Kingdom and Russia.

3. **Nordenia** is a multinational manufacturer of flexible packaging, plastic films and film-based product components with operations in Europe, the United States and Asia.

(2) THE OPERATION

4. On 10 July 2012, Mondi entered into a Stock Purchase Agreement ("SPA"), according to which it will acquire 93.4% of the share capital in Nordenia from a number of current shareholders.³ [...]
5. As a result of the proposed transaction, Mondi will acquire sole control of Nordenia, The proposed transaction therefore constitutes a concentration within the meaning of Article 3(1)(b) of the EU Merger Regulation.

(3) EU DIMENSION

6. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million (Mondi: EUR 5 738.7 million, Nordenia: EUR 880.8 million). Both of them have an EU-wide turnover in excess of EUR 250 million (Mondi: EUR [...] million, Nordenia: EUR [...] million), but they do not achieve more than two-thirds of their aggregate EU-wide turnover within one and the same Member State. The notified operation therefore has an EU dimension.

(4) COMPETITIVE ASSESSMENT

4.1. Market definition

4.1.1 Relevant product markets

7. Both Parties offer flexible packaging and release liner. In addition, Nordenia offers film based product components and a variety of plastic films (in particular in the hygiene sector). Mondi is not active on either of these two last segments.⁴

Flexible packaging

8. The European Commission has assessed the market for flexible packaging on a number of occasions.⁵ In particular, it has defined the market for flexible packaging as involving

³ Mondi will acquire 83.8% of Nordenia's share capital from funds managed by Oaktree Capital Management LLC which is Nordenia's majority shareholder. The balance of the 93.4% will be acquired from the current executive management and a trust and certain other minority shareholders.

⁴ The only vertical link that exists is between Nordenia's plastic film business and Mondi's flexible packaging business. However, since Nordenia's market share for plastic films (i.e., laminating films) used for flexible packaging is far below 25% the proposed transaction does not lead to a vertically affected market. Furthermore, as Nordenia is not active in paper-based release liner the proposed transaction does not lead result in a vertical link between Mondi's upstream activities in paper and Nordenia's downstream activities in release liner.

the extrusion, conversion and printing of plastic and cellulose films, aluminium foils and papers, which are used separately or in combination to produce primary and secondary packaging products for a wide variety of end-use sectors.

9. Moreover, the European Commission has found that the market for flexible packaging could be further segmented on the basis of end-use applications as follows: (i) food, (ii) medical, (iii) pharmaceuticals, (iv) household products and (v) other non-food.⁶ In *Amtcor/Alcan*, the Commission confirmed that distinguishing between the different categories of end-use applications was the most appropriate approach notably because *"The results of the market investigation did not confirm supply-side substitution would be effective and immediate. Several competitors put into question the alleged lack of obstacles to switching production between the five different end-use segments, in particular with respect to medical and pharmaceutical flexible packaging. [...] Moreover, customers have very strict requirements concerning their suppliers and require lengthy validation procedures for switching. Furthermore, the results of the market investigation indicate that the competitive conditions differ between the five end-use markets. The Parties' own market shares vary significantly between [end applications]"*⁷.
10. The Parties do not agree with the Commission's reasoning that a distinction should be made between the different categories of end use applications and submit from the demand and supply-side perspective that the relevant market should be defined broadly and encompass all flexible packaging irrespective of the end-use application.
11. Since the concentration does not raise serious doubts under any possible approach, the exact product market definition in this case can be left open.

Release liner

⁵ See Cases COMP/M.5906 – One Equity Partners/Constantia, Commission Decision of 18 June 2010, COMP/M.5599 – *Amtcor/Alcan*, Commission Decision of 14 December 2009, COMP/M.3049 – *Alcan/Flexpack*, Commission Decision of 24 February 2003, COMP/M.3225 – *Alcan/Pechiney (II)*, Commission Decision of 29 September 2003, COMP/M.2441 – *Amtcor/Danisco/Ahlstrom I*, Commission Decision of 11 June 2001, and COMP/M.2840 – *Danapack/Teich/JV*, Commission Decision of 30 August 2002.

⁶ See Case COMP/M. 5599 – *Amtcor/Alcan*, Commission Decision of 14 December 2009. Within flexible packaging for food products, an even narrower segmentation has been considered, by distinguishing flexible packaging in respect of various categories of food: (i) confectionery; (ii) fresh and processed meat, fish and poultry; (iii) cheese and dairy; (iv) tea, ground coffee and beans; (v) frozen food and ice cream, (vi) crisps, snacks and nuts, (vii) dried and dehydrated foods and cereals, (viii) bread, biscuits and cakes, and (ix) fresh fruits and vegetables but also the following niche areas: (i) In-line cold seal type of packaging, (ii) PVdC coated materials: (iii) Banderols used to increase the strength of yoghurt cups (iv) Non-sliced white moulded soft cheese packaging (v) Retort food packaging . However, the product market definition was ultimately left open. Indeed, the notifying party submits that a variety of different types of packaging is available in each end use application (e.g., olives can be packaged in different types of flexible packaging (e.g., a stand up pouch) but also in a plastic or glass jar or a tin). As already explained, the Commission has examined the market for flexible packaging on a number of occasions; the Commission has not, however, found that the different types of flexible packaging (e.g., stand up pouches and reclosable bags) constitute separate product markets. In any event, the Parties argue that, in none of the hypothetical sub-segments described above, they would have combined market above 10% at EEA or worldwide level.

⁷ Case COMP/M.5599 – *Amtcor/Alcan*, Commission Decision of 14 December 2009, paragraphs 11 to 15.

12. Mondi and Nordenia are both active in release liners. According to the Parties, a release liner is a paper, film or non-woven which is silicone-coated and typically used as carrier for pressure sensitive labels. It can be used for both self-adhesive and non-self-adhesive applications.
13. A release liner comprises a base material or substrate and an added layer of silicone. In self-adhesive applications, silicone makes a non-stick repellent surface suitable to carry, protect and finally release self-adhesive materials (e.g., labels). The release liner is usually discarded after the application of the self-adhesive material it carries (e.g., the label).
14. A release liner in general is employed in a wide variety of end-use applications, namely:
- Label stock;
 - Graphic arts (e.g., vehicle marking, traffic and safety, corporate and architectural graphics);
 - Adhesive tapes (e.g., one and two-sided adhesive tapes, foam tapes);
 - Hygiene sector (e.g., for feminine sanitary protection);
 - Envelopes (e.g., document pouches, plastic envelopes and bags);
 - Medical (e.g., wound care, patches);
 - Industrial applications (e.g., high performance laminates for airplanes, building and insulation application);
 - Bakery and food applications (e.g., pan liners).
15. Release liner can be manufactured from a variety of base materials or substrates. The most prevalent substrate is paper, plastic films are used to a lesser extent, and non-woven materials are very rare.
16. The Commission has considered release liners on a number of occasions.⁸ In *Mondi/Loparex Assets*, the Commission considered but ultimately rejected segmenting the overall market on the basis of end-applications or the type of silicone used in the coating process. The Commission did however assess that concentration on the basis of the narrowest plausible relevant product market according to substrate, namely paper and film, though the precise product market definition was ultimately left open.
17. The market investigation in the present case provided mixed results in relation to the product market definition for release liner. The majority of the competitors consider that all release liners, irrespective of whether they are paper-based or film-based constitute a single overall product market, while customers were more divided, with the majority of them considering that paper-based and film-based release liners cannot be considered substitutable for the same type of end use application.
18. Since the concentration does not raise serious doubts under any possible approach, the exact product market definition in this case can be left open.

⁸ See for example Case COMP/M.4319 - *Mondi/Schleipen&Erkens* and Case COMP/M.5155 – *Mondi / Loparex Assets*.

4.1.2. Relevant geographic markets

Flexible packaging

19. The Parties consider that the market should be defined as at least EEA-wide for flexible packaging. In support of their view, the Parties note that (i) there are no significant import duties or trade barriers; (ii) transport costs are insignificant relative to the value of the products (Mondi estimates that transport costs represented around [...] % of total sales value to most countries, even to customers located in the USA and South Africa), (iii) there are substantial trade flows within the EEA and between the EEA and other regions; (iv) suppliers do not need to have local production facilities to be competitive and no extensive sales network is needed to make sales abroad and (v) many customers source flexible packaging on a global basis.
20. In previous decisions, the Commission has found the market for flexible packaging to be EEA-wide or wider.⁹ In *Amcor/Alcan*, the Commission found that: “*The market investigation [...] showed that customers mainly source within Europe and imports play only a minor role. However, a number of market participants considered that imports from outside the EEA would be of increasing importance in the coming years.*”¹⁰
21. For the purposes of this case, the geographic market definition can be left open since even under a narrow geographic market definition, the proposed transaction does not give rise to competition concerns.

Release liner

22. According to the Parties, the geographic markets for all release liners concerned are at least EEA-wide. The factors to support this claim include the existence of no significant import duties or trade barriers, low transport costs, significant trade flows within the EEA and between the EEA and other regions, no requirement for suppliers to have local production facilities or extensive local sales networks as well as the fact that customers source the product globally.
23. In *Mondi/Loparex Assets*, the Commission left open the question of whether the geographic scope of the relevant product market was EEA-wide or global.
24. For the purpose of this case, the geographic market definition can be left open since even under a narrower geographic market definition, the proposed transaction is unlikely to give rise to competition concerns.

⁹ See Cases COMP/M.5906 – One Equity Partners/Constantia, Commission Decision of 18 June 2010, paragraph 17, and COMP/M.5599 – Amcor/Alcan, Commission Decision of 14 December 2009, paragraph 48.

¹⁰ Case COMP/M.5599 – Amcor/Alcan, Commission Decision of 14 December 2009, paragraph 47.

4.2 Competitive assessment

4.2.1. Horizontal overlaps

Flexible packaging

25. The proposed transaction does not give rise to an affected market on an overall market for flexible packaging as the merged entity's market share is less than 5%. If the market is segmented, however, on the basis of the end-use applications previously considered by the Commission, the proposed transaction would give rise to a horizontally affected market in the segment "Other" in the EEA¹¹ where the merged entity would have a market share of [10-20]% with an increment of only [0-5]%.

Table 1: Parties' EEA-wide market share by value in flexible packaging in 2011

	European market size (million EUR)	Mondi (2011)		Nordenia		Combined market share
		Sales (million EUR)	Market share	Sales (million EUR)	Market share	
Food	[...]	[...]	[0-5]%	[...]	[0-5]%	[0-5]%
Medical	[...]	[...]	[0-5]%	[...]	[0-5]%	[0-5]%
Pharmaceuticals	[...]	[...]	[0-5]%	[...]	[0-5]%	[0-5]%
Household	[...]	[...]	[0-5]%	[...]	[10-20]%	[10-20]%
Other	[...]	[...]	[10-20]%	[...]	[0-5]%	[10-20]%
Total	[...]	[...]	[0-5]%	[...]	[0-5]%	[0-5]%

Source: Notifying Party estimates

26. The end-use application "Other" includes a number of relatively small niche applications such as tobacco, automotive, building materials and pet care¹². There are no total market size estimates from any sources. However, the Parties consider that any competition concern can be excluded as:

- Nordenia is mainly active in the production of cling film for wholesalers, while Mondi is mainly active in the industrial and building materials end-use applications;
- Nordenia had insignificant sales of c. EUR [...] in 2011 in building materials. The estimated combined share of the Parties would be c. [10-20]%; and;

¹¹ The Parties claim that their combined global market share is generally substantially lower than their EEA-wide share.

¹² There are no total market size estimates available from any sources

- There are no further overlaps in any other end-use application where Mondi has a very limited presence (i.e., tobacco [0-5]% and pet care c. [0-5]).
27. Although some competitors highlighted that the acquisition of Nordenia would allow Mondi to increase its share of the flexible packaging market, a wide majority of the Parties' customers did not fear any anti-competitive effects from the proposed transaction as regards flexible packaging.
28. Consequently, given the merged entity's relatively limited market shares in flexible packaging and its various end-use applications and the absence of substantiated concerns in the market investigation, it is concluded that the proposed transaction does not give rise to serious doubts relating as to its compatibility with the internal market as regards flexible packaging.

Release liner

29. The Notifying Party provided market shares in relation to film-based release liner which is the only area of horizontal overlap between the Parties' activities. However, since the Commission in its previous decisions had not taken a position in relation to the question whether all types of release liners belong to the same relevant product market, the Parties also provided market shares based on an overall market for release liner. Moreover, following the Commission's approach in *Mondi/Loparex Assets*, the Parties also provided shares according to production capacity available in the merchant market as some companies maintain significant captive production capacities.
30. As can be seen in Table 2 below, the proposed transaction leads to an affected market in relation to film-based release liner where the merged entity would have a market share based on production of [20-30]% (Nordenia [20-30]%, Mondi [0-5]%).

Table 2: Parties' EEA-wide total production market shares by volume in film-based release liner in 2011

	European Market size (mio m ²)	Mondi		Nordenia		Combined market share
		Sales (mio m ²)	Market Share	Sales (mio m ²)	Market Share	
Film-based release liner	[...]	[...]	[0-5]%	[...]	[20-30]%	[20-30]%
- Label Stock	[...]	[...]	[0-5]%	[...]	[0-5]%	[0-5]%
- Graphic Arts	[...]	[...]	[10-20]%	[...]	[0-5]%	[10-20]%
- Adhesive Tapes	[...]	[...]	[5-10]%	[...]	[0-5]%	[5-10]%
- Hygiene Sector	[...]	[...]	[0-5]%	[...]	[50-60]%	[50-60]%
- Industrial Applications	[...]	[...]	[10-20]%	[...]	[0-5]%	[10-20]%
- Bakery and Food Applications	[...]	[...]	[0-5]%	[...]	[0-5]%	[0-5]%
- Other	[...]	[...]	N/A	[...]	N/A	N/A

Source: Notifying Party estimates based on AWA 2011

31. On an EEA-wide market including all release liner¹³ irrespective of the end-use application, the merged entity would have a combined market share based on production of [10-20]% (Mondi [10-20]%, Nordenia [0-5]%) with a merchant market share of [20-30]% (Mondi [20-30]%, Nordenia [10-20]%).
32. On an EEA-wide market including all release liner for the hygiene sector, the Parties would have a combined market share both in terms of total production and merchant market sales of [30-40]% (Mondi [20-30]%, Nordenia [10-20]%).
33. On an EEA-wide merchant market for film-based release liner, the Parties would have a combined market share of [20-30]% (Mondi [0-5]%, Nordenia [20-30]%).
34. The Parties submit that the proposed transaction does not raise competition concerns under a potential narrower market of film-based release liner for a number of reasons.
35. First, the increment at only [0-5]% is relatively limited and its importance is further mitigated by the complementary effect of the merger in the sense that while Nordenia is strong in film-based release liner, Mondi is by all accounts an insignificant player in this product and the market will continue to feature other strong players including Huhtamaki (15-20%), Siliconature (15-20%), Deku Kunststoff (0-5%) and Raflatac (0-10%) which can be expected to exert a competitive constraint on the merged entity.
36. Second, although in its previous decisions, the Commission ruled out delineating separate markets according to end-use application mainly due to the high degree of substitution between the different end-use applications, it is worth noting that the Parties are not active in the same end-use applications for release liner. While Mondi is active in label stock, graphic arts, adhesive tapes and industrial applications, Nordenia is only active in [...]. The Parties are therefore not close competitors and the proposed transaction does not eliminate a particularly close constraint.
37. Third, the hygiene end-use application accounts for more than 40% of total film-based release liner sales in Europe. Indeed, Nordenia's share of [20-30]% in film-based release liner [...]¹⁴
38. The market investigation in the present case confirmed that Mondi and Nordenia are not considered to be close competitors as they mainly supply different products and use different manufacturing processes and feedstock. While Mondi is essentially a paper-based company, Nordenia is a speciality resin based films company with printing capability. Moreover, the market investigation revealed that a significant number of credible competitors will remain in the market such as Coplay, Huhtamaki, Siliconature, Itasa, Deku, Rossella, Kaygee Loparex, Gascogne and Laufenberg.
39. Whilst a limited number of the merging parties' competitors noted that the proposed transaction would strengthen Mondi's position in release liners, the market investigation largely confirmed that the proposed transaction would not raise any specific competition concerns in relation to prices, product ranges or innovation under any of the potential alternative market definitions for release liner mentioned above.

¹³ That is to say including both paper-based and film-based release liner.

¹⁴ In fact, Nordenia's [...] customer has expressed its explicit support for the transaction.

40. In view of the above, it is concluded that the proposed transaction does not give rise to serious doubts as to its compatibility with the internal market as regards to release liner.

(5) CONCLUSION

41. For the above reasons, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation.

For the Commission

(signed)
Joaquín ALMUNIA
Vice-President