

***Case No COMP/M.6982 - ALTOR FUND III/
TRYGHEDSGRUPPEN/ ELIXIA/ HFN GROUP***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 29/11/2013

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EUROPEAN COMMISSION

Brussels, 29/11/2013
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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 Where possible the information omitted has been replaced by ranges of figures or a general description.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

To the notifying parties:

Dear Sir/Madam,

Subject: Case No COMP/M.6982 - ALTOR FUND III/ TRYGHEDSGRUPPEN/ ELIXIA/ HFN GROUP
Commission decision pursuant to Article 6(1)(b) of Council Regulation No 139/2004¹

- (1) On 28 October 2013, the European Commission received a notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which the undertakings Altor Fund III ("Altor Fund", Jersey) and TryghedsGruppen smba ("TG", Denmark) acquire within the meaning of Article 3(1)(b) of the Merger Regulation joint control of the undertakings Elixia Holding III AS ("Elixia", Norway), previously controlled by Altor Fund, and Health & Fitness Nordic AB ("HFN", Sweden), previously controlled by TG, by way of purchase of shares in a newly created company constituting a joint venture ("the Transaction").
- (2) Elixia and HFN are collectively referred to as "Parties"; Altor Fund and TG are here collectively referred to as the "Notifying Parties".
- (3) By reasoned submission of 26 September 2013, the Notifying Parties had requested in accordance with Article 4(4) of the Merger Regulation and Article 6 of Protocol 24 to the EEA Agreement that the Transaction be referred to the competent Finnish and Norwegian authorities as regards respectively the Finnish and the Norwegian parts of the transaction. Following the agreement of Finland and Norway to the

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.

referral request, on 23 October 2013, the Commission adopted a decision referring the assessment of the effects of the Transaction on the relevant markets in Finland to the Finnish Competition Authority, and the assessment of the effects of the Transaction on the relevant markets in Norway to the Norwegian Competition Authority.

- (4) Therefore, only the remainder of the Transaction, which concerns Sweden and Denmark, will be assessed by the Commission.

1. THE PARTIES

- (5) **Altor Fund** and **TG** are both private equity funds.
- (6) **Elixia** is a Nordic fitness club operator with its main activities in Norway. Elixia operates in total 59 fitness clubs: 42 clubs in Norway, 14 in Finland and 3 in Sweden.
- (7) **HFN** is a fitness club operator active in Denmark, Finland, Norway and Sweden, and with its centre of gravity in Sweden. HFN operates through two main brands – SATS and Fresh Fitness, as well as through the Metropolis brand in Stockholm. In total HFN operates 135 clubs: 63 clubs in Sweden, 51 in Norway, 10 in Finland and 11 in Denmark.

2. THE OPERATION

- (8) The Transaction in question involves the acquisition of joint control by Elixia Holding IV AS ("Elixia IV"), ultimately controlled by Altor Fund, and TG over Elixia and HFN. The Transaction will be carried out by Elixia IV contributing its shares and shareholder loans in Elixia, and TG its shares in HFN, to a newly-created company, HFN Group AS. After the Transaction, Elixia IV will own 51% of the shares in HFN Group AS and TG will own the 49% remaining shares.
- (9) According to the Shareholders' Agreement entered into by Elixia IV and TG on 12 July 2013, Altor Fund and TG will each nominate two board members in HFN Group AS. In addition, they will nominate two independent board members jointly. No board member has a casting vote, and no board matters can be referred to the shareholders' meeting for decision. Finally, board decisions are made by simple majority. Thus, through the transaction, Altor Fund and TG will jointly control HFN Group AS.
- (10) The Transaction therefore constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

3. EU DIMENSION

- (11) The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million² (Altor Fund: EUR [...] million; TG: EUR [...] million). Each of them has an EU-wide turnover in excess of EUR 250 million (Altor Fund:

² Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Consolidated Jurisdictional Notice (OJ C95, 16.04.2008, p. 1).

EUR [...] million; TG: EUR [...] million), but they do not achieve more than two-thirds of their aggregate EU-wide turnover within one and the same Member State.

- (12) The Transaction therefore has an EU dimension within Article 1(2) of the Merger Regulation.

4. MARKET DEFINITION

- (13) Elixia and HFN are both active in the operation of fitness clubs in Sweden. There is no overlap in Denmark as only HFN is active in Denmark.

- (14) Therefore, the Commission's analysis focuses on the markets for the operation of fitness clubs in Sweden.

4.1. Product market

- (15) The Notifying Parties submit that the relevant product market is the operation of local fitness clubs.

- (16) The services offered by the fitness clubs range from individual weight lifting/strength or cardio training in the gym to a vast time schedule of group exercise classes. In high-end clubs, additional services such as lounge area, swimming pool, tanning salon, saunas and steam room, child care, complimentary breakfast and car parking are also offered.

- (17) The Notifying Parties argue that this market comprises both privately-owned clubs and publicly-owned clubs and that no further distinction is to be made within this market. According to the Notifying Parties, in fact, in the Nordic countries, most publicly-owned fitness clubs offer the same or similar services as privately-owned clubs, based on a monthly fee; vice versa, several privately-owned fitness clubs also offer a pay-per-visit structure. Moreover, the Notifying Parties stress that, rather than a distinction based on price or facilities offered, location is one of the main factors for a customer to take into account when choosing a fitness club.

- (18) In a previous case, while ultimately leaving the exact product market definition open, the Commission indicated that publicly and privately-owned fitness clubs would form two distinct markets, mainly due to differences in price structure and facilities offered.³

- (19) In *Bridgepoint*, the Commission also considered a further segmentation of the market based on cost or facilities, although it ultimately left open the exact market definition, noting that "*a further distinction within a market for privately owned fitness clubs according to, on the one hand, cost or, on the other hand, facilities [would be] difficult to make*".⁴

- (20) In the present case, the exact product market definition can be left open as the Transaction does not give rise to any competition concerns under all alternative product market definitions.

³ Case COMP/M.3169 *Bridgepoint Capital / Permira / Holmes Place* ("*Bridgepoint*"), paragraph 10.

⁴ *Bridgepoint*, paragraph 14.

4.2. Geographic market

- (21) The Notifying Parties take the view that the geographic scope of the market(s) for the operation of fitness clubs would naturally be larger than isochrones equalling a journey of 15 minutes walking distance around each club. This is due to increased mobility in general, but also because the Nordic countries are more sparsely populated than continental Europe, making private cars a more important mode of transportation.
- (22) In *Bridgepoint*, while leaving open the exact geographic market definition, the Commission identified the narrowest possible geographic market to be catchment areas between fitness clubs equalling a journey of 15 minutes on foot.
- (23) In the present case, the exact geographic market definition can be left open as the Transaction does not give rise to any competition concerns under all alternative geographic market definitions.

5. COMPETITIVE ASSESSMENT

- (24) The activities of the Parties overlap in the markets for the operation of fitness clubs in Sweden, more precisely in Gothenburg and in Sundbyberg.

5.1. Horizontal markets

- (25) The Notifying Parties submit that market share should be calculated based on the number of clubs (as opposed to number of members or turnover). The Notifying Parties argue that the market shares based on the number of clubs provide the most realistic picture of competition in the fitness market: the number of members at one club will not be a factor that customers take into account when choosing their local club. Rather, what exerts pressure is the composition and state of the clubs in any given local area. Moreover, market shares based on turnover figures would be even more difficult to calculate, mainly due to variations in the clubs' pricing policies and possible rebate structures. However, the Notifying Parties have submitted figures for market shares calculated based on both the number of clubs and the number of members.

5.1.1. Gothenburg

	Combined market share (number of clubs)	Combined market share (number of members)
City of Gothenburg		
Privately and publicly-owned clubs	10.8%	[...]%
Privately-owned clubs only	12.5%	[...]%
Privately-owned high-end clubs	<25%	<25%
Isochrones – SATS Kungsgatan		
Privately and publicly-owned clubs	16.7%	[...]%
Privately-owned clubs only	<25%	[...]%
Privately-owned high-end clubs	<25%	<25%
Isochrones – Elixia Masthugget		
Privately and publicly-owned clubs	10%	[...]%
Privately-owned clubs only	<25%	[...]%
Privately-owned high-end clubs	<25%	<25%

Source: Notifying Parties' estimate (2012)

5.1.1.1. City of Gothenburg

- (26) The Notifying Parties submit that there are more than 100 fitness clubs in Gothenburg (with approximately [...] members in total). Moreover, the Parties face strong competition from many fitness clubs, due to the location of competing clubs. Finally, they stress that entry into the market is easy since several openings have occurred in the last five years.
- (27) The Transaction does not give rise to any affected markets on the possible markets in Gothenburg for (i) publicly and privately-owned clubs, and (ii) privately-owned clubs only, where the Parties' combined market share is below 15%.
- (28) On the possible narrower product market for privately-owned high-end clubs in Gothenburg, the Parties' combined market share does not exceed 25% (both in number of clubs or number of members).
- (29) Furthermore, the Commission notes that the merged entity will continue to face competition from numerous fitness clubs. The Parties' main competitors are privately-owned, high-end clubs: Nordic Wellness (market share over [30-40]% - in number of members), Life (market share over [5-10]%), Actic, Curves and Itrim (together, market share over [5-10]%).

- (30) Finally, the entry barriers indeed do not seem high and the market is very dynamic with numerous players, since during the last five years, there have been 28 club openings in Gothenburg. For example, both Nordic Wellness (high-end club) and Fitness24Seven (low-cost club) opened ten new clubs each.

5.1.1.2. Isochrones

- (31) The Notifying Parties submit that the Transaction does not give rise to any competition concerns in Gothenburg also when considering narrower geographic markets of isochrones equalling a journey of 15 minutes walking distance around each club. This is because there is a myriad of overlapping catchment areas, resulting in a continuous chain of substitution linking all fitness clubs in Gothenburg. However, the Notifying Parties provided market shares on the narrowest possible market definition, which is isochrones of 15 minutes walking distance around each club. Even under this market definition, the Notifying Parties claim that the Transaction will not restrict competition as a high number of competitors (around 18-20 clubs) will remain active in each isochrone.
- (32) Under such narrower market definition the Transaction leads to two affected markets in Gothenburg: the SATS Kungsgatan and the Elixia Masthugget isochrones. However, the Parties' combined market share does not exceed 25% even under the narrowest possible market definition, which is high-end privately-owned clubs.
- (33) Moreover, the merged entity will continue to face similar-sized competitors: high-end players like Nordic Wellness (market share over [30-40]% - in number of members), Hagabadet/Feelgood (market share over [5-10]%) and Myrberg Björn (market share over [0-5]%), as well as low-cost clubs such as Crudo Träningscenter and Exhale Gym (together market share over [5-10]%).

5.1.2. Sundbyberg

- (34) Following the opening of the Elixia club in October 2013, there is also an overlap in the city of Sundbyberg.
- (35) In the Notifying Parties' view, the border between Sundbyberg and Solna goes through a city cluster, and a geographical market comprising only Sundbyberg would therefore not reflect the competitive situation in the market. Nevertheless, the Notifying Parties provided market shares based on catchment areas of 15 minutes walking distance around each club.
- (36) In the city/borough of Sundbyberg only, the Parties will have the following combined market shares in various possible product markets:

	Combined market share (number of clubs)	Combined market share (number of members)
Privately and publicly-owned clubs	18.2 %	[...]%
Privately-owned clubs only	20 %	[...]%
Privately-owned high-end clubs	20 %	[...]%

Source: Notifying Parties' estimate (2012)

- (37) The Parties' combined market share will remain limited, post-transaction, as it will be below 25% in all alternative markets, except in the market for high-end privately-owned clubs, where it is only slightly higher ([...]% when measured in number of members).
- (38) In addition, as pointed out by the Notifying Parties, the border between Sundbyberg and the neighbouring city/borough Solna goes through a city cluster. Moreover, the distance between several of the Solna clubs (such as Actic Solna) and the SATS and Elixia clubs is very limited, approximately 1 km. Therefore, post-transaction several other fitness clubs will continue to exert competitive pressure on the merged entity.

5.1.3. Conclusion

- (39) In light of the above, given the limited combined market position of the Parties and the presence of numerous competitors, the Commission concludes that the Transaction is not likely to lead to a significant impediment to effective competition on the market(s) for operation of fitness clubs in the cities of Gothenburg or Sundbyberg, regardless of the exact product and market definition considered.

6. CONCLUSION

- (40) 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*