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***Case No COMP/M.7359 - PCCR USA / TOTAL'S CCP
COMPOSITE BUSINESS***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION

Date: 27/10/2014

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EUROPEAN COMMISSION

Brussels, 27.10.2014
C(2014) 8116 final

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 M.7359 - PCCR USA/ TOTAL'S CCP COMPOSITE BUSINESS
Commission decision pursuant to Article 6(1)(b) of Council Regulation
No 139 / 2004¹**

1. On 30 September 2014, the European Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 by which PCCR USA, Inc ("PCCR", the United States), a fully owned subsidiary of Polynt Group SàRL ("Polynt Group", Luxembourg) acquire within the meaning of Article 3(1)(b) of the Merger Regulation sole control of the undertakings CCP Composites SA (France), CCP Composites UK Limited (the United Kingdom), CCP Composites Canada, Inc. (Canada), CCP Composites US LLC (the United States), CCP Composites Korea Co., Ltd. (South

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.

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Korea), CCP Composites Resins España, SLU (Spain), CCP Composites e Resinas do Brazil Ltda (Brazil), CCP Australia Pty Ltd. (Australia), CCP Composites Resins Malaysia Sdn Bhd (Malaysia), CCP Composites Guangzhou Co. (China), Ltd (altogether referred to as "CCP Composites Business") by way of purchase of shares.

I. THE PARTIES AND THE OPERATION

2. PCCR is a fully-owned subsidiary of Polynt Group. PCCR is active in the production and the sale of resins for the coating and composite industry in North America (US and Canada). Polynt Group holds jointly with other companies the undertaking Polynt S.p.A. ("Polynt"), which is active in the production of chemical intermediates such as unsaturated polyester resins ("UPR"), related commodities and specialities chemicals in the EEA. Polynt Group is hereinafter referred to as the "Notifying Party".
3. CCP Composite Business is a fully-owned business unit of Total SA's specialty chemical business, including the production and the sale of UPR and gel coats worldwide. Together, Polynt Group and the CCR Composite Business are hereinafter referred to as "the Parties".
4. The proposed concentration consists in the acquisition of sole control by PCCR over the ten entities forming CCP Composite business, according to a single Share Sale Agreement ("SSA"). Consequently, PCCR will hold 100% of the shares of CCP Composite business.
5. In accordance with the Jurisdictional Notice², the concentration constitutes a unitary transaction due to the fact that, following the closing, PCCR shall acquire sole control over all ten subsidiaries which form the CCP Composite business, and that it follows from the provisions of the SSA (in particular that all of the different acquisitions forming part of this transaction are provided for in a single contract, and that a single purchase price is agreed for the entire transaction) that all of these acquisitions stand and fall together.
6. Therefore, the proposed transaction qualifies as a concentration within the meaning of Article 3 1(b) of the Merger Regulation.

II. EU DIMENSION

7. The proposed concentration does not have an EU dimension within the meaning of Article 1 of the Merger Regulation. The Parties' aggregated worldwide turnover is below EUR 5 billion [...]. The combined aggregate turnover of the Parties is more than EUR 100 million in Spain [...], Italy [...], the UK [...], France [...] and Germany [...]. However, the aggregate turnover of each of the undertakings concerned is higher than EUR 25 million only in France [...] and the UK [...].
8. Due to the fact that the case fulfils the criteria for being notified in three different Member States (France, Germany, Spain), on 4 August 2014 the Notifying Party submitted to the Commission by means of a reasoned submission, a referral request pursuant to Article 4(5) of the Merger Regulation with respect to the proposed concentration.

² Commission Consolidated Jurisdictional Notice under Council Regulation No 139/2004 on the control of concentrations between undertakings, OJ No C 95, 16.4.2008, p. 1, at para. 38 – 40.

9. On 5 August 2014, the Commission sent to the Member States a Note on the proposed submission, asking them to express their opinion on the proposed referral within 15 working days. As none of the Member States expressed their disagreement, the concentration was referred to the Commission.
10. The notified concentration therefore achieved an EU dimension in accordance with Article 4(5) of the Merger Regulation.

III. COMPETITIVE ASSESSMENT

11. According to the Notifying Party, the proposed concentration gives rise to only one horizontally affected market in the EEA, which is the market of UPR. The proposed concentration also gives rise in the EEA to vertical relations between UPR and two upstream markets (the markets for production and the sale of maleic and phthalic anhydrides) and to two downstream markets (the market of thermoset compounds and the market of gel coats). However, the Notifying Party confirmed that there would be no affected vertical relationship in the EEA under any plausible alternative market definition. Therefore, only the market for UPR will be further analysed.

III.1 Product market definition

12. UPR is produced by the poly-condensation of saturated and unsaturated dicarboxylic acids (MA) with glycols. On their own, UPR have only limited structural integrity. However, they form highly durable structures and coatings when they are cross-linked with a vinylic reactive monomer, most commonly styrene. This type of UPR is called "virgin" UPR.
13. Virgin UPR are often combined with fiberglass or mineral fillers to enhance their mechanical strength, resulting in "reinforced" UPR. Such reinforced UPR are mostly used for construction, marine and land transportation industries, because they are resistant to corrosion, fire, etc., while non-reinforced UPR are used to make cultured marble and solid surface counter tops, gel coats, automotive repair putty and filler and other products such as bowling balls and buttons.
14. The Commission has not previously defined the market for UPR.³ The Notifying Party submits that UPR constitutes a separate product market, since UPR are distinct products in the market for resins, and is not entirely substitutable with other types of existing resins, due to their specific properties and uses.
15. From the supply side, the Notifying Party argues that all suppliers use identical raw material formulations and the same manufacturing process to manufacture UPR. From the demand side, all customers purchase virgin UPR. Depending on their products, the customers then produce reinforced UPR themselves, if needed. Moreover, the Notifying Party argues that there is no price difference between UPR sold to different industries.
16. Respondents to the market investigation indicated that suppliers competing with the Parties on the UPR market produce only virgin UPR and not reinforced UPR.⁴ Competitors responding to the market investigation indicated that their customers are

³ According to the Notifying Party, the South-African Competition Authority defined a separate product market for UPR in a 2012 case.

⁴ Answers to question 3 of Q2 - Questionnaire to competitors.

spread across different types of industries, such as automotive, maritime, constructions, wind energy, etc. However, although the majority of UPR customers responding to the market investigation indicated that for each different application it is necessary to have a special formulation of UPR⁵, suppliers that are focused on customers from certain industries could easily adopt their production to start supplying UPR for other industries as well.⁶

17. As regards the substitutability between UPR and other resins / chemical compounds, respondents to the market investigation indicated that UPR are not substitutable with other resins / chemical compounds for the same intended use.⁷
18. The evidence gathered during the market investigation indicates that customers (UPR purchasers) can switch between different UPR suppliers once they have been approved by the customers. The approval process consists of technical tests (sampling inspection) to ensure the required quality. Indeed, the vast majority of customers responding to the market investigation indicated that they purchase UPR from different approved suppliers and have switched suppliers in the past, mainly due to performance, quality and price considerations.⁸
19. In the present case, the product market definition for UPR can be left open, as the proposed concentration does not raise serious doubts as to its compatibility with the internal market with respect to any plausible market definition.

III.2. Geographic market definition

20. The Commission has not previously defined the geographic market for UPR. The Notifying Party submits that the geographic market is EEA wide for several reasons. Firstly, the Commission has previously defined the geographic market for other types of resins as being EEA-wide. Secondly, due to special characteristics of the product, UPR cannot be transported over very large distances, which limits the possibility of imports/exports into/from EEA. Additionally, the Notifying Party submits that the production of UPR of its Italian and Polish plants is entirely sold within the EU.
21. Despite the moderate transport costs (between 2-10%), the respondents to the market investigation indicated that there are some product characteristics that impede UPR to be transported over long distances, mentioning in particular product stability, temperature conditions, sensitivity to humidity, UV exposure or shelf life.⁹
22. A majority of UPR suppliers that responded to the market investigation indicated the existence of imports of UPR into EEA. However, the amount of the imported UPR is no more than a small percentage of the total market.¹⁰

5 Answers to question 11 of Q1 - Questionnaire to customers.

6 Answers to question 7 of Q2 - Questionnaire to competitors.

7 Answers to question 9 of Q1 - Questionnaire to customers.

8 Answers to questions 11 and 12 of Q1 - Questionnaire to customers.

9 Answers to question 11 of Q2 - Questionnaire to competitors.

10 Answers to question 12 of Q2 - Questionnaire to competitors.

23. As regards the geographic area of their purchases, it appears from the evidence gathered during the market investigation that larger, globally active UPR customers prefer globally active UPR suppliers, but both larger and smaller UPR customers replied in the market investigation that they source regionally. In other words, the supply for the European plants is purchased in Europe, the supply for North American plants is sourced in the US, etc. UPR suppliers are usually distributing their products throughout a given region.¹¹
24. In the present case the geographic market definition for UPR can be left open as the proposed concentration does not raise serious doubts as to its compatibility with the internal market with respect to any plausible geographic market definition.

III.3. Competitive assessment

25. According to the Notifying Party, the EEA market for UPR was worth EUR 990 million (equivalent to 603 kt) in 2013. The combined market shares of the Parties would reach [20-30]% in value and [20-30]% in volume. Other important players on the market of UPR are Reichhold [10-20]% in value, Ashland [10-20]%, DSM [10-20]% and Scott Bader [5-10]%. Their market shares in volume are approximately the same as those in value.
26. The Notifying Party submits that post-merger, the HHI index will be 1042 and the HHI delta will be less than 250 in a market characterised by overcapacity. Moreover, there are numerous competitors on this market, some large integrated chemical groups (such as Reichhold, Ashland or DSM), and also numerous smaller producers. In total, 85 different suppliers are active on the UPR market in the EEA.
27. Furthermore, the Notifying Party argues that vertical integration is not a pre-requisite to enter in this market and there are many available sources of raw materials.
28. As regards switching, the Notifying Party argues that customers have strong countervailing purchase power, are not constrained by long-term or exclusive purchase agreements and have low switching costs. The customers that responded to the market investigation indicated that indeed they are able to switch suppliers within a reasonable timeframe and without incurring significant costs. In fact, UPR customers approve several suppliers and are then able to easily switch from one to any other such approved producers. In case a new supplier has to be approved, then technical tests (sampling inspections) are necessary. These tests depend on the industry/qualification of the customer, who would have to qualify the new product for each application. The time needed for approving a new supplier amounts to around 1 year to complete the qualification process. However, it bears no significant costs.¹² It was also indicated by customers responding to the market investigation that they switched producers in the past due to price, performance and quality issues.¹³ Moreover, customers responding to the market investigation have confirmed that in case of a permanent 5-10% price increase in the price of UPR sold by the Parties they would switch to alternative suppliers.¹⁴

11 Answers to question 13 of Q1 - Questionnaire to customers.

12 Answers to question 5 of Q2 - Questionnaire to competitors.

13 Answers to question 12 of Q1 - Questionnaire to customers.

14 Answers to question 24 of Q1 - Questionnaire to customers.

29. A majority of respondents to the market investigation indicated that there is overcapacity on the EEA market of UPR and it is not expected that this situation changes in the next two years due to the crisis situation.¹⁵ Moreover, the capacity utilisation rate is very low around [...]%.
30. The main barriers to entry in the UPR market seem to be the technical know-how, high capital investment, certification process and brand recognition.¹⁶ Nevertheless, in the last three years several new suppliers entered the UPR market such as AOC, Nord Composite or Galstaff.¹⁷
31. As regards closeness of competition, the UPR suppliers replying to the market investigation indicated that they do see the Parties as close competitors in this market, especially in France and Spain.¹⁸ However, the evidence from the market investigation also revealed other strong players on the UPR market, among which DSM seems to be the market leader, followed by Reichold, Ashland and Scott Bader¹⁹.
32. Taking into account the moderate presence of the Parties on the market for UPR, the existence of other strong players that appear to continue exercising competitive constraints on the merged entity and the fact that customers could and would switch to other suppliers in case of a price increase and the confirmed recent entries in this market, the Commission takes the view that the proposed transaction would not give rise to serious doubts as to the compatibility of the notified concentration with the internal market.

IV. CONCLUSION

33. 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

¹⁵ Answers to questions 14 and 15 of Q2 - Questionnaire to competitors and to question 21 of Q1 - Questionnaire to customers.

¹⁶ Answers to question 16 of Q2 - Questionnaire to competitors.

¹⁷ Answers to question 21 of Q2 - Questionnaire to competitors.

¹⁸ Answers to question 17 of Q2 - Questionnaire to competitors and to question 17 of Q1 - Questionnaire to customers.

¹⁹ Answers to question 18 of Q2 - Questionnaire to competitors and to question 20 of Q1 - Questionnaire to customers.