



EUROPEAN COMMISSION  
DG Competition

***Case M.7910 - KESKO /  
ONNINEN***

Only the English text is available and authentic.

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

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Article 6(1)(b) NON-OPPOSITION  
Date: 24/05/2016

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## EUROPEAN COMMISSION

Brussels, 24.05.2016  
C(2016) 3202 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 Where possible the information omitted has been replaced by ranges of figures or a general description.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

### To the notifying party

Dear Sirs,

**Subject: Case M.7910 – Kesko / Onninen**  
**Commission decision pursuant to Article 6(1)(b) of Council Regulation No 139/2004<sup>1</sup> and Article 57 of the Agreement on the European Economic Area<sup>2</sup>**

- (1) On 18 April 2016, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 by which Kesko Oyj ('Kesko', Finland) acquires within the meaning of Article 3(1)(b) of the Merger Regulation sole control of the whole of Onninen Oy ('Onninen', Finland) by way of purchase of shares.
- (2) As the concentration may significantly affect competition in markets within Finland which present all the characteristics of distinct markets, by a decision based on Article 4(4) of the Merger Regulation and adopted on 30 March 2016, the Commission referred the case to Finland with respect to markets in Finland. The

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<sup>1</sup> 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.

<sup>2</sup> OJ L 1, 3.1.1994, p. 3 (the 'EEA Agreement').

Finnish Competition and Consumer Authority subsequently cleared the transaction for those markets on 20 April 2016.

- (3) The notification and this decision thus only concern markets outside of Finland.

## **1. THE PARTIES**

- (4) *Kesko Oyj* ('Kesko') is a Finnish listed company active primarily in the distribution of various products, including the distribution of building, home improvement and installation products. Kesko's customers are primarily non-professional customers (consumers) but it makes some sales to professional customers as well.

- (5) *Onninen Oy* ('Onninen') is a Finnish company primarily active in the distribution of different installation products. It only sells to professional customers.

- (6) Kesko is hereinafter referred to as 'the Notifying Party' while Kesko and Onninen together are referred to as 'the Parties'.

## **2. THE OPERATION AND THE CONCENTRATION**

- (7) On 12 January 2016, Kesko and the present owner of Onninen signed a share sale and purchase agreement. According to the agreement, Kesko will acquire the whole share capital of Onninen. Kesko will thus acquire sole control of Onninen.

- (8) The operation therefore constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

## **3. UNION DIMENSION**

- (9) The undertakings concerned have a combined aggregate worldwide turnover of more than EUR 5 000 million (Kesko: EUR 10 246 million and Onninen EUR 1 567 million). Each of them has a Union-wide turnover in excess of EUR 250 million (Kesko: EUR 8 679 million and Onninen EUR 1 256 million). While Kesko achieves two-thirds of its Union-wide turnover in Finland, Onninen does not achieve two-thirds of its Union-wide turnover within any single Member State.

- (10) The operation therefore has a Union dimension pursuant Article 1(2) of the Merger Regulation.

## **4. RELEVANT MARKETS AND COMPETITIVE ASSESSMENT**

### **4.1. General**

- (11) In addition to Finland, which has traditionally been the Parties' main focus, the Parties are active in Estonia, Latvia, Lithuania, Sweden and Norway. Onninen is also active in Poland while Kesko is not. With the exception of Estonia, their activities in those markets do not, however, give rise to affected markets and only the Estonian markets are considered further in this decision.

- (12) The Parties' activities in Estonia overlap in (i) the distribution of building and home improvement products to professional customers and in (ii) the distribution of installation products to professional customers, including its potential sub-segment for the distribution of heating and plumbing products. Those overlaps give

rise to horizontally affected markets on the national level in Estonia as well as in the potential local markets of Tallinn, Tartu and Pärnu within Estonia.

- (13) In addition to the horizontal overlaps, the Parties' activities in Estonia are vertically linked between (i) Onninen's wholesale of installation products to retailers (upstream) and (ii) the Parties' retail sale of such products (downstream). That vertical link does not however give rise to vertically affected markets and it is not considered further in this decision.
- (14) Neither of the Parties produces any of the products they distribute.

## **4.2. Relevant markets**

### *4.2.1. Product markets*

- (15) The case concerns the distribution of (i) building and home improvement products and (ii) heating, plumbing, sanitary, air conditioning and refrigeration products ('HEPAC' products), which are part of installation products.
- (16) In its previous decisions, the Commission has considered that the markets for the distribution of building products in general can be divided into (i) wholesale to retailers, (ii) retail sale to professional customers and (iii) retail sale to non-professional customers (primarily through do-it-yourself stores) but has left the question ultimately open.<sup>3</sup>
- (17) For installation products in particular, the Commission has in previous decisions considered a similar distinction between the sales channels into (i) wholesale to retailers, (ii) retail sale to professional customers and (iii) retail sale to non-professional customers, and further delineations according to the types of products distributed but has left those questions ultimately open as well.<sup>4</sup>
- (18) The Notifying Party submits that the distribution of building materials and home improvement products constitute a separate product market distinct from the distribution of HEPAC products. In addition, the Notifying Party submits that HEPAC products could be further divided into (i) heating and plumbing products, (ii) sanitary products, (iii) ventilation products and (iv) refrigeration products, which all have a different purpose and use. The proposed transaction only gives rise to affected markets with respect to the potential sub-segment of heating and plumbing products.
- (19) The Notifying Party supports the distinction between retail sales to professional and non-professional customers. The Parties' activities only overlap in distribution to professional customers.
- (20) The Commission observes that the Parties themselves concentrate on different products, Kesko predominantly on building and home improvement products while Onninen predominantly on installation products. The Commission also observes

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<sup>3</sup> See, e.g. M.7703 – *PontMeyer / DBS*, paragraphs 11–12; M.3407 – *Saint Gobain / Dahl*, paragraphs 12 and 16; and M.3142 – *CVC / Danske Traelast*, paragraphs 11–13.

<sup>4</sup> See, e.g. M.7457 – *CVC / Paroc*, paragraphs 23–25; M.4050 – *Goldman Sachs / Cinven / Ahlsell*, paragraphs 8–13 and 16; and *Wolseley / Pinault Bois & Matériaux*, paragraph 12–17.

that only Kesko sells to both professional and non-professional customers while Onninen only serves professional customers (both retailers and non-retailing professional customers such as construction companies).

- (21) The results of the market investigation do not call the Commission's previous market definitions or the Notifying Party's submissions into question. In particular, results support the submission that distribution of building and home improvement products and the distribution of HEPAC products are separate from each other. They also confirm the segmentation of the markets according to the sales channel into (i) wholesale to retailers, (ii) retail sale to professional customers and (iii) retail sale to non-professional customers.<sup>5</sup>
- (22) Nonetheless, the Commission considers that for the purposes of the present case, the exact definition of the product markets can be left open as it does not ultimately influence the competitive assessment of the transaction.

#### 4.2.2. *Geographic markets*

- (23) The Commission has in recent cases considered the relevant markets to be national or potentially smaller than national in scope.<sup>6</sup>
- (24) The Notifying Party submits that the geographic scope of the markets is national for Estonia. It has nonetheless also provided information for the local regions of Tallinn, Tartu and Pärnu where the Parties' activities overlap.
- (25) The results of the market investigation mainly point towards a national market in Estonia though there are some responses that may indicate regional features. For instance, while the majority of competitors price their products nationally, some competitors indicate that they also adapt their prices to local/regional market conditions.<sup>7</sup>
- (26) Nonetheless, the Commission considers that for the purposes of the present case, the exact definition of the geographic markets can be left open as it does not ultimately influence the competitive assessment of the transaction.

### 4.3. **Competitive assessment**

#### 4.3.1. *Market structure*

- (27) The Parties' and their main competitors' market shares in the market for the sale of building and home improvement products to professional customers in Estonia are included in Table 1. Market shares for the sale of heating and plumbing products to professional customers in Estonia are included in Table 2.

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<sup>5</sup> Replies to Q1 – Questionnaire to customers, questions 5 and 6, and replies to Q2 – Questionnaire to competitors, questions 4 and 5.

<sup>6</sup> See, e.g. M.7703 – *PontMeyer / DBS*, paragraphs 21–22; and M.7457 – *CVC / Paroc*, paragraphs 27–28. See also *Cordes & Graefe / Pompac / Comafranc* where the markets for plumbing, heating and air conditioning products were considered at national level for Belgium and Luxembourg but where potential local markets were considered in addition to a national level for France and Germany, M.7107 – *Cordes & Graefe / Pompac / Comafranc*, paragraphs 19–20.

<sup>7</sup> Replies to Q1 – Questionnaire to customers, question 7, and replies to Q2 – Questionnaire to competitors, question 6.

**Table 1 – Dist. of building and home improvement products to professional customers, Estonia 2014**

Kesko	Onninen	Kesko + Onninen	Bauhof	Espak	Optimera	Decora	Others
[20-30]%	[0-5]%	<b>[20-30]%</b>	[20-30]%	[20-30]%	[10-20]%	[5-10]%	[5-10]%

Source: The Notifying Party

**Table 2 – Dist. of heating and plumbing products to professional customers, Estonia 2014**

Kesko	Onninen	Kesko + Onninen	FEB	Hekamerk	Vennad-Dahl	Hals Trading	Others
[0-5]%	[10-20]%	<b>[20-30]%</b>	[20-30]%	[20-30]%	[10-20]%	[0-5]%	[10-20]%

Source: The Notifying Party

- (28) As regards sales to non-professional customers, the Notifying Party has confirmed that its market shares are below 30% under any possible market definition (Onninen does not sell to non-professional customers). The same applies to Onninen's wholesale sales to retailers. Consequently, were all sales channels considered to belong to the same market, the Parties' combined market shares would always remain under 30%.
- (29) The Notifying Party has not been able to estimate the Parties' exact market shares in the local areas of Tallinn, Tartu and Pärnu. It has, however, submitted that their market shares in those areas largely correspond to their national market shares.

#### 4.3.2. *The Notifying Party's position*

- (30) The Notifying Party submits that the proposed transaction does not give rise to competition concerns as the Parties' market shares remain modest and a number of competitors remain present in the market. Furthermore, customers can switch suppliers easily and without incurring significant costs.

#### 4.3.3. *Results of the market investigation and the Commission's assessment*

- (31) The Commission considers that the proposed transaction does not give rise to competition concerns for the following reasons.
- (32) First, the Parties' combined market shares and market share increments in all affected markets remain modest. The combined market shares are not indicative of particularly strong market positions before or after the proposed transaction.
- (33) Second, a number of sizeable competitors will remain present in all of the affected markets, including all the potential local markets where the Parties' activities overlap. In all those local areas competitors' outlets are also geographically closer to the Parties' outlets than what the Parties' outlets are to each other.
- (34) Third, the results of the market investigation support the absence of significant competition concerns. The Parties were not considered to be particularly close competitors to each other, and all but one customer considered them to have adequate alternative suppliers after the transaction. The majority of both customers and competitors responding also considered the transaction to be neutral in its

effects on competition, one customer even considering the transaction to have positive effects.<sup>8</sup>

## 5. CONCLUSION

- (35) 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 and Article 57 of the EEA Agreement.

*For the Commission*

*(signed)*

*Margrethe VESTAGER*

*Member of the Commission*

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<sup>8</sup> Replies to Q1 – Questionnaire to customers, questions 9–13, replies to Q2 – Questionnaire to competitors, questions 9–14, and a submission by a customer on 22 April 2016 on the absence of concerns.