



EUROPEAN COMMISSION

DG Competition

***Case M.8469 -
SONEPAR ITALIA /
SACCHI***

Only the English text is available and authentic.

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

Article 4(4)

Date: 18.5.2017



EUROPEAN COMMISSION

Brussels, 18.5.2017
C(2017) 3529 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 Where possible the information omitted has been replaced by ranges of figures or a general description.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

To the notifying party

**To: AUTORITÀ GARANTE
DELLA CONCORRENZA E DEL
MERCATO**

Subject: Case M.8469 – SONEPAR ITALIA / SACCHI
Commission decision following a reasoned submission pursuant to Article 4(4) of Regulation No 139/2004¹ for referral of the case to the Italian Competition Authority and Article 57 of the Agreement on the European Economic Area².

Date of filing: 12.04.2017

Legal deadline for response of Member States: 10.05.2017

Legal deadline for the Commission decision under Article 4(4): 24.05.2017

Dear Sir or Madam,

1. INTRODUCTION

- (1) On 12 April 2017, the Commission received by means of a Reasoned Submission a referral request pursuant to Article 4(4) of the Merger Regulation with respect to the transaction cited above. The parties request the operation to be examined in its entirety by the competent authorities of Italy.
- (2) According to Article 4(4) of the Merger Regulation, before a formal notification has been made to the Commission, the parties to the transaction may request that their transaction be referred in whole or in part from the Commission to the Member State where the concentration may significantly affect competition and which present all the characteristics of a distinct market.

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 OJ L 1, 3.1.1994, p. 3 (the 'EEA Agreement').

- (3) A copy of this Reasoned Submission was transmitted to all Member States on 12 April 2017.
- (4) Given that the Italian Competition Authority, as the competent authority of Italy, has not expressed its disagreement as regards the parties' request to refer the case, it is deemed that Italy agrees with the proposed referral.

2. THE PARTIES

- (5) Sonepar Italia Holding S.p.A. a socio unico ("Sonepar Holding") is a holding of companies that carry out the activity of wholesale of electrical products, lighting equipment and related products. Sonepar Holding also owns the entire share capital of Sonepar Italia S.p.A. a socio unico ("Sonepar Italia"), a distributor of electrical products, lighting equipment and related products in certain regions of Italy. Sonepar is also active in the retail trade of electrical products. Sonepar Holding and Sonepar Italia will together be referred to as "the notifying party".
- (6) Sacchi Giuseppe S.p.A. ("Sacchi") is active in the wholesale of electrical products, such as installing equipment, lighting, automation and wires, as well as (to a lesser extent) wholesale and retail sale of electronic products. Sacchi also owns 100% of the capital stock of I.M.E.P. Elettroforniture S.r.l. ("IMEP"), a distributor of electrical products, lighting equipment and related products, [INFORMATION ON GROUP STRUCTURE]. Sacchi is also active in the retail trade of electrical products.
- (7) Sonepar Holding, Sonepar Italia, Sacchi and IMEP will together be referred to as "the parties".

3. THE OPERATION AND CONCENTRATION

- (8) The transaction in question involves two acquisitions: (i) the purchase, by Sonepar Italia Holding, of 90% of the corporate capital of Sacchi; and (ii) the purchase, by Sonepar Italia, a Sonepar Holding subsidiary, of the entire corporate capital of IMEP, which is a distributor of and wholly-owned by Sacchi. The two acquisitions are unitary in nature as they respond to the same economic rationale and they take place in a reasonably short period of time (i.e. less than two years).

4. EU DIMENSION

- (9) The notified operation has an EU dimension within the meaning of Article 1(2) of the Merger Regulation since the undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million (Sonepar EUR 20 572 million; Sacchi EUR 428 million). Each of them has an EU-wide turnover in excess of EUR 250 million (Sonepar EUR [...] million; Sacchi EUR 428 million). Each of the undertakings does not achieve more than two-thirds of its aggregate EU-wide turnover within one and the same Member State.

5. ASSESSMENT

A Relevant product markets

- (10) The activities of the parties in terms of product market can be assessed both at the level of downstream sales markets (sales of electrical products by wholesalers to their clients) and of upstream procurement markets (procurement of electrical products by wholesalers from suppliers).

Downstream markets

- (11) In past decisions, the Commission identified the relevant market as the wholesale supply of electrical components to electrical installers, builders and other users, and found that the supply of electrical (or installation) products by wholesalers constitutes a distinct product market (not including direct sales by manufacturers or retailers)³. The Commission did not distinguish among the different ranges of products because wholesalers have to respond to the demand of customers and thus to provide a one-stop shopping facility⁴. This is in line with the past decisional practice of the Italian Competition Authority.⁵
- (12) The notifying party agrees with these findings and submits that a further segmentation on the basis of the products sold at the wholesale level would not be relevant.
- (13) Therefore, in line with precedents, the main relevant market for the assessment of the proposed transaction is the wholesale distribution of electrical products.

Upstream markets

- (14) The upstream markets concern the procurement of electrical products by wholesalers from manufacturers. In past decisions, the Commission found that the markets for procurement include the sales of such electrical products to a variety of customers including wholesalers but also DIY retailers⁶.
- (15) The Commission's practice has been to define procurement markets by distinguishing product families or ranges⁷. This is due to the fact that suppliers generally manufacture a limited number of categories of products which are subject to very different competitive conditions.
- (16) Such segmentation remains relevant for the assessment of the present transaction, and the following categories are pertinent for the upstream markets: cables; lighting sources and equipment; installation equipment, such as panels automation and transformers; HVAC products, such as heating, ventilation and air conditioning products; communication and security products, such as detection, surveillance, access control, voice and data transmission equipment.

B Relevant geographic market

Downstream markets

- (17) In past decisions, the Commission considered elements pointing to wholesale markets for electrical products that are national in scope⁸ as well as the relevance of factors pointing to narrower geographic markets.⁹ When it appeared that immediacy,

³ *M.4949 Sonepar/Hagemeyer; M.5029 Sonepar/Rexel Germany.*

⁴ *M.4963 Rexel /Hagemeyer; M.4949 Sonepar/Hagemeyer; M.5029 Sonepar/Rexel Germany.*

⁵ See, for example, decisions of ICA dated 31 May 2006 in the case *Sonepar Italia/Elettrodistribuzione*, and dated April 9, 2009, case *Comoli, Ferrari e c./GDT Elettroforniture*.

⁶ *M.4963 Rexel /Hagemeyer; M.3184 Wolseley/Pinault bois et materiaux.*

⁷ *M.4963 Rexel /Hagemeyer.*

⁸ These elements include, amongst others, national distribution policies in terms of available product range, pricing, marketing strategy and pricing policy, lower transportation costs and others.

⁹ *M.2034 Hagemeyer/WF Electrical; M.4949 Sonepar/Hagemeyer; /M.5029 Sonepar/Rexel Germany.*

proximity and local delivery were viewed as important by the professional customer concerned, the Commission typically considered the size of the typical customer catchment areas, which is the radius of the average travel distance that customers usually undertake to buy their supplies. For instance, in a case concerning Germany, the Commission considered that the geographic dimension of markets for the wholesale of electrical products could either be defined as local, i.e. as a catchment area with a radius of 80 km around the outlets, or as national, but ultimately left the question open.¹⁰

- (18) As regards the Italian Competition Authority, it has concluded in past decisions that the wholesale market for electrical products has a geographic scope narrower than national (i.e. regional or multi-provincial). This is essentially because customers tend to source in proximity of the sale points of distributors.¹¹
- (19) In line with precedents, and also in view of the features of downstream markets in Italy as considered by the Italian competition authority, the relevant geographic dimension of downstream markets should be considered as narrower than national, although the precise geographic scope of the markets can be left open for the purposes of the referral of the present transaction.

Upstream markets

- (20) In previous cases, the Commission found that supplies of electrical products by manufacturers to their customers (including wholesalers) are made mainly on a national basis due to national specificities regarding products, standards, installation rules and habits, labels or prices.¹² This market definition remains valid also in the context of the present transaction.

C Assessment

- (21) As regards the downstream market, the transaction would result in affected markets in a number of narrower than national areas. In the Italian region of Lombardy, the combined shares of the parties will be above 30%. When considering narrower areas (i.e. provinces), the transaction will result in affected markets in a number of Italian provinces, and in particular Bergamo, Milan, Arezzo and Grosseto, with combined shares above 25%. Additional horizontal overlaps would arise in in another Italian region (Toscana) and in some provinces thereof (e.g. Florence and Lucca).
- (22) The parties' activities do not lead to vertically affected markets between wholesale and retail distribution of electrical products, as the combined market shares of the parties in the retail market is about [0-5]%, at national level, up to [0-5]% at provincial level. If, however, the geographic scope of the downstream market were considered at regional level, the proposed transaction would give raise to vertically affected markets.

¹⁰ See, for example, *M.5029 Sonepar/Rexel Germany*, recital 25.

¹¹ Decisions of ICA dated 31 May 2006 in the case *Sonepar Italia/Elettrodistribuzione*, and dated April 9, 2009, case *Comoli, Ferrari e c./GDT Elettroforniture*.

¹² For instance in *M.5029 Sonepar/Rexel Germany* or in *M.2283 Schneider/Legrand*.

- (23) In the upstream procurement markets, the proposed transaction would not give rise to affected markets for any of the categories of electrical products that the parties distribute as the parties' combined market share will remain below 17%.¹³

Additional factors

- (24) The Italian Competition Authority is the most appropriate authority for dealing with the present transaction. Besides the likely locus of the competitive effects of the transaction, the Italian competition authority possesses specific expertise, as it examined other transactions in the sector concerned.¹⁴

6. REFERRAL

- (25) On the basis of the information provided by the parties in the Reasoned Submission, the Commission finds that the case meets the legal requirements set out in Article 4(4) of the Merger Regulation in that the concentration may significantly affect competition in a market within a Member State which presents all the characteristics of a distinct market.
- (26) The Commission notice on case referral in respect of concentrations¹⁵ (point 17) indicates that, in seeking a referral under Article 4(4), “*the requesting parties are ... required to demonstrate that the transaction is liable to have a potential impact on competition in a distinct market within a Member State, which may prove to be significant, thus deserving close scrutiny*”, and that “*such indications may be no more than preliminary in nature...*”. The Commission considers, on the basis of the information submitted in the Reasoned Submission, that the principal impact on competition of the concentration is liable to take place on distinct markets in Italy. Moreover, the requested referral would be consistent with points 20 and 23 of that Notice.

7. CONCLUSION

- (27) For the above reasons, and given that Italy has not expressed its disagreement, the Commission has decided to refer the transaction in its entirety to be examined by the Italian Competition Authority. This decision is adopted in application of Article 4(4) of the Merger Regulation and Article 57 of the EEA Agreement.

For the Commission

(signed)

Johannes LAITENBERGER

Director-General

¹³ The calculated [10-20]% market share appears even to be overestimated because the notifying party did not include the sales of the manufactures to the DIY retail customers, when estimating the total market size.

¹⁴ See previous footnote n 5.

¹⁵ OJ C 56, 5.3.2005, p. 2.