



EUROPEAN COMMISSION
DG Competition

***Case M.9546 - GATEGROUP /
LSG EUROPEAN BUSINESS***

Only the English text is available and authentic.

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

Decision on the implementation of the commitments -
Purchaser approval
Date: 30/07/2020



EUROPEAN COMMISSION

Brussels, 30.7.2020
C(2020) 5364 final

PUBLIC VERSION

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 Where possible the information omitted has been replaced by ranges of figures or a general description.

gategroup Holding AG
Sägereistrasse 20
CH-8152 Glattbrugg
Switzerland

Dear Sir/Madam,

**Subject: Case M.9546 – GATEGROUP / LSG EUROPEAN BUSINESS
Approval of Newrest Group Holding S.A. as purchaser of Gategroup Holding AG’s stake in the Newrest-Servair joint venture and LSG EU’s customer contract at Charles de Gaulle Airport following your letter of 30 June 2020 and the Trustee’s opinion of 8 July 2020.**

1. FACTS AND PROCEDURE

- (1) By decision of 3 April 2020 (“the Decision”) based on Article 6(1)(b) in connection with Article 6(2) of the Merger Regulation,¹ the Commission declared the operation by which Gategroup Holding AG (“Gategroup”) intends to acquire within the meaning of Article 3(1)(b) of the Merger Regulation sole control over parts of the European business of LSG Lufthansa Services Holding AG (“LSG”) by way of a purchase of shares and selected assets (the “Transaction”) compatible with the

¹ OJ L 24, 29.1.2004, p. 1 (the “Merger Regulation”).

internal market following modification by Gategroup, subject to conditions and obligations (the “Commitments”).²

- (2) In particular, the Commitments provide that Gategroup is to divest:

Germany

- (a) Gategroup’s in-flight catering network operations in Germany, including certain customer contracts with low-cost and charter airlines for the provision of services at relevant airports, as well as certain related assets and employees, (the “German LCC Network Divestment Business” as described in more details in Schedule A of the Commitments);
- (b) Gategroup’s customer contracts at Frankfurt International Airport (“FRA”) and Munich International Airport (“MUC”), including, where applicable and at the option of the Purchaser, certain related assets (that, by way of example, could also include the necessary infrastructure for the operation of the divested business) and employees (the “FRA/MUC Divestment Business” as described in more detail in Schedule B of the Commitments);

Belgium

- (c) Gategroup’s [...] % shareholding in Newrest Servair Belgium SPRL operating an in-flight catering business in Belgium (the “Belgian Divestment Business”);

Italy

- (d) Certain of LSG EU’s customer contracts at Rome Fiumicino Airport (“FCO”) including, where applicable and at the option of the Purchaser, certain related assets and employees (the “FCO Divestment Business” as described in more detail in Schedule C of the Commitments);

France

- (e) LSG EU’s in-flight catering customer account at Paris Charles de Gaulle (“CDG”) (the “CDG Divestment Business”, which consists in the in-flight catering business with [...], as well as some assets at the option of the Purchaser, as described in more detail in Schedule D of the Commitments).
- (3) By letter of 30 June 2020, the Parties proposed Newrest Group Holding AG (“Newrest”) for approval by the Commission as purchaser of the Belgian and CDG Divestment Business and submitted the proposed Share and Purchase Agreement (SPA) for the shares in the Belgian Divestment Business and the Assignment and Transfer Agreement (ATA) for the CDG Divestment Business (the “Proposed Agreements”).

² The capitalised terms in this decision have the meaning as set out in the Decision and the Commitments attached thereto, unless indicated otherwise.

- (4) On 8 July 2020, RSM Corporate Finance LLP as the Monitoring Trustee (the “Trustee”) submitted an assessment of Newrest’s suitability as a purchaser and, in particular, it indicated that it fulfils the criteria of the purchaser requirements in section D of the Commitments attached to the Decision. In this assessment, the Trustee also indicated that, on the basis of the Proposed Agreements, the Divestment Businesses would be sold in a manner consistent with the Commitments.

2. ASSESSMENT OF THE PROPOSAL

- (5) According to paragraph 21 of the Commitments, in its assessment of the Proposed Agreements, the Commission has to verify that the Purchaser fulfils the Purchaser Criteria set out in Section D and that the Divestment Business is being sold in a manner consistent with the Commitments, including with their objective to bring about a lasting structural change in the market.

2.1. Introduction

2.1.1. Purchaser Criteria

- (6) As set out in paragraph 20 of the Commitments, the Purchaser must fulfil the following Purchaser Criteria:
- (a) be independent of and unconnected to the Notifying Party/Notifying Parties and its/their Affiliated Undertakings (this being assessed having regard to the situation following the divestiture);
 - (b) have the financial resources, proven expertise and incentive to maintain and develop the Divestment Businesses as a viable and active competitive force in competition with the Parties and other competitors;
 - (c) neither be likely to create, in light of the information available to the Commission, *prima facie* competition concerns nor give rise to a risk that the implementation of the Commitments will be delayed. In particular, the Purchaser must reasonably be expected to obtain all necessary approvals from the relevant regulatory authorities for the acquisition of the Divestment Businesses.

2.1.2. The proposed Purchaser

- (7) Newrest is a French company active in the food service sector. Newrest was founded in 1996 as “Catair” and changed its name to “Newrest” in 2005. Newrest(provides airline, rail and contact catering, duty free and buy on board, concession retail, facility management, remote site support, crew commercial and hotel trainings through its subsidiaries. As set out in its 2018/19 Activity Report, Newrest operates in 58 countries around the globe, with a particular focus on Europe, South America, Asia and Africa. Overall, Newrest employs 34,900 people and serves 1.36 million meals per day.
- (8) As set out in its 2018/19 Activity Report, for the financial year which ended 30 September 2019, Newrest reported a consolidated turnover of EUR 1.527 billion (excluding Saudia Catering), of which EUR 935.5 million related to the Europe

(excluding France) and France divisions. Based on this, Newrest's inflight catering business is its largest activity by turnover, representing 41.5% (EUR 633 million) of total turnover in the financial year 2018/19. Of this, 74.2% (EUR 469.5 million) was reported in Europe and France. Newrest's other business activity reported aggregate turnover of EUR 893.7 million (58.5% of the total turnover), with Europe and France reporting turnover from non-inflight activities of EUR 466.0 million (representing 49.8% of turnover in these regions). Newrest is majority-owned by its management. A combined stake of approximately 94.6% is owned by over 340 managers and the remaining 5.4% is held by private financial investors.

- (9) The Reasoned Proposal notes that Newrest i) is an inflight catering services supplier at both Brussels Airport ("BRU") and Charles de Gaulle ("CDG"), with existing business operations, customer base and know-how of the two respective markets; ii) has been active at BRU since 2014 and Brussels-Charleroi Airport since 2015 through the Newrest-Servair joint venture. Furthermore, Newrest started operations at CDG in 2006, with its customers including United Airlines, Air India, Emirates, Qatar Airways, Saudia and LATAM.

2.2. Independence from the Parties

- (10) The Notifying Party submits that there are no significant corporate, structural or other equity links between either of the Parties and its affiliated undertakings and Newrest and its affiliated undertakings. The Notifying Party further states that it is not aware of interlocking directorships at the holding company level between either of the Parties and any member of Newrest Group.
- (11) The Trustee in its Reasoned Opinion concluded that Newrest is independent of the Parties within the meaning of the Purchaser Criteria set out in paragraph 20 of the Commitments.
- (12) Other than the Belgian Divestment Business, Newrest has several other corporate, structural or equity links with Gategroup or LSG EU. In particular:
- (a) Newrest and Gategroup's subsidiary Servair have a joint venture for inflight catering services operating at London City Airport (Newrest Servair LCY UK)[details about the joint venture's governance]. In 2018, the joint venture achieved an operating profit in the amount of GBP 128,000 and a turnover of GBP 6,717,066. In addition, Newrest i) is a [...] shareholder in a joint venture with Gategroup's subsidiary Servair in the Democratic Republic of the Congo ("DMC"), [details about the joint venture's governance]; and ii) has a minority interest in a joint operation with Gategroup's subsidiary Servair in Panama, [...];
- (b) The Parties may also from time to time in the ordinary course of business enter into arm's-length commercial arrangements with Newrest for the supply of certain products or services. Gategroup has noted to the Trustee that i) Gategroup typically uses the services of Newrest to arrange for last mile operations in specific stations for Gategroup retail customers, with such services purchased through a tender process on behalf of the retail customers, and the tender arrangements being subject to the terms and conditions agreed with the retail customer; and ii) Newrest uses the services of Gategroup in

purchasing raw materials from Gategroup, subject to terms and conditions agreed between Gategroup and the retail customer. The Reasoned Proposal notes that these commercial relationships are common across the inflight catering industry and are not material (for example, in 2018 sales of LSG EU to Newrest represented EUR [...]).

- (13) Given the overall turnover of Newrest and the comparatively small scope of the corporate, structural or other equity links between Newrest and the Parties, as well as in light of all the above, the Commission concludes that Newrest fulfils the Purchaser criterion of being independent of and unconnected to Gategroup and LSG Europe and their Affiliated Undertakings.

2.3. Financial resources, proven expertise and the incentive and ability to maintain and develop the Divested Businesses as a viable and active competitor

- (14) The Notifying Party submits that Newrest has the financial resources, proven expertise and incentive to maintain and develop the Divestment Businesses as a viable and active competitive force in competition with Gategroup and LSG Europe and their Affiliated Undertakings.
- (15) The Trustee in its Reasoned Opinion concluded that Newrest has the financial resources, proven expertise and incentive within the meaning of the Purchaser Criteria set out in paragraph 20 of the Commitments.

2.3.1. Financial resources

- (16) According to the 2018/19 Activity Report for the financial year which ended 30 September 2019, Newrest reported a consolidated turnover of EUR 1.527 billion, of which EUR 935.5 million (61.3%) related to the Europe and France divisions.
- (17) Moreover, according to the Trustee, as of the end of the financial year 2018/2019, Newrest had a low leverage ratio (the 2018/19 Activity Report notes that “*Newrest is the only global catering company with effectively zero net debt*”).
- (18) According to the Trustee, Newrest has been impacted by the COVID-19 pandemic. For example, the Trustee noted that in the month of April 2020, Newrest recorded the loss of almost 90% of its turnover and had, at that time, over 30,000 non-working employees in 48 countries. However, it had implemented a number of cost saving measures and taken advantage of a number of employee compensation schemes in relevant countries. In addition, Newrest’s inflight operations represent less than 50% of its business. Therefore, the Trustee concludes that despite the pandemic, Newrest meets the financial resources criterion of the Commitments.
- (19) In addition, the Trustee is of the opinion that as Newrest currently operates the Belgian Divestment Business, and has existing activities at CDG, it has sufficient resources to maintain and develop the Belgian Divestment Business and the CDG Divestment Business. In particular, the integration of the CDG Divestment Business customer contract will not require a significant financial investment.
- (20) Newrest will pay EUR [...] for the Belgian Divestment Business and EUR [...] for the CDG Divestment Business. According to the Parties, the Transaction will be financed with cash.

- (21) In conclusion and in light of all the above, the Commission considers that Newrest has the financial resources to maintain and develop the Divestment Business as a viable and active market force in competition with the Parties and other competitors.

2.3.2. *Proven expertise*

- (22) The Notifying Party submits that Newrest is an established catering company that has proven expertise in the sector and both airports BRU and CDG to maintain and develop the Belgian and CDG Divestment Businesses.
- (23) According to the Notifying Party, Newrest's in-flight business is the largest segment of the group, representing 41.5% of its total turnover (EUR 633 million) in 2018/2019. Of this, 74.2% (EUR 469.5 million) was reported in Europe. Newrest provides all range of meals (from lower cost to customized high-end, including special diets for religious, cultural, medical or health reasons) for all ranges of flights (from charter to long-haul flights), serving 474,436 meals a day from 86 units in 36 countries. Newrest's inflight division employs 10,812 employees worldwide.
- (24) In France, according to the Reasoned Proposal, Newrest supplies services to over 265 flights per day serving 35,000 meals by 740 employees and operates 8 production sites in France based in Toulouse, Strasbourg, Lyon, Marseille, Paris Orly, Paris Charles de Gaulle, Nice Côte d'Azur airport and Paris Le Bourget. Newrest started operations at CDG in 2006. Its 7,700m² unit has an ISO9001 and halal certifications, and serves 60 flights per day with 13,000 meals and employs 430 people. Customers of Newrest at CDG include for instance United, Air India, Emirates, Qatar Airways, Saudia and LATAM.
- (25) In Belgium, according to the Reasoned Proposal, Newrest is currently active at Brussels International Airport (since 2014) and Brussels South Charleroi Airport (since 2015) through the Newrest-Servair joint venture. With regard to the Belgian Divestment Business, the Trustee reports that notwithstanding Gategroup's [...] shareholding in the Belgian Divestment Business, Newrest [details about the joint venture's governance].
- (26) In addition, with regard to Newrest's management team, the Trustee concluded that the executive board of Newrest includes personnel with substantial experience of and expertise in inflight catering operations.
- (27) Furthermore, according to the Trustee, Newrest has experience in acquiring several businesses, including the acquisition of LSG Sky Chefs (inflight catering) in Spain in 2008, Apetito (catering company) in 2016, as well as EM Food Services (multi sector food and beverage operator) in Cambodia and Myanmar, Pariltım Yemek (catering company) in Turkey and Romania, and ISS (inflight catering) in Israel, each in 2019.
- (28) In light of the above, the Commission concludes that Newrest has the expertise to maintain and develop the Divestment Businesses as a viable and active competitive force in competition with the Parties and other competitors.

2.3.3. *Ability and incentives*

- (29) According to the Notifying Party, as a strategic purchaser and because of the already well-established position at both relevant airports, Newrest has a strong incentive to maintain and develop the Belgian and CDG Divestment Businesses as part of its broader, global catering business. Newrest is already operating the business at BRU airport and active at CDG airport; and is committed to continue developing its activities on the in-flight catering services market.
- (30) According to the Trustee, given that Newrest [details about the joint venture's governance], it is likely to continue to operate and grow the business as it did before. Regarding the CDG Divestment Business, given the size of the [...] contract compared to the existing operation at CDG, the Trustee does not consider there will be any issues in taking on the [...] contract, being a similar process to taking on a new contract following a tender award.
- (31) In view of the foregoing, the Commission concludes that Newrest has the ability and incentive to maintain and develop the Belgian and CDG Divestment Businesses.

2.3.4. *Conclusion*

- (32) In view of the above, and in line with the Trustee's Reasoned Opinion, the Commission concludes that Newrest fulfils the Purchaser criterion of having the financial resources, proven experience, ability and incentive to maintain and develop the Divestment Businesses as a viable and active competitive force in competition with Gategroup and other competitors.

2.4. Absence of prima facie competition problems

- (33) The Notifying Party submits that the acquisition of the Divestment Businesses by Newrest will not create any competition concerns or delays in the implementation of the Commitments.
- (34) The Trustee agrees with this assessment since [details about the joint venture's governance] and the scale of the CDG Divestment Business is limited. Regarding the Belgian Divestment Business, according to the Reasoned Proposal, there will be no change to the market structure, which currently consists of two competitors (i.e. Newrest-Servair and LSG). Newrest will become the sole shareholder of the Newrest-Servair Joint Venture and would continue to face competition from the combined Gategroup/LSG EU entity at BRU. The overall amount of competitors would thus remain the same. The reasoned proposal further states that the Transaction would also not raise significant competitive concerns at CDG, as it would only bring a minimal increment of less than [0-5%] to Newrest's existing [5-10%] market share (for 2018).
- (35) In addition, according to the Notifying Party, the Transaction would neither be notifiable to competition authorities in France nor in Belgium, as the notification thresholds would not be met.
- (36) Moreover, according to the Trustee, Gategroup understands that all approvals required in respect of the sale have been received.

- (37) Based on the above, the Commission considers, in line with the Trustee's Reasoned Opinion, that the acquisition of the Divestment Businesses by Newrest does not give rise to prima facie competition concerns.
- (38) This prima facie assessment is based on the information available for the purpose of this buyer approval and does not prejudice the competition assessment of the acquisition of the Divestment Businesses by Newrest by a competent competition authority under applicable merger control rules.

2.5. Sale in a manner consistent with the Commitments

- (39) According to the Notifying Party, the sale of the Belgian and CDG Divestment Businesses to Newrest will be completed in a manner consistent with the Decision and the Commitments.
- (40) Regarding the Belgian Divestment Business, Newrest will be transferred all the shares constituting in the Newrest-Servair Joint Venture, as set out in paragraph 6(c) of the Commitments.
- (41) Regarding the CDG Divestment Business, Newrest will be transferred the customer account as set out in paragraph 6(e) and Schedule D of the Commitments [confidential information about the divested business]. Apart from this, Newrest has not required any assets to be transferred (which was provided for at the option of the purchaser/subject to their availabilities in section 2(a)&(b) of Schedule D to the Commitments), as, according to the Notifying Party, Newrest will be able to provide these services without being transferred any other tangible assets. This is due to Newrest already having operations at CDG, and thereby already possessing the necessary assets to operate the CDG Divestment Business as a competitive business.
- (42) Moreover, the Parties comply with their obligation to transfer the [...] customer contract and relevant available information on the services provided to the customer (as set out in section 2(e) of Schedule D to the Commitments). The ATA includes that i) Gategroup and Newrest shall collaborate with regards to a) the information of [...] about the Assignment, and b) the transfer of [...] from LSG France to Newrest on the Effective Date; and ii) Gategroup shall procure that LSG France will provide all such information and support as reasonably required by Newrest to start up services to [...] on the Effective Date
- (43) Lastly, in so far as agreed or requested by Newrest, Gategroup will provide support services for a transitional period, as set out in the ATA and provided for in section 2(g) of Schedule D to the Commitments.
- (44) Based on the above and in line with the Reasoned Opinion by the Trustee, the Commission concludes that the Belgian and CDG Divestment Businesses are being sold in a manner consistent with the Decision and the Commitments.

3. CONCLUSION

- (45) On the basis of the above assessment, the Commission approves Newrest as a suitable purchaser for the above-mentioned reasons.

- (46) On the basis of the Proposed Agreement, the Commission further concludes that the Divestment Business is being sold in a manner consistent with the Commitments.
- (47) This decision only constitutes approval of the proposed purchaser identified herein and of the Proposed Agreement. This decision does not constitute a confirmation that Gategroup has complied with its Commitments.
- (48) This decision is based on Section D, paragraph 20 of the Commitments attached to the Commission Decision of 03 April 2020.

For the Commission

(Signed)
Olivier GUERSENT
Director-General