



EUROPEAN COMMISSION  
DG Competition

***Case M.10800 - AHLSELL / SANISTAL***

Only the English text is available and authentic.

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

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Article 4(4)

Date: 14/10/2022



EUROPEAN COMMISSION

Brussels, 14.10.2022  
C(2022) 7492 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 Where possible the information omitted has been replaced by ranges of figures or a general description.

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Denmark

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Denmark

**Subject:** Case M.10800 – AHLSELL / SANISTAL  
Commission decision following a reasoned submission pursuant to Article 4(4) of Regulation No 139/2004<sup>1</sup> for partial referral of the case to Denmark and Article 57 of the Agreement on the European Economic Area<sup>2</sup>

**Date of filing:** 03.10.2022

**Legal deadline for response of Member States:** 26.10.2022

**Legal deadline for the Commission decision under Article 4(4):** 09.11.2022

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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’).

Dear Sir or Madam,

## **1. INTRODUCTION**

- (1) On 03.10.2022, 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, as regards the effects of the transaction in Denmark, by the competent authorities of Denmark.
- (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 one or more Member States within which the concentration may significantly affect competition in a market which presents all the characteristics of a distinct market.
- (3) A copy of this Reasoned Submission was transmitted to all Member States on 04.10.2022.
- (4) By letter of 05.10.2022, the Danish Competition Authority ('DCA'), as the competent authority of Denmark, informed the Commission that Denmark agrees with the proposed partial referral.

## **2. THE PARTIES**

- (5) **Ahlsell Danmark ApS ("Ahlsell")**, a portfolio company controlled by CVC Funds since 2019, is a specialist builders' merchant focused mainly on "light side" material and distributes mainly installation products in the segments for heating, ventilation and air conditioning ("HVAC") and electricals as well as tools & supplies. Ahlsell is active in Sweden, Norway, Finland, Estonia, Denmark and Poland.
- (6) The "CVC Network" consists of CVC Capital Partners SICAV-FIS S.A. ('CVC') and its subsidiaries, and CVC Capital Partners Advisory Group Holding Foundation and its subsidiaries, which are privately-owned entities whose activities include providing investment advice to and/or managing investments on behalf of certain investment funds and platforms ("**CVC Funds**"). STARK is a portfolio company held by CVC Funds. STARK is a distributor of heavy building materials in Denmark, Finland, Norway, Sweden, Austria and Germany. STARK's businesses predominantly serve residential RMI (repair, maintenance & improvement) and new construction markets.
- (7) **Sanistål A/S ("Sanistal" or "the Target")** is a specialist builders' merchant and provides a wide range of products, with a primary focus on installation products in the HVAC segment. It also distributes tools & supplies as well as steel and metals. It sells its products both online and through physical stores. The Target also has some very limited sales to other retailers, i.e., wholesales. Sanistal is active in Denmark, Latvia, Lithuania, Poland, Sweden, Norway, Finland and Germany.

## **3. THE OPERATION AND CONCENTRATION**

- (8) The transaction in question involves the acquisition of sole control, within the meaning of Article 3(1)(b) of the EU Merger Regulation, over Sanistal by Ahlsell, in turn controlled by CVC Funds (together 'the Parties'). Sanistal is a listed company. The majority of the shares in Sanistål are owned by four large Danish banks. Pursuant to a share purchase agreement signed on 24 May 2022 (the 'Proposed Transaction'), Ahlsell will purchase 75.49% of the shares in the Target

from the four Danish banks. Furthermore, a public offer has been announced on 7 June 2022 for the remaining shares. Subject to the number of valid acceptances achieved in response to the public offer, the ownership interest ultimately held by Ahlsell following completion of the Proposed Transaction may be therefore also be higher than these 75.49%. Irrespective of the number of shares that Ahlsell will hold following the public bid, following the closing of the proposed Transaction, it would acquire sole control of Sanistal.

#### 4. UNION DIMENSION

- (9) This acquisition has a Union 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 (CVC Funds: EUR [...] million in 2021; Sanistal: EUR 472 million in 2021). Each of them has an EU-wide turnover in excess of EUR 250 million (CVC Funds: EUR [...] million in 2021; Sanistal: EUR [400-500] million in 2021). While the Target achieves more than two-thirds of its EU-wide turnover in Denmark, CVC Funds does not achieve more than two-thirds of its EU-wide turnover within one and the same Member State.
- (10) The transaction therefore constitutes a concentration with a Union dimension within the meaning of Articles 1(2) and 3(1)(b) of the Merger Regulation.

#### 5. ASSESSMENT

- (11) The Parties' activities overlap primarily in Denmark. While the activities of the Parties overlap also in Finland and Sweden, *prima facie*, all potentially affected markets in Finland and Sweden have minimal increments of less than 1% and appear to meet the conditions for simplified treatment.
- (12) According to the Parties, the Proposed Transaction leads to horizontal overlaps on the (i) the market for retail sale of building materials to professional customers in Denmark, Sweden and Finland, (ii) the market for the wholesale of HVAC products in Denmark and Sweden, (iii) the retail market for sale of tools & supply to professional customers in Sweden, (iv) the retail market for sale of electricals to professional customers in Sweden, and (v) the retail market for sale of work wear and personnel protective equipment ('PPE') to professional customers. Potentially vertically affected markets according to the Parties are (i) the wholesale and retail market for HVAC to professional customers and (ii) the wholesale and retail market for work wear and PPE in Sweden.

##### 5.1. Relevant product markets

- (13) First, in its decisional practice,<sup>3</sup> the Commission has indicated that the **distribution of building materials** is a separate product market from, inter alia, installation products. The finding of a separate product market for building materials was repeated by the Commission in two recent cases involving CVC and STARK, namely *CVC/STARK Group* (2021)<sup>4</sup> and *CVC/MeGa Grundbesitz* (2021).<sup>5</sup>

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<sup>3</sup> M.7910 – *Kesko/Onninen*, paragraph 21.

<sup>4</sup> M.10164 – *CVC/STARK Group*, paragraphs 9 and 20.

<sup>5</sup> M.10235 – *CVC/MeGa Grundbesitz*, paragraph 16.

- (14) Second, in previous decisions, the Commission has considered that the distribution of installation products likely constitutes a separate market from the distribution of building materials.<sup>6</sup>
- (15) Third, the Commission has previously considered that the **distribution of tools & supplies** may constitute a separate product market.<sup>7</sup>
- (16) **Within the markets for the distribution of building materials, installation products as well as tools & supplies**, the Commission has previously considered that the markets for the distribution of building products in general can be segmented according to the type of customers into the following markets: (i) wholesale to retailers; (ii) retail sale to professional customers; and (iii) retail sale to consumers (non-professional customers) primarily through do-it-yourself (DIY) stores.
- (17) As regards **retail sales of building materials** to professional customers, in *Blackstone/KPI* (2020)<sup>8</sup>, the Commission stated that the Commission previously has considered a sub-segmentation by product group, and within such a product group "*a segmentation of building materials by product has generally been considered relevant by the Commission in instances where there have been horizontal overlaps between the Parties in relation to particular product groups.*"<sup>9</sup>

## 5.2. Relevant geographic market

- (18) The Commission has previously considered that the relevant geographic market for the **wholesale of building materials** is at least national and possibly even wider but has ultimately left the question open.<sup>10</sup> However, for the purposes of this decision, the market definition can be left open since the competitive assessment and as a result the assessment of this referral request would not be affected under any plausible market definition.
- (19) In relation to **retail sales of building materials**, the Commission has previously considered the relevant geographic markets for building materials to be national or potentially narrower than national. In *Goldman Sachs/Cinven/Ahlsell* (2006)<sup>11</sup>, the Commission noted that, in previous cases, the market for "*building distribution*" could be regarded as national, as the main players competed nationally in terms of coverage, product offering, marketing and general policy.<sup>12</sup>
- (20) In *Blackstone/KPI* (2020), the Commission stated that it has previously considered that the "*geographic scope of the markets for retail sales of building materials to professional end-customers could be national, regional or local depending on the segment and the relevant catchment area but has ultimately left the question open*".<sup>13</sup> The exact scope of the market was indeed left open in *Blackstone/KPI* (2020).<sup>14</sup> In *CVC/STARK Group*<sup>15</sup>, the majority of respondents to the

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<sup>6</sup> M.10164 – *CVC/STARK Group*, paragraphs 12 and 20; M.9644 – *Nordstjerman/Momentum Group*, paragraph 14; M.7910 – *Kesko/Onninen*; paragraph 21.

<sup>7</sup> M.10164 – *CVC/STARK Group*, paragraphs 12 and 20; M.9644 – *Nordstjerman/Momentum Group*, paragraphs 13–21.

<sup>8</sup> M.10235 – *CVC/MeGa Grundbesitz*.

<sup>9</sup> M.9790 – *Blackstone/KPI*, paragraph 23.

<sup>10</sup> See e.g., M.3142 – *CVC/Danske Traelast*, paragraphs 14–16, and M.7703 – *Pontmeyer/DBS*, paragraphs 17 and 22.

<sup>11</sup> See e.g., M.4050 – *Goldman Sachs/Cinven/Ahlsell*.

<sup>12</sup> See e.g., M.4050 – *Goldman Sachs/Cinven/Ahlsell*, paragraph 9.

<sup>13</sup> M.9790 – *Blackstone/KPI*, paragraph 27.

<sup>14</sup> M.9790 – *Blackstone/KPI*, paragraph 30.

<sup>15</sup> M.10164 – *CVC/STARK Group*, paragraph 30.

Commission's market assessment considered the relevant catchment area for the building industry at the local level to be 30 km radius from the store for generalist builder's stores ('GBMs') or 50 km radius from the store for specialised builder's stores ('SBMs').<sup>16</sup> However, the Commission ultimately left open the geographic market definition, as the outcome of the competitive assessment did not change under any geographic market delineation.<sup>17</sup>

- (21) In recent cases, the Commission has considered the relevant geographic markets for the **distribution of installation products** to be national but has ultimately left the exact definition open.<sup>18</sup>
- (22) In *CVC/STARK Group* (2021), the Commission considered the geographic market for the distribution of installation products to be national or potentially narrower (local). For the retail market, the Commission noted that the retail local markets have previously been defined by catchment areas of 30 km radius from GBMs and by catchment areas of 50 km from SBMs. However, due to the lack of any competition concerns, the question was left open.<sup>19</sup> This methodology was again used by the Commission in *CVC / MeGa Grundbesitz* (2021).<sup>20</sup>
- (23) In recent cases, the Commission has considered the relevant geographic markets for the **distribution of tools & supplies** to be national or local in scope but has ultimately left the exact definition open.<sup>21</sup>
- (24) In *CVC/STARK Group* (2021), the Commission considered the geographic market for the distribution of installation products to be national or potentially narrower (local). For the retail market, the Commission noted that the retail local markets have previously been defined by catchment areas of 30 km radius from GBMs and by catchment areas of 50 km from SBMs. However, due to the lack of any competition concerns, the definition was left open.<sup>22</sup>
- (25) In its previous decisions, the Commission has considered the scope of the relevant market for the **distribution of steel** to be national or cross-border regional.
- (26) For the purpose of the assessment of the referral request, the relevant geographic markets are therefore considered to be not wider than national and potentially local in scope.

### 5.3. Assessment

#### 5.3.1. Horizontal effects

- (27) Based on the information submitted in the Reasoned Submission, the Parties' activities overlap at national and local level in Denmark. The Proposed Transaction leads to a number of affected markets both at national and local level in the market for retail sale of building materials to professional customers and in in the

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<sup>16</sup> Please note that in an earlier case, the Commission's investigation indicated that suppliers would have to deliver building products within a radius between 40 to maximal 100 km from the point of sale in order to be able to offer competitive prices, see M.1974 – *Compagnie De Saint-Gobain / Raab Karcher*, paragraph 11.

<sup>17</sup> See also M.10235 – *CVC / MeGa Grundbesitz*, paragraph 26, where an overall majority of respondents confirmed that the assessment should be based on catchment areas within a 30 km radius from GBM's stores or 50 km radius from SBM's stores.

<sup>18</sup> M.7457 – *CVC / Paroc*, paragraphs 26–28; M.4050 – *Goldman Sachs / Cinven / Ahlsell*, paragraph 9.

<sup>19</sup> M.10164 – *CVC / STARK Group*, paragraphs 25–26.

<sup>20</sup> M.10235 – *CVC / MeGa Grundbesitz*.

<sup>21</sup> M.10164 – *CVC / STARK Group*, paragraphs 25–26; M.9644 – *Nordstjernan / Momentum Group*, paragraph 16.

<sup>22</sup> M.10164 – *CVC / STARK Group*, paragraphs 25–26.

wholesale of HVAC products, the retail market for sale of tools & supply to professional customers, the retail market for sale of electricals to professional customers and the retail market for sale of work wear and personnel protective equipment ('PPE') to professional customers.

- (28) In Denmark, the proposed Transaction leads to a number of affected markets at national and local level. There are around [...] local markets in which the Parties would have a combined market share above 20% and where the HHI Deltas are above 150. In a significant number of these affected local markets, the combined market shares are above 30%, in some local markets even exceeding 50%.
- (29) While there are a few technically affected markets in Sweden and Finland, these potentially affected markets arise solely due to the Target's very limited export of goods from Denmark to customers on an *ad hoc* basis, as evidenced by the minimal increments below 1% in all of the technically affected markets in Sweden and Finland.
- (30) There are no affected markets that are wider than national.

#### 5.3.2. *Vertically affected markets*

- (31) Based on the information submitted in the Reasoned Submission, the Proposed Transaction gives rise only to *de minimis* (<1%-point increment) vertically affected markets.

#### 5.3.3. *Conclusion*

- (32) On the basis of the information provided by the parties in the Reasoned Submission, the proposed transaction is an appropriate candidate for pre-notification referral from the Commission to the DCA as regards the effects of the transaction in Denmark in accordance with Article 4(4) of the Merger Regulation.
- (33) On the one hand, the transaction meets the legal requirements set out in Article 4(4) of the Merger Regulation. The transaction is a concentration within the meaning of Article 3 of the Merger Regulation, it has a Union dimension and it may significantly affect competition in distinct markets in Denmark and only Denmark. Indeed, the relevant geographic markets present all the characteristics of distinct markets within Denmark.
- (34) On the other hand, as detailed below, additional factors confirm that the Danish authority is the most appropriate authority to assess the effects of the transaction in Denmark, which appears to be the only Member State where the transaction may significantly affect competition.

#### 5.3.4. *Additional factors*

- (35) In accordance with paragraph 19 of the Commission Notice on Case Referral in respect of concentrations<sup>23</sup>, a referral request should also consider whether the competition authority or authorities to which the case would be addressed is the most appropriate authority for dealing with the case. To this end, consideration should be given both to the likely locus of the competitive effects of the transaction and to how appropriate the national competition authority would be for scrutinising the operation.
- (36) First, the effects of the Proposed Transaction are likely to be confined to Denmark, and in light of the information submitted in the Reasoned Submission, will have

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<sup>23</sup> 2005/C 56/02.

their main economic impact in Denmark. Each of the potentially affected wholesale and retail markets mentioned above that have increments higher than 1% -point are not wider than national in scope and all of them are located in Denmark.

- (37) Second, the DCA has substantial experience and expertise in examining the relevant markets described above as well as markets ancillary to the relevant markets described above.<sup>24</sup>
- (38) In conclusion, the DCA is well equipped to assess the impact of the Proposed Transaction on competition in the Danish markets.

## **6. REFERRAL**

- (39) On the basis of the information provided by the parties in the Reasoned Submission, 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. The Commission notice on case referral in respect of concentrations<sup>25</sup> (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 on 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 within Denmark, and that the requested referral would be consistent with point 20 of the notice.

## **7. CONCLUSION**

- (40) For the above reasons and given that Denmark expressed its agreement with the proposed partial referral, the Commission has decided to refer the assessment of the effects of the transaction in Denmark to the competent authorities of Denmark. This decision is adopted in application of Article 4(4) of the Merger Regulation, Article 6(1) of Protocol 24 to the EEA Agreement and Article 57 of the EEA Agreement.

*For the Commission*

*(Signed)*  
*Olivier GUERSENT*  
*Director-General*

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<sup>24</sup> For instance, the DCA reviewed STARK Danmark’s acquisition of sole control of Jens Schultz A/S (2021), the merger between Davidsens Tømmerhandel and Optimera (2019) and the merger between J-F. Lemvig-Müller Holding A/S and Brdr. A & O Johansen A/S (2008).

<sup>25</sup> [http://europa.eu.int/comm/competition/mergers/legislation/consultation/case\\_allocation\\_tru.pdf](http://europa.eu.int/comm/competition/mergers/legislation/consultation/case_allocation_tru.pdf).