



DETERMINATION OF MERGER NOTIFICATION M/08/034 – CELSA/ROM

Section 21 of the Competition Act 2002

Proposed acquisition by Celsa Steel Service (UK) Limited of ROM Group Limited

Dated 04/12/2008

Introduction

1. On 7 November 2008, the Competition Authority (the “Authority”), in accordance with section 18(1)(a) of the Competition Act, 2002 (the “Act”) was notified, on a mandatory basis, of the proposed acquisition by Celsa Steel Service (UK) Limited (“Celsa UK”) of all the entire issued share capital of ROM Group Limited (“ROM”). Following the completion of the proposed acquisition, Celsa UK will acquire sole control of ROM.

The undertakings involved

The Acquirer

2. Celsa UK is a wholly owned subsidiary of Celsa (UK) Holdings Limited, which is a holding company of subsidiaries of Celsa S.L. Celsa S.L. is a Spanish-based company which is active through out the EEA, mainly in the manufacture of a range of steel products, including reinforced steel bars, mesh wire rod for reinforcement and reinforcing coils (“Reinforcing Steel Products”)¹. “Celsa” is used hereinafter to refer to a company or a group of companies which is or are owned directly or indirectly by Celsa S.L.
3. Celsa also distributes Reinforcing Steel Products to fabricators. Fabricators purchase these products from steel manufacturers² and then process them into cut, bent, mesh, and prefabrication products (“Processed Reinforcing Steel Products”) to standard requirements or as required by customers. Fabricators are located throughout the EEA, including the State.
4. In the State, Celsa distributes:
 - (i) Reinforcing Steel Products to fabricators;
 - (ii) Merchant bars and heavy sections mainly to builder’s merchants and others;
 - (iii) Mesh to builders’ merchants, mesh stockists or other fabricators; and,

¹ Celsa has production facilities located in Spain, the UK, Poland and Norway.

² Fabricators generally use Reinforcing Steel Products that have been approved by the CARES certification scheme.

- (iv) Processed Reinforcing Steel Products³ to end-customers in the building and construction industry.
- 5. On 25 September 2008, the Authority was notified of the proposed acquisition by Celsa of a 50% jointly controlling interest in BRC McMahon Reinforcements Limited ("BRC McMahon"). BRC McMahon is a fabricator with processing facilities in Co. Tipperary and Co. Tyrone (Northern Ireland). The Authority cleared the proposed acquisition on 23 October 2008.⁴

The Target

- 6. ROM is a UK-based company. It is principally a fabricator that processes Reinforcing Steel Products. Its manufacturing facilities are located in the UK. In the State, ROM distributes:
 - (i) Mesh to builders' merchants, mesh stockists or other fabricators;
 - (ii) Processed Reinforcing Steel Products to end-customers in the building and construction industry; and,
 - (iii) General accessories and geotechnical products to end-customers in the building and construction industry.

Analysis

- 7. There are horizontal and vertical overlaps between the activities of Celsa and ROM in the State. However, for the reasons set out below, the Authority considers that the proposed transaction will not result in a substantially lessen competition in the State.

Horizontal overlap

- 8. In the State, there is horizontal overlap between Celsa and ROM in relation to the following activities:
 - (i) the distribution of mesh to customers in the State; and,
 - (ii) the distribution of Processed Reinforcing Steel Products to customers in the State.

The Distribution of Mesh in the State

- 9. Mesh is a sheet of fabric-like woven mesh wire rope used mainly in the construction sector. Neither Celsa nor ROM has a mesh manufacturing facility in the State. Celsa distributes mesh in the State through its subsidiary BRC UK. BRC McMahon, in which Celsa has a 50% interest, is the only manufacturer of mesh in the State and distributes mesh from its manufacturing facilities in Co. Tipperary and Co. Tyrone. ROM engages the service of haulage companies to distribute their products to customers in the State.

³ At the retail level, mesh is part of the Processed Reinforcing Steel Products.

⁴ The Authority's Determination in respect of this transaction is available at http://www.tca.ie/MergersAcquisitions/MergerNotifications.aspx?selected_item=425

10. The parties submit that a substantial volume (approximately 30%) of mesh sold in the island of Ireland is imported from the UK and continental Europe⁵. The parties provided a list of a number of European based manufacturers who distribute mesh to customers in State, either directly or indirectly through local distributors. These European based manufactures include Van Merksteijn (Netherlands), Megasa (Spain) and Fapricela (Portugal), Badische Stahlwerke (Germany), and Riva/SAM Montereau (France). In this regard, the parties argued that the geographic scope of this market is at least as wide as Western Europe and possibly EEA-wide. The parties estimate that their market shares in this market are not significant. Even if BRC McMahon's estimated market share were fully attributable to Celsa, Celsa's overall estimated share of the Western European market would be approximately [0-10]% while ROM's market share is estimated to be less than [0-10]%. Therefore, the merged entity would account for less than [0-10]% of this market.
11. Even if the geographic scope of this market was considered to be as narrow as the State, the overlap in the activities of the parties in this market would also be limited. In 2007, the turnover of Celsa for mesh was €[...], all of which was imported into the State from its subsidiary, BRC Limited ("BRC UK"). In the same year, ROM sold [...] tonnes of mesh in the State.
12. In the light of the above, the Authority considers that:
 - (i) it is not necessary to reach a final decision on the relevant geographic market, given the limited amount of mesh sales in the State accounted for by the parties; and,
 - (ii) the proposed transaction does not raise competition concerns with respect to the distribution of mesh to customers in the State due to the limited overlap in the activities of the parties and the availability of alternative suppliers.

Distribution of Processed Reinforcing Steel Products to Customers in the State

13. As stated earlier, both Celsa (through BRC UK) and ROM distribute Processed Reinforcing Steel Products to customers in the State.
14. The parties estimate that, in 2007, Celsa's share of sales of Processed Reinforcing Steel Products in the State was less than [0-10]%. In the same year, ROM's market share in the State was estimated to be around [0-10]% while BRC McMahon was estimated to have a [10-20]% market share. Even if BRC McMahon's estimated market share were fully attributable to Celsa, the merged entity's combined share of sales of Processed Reinforcing Steel Products in the State is estimated to be less than [10-20]%.
15. In addition, there are a number of alternative significant fabricators located in the State, including, Fairyhouse Steel ([10-20]%); Midland Steel Reinforcements ([10-20]%); and Leinster Steel Limited ([0-10]%).

⁵ Total mesh sales in the Island of Ireland are estimated to be around 100,000 tonnes, of which 30,000 tonnes is imported.

16. The Authority therefore considers that the proposed transaction does not raise competition concerns in respect of the distribution of Processed Reinforcing Steel Products to customers in the State due to: (i) the limited overlap in the parties' activities, and (ii) the remaining significant alternative fabricators. There are no appreciable switching costs to customers switching fabricators. Contracts between fabricators and customers are generally project specific. If the merged entity were to raise the price by 5-10% customers will easily switch to one of the alternative fabricators.

Vertical overlap

17. There is a vertical overlap between Celsa and ROM in the State. Celsa distributes Reinforcing Steel Products to ROM and ROM, as a fabricator, purchases Reinforcing Steel Products from Celsa.
18. In determining whether this vertical overlap might give rise to competition concerns in the State, the key question is whether or not the proposed transaction will foreclose downstream or upstream rivals. Two possible forms of foreclosure are discussed below.

Input foreclosure

19. A form of foreclosure is input foreclosure where as a result of a proposed transaction competitors at the downstream level are foreclosed access to inputs. Thus, the question is whether the proposed transaction is likely to foreclose access of competitors of ROM to Reinforcing Steel Products.
20. According to the European Commission's Guidelines on non-horizontal mergers⁶, the assessment of the likelihood of input foreclosure requires examination of: (i) whether the merged entity would have the ability to substantially foreclose access to inputs; (ii) whether the merged entity would have the incentive to do so; and, (iii) whether a foreclosure strategy would have a significant detrimental effect on competition downstream.
21. The Authority considers that the merged entity will not have the ability to foreclose access by fabricators to Reinforcing Steel Products as a result of the proposed transaction. The merged entity will not have a significant degree of market power in the market for the distribution of Reinforcing Steel Products either at EEA level⁷ or at national level. Celsa's share of this market on an EEA-wide basis is estimated to be [10-20]%. In the State, Celsa estimates that it has a market share of approximately [10-20]% in this market. This implies that the remaining [80-90]% is already served by other manufacturers of Reinforcing Steel products. There are alternative manufacturers of Reinforcing Steel Products from whom competitors of ROM in the State can purchase their inputs⁸ and there is no evidence to suggest that this would not continue post-merger.

⁶ "Guidelines on the assessment of non-horizontal mergers under the Council Regulation on the control of concentrations between undertakings"; OJ C 265 of 18 October 2008; paragraph 32.

⁷ The parties argue that the geographic scope of the market is at least EEA-wide. The parties cite the European Commission decision *Celsa/Fundia* M.4225 in support of their contention.

⁸ Information provided by Celsa lists the following companies as Celsa's main competitors in the State: Thames Steel Limited (UK), Liepajas Metalurgs AS (Latvia); Megasa Siderurgica SL (Spain), Mittal Arcelor (UK) and Colacoglu (Turkey).

22. In addition, contracts between reinforcing steel manufacturers and fabricators such as ROM are non-exclusive and short term. Fabricators frequently switch suppliers. Therefore, any attempt by the merged entity to raise input prices or refuse to supply ROM's competitors would be constrained by Celsa's competitors.
23. In light of the above, the Authority considers that the proposed transaction will not lead to input foreclosure in the State in respect of Reinforcing Steel Products.

Customer foreclosure

24. The second form of foreclosure is customer foreclosure where as the result of a proposed transaction competitors at the upstream level are foreclosed access to customers at the downstream level. The question is whether the proposed transaction is likely to foreclose access by competitors of Celsa at the upstream level to fabricators which are competitors of Celsa at the downstream level.
25. According to the European Commission's Guidelines on non-horizontal mergers⁹, the assessment of the likelihood of customer foreclosure requires examination of: (i) whether the merged entity would have the ability to foreclose access to downstream markets by reducing its purchases from its upstream rivals; (ii) whether it would have the incentive to reduce its purchases upstream; and, (iii) whether a foreclosure strategy would have a significant detrimental effect on consumers in the downstream market.
26. The Authority considers that the proposed transaction will not give the merged entity the ability to foreclose access to fabricators by Celsa's competitors. ROM does not have a significant degree of market power in the market for Processed Reinforcing Steel Products. In 2007, ROM's share in the market for the distribution of Processed Reinforcing Steel Products in the State was approximately [0-10]%. Even if ROM is foreclosed to Celsa's competitors, the alternative fabricators listed in paragraph 15, above would be available to Celsa's rivals
27. The Authority therefore considers that the proposed transaction will not give rise to customer foreclosure in the State.

Determination

The Authority, in accordance with section 21(2)(a) of the Competition Act, 2002, has determined that, in its opinion, the result of the proposed acquisition by Celsa Steel Service (UK) Limited of the entire share capital of ROM Group Limited will not be to substantially lessen competition in any market for goods and services in the State and, accordingly, the acquisition may be put into effect.

For the Competition Authority

Dr. Stanley Wong
Member of the Competition Authority

⁹ "Guidelines on the assessment of non-horizontal mergers under the Council Regulation on the control of concentrations between undertakings"; OJ C 265 of 18 October 2008; paragraph 59.