



Determination No. M/05/041 of the Competition Authority, dated 5th August 2005, under Section 21 of the Competition Act, 2002

Notification No. M/05/041 – Proposed acquisition by BASF Aktiengesellschaft of Orgamol S.A.

Introduction

1. On 8th July 2005, the Competition Authority, in accordance with Section 18(1) of the Competition Act, 2002 (“the Act”) was notified, on a mandatory basis, of a proposal whereby BASF Aktiengesellschaft (“BASF”), through its wholly owned subsidiary BASF Nederland B.V., would acquire all of the shares of Orgamol S.A. (“Orgamol”).

The Parties

2. BASF, the acquirer, incorporated in Germany, is active worldwide in the production, processing and distribution of all kinds of chemical, technical and metallurgical products, including the production. It is also active in the sale of pharmaceutical fine chemicals, which is the relevant sector for purposes of this Notification. BASF had worldwide group turnover of €37.5 billion in 2004.
3. BASF has one direct Irish subsidiary (namely, BASF (Ireland) Limited) and makes sales of pharmaceutical fine chemicals into the State that generated turnover of [less than €10 million] in 2004.
4. Orgamol, the target, incorporated in Switzerland, is engaged in the production and sale of pharmaceutical fine chemicals. More specifically, Orgamol produces and sells active pharmaceutical ingredients (“APIs”) and their respective intermediates by way of contract-manufacturing for the pharmaceutical industry. Additionally, Orgamol sells such products on a “catalogue” basis (i.e., selling APIs and their intermediates as stand-alone products.)
5. Orgamol has no subsidiaries or branch offices in the State but it makes sales of pharmaceutical fine chemicals into the State that generated turnover of approximately [less than €10 million] in 2004.

Analysis

6. The parties note that the pharmaceutical fine chemicals industry is global in nature, with no regional price differences for the same product of the same producer and low transportation costs.
7. From information provided by the parties, it would appear that there is minimal overlap between the business activities of BASF and Orgamol in the



State. Based on estimates from their respective global operations in the pharmaceutical fine chemicals sector, the parties contend that the transaction, if consummated, would result in a combined company market share of approximately [less than 5%] worldwide and [less than 5%] in the State. The parties further indicate that the market situation in the State would not differ in any material respects from the global level.

8. Notwithstanding the relatively low market shares of the parties on a combined basis, the Authority notes that their behaviour is significantly influenced by the large pharmaceutical companies which they supply, due in part to the strong buyer power of such companies both nationally and globally.
9. Because of the minimal competitive overlap between BASF and Orgamol in the State, the proposed transaction does not give rise to competition concerns.

Determination

The Competition Authority, in accordance with Section 21(2) of the Competition Act, 2002, has determined that, in its opinion, the result of the proposed acquisition of Orgamol S.A. by BASF Aktiengesellschaft, through its wholly owned subsidiary BASF Nederland B.V., will not be to substantially lessen competition in markets for goods and services in the State and, accordingly, that the acquisition may be put into effect.

For the Competition Authority

Edward Henneberry
Member of the Competition Authority