



DETERMINATION OF MERGER NOTIFICATION M/18/029 GIVAUDAN S.A. / NATUREX S.A.

Section 21 of the Competition Act 2002

Proposed acquisition by Givaudan S.A. of sole control of Naturex S.A.

Dated 24 May 2018

Introduction

1. On 16 April 2018, in accordance with section 18(1)(a) of the Competition Act 2002, as amended ("the Act"), the Competition and Consumer Protection Commission (the "Commission") received a notification of a proposed transaction whereby Givaudan S.A. ("Givaudan") would acquire sole control of Naturex S.A. ("Naturex") (the "Proposed Transaction").

The Proposed Transaction

2. Givaudan intends to acquire up to 100% of the shares in Naturex by way of a two-step transaction. The first step of the Proposed Transaction would be implemented pursuant to a French law-governed share assignment agreement ("SAA"), dated 26 March 2018, between (i) Givaudan, and (ii) [...] (collectively, the "Sellers"), according to which Givaudan would acquire the Sellers' entire shareholding in Naturex, which comprises 40.6% of the shares in Naturex.
3. In addition, Givaudan and Naturex have entered into a memorandum of understanding dated 26 March 2018 ("MoU") relating to a proposed merger between Givaudan and Naturex. This second step of the Proposed Transaction would involve Givaudan making a mandatory public takeover offer for the remaining shares in Naturex. Pursuant to the MoU, Givaudan's takeover offer would lapse if, at the date of closure of the takeover offer, Givaudan does not hold more than 50% of the capital or voting rights of Naturex. The parties have informed the Commission that the proposed takeover offer by Givaudan is supported by the board of directors of Naturex and that the Proposed Transaction will



also be notified to the competition authorities in Germany, Romania, Russia and the United States of America.

The Undertakings Involved

Givaudan

4. Givaudan is the parent company of the Givaudan group of companies which has its headquarters in Switzerland and is listed on the Swiss Stock Exchange. Givaudan is a manufacturer and supplier of fragrance and flavour products to the food, beverage and consumer goods industries. It also produces aroma chemicals which can be used as ingredients in the production of flavour or fragrance compounds.
5. Givaudan has around 10,000 employees and is active globally with 109 sales offices, production sites and laboratories. Its worldwide operations are organized into two operating divisions, namely: the flavours division and the fragrances division. Givaudan does not have any physical presence or employees in the State.
6. For the financial year ending 31 December 2017, Givaudan had a worldwide turnover of approximately €4,544 million, of which approximately €[...] was generated in the State.

Naturex

7. Naturex has its registered office in Avignon, France and is listed on the Paris Euronext Stock Exchange. Naturex is active in over 50 countries around the world with approximately 1,700 employees. Naturex does not have any physical presence or employees in the State.
8. Naturex and its affiliated companies source, manufacture and market natural specialty ingredients, including raw materials for the production of flavour and fragrance products, for the food, health and cosmetic industries on a global basis. Naturex's product portfolio comprises three business units, namely: food & beverage; nutrition & health; and personal care. The food & beverage and nutrition & health units include Naturex's main activities and account for [...] % of Naturex's sales.
9. For the financial year ending 31 December 2017, Naturex had a worldwide turnover of approximately €404.9 million, of which approximately €[...] was generated in the State.



Rationale for the Proposed Acquisition

10. Givaudan states the following in the notification:

“the Proposed Transaction offers the chance to expand its offering to deliver natural and organic flavouring products, a product area which has seen significantly increased global demand in recent years. Givaudan views Naturex’s strong product portfolio, comprising natural ingredients developed through plant extracts, as complementary to its own.”

Third Party Submissions

11. No submission was received.

Horizontal Overlap

12. Globally, both parties are involved in the production of flavour and fragrance products. However in the State the activities only overlap in respect to the sale of flavour and fragrance products, specifically with respect to the supply of phytoactive ingredients¹, fruit, vegetable and taste ingredients², and colours³ to customers in the State.

13. The parties suggest in the notification that the relevant product market can consist of an overall natural and botanical ingredients market or can be defined by the categories of the Naturex’s ingredient products. However the parties submit that the market definition can be left open as the Proposed Transaction will not lead to any competition concerns under any possible market definition.

14. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. It is not necessary for the Commission to define the precise relevant product market or markets in this instance because the product market definition adopted will not alter the Commission’s assessment of the competitive impact of the Proposed Transaction. Whether the product market is defined as a broad market (i.e. comprising all raw materials for the production of flavour and fragrance products) or a narrow market (i.e. segmented according to the product which each raw

¹ Phytoactive ingredients are natural phytoactive ingredients with health or cosmetic benefits.

² Fruit, vegetable and taste ingredients are naturally-sourced fortified ingredients or technologies for nutrition.

³ These products are natural colourings, especially blue, green and red.



material is used to manufacture), the Commission has reached the view that there are no horizontal competition concerns arising from the Proposed Transaction for the reasons given in paragraph 17 below. However, in order to determine whether the Proposed Transaction might result in a substantial lessening of competition, the Commission analysed its impact by reference to the narrowest potential product markets for which there is overlap between the parties' activities in the State, that is, separate product markets for the sale of (i) phytoactive ingredients, (ii) fruit, vegetable and taste ingredients, and (iii) colours.

15. In relation to the relevant geographic market, the parties argued in the notification that the market is at least EEA-wide following the approach adopted in two previous European Commission decisions which suggested, without concluding on the matter, that the relevant geographic market could be as wide as the EEA. For the purposes of assessing whether the Proposed Transaction might result in a substantial lessening of competition, the Commission analysed its impact on an EEA-wide basis.
16. In conclusion, the Commission assessed the likely competitive impact of the Proposed Transaction in respect of separate potential markets for the sale in the EEA of (i) phytoactive ingredients, (ii) fruit, vegetable and taste ingredients, and (iii) colours.

Competitive Analysis

17. Table 1 below shows the parties' estimated market shares in each of the three identified potential product markets at EEA level. Following completion of the Proposed Transaction, Givaudan's post-transaction market share would amount to [...]%, [...]%, and [...]%, respectively in each of these potential markets. In addition, the Commission considers that there are now, and will continue to be following completion of the Proposed Transaction, significant competitors to Givaudan in each of these potential markets, such as Martin Bauer Group (Germany), Indena S.p.A. (Italy), Kerry Group Plc. (Ireland), Agrana Beteiligungs-AG (Austria), Symrise Group (Germany) and GNT Group (Germany)⁴.

⁴ Countries in brackets are the respective companies' country of origin and/or the country in which their headquarters is located.



Table 1: The Parties' Estimated Market Shares in EEA 2017

	Givaudan Market Share (%)	Naturex Market Share (%)
Phytoactives	[...]	[...]
Fruit, Vegetable & Taste	[...]	[...]
Colours	[...]	[...]

Source: The Commission based on information provided by the parties.

18. In light of the above, the Commission considers that the Proposed Transaction does not raise any horizontal competition concerns in relation to the supply to customers located in the State of each of (i) phytoactive ingredients, (ii) fruit, vegetable and taste ingredients, and (iii) colours.

Vertical Relationship

19. There is a vertical relationship between the parties on a worldwide basis as Givaudan purchases natural and botanical ingredients and extracts from Naturex, which Givaudan uses as input in the production of flavour and fragrance products. Naturex's supplies to Givaudan in 2017 were approximately €[...] on a worldwide basis and were at a similar level in the preceding years. On this basis, the Commission has formed the view that, even on a worldwide basis, Givaudan is a rather small customer for Naturex. There is no vertical relationship between the parties within the State.
20. While the Commission cannot rule out that Givaudan might source more natural and botanical ingredients and extracts from Naturex on a worldwide basis following implementation of the Proposed Transaction, the Commission considers that this would not lead to any serious anti-competitive effects for the following reasons:
- Naturex will not be in a position to cover all of Givaudan's demand due to the specific recipes of the flavours compounds.
 - There are many other potential large customers in the EEA, such as International Flavours and Fragrances Inc. (IFF), Symrise Group and Firmenich, and many other smaller flavour players so that competing suppliers of natural and botanical ingredients and extracts have sufficient alternative customers to Givaudan.



21. The Commission therefore considers that the Proposed Transaction does not raise any vertical competition concerns in the State.

Conclusion

22. In light of the above, the Commission considers that the Proposed Transaction will not substantially lessen competition in any market for goods or services in the State.

Ancillary Restraints

23. No ancillary restraints were notified.



Determination

The Competition and Consumer Protection Commission, in accordance with section 21(2)(a) of the Competition Act 2002, as amended, has determined that, in its opinion, the result of the proposed transaction, whereby Givaudan S.A. would acquire sole control of Naturex S.A., will not be to substantially lessen competition in any market for goods or services in the State, and, accordingly, that the proposed transaction may be put into effect.

For the Competition and Consumer Protection Commission

Brian McHugh

Member

Competition and Consumer Protection Commission