

AKZO NOBEL NV/METLAC HOLDING SRL MERGER INQUIRY

Summary of hearing held with Ardagh Group held on 3 July 2012

Background

1. Ardagh Group (Ardagh) entered the metal packaging business following the acquisition of Impress Group in 2010. Ardagh's main metal production sites in Europe are located in the UK, Germany, France, Italy and the Netherlands. It also has smaller production sites in Poland, Denmark, the Czech Republic, Ukraine, Latvia, Spain, Hungary and Romania. It said it did not necessarily choose the coatings suppliers that were geographically closest to its sites. All suppliers were delivering to all Ardagh locations. AkzoNobel supplied out of the UK, France, Germany and Spain; Metlac and Salchi both supplied out of Italy; PPG supplied out of the UK, France and the Netherlands; Valspar supplied out of the UK, France and Switzerland; and Schekolin supplied out of Lichtenstein.

Switching

2. The metal packaging industry had specific legislative requirements in relation to coatings that had direct contact with food content. The key differentiator was whether they were for internal or external use. It could take between 12 and 18 months to qualify an external coating for food cans (assuming the supplier had the correct product knowledge), whilst the process of qualifying an internal coating could take significantly longer. It gave the example of qualifying an internal lacquer with Metlac (having switched from Valspar), which took 48 months.
3. It made no difference whether it was a new product or an existing product to the time taken to qualify a product because it had to go through the exact same testing process.
4. On occasions, switching suppliers had failed. It was possible to spend over a year testing a new product and then discover that it did not function as required. Companies had a greater incentive to incur the costs and potential risks of switching where they were buying large volumes of a homogeneous product.

BPA-NI technology

5. The number of raw materials on which companies could develop coatings was decreasing every year, and the food-contact regulations and legislation was becoming more and more severe. The industry was about to experience a major legislative change preventing the use of bisphenol-A (BPA).
6. The change to BPA non-intent (BPA-NI) technology was a 'once in a generation' change in the metal packaging industry. It had therefore launched a project regarding the use of BPA on internal coatings. It was working closely with all its suppliers on this project in an attempt to qualify 'any [BPA-NI] potential solution offered by its supplier base, so anybody who can come up with a solution can get the opportunity to get it trialled in its lab'.
7. Following two years of intensive work, the development of BPA-NI technology was roughly two-thirds of the way to completion.

Purchasing process

8. When introducing new technology to the market, the competitiveness and the willingness of companies to win customers' business often caused prices to drop. The introductory price of BPA-NI technology could therefore suffer from the absence of a player like Metlac in the market, as it was often lower on price than all its competitors.
9. Due to the extensive requirements of qualification of a product across all the different product engines and sites, it did not usually use tenders to procure products. Instead, it used its historical base of suppliers and had a number of projects each year where it switched suppliers in certain segments in order to introduce better prices. It was too difficult to change all product bases at the same time because not enough suppliers had been tested on all end uses. Ardagh therefore dealt with projects for different segments separately.
10. Due to the high switching costs, tendering did not really work in the industry.
11. Recent developments and fluctuating prices of raw materials meant contract prices could only be set for a maximum of six months—however, this did depend on the supplier. For example, Metlac was more flexible than other suppliers.

Customer sponsorship of entry and/or expansion

12. Ardagh had helped sponsor the expansion of smaller coatings suppliers such as Metlac and Salchi, although sponsorship was a lengthy process. Its ability to sponsor substantial expansion depended on the access to finance of the smaller coatings suppliers, as well as their willingness to scale up and become a strategic supplier. Several of the smaller coatings businesses did not offer a full product range at the moment and might therefore not have an interest in expanding into all segments.
13. Whilst the smaller players in the industry were capable of formulating new products, they tended to focus on gaining expertise and a strong market position in particular sub-segments of the market, rather than trying to cover all sub-segments where, in many cases, they did not have sufficient technology to compete effectively. Ardagh gave the example of Grace as a company that had been focused on external coatings for the last few years; Salchi as a company that did not have enough products for all segments and so had to go through a learning curve but had the same opportunities for BPA-NI products as all other suppliers; and Actega as a company that was generally present in the external coatings market but did not focus on BPA-NI products or internal coatings.

Parties to the merger

14. Ardagh had given Metlac an award in 2010 for the best innovation and dynamics and it rated Metlac's laboratory output. Metlac had been a market leader in the development of BPA-NI technology up until a few years ago.
15. The impact of the merger on Ardagh depended on how AkzoNobel integrated the Metlac business:
 - (a) The best outcome for Ardagh would be if AkzoNobel continued to run Metlac as a separate business. This would maintain the number of competitors in the market and allow Metlac to 'continue to deliver and do what it does best'. Furthermore,

allowing Metlac access to AkzoNobel's technology, formulas and raw materials could also bring benefits.

- (b) The worst outcome for Ardagh would be if AkzoNobel were to integrate the Metlac business. This would eliminate a competitor from the market and also remove the 'nimbleness' of Metlac. It did not expect the quality of products to be particularly affected because PPG, Valspar and AkzoNobel were all still good companies. However, in terms of price, Metlac were often the lowest cost price leader and so there could be an impact on costs.