
Anticipated acquisition by Biolin AB of Nima Technology Limited

The OFT's decision on reference under section 33(1) given on 29 August 2007.
Full text of decision published 6 September 2007.

PARTIES

1. **Biolin AB** (Biolin) is a Swedish company listed on the Stockholm Stock Exchange. Biolin owns KSV Instruments Limited (KSV) a Finnish company which manufactures and supplies instruments for measuring liquid surfaces and other surface chemistry applications.
2. **Nima Technology Limited** (Nima) is a UK company which manufactures and supplies instruments for surface chemistry research and applications. Its turnover for the year to 31 March 2007 was £120,000.

TRANSACTION

3. Biolin intends to acquire the entire issued share capital of Nima.
4. The parties submitted a Merger Notice to the Office of Fair Trading (OFT) on 18 July 2007. The OFT's (extended) statutory deadline expires on 30 August 2007.

JURISDICTION

5. As a result of this transaction, Biolin and Nima will cease to be distinct. The share of supply test in section 23 of the Enterprise Act 2002 (the Act) is met in relation to the supply of Langmuir Blodgett instruments, which are used for measuring liquid surfaces and other surface chemistry applications.

6. The OFT therefore believes that it is or may be the case that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.

RELEVANT FRAME OF REFERENCE

7. The parties overlap in the supply of Langmuir Blodgett instruments and tensiometers. In particular, the parties submit that they overlap in:

- Langmuir film balances
- Langmuir Blodgett troughs
- dip coaters
- tensiometers.

Product scope

8. Langmuir film balances, Langmuir Blodgett troughs and Dip coaters (collectively referred to as Langmuir Blodgett instruments) are scientific instruments used for different applications in the field of surface chemistry. They allow thin organic films of a few nanometres thickness (a monolayer) to be created and studied, or deposited onto a solid substrate. It is worth noting that the parties estimate total UK sales of Langmuir Blodgett instruments at £275,000. Tensiometers are used to measure surface tension of liquids. The main users of these different products are university-based researchers. Purchases of the major pieces of equipment are typically 'one-off' rather than recurrent.
9. The demand- and supply-side substitution in relation to each of the above listed Langmuir Blodgett instruments and to tensiometers is limited, given that each of the Langmuir Blodgett instrument is specific to a particular surface chemistry application and that tensiometers fulfil a different function. Therefore, the OFT considers that each overlap product constitutes a separate product frame of reference.

Geographic scope

10. The parties submit that the relevant geographic frames of reference are global. The parties relied on the existence of cross-border marketing and sales activities, the international location of instruments manufacturers

(competitors identified by the parties have their manufacturing located in Finland, Germany and Belarus), and the relatively low transport costs compared to the high value of the products themselves.

11. A third party indicates that Nima may derive benefits from supplying the instruments in its 'home' country, such as reputation within the UK research community, or ease of repair arrangements. However, there is evidence to suggest that foreign manufacturers sometimes use local distributors: While KSV operates its own dedicated sales office in the United States, it uses a local scientific equipment distributor (LOT-Oriel) in the UK.
12. Given that this transaction does not raise any competition concerns even on the narrowest geographic frame of reference, that is the supply of Langmuir Blodgett instruments and tensiometers in the UK, it has not been necessary to conclude.

HORIZONTAL ISSUES

Shares of supply

Langmuir Blodgett instruments

13. As suggested by the parties' estimated shares of supply, KSV is the global market leader in Langmuir Blodgett instruments and Nima the largest supplier of these products for UK customers.
14. Depending on each overlap product, the parties estimate their combined UK and global shares of supply at between 20 and 85 per cent (increment: between five and 25 per cent).
15. The OFT considers that pre-merger competition in the UK between the parties is very limited. Indeed, the parties submit that KSV has not sold any Langmuir Blodgett instruments in the UK during 2006. Moreover, throughout the 30 month period from January 2005 to July 2007, KSV has achieved a trivial UK turnover from Langmuir Blodgett instruments of some £6,000. Over the same period, Nima's UK turnover was around £211,000.

16. In addition, purchasers of the overlap products are sophisticated customers. None of those who have been contacted by the OFT have expressed substantive competition concerns as they will be able to access sufficient alternative supply sources post-merger.
17. Moreover, the long-lasting and the high value characteristics of the products concerned combined with their relatively low transport costs, the absence of specific standard regulation and the absence of patented technology or R&D requirements allow significant imports. In these circumstances, the OFT considers that there will remain a sufficient number of other market players post merger which will provide effective competitive constraints on the merged entity. These other market players are notably Kibron Inc. (Finland), Riegler & Kirstein GmbH (Germany) and Odo Microtestmachines (Belarus).

Tensiometers

18. According to the parties' estimates, their combined share in relation to tensiometers amount to around 20 per cent both globally and in the UK (increment: five per cent). In light of the limited increment and the existence of sufficient credible alternative supply sources able to impose sufficient competitive constraints on the merged entity, the OFT considers that the transaction does not raise any competition concerns in tensiometers.

Barriers to entry and expansion

19. The parties state that a new entrant would be required to invest less than £100,000 to achieve a five per cent market share. They submit that the manufacture of the overlap products does not require any large-scale investment. In addition, the parties submit that the technology necessary to manufacture the products in question is in the public domain and readily available, and that self-supply is a viable alternative option for universities. One third party confirmed that self-supply is common and not particularly difficult.
20. In light of the limited absolute number of instruments sold each year, the OFT considers competitors' potential to expand their market shares to be significant. Third parties have confirmed that they consider between three to five suppliers' offers before acquiring a new instrument.

THIRD PARTY VIEWS

21. None of the customers who have been contacted by the OFT have expressed substantive competition concerns in relation to the proposed merger.

ASSESSMENT

22. The parties overlap in the supply of each Langmuir Blodgett instruments and in the supply of tensiometers in the UK and each of the overlap products is considered as a separate frame of reference. In the absence of competition concern, it has not been necessary to conclude on the geographic frame of reference. Total UK sales of Langmuir Blodgett instruments are estimated at £275,000.
23. In light of the limited degree of rivalry between the parties pre merger, the absence of any concerns on the part of customers, the existence of a competitive fringe able to sustain sufficient post merger rivalry notably *via* strong cross border activity, the OFT does not believe that this merger will raise competition concerns. In addition, barriers to entry and expansion are considered to be low, and customers may opt for self-supply, should prices increase or quality decline post-merger.
24. Consequently, the OFT does not believe that it is or may be the case that the merger may be expected to result in a substantial lessening of competition within a market or markets in the United Kingdom.

DECISION

25. This merger will therefore not be referred to the Competition Commission under section 33(1) of the Act.