

**COMMISSION DECISION****of 20 December 2006****declaring a concentration compatible with the common market and the functioning of the EEA Agreement****(Case COMP/M.4215 — Glatfelter/Crompton Assets)***(notified under document number C(2006) 6764)***(Only the English text is authentic)****(Text with EEA relevance)**

(2007/403/EC)

*On 20 December 2006 the Commission adopted a Decision in a merger case under Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) <sup>(1)</sup>, and in particular Article 8(1) of that Regulation. A non-confidential version of the full Decision can be found in the authentic language of the case and in the working languages of the Commission on the website of the Directorate-General for Competition, at the following address: [http://ec.europa.eu/comm/competition/index\\_en.html](http://ec.europa.eu/comm/competition/index_en.html)*

**I. SUMMARY**

- (1) On 16 August 2006, the Commission received a notification pursuant to Article 4 of Regulation (EC) No 139/2004 of a concentration whereby PH Glatfelter Company (Glatfelter, USA) acquired sole control of the Lydney Business of JR Crompton Ltd in Administration (Lydney Business, UK) by way of purchase of assets.
- (2) Both Glatfelter and the Lydney business are active in the production of wet laid fibre material for tea and coffee filtration. The Commission's market investigation has revealed that despite high market shares on the global market for wet laid fibre material for tea and coffee filtration, the notifying party will be constrained by a number of competitors, in particular by the British company Purico that has recently significantly increased production capacity in China. Furthermore, competition from alternative materials to wet laid fibre material for tea and coffee filtration will constrain the notifying party's ability to increase prices. The decision therefore concludes that no significant impediment to effective competition will result from the merger.

**II. THE PARTIES**

- (3) Glatfelter is a New York stock market listed manufacturer in the specialty papers and composite fibres business areas. Specialty papers include wall covering papers, special printing paper, etc. Through its subsidiaries' factories Glatfelter manufactures wet laid fibre for the production of tea-bags, coffee filters and coffee pads, as well as other specialty papers.
- (4) The Lydney Business is a part of the assets of former Crompton Ltd in Administration (hereinafter Crompton,

United Kingdom). Crompton was a manufacturer of specialty papers and wet laid fibre materials, and the leading supplier to the tea-bag and coffee filter industry. Crompton comprised three production facilities with a total of six inclined wire paper machines in the UK: the Lydney mill with three inclined wire machines and a polypropylene fibre operation, the Simpson Clough Mill with two inclined wire machines and the Devon Valley Mill with one inclined wire machine and one flat wire machine.

**III. THE OPERATION**

- (5) After Crompton was placed in court ordered administration (a United Kingdom insolvency procedure) on 7 February 2006, the appointed administrators (the Administrators) decided, to sell off Crompton's assets. Hence the Administrators held a public sales process. After evaluation of the several initial indicative bids, the Administrators decided, according to the notifying party, to invite Glatfelter and other companies to submit a final offer.
- (6) Glatfelter acquired on 9 March 2006, through its subsidiary Glatfelter UK, the majority of assets of Crompton's production facility at Lydney, Gloucestershire, UK including all tangible and intangible assets necessary to carry on the Lydney Business as a going concern. However, certain contracts and the back office functions formerly provided by Crompton's head office were excluded. The assets subject to the transaction are collectively referred to as the 'Lydney Business'. The transaction concerning the acquisition of the Lydney Business by Glatfelter is referred to as 'the Lydney Transaction'.

<sup>(1)</sup> OJ L 24, 29.1.2004, p. 1.

- (7) After referral pursuant to Article 22 of the Merger Regulation to the Commission, the Administrators terminated the conditional contract with Glatfelter that related to the Simpson Clough Business. Subsequently the Administrators sold the Simpson Clough Business to Purico in June 2006. Besides the Simpson Clough Mill and the Devon Valley Mill, the Simpson Clough Business also includes Crompton's head office, business name rights, certain contracts and Crompton's US sales subsidiary.

#### IV. THE RELEVANT PRODUCT MARKETS

- (8) The present case concerns wet laid fibre material. Wet laid fibre material are thin sheets of porous tissue made from a mixture of natural and/or synthetic fibres and are produced on inclined wire machines. Wet laid fibre material is paper-like or fabric-like webs of non-woven fibre, manufactured in a modified papermaking process.
- (9) With regard to wet laid fibre material, the activities of Glatfelter and the Lydney Business overlap in the segment for the manufacture and sale of wet laid fibre material for tea and coffee filtration (tea-bags, coffee filters, coffee pods/pads). There also is an overlap with regard to wet laid fibre for battery applications.
- (10) The notifying party acknowledged that due to different applications (e.g. tea and coffee filtration, battery pastings, sausage casings, overlay) demand-side substitutability between different types of wet laid fibre material is limited. However, based on a high degree of supply-side substitutability, the notifying party has identified the market for wet laid fibre material as the relevant product market.

##### **Wet laid fibre material for tea and coffee filtration**

- (11) On the market of wet laid fibre material for tea and coffee filtration, the Commission's investigation has shown that, due to product specifications, customers do not source wet laid fibre material designed for other applications to package tea and/or coffee. Demand-side substitutability therefore is limited, since the grades of wet laid fibre materials need to match very strict requirements in order to ensure compatibility with the converting machines and specific product requirements of the end application (e.g. porosity, thickness, flexibility, compliance with regulatory standards).
- (12) Concerning supply-side substitutability, the notifying party submits that switching production from wet laid fibre material for one application to wet laid fibre material for another application does not usually

require a significant investment. This was not confirmed in the Commission's market investigation. Some inclined wire paper machines are to a certain extent flexible in their use. However, most inclined wire paper machines are designed with a particular use in mind. Therefore those machines are optimized for the production of a particular type of wet laid fibre material. As a consequence hereof generally only those inclined wire paper machines are capable of producing wet laid fibre materials for tea and coffee production, which have been designed for this purpose.

- (13) Even on inclined wire machines that are capable of producing wet laid fibre materials for tea and coffee filtration but are currently not producing it, significant investments need to be made in order to be able to produce wet laid fibre materials for tea and coffee filtration. Modifying an inclined wire machine would also take a considerable time.
- (14) Greenfield entry would need an even bigger investment and considerably longer lead time. Apart from the considerable investment for a new inclined wire machine, it would require the setup of a sales, technical support and distribution network. The market investigation also shows that wet laid fibre material for tea and coffee filtration needs to be certified in most countries before it is marketed and customers need to qualify the material on their machines.
- (15) The decision therefore concludes that the relevant product market comprises wet laid fibre material for tea and coffee filtration.

##### **Wet laid fibre material for battery pasting paper**

- (16) On the market segment of wet laid fibre material for battery pastings, the Commission's investigation has shown that there is a certain degree of supply-side substitutability. As wet laid fibre material for battery pasting paper does not require the food contact standard, the number of inclined wire paper machines capable of producing wet laid fibre material for battery pastings is not limited to the machines that are used for, e.g. tea and coffee filtration or sausage casings. Most of the machines capable of producing tea and coffee filtration types of wet laid fibre material are, however, able to produce battery pasting paper. The market investigation shows that wet laid fibre material for battery pastings is furthermore produced on machines which, amongst other uses, produce wet laid fibre material for vacuum cleaner bags, adhesive tapes and sausage casings.

- (17) The decision left the exact product market definition open as even on the basis of the narrowest delineation of a relevant product market, namely, wet laid fibre materials for battery pasting paper the transaction will not lead to a significant impediment of competition.

#### V. THE RELEVANT GEOGRAPHIC MARKETS

- (18) The notifying parties submitted that the relevant geographic markets are global.

#### Wet laid fibre material for tea and coffee filtration

- (19) The Commission's market investigation confirmed that the geographic market for wet laid fibre materials for tea and coffee filtration is global. This is due to world-wide trading patterns and the absence of prohibitive transport costs. Moreover, new capacity (the ZPM machine) has emerged in China, which could constrain the incumbents, who are mostly producing in the EEA. Suppliers of wet laid fibre materials for tea and coffee filtration and most of the customers who have world-wide activities also corroborate these findings.
- (20) The decision therefore concludes that the relevant geographic market for wet laid fibre material for tea and coffee filtration is global.

#### Wet laid fibre material for battery pasting paper

- (21) Even though customers indicated to procure and process wetlaid fibre material for battery pasting paper within the EEA, the market investigation confirmed that regulatory requirements are not perceived as a barrier to trading on a global level. Producers of battery pasting typically ship their product around the world. Furthermore, low transportation costs point in the direction of a world-wide market. The lack of technical assistance, a fear expressed by some customers to motivate their reluctance to imports, could be overcome by a local sales and technical support network.
- (22) The decision therefore concludes that the relevant geographic market for wet laid fibre material for battery pasting paper is global.

#### VI. ASSESSMENT

##### Wet laid fibre material for tea and coffee filtration

- (23) On the global market for wet laid fibre materials for tea and coffee filtration applications, the merged entity's share in sales amounted to approximately 60 to 70 % (Glatfelter 30 to 40 %, Lydney Business 20 to 30 %) in 2005. Before Crompton went into administration, there were three principal competitors active in the market (Glatfelter, Crompton and Ahlstrom). After implementation of the notified operation, there will also be three credible competitors (Glatfelter, Purico and Ahlstrom). Purico, in addition to acquiring Crompton's Simpson Clough and Devon Valley mills (along with the Crompton trademark) is also putting on-stream its new ZPM capacity in China, thus entering the market for wet laid fibre material for tea and coffee filtration more or less concomitantly with the notified transaction. Ahlstrom currently holds a global market share of approximately [10 to 30 %] and Purico holds currently a global market share of approximately [10 to 30 %].
- (24) The high market share and significant increment in capacity of the post acquisition entity are indications of market power. However, the party's ability to increase prices will be constrained by a number of competitors, in particular by Purico. By acquiring the Simpson Clough and Devon Valley plants, Purico has gained the position and advantages of an established supplier with respect to customers, including those active on a global level. The assets that Purico acquired from Crompton, together with its state of the art ZPM in China will give Purico a particularly good position to compete effectively with its ZPM production of wet laid fibre material for tea and coffee filtration. As confirmed in the market investigation, this machine constitutes a significant competitive constraint on European manufacturers, as it is at present capable of producing around 1-10 kt/per annum of products for the same industries as Simpson Clough, which is wet laid fibre material predominantly for tea and coffee filtration.
- (25) Furthermore, in case the notifying party increased prices or decreased output for wet laid fibre material for tea and coffee filtration, Ahlstrom could increase output. If Glatfelter increased the price significantly and profitability for wet laid fibre materials for tea and coffee filtration thus possibly increased for Ahlstrom, Ahlstrom could divert capacity or could invest in adding capacity by converting an existing machine or purchasing and converting a second hand machine. Ahlstrom has the know-how and technology in order to be able to convert and operate such a machine. Ahlstrom also has the distribution and sales network already in place.

- (26) Finally, other suppliers of wet laid fibre material with the capability of producing wet laid fibre material for tea and coffee filtration are also constraining Glatfelter. They currently do not all have the ability to produce double layer wet laid fibre materials and also seem to target smaller customers with lower quality standards than most of the bigger customers. However, when those suppliers have developed their wet laid fibre materials for coffee and tea filtration further they may also target bigger customers. Moreover, even without targeting the bigger customers they may be able to increase their sales volume, thereby taking away sales of other producers in tea and coffee filtration, leaving Glatfelter unable to increase its prices or restrict output.
- (27) The Commission has also found that some competitive pressure is exerted by alternative materials to wet laid fibre materials for tea and coffee filtration (e.g. spun bond and nylon). While these alternative materials are presently not expected to substitute wet laid fibre material to a significant extent, a portion of customer demand is likely to be redirected towards alternative materials in the future, freeing up additional capacity for wet laid fibre material for tea and coffee filtration and thus to some extent constraining the notifying party's ability to exercise market power and raise prices.
- (28) The decision therefore concludes that unilateral effects are unlikely because the party will be constrained in its ability to increase prices by a number of strong competitors and to a certain extent by alternative materials. With regard to co-ordinated effects, the decision also concludes that such effects are unlikely having carefully examined the market structure, the reaction of customers and the reaction of current and potential competitors.

#### **Wet laid fibre material for battery pasting paper**

- (29) The Commission's investigation indicates that the market segment for battery pasting paper is characterised by low demand with high potential supply from other wet laid fibre producers, a concentrated demand side and that the projected market share of the combined entity would be low. On that basis the Commission considers that this market is unlikely to suffer an anti-competitive impact from the proposed transaction.
- (30) On 6 December 2006, the 146th Advisory Committee on Concentrations gave a favourable opinion on the draft decision and gave approval to the adoption of the decision.

#### **VII. CONCLUSION**

- (31) The decision concludes that the proposed concentration will not significantly impede effective competition in the common market or in a substantial part of it, in particular as a result of the creation or strengthening of a dominant position. It therefore declares the concentration compatible with the common market and the EEA Agreement, in accordance with Articles 2(2) and Article 8(1) of the Merger Regulation, and Article 57 of the EEA Agreement. It is therefore concluded that the Commission, by oral procedure has: taken note of the opinion of the Advisory Committee of 6 December 2006; taken note of the final report of the Hearing Officer in this case; and adopted the attached decision in English, which is the authentic language.