

Anticipated acquisition by Kingspan Holdings (Panels) Limited of Building Solutions (National) Limited

Summary of the CMA's decision on relevant merger situation and substantial lessening of competition

ME/6861/19

SUMMARY

1. On 7 October 2019, Kingspan Holdings (Panels) Limited agreed to acquire Building Solutions (National) Limited (**Building Solutions**) (the **Merger**). Kingspan Holdings (Panels) Limited is a wholly-owned subsidiary of Kingspan Group plc. Kingspan Group plc and its subsidiaries are together referred to as **Kingspan**. Kingspan and Building Solutions are together referred to as the **Parties** (and for statements referring to the future, as the **Merged Entity**).
2. The Competition and Markets Authority (**CMA**) believes that it is or may be the case that each of Kingspan Holdings (Panels) Limited and Building Solutions is an enterprise; that these enterprises will cease to be distinct as a result of the Merger; and that the share of supply test is met. Accordingly, arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.
3. The Parties overlap in the supply of standard foam sandwich panels (**FSPs**) and single skin construction sheets in the United Kingdom (**UK**). FSPs are a type of insulated cladding that can be applied to the walls and roofs of commercial and industrial buildings. Single skin construction sheets refer to single pieces of profiled steel sheets that are used as non-insulated cladding for walls and roofs and for decking. The CMA considers the geographic frame of reference to be UK-wide for both standard FSPs and single skin construction sheets.

4. The CMA has, therefore, assessed whether the Merger gives rise to horizontal unilateral effects in the supply of standard FSPs in the UK and separately, in the supply of single skin construction sheets in the UK.

Standard FSPs

5. For the supply of standard FSPs in the UK, the Parties have a very high combined share of supply, of [70-80%] in the UK, with a material increment in share of supply, of [5-10%], being brought about by the Merger. Kingspan is by far the largest supplier in the market at present, with Building Solutions being one of only two other sizeable (but much smaller) suppliers in this market (the other being Tata Steel).
6. The CMA found that the Parties' product offerings are similar and that there is a material degree of competitive interaction between the Parties at present. The CMA therefore considers that the Merger would eliminate a significant competitive force in Building Solutions, removing one of the few remaining constraints on Kingspan in an already highly concentrated market.
7. As noted above, the CMA found that the Merged Entity would face only one other sizeable supplier (Tata Steel) post-Merger. While Tata Steel would be an important competitor to the Merged Entity, its share of supply, at [20-30]%, highlights its significantly more limited position than the Merged Entity. The CMA found that other suppliers of standard FSPs (which are all importers of products from outside the UK and face additional barriers in supplying UK-based customers), such as ArcelorMittal, impose only a very limited constraint on the Parties.
8. While the Parties submitted that twin skin construction sheets are essentially identical to standard FSPs and can be used for the same end-use applications, the CMA found that the constraint exercised by these products is also limited, in particular because they are a realistic alternative for only a limited proportion of projects. The CMA considers, in any case, that the Merger would give rise to significant competition concerns in a combined market for standard FSPs and twin skin construction sheets, given the Merged Entity would still remain by far the largest supplier, and the Merger would still eliminate one of the few competing suppliers with a material presence within a concentrated market.
9. The CMA believes that entry and/or expansion would not be sufficiently timely, likely or sufficient to offset the effect of the Merger on competition. The Parties were unable to identify any examples of entrants into the market in the last five years.

10. On this basis, the CMA believes that the Merger gives rise to a realistic prospect of a substantial lessening of competition (**SLC**) as a result of horizontal unilateral effects in the supply of standard FSPs in the UK.

Single skin construction sheets

11. The CMA also assessed the impact of the Merger in the supply of single skin construction sheets in the UK. The CMA found that the Parties would have a moderate combined share of supply, of [20-30]% with an increment of [5-10]% brought about by the Merger. The CMA found that there would remain at least four strong alternative options to the Parties (namely Thomas Panels, Coverworld, Firth Steels and Tata Steel) post-Merger. In light of the Parties' moderate market position and the competitive constraints that they will continue to face post-Merger, the CMA does not believe the Merger gives rise to a realistic prospect of an SLC in the supply of single skin construction sheets in the UK.

Decision

12. The CMA believes that it is or may be the case that: (i) arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation; and (ii) the creation of that situation may be expected to result in an SLC within a market or markets in the United Kingdom.
13. The CMA is therefore considering whether to accept undertakings under section 73 of the Enterprise Act 2002 (**the Act**). The Parties have until 16 April 2020 to offer an undertaking to the CMA that might be accepted by the CMA. If no such undertaking is offered, then the CMA will refer the Merger pursuant to sections 33(1) and 34ZA(2) of the Act.