18 May 2015: Acquisition of Totalgaz by UGI (Antargaz)

Published on June 01, 2015

The Autorité de la concurrence clears, subject to conditions, the acquisition of Totalgaz by UGI France, the parent company of Antargaz.

Among the commitments discussed and negotiated with the Autorité, UGI shall, in particular, be obliged to divest its stakes in the capital of several LPG import and storage depots.

> Version française 

The European Commission referred back to the French Autorité de la concurrence review of the acquisition of the company Totalgaz SAS (hereinafter "Totalgaz"), a subsidiary of the Total group, by UGI France, the parent company of Antargaz. Antargaz and Totalgaz are both present in France on the markets for bottled LPG, fuel LPG and LPG sold in mini-bulk (for filling private tanks) as well as in intermediate and large-bulk (for filling professional tanks).

On completion of its analysis, the Autorité identified concerns on the markets for LPG sold in bulk

After a detailed assessment, the Autorité found that the merger would significantly strengthen Antargaz's presence at a national level on the intermediate and large-bulk LPG market. On the mini-bulk LPG markets, the new entity would hold a particularly high market share in eleven local areas.

The Autorité likewise observed that competing LPG distributors would not be in

a position to exert sufficient competitive pressure to constrain the new entity's behaviour, in particular in relation to price.

The new entity will enjoy an unrivalled logistical infrastructure

On the large and medium-bulk LPG market, the identified competition concerns arise mainly from the fact that the new entity would own the main supply infrastructures: the sea import depots and the refineries. Indeed, following the merger, the new entity would control the two main sea import depots located in the north of France (Donges and Norgal) as well as the only import depot located in the south-west (Cobogal). Furthermore, it would enjoy a de facto quasi exclusivity for the purchase of propane production from the Total group's refineries as a result of the conclusion of a supply agreement.

On the market for mini-bulk LPG, the new entity's strong positions at a local level would arise from a significant increase in its storage capacities. These would allow it to deliver LPG under conditions that its competitors would be unable to reproduce, given that the latter do not have nearby logistical infrastructures.

In order to prevent distortion of competition, UGI will transfer several depots and amend its contract with Total

UGI has committed to transferring part of the capital of the Norgal and Cobogal sea import depots

- For the Norgal depot, UGI suggested a "fix it first" solution. This solution, envisaged by the Autorité in its guidelines on merger control, consists of the notifying party identifying, prior to the adoption of the decision, an acquirer to take on the asset that it has committed to divest. This is the first time the Autorité has applied the "fix it first" principle. As part of its commitments, UGI has proposed to transfer its stake in Norgal's capital to the company Butagaz, which will thus become the third shareholder in the depot, alongside the new entity and Vitogaz, a minority shareholder. This solution shall help maintain the competition situation that prevailed prior to the merger, as there will still be three competing LPG distributors within the Norgal site.

- For the Cobogal depot, UGI has committed to transfer 10% of its capital to a competing LPG distributor, such that it will no longer exercise exclusive control over this infrastructure.

The new entity has likewise made the commitment to reduce its supply contract with the Total group refineries to one year.

It will thus free up, after a transition period, the amounts of LPG produced by Total.
By loosening the constraints on competitors accessing the wholesale LPG market, these commitments will likewise allow them to stir competition on all LPG markets.

On the mini-bulk market, the new entity has committed to divesting six intermediate storage depots and allowing a third party to buy into the capital of two other depots.

These measures will negate or significantly reduce the increase in market shares gained through the transaction and will allow a balanced competitive situation to be maintained in the areas in question.

UGI may not re-purchase the transferred stakes in the sea import depots and intermediary depots covered by these commitments for ten years.

An independent trustee will be responsible for ensuring that these commitments are fully complied with.

> The full text of decision 15-DCC-53 of 15 May 2015 will soon be published on the Autorité's website.

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> See decision of the Conseil d'Etat (6th July 2016)