The Autorité de la concurrence clears - subject to conditions - the acquisition of the group Marie Brizard by COFEPP

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On 3 January 2019, the Compagnie Financière Européenne de Prises de Participation (“Cofepp”) notified the Autorité de la concurrence its intention to acquire sole control of the group Marie Brizard Wine & Spirits (“MBWS”) from which it was already the main minority shareholder.

Parties to the transaction

Cofepp is at the head of a group of companies, among them La Martiniquaise and Bardinet, which are notably active in the market of spirit production. It markets numerous brands such as Poliakov (vodka), Label 5 and Sir Edward's (whiskey), Cruz (port), Gibson's (gin), Tiscaz and Jose Cuervo (tequila) and Saint James and Old Nick (rum).

MBWS, also active in the spirits market, operates Marie Brizard (liquor), Maison Gautier (brandy), San José (tequila), William Peel (whiskey) and Sobieski (vodka) brands among others.

Markets involved in the transaction.

The parties are active mainly in the markets of spirit production (whiskey, vodka, gin, port, tequila, cocktails, etc.), of wines and non-alcoholic drinks for on-trade distribution networks (coffees, hotels, restaurants, wholesalers, “cash and carry”, wine cellar …) and mass retail.

If Cofepp markets its products under manufacturer-brands (hereafter “MDF') and

supplies supermarkets with retailers' brands (hereafter “MDD”), MBWS almost exclusively markets its spirits under MDF label.

After ruling out any competition issue, in almost every beverage market concerned by the transaction in which the two groups are simultaneously active, the Autorité de la concurrence established that the transaction leads to quasi-monopolistic positions in the markets of tequila and port production, and to strong positions in the production of vodka and whiskey, intended to be marketed in supermarkets in France.

Regarding the vodka and whiskey markets, the Autorité considered that the transaction was not likely to harm competition considering the existence of alternatives for consumers.

The new entity will own the brands Poliakov and Sobieski in the vodka market and Label 5, Sir Edward's and William Peel brands in the whiskey market.
The Autorité considered that it was not excluded that the new entity would intend to increase the price of a brand in each market (Sobieski and / or William Peel), since part of the consumers could move towards other brands.

But in these two markets, the Autorité de la concurrence found that even though this strategy could be beneficial to the new identity, it would remain confronted in each of these markets to the competition on the one hand of mass retail - via its retailer's brands -, and on the other hand of several global actors, which provide alternatives to consumers, such as Diageo (Smirnoff), William Grant & Sons (Zubrowka Biala, Grant's), Bacardi Martini (Eristoff, William Lawson's) and Pernod Ricard (Long John).

All of these actors furthermore implement effective commercial strategies, particularly with product discounts, which are also likely to deter the new entity from raising its prices.

Finally, the Autorité de la concurrence considered that the mass retail sector has a significant counter-power, likely to counterbalance the important positions held by the new entity in order to maintain a sufficient competitive pressure on

retail price to consumers.

Given the quasi-monopoly situation of the new identity in the port and tequila markets, it will have to divest of the port brand Pitters and the tequila brand Tiscaz.

In the port and tequila markets, Cofepp would have held, following the transaction, a quasi-monopolistic position. In order to remedy any competition issue that might arise from the transaction, Cofepp submitted structural commitments in each of these markets.

The operation has therefore been cleared subject to the sale of the Pitters (now owned by MBWS) and Tiscaz (now owned by Cofepp) brands to one or several independent operators, authorized by the Autorité de la concurrence. These divestments are intended to maintain competition in the port and tequila markets. They will ensure the mass retail sector and consumers alike are offered a large range of products and prices.

> The full text of the decision 19-DCC-36 of 28 February 2019.

> Press contacts: Bertille Gauthier +33 1 55 04 00 39 / Email
Chloé Duretête + 33 1 55 04 01 20 /Email