The Autorité de la concurrence clears, subject to several conditions, the merger of two agricultural cooperatives, Coopérative Dauphinoise and Terre d'Alliances

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Background

Agricultural cooperatives Coopérative Dauphinoise and Terre d'Alliances notified the *Autorité de la concurrence* of their planned merger.

The *Autorité* identified a certain number of risks that may harm competition in the markets in cereal, protein and oilseed crop collection and retail distribution of gardening, DIY, landscaping and pet products.

To address these competition concerns, the parties have submitted commitments:

- They undertake to divest themselves of five facilities for cereal, protein and oilseed crop collection;
- In the garden centre retail distribution sector, in view of the particular circumstances of the case, the parties undertake, in accordance with the principle of the sunrise clause, to submit for prior approval by the *Autorité de la concurrence* any strategic decision (for example, certain changes of brand) relating to one of the stores where the business of the parties overlap, thus influencing the structure of competition in the catchment area of the store concerned.

Parties to the transaction

Coopérative Dauphinoise and Terre d'Alliances are both cooperative groups active in the collection and marketing of cereals, protein and oilseed crops, seeds, agricultural supplies, animal nutrition and retail distribution of gardening, DIY, landscaping and pet products.
Together the two cooperatives will bring together around 9,700 cooperative members mainly located in the former Rhône-Alpes region.

Identified competition concerns

Although the transaction does not raise any competition concerns in the seed, animal nutrition and agricultural supply sectors, the *Autorité de la concurrence* however considered that there were risks of significant anticompetitive effects in the cereal, protein and oilseed crop collection and retail distribution of gardening, DIY, landscaping and pet products.

In the cereals, protein crops and oilseeds collection sector, the new entity's market shares would exceed 50% in certain collection areas in the Savoie, Isère and Rhône *départements*. The Autorité de la concurrence which had precise data from FranceAgriMer, was able to, for the first time, conduct its local analysis on market share levels calculated in terms of actual volumes collected[1].
It thus found that consumers and operators in nine catchment areas[2] would be deprived of a satisfactory alternative competition following the transaction as competitors would not be likely to exert sufficient competitive pressure on the new entity.

In the garden centre distribution sector, the vast majority of outlets operated by the parties are Gamm Vert and Gamm Vert Village franchises, brands belonging to the InVivo group, which oversees their business policy. At the same time, Coopérative Dauphinoise also operates six sales outlets under its own Agri Sud Est brand.

In such a context, it could not be ruled out that, at the end of the transaction, the new entity would choose to transfer all of the Gamm Vert and Gamm Vert Village stores to the Agri Sud Est brand. Such a transfer would likely substantially alter the market structure in the local areas concerned.

Commitments taken

In response to these competition concerns, the parties committed to divesting themselves of five collection facilities. The parties have also undertaken to submit any strategic decision relating to one of the stores where the business of the parties overlap to the *Autorité de la concurrence* for prior approval.

- **Divestiture of four platforms and a grain elevator**

In the upstream cereal, protein and oilseed crop collection market, Coopérative Dauphinoise and Terre d'Alliances have made a commitment to divest themselves of four platforms and a grain elevator situated in each area where the transaction would have anticompetitive effects. As a result of these divestitures, farmers in these areas will have an alternative for storing and selling their production.

Sites concerned	Current holding	Type of facility
Chamoux-sur-Gelon (73)	Coopérative Dauphinoise	Plateform

Sites concerned	Current holding	Type of facility
Jons Saint-Georges (69)	Coopérative Dauphinoise	Plateform
Saint-Romain-en Gal (69)	Coopérative Dauphinoise	Grain elevator
Veyrins (38)	Terre d'Alliances	Plateform
Yenne (73)	Terre d'Alliances	Plateform

- ***The sunrise clause in the garden centre distribution sector***

In the downstream market for the retail distribution of gardening, DIY, landscaping and pet supplies, the parties have undertaken to submit to the *Autorité de la concurrence* for prior approval any strategic decision (e.g. certain changes of brand name) relating to one of the stores located in the catchment areas where the transaction results in the business of the parties overlapping, since such a decision could influence the competitive structure in the catchment area of those stores.

Such a commitment enables the *Autorité* to reconcile its task of protecting public economic policy with the interests of the parties. Prior to the transaction, the stores concerned by the overlaps in the market for retail distribution of gardening, DIY, landscaping and pet supplies did not have any commercial independence. In this context, a competition problem in these areas could arise only if the risk, largely putative in light of the information provided by the parties, of a change in the name of the stores currently operating under the Gamm Vert and Gamm Vert Village brands, to the benefit of the Agri Sud Est network, were to become reality.

The commitment entered into by the parties therefore makes it possible for the *Autorité de la concurrence* to be able to monitor any future strategic decision which might affect the competitive structure in the catchment area of the store concerned.

In this way, the *Autorité* ensures that consumers will benefit where appropriate from a choice of competing retailers and therefore the maintenance of diversity in terms of prices and services when buying gardening and pet products.

This unprecedented undertaking, which is justified by the particular circumstances of the case, therefore constitutes a proportionate remedy to eliminate the potential future harm to competition resulting from the transaction on the market for the retail distribution of gardening, DIY, landscaping and pet supplies.

Divestiture does not mean closure of the collection point but a change of operator

The divestitures concerned by the commitments are justified by the loss of local competitive pressure on the new entity after the transaction.

In the markets for the collection of cereals, protein crops and oilseeds, the purpose of the divestiture commitments is to enable the collection points and their activities to be taken over by an operator competing with the new entity in order to maintain competition in the collection area concerned and thus to ensure a diversified supply to farmers.

[1] Up to now, due to the parties not being able to obtain data relating to the actual volumes collected, the market shares have been exclusively assessed at local level, taking into account the number of collection points held by the parties and those of their competitors. This new method allows, when the corresponding data is available, to establish more precisely the positions of the parties.

[2] The geographic areas concerned are Solaize (69), Chaponnay (69), Jons Saint-Georges (69), Sathonay (69), Veyins-Thuellin (38), Voglans (73), Francin (73) and Yenne (73).

DECISION 20-DCC-82 OF 30 JUNE 2020

Full text of the decision will soon be available on the Autorité's website

Access the merger control decisions

Contact(s)

Bertille Gauthier

Communications Officer
+33155040039
Contact us by e-mail