24 August 2018: Retailing of gardening products

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The Autorité de la concurrence clears the acquisition of Jardiland group by InVivo group (Gamm Vert, Delbard) subject to divestiture of 11 stores

Parties to the transaction

On 29 June 2018, InVivo Retail group, a subsidiary of InVivo cooperative union, which operates among others a chain of retail outlets under the Gamm Vert and Delbard banners, notified the Autorité de la concurrence of its intention to acquire Jardiland group.

The parties are retail distributors of gardening, DIY, pet and landscaping products.

InVivo has made commitments to address competition issues identified in several catchment areas

While the transaction poses no problem with regard to competition in the upstream market for procurement from suppliers given the new entity's limited market share at the national level, the Autorité does consider that it would create a serious risk tocompetition in several local catchment areas.

The *Autorité* considered that, following the transaction, InVivo Retail would have held very significant market shares, exceeding 60%, in several catchment areas and there would be no credible and sufficient alternative to counterbalance its market power. In each of these areas, acquiring control of the company-owned Jardiland or franchise L'Esprit Jardiland stores was likely to result in local price increases or a less diverse range and lower quality of products and services, as the transaction would have eliminated a product offering competing with the

stores under the Gamm Vert or Delbard banners. In each of the affected areas, the Autorité noted that consumers would be deprived of an alternative, with competitors remaining in those areas likely to be incapable of exerting adequate competitive pressure on the new entity.

To assure dynamic competition in the affected areas, InVivo will divest itself of 11 stores

The Autorité has nonetheless cleared the transaction, subject to the divestiture of six outlets and the termination of five franchise contracts, which must be taken on by one or more competing chains[1].

To allay these competition concerns, InVivo group committed to sell six Jardiland or Gamm Vert retail outlets to a competitor, and to terminate five Jardiland or Gamm Vert franchise agreements by facilitating the negotiation of a new franchise agreement by a competing chain. These commitments are intended to ensure that adequate competition is maintained in the affected areas.

The potential buyers will have to be approved by the Autorité, which will ensure that they are likely to provide a credible alternative offering for gardening, DIY, pet and landscaping products in each of the affected areas.

The outlets affected by the commitments are as follows:

Catchment areas affected by the commitments	Purpose of the commitments	Nature of the commitment	Addresses of the outlets
Chartres	Delbard	Termination of franchise agreement	La Sablière 28630 Nogent-le-Phaye
Clamecy	L'Esprit Jardiland	Termination of franchise agreement	Avenue Saint-Exupéry-Allée Mermoz 58500 Clamecy
Cosne-sur-Loire	L'Esprit Jardiland	Termination of franchise agreement	116, avenue du 85ème de ligne 58200 Cosne-sur-Loire
Limoges Nord & Limoges Sud	Jardiland	Divestiture	25, allée du Moulin Pinard 87 100 Limoges
Migné-Auxances Poitiers	Jardiland	Divestiture	Rue de Poitiers 86 170 Migné-Auxances
Montélimar	Jardiland	Divestiture	Rue Louis Charpenne 26200 Montélimar
Pont-de-Beauvoisin	L'Esprit Jardiland	Termination of franchise agreement	Zone industrielle de la Baronnie Pont-de-Beauvoisin
Roanne-Mably	Gamm Vert[2]	Termination of franchise agreement	ZAC Les Plaines 42120 Perreux
Saint-Dizier Bettancourt-la-Ferrée	L'Esprit Jardiland	Termination of franchise agreement	Rue de la Vacquerie 52100 Bettancourt-la-Ferrée
Sevrey	Jardiland	Divestiture	ZAC Actisud – Allée des érables 71100 Sevrey
Vendôme	Jardiland	Divestiture	1 rue de Montrieux 41100 Naveil

[1]As one of the potential divestitures is subject to the prior agreement of the board of the cooperative that operates the affected store, termination of a sixth franchise agreement for another store in the area displaying the same characteristics as the first store could be substituted.

[2]In Vivo committed to terminate the Gamm Vert franchise agreement for the outlet in Perreux and to sell the outlet to a competitor. However, any such sale is subject to the approval of the board of Euréa. If the board were to reject the sale, the notifying party committed to terminate the franchise agreement for another store in the area.

The divestitures mean that stores will change retailer rather than close

The required divestitures are justified by the disappearance of local competitive pressure on the new entity after the transaction.
Their purpose is to enable stores and their businesses to be taken over by a chain other than Jardiland, Gamm Vert or Delbard in order to maintain dynamic competition in the affected catchment area and ensure that consumers have continued access to a diversified offering of gardening, DIY, landscaping and pet products.

> See the full text of the decision 18-DCC-148

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