
Completed acquisition by Brenntag UK Holdings Limited of
Albion Group Limited

The OFT's decision on reference under section 33(1) given on 28
November 2006. Full text of decision published 7 December 2006.

PARTIES

1. **Brenntag UK Holdings Limited** (Brenntag) is a distributor of commodity and speciality chemicals in the UK. It does not possess any manufacturing, distillation sites in the UK. Brenntag is a wholly owned subsidiary of Brenntag Holding GmbH & Co KG which, in turn, is part of the Brenntag Group. The Brenntag Group is an international distributor of 25,000 different bulk, commodity and speciality chemicals world-wide. The Brenntag Group also offers services related to storage, bottling, mixing and transport of chemical products as well as single-sourcing and supply management.
2. **Albion Group Limited** (Albion) is a distributor of 1,500 types of commodity and speciality chemical in the UK and Eire. It operates 15 distribution depots, two manufacturing sites and one distillation site across the UK. Albion's UK turnover of the business being acquired was £159 million in 2005.

TRANSACTION

3. Through this transaction Brenntag has acquired the entire issued share capital and therefore legal control of Albion. The parties completed the transaction on 23 June 2006. The statutory deadline is 28 November 2006.

JURISDICTION

4. As a result of this transaction Brenntag and Albion have ceased to be distinct. The UK turnover of Albion exceeds £70 million, so the turnover test in section 23(1)(b) of the Enterprise Act 2002 (the Act) is satisfied. The OFT therefore believes that it is or maybe the case that a relevant merger situation has been created.

RELEVANT MARKET

5. The parties overlap in the distribution of speciality and commodity chemicals to industrial customers such as downstream chemical manufacturers, food processors, pharmaceutical and water processors. Distribution involves the provision of a number of services including providing technical support and advice to customers. Neither Brenntag nor Albion are active in the distribution of bulk chemicals in the UK. Therefore the distribution of bulk chemicals has not been analysed further.

Product scope

Commodity/Speciality

6. The parties submitted that the relevant frames of reference are: a) the distribution of commodity chemicals; and b) the distribution of speciality chemicals since commodity and speciality chemicals have different uses and are distributed in different ways. The distribution of commodity chemicals (as a whole) involves the distribution of basic and processed industrial chemicals. Distributors often buy commodity chemicals in large quantities from manufacturers or traders and distribute them in smaller quantities mainly to industrial customers which require a large number of different chemicals. Distributors of commodity chemicals often also provide services such as bottling and mixing chemicals for the customer and interim storage. The parties submitted that the distribution of speciality chemicals (as a whole) tends to be limited to the distribution of small quantities of higher priced branded products distributed to selected customers. Speciality chemicals are formulated for specific purposes such as for use in paint additives; food additives; surfactants for the detergent industry and products for water treatment. Customers of

speciality chemicals include producers of lacquers/paints / printing inks/ manufacturers of rubber products, as well as general chemical manufacturers, and the food-processing / cosmetics / pharmaceutical industries. Speciality chemicals are generally distributed under the brand name of the relevant manufacturer and most require customers to be advised by the supplier.

7. The parties did not consider a narrower frame of reference to be appropriate in view of the ease of supply-side switching. From the supply-side, the parties submitted that, in relation to commodity chemicals, distributors could and would easily switch to supplying different chemicals as manufacturers supply commodity chemicals in almost identical quantities in the same physical form and packaging types enabling distributors to switch easily to supplying a particular chemical. Third parties indicated that the ease and ability to distribute different commodity chemicals varies dependent on the chemical in question for example whether the chemical is liquid or in solid form and the level of regulatory requirements.
8. In relation to speciality chemicals, the parties submitted that on the whole, supply side substitution is simple. However the parties did note that in the distribution of a certain number of speciality chemicals, supply-side switching may be more complex. In particular, in relation to the distribution of hazardous waste, special permits must be obtained and specialised containers need to be used.
9. However, on the whole, most third parties supported the view that the relevant frame of reference is the distribution of a) speciality and b) commodity chemicals with no further segmentation necessary. Decisions of the European Commission¹ also follow this product segmentation.
10. Customer switching between distributors of the same chemical is discussed under the competitive assessment.

¹ Comp/M.3344 Bain Capital/Interfer/Brenntag 21 January 2004; Comp/M.1073 Metallgesellschaft/Klockner Chemiehandel 29 January 1998; Comp/M.2202 Stinnes/HCI 4 December 2000; Comp/ M.2992 Brenntag/Biesterfeld/JV 20 December 2002.

11. It was not necessary to conclude on the product scope given that on any frame of reference, no competition concerns occur. Nevertheless taking a cautious approach, the OFT has considered a) the distribution of commodity chemicals; b) the distribution of speciality chemicals and c) distribution in relation to individual chemicals.

Geographic scope

12. Brenntag submits that the distribution of commodity and speciality chemicals should be considered to be at least national if not EEA-wide. This is because transportation costs over long distances are lower than the costs of running a warehouse, therefore chemical distributors prefer to travel longer distances and limit the number of warehouses they use. Additionally, greater distances travelled to customers can be offset by optimising the routing of the products.
13. All third parties supported the view that the relevant geographic scope is no narrower than national, however responses were mixed in relation to whether the geographic scope is wider than national. Some were of the view that for the distribution of speciality chemicals a national presence is required, while others stated that speciality chemicals can be and are imported from the EU. Some third parties submitted that the distance travelled is dependent on the type of chemical and where it is manufactured. The parties also provided examples of EU manufacturers supplying the UK. Decisions of the European Commission stated that the relevant frame of reference was at least national, if not wider.² However, it is not necessary for the OFT to reach a firm conclusion on geographic scope given that this transaction does not raise concerns on either an EU or a UK frame of reference.

² Comp/M.3344 Bain Capital/Interfer/Brenntag 21 January 2004; Comp/M.1073 Metallgesellschaft/Klockner Chemiehandel 29 January 1998; Comp/M.2202 Stinnes/HCI 4 December 2000; Comp/ M.2992 Brenntag/Biesterfeld/JV 20 December 2002.

COMPETITIVE ASSESSMENT

EU and national level

14. At the EU-level, Albion distributes less than one per cent of all commodity and speciality chemicals. Given the small increment, no competition concerns arise in relation to the EU supply of speciality and commodity chemicals.
15. At the national level, the parties' combined shares of distribution of commodity and speciality chemicals are [10-20] per cent (increment [less than 5] per cent) and [1-10] per cent (increment less than one per cent) respectively. Given these low shares of supply and the strength of existing competition, no concerns arise at a national level.
16. The parties maintained that manufacturers distribute most of the chemicals they manufacture themselves with distributors supplying about five per cent of all chemicals and that switching between distributors for individual chemicals is feasible. Manufacturers also maintain that post-merger, alternative routes to the supply of commodity and speciality chemicals are available and that direct supply for larger volumes is also an option.
17. Given the possibility that supply-side substitutability may be more difficult for the distribution of certain chemicals, the parties were asked to identify all those speciality and commodity chemicals where they overlapped and had a share of supply above 25 per cent. These criteria were not met for any speciality chemicals but were met for three commodity chemicals: sodium hypochlorite; hydrochloric acid and sulphuric acid. The parties shares of supply for each of these respectively were about [45-55] per cent (increment less than one per cent); [25-35] per cent (increment about one per cent) and about [25-35] per cent (increment less than one per cent). Given the low increments for the distribution of each of these, the OFT does not consider there to be a substantial lessening of competition in relation to any of these chemicals.
18. The majority of third parties did not raise any concerns in relation to the distribution of any commodity or speciality chemicals. Many do

not consider the parties to be close competitors and noted that there is limited competition between them given Brenntag's small presence within the UK and Albion's limited activity outside the UK.

19. One third party suggested the relevant frame of reference could be further segmented according to customer type. However the share of supply data was very similar to those for speciality chemicals where the parties have over 25 per cent share of supply and consequently the increments involved were very small. Therefore the OFT does not consider that this transaction will lead to a substantial lessening of competition in relation to the supply of particular chemicals by customer type.
20. On the evidence before it the OFT considers that a number of alternative distributors will remain at the national level to constrain the merged entity's ability to raise prices/ reduce service quality post merger. In relation to the distribution of commodity chemicals, Univar, Tennants and Ineos will remain post-merger. With regard to the distribution of speciality chemicals, there remain a number of suppliers such as Whyte Chemicals; Honeywill & Stein and Azelis all of whom possess larger shares of distribution than the parties. Post-merger there will also remain a large number of small distributors collectively accounting for a substantial proportion of both the commodity and speciality chemicals sectors.
21. Therefore the OFT does not consider that the transaction leads to substantial lessening of competition on either a wider or narrower relevant frame of reference.

VERTICAL ISSUES

22. This merger does not raise any vertical issues.

THIRD PARTY VIEWS

23. The majority of third parties were not concerned by this transaction and some suggested that the merger would lead to distributive efficiencies that would be passed on to customers. One competitor suggested that on the basis of a narrower product scope defined by distribution of individual chemicals, the parties had high shares of

supply in the distribution of certain chemicals. Third party views have been addressed above.

ASSESSMENT

24. The parties overlap in the supply of speciality and commodity chemicals to industrial customers in the UK. At the EU and national level, shares of supply are not high, a number of distributors are present and the increments are [1-5] per cent and therefore do not give rise to any concerns.
25. If the relevant frame of reference were to be more narrowly defined on the basis of the supply of each individual chemical, the increments are below one per cent and therefore no competition concerns arise.
26. Consequently, the OFT does not believe that it is or may be the case that the merger has resulted or may be expected to result in a substantial lessening of competition within a market or markets in the United Kingdom.

DECISION

27. This merger will therefore not be referred to the Competition Commission under section 33(1) of the Act.