
Anticipated acquisition by Essilor International (Compagnie Générale D'Optique) SA of Wholesale Lens Corporation Limited

ME/4154/09

The OFT's decision on reference under section 33(1) given on 27 July 2009.
Full text of decision published 30 July 2009

Please note that the square brackets indicate figures or text which have been deleted or replaced in ranges at the request of the parties or third parties for reasons of commercial confidentiality.

PARTIES

1. **Essilor International (Compagnie Générale d'Optique) SA** (Essilor) is a French company listed on the Euronext Paris stock exchange. It is the parent and holding company for the Essilor Group of companies whose main activities are the manufacture and supply of finished glass and plastic ophthalmic lenses to opticians worldwide. Essilor also supplies ophthalmic substrate¹ to independent laboratories and optician chains.
2. In the UK Essilor supplies a range of ophthalmic lenses (both branded and unbranded) and substrate. In addition, Essilor has a 50/50 joint venture with the Nikon Corporation (Nikon Essilor Company Limited) which supplies Nikon branded ophthalmic lenses in the UK.
3. **Wholesale Lens Corporation Limited (WLC)** is a UK wholesaler of ophthalmic lenses. WLC does not manufacture lenses but rather buys them from manufacturers in Asia (mostly India) and imports them into the UK.

TRANSACTION

4. Essilor signed a share purchase agreement with WLC on 11 May 2009 for it to acquire [] per cent of WLC's shares which will give it full control over WLC.

¹ Ophthalmic substrate is a part-finished plastic ophthalmic lens. Substrate requires further laboratory processing before the lens can be sold to a consumer.

5. The parties informally submitted the proposed transaction for examination by the Office of Fair Trading (OFT) on 12 June. The OFT's administrative deadline by which to announce a decision in this case is 7 August.

JURISDICTION

6. As a result of the proposed transaction Essilor and WLC will cease to be distinct.
7. The parties overlap in the supply of finished ophthalmic lenses in the UK (where together they account for around [30–40] per cent) and the share of supply test in section 23 of the Enterprise Act 2002 (the Act) is met. The OFT therefore believes that it is or may be the case that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.

MARKET DEFINITION

Product scope

8. The parties overlap in the supply of ophthalmic substrate to independent laboratories and integrated optical retail chains and in the supply of finished ophthalmic lenses (which may be produced from glass or plastic into three broad types of corrective design; single, bifocal and varifocal also known as progressive).
9. In Essilor/Signet the OFT did not find it necessary to conclude on the product scope.² However, it examined that case on the basis of the supply of ophthalmic substrate (branded and generic) and the supply of ophthalmic lenses (both plastic and glass of any corrective design).
10. In this case the parties submitted that it is not necessary for the OFT to conclude on the exact product scope since competition concerns do not arise on any definition. They provided data on a variety of bases to the OFT including by material (plastic or glass) and by corrective design. The OFT notes that the main suppliers and wholesalers of ophthalmic lenses supply a range of lenses by material and corrective design which suggests a wide product definition.
11. However, the OFT has found that in this case it is not necessary to conclude on the product market definition since competition concerns do not arise even on the narrow basis of assessing the market for ophthalmic

² Anticipated acquisition by Essilor International (Compagnie Générale d'Optique) SA of Signet Armorlite Inc, OFT decision of 11 March 2009, Case No. ME/3992/09.

lenses based on each lens material (plastic or glass) by specific corrective design. The OFT has examined this case on the basis of all ophthalmic lenses and on the basis of ophthalmic lenses by material and corrective design type.

12. With regard to ophthalmic substrate, the OFT has assessed this case based on types of ophthalmic substrate by material (plastic being the only one in which the merging parties overlap). It has not been necessary to conclude on this product scope either given the lack of competition concerns even on the narrowest plausible product scope.

Geographic scope

13. The parties submitted that some customers source ophthalmic lenses from outside of the UK directly (whereas WLC acts as the intermediary between customers and manufacturers located outside of the UK). Suppliers supply lenses throughout the UK. The situation is similar with respect to substrate.
14. In this case the OFT has examined the merger (for both lenses and substrate) on the basis of the whole of the UK, as it did in Essilor/Signet.

HORIZONTAL ISSUES

Ophthalmic substrate

15. The parties provided data for the supply of plastic ophthalmic substrate on which basis their activities overlap. They estimate that together they supply around [20–30] per cent in the UK with an increment of only around [0–5] per cent. Given the very small increment which would be even smaller if the measure included all ophthalmic substrates, and that no third parties concerns were received with respect to the supply of ophthalmic substrates, the OFT has not found it necessary to examine the supply of ophthalmic substrates any further in this decision.

Ophthalmic lenses

16. The parties account for [30–40] per cent³ of the supply of all ophthalmic lenses in the UK.⁴ The increment to this share arising from the proposed merger is [0–5] per cent.
17. For glass ophthalmic lenses the parties' combined share (by value) ranges from [10–20] per cent (bifocal) to [20–30] per cent (progressive) although in each category the increment arising from the proposed merger is less

³ All share figures are by value.

⁴ Including Nikon ophthalmic lenses.

than [0–5] per cent. On the basis of the small increments glass ophthalmic lenses are not considered any further in this decision.

18. For plastic ophthalmic lenses the parties' combined share (by value) ranges from [10–20] per cent (bifocal) to [30–40] per cent (single and progressive). The increment for the plastic single lens is around [5–10] per cent whereas for bifocal and progressive lenses they are less than [0–5] per cent.
19. Other key suppliers include Carl Zeiss, Hoya, Norville and Rodenstock. All of these supply across all lens types.
20. The OFT also examined the closeness of competition between the merger parties. They submitted that Essilor is a supplier of branded plastic ophthalmic lenses whereas WLC is a low cost/low price supplier and therefore not positioned especially closely to Essilor in the marketplace. Data from the parties show that Essilor's plastic ophthalmic lenses are, on average, [] more expensive than WLC's (depending on corrective design).⁵
21. In Essilor/Signet, the OFT said:

In terms of the constraint placed by Signet on Essilor, [] argued that Essilor and Signet offered products that are significantly different in quality, with Signet offering products of a standard quality and Essilor offering premium quality products. This view appears to be borne out by the pricing data submitted by the parties which showed that, in the lens types where the parties currently overlap, Essilor is generally more expensive than Signet. In addition, the rationale for the merger, in part, is that the Kodak brand, which is considered to be a mid-range lens, will complement Essilor's existing portfolio of products: Eco – value products, Essilor – premium products and Nikon – luxury.⁶

22. Some parties agreed that the parties are positioned differently. One customer told the OFT that Essilor competes with other branded suppliers comprising Hoya, Seiko, Rodenstock and Carl Zeiss. One competitor provided the OFT with a matrix of competitor positioning with respect to varifocal (progressive) lenses which showed Essilor competes with Rodenstock, Hoya and Carl Zeiss in all of the upper end quality categories.⁷ Another competitor provided something similar which showed that Essilor competes with Hoya and BBGR. No third parties told the OFT that, in terms of lens quality, Essilor and WLC are close competitors.

⁵ Plastic ophthalmic lenses account for almost all (around 99 per cent) of ophthalmic lenses supplied in the UK.

⁶ Paragraph 38.

⁷ Although the matrix showed that Carl Zeiss does not compete in the very highest quality category.

23. The parties submitted that Essilor's key competitors are the same for both plastic and glass ophthalmic lenses.
24. For WLC, Jai Kudo has a similar business model.⁸

Barriers to entry and expansion

25. The OFT has not found it necessary to conclude on barriers to entry and expansion in this case since the outcome of its competition assessment is not dependant on it.

THIRD PARTY VIEWS

26. Customers were not concerned about the proposed merger.⁹
27. Some competitors were not concerned about the proposed merger while others were. Their concerns focused on Essilor's continuing increase in its market share.¹⁰ However, the OFT has examined this acquisition based on Essilor's market position at the time of this decision and its findings have been discussed above.

ASSESSMENT

28. The parties overlap in the supply of plastic ophthalmic substrate and ophthalmic lenses.
29. The accretion to Essilor's share of plastic ophthalmic substrate's as a result of the proposed merger is very small and competition concerns do not arise.
30. Ophthalmic lenses can be examined in the whole or segmented according to the material from which they are made and by corrective design. However, on any measure the OFT has not found any competition concerns. The increments on all possible measures are low and, on the evidence available to it, the OFT has found that WLC has not been an especially close competitor to Essilor.

⁸ Essilor/Signet, paragraph 51.

⁹ One buyer, who is only an occasional purchaser from the parties, did express concern about the reduction in choice available although this concern was made on behalf of other customers, not itself.

¹⁰ Besides the proposed acquisition of WLC, Essilor is in the process of acquiring Signet (and is awaiting all the necessary regulatory approvals).

31. Consequently, the OFT does not believe that it is or may be the case that the merger may be expected to result in a substantial lessening of competition within a market or markets in the United Kingdom.

DECISION

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