EUROPEAN COMMISSION

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C(2018) 1648 final

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus […]. Where possible the information omitted has been replaced by ranges of figures or a general description.

PUBLIC VERSION

To the notifying party

Subject: **Case M.8733 - Lone Star/Stark**
Commission decision pursuant to Article 6(1)(b) of Council Regulation No 139/2004[1] and Article 57 of the Agreement on the European Economic Area[2]

Dear Sir or Madam,

(1) On 7 February 2018, the Commission received notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which Lone Star (US), through its indirect subsidiary LSF10 Wolverine Investments S.C.A., intends to acquire within the meaning of Article 3(1)(b) of the Merger Regulation sole control of the whole of Stark Group A/S ('Stark', Denmark) by way of purchase of shares ('the Transaction').[3] Lone Star and Stark are designated hereinafter as the 'Parties', whilst the undertaking resulting from the Transaction is referred to as 'the merged entity'.

1. THE PARTIES

(2) Lone Star is a private equity firm that invests globally in real estate, equity, credit and other financial assets. Lone Star controls the building material supplier Xella International S.A. ('Xella')[4] which produces and distributes mainly masonry

1 OJ L 24, 29.1.2004, p. 1 (the 'Merger Regulation'). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ('TFEU') has introduced certain changes, such as the replacement of 'Community' by 'Union' and 'common market' by 'internal market'. The terminology of the TFEU will be used throughout this decision.

2 OJ L 1, 3.1.1994, p. 3 (the 'EEA Agreement').

3 Publication in the Official Journal of the European Union No C 57, 15.02.2018, p. 7.

4 The acquisition of Xella by Lone Star was approved by the European Commission in 2017 (Case COMP/M.8341 – *Lone Star Fund / Xella International*)

products, in particular autoclaved aerated concrete blocks. Xella also owns the insulation material manufacturer Ursa Insulation S.A. ('Ursa')[5]. Furthermore, Lone Star controls the gypsum fibre board manufacturer Fermacell GmbH ('Fermacell')[6] and the carpet producer LSF9 Balta Issuer S.A. ('Balta')[7].

(3) Stark is a retailer and distributor of building materials in the Nordic region. It serves its customers - professionals and DIY builders - through four business units: Stark Denmark (72 branches), Stark Finland (27 branches), Beijer in Sweden (66 branches) and Neumann in Norway (15 branches). The current ultimate owner of Stark is Ferguson plc.[8]

2. THE OPERATION AND THE CONCENTRATION

(4) Pursuant to a Share Purchase Agreement entered into on 10 November 2017, Lone Star will indirectly acquire sole control over Stark through its subsidiary LSF10 Wolverine Investments S.C.A. by way of a share acquisition. Hence, the Transaction qualifies as a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

3. UNION DIMENSION

(5) The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million[9] [Lone Star: EUR […] million, Stark: EUR […] million]. Each of them has a Union-wide turnover in excess of EUR 250 million [Lone Star: EUR […] million, Stark: EUR […] million], but they do not achieve more than two-thirds of their aggregate Union-wide turnover within one and the same Member State. The notified operation therefore has a Union dimension under Article 1(2) of the Merger Regulation.

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5 The acquisition of Ursa by Xella was approved by the European Commission in 2017 (Case COMP/M.8604 – *Xella / Ursa*).

6 Xella has recently sold Fermacell to James Hardie Industries Plc. This transaction does not meet the turnover thresholds for an EU merger review filing. Closing is currently expected to take place before the end of […] 2018. Pending the closing of that Transaction, the Commission's assessment will include the activities of Fermacell.

7 The acquisition of Balta by Lone Star was approved by the European Commission in 2015 (Case COMP/M.7696 – *Lone Star / Balta*).

8 The acquisition of Stark by Wolseley plc (now Ferguson plc) was approved by the European Commission in 2006 (Case COMP/M.4351 - *Wolseley / DT Group)*.

9 Turnover calculated in accordance with Article 5 of the Merger Regulation.

4. COMPETITIVE ASSESSMENT

4.1. Introduction

(6) The operation concerns the markets for the production and distribution of building materials and gives potentially rise to horizontal and vertical overlaps.

(7) First, the activities of Lone Star's portfolio companies and Stark overlap in the (potential) supply of the following products:

- autoclaved aerated concrete products ('AAC') supplied by Xella,
- gypsum fibre board products ('GFB'), supplied by Fermacell,
- insulation products supplied by Ursa, and
- carpet products potentially supplied by Balta.

(8) Lone Star's portfolio companies sell their products not only through retailers but also directly to end consumers. These are potentially the same end customers supplied by Stark.

(9) Second, there are four (potential) vertical links, namely as regards the (potential) supply by Lone Star's portfolio companies of AAC blocks, GFB products, insulation products and carpet products to Stark and its retail competitors.

4.2. Market definitions

4.2.1. Autoclaved aerated concrete (AAC)

(10) AAC blocks are a lightweight, precast, foam concrete building material. The Parties argue that there may be more than one plausible alternative for the definition of the relevant product markets for AAC blocks. The Parties further maintain that the narrowest possible – although by no means most plausible – definition would consider aerated concrete blocks as constituting a single relevant product market. Other plausible market definitions may include aggregate blocks and potentially also other wall-building materials, in particular bricks, sand-lime bricks/calcium silicate units and pumice blocks.

(11) In a previous decision, the Commission considered that – even though the precise scope of the relevant product market was ultimately left open – the relevant product market may comprise not only AAC blocks but also other products such as aggregate concrete blocks.[10] This is supported by the view of the majority of market participants responding to the Commission's market investigation in the present case.[11] A number of respondents noted that "*AAC products can be replaced with – concrete elements, concrete blocks, calcium silicate blocks*"[12] and that "[*s]and-lime bricks are a substitute in some situation, as per Xella's own*

[10] Case COMP/M.8341 – *Lone Star Fund / Xella International*, paragraph 27.

[11] Replies to question 7 of Q1 – Questionnaire to retailers, and to question 7 of Q2 – Questionnaire to building material competitors.

[12] Replies to question 7 of Q1 – Questionnaire to retailers

explanation".[13] Other market participants also referred to LECA[14] products and clay blocks as potential substitutes.[15]

(12) With regard to the relevant geographic market, the Commission considered in a previous decision that the geographical market for the distribution of building products in general is either national or potentially smaller than national.[16] With respect to AAC blocks, the Commission has not adopted any diverging view.[17] Market respondents indicated predominantly that the relevant geographic market is national in geographic scope.[18]

(13) In any event, the Commission considers that, for the purposes of this Decision, the precise scope of the relevant product and the relevant geographic market for AAC blocks can be left open in the current case, since the Transaction does not give rise to serious doubts about its compatibility with the interal market under any plausible market definition.

4.2.2. Gypsum fibre board (GFB)

(14) Fermacell's GFB products are dry lining building materials, suitable for general construction, fire protection and rooms with variable humidity (for instance domestic or hotel bathrooms). The Parties maintain that a broad market definition would be appropriate, encompassing interchangeable solutions, with various alternative possibilities, such as dry construction; dry construction limited to value-added boards; dry construction broken down depending on type of application (exterior walls, interior walls, flooring, ceiling); dry lining including at least some types of plaster board; and others. According to the Parties it could be claimed that GFB products are a substitute of gypsum drywall products.

(15) There are no precedents in the Commission's previous decisional practice as regards the relevant product and geographic market definition for GFB. In this respect, the market investigation in this case indicates that the relevant product market is likely to be broader than only GFB products. On the one hand, a majority of market participants indicate that GFB is substitutable by other products: respondents stated that "*GFB products are dominated by Fermacell and the competition comes from other substitute products as standard gypsum boards*[19]" and that as regards GFB boards "*Fermacell / Hunton, Knauf /Norgips and BPB Gyproc are all alternatives suppliers."*[20] One respondent noted that "*GFB products can be replaced with standard gypcum plasterboards in some*

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13 *Ibid.*

14 Lightweight expanded clay aggregate: a light-weight aggregate made by heating clay. Its common uses are in concrete blocks or concrete slabs.

15 Replies to question 7 of Q2 – Questionnaire to building material competitors.

16 Case COMP/M.7910 - *Kesko/Onninen*, paragraph 16 with references to previous decisions.

17 Case COMP/M.8341 – *Lone Star Fund / Xella International*, paragraph 30 et seq.

18 Replies to question 11 of Q1 – Questionnaire to retailers, and to question 10 of Q2 – Questionnaire to building material competitors.

19 Reply to question 13 of Q1 – Questionnaire to retailers.

20 Reply to question 13 of Q1 – Questionnaire to retailers.

constructions, fiber cement boards in [other] *constructions*.[21]" On the other hand, the Commission also received diverging statements such as that it "*is difficult to find an exact alternative*."[22]

(16) As regards the relevant geographic market, the results of the market investigation indicate that similarly to AAC the market is national.[23]

(17) In any event, the Commission considers that, for the purposes of this Decision, the precise scope of the relevant product and the relevant geographic market for GFB products can be ultimately left open in the current case, since the Transaction does not give rise to serious doubts about its compatibility with the interal market under any plausible market definition.

4.2.3. Insulation products

(18) Insulation products reduce the thermal and acoustic exchange through a wall, roof or a duct on which they are placed. In previous decisions, the Commission previously found that insulation products constitute a separate market from other building products[24]. Furthermore, the Commission considered in previous cases a possible sub-segmentation of insulation products by insulation material, namely between (a) mineral wools (stone or glass wools); and (b) foams (expanded polystyrene (EPS), extruded polystyrene or polyurethane)[25]. Moreover, the Commission considered in the past segmenting the relevant market into building and technical insulation.[26]

(19) As regards the relevant geographic market, the Commission has left open whether the market should be defined as national, regional or EEA-wide.[27]

(20) The Parties endorse the Commission's view both as regards the relevant product market as well as the relevant geographic market.

(21) In any event, the Commission considers that, for the purposes of this Decision, the precise scope of the relevant product and the relevant geographic market for insulation products can be ultimately left open in the current case, since the Transaction does not give rise to serious doubts about its compatibility with the interal market under any plausible market definition.

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21 Reply to question 8 of Q1 – Questionnaire to retailers.

22 Reply to question 8 of Q1 – Questionnaire to retailers.

23 Replies to question 11 of Q1 – Questionnaire to retailers, and to question 10 of Q2 – Questionnaire to building material competitors.

24 Case COMP/M.8721 – *Owens Corning/Paroc*, paragraph 7 (not yet published); Case COMP/M.7457 – *CVC/Paroc*, para. 17-18; Case COMP/M.3407 – *Saint Gobain/Dahl*, paragraphs 8 and 9; Case COMP/M.1974 – *Compagnie de Saint-Gobain/Raab Karcher*, paragraph 9; and Case COMP/M.1873 – *Compagnie de Saint-Gobain/Meyer International*, paragraphs 9 and 10. See also Case COMP/M.6871 – *Mohawk Industries/Spano Invest, paragraphs* 28 and 29.

25 Case COMP/M.8721 – *Owens Corning/Paroc*, paragraph 8, Case COMP/M.3407 – *Saint Gobain/Dahl*, para 10; Case COMP/M.3943 – *Saint Gobain/BPB*, para. 29.

26 Case COMP/M.8721 – *Owens Corning/Paroc*, paragraphs 9 and 13; Case COMP/M.7457 – *CVC/Paroc*, para. 18.

27 Case COMP/M.8721 – *Owens Corning/Paroc*, paragraphs 15-16.

4.2.4. Carpet products

(22) The Parties submit that the relevant product market should comprise all carpets, which would include all types of carpets produced by Balta, in particular covering both carpet tiles and broadloom carpets.

(23) The Commission previously took the stance that the relevant product market, at least at the retailing level, comprises carpets and other floor coverings, wallpaper and curtains.[28] With regard to the relevant geographic market, while leaving the market definition open, the Commission did not object in previous decisions to claims that the markets are national, particularly in view of differing national consumer preferences.[29]

(24) In any event, the Commission considers that, for the purposes of this Decision, the precise scope of the relevant product and the relevant geographic market for carpet products can be ultimately left open in the current case, since the Transaction does not give rise to serious doubts about its compatibility with the interal market under any plausible market definition.

4.2.5. Sales channels: wholesale/retail sales and direct sales

(25) In a previous decision, the Commission considered that the markets for the distribution of building products in general can be divided into (i) wholesale to retailers, (ii) retail sale to professional customers and (iii) retail sale to nonprofessional customers (primarily through do-it-yourself stores) but left the precise product market definitions ultimately open.[30] This will be the relevant framework for the assessment of the vertical links between Lone Star's upstream activities in wholesale (Xella, Ursa, Fermacell, Balta) and Stark's downstream activities in retail.

(26) With particular regard to the retail level, the Commission considered in a previous decision a sub-segmentation by product groups, including the specific product group of building materials.[31] As regards the geographic market, the Commission considered the geographic markets to be national or potentially local in scope.[32]

(27) Xella also sells its AAC blocks directly to end customers. The Commission has not, however, discussed direct sales of manufacturers to end customers in its previous decisional practice concerning the distribution of building products. The alternative sales channels are shown below in Figure 1.

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28 Case COMP/M.1708 – *Tapis Saint-Maclou/Allied Carpets Group,* paragraphs 8 and 9.

29 Case COMP/M.1708 – *Tapis Saint-Maclou/Allied Carpets Group,* paragraph 10.

30 Case COMP/M.7910 – *Kesko / Onninen*, paragraph 16.

31 Case COMP/M.7283 – *Kingfisher / Mr Bricolage*, paragraph 13.

32 Case COMP/M.7283 – *Kingfisher / Mr Bricolage*, paragraph 17.

Figure 1 Illustration of the sales channels



(28) As regards AAC blocks, the Parties generally claim that the market where Xella and Stark (potentially) compete has the following characteristics:

(a) The market is confined to such products that are distributed by both Parties;

(b) These products are suitable for sale to end customers both from Xella as manufacturer and Stark as retailer in view of the products' size, weight and other characteristics, and

(c) The orders for such products have a volume for which end customers consider both the manufacturer and the retailer as potential supplier.

(29) For AAC blocks[33], the Parties maintain that, as a rule of thumb, end customers consider both the manufacturer and the retailer as potential supplier when the order exceeds [20-100] m3.

(30) In light of the results of the market investigation and the information available to it, the Commission concludes that in terms of the relevant product market, the retail market for the sale of AAC blocks could be segmented into (i) a retail market on which only retailers compete for sales to end customers, as at least one of the three criteria outlined above is not met, and (ii) a market for sales to end customers with competition taking place between retailers and wholesalers, if the three criteria are met.

(31) In any event, the Commission considers that, for the purposes of this Decision, the precise scope of the relevant product and the relevant geographic market for the distribution of building materials can be ultimately left open in the current case, since the Transaction does not give rise to serious doubts about its compatibility with the interal market under any plausible market definition.

[33] The Parties submit that the only masonry product where Xella competes with Stark in sales to end customers are AAC blocks. Accordingly, the distribution of AAC panels, calcium silicate units and the Multipor product would not lead to any horizontal overlap between the activities of Xella and Stark.

4.3. Competitive assessment

(32) None of Lone Star's portfolio companies have a direct presence in the operation of retail stores selling building or insulation materials, or carpet products in the EEA.

(33) Except for some limited competition in Denmark and Finland, discussed in Section 4.3.1, the Parties' relationship is predominantly vertical, through Lone Star's ownership interest in Xella (including Fermacell), Ursa and Balta, discussed in section 4.3.2.

(34) As a result, the Transaction gives rise to affected markets due to a horizontal overlap in the sale of AAC blocks to end consumers in Denmark and Finland, and due to vertical links between Xella's supply of AAC blocks and Stark's retail activities in Denmark and Finland, and between Xella's supply of GFB panels and Stark's retail activities in Denmark, Sweden, Norway and Finland.

4.3.1. Horizontal overlaps

4.3.1.1. Assessment of horizontal overlap – sale of AAC blocks to end consumers

(35) The activities of Xella and Stark overlap in the supply of AAC blocks to end consumers in the context of the sale channel described in Section 4.2.5. As Xella's products are sold to end consumers both directly and indirectly through retailers, this Decision will distinguish between Xella's wholesale sales made to third party retailers, and those made directly to end consumers. This approach is borne out by the results of the market investigation, which indicates that the same end consumers may purchase directly from manufacturers or indirectly from retailers.[34]

(36) In any case, this potential overlap is limited to that share of Stark's sales over which it has control. The market investigation has confirmed that it is common for large-volume orders from customers such as building companies, to be invoiced by a retailer even though the sale is ultimately controlled by the manufacturer.[35] Therefore, it is justified to allocate to Stark those sales over which it has control and to allocate to the manufacturers those sales over which they have control (be it through direct commercial relationships with the end customers or through the involvement of a retailer in an agent-like relationship).

[34] Replies to questions 4 and 5 – Questionnaire to end consumers.

[35] Replies to question 7 – Questionnaire to customers.

(37) AAC blocks are the only product for which Xella has significant sales both through retailers and directly to end customers in the Nordic countries.[36] In contrast to Xella's other masonry products such as AAC panels and CSU blocks, which Xella sells mostly directly to project customers, AAC blocks are more of a commodity product that can also be bought for small constructions. The Commission's assessment will therefore focus on the overlap in sales of AAC blocks to end consumers.

(38) Xella's AAC blocks are not sold through retailers in Sweden and Norway because of historically different customer preferences, while sales through retailers are increasingly minimal in Finland. The horizontal overlap between the Parties' activities is therefore limited to Denmark and, to a lesser extent, Finland.

(39) With regard to the Danish market for sales of AAC blocks to end consumers where retailers and wholesalers compete,[37] the combined market share of the Parties would be [30-40]% (Xella [20-30]% and Stark [10-20]%). In light of the results of the market investigation, the Commission considers that the Transaction does not give rise to serious doubts in that market for the following reasons:

(a) The Parties' combined market share is not in itself an indication of likely competition concerns.

(b) The market investigation has confirmed the availability of alternatives sources of supply, namely H+H with a market share of [20-30]%, and retailers Bygma and XL Byg with each a market share of [10-20]%.

(c) In particular, the Commission's investigation has indicated that the AAC product range offered by competitor H+H is very comparable to that offered by Xella. A retailer stated: *"The AAC products sourced from Xella and H+H are very similar. Competition between those two suppliers has been effective, which has kept prices down."*[38] An overwhelming majority of Danish retailers responding to the market investigation said that they considered H+H's AAC blocks to be a close substitute for Xella's Ytong blocks in terms of the relevant product specifications, including price.[39]

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[36] In the Nordic countries, Fermacell's sales of GFB panels are predominantly stock sales to retailers, over which it has no control: [90-100]% in Norway and Finland, and [90-100]% in Sweden (Fermacell controlling EUR [less than 1 m] of sales). In Denmark [80-90]% are stock sales and [10-20]% project sales through retailers where prices are set by the retailer, which leaves just [0-5]% of sales controlled by Fermacell (EUR [less than 1 m]). Ursa has only minimal direct sales of insulation materials to end consumers in the Nordic countries, which are limited to isolated sales to individual customers. Lone Star company Balta sells carpet products directly and indirectly through dealers in the Nordic countries but its direct sales do not exceed [5-10]%, while Stark's market shares in the retail of carpet products are below [0-5]% in each of those countries.

[37] This segment covers sales above [20-100] m3 and represents [20-30]% of the total market for sales to end consumers.

[38] Non-confidential minutes of a call with a retailer, 6 February 2018

[39] Replies to question 18 – Questionnaire to retailers.

(d) The results of the investigation have shown that customers in Denmark can easily switch suppliers and turn to various substitutes to AAC. All Danish retailers responding to the market investigation said that they consider autoclaved aerated concrete (AAC) blocks to be substitutable by other products such as sand-lime bricks, calcium silicate units or pumice blocks,[40] and that they could purchase all their requirements for masonryproducts, in particular AAC blocks, in the EEA from alternative suppliers.[41]

(e) None of the customers or competitors who replied to the Commission's investigation expected any impact from the Transaction on their business due to the overlap of the Parties' activities in the sale of AAC blocks to end consumers, and no competition concerns were raised in this regard for the Danish market.

(40) In Finland, AAC products were originally mainly sold through retailers but have increasingly been sold directly to end customers over the last 10 years. Xella's sales of AAC products [confidential sales strategy][42] to end customers. Currently [80-90]% of Xella's AAC sales (in volume) in Finland are invoiced directly by Xella to the end consumer, the remaining [10-20]% being business controlled by retailers. Overall stock sales[43] of AAC blocks in Finland currently range between 1,000 and less than 4,000 m3, compared with about 15,700 m3 for direct sales or project sales controlled by producers. Therefore, if there is still a market in Finland for sales of AAC blocks to end consumers where retailers and manufacturers compete, this must represent a minimal volume of less than [500-2000] m3, considering that the market for volumes above [20-100] m3 represents [10-30]% of the total market. In addition, the Commission considers that the Transaction does not give rise to serious doubts in that market for the following reasons:

(a) The results of the investigation have indicated that customers in Finland can easily switch suppliers and turn to various substitutes to AAC and that they could purchase all their requirements for masonry products, in particular AAC blocks, in the EEA from alternative suppliers.[44]

(b) The market investigation has also indicated that Finnish retailers consider H+H's AAC blocks to be a close substitute for Xella's Ytong blocks in terms of the relevant product specifications, including price.[45]

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40 Replies to question 7 – Questionnaire to retailers.

41 Replies to question 16 – Questionnaire to retailers.

42 Project sales are sales of larger volumes, such as [20-100] m3 or more of AAC blocks, that are important enough to require drawings and technical advice, and justify customer requests to several alternative sources of supply in order to obtain the best deal.

43 Stock sales are sales made by a producer to a retailer, who stocks them for resale to its retail customers

44 Replies to question 16 – Questionnaire to retailers.

45 Replies to question 18 – Questionnaire to retailers.

(c) None of the customers or competitors who replied to the Commission's investigation expected any impact from the Transaction on their business due to the overlap of the Parties' activities in the sale of AAC blocks to end consumers, and no competition concerns were raised in this regard for the Finnish market.

4.3.1.2. Conclusion on horizontal overlaps

(41) In light of the considerations set out in recitals (35) to (40) and in view of the results of the market investigation and the information available to it, the Commission concludes that the Transaction does not give rise to serious doubts about its compatibility with the internal market due to horizontal effects in the sale of AAC blocks to end consumers.

4.3.2. Vertical relationships

4.3.2.1. Assessment of vertical relationships – AAC blocks and GFB panels

(42) The Transaction gives rise to vertically affected markets with respect to two vertical links.[46] They relate in particular to:

a. the supply by Xella of autoclaved aerated concrete (AAC) blocks and Stark's retail activities,

b. the supply by Xella (Fermacell) of gypsum fibre board (GFB) panels and Stark's retail activities.

(a) Downstream markets: retail of building materials, in particular AAC blocks and GFB panels

(43) Xella does not sell its AAC products through retailers in Sweden and Norway because of historically different customer preferences, as Xella's sales in those countries are driven by direct relationships with end consumers. Vertical links between the Parties' upstream AAC and downstream retail activities are therefore limited to Denmark and Finland.

(44) With regard to GFB panels, in the Nordic countries Xella sells the bulk of its Fermacell products to retailers: [80-90]% of its sales in Denmark, [90-100]% in Sweden, [90-100]% in Norway and [90-100]% in Finland.

(b) Upstream markets: wholesale of masonry products, in particular AAC, and dry lining panels, in particular GFB

[46] With regard to insulation and carpet products, the vertical links do not lead to affected markets, as the market shares achieved by Ursa and Balta do not exceed 10% in any of the Nordic countries, and Stark's market share is lower than 30% in each of those countries.

Masonry products, in particular AAC

(45) When considering a masonry product market comprising AAC, CSU[47], claybricks and Leca, Xella's market share equals [50-60]% in Denmark and [5-10]% in Finland. Xella's main competitor in Denmark is H+H with [40-50]%, and Aeroc in Finland with [20-30]%.

(46) In a market for AAC products only, Xella's market share amounts to [40-50]%, in Denmark, and [10-20]% in Finland. The largest competitor is H+H with respectively [50-60]% and [20-30]% in those countries.

Dry lining panels, in particular GFB

(47) When considering a market comprising gypsum fibre board and glass fibre board panels, Xella's market share amounts to [80-90]% in Denmark, [40-50]% in Sweden, [40-50]% in Norway and [40-50]% in Finland. Xella's main competitor is Knauf with [10-20]% in Denmark, [20-30]% in Sweden, [30-40]% in Norway and [20-30]% in Finland. If GFB is considered to be a substitute for gypsum drywall products, Fermacell's share of this particular market would appear to be considerably smaller.

(c) Foreclosure assessment

Input foreclosure

(48) The risk of input foreclosure through the notified concentration appears limited. It seems unlikely that, post-merger, Lone Star would restrict access to its products by other retailers competing against Stark in any of the Nordic countries. The results of the investigation showed that customers have few concerns about possible input foreclosure. A clear majority of retailers replying to the market investigation do not consider it likely that Xella could stop supplying building materials in any of the Nordic countries in which they are active. A Danish retailer replied: "*They all need access to the total market, and that is not possible through Stark*".[48]

(49) With regard to AAC and GFB products, in light of the result of the market investigation and of the information available to it, the Commission considers that:

a. Despite Xella's relatively high market shares in several Nordic countries, its AAC and GFB products represent a small share of retailers' overall sales and product range. Xella's share in Stark's overall sourcing expenditure does not exceed [0-5%] in Denmark, while a large proportion of this expenditure relates to sales that are effectively controlled by Xella. Xella's sales to the Stark business units in Sweden, Norway and Finland are insignificant in volume, as they do not exceed EUR […] in any of these three countries.

[47] Calcium silicate units: building materials with high sound-absorbent qualities, fire safety standards and pressure resistance

[48] Replies to question 21 – Questionnaire to retailers.

b. AAC blocks can be replaced by the same or similar types of products from competitors, such as sand-lime bricks, calcium silicate units or pumice blocks,[49] with varying degrees of substitutability.

c. There are alternative suppliers from which they could purchase similar volumes of building materials with a similar quality at a competitive price.[50]

d. Customers would switch to such alternative suppliers if Xella stopped its supplies or offered worse conditions. In particular, one Danish retailer stated: "*Xella - switch to H+H or importing; Fermacell - switch to Knauf or importing*".[51]

e. H+H offers a very similar AAC product range compared to Xella.[52]

f. In Denmark Xella currently relies more on retailers other than Stark. It achieves [30-40]% of its sales through Bygma and [10-20]% through Davidsen, compared with [10-20%] for Stark. If it were to stop its sales to those retailers and sell exclusively through Stark post-merger, this would lead to reduced sales of its products as it seems unlikely that Stark could take over all or a large part of the retail sales of its competitors.

(50) Therefore, in light of the results of the market investigation and the evidence available to it, the Commission considers that even if the merged entity had the ability to engage in input foreclosure, it is unlikely that it would have sufficient incentives to do so. Thus, the Commission concludes that the Transaction would not give rise to competition concerns related to input foreclosure as regards the markets for AAC blocks and GFB panels in Denmark, Sweden, Norway and Finland.

Customer foreclosure

(51) The risk of customer foreclosure appears to be limited, as Stark's market share in the retail of building materials is less than 30% in the countries where it operates. Only a minority of competitors replying to the market investigation consider it likely that following the transaction Stark would stop sourcing products that compete with Xella or Fermacell or only source those products at worse conditions.[53] Competitors indicated that they would be able to find alternative ways to the market if Stark were to stop purchasing from them or offer worse commercial conditions. A competitor replied: "*We would try to find solution how to keep selling our products to Stark but not at any cost. Most likely we would try to compete with Xella by selling our products through competitors of Stark.*"[54]

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49 Replies to questions 7 and 16 – Questionnaire to retailers.

50 Replies to question 22 – Questionnaire to retailers.

51 Replies to question 22.1 – Questionnaire to retailers.

52 Non-confidential minutes of a call with a retailer, 6 February 2018

53 Replies to question 18 – Questionnaire to building material competitors.

54 Replies to question 19 – Questionnaire to building material competitors.

AAC blocks

(52) In Denmark, Stark has a market share of [20-30]% in the overall retail supply of building materials ([20-30]% professional customers, [10-20]% DIY), and [20-30]% in the overall retail supply of masonry products. It sources its AAC blocks mainly from H+H. However, the Commission's investigation has indicated that Stark's importance for reaching final customers in Denmark is considerably lower than its market share in retail sales suggests. In the overall sale of AAC products to end customers, allocating to Stark those sales over which it has control, Stark has a share of only [5-10]%, while its purchasing share of AAC blocks comes to [10-20]%. This suggests that if a customer foreclosure strategy was implemented, the volume of the potential lost business for H+H would be limited. Furthermore, it is doubtful whether losing potential sales to Stark in Denmark would impact H+H's competitiveness, given that it would retain its sales to all alternative retailers in Denmark as well as its sales in other Nordic countries.

(53) In Finland, Stark has a market share of [10-20]% in the overall retail supply of building materials ([20-30]% professional customers, [5-10]% DIY), while its purchasing share of AAC blocks is less than [0-5]%. This means that the vast majority of retail sales would remain available to Xella's competitors.

GFB panels

(54) In the overall retail supply of building materials Stark has a market share of [20-30]% in Denmark, [5-10]% in Sweden, [0-5]% in Norway and [10-20]% in Finland. However, Stark's purchasing share of GFB panels does not exceed [0-5]% in any of the Nordic countries. This indicates that Stark's importance for reaching final customers is considerably lower than its market share in retail sales suggests and that the vast majority of retail sales would remain available to Xella's competitors.

(55) Therefore, in light of the results of the market investigation and the evidence available to it, the Commission considers that the merged entity is unlikely to have the ability to engage in customer foreclosure. Thus, the Commission concludes that the Transaction would not give rise to competition concerns related to customer foreclosure as regards the markets for AAC blocks and GFB panels in Denmark, Sweden, Norway and Finland.

4.3.2.2. Conclusion on vertical effects

(56) In light of the considerations set out in recitals (42) to (55), the Commission concludes that the Transaction does not give rise to serious doubts about its compatibility with the internal market due to input or customer foreclosure concerns as regards AAC blocks and GFB panels.

5. CONCLUSION

(57) For the above reasons, the Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation and Article 57 of the EEA Agreement.

For the Commission

(Signed)

Margrethe VESTAGER
Member of the Commission