Mergers: Commission prohibits proposed merger between Tata Steel and ThyssenKrupp

The European Commission has prohibited the creation of a joint venture by Tata Steel and ThyssenKrupp under the EU Merger Regulation. The merger would have reduced competition and increased prices for different types of steel. The parties did not offer adequate remedies to address these concerns.

Commissioner Margrethe **Vestager**, in charge of competition policy, said: *"Steel is a crucial input for many things we use in our everyday life, such as canned food and cars. Millions of people in Europe work in these sectors and companies depend on competitive steel prices to sell on a global level. Without remedies addressing our serious competition concerns, the merger between Tata Steel and ThyssenKrupp would have resulted in higher prices. So we prohibited the merger to avoid serious harm to European industrial customers and consumers".*

Today's decision follows an in-depth investigation by the Commission of the proposed joint venture, which would have combined the flat carbon steel and electrical steel activities of ThyssenKrupp and Tata Steel in the European Economic Area (EEA). **ThyssenKrupp** is the second largest producer of flat carbon steel in the EEA while **Tata Steel** is the third largest. Both companies are significant producers of **metallic coated and laminated steel for packaging applications** and of **galvanised flat carbon steel for the automotive industry**.

The European steel sector is a key industry across the EEA – it employs about 360,000 people in more than 500 production sites in 23 EU Member States. Today's decision preserves effective competition on European steel markets and the competitiveness of this industry. It will also ensure that key customer industries such as the European automotive industry and the packaging industry continue to enjoy access to key inputs at competitive conditions. As a result, consumers in Europe can continue to rely on the affordability of canned food products and the European automotive industry is able to source steel competitively from the EEA and that product innovation in steel is preserved in support of the transition to more climate friendly and environmentally sustainable mobility.

During the investigation, the Commission received feedback from a large number of customers active in the packaging and automotive industries. These companies depend on competitive steel prices to offer their products to customers at competitive prices and many were worried that the transaction would result in higher prices.

The Commission's concerns

The Commission had serious concerns that the transaction as notified would have resulted in a reduced choice in suppliers and higher prices for European customers of:

- **metallic coated and laminated steel products for packaging** (tinplate, electrolytic chromium coated steel and laminated steel), where the proposed merger would have created a market leader in a highly concentrated industry, particularly in tinplate, which is the most important packaging steel product in the EEA by volume.
- **automotive hot dip galvanised steel products**, where the proposed merger would have eliminated an important competitor in a market where only a few suppliers can offer significant volumes of this steel.

The Commission also carefully investigated the role of **imports from third countries**. It found that customers of the relevant products are not able to resort to imports to offset potential price increases caused by the proposed merger. Customers pointed to several reasons for this, including the qualitative requirements for these special steel types, which are higher than for commodity steels, and for meeting short delivery times required for their supply chains

The Commission concluded that, in the market for metallic coated and laminated steel for packaging and the market for automotive hot dip galvanised steel, competitive pressure from remaining players and from imports from third countries **would not have been sufficient to ensure effective competition**.

As a result, following the transaction, customers for these products would face a reduced choice in suppliers, as well as higher prices. These customers include various European companies, ranging from major corporations to numerous small and medium-sized enterprises (SMEs).

The companies' proposed remedies

Remedies proposed by merging companies must fully address the Commission's competition concerns on a lasting basis.

Where concerns arise because of loss of direct competition between the merging companies, remedies providing an adequate structural divestiture are generally preferable to other types of remedies. This is because they immediately replace the competition in the markets which would have been lost from the merger. These types of structural solutions were offered by parties and accepted by the Commission in past mergers in the steel industry, such as ArcelorMittal's acquisition of Ilva, and in other industries, such as BASF's acquisition of Solvay's nylon business, Gemalto's acquisition by Thales, Linde's merger with Praxair, GE's acquisition of Alstom's power generation and transmission assets or Holcim's acquisition of Lafarge.

However, in this case, the remedies offered by the merging companies did not adequately address the Commission's competition concerns. In particular:

- In **metallic coated and laminated steel products for packaging**, the proposed divestment would only have covered a small part of the overlap between the merging companies. This was in particular the case for tinplate, the most important packaging steel type in the EEA. Critically, the remedy proposal included no assets for the production of the necessary steel input to manufacture these products.
- In **automotive hot dip galvanised steel products**, the proposed divestment did not include adequate finishing assets capable of serving the customers in the geographic areas the merging companies mostly compete in. Moreover, the remedy proposal included no assets for the production of the necessary steel input to manufacture galvanised steel products for the automotive sector.

The Commission sought the views of market participants about the proposed remedies. The feedback was negative for both areas.

This confirmed the Commission's view that the remedies offered by Tata Steel and ThyssenKrupp were not sufficient to address the serious competition concerns and would not have prevented higher prices and less choice for steel customers.

As a result, the Commission has **prohibited the proposed transaction.**

EU trade measures to ensure a level playing field

The Juncker Commission has been at the forefront in supporting the European industry and its workers, notably in the steel sector. The EU takes action and is using the full potential of its trade defence toolbox to ensure a level playing-field for the EU steel industry and its ability to maintain jobs in the sector.

In reacting to unfair imports by imposing anti-dumping and anti-subsidy duties, the Commission takes into account the concerns of the EU steel industry but also the many small and large European businesses that rely on steel as an input. An unprecedented number of trade defence measures have been imposed on imported steel products since 2014. These measures significantly reduced dumped and subsidised imports. Currently, there are 52 trade defence measures in place on imports of steel and iron products, including from China, Russia, India and several other countries.

In addition, earlier this year, the Commission and EU Member States agreed to put in place safeguards on a whole range of steel products. This has been one of the ways in which the Commission reacted to the market disturbances resulting from the recent US import restrictions on steel and the risk of redirection into the EU of imports from other countries previously destined to the US market. The safeguard measures put in place for up to 3 years preserve the usual level of imports while protecting 216,000 jobs across the EU steel industry.

In addition to that, the Commission participates in the Global Forum on Steel

Excess Capacity to tackle root causes of the global overcapacity in the steel sector and to develop concrete long term policy solutions.

Companies and products

Tata Steel, headquartered in India, is a diversified steel producer with global operations throughout the carbon steel and electrical steel value chains. Tata Steel has several production locations in the EEA, with its main production hubs in the UK (Port Talbot) and in the Netherlands (IJmuiden).

ThyssenKrupp, headquartered in Germany, is a diversified industrial group active in various sectors of the economy, including in the manufacture and supply of flat carbon steel and electrical steel products. Its main flat carbon steel and electrical steel production hubs are located in Germany.

Merger control rules and procedure

The transaction was notified to the Commission on 25 September 2018, and the Commission opened an in-depth investigation on 30 October 2018.

The Commission has the duty to assess mergers and acquisitions involving companies with a turnover above certain thresholds (see Article 1 of the Merger Regulation) and to prevent concentrations that would significantly impede effective competition in the EEA or any substantial part of it.

The vast majority of notified mergers do not pose competition problems and are cleared after a routine review. From the moment a transaction is notified, the Commission generally has 25 working days to decide whether to grant approval (Phase I) or to start an in-depth investigation (Phase II).

In the past ten years, the Commission has approved over 3,000 mergers. Today’s prohibition is only the tenth merger that the Commission has blocked over the same period.

There are currently four on-going phase II merger investigations: the proposed acquisition of Bonnier Broadcasting by Telia Company, the proposed acquisition of Aleris by Novelis, the proposed acquisition of Innogy by E.ON, and the proposed acquisition by Vodafone of Liberty Global’s business in Czechia, Germany, Hungary and Romania.

More information will be available on the Commission’s competition website, in the public case register under the case number M.8713.