Mergers: Commission approves GlaxoSmithKline's acquisition of Pfizer's Consumer Health Business, subject to conditions

The European Commission has approved, under the EU Merger Regulation, the acquisition of Pfizer's Consumer Health Business by GlaxoSmithKline. The decision is conditional upon the global divestment of Pfizer's topical pain management business carried out under the *ThermaCare* brand.

GlaxoSmithKline ("GSK") and Pfizer's Consumer Health Business are both manufacturers and suppliers of a variety of consumer healthcare pharmaceuticals, which are typically available to patients without a prescription from a doctor and generally referred to as "over-the-counter" ("OTC") pharmaceutical products.

Both companies are active in the European Economic Area ("EEA") in a number of OTC product categories, namely topical pain management (creams, gels, spays and patches to treat pain locally), systemic pain management (products for oral intake targeting pain centrally), cold and flu treatments (e.g. multi-symptom treatments, antitussives), gastrointestinal treatments (e.g. antiacids, antiflatulents, antiulcerants), nutrition and digestive health (e.g. vitamins, supplements, laxatives), as well as sedatives and sleeping aids.

The Commission's investigation

The Commission examined the effects of the proposed transaction on competition in the markets where the activities of the companies overlap.

Based on the investigation, the Commission was concerned that the acquisition would reduce competition for topical pain management products, possibly resulting in price increases in a number of EEA countries, including Austria, Germany, Ireland, Italy and the Netherlands.

In the market for topical pain management products,the Commission found products to be broadly substitutable irrespective of their different format or composition (e.g. patches and gels, medicated or not).

For topical pain management products, GSK is a leading OTC supplier in the EEA with its range of *Volta*-branded products (including *Voltaren*, *Voltadol*, or *Voltarol*). These products are mainly sold as medicated gel, creams or spray but also as medicated and non-medicated patches. Pfizer is mostly active in the EEA with its range of *ThermaCare*-branded products, which consists mainly of non-medicated patches.

The proposed remedies

To address these concerns, the companies offered to divest Pfizer's topical pain management business carried out under the *ThermaCare* brand globally. This includes all relevant assets that contribute to the current operation or are necessary to ensure the viability and competitiveness thereof.

These assets will have to be divested as a package to one suitable purchaser to be approved by the Commission. The commitments provide in particular for the divestiture of a Pfizer manufacturing facility located in the US, which is dedicated to the production of *ThermaCare* products, of all intellectual property rights relating to the *ThermaCare* products and brand, as well as products under development.

These commitments remove almost entirely the overlaps between GSK and Pfizer's Consumer Health Business in the topical pain management category in the EEA.

Therefore, the Commission concluded that the proposed transaction, as modified by the commitments, would no longer raise competition concerns in the EEA. The Commission's decision is conditional upon full compliance with the commitments.

Companies and products

GSK, based in the UK, is a pharmaceuticals company active worldwide in research, development, manufacturing, and marketing in three broad segments, i.e. prescription pharmaceuticals, vaccines, and consumer healthcare products.

Pfizer, based in the US, is a pharmaceuticals company active worldwide in the research, development, manufacturing and marketing of innovative medicines. **Pfizer's Consumer Health Business**offers products in five major areas: (a) pain management; (b) gastrointestinal health; (c) respiratory; (d) dietary supplements, and (e) personal care products (e.g. lip care).

Merger control rules and procedures

The transaction was notified to the Commission on 17 May 2019.

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 a total of 25 working days to decide whether to grant approval (Phase I) or to start an in-depth investigation (Phase II). This deadline is extended to 35 working days in cases where remedies are submitted by the parties, such as in this case.

More information will be available on the Commission's competition website, in the Commission's public case register under the case number M.9274.

President Marcelo Rebelo de Sousa: ‘We cannot allow the positive results of public policies to diminish the importance of the drugs issue on the political agenda’

His Excellency the **President of the Portuguese Republic, Marcelo Rebelo de Sousa** visited the **EU drugs agency (EMCDDA)** today for an insight into the work of the agency and the latest trends and developments in the drug situation in Europe. This was the President’s first visit to the EMCDDA since he took office.

President Rebelo de Sousa was briefed by **EMCDDA Director Alexis Goosdeel** on the key findings from the ***European Drug Report 2019*** and the ***Portugal Country Drug Report 2019***, launched on 6 June. During the visit, the head of state met members of the agency’s 100-strong staff and learned about their ongoing projects and challenges. Dr João Goulão, Portuguese member of the EMCDDA Management Board, also attended the event.

The **EMCDDA** provides the EU and its Member States with ‘factual, objective, reliable and comparable information’ on drugs and drug addiction and their consequences, offering an evidence base on the European drugs problem to inform policymaking and practice. As well as monitoring the drug situation today, the agency operates early-warning mechanisms to remain vigilant to, and act on, emerging threats.

The President said: ‘We cannot allow the positive results of public policies over the last 20 years to diminish the importance of the drugs issue on the political agenda. Nothing is ever definitively won. EU Member States must continue to invest in knowledge and information to support effective interventions that contribute to reducing the social harms of drug use and trafficking. This effort must be achieved collectively, because only together can EU countries tackle this increasingly sophisticated problem’.

Presenting the agency’s **Strategy 2025**, **Alexis Goosdeel** said: ‘The EMCDDA contributes to a healthier and more secure Europe, through better informed drug policy and action. Working with policymakers and practitioners from both the health and law enforcement domains, we provide evidence for decisions which affect European citizens, particularly those touched by drug use and trafficking. We will continue to enrich our monitoring system with novel data sources and techniques to help us keep pace with new trends and developments.’

The **EMCDDA** was established in 1993 in the face of an escalating drug phenomenon in Europe and the need for independent, science-based information to help Europe understand the nature of its drug problems and better respond to them. Following preliminary monitoring tasks, the agency was inaugurated in Lisbon in 1995 and, in 2020, will celebrate 25 years of monitoring.

2020 EU budget: Council agrees its position

EU ambassadors today agreed the Council's position on the 2020 EU draft budget. Once formally adopted by the Council, this will serve as a mandate for the presidency in negotiations with the European Parliament.

In total, the Council's position for next year's budget amounts to €166.8 billion in commitments and €153.1 billion in payments. Compared to 2019, this is an increase of +0.6% in commitments and +3.3% in payments.

The increase in payments reflects the acceleration of programme implementation towards the end of the multiannual financial framework for 2014-2020. It should allow for budgetary commitments to be paid in sufficient time to avoid the accumulation of outstanding bills, in particular in cohesion policy, where the implementation of programmes continues at an accelerated pace.

The agreed figures are based on the premise that the UK will continue to participate fully in the financing and implementation of the EU budget until the end of 2020.

> Next year's budget is the last under the current multiannual financial framework. Member states want it to be realistic and fit for purpose. The Council's position provides for adequate payment levels and funding for key priority areas, such as growth and jobs, climate action and the management of migration. At the same time, it includes targeted adjustments to the Commission's proposal and leaves sufficient margins for unforeseen needs. The agreement reached today will provide a solid basis for negotiations with the European Parliament.
>
> *Kimmo Tiilikainen, State Secretary, Ministry of Finance of Finland, chief Council negotiator for the 2020 EU budget*

Continued support for growth and jobs

Strengthening the European economy remains a key priority for member states.

The Council therefore continues to support the reinforcement of programmes under the “Competitiveness for growth and jobs” heading, which would receive €24.0 billion in total, or +2.72% compared to 2019.

The biggest increases in the 2020 budget would concern European satellite navigation systems (EGNOS and Galileo: €1.2 billion, or +74.75%), the energy strand of the Connecting Europe Facility (€1.2 billion, or +24.94%) and the European Solidarity Corps (€166 million, +15.88%). In all these cases the Council has supported the funding levels proposed by the Commission.

Increases are also foreseen for the EU’s flagship programmes Horizon 2020 (€12.8 billion, or +3.73%) and Erasmus+ (€2.8 billion, or +2.49%), as well as for COSME, which supports SMEs and entrepreneurship, and the European Defence Industrial Development Programme, which will help to pave the way for the European Defence Fund for the 2021-2027 period (+7.06% and +4.08%, respectively).

The “Economic, social and territorial cohesion” heading, gets a boost of +€633.6 million, which represents an increase of +2.23% compared to 2019.

Other priority areas

The Council also backs a reinforcement of the LIFE programme, which provides funding for environment and climate action (€580 million, or +3.85%).

In total, nearly 20 % of the EU budget spending would be dedicated to tackling climate change, in line with the EU’s target for the 2014-2020 period.

In the area of migration, additional resources are budgeted for the European Border and Coast Guard Agency (Frontex) (€101.4 million, or +32.4% compared to 2019) to set up a standing corps of 10 000 border guards by 2027.

To strengthen civil protection, increased funding by €156.2 million is provided for the Union Civil Protection Mechanism, which helps member states deal with natural, technological and man-made disasters.

As regards external action in “Global Europe” heading, the overall decrease of commitments compared to 2019 is explained by the end of the period for budgetary commitments related to the Facility for Refugees in Turkey.

The Turkey lines of the Instrument for Pre-accession Assistance (IPA II) have again been adjusted downwards compared to the financial programming, to bring them to 2019 levels. The relevant funds have been reallocated, including as increased support for the Western Balkans.

Limits to administrative expenditure

As regards administrative expenditure, the Council has taken a stringent approach. While all institutions benefit from an increase of their annual budget for 2020 due to statutory and contractual obligations, adjustments have been made to the Commission’s draft budget, in particular to stabilise staffing levels. Non-salary expenditure is kept frozen at 2019 levels, with minor exceptions.

The Council takes the view that any additional needs in the field of administrative expenditure should be covered mainly by re-prioritisation.

A summary of the Council's position is set out in the table below*:

MFF headings	**Council's position on DB 2020**		**Difference with the 2019 budget (%)**	
	c/a	**p/a**	**c/a**	**p/a**
1. Smart and inclusive growth	**82 439 038 982**	**72 011 498 751**	**+2,37%**	**+6,59%**
1a Competitiveness for growth and jobs	23 969 038 982	22 004 091 901	+2,72%	+7,22%
1b Economic, social and territorial cohesion	58 470 000 000	50 007 406 850	+2,23%	+6,32%
2 Sustainable growth: natural resources	59 751 006 170	57 774 363 718	+0,18%	+0,65%
3 Security and citizenship	3 602 729 558	3 689 420 926	-4,86%	+4,59%
4 Global Europe	10 114 334 239	8 946 061 191	-10,64%	-4,41%
5 Administration	10 269 060 577	10 272 063 787	+3,28%	+3,29%
MFF headings	166 176 169 526	152 693 408 373	+0,58%	+3,32%
Special instruments	587 763 000	418 500 000	+1,82%	+1,70%
Emergency Aid Reserve	358 500 000	358 500 000	+1,99%	+1,99%
European Globalisation Adjustment Fund	179 263 000	10 000 000	+2,00%	
European Union Solidarity Fund	50 000 000	50 000 000		
Total appropriations	166 763 932 526	153 111 908 373	+0,58%	+3,32%

*in billion €, c/a commitments, p/a payments, DB: draft budget

Next steps

The Council is expected to formally adopt its position on the 2020 EU budget in early September. The adoption of the Parliament's position is scheduled for the second half of October.

[EIOPA issues opinions on governance and risk management of pension funds]

Today, the European Insurance and Occupational Pensions Authority (EIOPA) published four Opinions to assist National Competent Authorities (NCAs) in the implementation of the Institutions for Occupational Retirement Provisions – the IORP II Directive:

- The **Opinion on the use of governance and risk assessment documents in the supervision** of Institutions for Occupational Retirement Provisions (IORPs)
- The **Opinion on the practical implementation of the common framework for risk assessment and transparency** for Institutions for Occupational Retirement Provisions (IORPs)
- The **Opinion on the supervision of the management of operational risks** faced by Institutions for Occupational Retirement Provisions (IORPs)
- The **Opinion on the supervision of the management of environment, social and governance risks** faced by Institutions for Occupational Retirement Provisions (IORPs)

Governance and risk management of pension funds are key activities to ensure the protection of pension scheme members. As a new provision of the IORP II Directive, the requirement to conduct an Own-Risk Assessment (ORA) has not only a significant impact on the governance and risk management systems of pension funds but also poses certain implementation challenges.

The **Opinion on the use of governance and risk assessment documents in the supervision of IORPs** sets out EIOPA's expectations on minimum information content to describe how pension funds conduct their ORA and present results from their ORA. NCAs should review and ensure that the ORA is forward-looking, considering internal and external emerging developments likely to affect pension funds' future risk profile.

In the area of operational risks, the **Opinion on the supervision of the management of operational risks faced by IORPs** stresses the importance of forward-looking supervision. With the shift away from defined benefit pensions and the emergence of multi-sponsor IORP providers, NCAs should increasingly pay attention to pension funds' future viability and operational liabilities of defined contribution schemes. Although new market and regulatory developments should generally improve occupational pensions, they may also lead to greater complexity in retaining supervisory oversight of the full range of activities performed by pension funds or outsourced to service providers. Furthermore, the rapid evolution and transmissibility of cyber threats necessitate a forward-looking and cross-sectoral approach to the supervision of cyber risk faced by pension funds.

The IORP II Directive includes new environment, social and governance (ESG) provisions. The supervisory oversight of pension funds' exposure to ESG risks is another implementation challenge with ESG being a relatively new practice. Therefore, NCAs should take a holistic view of pension funds' exposure to ESG risks. The **Opinion on the supervision of the management of ESG risks faced by IORPs** provides an illustrative mapping of how ESG risks may arise in traditional prudential risks. As institutions tasked with a social purpose of providing retirement benefits, European pension funds should be exemplary leaders of responsible ownership. Thus, NCAs should encourage pension funds to consider the impact of their long-term investment decisions and activities on ESG factors through their stewardship role, as well as having regard to the impact of sustainability risks on pension fund liabilities.

The common framework is a useful risk assessment tool that can support pension funds in the conduct of their ORA. **The Opinion on the practical implementation of the common framework for risk assessment and transparency for IORPs** encourages NCAs to make IORPs aware of the availability of the common framework as a tool for risk assessment and to stand ready to support pension funds in the application of the tool.

Gabriel Bernardino, Chairman of EIOPA, said: *"The IORP II Directive has profound implications for the governance and risk management of occupational pension funds in Europe. In this context, the EIOPA Opinions lay the foundation for the future supervisory convergence of pension funds' own-risk assessment to ensure sound risk management for the better protection of members and beneficiaries and alignment with society's sustainability goals."*

The **Opinion on the use of governance and risk assessment documents in the supervision of IORPs** is available via this link. Templates on the own-risk assessment documents is available via this link.

The **Opinion on the practical implementation of the common framework for risk assessment and transparency for IORPs** is available via this link. Technical material relating to the common framework is available via this link.

The **Opinion on the supervision of the management of operational risks faced by IORPs** is available via this link.

The **Opinion on the supervision of the management of environment, social and governance risks faced by IORPs** is available via this link.

European Union becomes an observer to Council of Europe's anti-corruption

body GRECO

The Committee of Ministers representing the 47 Member States of the Council of Europe today adopted a decision accepting a request by the European Union to become an observer with the Group of States against Corruption (GRECO).

Welcoming this decision, the First Vice-President of the European Commission, Frans Timmermans, said: *“The European Union’s participation in the GRECO as an observer brings the European Union and the Council of Europe closer and reinforces our joint efforts to strengthen the rule of law and fight against corruption across Europe. It is very fitting for this to happen in the year in which GRECO celebrates its 20th anniversary”.*

The Secretary General of the Council of Europe, Thorbjørn Jagland, said: *“This is another example of good co-operation between the European Union and the Council of Europe. Working together to protect the rule of law and to prevent corruption, our actions will be more effective and we will have a greater impact.”*

Background

The Group of States against Corruption (GRECO) is the Council of Europe anti-corruption body. It aims to improve the capacity of its members to fight corruption by monitoring their compliance with anti-corruption standards. GRECO helps states to identify deficiencies in national anti-corruption policies, prompting the necessary legislative, institutional and practical reforms. It comprises the 47 Council of Europe Member States, Belarus and the United States of America.