

FTC Challenges Proposed Merger of Two Hydrogen Peroxide Producers

Agency alleges that combining Evonik Industries AG and PeroxyChem Holding Company would harm competition in two regional markets for production and sale of hydrogen peroxide

FOR RELEASE

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The Federal Trade Commission today authorized an action to block Evonik Industries AG's proposed \$625 million acquisition of PeroxyChem Holding Company, alleging the merger of the chemical companies would substantially reduce competition in the Pacific Northwest and the Southern and Central United States for the production and sale of hydrogen peroxide, a commodity chemical used for oxidation, disinfection, and bleaching.

The FTC issued an **administrative complaint**, and filed a request for a temporary restraining order and preliminary injunction in federal district court to maintain the status quo pending an administrative trial on the merits.

Most hydrogen peroxide produced in North America is sold to pulp and paper customers for bleaching pulp and de-inking recycled paper, according to the complaint. Hydrogen peroxide is also used to sterilize food and beverage packaging, and in chemical synthesis, fracking, water treatment, and electronics. For most end uses, there are no effective substitutes, the complaint alleges. Because of high transportation costs, customers prefer nearby suppliers.

The complaint alleges that the acquisition would harm competition in at least two ways. It would increase the likelihood of coordination in a market "already vulnerable to coordination, functioning as an oligopoly, and with a long history of price-fixing." Also, the market is highly concentrated, with significant transparency among rival firms, and long-term, stable customer-supplier relationships, low elasticity of demand, and a history of strong interdependent behavior, the complaint states.

The acquisition would also eliminate significant head-to-head competition between Evonik and PeroxyChem in the Pacific Northwest, where it would leave only one other hydrogen peroxide producer, and in the Southern and Central United States, where it would leave three other producers, according to the complaint. The complaint alleges that customers have benefitted from competition between Evonik and PeroxyChem in the form of lower prices. New competitors or expansion by existing firms is unlikely to be timely or sufficient to offset anticompetitive harm, due to the massive investment necessary to build a new hydrogen peroxide plant.

The complaint alleges that the proposed acquisition is an unfair method of competition, in violation of the Federal Trade Commission Act, and is likely to substantially lessen competition, in violation of the Clayton Act.

The Commission vote to issue the administrative complaint and file the agreed-upon request for a temporary restraining order in the U.S. District Court for the District of Columbia was 4-0-1. Chairman Joseph J. Simons was recused. The administrative trial is scheduled to begin on Jan. 22, 2020.

NOTE: The Commission issues an administrative complaint when it has “reason to believe” that the law has been or is being violated, and it appears to the Commission that a proceeding is in the public interest. The issuance of the administrative complaint marks the beginning of a proceeding in which the allegations will be tried in a formal hearing before an administrative law judge.

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