



COMISIÓN FEDERAL DE COMPETENCIA
MÉXICO

Remedies in a Horizontal Merger

Oscar Martinez Quintero
Federal Competition Commission
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1

Merger



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Objectives



- Show the broadcasted effects before the merger process.
- Which were the basic features the remedy had to satisfy.
- Show the remedies imposed and its results so far.

Transaction



- The entire Pfizer Nutrition's baby formulas business by Nestle.
- **Brands:** *SMA Gold, S-26, Promil Gold, Progress Gold, SMA Gold Transición, SMA AR Gold, Nursoy Gold, SMA sin lactosa Gold, SMA HA Gold y SMA Comfort Gold.*
- Including a manufacturing unit.
[unique Pfizer plant in Latin America.]

Relevant markets



- Three relevant markets:
 - Starter Infant Formula and Follow-On Milk (IFFO).
 - Growing-Up Milks (GUM).
 - Specialized formulas.
- Geographic dimension is national.
- Baby formulas have no substitutes.

Market analysis



- Three main competitors in the markets (Nestle, Pfizer y M&J). [66%-98%].
- Another competitors are in the market only by imports.
- High entry barriers.
- Low price elasticity of demand.

Merger effects



- Nestle would have obtained:
 - A market share of: 37% in specialized, 71% in IFOO and 88% in GUM.
 - An average price increase of 2.8% to 11.5% depending on the relevant product.
 - The most part of installed capacity in the relevant markets.
 - An enhanced market bargaining power with whole and retail sellers, boosting its brands portfolio.

Remedies



- Structural or behavioural (or conduct).
- Remedies have to be at least equivalent to damage.
- In horizontal mergers, behavioural remedies are not advisable.
- The behavioural remedies can be used like complementary condition, but as long as implemented with structural remedies.

Remedies



- The remedies proposed were not enough: did not guarantee the stay of an effective and independent competitor in the relevant markets on the long run.
- Decision: No-authorized.
- Nestle takes the second step on the legal proceedings, “Reconsideration Appeal” (RA).

Remedies



- RA allows a remedies proposal evaluation before decision making.
- Which remedies would be satisfactory?
 - Background and international experience.
 - Feed-back with others jurisdictions.

Imposed remedies



- Pfizer Nutrition business full assets divestiture.
- Pfizer trademarks exclusive licence to a third party, approved by FCC [for a 10-years period].
- An additional 10-years black-out period.

Today status



- Pfizer Nutrition was bought by “Aspen Group”.
- Aspen Group is an effective and independent competitor in the relevant markets on the long run.
- The market development is to be seen.



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www.cfc.gob.mx

E-mail: omartinez@cfc.gob.mx