

# Antitrust & Competition Insight

In association with Hogan & Hartson LLP

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# Foreword

## **Welcome to this fifth edition of the Antitrust & Competition Insight – brought to you by mergermarket in association with the Antitrust & Competition Group of leading international law firm Hogan & Hartson LLP.**

This report aims to bring you an update on the key deals and issues affecting M&A activity in North America, Europe and beyond. We hope that this quarterly newsletter will provide corporate, advisory and investor readers with timely, informed and objective intelligence.

In addition, the Antitrust & Competition Insight leverages off mergermarket's sister company dealReporter – bringing you a listing of live deals sitting with the regulatory authorities. Furthermore the report provides features and case studies that explore and help resolve many of the problems faced by corporations and bankers when conducting M&A and avoiding unnecessary antitrust and competition complications in their daily operations.

In the first article, Michel Debroux analyses the new enforcement tools recently made available to the European Commission in its fight against cartels. Meanwhile, on page 6, Mary Anne Mason, Sharis Pozen, and Leigh Oliver examine the Federal Trade Commission's complaint brought against two private equity investors because their proposed investments created a significant overlap with existing asset portfolios. Sandra Pointel, dealReporter's regulatory

correspondent, and Oliver Adelman of mergermarket, summarise the European Commission's investigation of the energy sector and the subsequent antitrust issues that will arise in coming months. The final feature of this edition sees Catriona Hatton, Hogan & Hartson Brussels Practice Group Director, analyse upcoming changes in EU merger control policy. Also in this edition of the newsletter are mergermarket's regional round ups of various antitrust issues across the globe, which can be found on page 15.

We hope you find this latest edition of interest. We would like to exhort and welcome any feedback you might have for the forthcoming newsletter in June please email Katie Jones [kjones@hhlaw.com](mailto:kjones@hhlaw.com).

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# EU Policy Against Cartels: New Tools, New Threats

**A few weeks ago, the EC Commission (the “Commission”) imposed its two highest fines ever in cartel cases, totaling nearly €1.75bn in just two decisions. And yet, it may be only the tip of the iceberg, as new enforcement tools have been adopted last year and will bring about increased threats to members of cartels.**

In January and February 2007, the Commission imposed on the members of two large cartels, the “gas insulated switchgear cartel” and the “lift cartel”, fines totaling €750m and €990m respectively. In both cases and subject to appeal, there is little to comment on the substance of the practices, as the Commission claims to have gathered compelling evidence, largely on the basis of its successful leniency program. The Commission found that the “usual” practices of allocating market and fixing prices took place in several European countries and lasted 16 years in the gas insulated switchgear cartel and almost 10 years in the lift cartel.

More remarkably, the Commission imposed record fines on the ground of its existing guidelines on fines, which are due to be gradually replaced by new, far tougher guidelines, adopted in September 2006. The Commission couldn’t send a clearer message to companies engaged in illegal cartel practices: if very significant fines can be imposed on the ground of “old” guidelines, just imagine what the future fines could be, on the basis of tougher guidelines...

But there is more than new guidelines on fines. This article briefly discusses the whole range of new tools that are on the eve of re-shaping the EU Commission policy against cartels, i.e. guidelines on fines, leniency, direct settlement and private actions.

## Guidelines on fines

Entered into force on 1 September 2006, the new guidelines will only apply to cases where statement of objections have been sent after this date. As a result, a large backlog of existing cases will still be decided on the basis of the existing 2002 guidelines, and the first decisions adopted on the basis of the 2006 guidelines are not expected before the second half of 2007.

Among the many features of the new guideline, three main innovations in particular are worth highlighting: firstly, in determining the fine’s basic amount (first step of the process), the Commission will replace the current “forfeit” mechanism by a percentage of the revenues generated by the activities subject to the cartel (up to 30 %); secondly and most importantly, the aggravating factor resulting from the duration of the cartel jumps from 10% to 100% per year. Thirdly, repeat offences (“recidivism”) will be more drastically punished, i.e. up to 100% per previous infringement and infringements to EU rules sanctioned by national enforcement authorities will be taken into account, as opposed to current mechanism where only Commission’s decisions are counted.

Thus, in the case of a relatively “standard” cartel, for instance with one previous infringement and a duration of 10 years, the fine can quickly exceed 600% of the annual turnover subject to the cartel.

The “butterfly effect” – lastly, one should emphasise that local and small cartels can have a devastating effect in large groups, as the Commission currently enforces a strict joint and several liability policy. In the Commission’s eyes, any infringement by a subsidiary, however local and limited in scope, is attributed to the ultimate parent company, in the case of full share ownership. In other words, the parent company is “presumed guilty” for all its subsidiaries’ misconduct across the globe, which affects not only the maximum amount of the fine (10% of the group’s turnover) but also the consideration of recidivism in calculating the fines.

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### Leniency

On 8 December 2006, the Commission adopted a new leniency notice that replaces, with immediate effect, the previous 2002 notice. The 2002 notice has been a clear success for the Commission but required some clarifications designed to tighten the rules applying to acceptable evidence and to avoid unrealistic hopes for an applicant bringing little value in the process. In summary, the main changes introduced by the new notice are (a) the introduction of a discretionary marker system, where an application for immunity may be accepted whilst the applicant is given some time to gather the necessary evidence, (b) in-depth description of the level, scope and breadth of information and evidence to be provided, in the form of a detailed corporate statement, (c) procedures to protect these corporate statements from disclosure in civil damages proceedings (mostly US-style disclosures) and (d) some clarifications of the eligibility conditions for immunity and reduction of fines.

Full immunity is only available to the first successful applicant and can be obtained in two alternative scenarios, depending on whether the Commission had already information on the cartel in question. In the first scenario, immunity can be obtained if the applicant provides enough evidence on a cartel where the Commission did not have sufficient information to carry out a dawn raid. Under the second scenario, where the Commission has already carried out inspection, immunity is available to applicants who provide information sufficiently detailed with "significant added value" to enable the Commission to adopt an infringement decision. Needless to say, the test under the second scenario is a far tougher one.

For the other applicants, reductions of fines are available if, and to the extent that, they provide information of evidence of "significant added value", and the level of reduction decreases with the order of application: between 30% and 50% for the second applicant, between 20% and 30% for the third applicant and maximum 20% for subsequent applicant.



### Direct Settlements

The Commission's Leniency program has been a victim of its own success and the resources of the DG Competition at the Commission are strained by an important backlog of pending cases. The Commission is therefore considering a new "Direct Settlement" mechanism, said to be modeled on the only comparable system existing at EU level, i.e. France's.

In short, companies could voluntarily enter into a direct settlement procedure by acknowledging the scope, duration and severity of the infringement, against a reduction of fine. But the project, initiated in the spring of 2005, is still very much in draft form and nearly nothing transpired from the Commission's internal debates on this new mechanism. As a result, although this project is said to be given a high priority within the Commission's agenda, no external discussion paper has been published and several questions remain unanswered: should all cartel members enter into settlement discussions or only some of them? When would the window for settlement be opened: before or after the Commission's statement of objection and, if before, to what extent should the Commission's initial findings be formalised? How to articulate this procedure with the leniency program?

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In spite (or because) of these uncertainties, the Direct Settlement initiative is likely to be one of the hot debates in EU cartel policy in 2007.

### **Private Actions**

Lastly, private antitrust actions should not be forgotten, even though such actions do not belong strictly speaking to the Commission's legal arsenal. Because of significant disparities among the member states' legal systems, the EU is far from being a long way down the road to US-style private antitrust actions becoming a reality, but the Commission's efforts will inevitably result in an increased number of private cases.

The ever increasing severity of the Commission's action against cartels has been largely supported by the European court's case-law and is today on the eve of being given a new impetus: cartel members are being given a very clear signal.

**Michel Debroux, Hogan & Hartson, Paris**

# Private Equity Investors Face Greater Antitrust Scrutiny

As private equity buyouts have grown in number and size over the past year, antitrust regulators have made it known that they are keeping a watch over the structure of these transactions and their potential competitive effects. In October 2006, it was reported that the U.S. Department of Justice Antitrust Division (“DOJ”) had issued informal letters to a number of private equity firms seeking information on their business practices with respect to large buyouts that were structured as club deals.<sup>1</sup> In January 2007, the Federal Trade Commission (“FTC”) conditioned the private equity investment in Kinder Morgan, Inc. one of the top five largest announced private equity transactions of 2006, on a consent agreement because the purchasing firms already owned a 50% interest in a Kinder Morgan competitor. These actions signal that the antitrust agencies are keeping a watchful eye over this wave of private investment buyouts.



## FTC Conditions Private Equity Investment on Consent Agreement

The FTC has expressed concerns about private equity investments in recent times. Early this year, the agency issued a Complaint and conditioned the clearance of private equity investment in Kinder Morgan, Inc. on a consent agreement that required the proposed investors to convert their controlling interest in Kinder Morgan’s competitor Magellan Midstream Holdings, L.P. (“Magellan”) into a passive investment. Two private equity groups, the Carlyle Group (“Carlyle”) and its affiliate Riverstone Holdings LLC (“Riverstone”), sought to participate with a group of private equity investors and a team of Kinder Morgan management to take Kinder Morgan, Inc. private. The FTC took issue with overlaps that existed between the investment firms’ interests in Magellan and those they would acquire in Kinder Morgan. The case confirms that investments by private equity firms and other financial buyers will not escape antitrust scrutiny when their combined holdings create competitive overlaps.

The FTC Complaint alleges that Carlyle and Riverstone’s proposed interests in Kinder Morgan would overlap with their existing interests in and control over one of Kinder Morgan’s top competitors, Magellan. Carlyle and Riverstone hold a 50% interest and have veto rights with respect to certain actions of the Magellan Board of Directors. Carlyle and Riverstone’s proposed combined investment in Kinder Morgan would amount to a 22.6% interest and the right to nominate two of the eleven directors of the Kinder Morgan board. The FTC asserted that because Magellan and Kinder Morgan compete to provide petroleum terminaling services in at least eleven markets in the Southeast, Carlyle and Riverstone’s overlapping interests and control could reduce competition in these markets and lead to reduced output and higher petroleum prices. In particular, the FTC noted that in some markets, Kinder Morgan and Magellan were the only sellers of non-branded light petroleum products and thus were the only alternatives available to independent distributors.

<sup>1</sup> See Private Equity Firms and the DOJ, Antitrust & Competition Insight 4 (Dec. 2006).

## Private Equity Investors Face Greater Antitrust Scrutiny

The FTC's proposed Consent Agreement, made public on January 25, 2007, takes the unusual step of resolving the competitive concerns by requiring Carlyle and Riverstone to remove their representatives on the Magellan board if Carlyle and Riverstone want to exercise their rights to nominate members to the Kinder Morgan board. The Consent also requires Carlyle and Riverstone to establish firewalls to prevent sharing of non-public information between the competing entities. According to the Commission, anticompetitive effects are less likely when investors are without rights to control or influence decision making, and adequate protections are established to guard against sharing of competitive information.

The proposed remedy for Carlyle and Riverstone is a marked departure from the typical remedy for a merger of two direct competitors in a concentrated market – a requirement to divest overlapping assets. The proposed consent with Carlyle and Riverstone allows them to maintain investments in both Magellan and Kinder Morgan so long as they do not result in reduction of competition between them. The consent confirms that the Commission will scrutinize private equity and other financial acquisitions when such transactions result in common ownership and influence in the competitive decision making of competing businesses. However, it also signals that remedies short of divestiture of stock or assets can suffice if the investors are willing to accept limitations on the extent to which they can influence management decisions of the competing businesses and on sharing of competitively significant information.



The FTC's action indicates that financial investors who have accumulated a significant holding in a particular economic sector will face greater antitrust scrutiny when investigating in that sector in the future. Such investors will need to assess the potential overlaps created by their other investments and the role the investors will take as to those companies. Likewise, investors should consider the investment portfolios of their investment partners that could trigger antitrust issues and prolong antitrust review of a transaction. Finally, targets should consider a buyer's existing investment portfolio for purposes of assessing antitrust risks associated with competing bids. Such reviews would assist companies and investment funds in calculating antitrust risks, and enable them to take preemptive actions to ensure smooth regulatory review and timely closings.

**By Mary Anne Mason, Sharis Pozen, and Leigh Oliver,  
Hogan & Hartson, Washington DC**



# European Energy: a Bundle of Trouble

In 2006, the European Commission (EC) assessed 22 cross-border energy mergers – over three times more than in 2005. This, according to EC president Jose Manuel Barroso, shows the EU is making progress towards the establishment of a truly internal market and “contradicts the rhetoric for national champions.” Nevertheless, the Commission’s inquiry into the energy sector, of which final results were published on 10 January 2007, has highlighted that gas and electricity markets are not performing as they should. Obstacles to effective competition, including a lack of transparency and a framework that still favours incumbents, remain and cross-border activities are still insufficient.

The Commission strongly believes the best solution to address these issues would be a legislation forcing the full separation of energy production from transport and distribution networks. Competition Commissioner Neelie Kroes previously indicated that other options such as reinforced legal unbundling or an Independent System Operator [ISO] model, would not do enough to address the current problems of conflicts of interest, intrinsic incentives to distort third-party access and distorted investment incentives.

Nevertheless, in what looked as a step back from a more aggressive position towards ownership unbundling, the Commission proposed, in January, several options to improve competition on energy markets. While it stated its “preferred choice” was for a full ownership unbundling, it also offered alternative scenarios, including an ISO and suggested that if a directive was not possible, issues would be tackled with remedies being imposed on an individual basis either after antitrust investigations or as a result of a merger assessment.

But the softening of the EC position may have pre-empted resistance from some member states against what could be considered by some as a drastic proposal. Indeed, to move ahead, the Commission would require the approval of both the European Parliament and the EU Council, which gathers the 27 EU leaders. It has been suggested that the Commission had proposed an alternative to a directive, which would have seen the break-up of energy giants Electricite de France [EDF] and E.On and RWE, because France and Germany had made it clear that it would be politically unacceptable to agree to such proposal. Barroso himself recognised at the time that if the EC had come up with directive proposal, “the probability of seeing it adopted would have been close to zero”, adding that the aim was to find a consensus and avoid the status quo at a time when the EU is trying to adopt a common energy policy.



The proposal for a full ownership unbundling directive as disclosed on 10 January received a mixed reaction in Europe. The UK and Spain, which both have already unbundled their energy markets, welcomed the move as an effective mean to boost competition on EU energy markets. In France, however, both state-owned companies EDF and Gaz de France (GDF), which own transmission companies Reseau de Transport d’Electricite [RTE] and GRT Gaz respectively, said they were strongly opposed to any break up of their business. Unsurprisingly, French industry minister Francois Loos also rejected the proposal saying that the legal unbundling imposed by the 2003 directives was satisfactory when accompanied by a strong regulation.

In Germany, reactions were more nuanced, at least on the political front, which could also be due to the fact that the country currently holds the EU presidency and needs to be seen as doing something. Michael Glos, German Federal Minister of Economics and Technology, said he agreed with the EC that something needed to be done to introduce more dynamism into the energy sector, and he called for stronger co-operation of national regulatory authorities.

## European Energy: a Bundle of Trouble

But the German industry strongly criticised the timing of the proposal indicating that a full ownership unbundling was an absolute no-no at this stage because it would be too complicated and counter-productive for the country. RWE clearly stated its opposition to the EC proposal, describing mandatory unbundling as “expropriation under German and European law.” Furthermore legal unbundling is still expected to lead to consolidation in the German energy markets, but the move remained up to two years away. Multiple smaller stadtwerke [domestic municipal utilities] are believed to be ripe for consolidation, as the country’s unbundling legislation meant that these groups could see loss of revenues of up to 20%. However, the revenue loss is unlikely to bite for a further 18 to 24 months, and that it was then that a round of domestic utility consolidation would occur. A full ownership unbundling directive is also seen as particularly complicated to implement in Germany, which unlike France does not have just two energy companies but 700.

The EU Spring Council met in Brussels on 8-9 March to discuss the matter and, unsurprisingly did not back up a full ownership unbundling directive. Although the EU leaders agreed with the EC on ‘the need for effective separation supply and production activities from network operations’, they said any move to break up European energy companies should be looked at on a case-by-case basis. They opted instead for the conclusions adopted by the Council of energy ministers last February. These called for the creation of a mechanism for Transmission System Operators to improve coordination of network operation and grid security building on existing cooperation practices and encouraged further cooperation between national regulators.

The Commission has previously indicated it would use existing tools from competition law on a case-by-case basis if it did not get the back-up from member states for a legislative change. Kroes said these would apply through both behavioural investigations and merger assessments, and she promised “far-reaching structural remedies”, which could go as far as a break-up of the business.



But competition experts believe the Commission would find it difficult to impose such extreme remedies in the absence of legislation. In its argument to demonstrate that the lack of unbundling prevented incentives to invest in networks, the Commission referred to a specific case sanctioned by the Italian competition authority whereby energy company ENI had abused its dominant market position by hindering the entry of independent operators into the national market. Such an obvious case is however likely to be an exception.

Kroes explained the EC sector inquiry gave the authority a good understanding of where obstacles to competition issues lie, which would enable it to impose better remedies when necessary. She specifically referred to the Suez/GDF merger where the Commission asked for further concessions to clear the deal. Competition experts have recognised that the Commission had been tougher in this specific deal than would have been the case without the inquiry and would use a merger review to achieve wider policy objectives if they could.

## European Energy: a Bundle of Trouble

The EC can always require parts of the networks to be divested as remedies to competition issues arising from a merger. However these remedies need to be proportionate and a full ownership unbundling may not be considered as such. If parties do not have to accept the conditions and if the EC is sticking to them, they can be appealed to the European court.

This would also apply if the Commission were to impose a break-up following investigations under article 81 and 82, which relate to collusion and abuse of dominant position respectively. Already, the Commission carried out dawn raids at several energy companies in May and December last year. However, it is still unknown whether the EC has found good evidence of breaches. In the future, companies are likely to be very careful not to commit abuse. However, if the Commission tried to impose a full ownership unbundling following behavioural investigations, they could equally be able to appeal arguing that this is not a proportionate remedy. Structural remedies can be imposed only when there is no equally effective behavioural remedy, or when a behavioural remedy would prove more burdensome for the infringing company than a structural remedy.

Although the Commission's suggestions for a break-up as a remedy to breaches of article 81 and 82 is more novel, imposing a break-up of a company while leaving others with similar structures could be problematic in an EU where some countries have implemented full ownership unbundling and some have not. It was suggested that acting on a case-by-case basis, may lead to a patchwork of different solutions, which is the reason why the Commission had wanted a uniform legislative proposal. Furthermore, such "far reaching structural remedy" could also face the opposition of member states and there would probably be a lot of pressure in France and Germany.

Although full ownership unbundling is probably the best solution to lift to encourage investment in networks and ensure a level playing field among other operators, the Commission will still need to work hard to convince countries like France, Germany, and Italy, which buoyed by the success of their national champions, are unlikely to give way. But if no imminent changes are to be expected, developments are

likely to occur in the energy markets in the longer term. It was suggested that one solution could be that EU countries are first required to solve the problem themselves and if this does not work, the directive proposal may come again. Several competition experts thought the scope for a directive may come later when the political climate is more favourable. A precedent being the issues that arose in the telecoms sector before it became a success.

The Commission has certainly not given up on full ownership unbundling. Following the Council conclusions, an EU official said the EC "debate had not ended and the Commission would not back down on its aim to achieve competition for European gas and electricity markets." He recalled resistance the Commission previously faced in the telecoms sector and insisted that, out of 27 member states, 12 had already implemented ownership unbundling in the electricity sector and five in gas. Furthermore, while there was no readiness to discuss ownership unbundling 18 months ago, the debate has evolved since because markets are not as competitive as they should be, he added.

The Commission now needs to prepare a number of legislative instruments and come up with a concrete proposal which it expects to deliver in the summer. It is still waiting for the impact assessment to know exactly how to tackle the specific questions and is working on the basis of its preferred for ownership unbundling, the official said.

Meanwhile, the Commission will also follow up on antitrust cases, mergers and state aid measures, drawing up not only on the conclusions from its inquiry into the energy sector but also lessons taken from the EU Council conclusions. The EC has not set a timetable for a decision on potential antitrust breaches following dawn raids at several energy players last year but it will take necessary measures to ensure fair access to energy, networks and consumers. "We will take this forward all along the value chain," warned the EC official. "As for mergers, the Commission will continue to prefer remedies that are in favour of opening the markets," he added.

**By Oliver Adelman, mergermarket & Sandra Pointel, dealReporter, Brussels**

# Upcoming Changes in EU Merger Control Policy

In recent months, the European Commission has launched a number of initiatives that may impact both the scope of the Commission's jurisdiction to review mergers under the EU Merger Control Regulation and the principles to be applied in the assessment of some of those mergers including the treatment of remedies.

The first of these initiatives is the publication of the Commission's Draft Jurisdictional Notice on the Control of Concentrations. It deals with a number of jurisdictional issues including the types of merger situations ("concentrations") which will be subject to review and guidance on how to calculate the turnover of the parties ("undertakings concerned") in order to determine if EU merger filing thresholds are met.

The second initiative is the publication for public consultation of the Commission's Draft Merger Guidelines for Companies in a Vertical or Conglomerate Relationship. These set out some of the principles to be applied in assessing mergers between companies active at different levels of the supply chain (vertical merger) or companies active in complementary or related markets (conglomerate merger). Finally, the Commission is working on a Draft Notice on Remedies (divestments and other remedies which parties to a deal may need to offer in order to secure Commission clearance).

These initiatives are not new law. Rather, they are designed to set out guidance based on the Commission's experience in the mergers it has assessed to date and reflect changes brought about by European Court case law and by the new Merger Regulation which entered into force in 2004. While these Notices are not legally binding, in a system where the Commission, rather than the Court, has the final say on the vast majority of large mergers, documents such as these which reflect the Commission's views on key aspects of jurisdiction and substance are central to the EU antitrust analysis of mergers.



## 1) Draft Jurisdictional Notice

This draft Notice consolidates and updates what are currently four separate Notices on the concept of a concentration, the concept of a full-function joint venture, the concept of undertakings concerned and the calculation of turnover. It introduces some innovations and clarifications to existing policy which if adopted in their present form will widen the Commission's net and catch more deals that are currently not being notified because the nature of the transaction or its structure is such that it is not considered as a concentration for purposes of the EU Merger Regulation. In other areas the draft Notice is helpful in clarifying the Commission's approach to a number of issues including new guidance on acquisitions by investment funds and outsourcing deals.

## Upcoming Changes in EU Merger Control Policy

The following are some of the key points covered in the draft Notice:

- A change in the nature of control of a company from 'negative sole control' to 'positive sole control' would be notifiable assuming turnover thresholds are met. Under the current rules and guidelines, a shareholder may acquire sole control in a company even on the basis of a minority shareholding if, for example, the shareholder has veto rights over strategic decisions of the company. This acquisition of effective control of a company through minority shareholding and accompanying rights would be notifiable under the EU Merger Regulation. However, if the shareholder subsequently acquires a majority of the shares and has the right to determine key strategic decisions on its own and not merely by veto, under current rules that change in shareholding and rights would not be notifiable as there is no change in control (the company remains under the sole control of the same shareholder). In the draft Notice, the Commission departs from previous policy and proposes that such a change would be a notifiable event as there is a change in the quality of control.
- Certain changes in the scope of a pre-existing joint venture would be notifiable assuming turnover thresholds are met. This would include a situation where additional assets are transferred to the joint venture or where there is a change in activity of a joint venture such that it becomes "full function". Non-full function joint ventures are not caught by the EU Merger Control Regulation (a joint venture is considered full function if it performs on a lasting basis all the functions of an autonomous economic entity). For example, joint ventures which used to supply the parents only and which were not notified under the EU Merger Regulation because they were not full function, would become notifiable if the joint venture commences, or the decision is taken to allow it to commence, significant sales activities on the market. If the draft is adopted in its current form, this would create difficulties for companies who would be expected to track the evolution in status of their joint ventures in order to be in a position to pin-point the time at which the scope of the joint venture changed such as to trigger an EU merger filing requirement.
- Outsourcing arrangements are specifically addressed for the first time in such a Notice. An outsourcing transaction where associated assets and/or personnel are transferred to the outsourcing service supplier and which include the core elements that would alone or in conjunction with the purchaser's assets allow the purchaser to have a market presence (sales not only to the seller but to other third parties), will be notifiable. It is not entirely clear from the draft Notice how the turnover thresholds will apply to the outsourced business. However, the draft does specify that where the business previously provided services only intra-group, the previously internal turnover will be the relevant revenues to be taken into account for purposes of determining whether the transaction meets the filing thresholds, or where this does not correspond to market value, the Commission may take into account forecasted revenues to be received based on the contract with the seller.
- Inter-related transactions are also addressed although the draft does not provide sufficiently clear guidance on how the Commission will treat warehousing arrangements. The Commission seems to consider two alternative scenarios. First, where the transaction consists of several phases but it is certain that the first phase is short-lived and the second phase is legally bound to occur, the first phase would not be a 'concentration' and therefore not notifiable. In a warehousing situation, the first acquisition by a bank for example would not require a filing. However, in a twist to that otherwise helpful clarification, the Commission seems to consider that the second acquisition by the ultimate purchaser would need to be cleared before the first acquisition occurs. This could deprive the ultimate purchaser of the advantage of shifting the regulatory risk from the seller through warehousing. A second alternative approach seems to be to regard the series of transactions linked by inter-conditionality as one concentration. Under this scenario, the filing obligation clearly arises in the first stage of the acquisition by the bank.

## Upcoming Changes in EU Merger Control Policy

- Guidance is provided on how the Commission will assess the acquisition of control by investment funds in terms of whether the investors themselves, the investment company and or the different funds established by the investment company and/or their portfolio companies can be considered under common control. This will impact both the revenues to be taken into account in determining whether such acquisitions meet the EU Merger thresholds and the substantive assessment of the acquisition.

The draft Jurisdictional Notice was published for public comment at the end of last year and is expected to be adopted within the next two months

### 2) Draft Vertical and Conglomerate Guidelines

The Commission already published back in 2004, Guidelines on the assessment of horizontal mergers (mergers between actual or potential competitors in the same market). Horizontal mergers generally give rise to more serious antitrust issues than vertical or conglomerate mergers. However, there have been a number of transactions where the Commission has assessed and identified antitrust concerns in mergers between companies active at different levels of the supply chain and between companies active in complementary markets. The Commission therefore considered it timely to introduce guidelines for these non-horizontal mergers. The Commission acknowledges that the majority of vertical and conglomerate mergers do not raise problems. However, the draft Guidelines provide examples of where such mergers may significantly restrict competition.

For example, in a vertical merger, the integration of a raw materials supplier with the manufacturer of the end product could result in competitors in the market for the end product being denied access to important inputs or being charged higher prices for the inputs. The circumstances in which this type of restriction may arise are outlined in the Guidelines. The Guidelines also indicate market share/concentration level safe harbours below which the Commission is unlikely to identify competition concerns.

Interested parties have until 12 May, 2007 to submit their comments on the draft Guidelines. Depending on the extent and nature of the comments received, the Commission may adopt these Guidelines in the second half of this year.

### 3) Draft Remedies Notice in the Pipeline

The Commission is planning to issue a new Notice on Remedies which would replace the existing Notice published in 2001. This initiative is prompted by the results of a study on remedies which the Commission published in 2005 and recent developments in European Court case law on remedies.

The Commission's Study on remedies assessed the effectiveness of merger remedies accepted in forty merger cases approved between 1996 and 2000. The results of the Study suggest that the non-divestiture remedies accepted by the Commission were not effective to address the antitrust issues in most cases which were assessed. For example, in some cases, the Commission accepted remedies such as termination of exclusive rights or granting access to key infrastructure or technology. However, while sale of part of the overlapping businesses to an effective potential competitor remains the Commission's preferred remedy, the Study also identified a number of problems with the implementation of divestiture remedies.

At the same time, the European Court of Justice in its judgment in the Tetra Laval Sidel case (15 February, 2005) upheld the decision of the Court of First Instance in confirming that commitments relating to a merged entities future conduct (so-called 'behavioural commitments') in certain instances may be an adequate or even the only possible remedy. In that case, the Commission had rejected Tetra Laval's commitment not to leverage its strong market position in carton into plastic packaging considering that such behavioural commitments were generally insufficient to address antitrust issues raised by a merger.

## Upcoming Changes in EU Merger Control Policy

Based on all of these developments and more recent Commission decisions in which remedies were accepted, we would expect that in the new Remedies Notice, the Commission will continue to favour divestiture commitments over access or similar remedies and certainly over any behavioural commitments which are limited to promises to behave in a certain way. However, the Commission will likely impose more stringent requirements in terms of the scope of divestment packages to ensure that they have all the elements needed to ensure that the purchaser will be in a position to effectively compete with the merging parties. They will also likely impose stricter measures to ensure that the value of the divested assets is preserved pending divestment and subject prospective purchasers to greater scrutiny, likely also favouring the requirement for up-front buyers.

The Commission can not continue to dismiss as a matter of principle the possibility that behavioural remedies may be appropriate in certain instances to solve antitrust issues but where a remedy short of divestiture is considered appropriate, it is more likely to be the kind of remedy which grants a competitor access to certain IP or facilities, or terminates a formal link with another competitor.

The Commission is expected to publish the draft Remedies Notice for public consultation in the coming months.

### Conclusion

Some of the Commission's policies and practices discussed here have already emerged or are in the process of emerging in its more recent merger decisions. However, the publication of a new Notice or Guidelines presents the Commission with an opportunity not only to summarise existing practice but also to elaborate on that practice and introduce innovations which will impact how the EU Merger Regulation applies to transactions in the future.

**Catriona Hatton, Hogan & Hartson, Brussels**

# mergermarket Regional Round Ups

## Europe/Asia: **Germany/Japan**

### **EC opens investigation into Sony/BMG '04 joint venture**

The European Commission (EC) has opened its investigation into the merger of the global recorded music businesses of Germany's Bertelsmann and Japan's Sony. This follows the European Court of First Instance's (CFI) decision to annul the original approval of the deal in 2004, the EC now has until 2 July to reach a final decision on the merger. The EC's assessment of the proposed joint venture will be carried out under the previous Merger Regulation which was applicable to agreements signed before 1 May 2004. However, the EC will also take into account market developments since 2004 such as the recent growth of online music. That said, the original criteria that focused on whether a dominant market position will be created will also be employed.

## Europe: **United Kingdom**

### **OFT's investigation continues into BSkyB's stake in ITV**

The Office of Fair Trading (OFT) will assess whether BSkyB's acquisition of a 17.9% stake in ITV will result in BSkyB gaining material influence over the company. Furthermore, the UK media regulator Ofcom has until the 27 April to investigate whether the stake increase raises public interest concerns. According to reports BSkyB could walk away if the OFT considers the transaction to be a merger and that therefore concessions are required. In an interesting subplot speculation has mounted that RTL, the Luxembourg based listed broadcaster, could review its position in the UK as a result of BSkyB's stake increase. Sources have claimed that BSkyB could sell its stake in ITV to RTL in exchange for RTL's UK TV channel Five plus a content deal with ITV.

## Europe: **Ireland**

### **EC decision into Ryanair's bid for Aer Lingus could be delayed into June**

The competition review of Ryanair's possible takeover of Aer Lingus could be delayed into the middle of the year. The EC announced in February that it is to extend the deadline by 20 working days from 11 May to 13 June. The complexity of the competition issues surrounding the proposed takeover are reportedly the principal reason behind the extension. Aer Lingus reportedly expects the amount of traffic at Dublin Airport to be an issue and also whether the two companies compete on a city to city as well as an airport to airport basis. Ryanair can offer remedies up until the 3 May but if remedies are put forward after the 18 April then the EC could further extend the deadline for the review to 4 July.

## North America: **United States**

### **Second antitrust request by FTC regarding Express Scripts acquisition of Caremark**

The FTC has issued a second antitrust request regarding the proposed US\$29.75 per share acquisition of Caremark, the listed health services company, by Express Scripts. Express Scripts had earlier announced that it had expected a second request as the deal involves the second and third largest companies in the sector.



## North America: **Canada**

### **Abitibi/Bowater merger faces antitrust scrutiny**

The merger of Abitibi Consolidated and Bowater, the two top newsprint producers in North America has raised initial antitrust concerns. The two companies face the task of convincing regulators that the merger would be pro competitive. They will argue most probably that the shift of news readership to online sources has altered the competitive landscape. Nevertheless, a senior Washington based antitrust lawyer has claimed that a second request from regulators is very likely. This is principally attributable to the fact that Abitibi and Bowater enjoy double digit market shares in the sector although the share performances of both companies have been poor in recent times.

## North America/Europe: **United Kingdom/ United States**

### **Laidlaw/FirstGroup merger could result in divestitures**

Antitrust authorities are expected to look at the merger of bus companies Laidlaw International and FirstGroup on a local school bus by school bus basis. As a result it is anticipated that an overlap will exist in some areas and divestments may be required to satisfy antitrust issues. Sources close to the deal believe that no antitrust clearances will be required in Europe but filings will be needed in the United States and Canada. FirstGroup could foreseeably look to divest their transit business Greyhound. Greyhound's performance has been mixed in the recent past and it is not considered a core business for FirstGroup. A sale of Greyhound could net FirstGroup around US\$2.8bn.

## North America: **United States**

### **DOJ likely to investigate Hanover/Universal merger**

The Department of Justice (DOJ) is expected to evaluate concerns over a lack of competition in the outsourcing compression market following the announced US\$3.8bn stock swap merger between Hanover Compressor and Universal Compression Holdings in February. The two companies are the top two largest providers of natural gas in the United States with an industry banker claiming that the combined entity would have an approximate 70% market share. Stephen York, the CIO of Hanover, has already announced that the company expects comments to be made by the DOJ.

## Europe: **United Kingdom**

### **Phase II investigation likely in My Travel/ Thomas Cook merger**

My Travel and Thomas Cook's proposed merger risks a Phase II antitrust referral by the EC due to the nature of the market and past investigations in the area. Although the company's activities overlap in the UK, the two companies do not anticipate major antitrust issues. Furthermore, despite a precedent arguably set in 1999 when the EC blocked the proposed merger between Airtours (now My Travel) and First Choice on the grounds of collective dominance in short haul travel holidays. This decision was later overturned by the CFI but tellingly the deal did not come back. An industry analyst believes that clearance will depend on how the EC chooses to define the market and whether the EC takes fully into account online package holiday operators such as Expedia. Even if the merger is cleared TUI will continue to be the market leader in the UK. First Choice has a market capitalization of £1.38bn while My Travel is valued at £1.42bn.

## North America: **United States**

### **DOJ requires Arcelor Mittal to divest Sparrows Point**

Arcelor Mittal is required to divest Maryland based Sparrows Point in order to satisfy antitrust concerns in the United States. The DOJ has said that Mittal's US\$33bn acquisition of Arcelor would have substantially reduced competition in the market for tin mill products in the eastern United States. Originally, Mittal's first obligation was to attempt to divest Dofasco which is a Canadian company owned by Arcelor. However, Mittal was unable to do this as in an attempt to block the hostile takeover Arcelor had placed the legal title of Dofasco into a Dutch foundation, Strategic Steel Stitching. Elsewhere, Mittal is to keep its West Virginia based Weirton plant after the company assured the Independent Steelworkers Union that it is committed to transforming the mill into a premier facility by infusing capital into it.

## North America: **United States**

### **Florida Rock/Vulcan Materials deal faces antitrust obstacles**

The merger of Florida Rock and Vulcan Materials has a number of antitrust hurdles to overcome according to several lawyers. Factors that could impede the deal include potential divestiture difficulties and overlaps in the Florida construction market. The merger follows Cemex's US\$12bn pending bid for Australian building materials maker Rinker Group, Florida Rock's biggest local rival. Antitrust clearance is likely to depend on how regulators define the market. Vulcan is the largest producer of construction aggregates in the United States while Florida Rock is the sixth largest with its main markets being Florida, the mid Atlantic and Georgia.

## Europe: **Italy**

### **Antitrust yet to determine size of Intesa Sanpaolo stake divestment in Eurizon**

Italy's Antitrust authority has not yet ruled at what level Intesa Sanpaolo must lower its stake in the Eurizon insurance and asset management joint venture. The Antitrust authority had originally ordered Intesa Sanpaolo to lower its stake in the former Sanpaolo IMI unit Eurizon due to competition concerns raised by Banca Intesa's existing Intesa Vita bancassurance venture with Generali. A Eurizon insider said that the attitude of the antitrust authority will be crucial for Intesa Sanpaolo as it may have to lower its stake to a point where Eurizon may become a takeover target in its own right.

## Europe: **Italy/Spain**

### **No progress on Autostrade/Abertis merger**

The chairman of the listed Spanish motorway concessions group Abertis, Isidro Faine, has said that no progress has been made on the proposed Autostrade/Abertis merger despite the supposed entente cordiale between the Italian and Spanish governments following the Ibiza summit. Abertis will reportedly not make any further moves until the Italian government has clarified new laws regarding toll charges. Faine added that Abertis are looking at other possibilities but did not specify whether they would include or exclude Autostrade.

# Live Deals – Europe



Deal	Terms	Ann. Date	Est. Comp	Days to comp	Sett. Date	Target Country	Target Mkt Cap (m)	Net Sprd	Change	Ann. Return
African Platinum. / Impala Platinum.	1 AFP = GBP0.55	16 Feb 2007	15 May 2007	56		United Kingdom	GBP-262m	1.38%	-0.47%	9.01%
Allianz Lebensv. / Allianz SE (for.	1 ALL = EUR750.00	18 Jan 2007	28 Mar 2007	8	06 Apr 2007	Germany	EUR-8,043m	-2.09%	0.19%	-95.30%
APL Ltd (Advanc. / BW Offshore AS	1 APL = 1.91 BWO + EUR4.22	21 Feb 2007	08 Mar 2007	Completed	21 Mar 2007	Norway	EUR-455m	-0.79%	3.38%	N/A
Arla Foods UK p. / Arla Foods amba	1 ARL = GBP0.71	22 Jan 2007	05 Apr 2007	16	19 Apr 2007	United Kingdom	GBP-431m	0.71%	0.36%	16.18%
Assurance Gener. / Allianz SE (for.	1 AGF = 0.25 ALZ + EUR87.50	18 Jan 2007	13 Apr 2007	24	01 May 2007	France	EUR-23,898m	-0.14%	0.43%	-2.19%
Banca Lombarda . / Banche Popolari.	1 BLA = 0.83 BPU	14 Nov 2006	06 Apr 2007	17	13 Apr 2007	Italy	EUR-6,075m	0.30%	0.37%	6.48%
Banca Popolare . / Veneto Banca s..	1 BPI = EUR15.00	10 Nov 2006	21 Mar 2007	1	02 Apr 2007	Italy	EUR-2,050m	6.38%	0.00%	2329.80%
Banco BPI SA / Millennium BCP .	1 BPI = EUR5.70	13 Mar 2006	18 Jun 2007	90		Portugal	EUR-4,948m	-12.44%	-0.14%	-50.46%
Bank BPH SA / UniCredito Ital.	1 BPH = 33.13 UNI	12 Jun 2005	30 Jun 2007	102		Poland	EUR-6,591m	-2.64%	-0.26%	-9.46%
Bank Sarasin & . / Rabobank	1 SAR = EUR2293.2214	09 Jan 2007	30 Apr 2007	41		Switzerland	EUR-1,295m	-11.09%	0.17%	-98.71%
Beni Stabili Sp. / Groupe Fonciere.	1 BSI = 0.01 GFR	19 Feb 2007	31 Jul 2007	133		Italy	EUR-2,118m	-2.63%	1.53%	-7.17%
BPI (Banca Popo. / Banco Popolare .	1 BPI = 0.43 BPVN	16 Oct 2006	01 Jul 2007	103	05 Jul 2007	Italy	EUR-7,758m	4.18%	-0.06%	14.80%
Bristol West Ho. / Zurich Financia.	1 BWH = USD22.50	02 Mar 2007	01 Jun 2007	73		USA	USD-3,168m	2.27%	0.09%	11.36%
Compass Bancsha. / Banco Bilbao Vi.	1 CMPS = 1.4403 BNCO + USD34.88	16 Feb 2007	30 Jun 2007	102		USA	USD-8,862m	1.43%	-0.54%	5.05%
Converium Holdi. / SCOR SA	1 CNV = 0.4926 SCO + EUR2.60	26 Feb 2007	01 Jun 2007	73		Switzerland	EUR-1,877m	-5.50%	1.07%	-27.52%
Corus Group plc / Tata Iron and S.	1 CRS = GBP6.08	20 Oct 2006	02 Apr 2007	13	16 Apr 2007	United Kingdom	GBP-5,716m	0.66%	0.08%	18.60%
Countrywide Plc. / Apollo Managemem.	1 CWD = 0.1649 RMV + GBP5.10	05 Mar 2007	19 May 2007	60		United Kingdom	GBP-1,028m	-1.04%	-0.13%	-6.31%
Crest Nicholson. / Castle Bidco Li.	1 CNK = GBP6.20	08 Mar 2007	03 May 2007	44		United Kingdom	GBP-692m	1.14%	0.16%	9.47%
Dendrite Intern. / Cegecim SA	1 DTI = USD16.00	02 Mar 2007	01 Jun 2007	73		USA	USD-678m	3.29%	1.06%	16.46%
Endesa SA / E.ON AG	1 END = EUR38.75	21 Feb 2006	29 Mar 2007	9	09 Mar 2007	Spain	EUR-40,847m	0.44%	-0.03%	17.87%
Euronext NV / NYSE Group, Inc.	1 NXT = 0.98 NYS + EUR21.32	02 Jun 2006	21 Mar 2007	1	10 Apr 2007	Netherlands	EUR-9,272m	0.77%	-0.31%	282.47%
Fastweb S.p.A / Swisscom AG	1 FST = EUR47.00	12 Mar 2007	04 Jun 2007	76		Italy	EUR-3,832m	5.29%	-0.04%	25.07%
First Choice Ho. / TUI AG (formerl.	1 FCH = GBP3.18	19 Mar 2007	14 Sep 2007	178		United Kingdom	GBP-1,638m	6.35%	3.11%	13.03%
Gallaher Group . / Japan Tobacco I.	1 GLH = GBP11.40	14 Dec 2006	18 Apr 2007	29	02 May 2007	United Kingdom	GBP-7,441m	0.62%	0.09%	7.78%
Getaz Romang SA / CRH (Cement Roa.	1 GRH = EUR701.0656	05 Mar 2007	13 Apr 2007	24	16 May 2007	Switzerland	EUR-331m	1.21%	-0.63%	17.66%
Grupo Media Cap. / Promotora de In.	1 GMS = EUR7.40	26 Oct 2006	11 Apr 2007	22		Portugal	EUR-706m	-11.38%	0.00%	-188.76%
Hydriil Company / Tenaris SA	1 HYD = USD97.00	12 Feb 2007	30 Jun 2007	102		USA	USD-2,144m	0.95%	0.01%	3.39%

Deal	Terms	Ann. Date	Est. Comp	Days to comp	Sett. Date	Target Country	Target Mkt Cap (m)	Net Sprd	Change	Ann. Return
Irish Continent. / Adonia Aella Li.	1 ICG = EUR18.50	08 Mar 2007	31 May 2007	72		Ireland (Republic)	EUR-467m	-6.80%	-1.67%	-34.01%
K&F Industries . / Meggitt Plc	1 KFI = USD27.00	06 Mar 2007	30 Apr 2007	41		USA	USD-1,064m	0.60%	0.07%	5.31%
KeySpan Corp / National Grid p.	1 KEY = USD42.00	27 Feb 2006	31 May 2007	72	03 Jun 2007	USA	USD-7,170m	2.14%	-0.30%	10.85%
Laidlaw Interna. / FirstGroup plc	1 LWI = USD35.25	09 Feb 2007	31 Jul 2007	133		USA	USD-2,709m	3.28%	0.03%	9.01%
Metrovacesa SA / Sacresa	1 MVC = 0.585 GEC	02 Mar 2007	01 Jun 2007	73		Spain	EUR-8,713m	-5.33%	1.65%	-26.27%
MyTravel Group . / KarstadtQuelle .	1 MYT = GBP3.60	12 Feb 2007	31 Jul 2007	133		United Kingdom	GBP-1,339m	15.94%	2.29%	43.75%
New River Pharm. / Shire plc (fka .	1 NRP = USD64.00	20 Feb 2007	29 Mar 2007	9	04 Apr 2007	USA	USD-2,336m	0.69%	-0.17%	25.27%
ProSiebenSat.1 . / Lavena Holding .	1 PSB = EUR22.45	15 Dec 2006	19 Mar 2007	Completed	28 Mar 2007	Germany	EUR-2,751m	-10.74%	0.18%	N/A
REpower Systems. / AREVA SA	1 RES = EUR140.00	22 Jan 2007	20 Apr 2007	31	04 May 2007	Germany	EUR-1,223m	-7.30%	-0.27%	-85.92%
REpower Systems. / Suzlon Energy L.	1 RPR = EUR126.00	09 Feb 2007	20 Apr 2007	31	04 May 2007	Germany	EUR-1,223m	-16.57%	-0.24%	-195.07%
RHM Plc / Premier Foods P.	1 RHM = 1.00 PFD + GBP0.832	04 Dec 2006	16 Mar 2007	Completed	30 Mar 2007	United Kingdom	GBP-1,342m	-1.05%	0.71%	N/A
Riofisa SA / Grupo Inmocaral.	1 RIO = EUR44.15	19 Jan 2007	19 May 2007	60		Spain	EUR-1,959m	1.70%	-0.02%	10.37%
ScottishPower p. / Iberdrola SA	1 SPW = 0.1646 IBR + GBP4.00	28 Nov 2006	23 Apr 2007	34	07 May 2007	United Kingdom	GBP-11,586m	2.55%	0.32%	27.36%
Shell Canada Lt. / Royal Dutch She.	1 SCA = USD38.0775	23 Jan 2007	30 Mar 2007	10	06 Apr 2007	Canada	USD-31,906m	-0.39%	-0.06%	-14.13%
SIG Holding AG / Ferd Industrial.	1 SIG = EUR252.08	25 Sep 2006	29 Mar 2007	9	02 May 2007	Switzerland	EUR-1,739m	-5.78%	0.37%	-234.57%
SIG Holding AG / Rank Group Inve.	1 SIG = EUR270.73	19 Dec 2006	29 Mar 2007	9	02 May 2007	Switzerland	EUR-1,739m	1.19%	0.40%	48.12%
Suez SA (former. / Gaz de France S.	1 SEZ = 1.00 GAZ	27 Feb 2006	31 Aug 2007	164		France	EUR-48,149m	-11.67%	0.29%	-25.96%
TANDBERG Televi. / Ericsson AB	1 TAT = EUR13.1546	26 Feb 2007	31 Mar 2007	11	30 Mar 2007	Norway	EUR-1,054m	0.52%	-0.11%	17.19%
Wilson Bowden p. / Barratt Develop.	1 WLB = 1.0647 BAR + GBP9.50	05 Feb 2007	26 Apr 2007	37	10 May 2007	United Kingdom	GBP-2,040m	0.72%	-0.26%	7.08%

Source: dealReporter, as of 20 March 2007

# Live Deals – Asia



Deal	Terms	Ann. Date	Est. Comp	Days to comp	Sett. Date	Target Country	Target Mkt Cap (m)	Net Sprd	Change	Ann. Return
Agincourt Resou. / Oxiana Limited	1 AGIN = 0.65 OXIA	29 Jan 2007	30 Mar 2007	10	13 Apr 2007	Australia	AUD-385m	0.14%	-0.11%	5.11%
APN News & Medi. / Bidco for APN N.	1 APN = AUD6.10	12 Feb 2007	15 May 2007	56		Australia	AUD-2,805m	4.45%	-0.54%	29.02%
Asia Satellite . / Modernday Limit.	1 AST = HKD18.03	14 Feb 2007	07 May 2007	48		Hong Kong	HKD-6,884m	3.74%	-0.71%	28.45%
Bendigo Bank Li. / Bank of Queensl.	1 BEN = 0.748 BOQ + AUD5.50	19 Mar 2007	30 Jun 2007	102		Australia	AUD-2,355m	5.43%	0.39%	19.43%
Chuan Hup Holdi. / Walnut Pte Ltd	1 CHH = USD0.2195	12 Mar 2007	01 Jun 2007	73		Singapore	USD-242m	-1.46%	-1.46%	-7.30%
Consolidated Mi. / Pallinghurst Re.	1 CSM = AUD2.28	23 Feb 2007	30 May 2007	71		Australia	AUD-530m	-1.82%	-2.14%	-9.34%
Corus Group plc / Tata Iron and S.	1 CRS = GBP6.08	20 Oct 2006	02 Apr 2007	13	16 Apr 2007	United Kingdom	GBP-5,716m	0.66%	0.08%	18.60%
ETrade Australi. / Australia and N.	1 ETR = AUD4.05	19 Feb 2007	18 Apr 2007	29	09 May 2007	Australia	AUD-426m	-4.71%	0.00%	-59.23%
Gallaher Group . / Japan Tobacco I.	1 GLH = GBP11.40	14 Dec 2006	18 Apr 2007	29	02 May 2007	United Kingdom	GBP-7,441m	0.62%	0.09%	7.78%
Golden Hope Pla. / Synergy Drive S.	1 GHP = USD1.56	27 Nov 2006	15 Nov 2007	240		Malaysia	USD-2,619m	-14.71%	-0.88%	-22.37%
Guthrie GTS Ltd / Alam Indah Bint.	1 GGL = USD0.2848	08 Jan 2007	30 Mar 2007	10	02 Apr 2007	Singapore	USD-306m	1.05%	-0.07%	21.34%
Henan Shuanghui. / Rotary Vortex L.	1 SHI = CNY18.00	08 Feb 2007	30 Apr 2007	41		China	CNY-16,008m	-42.25%	0.00%	-376.15%
Highlands & Low. / Synergy Drive S.	1 HLD = USD1.4477	27 Nov 2006	15 Nov 2007	240		Malaysia	USD-1,028m	-6.93%	-1.02%	-10.54%
Indian Petroche. / Reliance Indust.	1 IPC = 0.20 RIL	10 Mar 2007	10 Mar 2008	356		India	INR-80,197m	0.93%	-0.16%	0.95%
JSAT Corporatio. / SKY Perfect Com.	1 JSAT = 4.00 SKYP	26 Oct 2006	02 Apr 2007	13	15 May 2007	Japan	JPY-96,584m	0.96%	1.26%	26.94%
KFC Holdings (M. / QSR Brands Bhd.	1 KFCM = USD1.411	12 Sep 2006	16 Jun 2007	88		Malaysia	USD-326m	-14.14%	0.53%	-58.63%
Kumpulan Guthri. / Synergy Drive S.	1 GUT = USD1.2144	27 Nov 2006	15 Nov 2007	240		Malaysia	USD-1,528m	-17.16%	-0.20%	-26.09%
Lanzhou Aluminu. / Aluminum Corpor.	1 LNZ = 1.80 ACC	08 Dec 2006	30 Apr 2007	41		China	CNY-7,923m	-5.42%	1.22%	-48.25%
Li Shin Interna. / Lite-On Technol.	1 LSE = 0.583 LOT	14 Nov 2006	30 Jul 2007	132		Taiwan	USD-169m	10.70%	-0.96%	29.58%
Malakoff Berhad / Nucleus Avenue .	1 MLK = USD2.9437	03 Jul 2006	30 Mar 2007	10		Malaysia	USD-2,570m	4.30%	-0.26%	156.83%
Matsuzakaya Hol. / The Daimaru, In.	1 MTZ = 0.7143 DMR	14 Mar 2007	03 Sep 2007	167		Japan	JPY-177,044m	1.99%	0.00%	4.36%
Mitsubishi Plas. / Mitsubishi Chem.	1 MPI = JPY410.00	08 Feb 2007	15 Mar 2007	Completed	23 Mar 2007	Japan	JPY-84,854m	4.06%	0.26%	N/A
Nikko Cordial C. / Citigroup Inc	1 NIK = JPY1700.00	06 Mar 2007	26 Apr 2007	37	06 May 2007	Japan	JPY-1,635,144m	3.28%	0.61%	32.39%
Nissan Diesel M. / Volvo AB	1 NDM = JPY540.00	20 Feb 2007	23 Mar 2007	3	29 Mar 2007	Japan	JPY-160,983m	3.25%	2.69%	395.48%
PENTAX Corporat. / Hoya Corporatio.	1 PEN = 0.158 HOY	21 Dec 2006	01 Oct 2007	195		Japan	JPY-82,365m	-3.29%	1.76%	-6.16%
PowerTel Limite. / Telecom Corpora.	1 PWT = AUD2.30	31 Jan 2007	07 May 2007	48		Australia	AUD-317m	0.88%	-0.89%	6.67%
PPB Oil Palms B. / Wilmar Internat.	1 PPB = 2.30 WLM	14 Dec 2006	31 May 2007	72		Malaysia	USD-1,528m	10.77%	-1.36%	54.59%

Deal	Terms	Ann. Date	Est. Comp	Days to comp	Sett. Date	Target Country	Target Mkt Cap (m)	Net Sprd	Change	Ann. Return
Promina Group L. / Suncorp Metway	1 PMN = 0.2618 SUN + AUD1.80	23 Oct 2006	13 Mar 2007	Completed	20 Mar 2007	Australia	AUD-7,632m	-0.16%	-1.82%	N/A
Qantas Airways . / Airline Partner.	1 QAN = AUD5.60	14 Dec 2006	03 Apr 2007	14	24 Apr 2007	Australia	AUD-10,049m	8.95%	0.00%	233.32%
Queensland Gas . / TCW Group Inc	1 QGC = AUD1.51	28 Feb 2007	30 Apr 2007	41		Australia	AUD-815m	-0.98%	0.32%	-8.76%
Rebel Sport Lim. / Archer Capital .	1 REB = AUD4.60	13 Feb 2007	20 Mar 2007	Completed	30 Mar 2007	Australia	AUD-366m	0.66%	0.00%	N/A
Repco Corporati. / CCMP Capital As.	1 REP = AUD1.75	11 Dec 2006	13 Apr 2007	24	03 May 2007	Australia	AUD-322m	4.17%	-1.26%	63.37%
REpower Systems. / Suzlon Energy L.	1 RPR = EUR126.00	09 Feb 2007	20 Apr 2007	31	04 May 2007	Germany	EUR-1,223m	-16.57%	-0.24%	-195.07%
RHB Capital Ber. / Employees Provi.	1 RHBC = USD1.3652	06 Mar 2007	31 Jul 2007	133		Malaysia	USD-2,397m	3.84%	-0.71%	10.54%
Rinker Group Li. / Cemex SA de CV	1 RNK = USD13.00	27 Oct 2006	30 Mar 2007	10	20 Apr 2007	Australia	USD-12,824m	-9.01%	3.69%	-328.78%
RSH Ltd / Golden Ace Pte..	1 ROC = USD0.6873	04 Mar 2007	24 May 2007	65		Singapore	USD-238m	0.82%	-0.02%	4.61%
Rural Press Lim. / John Fairfax Ho.	1 RUP = 2.00 FXJ + AUD3.30	06 Dec 2006	24 Apr 2007	35	09 May 2007	Australia	AUD-1,531m	2.26%	-0.95%	23.59%
Shandong Alumin. / Aluminum Corpor.	1 SAI = 3.15 ACC	08 Dec 2006	30 Apr 2007	41		China	CNY-17,030m	-4.83%	1.22%	-43.03%
Sime Darby Berh. / Synergy Drive S.	1 SIM = USD1.837	27 Nov 2006	15 Nov 2007	240		Malaysia	USD-5,586m	-14.84%	-0.75%	-22.57%
Smorgon Steel G. / OneSteel Limite.	1 SSG = 0.245 OST + AUD0.825	26 Jun 2006	31 May 2007	72		Australia	AUD-1,740m	12.01%	-1.78%	60.86%
Stats ChipPac L. / Temasek Holding.	1 STAS = USD1.2298	01 Mar 2007	21 May 2007	62		Singapore	USD-2,412m	2.53%	0.00%	14.92%
Summit Resource. / Paladin Resourc.	1 SMM = 0.4902 PDN	27 Feb 2007	16 Apr 2007	27	23 Apr 2007	Australia	AUD-902m	-2.17%	-0.43%	-29.38%
Sunstar Inc. / SSA Co. Ltd.	1 SUS = JPY650.00	14 Feb 2007	15 Mar 2007	Completed	23 Mar 2007	Japan	JPY-38,082m	2.69%	-1.48%	N/A
Sydney Roads Gr. / Transurban Grou.	1 SRG = 0.1754 TCL	14 Dec 2006	30 Mar 2007	10	30 Apr 2007	Australia	AUD-1,265m	0.71%	-0.11%	25.86%
Taiwan Fixed Ne. / Taiwan Mobile C.	1 TFN = USD0.2518	01 Mar 2007	11 Apr 2007	22	18 Apr 2007	Taiwan	USD-1,599m	2.03%	0.29%	33.61%
Torch Automobil. / Weichai Power C.	1 TORAUTO = 0.2833 WCPC	04 Sep 2006	30 Apr 2007	41		China	CNY-8,333m	14.79%	0.63%	131.68%
UFJ Central Lea. / Diamond Lease C.	1 CLC = 1.00 DIL	19 Oct 2006	01 Apr 2007	12	28 May 2007	Japan	JPY-128,165m	0.91%	0.36%	27.70%
Yuanta Core Pac. / Fuhwa Financial.	1 YCP = 1.615 FFH	10 Nov 2006	02 Apr 2007	13		Taiwan	USD-2,216m	3.93%	2.77%	110.32%
Zhejiang Supor . / SEB Internation.	1 ZJSC = CNY18.00	16 Aug 2006	30 Apr 2007	41		China	CNY-4,659m	-32.00%	0.28%	-284.86%

Source: dealReporter, as of 20 March 2007

# Live Deals – America



Deal	Terms	Ann. Date	Est. Comp	Days to comp	Sett. Date	Target Country	Target Mkt Cap (m)	Net Sprd	Change	Ann. Return
Abitibi-Consoli. / Bowwater Inc.	1 ABI = 0.1204 BO	29 Jan 2007	30 Sep 2007	194		Canada	USD-1,202m	1.30%	-0.51%	2.45%
Adesa, Inc. / Adesa Acquisiti.	1 ADI = USD27.85	22 Dec 2006	02 Apr 2007	13		USA	USD-2,472m	1.31%	0.00%	36.77%
Aeroflex Incorp. / AF Holdings, In.	1 AFI = USD13.50	02 Mar 2007	30 Jun 2007	102		USA	USD-967m	2.82%	-0.08%	10.08%
Agere Systems I. / LSI Logic Corpo.	1 AGS = 2.16 LSI	04 Dec 2006	02 Apr 2007	13		USA	USD-3,674m	0.12%	0.06%	3.28%
Alliance Atlant. / CanWest Global.	1 AAC = USD45.527	10 Jan 2007	30 Jun 2007	102		Canada	USD-1,763m	3.70%	-1.34%	13.25%
Altiris Inc. / Symantec Corpor.	1 ALT = USD33.00	29 Jan 2007	30 Jun 2007	102		USA	USD-966m	0.37%	-0.06%	1.31%
Aquila Inc (for. / Great Plains En.	1 AQI = 0.0856 GPE + USD1.80	07 Feb 2007	07 Feb 2008	324		USA	USD-1,558m	8.48%	0.42%	9.55%
Bandag Inc. / Bridgestone Ame.	1 BNDG = USD50.75	05 Dec 2006	15 Apr 2007	26		USA	USD-993m	-0.28%	-0.06%	-3.86%
Biomet Inc / LVB Acquisition.	1 BMT = USD44.00	18 Dec 2006	31 Oct 2007	225		USA	USD-10,392m	3.70%	0.22%	6.00%
Bristol West Ho. / Zurich Financia.	1 BWH = USD22.50	02 Mar 2007	01 Jun 2007	73		USA	USD-3,168m	2.27%	0.09%	11.36%
Caremark Rx Inc / CVS Corporation	1 CARE = 1.67 CVSC + USD7.50	01 Nov 2006	30 Jun 2007	102		USA	USD-26,856m	0.28%	-0.41%	0.98%
Caremark Rx Inc / Express Scripts.	1 CARE = 0.426 ESI + USD29.25	18 Dec 2006	18 Aug 2007	151		USA	USD-26,807m	3.86%	-0.32%	9.33%
Cascade Natural. / MDU Resources G.	1 CNG = USD26.50	08 Jul 2006	01 Jun 2007	73		USA	USD-298m	2.45%	0.04%	12.26%
Catalina Market. / ValueAct Capita.	1 CMC = USD32.10	08 Mar 2007	30 Jun 2007	102		USA	USD-1,456m	2.85%	0.20%	10.20%
Central Parking. / KCPC Holdings	1 CEP = USD22.53	21 Feb 2007	21 May 2007	62		USA	USD-716m	0.81%	-0.32%	4.67%
Chicago Board o. / Chicago Mercant.	1 CBTH = 0.3006 CMEI	17 Oct 2006	30 Jun 2007	102		USA	USD-10,383m	-18.97%	-1.14%	-67.23%
Chicago Board o. / Intercontinenta.	1 CBTH = 1.42 INTX	15 Mar 2007	30 Sep 2007	194		USA	USD-10,367m	-5.04%	2.57%	-9.48%
Clear Channel C. / Clear Channel A.	1 CLEAR = USD37.60	16 Nov 2006	31 Dec 2007	286		USA	USD-17,861m	5.50%	-1.23%	6.99%
Compass Bancsha. / Banco Bilbao Vi.	1 CMPS = 1.4403 BNCO + USD34.88	16 Feb 2007	30 Jun 2007	102		USA	USD-8,862m	1.43%	-0.54%	5.05%
Countrywide Plc. / Apollo Managemem.	1 CWD = 0.1649 RMV + GBP5.10	05 Mar 2007	19 May 2007	60		United Kingdom	GBP-1,028m	-1.04%	-0.13%	-6.31%
Cumberland Reso. / Agnico-Eagle Mi.	1 CRL = 0.185 AE	14 Feb 2007	01 May 2007	42		Canada	USD-527m	0.21%	-0.41%	1.81%
Delta & Pine La. / Monsanto Compan.	1 DPL = USD42.00	15 Aug 2006	30 Mar 2007	10		USA	USD-1,485m	1.47%	-0.10%	53.79%
Dendrite Intern. / Cegedim SA	1 DTI = USD16.00	02 Mar 2007	01 Jun 2007	73		USA	USD-678m	3.29%	1.06%	16.46%
Dollar General. / Kohlberg Kravis.	1 DGC = USD22.00	12 Mar 2007	30 Sep 2007	194		USA	USD-6,584m	4.27%	0.00%	8.03%
Duquesne Light. / Macquarie Conso.	1 DLH = USD20.00	05 Jul 2006	05 Apr 2007	16		USA	USD-1,581m	0.70%	-0.31%	16.08%
Eagle Global Lo. / EGL Acquisition.	1 EGL = USD38.00	19 Mar 2007	31 Jul 2007	133		USA	USD-1,559m	-0.68%	-2.94%	-1.87%
ElkCorp (Former. / Building Materi.	1 EKC = USD43.50	17 Dec 2006	29 Mar 2007	9		USA	USD-887m	0.07%	-0.21%	2.52%

Deal	Terms	Ann. Date	Est. Comp	Days to comp	Sett. Date	Target Country	Target Mkt Cap (m)	Net Sprd	Change	Ann. Return
Euronext NV / NYSE Group, Inc.	1 NXT = 0.98 NYS + EUR21.32	02 Jun 2006	21 Mar 2007	1	10 Apr 2007	Netherlands	EUR-9,272m	0.77%	-0.31%	282.47%
First Republic . / Merrill Lynch	1 FRP = 0.3364 MLC + USD27.50	29 Jan 2007	30 Sep 2007	194		USA	USD-1,665m	3.02%	0.62%	5.67%
Florida Rock In. / Vulcan Material.	1 FRI = 0.189 VMY + USD46.90	19 Feb 2007	30 Jun 2007	102		USA	USD-4,399m	2.81%	-0.12%	9.94%
Four Seasons Ho. / FS Acquisition .	1 FSH = USD82.00	12 Feb 2007	30 Jun 2007	102		Canada	USD-2,992m	0.89%	0.01%	3.14%
Genesis HealthC. / Formation Capit.	1 GEN = USD63.00	16 Jan 2007	30 Jun 2007	102		USA	USD-1,235m	0.86%	-0.10%	3.09%
Giant Industrie. / Western Refinin.	1 GII = USD77.00	28 Aug 2006	15 Apr 2007	26		USA	USD-1,098m	2.68%	-0.23%	37.63%
Harrah's Entert. / Hamlet Holdings.	1 HAR = USD90.00	19 Dec 2006	31 Dec 2007	286		USA	USD-15,573m	7.37%	-0.15%	9.38%
Hub Internation. / Maple Tree Acqu.	1 HUB = USD40.00	26 Feb 2007	30 Jun 2007	102		Canada	USD-1,555m	1.86%	-0.08%	6.65%
HydriL Company / Tenaris SA	1 HYD = USD97.00	12 Feb 2007	30 Jun 2007	102		USA	USD-2,144m	0.95%	0.01%	3.39%
Hyperion Soluti. / Oracle Corporat.	1 HYPE = USD52.00	01 Mar 2007	15 Apr 2007	26		USA	USD-3,058m	0.62%	-0.16%	8.69%
Infrasource Ser. / Quanta Services.	1 INFRA = 1.223 QUAN	19 Mar 2007	30 Sep 2007	194		USA	USD-1,182m	1.16%	0.02%	2.19%
IntraLase / Advanced Medica.	1 ILA = USD25.00	08 Jan 2007	06 Apr 2007	17		USA	USD-711m	0.40%	0.00%	8.62%
Investors Finan. / State Street Co.	1 IFS = 0.906 SSC	05 Feb 2007	30 Jun 2007	102		USA	USD-3,747m	0.95%	-0.03%	3.41%
John H. Harland. / M&F Worldwide C.	1 JHH = USD52.75	20 Dec 2006	31 Oct 2007	225		USA	USD-1,302m	3.51%	0.04%	5.70%
K&F Industries . / Meggitt Plc	1 KFI = USD27.00	06 Mar 2007	30 Apr 2007	41		USA	USD-1,064m	0.60%	0.07%	5.31%
Keane Inc. / Caritor, Inc.	1 KEAN = USD14.30	07 Feb 2007	07 May 2007	48		USA	USD-779m	7.68%	-0.24%	58.41%
KeySpan Corp / National Grid p.	1 KEY = USD42.00	27 Feb 2006	31 May 2007	72	03 Jun 2007	USA	USD-7,170m	2.14%	-0.30%	10.85%
Kinder Morgan, . / Kinder Morgan (.)	1 KM = USD107.50	28 Aug 2006	15 Apr 2007	26		USA	USD-14,188m	1.53%	0.01%	21.48%
Laidlaw Interna. / FirstGroup plc	1 LWI = USD35.25	09 Feb 2007	31 Jul 2007	133		USA	USD-2,709m	3.28%	0.03%	9.01%
Laureate Educat. / Laureate Educat.	1 LAU = USD60.50	29 Jan 2007	30 Jun 2007	102		USA	USD-3,036m	3.40%	0.61%	12.17%
Lear Corporatio. / American Real E.	1 LC = USD36.00	09 Feb 2007	30 Jun 2007	102		USA	USD-2,792m	-1.61%	0.19%	-5.77%
Longview Fibre . / Brookfield Asse.	1 LONG = USD24.75	05 Feb 2007	23 Apr 2007	34		USA	USD-1,618m	0.61%	0.20%	6.55%
MacDermid, Inco. / MacDermid Acqui.	1 MDI = USD35.00	15 Dec 2006	30 Jun 2007	102		USA	USD-1,068m	1.21%	-0.06%	4.30%
Mellon Financia. / The Bank of New.	1 MFC = 1.06 BoNY	04 Dec 2006	01 Jul 2007	103		USA	USD-17,463m	-0.39%	0.10%	-1.35%
Mid-State Bancs. / Rabobank	1 MIDS = USD37.00	02 Nov 2006	30 Jun 2007	102		USA	USD-812m	0.41%	-0.06%	1.44%
Molecular Devic. / MDS, Inc	1 MOLE = USD35.50	29 Jan 2007	30 Apr 2007	41		USA	USD-585m	0.06%	-0.23%	0.50%
New River Pharm. / Shire plc (fka .)	1 NRP = USD64.00	20 Feb 2007	29 Mar 2007	9	04 Apr 2007	USA	USD-2,336m	0.69%	-0.17%	25.27%



Deal	Terms	Ann. Date	Est. Comp	Days to comp	Sett. Date	Target Country	Target Mkt Cap (m)	Net Sprd	Change	Ann. Return
NorthWestern Co. / Babcock & Brown.	1 NWC = USD37.00	25 Apr 2006	20 Mar 2007	Completed		USA	USD-1,267m	3.85%	0.38%	N/A
Novelis Inc / Hindalco Indust.	1 NOVE = USD44.93	11 Feb 2007	30 Jun 2007	102		USA	USD-3,261m	2.00%	-0.30%	7.15%
OSI Restaurant / Kangaroo Holdin.	1 OSIRP = USD40.00	06 Nov 2006	30 Apr 2007	41		USA	USD-2,949m	1.39%	-0.05%	12.12%
Pathmark Stores. / The Great Atlan.	1 PSI = USD12.50	05 Mar 2007	05 Aug 2007	138		USA	USD-662m	-1.42%	-0.63%	-3.75%
PHH Corporation. / General Electri.	1 PHC = USD31.50	15 Mar 2007	30 Sep 2007	194		USA	USD-1,635m	3.11%	0.30%	5.85%
Placer Sierra B. / Wells Fargo & C.	1 PSB = 0.8175 WFA	10 Jan 2007	10 Jun 2007	82		USA	USD-605m	4.77%	1.11%	21.25%
Premium Standar. / Smithfield Food.	1 PSF = 0.678 SMF + USD1.25	18 Sep 2006	06 Apr 2007	17		USA	USD-657m	1.67%	0.33%	33.95%
Radian Group In. / MGIC Investment.	1 RADN = 0.9658 MGIC	06 Feb 2007	31 Dec 2007	286		USA	USD-4,538m	2.75%	-0.05%	3.52%
Realogy Corpora. / Domus Acquisiti.	1 REAL = USD30.00	17 Dec 2006	15 Apr 2007	26		USA	USD-6,322m	1.73%	0.14%	24.28%
Rinker Group Li. / Cemex SA de CV	1 RNK = USD13.00	27 Oct 2006	30 Mar 2007	10	20 Apr 2007	Australia	USD-12,824m	-9.01%	3.69%	-328.78%
Sabre Holdings / Sabre Holdings .	1 SHC = USD32.75	12 Dec 2006	30 Mar 2007	10		USA	USD-4,313m	0.52%	-0.03%	19.05%
SafeNet Inc / Vector Capital	Terms undisclosed	05 Mar 2007	05 May 2007	46		USA	USD-790m	0.24%	0.07%	1.94%
Shell Canada Lt. / Royal Dutch She.	1 SCA = USD38.0775	23 Jan 2007	30 Mar 2007	10	06 Apr 2007	Canada	USD-31,906m	-0.39%	-0.06%	-14.13%
Sierra Health S. / UnitedHealth Gr.	1 SHS = USD43.50	12 Mar 2007	31 Dec 2007	286		USA	USD-2,316m	4.72%	-0.61%	6.02%
Sky Financial G. / Huntington Banc.	1 SKY = 1.098 HUNT + USD3.023	20 Dec 2006	19 Oct 2007	213		USA	USD-2,986m	1.20%	-0.09%	2.05%
Spirit Finance. / Redford Merger .	1 SFI = USD14.50	13 Mar 2007	13 Aug 2007	146		USA	USD-1,569m	-0.28%	-0.14%	-0.69%
Station Casinos. / Fertitta Colony.	1 STA = USD82.00	26 Feb 2007	26 Sep 2007	190		USA	USD-4,924m	-4.73%	0.22%	-9.08%
Sunrise Senior. / Ventas, Inc	1 SSL = USD12.88	15 Jan 2007	30 Jun 2007	102		Canada	USD-736m	-11.93%	-0.19%	-42.70%
Sunterra Corpor. / Diamond Resorts.	1 SUNT = USD16.00	12 Mar 2007	01 May 2007	42		USA	USD-310m	1.65%	0.06%	14.35%
Swift Transport. / Saint Acquisiti.	1 STC = USD31.55	19 Jan 2007	30 Jun 2007	102		USA	USD-2,255m	3.17%	0.03%	11.24%
TALX Corporatio. / Equifax Inc.	1 TAC = 0.7024 EQF + USD9.53	14 Feb 2007	31 Jul 2007	133		USA	USD-1,036m	8.59%	0.32%	23.56%
Tanox, Inc. / Genentech Inc	1 TAN = USD20.00	09 Nov 2006	31 Mar 2007	11		USA	USD-819m	11.11%	0.06%	368.69%
TD Banknorth In. / TD Bank Financi.	1 TDB = USD32.33	20 Nov 2006	10 Apr 2007	21		USA	USD-7,332m	0.59%	-0.03%	9.81%
The Houston Exp. / Forest Oil Corp.	1 TEC = 0.84 FOC + USD26.25	07 Jan 2007	07 Jun 2007	79		USA	USD-1,476m	0.95%	0.06%	4.38%
The Mills Corpo. / Simon Property .	1 TMC = USD25.25	16 Feb 2007	06 Apr 2007	17	04 Feb 2007	USA	USD-1,427m	0.60%	-0.20%	12.12%
The ServiceMast. / Servicemaster C.	1 TSM = USD15.625	19 Mar 2007	30 Jun 2007	102		USA	USD-4,437m	3.14%	-12.86%	11.11%

Deal	Terms	Ann. Date	Est. Comp	Days to comp	Sett. Date	Target Country	Target Mkt Cap (m)	Net Sprd	Change	Ann. Return
The Topps Compa. / Topps Acquisiti.	1 TOP = USD9.75	06 Mar 2007	30 Sep 2007	194		USA	USD-388m	-2.69%	-0.10%	-5.07%
TODCO / Hercules Offsho.	1 TDCO = 0.979 HERC + USD16.00	19 Mar 2007	19 Jun 2007	91		USA	USD-2,294m	3.16%	-0.79%	12.66%
Triad Hospitals. / Community Healt.	1 TRH = USD54.00	19 Mar 2007	30 Sep 2007	194		USA	USD-4,603m	3.65%	-0.30%	6.86%
TXU Corp / TXU Acquisition.	1 TX = USD69.25	26 Feb 2007	31 Dec 2007	286		USA	USD-29,439m	8.03%	0.77%	10.25%
United Surgical. / UNCN Acquisitio.	1 USP = USD31.05	08 Jan 2007	30 Jun 2007	102		USA	USD-1,370m	1.50%	0.00%	5.38%
Universal Compr. / Hanover Compres.	1 UCH = 3.0769 HCC	05 Feb 2007	30 Sep 2007	194		USA	USD-2,026m	0.96%	0.57%	1.81%
Univision Commu. / Univision Acqui.	1 UVC = USD36.25	27 Jun 2006	25 Mar 2007	5		USA	USD-11,053m	0.36%	0.11%	26.27%
UrAsia Energy L. / SXR Uranium One.	1 UASIA = 0.45 UONE	12 Feb 2007	15 May 2007	56		Canada	USD-2,936m	1.65%	-0.34%	10.73%
USI Holdings Co. / Goldman Sachs C.	1 USI = USD17.00	16 Jan 2007	31 May 2007	72		USA	USD-983m	1.19%	-0.30%	5.95%
WebEx Communica. / Cisco Systems I.	1 WEB = USD57.00	15 Mar 2007	31 Jul 2007	133		USA	USD-2,842m	0.32%	-0.35%	0.87%
Wild Oats Marke. / Whole Foods Mar.	1 WILD = USD18.50	21 Feb 2007	13 Apr 2007	24		USA	USD-537m	2.10%	0.11%	31.89%
Witness Systems. / Verint Systems .	1 WIT = USD27.50	12 Feb 2007	12 May 2007	53		USA	USD-900m	2.34%	0.19%	15.85%
XM Satellite Ra. / Sirius Satellit.	1 XMR = 4.60 SSR	19 Feb 2007	19 Feb 2008	336		USA	USD-3,671m	12.60%	-3.27%	13.65%

Source: dealReporter, as of 20 March 2007

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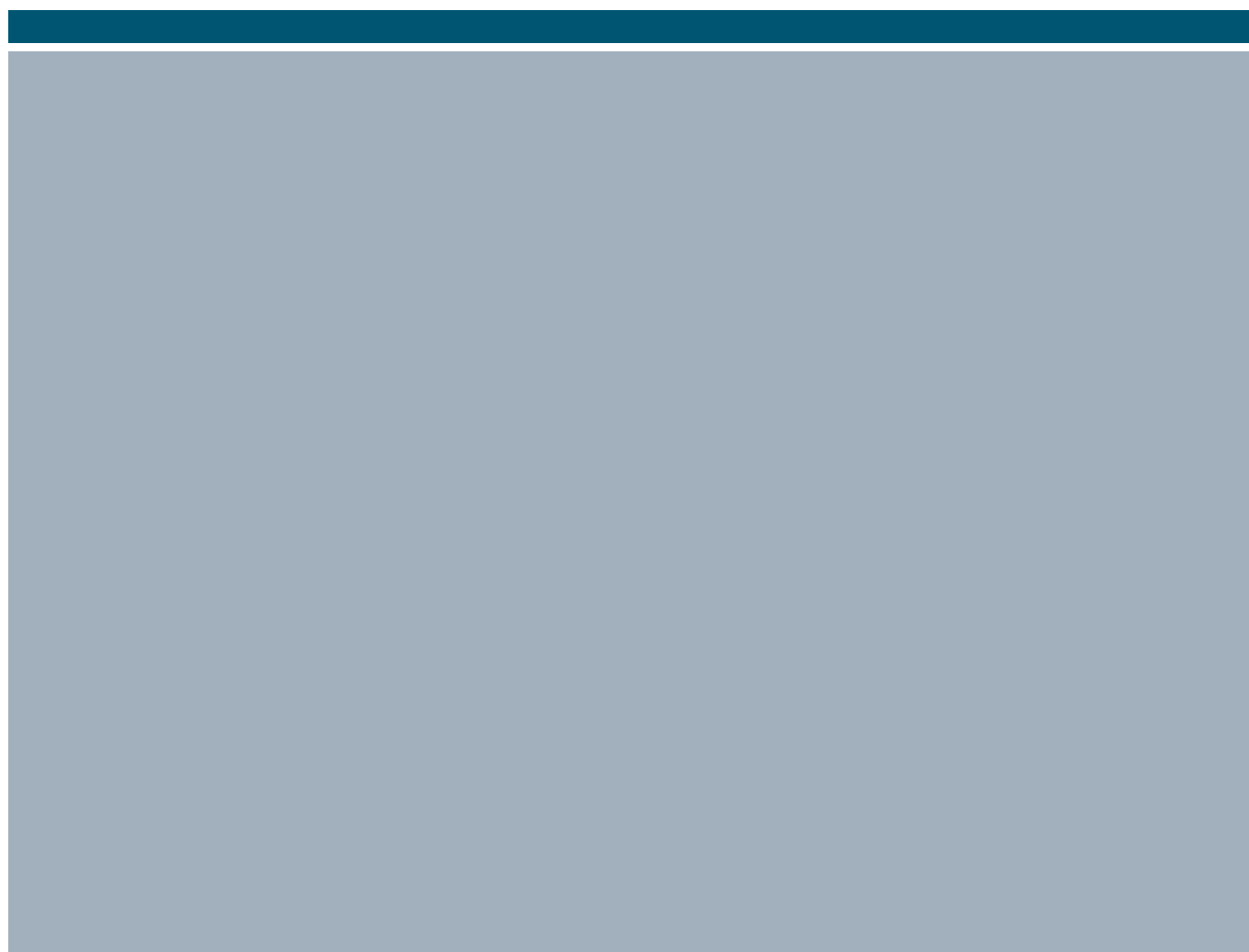
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