

Portugal

MERGER

Phase II in-depth investigation—ceramic tile sector—risk of input foreclosure—risk of barriers to competition concerning indispensable input materials

☞ Ceramics; Investigations; Mergers; Portugal

Merger review of Pigments Spain/Ferro Assets transaction enters Phase II

On 15 October 2020, the Portuguese Competition Authority (“PCA”) announced that it had decided to open an in-depth investigation into concentration Ccent. 16/2020—*Pigments Spain/Ativos Ferro*.

The concentration, filed with the PCA on 8 May 2020, consists of the proposed acquisition of sole control by Pigments Spain, S.L. over undertakings and assets currently owned by Ferro Corporation which is active in the provision of coatings to the ceramic industry (Ferro Assets).

The acquirer is a Spanish company, part of the Esmalglass-Itaca-Fritta group, which is mainly active in the provision of coating solutions used in ceramic tiles. The group is active in Portugal through its subsidiary Esmalglass Portugal S.A.

Ferro Assets are active worldwide, mainly in the development, manufacture and supply of ceramic tile coatings. The Portuguese assets being acquired belong to the Ferro Corporation’s subsidiary Ferro—Indústrias Químicas, Lda.

The PCA’s Phase I market investigation indicated that the entity resulting from the transaction may have the ability and incentive to adopt input foreclosure strategies, i.e. worsening its sales’ conditions, such as on price, quality and variety. This could create significant barriers to competition, specifically in the production and supply of enamels, enameled paints and digital paints, which seem to be indispensable inputs to the ceramic floor and tile industry.

A Phase II investigation means more time—60 more business days—for the competition enforcer to carry out an exhaustive probe into the effects of the concentration in the Portuguese market and to adopt a final decision.

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