
International Cooperation in the Implementation of Merger Relief - the Case of Novelis' Acquisition of Aleris' Equity

Supervision and Law Enforcement Division

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I. Basic Information of the Case

On December 20, 2019, the State Administration for Market Regulation issued the No. 57 Announcement of 2019 (hereinafter referred to as the *Announcement*), which conditionally approved the case of Novelis' acquisition of Aleris' equity.

Divestiture requirements:

The *Announcement* requires the divestiture of all businesses related to inner and outer aluminum sheets of automobile bodies of Aleris in the European Economic Area, including related facilities, personnel, intellectual property rights and other tangible and intangible assets.

II. Problems Faced in the Implementation and International Cooperation

(I) Problems faced in the buyer evaluation On April 7, 2020, the European Commission approved Liberty as an eligible buyer of divested businesses and required to complete the delivery before July 7. On April 14, the main transaction of Novelis' acquisition of Aleris was completed. On April 21, Novelis submitted the *Application for Accepting Liberty as a Buyer of Divested Businesses* to the State Administration for Market Regulation. On April 28 and May 6, the supervision trustee submitted the evaluation report.

After that, Liberty wrote to us several times on May 8, 18, 21, 25 and 29 and on June 5 and 22 respectively, indicating that the divested businesses had seriously deteriorated, and Liberty was no longer interested in acquiring and operating the divested businesses unless Novelis lowers the price and requests to suspend the buyer evaluation.

During this period, Novelis and Liberty renegotiated and applied to the European Union (EU) for extension of delivery.

II. Problems Faced in the Implementation and International Cooperation

(II) International cooperation

This is the first case in which a potential buyer shows no interest in acquiring the divested businesses during the evaluation process. The divested businesses involved are the same as those of the EU and need to be coordinated with relevant procedures of the EU.

In order to properly carry out the evaluation, since May 28, we have conducted regular exchanges with the Directorate-General for Competition of the European Commission every week, with a total of 16 exchanges, on the following matters:

- communication on the latest progress of both sides
- coordinating the procedures and time nodes of both sides
- jointly urging the parties concerned and the buyer to fulfill their obligations in accordance with the decision
- communicating and negotiating the evaluation conclusions and solutions

II. Problems Faced in the Implementation and International Cooperation

(III) Implementation

According to the application submitted by the parties concerned, the EU decided to extend the divestiture period. State Administration for Market Regulation decided to suspend the buyer evaluation.

According to the requirements of the EU and the State Administration for Market Regulation, the two sides continued to negotiate.

At the end of July, the two sides reached an agreement on remedial measures. On August 3, Novelis submitted the *Second Application for Accepting Liberty as a Buyer of Divested Businesses* to the State Administration for Market Regulation.

Both the State Administration for Market Regulation and the EU required the parties concerned to ensure that the divestiture transaction can be completed as soon as possible.

On September 13, Novelis and Liberty wrote to us respectively, promising to ensure the timely delivery of the transaction, which will be completed before September 30 after the buyer's approval.

On September 30, the delivery of divested businesses was completed.

III. Work Experience

(I) Necessity and importance of international cooperation and coordination in cross-border merger relief cases

(II) The novel coronavirus epidemic and other emergencies have a significant impact on the development and implementation of the combined relief.

(III) It is necessary to further improve the obligations and legal responsibilities of all parties concerned in the process of divestiture implementation.

(IV) Applicability of safeguard measures (e.g. including the "buyer first" measures in the divestiture relief)