

## DECLARATION OF FREDERICK W. GRAMLICH

I, Frederick W. Gramlich, declare:

1. My name is Frederick W. Gramlich. I am a Ph. D. economist employed by the Antitrust Division of the United States Department of Justice. As part of my duties, I am regularly assigned to investigate proposed mergers and acquisitions to help determine whether they may substantially lessen competition in relevant product markets. In the course of such investigations, I routinely participate in interviews of competitors and customers of the companies who are parties to the proposed merger or acquisition. In so doing, we try to interview a sufficiently wide variety of customers drawn from as full a range of products that the companies make as is possible. Often we conduct interviews of customers who buy products that the Division ultimately concludes are not an area of competitive concern under the antitrust laws.

2. In early 1999, I was assigned to the investigation of the proposed acquisition of English China Clays (ECC) by Imetal. I was one of two economists assigned to work on this matter. Responsibilities for the investigation were divided between the two of us along product lines. I was primarily responsible for investigating the likely effects of the proposed transaction on ground calcium carbonate (GCC) products sold for applications other than paper, including extra-fine GCC products such as Film-Link that are sold for use in thermoplastic compounds (hereinafter "plastic GCC"). My colleague, Gerald Bodisch, was primarily responsible for investigating the likely effects of the proposed transaction on GCC sold to the paper industry

(hereinafter “paper-grade GCC”), as well as other products in which there was competition between ECC and Imetal.

3. Although paper-grade GCC and plastic GCC are both wet-processed to a very fine particle size, evidence suggests they are not economic substitutes for one another. Under the Merger Guidelines, if a hypothetical monopolist in the sale of paper-grade GCC will find his price increase to be profitable due to his buyers’ limited ability to turn to plastic GCC, and vice versa, the two goods are not in the same relevant product market. This appears to be the case here.

4. It is my understanding that:

A. plastic GCC goes through processing steps that paper-grade GCC does not, specifically, the wet GCC is dried and chemically treated prior to shipment. A buyer of plastic GCC cannot use paper-grade GCC.

B. the companies that actually sold paper-grade GCC and plastic GCC at the time of the investigation were different. Prior to the acquisition of ECC by Imetal, both companies sold paper-grade GCC in the southeastern United States, ECC from its plant in Sylacauga and Imetal through its joint venture interest in Alabama Carbonates. ECC also sold plastic GCC but neither Imetal nor Alabama Carbonates made or sold a plastic GCC product that Heritage could use as a substitute for ECC’s product. Another company in the southeastern United States, JM Huber, had at the time of our investigation recently entered the business of making a product

similar to Film-Link for use in thermoplastic compounds, but, to the best of my recollection, JM Huber did not make paper-grade GCC.

C. plastic GCC can economically be shipped longer distances than paper-grade GCC. As the complaint alleges, the government concluded that the relevant geographic market for paper-grade GCC was the southeastern United States. Plastic GCC, by contrast, is shipped economically into the southeastern United States from Omya's GCC plant located considerably to the north.

6. In the course of my investigation of the proposed acquisition of ECC by Imetal, I participated along with other Antitrust Division personnel in a telephone interview with Heritage Plastics, Inc. in early 1999. While I have limited independent recollection of this interview, I have reviewed notes taken during the interview and retained in the Antitrust Division records. According to those notes, management at Heritage Plastics told us, at the time, that:

A. Heritage Plastics buys primarily GCC with a mean particle size of about 1 micron, that has been wet ground and surface treated.

B. Heritage bought the bulk of its plastic GCC from ECC, which was the only company that could provide Heritage with the right blend of physical properties and economics. Heritage had tested product from Omya (in Vermont) for some time in an attempt to find a qualified second source of supply, but found the Omya product less satisfactory. Heritage was also beginning to test samples from JM Huber. Georgia Marble (Imetal) did not make the plastic GCC product Heritage buys from ECC.

C. Heritage had a concern about the proposed acquisition because the combined Imetal/ECC would control a majority of calcite reserves in the southeastern United States but since Imetal did not make the product Heritage was buying, Heritage was not losing a supplier because of the acquisition. Heritage was more concerned about the impact of the proposed acquisition on kaolin than on GCC.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

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Dated: May 5, 2000