Consolidation on the RISE

Mergers and acquisitions are increasing, as they provide retailers opportunities to scale, say ***Eniga de Montfort*** *and* ***Coralie Oger****, Partners at the law firm* ***FTPA Avocats***

Over the last few years, consolidation by way of mergers and acquisitions (M&A) in the retail sector has become more commonplace in the UK and in France, due to a number of factors. Little or non-existent organic growth in the brick-and-mortar retail environment due to strengthening e-commerce has led traditional businesses to acquire their competitors (online or otherwise) in order to grow.

Additionally, a number of brick-and-mortar retailers have also sought to establish and/or accelerate their omni-channel strategy; and capture increased market share by acquiring e-tailers, online platforms or other technologies that allow consumers to bring the in-store shopping experience at home.

Recent activity

Amazon made retail headlines when it purchased organic, supermarket chain, Whole Foods, for $13.7bn last year, with the aim of providing a true omni-channel shopping experience. Closer to home, Sainsbury's recently acquired Home Retail for £1.4bn, including Argos and Habitat. Across the English channel, Danone, the French food giant, last year merged with the American The WhiteWave Foods for $12.5bn (€11.7bn) resulting in Danone becoming the organic milk global leader and consolidating its prime position in organic dairy manufacturing.

Another French giant active last year in the consumer goods and retail sector was L'Oréal, which completed its biggest deal since 2008 with the acquisition of three US skincare brands from the Canadian Valeant last year, for a total value of $1.3bn (€1.2bn). These brands, CeraVe, AcneFree and Ambi, enabled L'Oréal to increase the size of its cosmetics division in the US – a geographical market where L'Oréal was still relatively under-represented owing to the lack of its natural distribution platforms such as pharmacies.

One reason for the recent high levels of M&A activity is the renewed interest from US and other overseas buyers who have become even more bullish with the dramatic depreciation of the pound Sterling following the Brexit vote – making UK retailers prime targets for foreign takeovers. Earlier last year saw the £1.4bn acquisition of Weetabix by US company Post Holdings, and the £1bn acquisition of Moy Park by the US Pilgrim's Pride. However, we are also seeing certain overseas investors say that they are reluctant to buy in the UK until there is certainty on tariffs, exchange rates etc. in a post-Brexit world.

Former Waitrose boss, Steven Esom, had warned that Brexit-led inflation would drive a new wave of M&A activity in the UK retail sector as the collapse of the pound had left retailers grappling with rising import costs for goods alongside rapidly deteriorating consumer confidence. The recent completion of Tesco's £3.7m takeover of wholesaler Booker Group, Co-op's £143m takeover of Nisa (which remains subject to regulatory approval), and Morrison's acquisition of Yorkshire egg supplier Chippindale Foods, demonstrate how businesses are focussed on looking at increasing volumes to reduce costs. Nevertheless, such challenges to the business environment create opportunities for retailers to better compete by way of consolidation to achieve economies of scale, to diversify the products and to address rapidly changing customer habits and needs.

The outlook for 2018

Despite the uncertainty surrounding Brexit, we are currently seeing low interest rates in the UK, favourable public markets on both sides of the Channel and access to a plentiful stash of public and private capital to fuel M&A activity. The recent acquisition of US based Finish Line by Sports Direct is a good example which shows that M&A in the retail sector is increasingly occurring on a cross-border basis notwithstanding challenges to the business environment in the UK.

Furthermore recent tax reforms in the US have prompted retailers such as Walmart and Target to make statements regarding how they expect to use their new tax savings in 2018. We believe such US retailers may put their extra cash flow towards UK M&A.

As ever, a successful M&A transaction (be it domestic or cross-border) requires a thorough review of legal issues spanning (amongst other things): legal due diligence, drafting and negotiating the suite of acquisition documents, careful apportioning of risk between buyer and seller via suitable price adjustment mechanisms, and implementing a seamless post-completion transition and integration phase. ■

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