

UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION

In the Matter of	)	
	)	
INSILCO CORPORATION,	)	Docket No. C-3783
	)	
a corporation.	)	
	)	

**COMPLAINT**

The Federal Trade Commission ("Commission"), having reason to believe that respondent Insilco Corporation ("Insilco"), a corporation subject to the jurisdiction of the Federal Trade Commission, has acquired certain assets of Helmut Lingemann, GmbH, ("Lingemann") in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 45; and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues its Complaint, stating its charges as follows:

**I. DEFINITIONS**

For purposes of this Complaint the following definitions apply:

1. "Welded Aluminum Tubes", including welded aluminum tubes with diameters of 50 millimeters or greater ("Large Welded Aluminum Tubes") and welded aluminum tubes with diameters less than 50 millimeters ("Small Welded Aluminum Tubes"), means thin wall welded-seam aluminum tubes used in the manufacture of heat exchangers, which are devices that transfer heat from one fluid or gas to another medium, generally air.

2. "Non-Aggregated, Customer-Specific Information" means information about a product's cost and/or price that is in such a form that the cost and/or price of a product for an identifiable individual customer can be identified.

**II. THE RESPONDENT**

3. Respondent Insilco is a corporation organized, existing, and doing business under and by virtue of the laws of

the State of Delaware, with its principal place of business at 425 Metro Place N, Box 7196, Dublin, Ohio, 43017.

4. Insilco is, and at all times relevant herein has been, engaged in commerce as "commerce" is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. § 12, and is a corporation whose business is in or affecting commerce as "commerce" is defined in Section 4 of the FTC Act, as amended, 15 U.S.C. § 44.

### **III. THE ACQUIRED COMPANY**

5. Helima-Helvetion, Inc. ("Helima") was a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its principal place of business having been located at Duncan, South Carolina.

6. Helima, at all times relevant herein, was engaged in commerce as "commerce" is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. § 12, and was a corporation whose business is in or affecting commerce as "commerce" is defined in Section 4 of the FTC Act, as amended, 15 U.S.C. § 44.

### **IV. THE ACQUISITIONS**

7. On or about July 10, 1996, Insilco purchased from Lingemann for \$12.8 million the assets of Helima ("Helima Acquisition"); for \$17 million, the stock of Lingemann's European manufacturer of welded aluminum heat exchanger tubes, ARUP Alu-Rohr und Profil, GmbH; and the option to purchase Maschinenbau, GmbH, a Lingemann subsidiary in Germany that manufactures mills used in the production of aluminum tubes (together, the "Acquisitions").

8. Prior to the consummation of the Acquisitions, Insilco requested and received from Lingemann Non-Aggregated, Customer-Specific Information all of which is the type of information that would likely have been detrimental to competition in the relevant markets if the Acquisition had not been consummated.

9. The Non-Aggregated, Customer-Specific Information transferred from Helima to Insilco included descriptions of prior customer negotiations; detailed customer-by-customer price quotes; current pricing policies and strategies; and detailed, customer-by-customer future pricing strategies.

## V. THE RELEVANT MARKETS

10. For purposes of this Complaint, a relevant line of commerce in which to analyze the Helima Acquisition is the market for Large Welded Aluminum Tubes.

11. For purposes of this Complaint, a relevant line of commerce in which to analyze the Helima Acquisition is the market for Small Welded Aluminum Tubes.

12. For purposes of this Complaint, the relevant geographic market for both relevant lines of commerce is North America.

13. Each of the relevant markets is highly concentrated. As a result of the Helima Acquisition, Insilco is currently the only supplier of Large Welded Aluminum Tubes with 100% of the market, and one of only two suppliers of Small Welded Aluminum Tubes, with a market share of over 90%.

14. There has been no entry into the market for Large Welded Aluminum Tubes since the time of the Acquisitions, and the threat of entry has not deterred anticompetitive effects resulting from the Helima Acquisition. Because the cost of entering and producing Large Welded Aluminum Tubes is relatively high compared to the limited potential sales revenues available to an entrant, entry into this market is not likely to be profitable. Consequently, entry into the Large Welded Aluminum Tube market is not likely to occur in a timely manner and counteract the additional anticompetitive effects likely to result from the Helima Acquisition. Entry into this relevant market is difficult and unlikely.

15. There has been no entry into the market for Small Welded Aluminum Tubes since the time of the Acquisitions, and the threat of entry has not deterred anticompetitive effects resulting from the Helima Acquisition. Additional anticompetitive effects resulting from the Helima Acquisition are likely and will continue until such time as actual and sufficient entry occurs.

16. Prior to the Acquisitions, Insilco and Helima were actual competitors in the relevant markets.

## **VI. EFFECTS OF THE ACQUISITION**

17. The Acquisitions have substantially lessened or may substantially lessen competition in the following ways:

- a. they have eliminated Helima as a substantial independent competitor in the relevant markets;
- b. they have eliminated actual, direct, and substantial competition between Insilco and Helima in the relevant markets;
- c. they have increased the level of concentration in the already highly concentrated relevant markets;
- d. they have led, or may lead, to increases in prices in the relevant markets;
- e. they have led, or may lead, to a reduction in service in the relevant markets;
- f. they have led, or may lead, to the reduction in quality in the relevant markets;
- g. they have led, or may lead, to a reduction in technological improvements in the relevant markets;
- h. they have increased barriers to entry into the relevant markets; and
- i. they have given Insilco market power in the relevant markets.

## **VII. EFFECTS OF INFORMATION TRANSFER**

18. Insilco received from Lingemann competitively sensitive information prior to the consummation of the Acquisitions, that, but for the consummation of the Acquisitions, may have detrimentally affected competition in the relevant markets.

## **VIII. VIOLATIONS CHARGED**

19. The effects of the Acquisitions may be substantially to lessen competition or tend to create a monopoly in violation of

Section 7 of the Clayton Act, 15 U.S.C. § 18, and Section 5 of the FTC Act, 15 U.S.C. § 45.

20. Insilco, through the Acquisitions, has engaged in unfair methods of competition in or affecting commerce in violation of Section 5 of the FTC Act, 15 U.S.C. § 45.

21. Prior to the Acquisitions, Insilco requested and received from Lingemann Non-Aggregated, Customer-Specific Information about customers for which they both competed in the relevant product markets in violation of Section 5 of the FTC Act, 15 U.S.C. § 45.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this twenty-seventh day of January, 1998, issues its Complaint against said respondent.

By the Commission, Commissioner Swindle not participating.

Benjamin I. Berman  
Acting Secretary