

FEDERAL TRADE COMMISSION

[File No. 121 0004]

Marker Völkl (International) GmbH and Tecnica Group, SpA.; Analysis of Agreements Containing Consent Orders to Aid Public Comment**AGENCY:** Federal Trade Commission.**ACTION:** Proposed Consent Agreements.

SUMMARY: The consent agreements in these matters settle alleged violations of federal law prohibiting unfair methods of competition. The attached Analysis of Proposed Consent Orders to Aid Public Comment describes both the allegations in the draft complaints and the terms of the consent orders—embodied in the consent agreements—that would settle these allegations.

DATES: Comments must be received on or before June 18, 2014.

ADDRESSES: Interested parties may file comments at

www.ftc.gov/ftcd online or on paper, by following the instructions in the Request for Comments part of the **SUPPLEMENTARY INFORMATION** section below. Write “Ski Manufacturers—Consent Agreement; File No. 121–0004” on your comment and file your comment online at

www.ftc.gov/ftcd by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610, (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610, (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT:

Mark Taylor, Bureau of Competition, (202–326–2287), 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreements containing consent orders to cease and desist, have been filed with and accepted, subject to final approval, by the Commission, having been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreements, and the allegations in the complaints. An electronic copy of the

¹ In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. 16 CFR 4.9(c), 16 CFR 4.9(c).

(cognizable and plausible) efficiency justification for the restraint.⁴

Here, the Commission finds reason to believe that the athlete non-compete agreement and the employee non-compete agreement serve no pro-competitive purpose. More specifically, these restraints are not reasonably necessary for the formation or efficient operation of the marketing collaboration between Marker Völkl and Tecnica. That the restraints are, at a minimum, overbroad is demonstrated by the fact that the agreements adversely affect competition for—and the compensation available to—athletes and employees who have no relationship with the collaboration.⁵ Further, Respondents cannot plausibly claim that the restraints serve to align the incentives of the companies in a manner that promotes the cognizable efficiency goals of their collaboration. Rather, the ski businesses of Tecnica (the Nordica and Blizzard brands) were at all times outside of and apart from the collaboration.⁶ In sum, the Respondents did not provide evidence demonstrating why Marker Völkl and Tecnica cannot cooperate in the marketing of certain ski products, yet at the same time compete for the services of endorsers and employees.

The athlete non-compete agreement and the employee non-compete agreement serve to protect Marker Völkl and Tecnica from the rigors of competition, with no advantage to consumer welfare. The justifications for the non-compete agreements proffered by the Respondents were neither supported by the evidence nor cognizable under the antitrust laws. Because there is no plausible and cognizable efficiency rationale for the non-compete agreements, these inherently suspect agreements constitute unreasonable restraints on trade, and are properly judged to be illegal.

III. The Proposed Orders

The proposed Orders are designed to remedy the unlawful conduct charged against Respondents in the Complaints and to prevent the recurrence of such conduct.

The proposed Orders enjoin Marker Völkl and Tecnica from, directly or indirectly, entering into, or attempting to enter into, an agreement with a ski equipment competitor to forbear from

competing for U.S. athletes to sign endorsement contracts for the company's ski equipment. The proposed Orders also enjoin Marker Völkl and Tecnica from entering into an agreement with a ski equipment competitor to forbear from competing for the services of any U.S. employee. A proviso to the cease and desist requirements allows reasonable restraints ancillary to a legitimate joint venture.

The proposed Orders will expire in 20 years.

By direction of the Commission.

Donald S. Clark,

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FINANCIAL STABILITY OVERSIGHT COUNCIL

Proposed Collections; Comment Requests

ACTION: Notice and request for comments.

SUMMARY: The Financial Stability Oversight Council (the "Council") invites members of the public and affected agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). The Council is soliciting comments concerning its collection of information related to its authority to designate financial market utilities as systemically important. Section 804 of the Dodd-Frank Wall Street Reform and Consumer Protection (the "Dodd-Frank Act") provides the Council the authority to designate a financial market utility ("FMU") that the Council determines is or is likely to become systemically important because the failure of or a disruption to the functioning of the FMU could create, or increase, the risk of significant liquidity or credit problems spreading among financial institutions. Paperwork Reduction Act of 1995, Public Law 104-13, 110 Stat. 1060, 44 U.S.C. 3506(c)(2)(A).

⁴ P. v. , 416 F.3d 29, 35-36 (D.C. Cir. 2005).

⁵ , Federal Trade Comm'n and U.S. Dep't of Justice, (2000) § 3.36(b).

⁶ , 136 F.T.C. 310, 322, 357-63 (F.T.C. 2003).