

COMPANIES & FINANCE THE AMERICAS: FTC move fails to put Nestlé off Dreyer's

By Neil Buckley in New York and William Hall in Zurich, Financial Times
Published: Mar 06, 2003

Nestlé remains confident it can complete its \$2.8bn acquisition of Dreyer's, the largest US ice cream manufacturer, despite a surprise last-minute challenge by the US Federal Trade Commission.

The world's biggest food company said yesterday it "remained firmly committed to the transaction", adding that the FTC had not yet filed a court case to block the merger.

But Dreyer's shares were down over 20 per cent in morning trading in New York, reflecting investor uncertainty over the outcome of what many had previously regarded as a "done deal".

The FTC's decision clearly caught Switzerland-based Nestlé by surprise, coming only a day after Nestlé and Dreyer's had agreed to sell some brands to address the FTC's concerns. "We are continuing our discussions with the staff of the FTC regarding the potential divestment of assets announced earlier and we are confident we will be able to successfully conclude the merger," Nestlé and Dreyer's said in a joint statement.

Deutsche Bank, which has issued a "sell" recommendation on Dreyer's, said a deal was "much less likely" following the FTC decision. Nestlé's efforts to appease the regulators by selling some Dreyer's brands, were "clearly insufficient", the bank said.

By contrast, **James Amoroso**, of Geneva private bank Pictet, still believes Nestlé can satisfy the FTC's concerns and the deal will go ahead, albeit with some delay.

The FTC has authorised its staff to seek a preliminary injunction to block the merger on the grounds that it will "eliminate competition and raise prices" for super-premium ice cream.

The FTC decision was unanimous. But the merger can only be blocked by a US court and some lawyers believe the FTC could have difficulty defending its decision.

Nestlé markets super-premium ice cream under the Häagen Dazs brand, and Dreyer's super-premium brands include Dreamery, Godiva and Starbucks. The purchase of Dreyer's would give Nestlé 60 per cent of the super-premium market, the FTC said.

The FTC says that market is already highly concentrated. Unilever, Nestlé's arch-rival, controls Ben & Jerry's, and the three together account for about 98 per cent of super-premium ice cream sales.

The antitrust authority has focused narrowly on the top end of the ice cream market and is determined to prove that Nestlé and Unilever will have too much power to raise prices and reduce customer choice.

"We are continuing our discussions to show [the FTC] we do not believe it will have a negative impact on competition," Nestlé said.

Nestlé unveiled its plans to buy Dreyer's last summer, as the latest step towards realising its ambition of becoming the leader of the \$30bn-a-year global ice cream market.