

Hershey, and the story goes on...

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Shares in food giant Nestle jumped 2.8 per cent on Wednesday as investors bet a US court would intervene in the sale of Hershey Foods, reducing the odds that Nestle would overpay for the chocolate icon.

"People are frightened that Nestle will pay too high a price and so if a deal is blocked that would be positive for Nestle," said Steven Frey, analyst with Bank Leu.

Nestle's shares were up 8.5 francs at 312.5 francs at 1323 GMT, outperforming Swiss blue chips and European sector rivals.

Judge Warren Morgan of Dauphin County Orphans court in Pennsylvania is expected to decide by the end of this week whether to issue a temporary restraining order that would suspend the controversial sale by the Milton Hershey School Trust.

On Tuesday, Morgan heard arguments from both the trust, which holds 77 per cent of the voting shares in Hershey, and its opponents, which warned that new ownership would likely lead to big layoffs in Hershey's home town.

Proponents, including UBS Warburg managing director George Stephenson, warned that any potential deal could be scuttled if the judge blocks the deal even temporarily. UBS Warburg is advising Hershey and running the sale effort.

"People are not going to submit bids until the board of Hershey Foods can act to accept bids," Stephenson told the court. He added that he expected final bids in two to four weeks, indicating that the sale process was well advanced.

Nestle, widely regarded as the front runner to buy the famed maker of Hershey's Kisses and Reese's Peanut Butter Cups, declined to comment on the court proceedings.

Its silence was in marked contrast to last week, when it rejected talk it would make a \$12 billion bid and actively moved to talk down the potential price for Hershey.

While the trust's decision to sell has sparked protests and has become embroiled in the November election for Pennsylvania governor, food industry sources in Switzerland said they did not believe Hershey's sale would be halted on political grounds.

Analysts agreed, saying fears of job cuts may not be warranted. Some even said it was likely that if Nestle was the buyer, it would move its UA confectionery operations to Hershey's home town of Hershey, Pennsylvania, where most of the 12,000 residents have some sort of tie to the company.

"Logic would dictate that the deal would not be blocked because there is basically no offer on the table and no one knows whether there would be job cuts by whoever bought Hershey," said **James Amoroso**, analyst with Bank Vontobel.

Nestle now has a weak third position in the US confectionery market after Hershey and M&Ms maker Mars.

Other firms cited as possible bidders, such as Britain's Cadbury Schweppes and Kraft would likely do the same although Vontobel's **Amoroso** noted the overlap between Kraft and Hershey's sugar confectionery businesses.

Nestle makes Nescafe coffee, Friskies pet food and top chocolate brand KitKat, also made under license in the United States by Hershey. The lucrative brand is expected to revert to Nestle in the event of Hershey's sale, giving Nestle pole position in the takeover battle, analysts say.

Analysts say a swoop by cash-rich Nestle was logical given Hershey's better margins, potential synergies, and Nestle's goal to be number one or two in every business it is in.

Investors remain ambivalent about any Nestle acquisition of Hershey, with concerns about the pace the normally conservative food group is racking up debt as it goes on a buying spree in the fast-consolidating food sector.

Rating agencies have already warned that Nestle will lose its top credit rating - which allows it to borrow more cheaply than lower-rated rivals - in the event of a Hershey purchase.