HERBERT SMITH FREEHILLS

GLOBAL M&A OUTLOOK 2023: CONSUMER 2022 WAS A CHALLENGING YEAR COMPARED TO 2021

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Legal Briefings

M&A in the consumer sector slowed throughout 2022 as compared to the buoyant trends in 2021. Macro-economic issues and global headwinds have meant a tougher environment for consumers, particularly with record-breaking inflation adding to the cost of living and turning the screws on household budgets. Weakening consumer spending power diminished the appetite for big–ticket M&A projects (although there were exceptions), and corporates instead focused on streamlining portfolios through divestments.

2022 CHALLENGES: SUPPLY CHAINS AND INFLATION

Exceptionally high and persistent inflation, combined with continued rate hikes, have meant consumer-focused companies are more likely to be tightening budgets and steering their strategies away from portfolio expansion. The same companies are also facing challenges in the increased cost of commodities, utilities, freight, packaging and labour, which would usually drive an increase in prices (and has done in many jurisdictions). However, the inflationary squeeze on consumer spending power means that the available flex in pricing changes is more limited than many would like. This has led certain corporates to shore up supply chains and acquire logistics and distribution businesses; a good example being JD.com's US$1.3 billion acquisition of Deppon, a company providing transportation, delivery services and warehousing management in China.

DEAL TERMS AND TRANSITIONAL PERIODS

With supply chain difficulties and increased costs at the forefront of counterparties' minds, usually unproblematic deal terms have been under the microscope recently. Standard contractual qualifiers and conduct obligations which rely on a mutually acceptable definition of the "ordinary course of business" have been challenged given the exceptional market context, and there has been a laser focus on the minutiae of working capital adjustments in consideration negotiations. Accounting provisions likely shifted throughout the course of the year, making estimating working capital at completion more complicated. Furthermore, the terms of transitional run-off contracts to facilitate integration have been hotly negotiated, as sellers look to limit the extent and duration of their exposure to divested businesses, and seek to pass through as much of their inflated costs as possible to purchasers while the contracts are in force.

DIVESTMENTS AND RESHAPING PORTFOLIOS

Ongoing market challenges have yielded opportunities for more traditional consumer-centric companies to reshape and refine their assets as they cut costs and boost efficiencies. 2022 saw General Mills continue its 'Accelerate' strategy and divest its European dough business to Cérélia, while Diageo sold both its 'Picon' and 'Archers' drinks brands to slim down its liqueur portfolio, as well as its Guinness Cameroon business and Ethiopian Meta Abo brewery. Unilever finalised its US$4.7 billion sale of tea company Ekaterra to CVC Capital Partners, and Adidas completed its carve-out of Reebok from its global business as it no longer fitted Adidas's emphasis on brand credibility, consumer experience and sustainability. We would expect this to continue into 2023 while global headwinds remain challenging and corporates sharpen their focus on core businesses, while always being on the lookout for the megabrands of tomorrow.

Read the full report

KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.

HEIDI GALLAGHER
PARTNER, LONDON

+44 20 7466 2367
Heidi.Gallagher@hsf.com

ALEX KAY
PARTNER, LONDON

+44 20 7466 2447
Alex.Kay@hsf.com

NANDA LAU
HEAD OF CORPORATE, CHINA, MAINLAND CHINA
+86 21 23222117
Nanda.Lau@hsf.com

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