China-EU Competition Week: Abbott's Acquisition of St. Jude Medical

Anti-monopoly Bureau, MOFCOM
Tang Yu

March 2017

Part I: basic information of the case

Part II: definition of relevant markets and competitive analysis

Part III: decision of the review

Basic information of the case

Continuous large-scale mergers and acquisitions in the global medical technology industry

Abbott's acquisition of Alere (2016)

- unconditional approval

Abbott's acquisition of St. Jude Medical (2016)

- the second case of conditional approval in 2016

Discussion before the filing - different opinions were raised concerning the market definition proposed the applicant

Multiple communications after the filing - further understanding of the concrete information of relevant products of the applicant

After soliciting opinions from relevant government departments, industrial associations and experts, the Ministry of Commerce has reviewed the authenticity, completeness and accurateness of the materials submitted by the applicant

- Relevant product market - vascular closure device for loculus
- Vascular closure device for loculus is used in minimal invasive diagnosis and interventional operation of cardiovascular diseases to close the cavities generated at the puncture point of blood vessels to prevent blood loss. It is applicable to cavity with diameter equal to or smaller than 8F (1F=1/3mm).

Definition of relevant markets and competitive analysis

Abbott:

Business area	Description
Nutrition products	Sales of infant and adult nutritional supplements, including the well-known Abbott Similac series, Pedialyte, Ensure complete series, and products for treatment.
Diagnostic products	Mainly in-vitro diagnostic equipment, including blood sieve, immunoassay, clinical chemistry, molecular automation and hematology products
medicine	Sales of generic medicine in developing markets (it sold its business in developed markets to Mylan)
Medical apparatus and instruments	Mainly including cardiovascular products, optical products and diabetes care products

Definition and competitive analysis of relevant markets

St. Jude Medical

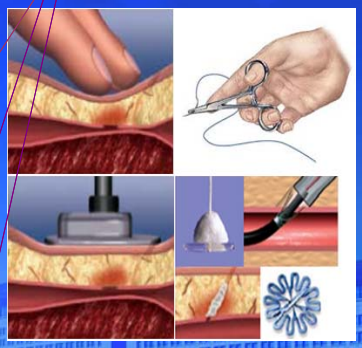
Product type	Products provided
Cardiac rhythm management products	Pacemaker, pacing leads, implantable cardioverter defibrillator, etc.
Cardiovascular products	Endomyocardial biopsy forceps, guidewires, vascular closure products, peripheral vascular embolism, etc.
Atrial fibrillation products	Diagnostic catheters, recording workstations, 3D navigation devices, ablation catheters, transseptal introducer sheath, etc.
Heart failure products	Cardiac resynchronization device, ventricular assist device, heart failure detection device
Neuromodulation products	Products for radiofrequency treatment, dorsal root ganglion therapy, spinal cord electrical stimulation

Lateral overlap: vascular closure device

The applicant firstly declared that:

The four vascular closure methods can be substituted for each other, so they can be defined as in a market.

•Manual pressing	– Health care professionals directly press the puncture site – "Gold standard" for small cavities (diameter ≤8F)
•Surgical sutures	– The surgeon cuts the skin, and exposes the punctured arteries or veins, and then manually stitches the cavity on the blood vessels – The surgery may require assistance from a blood vessel or a cardiac surgeon – "Gold standard" for large cavities (diameter >8F)
•Auxiliary instrument for closure	– Either press the artery (for example, use a bandage), or release the drug that can accelerate healing – a supplement or substitute for manual pressure
Vascular closure device	— Mechanical device for cavity closure — different closure mechanism (suture, clip, plug, seal) — The vascular closure device can be used to close cavity of particular size or in a specific space



Vascular closure device

— Mechanical device for cavity closure
— different closure mechanism (suture, clip, plug, seal)
— The vascular closure device can be used to close cavity of particular size or in a specific space

Out of the ordinary

According to the diameter 8F (1F=1/3 mm) of cavity for closure on blood vessels, the vascular closure device can be divided into the vascular closure device for large cavities and that for small cavities, among which one for cavity with diameter equal to or smaller than 8F is defined as the vascular closure device for small cavities, and the two cannot be substituted by each other.

Abbott:Starclose, Proglide series

St. Jude Medical:Angio-Seal series

Definition of relevant markets and competitive analysis

Relevant geographic market - China

The vascular closure device for small cavities is a kind of medical appliance products relative to human health and life safety. According to the *Regulations on Supervision and Management to Medical Instruments*, China Food and Drug Administration is responsible for the administration of the registration of it, thus the operators shall acquire the approval for its production or operation by law. Therefore, China is defined as its relevant *geographic* market.

Market share of the vascular closure device for small cavities in China in 2015

	Name of competitor	Market share in 2015
1	Abbott	About 70%
2	St. Jude Medical	About 25%
	Total	About 95%
3	Cardinal Health	About 5%

- International cooperation of the case
- - pay close attention to the acceptance and review of the case in other jurisdictions
- - conducted conference call and e-mail communication with FTC of United States, for mutual exchange on issues such as competition concerns, market definition, assessment of remedy measures, etc.

Conclusions of competitive analysis :

- (A) the transaction will lead to Abbott's further enhancement in the control of the relevant geographic market.
- (B) the transaction will eliminate the competition between the two leading close competitors in the relevant market.
- (C) due to the difficulty to enter the relevant market, it will be very difficult to see a new effective competitor in a short time.
- (D) the transaction will damage the interests of consumers.

- **- Inform the applicant the competition concerns: during the review, the Ministry of Commerce has timely informed Abbott the review opinions of considering the concentration as eliminating and restricting competition, and conduct multiple negotiations on related issues such as taking restrictive conditions to lessen adverse impact on competition due to concentration of operators.**

- **- The remedy plan submitted by the applicant was reviewed: in terms of the restrictive conditional measures submitted by Abbott, namely complete divesting the global business on vascular closure device from St. Jude Medical, the Ministry of Commerce, based on regulations in the *Provisions on Conditional Approval of Concentration of Business Operators (for Trial Implementation)*, has conducted review on aspects mainly including scope and effectiveness of the divested business, viability, competitiveness and marketability of the divested business and suitability of the buyer of the divested business.**
-

- **- Review conclusions: the Ministry of Commerce believes that the final plan for conditional approval submitted by Abbott can lessen the adverse impact from the concentration of undertakings.**

Review decisions

- According to the final plan for conditional approval submitted by Abbott, the Ministry of Commerce decides to approve this concentration on conditions, and demands Abbott and St. Jude Medical to perform the following obligations:
- (A) Divest St. Jude Medical from the business of vascular closure device for small cavities.
- (B) Sell the divested business to Terumo Corp and provides transitional services strictly in accordance with the provisions of the *Purchase Agreement*.
- (C) The divestiture shall be completed within 20 days upon the transaction of Abbott's acquisition of St. Jude Medical. From the date of the announcement to the complete delivery of the divested business, strictly follow the provisions in the Article 20 of the *Provisions on Conditional Approval of Concentration of Business Operators (for Trial Implementation)*, to ensure the viability, competitiveness and marketability of the divested business.
- (4) Abbott shall submit a written report of divestiture to the Ministry of Commerce within 10 days from the date of completion of the business divestiture and submit a written report on the transitional services to the Ministry of Commerce every six months thereafter.


Thanks!