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SRCL / WM – View on Canada Antitrust / Discussion with Competitors

Summary Overview

After speaking with a couple of competitors to Stericycle in Canada, the Desk is of the view that (1) the SIR is highly unlikely to be resolved quickly; and (2) a remedy will likely be required. Waste Management is the largest operator of landfills in Ontario and the *only* landfill operator in the province that accepts biomedical waste at scale. Stericycle and other competitors, including Daniels Health, e360 and Octagon, contract with Waste Management to dispose of biomedical waste. Post-acquisition, these companies will be reliant on a competitor for a critical service. Based on feedback from our calls, multiple complainers appear to have contacted the Competition Bureau in Canada (“CC”) and the agency appears to be receptive to and engaged on this issue. At this point, we are skeptical that CC would accept a behavioral remedy, as such a remedy would have to include pricing and capacity guarantees, which seems at odds with CC Commissioner Matthew Boswell’s antitrust philosophy. The cleanest remedy would be a sale of Stericycle’s Ontario biomedical waste disposal operations to a third party.

Canadian Market

There are two large national players in the biomedical waste space in Canada: Stericycle and Daniels Health. The competitors’ market shares differ by province. There are smaller, regional players who compete for small-to-medium sized quantity waste. Stericycle and Daniels are essentially the only competitors who handle large quantity waste customers, although they compete across the size spectrum. This is our understanding of competition across provinces:

- Newfoundland: Stericycle has a vast majority of share.
- Nova Scotia: Stericycle has majority share but Daniels has been gaining share.
- PEI and New Brunswick: Daniels has vast majority of share.
- Quebec: Stericycle has leading share but Daniels is growing. DBM is a strong player in Quebec City.
- Ontario: Daniels has leading share. Stericycle has the second largest position. Both e360 and Octagon compete in the small-to-medium quantity space.
- Manitoba: Market is evenly split between Stericycle and Daniels.
- Saskatchewan: Biomed has the provincial contract. Stericycle and Daniels each have a few accounts.
- Alberta: GM Pearson has the provincial contract, but Alberta Health Services is transitioning the contract and the new supplier is still tbd.
- British Columbia: Daniels has the provincial contract. Stericycle competes for small and medium quantity waste, along with e360 and Biomed.

Incinerated Biomedical Waste --> Landfills

The most common and cost-effective procedure for processing medical waste is through autoclaves. After the waste is sterilized via the autoclave, it is no longer considered hazardous and can be sent to a landfill. The waste is held in a special medical waste bin, a self-contained compactor. Waste Management, or other traditional waste companies, utilize roll-off vehicles to pull the bin to a landfill, dump the waste and then return the bin to the biomedical waste client, such as Stericycle.

There is limited landfill capacity in Ontario, and Waste Management has control over most of the capacity, and all of the very large landfills. Walker Industries and other smaller landfill players do not want to accept biomedical waste, whether due to guidance from their own internal advisory committees or pressure from neighborhood watch groups. The waste is no longer hazardous but, if not handled properly, could result in needles leaking out of the landfill. There are millions of needles in every load, and, although rendered sterile, those needles can get stuck in the tracks

of compactors and/or stuck in the tires of trucks, eventually making their way onto the road. Per feedback from our discussions, the smaller landfills do not want the hassle.

Another alternative would be to transfer the sterilized biomedical waste across the border to a landfill in Michigan. Disposing the waste in a Michigan landfill is cheap but the transportation costs are very high. However, the costs are not the most prohibitive issue. There are often issues at the border. Loads can get refused and trucks can get delayed. It is not considered a suitable alternative.

Remedy or Divestiture

A behavioral remedy would likely have to include access and pricing commitments. Can CC mandate that WM continue to provide access to all of its landfills to all competitors in Ontario without changing historical pricing models? Certainly possible, as biomedical waste competitors have historical information on WM's haul rates and disposal rates, but, as we know, regulators are adverse to remedies on price, particularly these days.

The other alternative would be for WM to sell Stericycle's biomedical waste business in Ontario. Based on conversations, we think the competitor complainers would be interested in buying the business (no surprise there), although, at least for Daniels, there would be horizontal antitrust issues with them as the buyer. However, we think WM could likely find a suitable buyer, perhaps even another traditional waste player like GFL or a smaller, regional competitor like e360. Still, we are skeptical that such a process could be completed in the near-term.

Complainers / CC Receptiveness

Based on feedback, we understand there to be multiple complainers in Canada and for CC to be receptive and engaged on the complaints. One contact mentioned that they have had many interactions with CC over the course of their career, dating back to the early 90's. At the turn of the century, Stericycle bought the two leading biomedical waste providers in Quebec (one of which was Browning-Ferris Industries). This contact complained to the CC but their response was that the medical waste industry in Canada did not trigger the threshold for a review. The contact mentioned that Stericycle made another acquisition in Ontario in 2007 that gave them a near monopoly in the province [*the 2007 10-k cites the acquisition but does not name the target*] but CC was similarly unconcerned. This time, however, the contact said that they are "pleasantly surprised" that CC is awarding this transaction as much attention as they are and are "pretty pleased" by the interaction thus far.

Bundling

The complainers seem also to be bringing bundling concerns to the CC. However, we are under the impression that the complainers do not see this as a meaningful issue. This is a brief summary of the theory of harm that was relayed to us. Hospitals in Canada tend to contract for waste disposal through group purchasing organizations ("GPOs"). With financial pressures on healthcare, these GPOs use smaller local haulers for nonhazardous waste. If WM starts to bundle shredding, recycling, landfill and biomed, and is vertically integrated with landfills, WM will control the market.

Companies Discussed in this Note

- Daniels Health: <https://www.danielshealth.com/>
- E360: <https://e360s.ca/liquid-special-waste/biomedical-pharmaceutical/>
- Octagon: <https://www.octagonmedical.com/>
- BC MedWaste: <https://bcmedwaste.com/>
- DBM: <https://dbmenvironnement.com/en/biomedical-waste-ecological-and-economical-destruction/>
- Biomed: <https://biomedwaste.com/>
- GM Pearson: <https://gmpearson.ca/>
- Walker Industries: <https://walkerind.com/services/waste-disposal/>

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