

Conclusions on the employment effects of mergers and acquisitions in commerce

The Tripartite Meeting on the Employment Effects of Mergers and Acquisitions in Commerce,

Having met in Geneva from 7 to 11 April 2003,

Adopts this eleventh day of April 2003 the following conclusions¹:

General aspects of mergers and acquisitions

1. Commerce, which links producers and consumers of goods and services, plays a vital role in economic development and employment generation. It is a highly heterogeneous sector with considerable differences between wholesale and retail. Its structure and functioning vary greatly between countries but the sector represents the largest source of employment in many economies.
2. Over the recent past, there has been a dramatic merger-led growth in the size of commerce companies around the world. Globalization, changing regulatory frameworks, and market liberalization, leading to an increase in the intensity of competition, have given added importance to enterprise size. Increased competition has also led to a more rapid growth of large-scale retail outlets, with hypermarkets and supermarkets competing with traditional outlets such as specialized stores and department stores. Similarly, non-urban commercial centres or malls are increasing and competing with inner city and village businesses in importance. Sectoral concentration in mature markets is encouraging price-based competitive strategies with eliminated costs reinvested in price cuts. Such a price-oriented strategy requires a larger sales base, and mergers and acquisitions are one of the responses to this need for expansion, which primarily concern developed countries with fully functioning financial markets. However, the extensive changes evident in the commerce sector and the restructuring that comes in its wake are a global phenomenon whose effects can equally be felt in developing countries as well as economies in transition in all regions.
3. In general, small firms have traditionally provided a large proportion of commerce employment. However, these are ceding ground to their bigger – often multinational – competitors, as mergers and acquisitions lead to the emergence of large global and regional

¹These conclusions have not yet been examined by the Governing Body of the ILO in accordance with established procedures and therefore cannot be considered as definitive.

retailers and wholesalers. Thus the trend towards consolidation is growing in tandem with a continuing process of concentration of jobs in fewer and fewer companies.

4. Beneficial effects can be derived from economies of scale and companies which do not expand their businesses may find themselves at a disadvantage in an increasingly competitive economy. There are, however, mixed effects on existing jobs and employment in general from mergers, acquisitions and the related restructuring in commerce. The post-merger integration of companies in the sector has often been followed by net job growth in the combined enterprise, although jobs may be redeployed or lost as overlapping functions are rationalized. The more positive employment outcome in commerce companies is attributable to the fact that mergers and acquisitions in the sector can also be motivated by considerations of market-share expansion rather than for the purpose of cost cutting. Nevertheless, in some countries, employment gains in the larger merged companies can frequently be offset by losses associated with the closure of small and medium-sized stores.
5. Merger implementation in commerce, as in other sectors, involves human resource management and development issues ranging from staff integration, redefining of management and worker responsibilities, the combining of facilities, staff relocation, and the harmonization of employment conditions. How these issues are dealt with can have a decisive effect on the success of a merger or an acquisition. Various examples demonstrate that social dialogue, including the provision of timely information and consultation with the concerned workers and their representatives,¹ can contribute to the successful integration and the achievement of merger objectives. Social dialogue is similarly effective in helping to dispel uncertainty and reduce the risk of damaging the industrial relations environment.

Employment

6. Employers and workers share an interest in stable and sustainable labour markets that ensure a supply of skilled and productive labour, and this needs to be combined with positive flexibility and job security. In many large commerce companies, especially those in retail, an objective of human resource management is to keep staffing levels at the adequate level required for satisfactory service to the consumer. Work in the sector lends itself to standardization and automation, and competition strategies increasingly emphasize savings on overall production costs. The introduction of new technologies to streamline the backroom work of ordering, inventory control, accounting and billing enables companies to switch administrative personnel to other positions. However, many of the workers involved in these functions may find it difficult to adapt to the changes in the sector and to the new functions if they are not prepared for them. Training in anticipation of change and responding to change would enable workers to take advantage of such changes and to increase their employability.

¹ Throughout this text, when the term “workers’ representatives” is used, it refers to Article 3 of the Workers’ Representatives Convention, 1971 (No. 135), which reads as follows: “For the purpose of this Convention, the term ‘workers’ representatives’ means persons who are recognized as such under national law or practice, whether they are: (a) trade union representatives, namely, representatives designated or elected by trade unions or by the members of such unions; or (b) elected representatives, namely, representatives who are freely elected by the workers of the undertaking in accordance with provisions of national laws or regulations or of collective agreements and whose functions do not include activities which are recognized as the exclusive prerogative of trade unions in the country concerned.”

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7. Mergers and acquisitions in commerce are not, in and by themselves, directly responsible for job cuts or for flexible work practices that can erode working conditions. Post-merger restructuring might nonetheless lead to such results and practices, as companies seek to increase labour flexibility, while managing wage costs. Examples of good practice exist, however, demonstrating that mergers could promote stable employment and that mergers and acquisitions can be planned and implemented in a manner that takes decent work objectives into account. Redundancies should be a last resort in the context of staff rationalization as a result of restructuring related to a merger or an acquisition having due regard to business and social considerations.
 8. Although job losses in commerce as a result of mergers or acquisitions may not always be as extensive as those witnessed in other sectors, they sometimes occur. In the event that terminations occur, account should be taken, as far as possible, of the principles contained in the ILO Termination of Employment Convention, 1982 (No. 158), and its accompanying Recommendation (No. 166). The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, adopted by the Governing Body in 1977 and amended by the Governing Body in 2000, is applicable to mergers and acquisitions whose impact extends beyond the confines of a single country.
 9. Governments have an important role to play in facilitating and creating a climate that allows for the development of effective measures that can be incorporated in merger and acquisition-related programmes. This will deal with the consequences that result from mergers and acquisitions. This should include lifelong learning programmes to allow workers to continuously acquire transferable skills and business to benefit from a more highly competent workforce. Examples of good practice on training and human resource development which exist in many countries could be used to develop a proactive employability capability for workers in commerce. The development of training programmes should, where possible, be done in consultation with the social partners. Employers' and workers' organizations should equally be encouraged to work together to identify the issues of importance to their sector, including skills development and human resource needs and to share responsibility for addressing them in a collaborative manner.
 10. Commerce provides an important entry point into the labour force for women who represent the majority of commerce workers in many countries. Special attention should be given to the impact of mergers and acquisitions in commerce on gender in order to safeguard advances achieved on the objectives of equity policies.

Working and employment conditions

11. Successful enterprises are essential for continued employment, while a skilled, stable and motivated workforce is paramount to the success of any company. Decent working and employment conditions are a prerequisite for staff motivation, productivity and enterprise profitability. Mergers and acquisitions invariably involve integrating differing enterprise systems and procedures in order to harmonize various aspects of terms and conditions of employment to ensure common practice throughout the newly merged organization. All parties recognize the importance for merged companies to maintain good working and employment conditions which promote job satisfaction, minimize work-related stress and thereby safeguard enterprise productivity.
12. Business flexibility can help enterprises increase competitiveness. An adequate degree of job security is necessary to allow workers to earn a decent living and to ensure staff loyalty whose strong link to customer loyalty in the commerce sector is recognized. Such job security could be supported by training for employability and multiskilling to make it

possible for workers to adapt to demands for greater flexibility in the operation of the business.

13. Post-merger restructuring sometimes requires workers to relocate or can result in additional commuting time between home and work. In deciding on such issues, companies need to take account of, among others, individual workers' needs particularly for those who have to balance work and family responsibilities.
14. The introduction of new technologies, often in conjunction with merger-led restructuring, helps to streamline the backroom work of ordering, inventory control, accounting and billing, enabling companies to switch administrative personnel to other positions. All effort should be made to enable workers previously in those functions to acquire the necessary skills to transfer to the new positions.

Social dialogue

15. The Meeting recognized the fundamental importance of social dialogue immediately following a merger or an acquisition decision. Effective social dialogue is a vital element behind successful economic and social reform enabling the parties concerned to address issues relating to employment effects. It can provide the decisive channel for discussing and taking decisions associated with change in the world of work, including enhancing skills, modernizing work organization, promoting equal opportunities and diversity. Social partners are best placed to take up the challenge of reconciling their sometimes conflicting interests, including balancing the need for flexibility essential to businesses with the security needed by workers, in the event of major restructuring. A proactive social dialogue between the social partners is the best approach to address the challenges related to the changes associated with mergers and acquisitions in a flexible, efficient, non-confrontational manner. Because mergers and acquisitions are strategic, they are a result of long-term decision-making processes. Therefore it is important that workers and their representatives are informed in a timely manner by employers of the decision taken to engage in a merger or acquisition prior to public announcement. The timing of such information and subsequent consultation should comply with applicable national laws and regulations and fair practice. In this connection, good faith efforts must be made to inform staff prior to any public announcements to the media regarding the impending merger or acquisition.
16. While the role of the social partners in addressing the issues related to mergers, acquisitions and restructuring is recognized, governments have a key role to play in setting up the legal framework within which such decisions occur. That role should take into account and reflect the fact that countries may face differing circumstances, depending on their levels of development. The legal framework should emphasize the importance of the provision of information to workers and their organizations as early as possible, due regard being taken of the situation in a specific country, its laws, customs and practices. Specific matters that may be considered to be appropriate for inclusion in the information provided could include the proposed details of the merger or acquisition, relating to the proposed timing, the reasons for the merger or acquisition, and its possible legal, economic and social consequences. Governments should promote and realize the fundamental rights at work, which include collective bargaining. They should also put into place mechanisms, on the basis of consensus, that would prevent, cushion or mitigate any negative effects of mergers and acquisitions.
17. Where redundancies are unavoidable, employers should make every effort in addressing job losses in close consultation with the workers concerned and their representatives and, where appropriate, with government assistance to ensure that the reduction in the number

of workers is primarily through voluntary means. Throughout mergers and acquisitions, it is recognized that there is an obligation to promote and realize in good faith the fundamental rights, including the principle of non-discrimination, including against persons with disabilities.

ILO action

- 18.** The Meeting requested the ILO to undertake more detailed research on: (a) the effects of mergers and acquisitions in commerce, segregating employment statistics from those of other sectors; (b) opportunities for women workers, including gender equity, pay and workers with family responsibilities; (c) training needs for the commerce sector; and (d) the impact of technology in the mergers and acquisitions context. Results of the research should be included in a database that would, inter alia, include case studies on mergers and acquisitions in different countries.
- 19.** The ILO should promote the application to the sector, including in the context of mergers and acquisitions, of the rights and principles confirmed in the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998), as well as those contained in the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (1977).
- 20.** The ILO should ensure that the design and implementation of its activities in the sector is done in consultation with the constituents to avoid a one-size-fits-all approach. The activities to be undertaken in the commerce sector should be varied and include an important regional component.
- 21.** The Meeting also requested the ILO to help developing countries and countries in transition to review and, where appropriate, update their labour legislation so that, in future, they are better able to respond to the employment effects of mergers and acquisitions. The ILO should, in consultation with the social partners, also play an important role in assisting governments and the social partners to develop their capacity for social dialogue concerning the employment effects of mergers and acquisitions.