

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

COMMONWEALTH OF PENNSYLVANIA,	:	
	:	
Plaintiff,	:	
	:	
v.	:	CASE NO. 3:26-cv-01979
	:	
COLAS INC., AND SUIT-KOTE	:	
CORPORATION,	:	
	:	
Defendants	:	
	:	

AMENDED COMPLAINT

The Commonwealth of Pennsylvania, by and through its Office of Attorney General, brings this action under Section 7 of the Clayton Act, 15 U.S.C. § 18, alleging that the proposed acquisition of Suit-Kote Corporation (“Suit-Kote”) by Colas Inc., (“Colas”) is unlawful.

This combination is likely to substantially lessen or eliminate competition in the provision of asphalt emulsions and pavement preservation services in several counties in western and central Pennsylvania. Further, this combination would reduce the number of competitive alternatives to government purchasers and enable the combined entity to raise prices with no competitive restraint, resulting in higher prices for asphalt emulsions and pavement preservation services in several counties in western and central Pennsylvania. These higher prices will be borne by governmental entities (funded by taxpayer dollars) that use these products and services in road maintenance and construction projects.

I. Nature of the Case

1. On August 4, 2025, Colas, pursuant to a Stock Purchase Agreement, agreed to acquire 100% of the outstanding shares of capital stock of Suit-Kote.

2. Colas is a wholly owned subsidiary of Bouygues S.A., a global company, headquartered in Morristown, New Jersey at 73 Headquarters Plaza, North Tower, 10th Floor, Morristown, NJ 07960, that specializes in the construction and maintenance of transport infrastructure. Colas owns and operates asphalt emulsion plants, storage facilities and other assets in Pennsylvania and New York. In Pennsylvania, Colas provides asphalt emulsions and pavement preservation services through its wholly owned subsidiaries Barrett Industries Corporation and Midland Asphalt Materials, Inc., including from Midland Asphalt's Clearfield location, which is located at 88 Barrett Road, Woodland, Pennsylvania 16881, in Clearfield County. Midland Asphalt's Clearfield facility is Colas's largest asphalt emulsion facility in the United States.

3. Suit-Kote is a privately owned company headquartered in Cortland, New York. Suit-Kote manufactures and distributes liquid asphalt, aggregates, and asphalt-based products to customers in the Northeastern United States. Suit-Kote also provides road construction, pavement preservation and engineering and technical services. Suit-Kote operates seven emulsion plants supporting a full range of applications including one in Meadville, Pennsylvania and several in New York which provide asphalt emulsions and pavement preservation services to customers in Pennsylvania.

4. Colas and Suit-Kote are two of the leading producers and suppliers of asphalt emulsions in the Northeast, including Pennsylvania. Colas and Suit-Kote also provide road maintenance, construction and pavement preservation Services throughout Pennsylvania.

5. Colas and Suit-Kote are both vertically integrated companies that produce and use asphalt emulsions to complete their own projects and sell and distribute asphalt emulsions to external customers. Both companies produce and sell their products and services in Pennsylvania

to governmental entities. They also sell to commercial customers who resell their products or use them as an input for a variety of asphalt materials and asphalt related services and to complete construction contracts under state and municipal highway contracts.

6. Road construction and maintenance responsibilities in Pennsylvania are split between state agencies such as the Pennsylvania Department of Transportation (PennDOT), and local municipalities, depending on the roadway classification.

7. PennDOT is responsible for planning, constructing, and maintaining the state's transportation infrastructure. Overall PennDOT manages roughly 40% of public roadways in the Commonwealth, which includes being directly responsible for 40,000 miles of highway throughout the state. In 2025 alone, PennDOT improved, either directly or through contractors, around 6,262 thousand miles. This includes various levels of asphalt paving as well as pavement repair and preservation.

8. Townships, boroughs, and cities within Pennsylvania (collectively, "Pennsylvania Municipalities") are also responsible for maintaining, paving, and clearing local, "dedicated" public roads within their boundaries. These 2,560 Pennsylvania Municipalities oversee approximately 78,000 miles of local roadways combined.

9. Because constructing a new road surface is expensive and labor-intensive, several methods have been developed to repair, maintain and otherwise effectively extend the life of existing roads. These methods, collectively known as pavement preservation, involve a number of products derived from liquid asphalt. Liquid asphalt is derived directly from the crude oil refining process. It is the heavy, highly viscous residual byproduct of the refining process and acts as the primary "glue" or binder in road maintenance and road construction materials. Pavement preservation, however, widely uses asphalt emulsions. Asphalt emulsions are a

mixture of an asphalt base, water, and emulsifier (soap). These emulsions are used in pavement preservation products such as chip seal, fog seal, and micro-surfacing, which look to maintain the surface properties of the road while preserving the structural layers beneath.

10. In Pennsylvania, PennDOT and some Pennsylvania Municipalities purchase asphalt emulsions as a stand-alone product via large supply contracts through state regulated bidding processes. PennDOT primarily purchases asphalt emulsions from producers or resellers and applies the products using PennDOT maintenance crews statewide. Pennsylvania Municipalities may also purchase pavement preservation services that include the necessary asphalt emulsions as a turn-key product/service.

11. Colas and Suit-Kote are two of only four significant competitors in the asphalt emulsions market in Pennsylvania. This transaction would significantly increase concentration in an already highly concentrated market.

12. Colas and Suit-Kote are also significant competitors in the pavement preservation services market. Both companies produce a sufficient volume of asphalt emulsions and maintain the equipment and materials necessary to provide turn-key pavement preservation services to Pennsylvania Municipalities.

13. This transaction likely would substantially lessen competition in violation of Section 7 of the Clayton Act in two markets in Pennsylvania: 1) the production and sale of asphalt emulsions to large government purchasers such as PennDOT and Pennsylvania Municipalities; and 2) the provision of pavement preservation services sold to government purchasers such as Pennsylvania Municipalities.

II. Jurisdiction and Venue

14. This Court has jurisdiction over the parties and subject matter of this action pursuant to Section 16 of the Clayton Act, 15 U.S.C. § 26, and 28 U.S.C. §§ 1331 and 1337(a).

15. Defendants and their relevant subsidiaries, at all relevant times, engage in activities in or affecting “commerce” as defined in Section 1 of the Clayton Act, 15 U.S.C. § 12. Defendants also are and, at all relevant times, have been engaged in commerce in the Commonwealth of Pennsylvania.

16. Venue is proper in the Johnstown Division of the Western District of Pennsylvania under Section 12 of the Clayton Act, 15 U.S.C. § 22 and under 28 U.S.C. § 1391(b) and (c). Defendants transact a substantial part of their business in this District and Division, and a substantial part of the events giving rise to the action occurred here. In particular, Colas through its subsidiary, Midland Asphalt Materials, Inc., transacts a substantial part of their business and a substantial part of the events giving rise to the action in the Johnstown Division of the Western District of Pennsylvania through Midland Asphalt’s Clearfield location, which is located at 88 Barrett Road, Woodland, Pennsylvania 16881, in Clearfield County. Midland Asphalt’s Clearfield facility is Colas’s largest asphalt emulsion facility in the United States. Defendants have also consented to venue and personal jurisdiction. Therefore, venue is proper in this Judicial District and Division.

III. The Parties

17. Plaintiff Commonwealth of Pennsylvania (“Commonwealth”) is a sovereign state of the United States, represented by the Pennsylvania Office of Attorney General (“Office of Attorney General”). The Office of Attorney General, as the chief legal officer of the Commonwealth, brings this action under the Commonwealth Attorneys Act, 71 P.S. § 732-204

(c) on behalf of the Commonwealth and its citizens for violations of the antitrust laws, in its proprietary capacity as a direct purchaser of asphalt emulsions and pavement preservation services from Colas and Suit-Kote through PennDOT, other state agencies, and Pennsylvania Municipalities, and in its quasi-sovereign capacity as *parens patriae*, to prevent anticompetitive conduct that harms competition and the economy of the Commonwealth and the economic welfare of consumers in and from the Commonwealth. The Office of Attorney General for the Commonwealth of Pennsylvania is headquartered at 16th Floor, Strawberry Square, Harrisburg, Pennsylvania 17120.

18. The Office of Attorney General asserts these claims based on its independent authority to bring this action pursuant to Section 16 of the Clayton Act, 15 U.S.C. § 26, to prevent and restrain Defendants' violation of Section 7 of the Clayton Act, 15 U.S.C. § 18. The Office of Attorney General is specifically authorized to bring suits to secure injunctive relief pursuant to 15 U.S.C. § 26, for violations of the Clayton Act.

19. Defendant Colas Inc., is a wholly-owned subsidiary of Bouygues S.A., a French conglomerate, headquartered in Morristown, NJ. Colas operates throughout Pennsylvania, and the Northeast, through its wholly owned subsidiaries Barrett Industries Corporation and Midland Asphalt Materials, Inc. (a subsidiary of Barrett Industries Corporation), which in-turn includes several other core operating companies and subsidiaries specializing in road construction and paving materials in Pennsylvania, including Barrett Paving Materials Inc.; Barrett Materials, Inc.; Strawser Construction, Inc. (d/b/a Terry Asphalt Materials); and IA Construction Corporation. In particular, Midland Asphalt Materials, Inc. has a Clearfield location which is located at 88 Barrett Road, Woodland, Pennsylvania 16881, in Clearfield County within the

Johnstown Division of the Western District of Pennsylvania. Midland Asphalt's Clearfield facility is Colas's largest asphalt emulsion facility in the United States.

20. Colas, together with its subsidiaries, is engaged in the business of road infrastructure construction and road maintenance including pavement preservation. It is also engaged in the manufacturing, production and sales of various materials used in these services including asphalt emulsions.

21. Defendant Colas, together with its subsidiaries owns and operates asphalt emulsion mills, storage sites and equipment throughout Pennsylvania. It also provides road maintenance and pavement preservation services out of its Pennsylvania locations.

22. Defendant Suit-Kote is a privately-held New York Corporation, headquartered in Cortland, New York, that operates throughout Pennsylvania and New York.

23. Suit-Kote, together with its subsidiaries, is engaged in the business of road construction and maintenance, including paving, sealing, constructing, reconstructing, milling, and maintaining of highways, roads and streets. Suit-Kote also engages in the manufacturing, producing and sales of asphalt-based products including asphalt emulsions used for: micro surfacing, slurry seal, chip seal, crack sealing, joint sealing, and other pavement resurfacing, preservation or sealing services.

24. Defendant Suit-Kote, together with its subsidiaries, owns and operates asphalt emulsion mills, storage sites, and equipment throughout Pennsylvania including at its Meadville facility located at 10965 McHenry Street, Meadville, Pennsylvania 16335 in Crawford County. It also provides road maintenance and pavement preservation services out of its Pennsylvania locations.

IV. The Transaction

25. On August 4, 2025, Colas, pursuant to a Stock Purchase Agreement, agreed to acquire 100% of the outstanding shares of capital stock of Suit-Kote. Colas, together with its subsidiaries will acquire all Suit-Kote assets located in and servicing Pennsylvania and New York. Colas's acquisition of Suit-Kote's asphalt emulsions manufacturing and pavement preservation Services would secure Colas's control over the supply of asphalt emulsions sold to the Commonwealth and access to asphalt emulsions and pavement preservation services Pennsylvania Municipalities need to complete various road maintenance projects throughout Pennsylvania.

26. The road construction industry encompasses several interrelated products and Services. At the top of the supply chain is bitumen, a commodity product formed as a byproduct of the refinery processes by which crude oil is converted into various grades of fuel. Liquid asphalt products are derivatives of bitumen. It has multiple uses including as a binder in emulsions, polymer modified asphalt and hot mix asphalt.

27. Asphalt emulsions are products made from bitumen or liquid asphalt, water and emulsifiers, and they are generally used in road protection, pavement preservation and lower volume local road maintenance.

28. Asphalt emulsions must be manufactured in specialized asphalt emulsification plants, asphalt terminals, or industrial manufacturing facilities. Asphalt emulsions are applied to pavement in liquid form at lower temperatures and provide a highly versatile, and safer way to bind materials such as stone or other filler, without needing the extreme heat required by traditional hot mix asphalt.

29. Asphalt emulsions are one of the primary materials used to maintain and repair roads and is an essential input into state and municipal roads.

30. The Commonwealth, through PennDOT purchases large quantities of asphalt emulsions primarily for road maintenance and pavement preservation.

31. Local Municipalities also purchase asphalt emulsions and pavement preservation services yearly to meet their road maintenance needs.

32. Pennsylvania Municipalities possess limited resources to manage and repair roads under their purview. The use of pavement preservation ensures the safety and longevity of pavement structures and allows municipalities who do not have the necessary equipment and resources to protect and maintain local roads in an economical way.

33. Other asphalt products cannot be used as economically to repair and maintain roadways and therefore are not adequate substitutes.

34. Manufacturers of asphalt emulsions must have the supply capabilities to produce approved asphalt products at a significant scale to meet the needs of the Commonwealth and local municipalities.

35. Colas and Suit-Kote compete directly against one another to supply asphalt emulsions to PennDOT, Pennsylvania Municipalities and other purchasers.

36. The market for these products is highly concentrated with only four companies approved for PennDOT destination contracts in which they deliver asphalt emulsions to the job site. Destination contracts represent about 90% of the PennDOT liquid asphalt contract.

37. The proposed acquisition would result in Colas supplying over 90% of PennDOT's asphalt emulsions purchases.

38. Without competing suppliers for the necessary inputs for road repair and maintenance, customers, and Plaintiff Commonwealth of Pennsylvania, which receives funding from federal and state taxpayers, would pay the price for Colas's control over these important markets. Due to these market conditions, Colas's acquisition of Suit-Kote's asphalt business would likely cause significant anticompetitive effects in the market for asphalt emulsions and pavement preservation services in Pennsylvania. Therefore, the proposed acquisition violates Section 7 of the Clayton Act, 15 U.S.C. § 18.

V. Relevant Product Markets

A. The Market for Asphalt Emulsions

39. One relevant product market is asphalt emulsions sold to PennDOT, other state agencies and commercial customers.

40. PennDOT and local Municipalities purchase significant quantities of asphalt emulsions for road maintenance and repair projects within the Commonwealth. PennDOT provides precise specifications for the asphalt emulsions needed for each road project. Municipalities also have specific restraints regarding asphalt emulsions allowed to be used on local roads. Asphalt emulsions that do not meet the specifications or requirements by PennDOT or Local Municipalities cannot be used.

41. There is no substitute for asphalt emulsions as a stand-alone product for use by PennDOT crews in pavement preservation and maintenance.

42. A small but significant increase in the price of asphalt emulsions that meets PennDOT specifications would not cause customers to substitute other materials in sufficient quantities, or to utilize asphalt emulsions that do not meet PennDOT specifications, with sufficient frequency so as to make such a price increase unprofitable.

43. Because of the large volume required to meet PennDOT's asphalt emulsion needs, a company must also possess the capacity to produce and store large volumes of asphalt emulsions.

44. Accordingly, the manufacture and sale of asphalt emulsions is a relevant product market and line of commerce within the meaning of Section 7 of the Clayton Act.

B. The Market for Pavement Preservation Services

45. Another relevant product market is pavement preservation services sold to Pennsylvania Municipalities and commercial customers.

46. Pennsylvania Municipalities vary in their purchasing of pavement preservation services. Some Pennsylvania Municipalities purchase only the asphalt emulsions and use their own crews to apply the product, while others contract for both the product and application as a single contract.

47. There is no substitute for pavement preservation services for many Pennsylvania Municipalities throughout Pennsylvania. Many lack the sophistication, crews and equipment necessary to conduct this work and must also purchase the service as well as the product.

48. The provision of pavement preservation services constitutes a separate relevant product market and line of commerce within the meaning of Section 7 of the Clayton Act.

VI. Relevant Geographic Market

49. The relevant geographic market for asphalt emulsions and pavement preservation services is local due to the physical characteristics, temperature requirements, and high costs of transportation for asphalt emulsions and heavy equipment.

50. The geographic area an asphalt emulsion plant can profitably serve is primarily determined by the location of its plant in relation to the job site and the relative location of competing suppliers. Asphalt emulsion suppliers typically deliver the product to a job site.

Providers of pavement preservation services must also provide the all-in-one service at the job location.

51. Distance from the plant to the job site is important for two reasons, temperature and transportation costs. First, asphalt emulsions must be maintained at a certain temperature range before it is used. If the temperature drops below that required by the asphalt specifications, it cannot be applied to the paving surface. The temperature of asphalt emulsions drops as it travels from the plant and drops faster in colder weather than in warmer weather. As a result, the distance between an asphalt plant and the project site determines whether a plant can service a particular geographic area. Second, asphalt emulsions need specialized tankers to be transported, and pavement preservation requires heavy equipment and materials, and, as a result, both are expensive to transport. Therefore, the distance between where the asphalt emulsions are manufactured and/or pavement preservation equipment is housed and the location of the job site drives the transportation costs and has a considerable impact on the area a supplier can profitably serve.

52. Asphalt emulsions are generally transported less than 100 miles due to the physical characteristics, temperature requirements and high costs of transportation.

53. If prices significantly increased for asphalt emulsions, large government purchasers such as PennDOT or Pennsylvania Municipalities could not turn to producers outside of the relevant geographic market. Even if a distant producer offers a lower base price per ton, the increased freight and specialized tanker trucking costs quickly negate any savings, keeping the market localized.

54. Pavement preservation services require not only a product supply chain but the equipment, expertise and logistics network necessary to supply the service. Where a company

can compete is based on these factors. Pavement preservation services are also typically performed within 100 miles of a contractor's location because of the costs of transporting heavy equipment and materials.

55. If prices significantly increased for asphalt emulsions or pavement preservation Services, PennDOT and Pennsylvania Municipalities could not turn to companies outside of the relevant geographic market. The cost of transporting heavy materials and specialized distribution equipment increases drastically with distance. Sourcing these services from a distant company creates additional logistical barriers and introduces additional transportation expenses making access to a lower price unlikely.

VII. Anticompetitive Effects in the Asphalt Emulsions Market

56. Colas and Suit-Kote are two of only three asphalt emulsion producers that can meet the supply needs of large government purchasers such as PennDOT and Pennsylvania Municipalities. The companies compete directly against each other for these government contracts and the price competition between Colas and Suit-Kote in the sale of asphalt emulsions has benefited customers.

57. Combined, Colas and Suit-Kote have a share of over 90% in the market for asphalt emulsions sold to PennDOT. The market for PennDOT approved asphalt emulsions is already highly concentrated and, as evidenced by the parties' combined market share, would be significantly more concentrated after the proposed acquisition.

58. Colas's proposed acquisition of Suit-Kote's assets in Pennsylvania and New York is likely to substantially lessen head-to-head competition and would eliminate its benefit to customers such as PennDOT and Pennsylvania Municipalities.

59. The proposed acquisition would also substantially increase the likelihood that Colas would unilaterally increase the price of asphalt emulsions to a significant number of other customers. The market for these products is already highly concentrated, and a combined company will be significantly more concentrated after the proposed acquisition.

VIII. Anticompetitive Effects in the Pavement Preservation Services Market

60. The provision of pavement preservation services sold to government purchasers as a turn-key product is also highly concentrated. Colas's proposed acquisition of Suit-Kote's assets in Pennsylvania would eliminate the competition between them as providers of turn-key pavement preservation services to customers such as Pennsylvania Municipalities.

61. The transaction would eliminate substantial head-to-head competition between the parties.

62. The proposed acquisition would also substantially increase the likelihood that Colas would unilaterally increase the price of asphalt emulsions sold to other pavement preservation service providers who must then pass on those increased costs to customers.

63. Following the transaction, Pennsylvania Municipalities would lose the ability to receive competitive bids from companies that could meet their high volume needs.

64. The transaction will reduce potential bidders, likely increase bid amounts and reduce competitive pressure to improve quality, expand services, and innovate.

IX. Lack of Countervailing Factors

65. Entry or repositioning of new competitors in the manufacture and sale of asphalt emulsions and sale of pavement preservation services is unlikely to be sufficient or timely enough to prevent the loss of competition that will result from Colas acquiring Suit-Kote.

66. Not only does entering the markets for asphalt emulsions and pavement preservation services require significant time and investment to set up production facilities, test new products and acquire equipment, brand reputation and customer relationships are also very important to competing successfully for the sale of asphalt emulsions and pavement preservation services.

67. In addition, a new entrant in the asphalt emulsions market would have to purchase appropriate land, build an asphalt emulsions plant, procure the necessary land-use and environmental permits, and obtain PennDOT approval of asphalt emulsions made. These actions and other prerequisites to competing in the relevant markets involve significant costs and often lengthy time periods.

68. As a result of these high barriers to entry, entry into manufacture and sale of asphalt emulsions and pavement preservation services would not be timely, likely, or sufficient to defeat the substantial lessening of competition that would like result from Colas's acquisition of Suit-Kote.

X. Count 1: Violation of the Federal Antitrust Laws – Asphalt Emulsions Market

69. Plaintiff repeats each preceding allegation as if fully set forth herein.

70. As a direct result of this merger, competition for asphalt emulsions in the relevant geographic market may be substantially lessened in the following ways, among others:

A. Existing competition and the potential for increased competition between Colas and Suit-Kote for the provision of asphalt emulsions in the relevant geographic market will be substantially reduced;

B. Concentration in the market for asphalt emulsions in the relevant geographic market will be substantially increased;

- C. The likelihood of collusion in the relevant geographic market may be substantially increased; and
- D. Increased concentration in the relevant geographic market may enhance the ability of the merged entity to increase prices and decrease quality of service with little fear that such price increases and decreases in quality of product and service will be defeated by existing fringe competitors or new market entrants.

71. The proposed transaction violates Section 7 of the Clayton Act, 15 U.S.C. § 18.

XI. Count 2: Violation of the Federal Antitrust Laws – Pavement Preservation Services Market

72. Plaintiff repeats each preceding allegation as if fully set forth herein.

73. As a direct result of this merger, competition for pavement preservation services in the relevant geographic market may be substantially lessened in the following ways, among others:

- A. Existing competition and the potential for increased competition between Colas and Suit-Kote for the provision of pavement preservation services in the relevant geographic market will be substantially reduced;
- B. Concentration in the market for pavement preservation services will be substantially increased;
- C. The likelihood of collusion in the relevant geographic market may be substantially increased; and
- D. Increased concentration in the relevant geographic market may enhance the ability of the merged entity to increase prices and decrease quality of service

with little fear that such price increases and decreases in quality of service will be defeated by existing fringe competitors or new market entrants.

74. The proposed transaction violates Section 7 of the Clayton Act, 15 U.S.C. § 18.

XII. Relief Requested

WHEREFORE, Plaintiff respectfully requests that:

- A. The Court adjudge the proposed acquisition to violate Section 7 of the Clayton Act, 15 U.S.C. § 18;
- B. The Court enjoin and restrain Defendants from carrying out the acquisition; or entering into any other agreement, understanding or plan by which Colas would merge with or acquire Suit-Kote;
- C. The Court award Plaintiff costs and attorneys' fees;
- D. The Court grant such other and further relief as the Court deems just and proper.

Dated: October 16, 2026

Respectfully submitted,

**COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL**

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