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*Case No IV/M.1120 -
COMPAQ / DIGITAL*

Only the English text is available and authentic.

**REGULATION (EEC) No 4064/89
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION
Date: 23/03/1998

*Also available in the CELEX database
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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 23.03.1998

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying party

Dear Sirs,

Subject: Case No IV/M.1120 Compaq/Digital

Notification of 20.02.1998 pursuant to Article 4 of Council Regulation N° 4064/89

1. On 20.02.1998, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 by which the undertaking Compaq Computer Corporation ("Compaq") acquires within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of Digital Equipment Corporation ("Digital") by way of purchase of shares
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of Council Regulation (EEC) No 4064/89 and does not raise serious doubts as to its compatibility with the common market and with the EEA Agreement.

I. THE PARTIES' ACTIVITIES AND THE OPERATION

3. The business activities of the undertakings concerned are :
 - for Compaq: design, development, manufacture and marketing of computer hardware;

¹ OJ No L 395 of 30.12.1989; Corrigendum: OJ No L 257 of 21.09.1990, p. 13

- for Digital: design, development, manufacturing of commercial data processing hardware and related services.
4. Compaq and Digital entered into an agreement according to which a newly formed Compaq subsidiary will be merged with Digital, with Digital surviving and becoming a wholly owned subsidiary of Compaq. With this operation Compaq intends to extend its current product range, which is primarily based on personal computers, to enterprise servers and services in order to be in a better position to compete for corporate customers.

II. CONCENTRATION

5. The business being acquired includes the entire Digital company, which will become a wholly owned subsidiary of Compaq.

III. COMMUNITY DIMENSION

6. Compaq and Digital have a combined aggregate world-wide turnover in excess of ECU 5,000 million (Compaq, ECU 21,690 million; and Digital, ECU 11,500 million). Each of them has a Community-wide turnover in excess of ECU 250 million (Compaq, [...] million; and Digital, [...] million), but they do not achieve more than two-thirds of their aggregate Community-wide turnover within one and the same Member State. The notified operation therefore has a Community dimension, but does not constitute a co-operation case under the EEA Agreement, pursuant to Article 57 of that Agreement.

IV. COMPETITIVE ASSESSMENT

A. Relevant product market(s)

7. The notifying parties state that there are affected product markets for personal computers (PC's), low end servers (servers costing up to \$100,000), workstations and disk storage subsystems.
8. The investigation has provided various elements to support these product market definitions. In particular it does not appear to be necessary in this case to sub-divide the product markets according to whether they are running on UNIX or NT Windows. Products can be and are sold without either operating system installed. Once such a system has been installed there appears to be no foreclosure, since the operating systems can be installed so that the machines can talk to each other. It appears that the two systems used to be installed in products of different market segments, but compete increasingly in each other's markets segments.
9. With regard to servers, considerations other than price brackets may have to be taken into account, including such features such as the processing capacity, the system architecture and system software and the degree of fault tolerance³.

² Deleted for publication

³ IV/M.963-Compaq/Tandem.

10. However, it is not necessary to further delineate the relevant product markets because, in all alternative market definitions considered, effective competition would not be significantly impeded in the EEA or any substantial part of that area.

B. Relevant geographic market(s)

11. The notifying parties state that the relevant geographic markets for all affected product markets are EU-wide or possibly world-wide. The Commission has indicated in previous decisions that, given the small transport costs relative to price, the similarity of consumer preferences, product specifications and patterns of sales of major manufacturers throughout EEA countries, the relevant geographic market for servers and PC's appear to be at least EEA-wide⁴. Similar considerations would indicate the same result for workstations and disk storage sub-systems. The result of the investigation appears to confirm this evaluation for the present case.
12. It is not necessary to further delineate the relevant geographic markets because, in all alternative geographic market definitions considered, effective competition would not be significantly impeded in the EEA or any substantial part of that area.

C. Impact of the concentration

13. According to the data provided by the parties the combined market shares of Compaq and Digital in Western Europe for PC's, workstations, and disk storage subsystems do not exceed 20 %. For workstations and disk storage subsystems there is at least one competitor with more than 20 % market share Europe wide. For PC's Compaq is already the largest competitor with [...] market share in 1997, to which Digital however only adds a share of [...] %⁵. The next largest competitor is IBM with [...] and Hewlett Packard with [...]⁶. The market share for low end servers is slightly higher with [...]. The next largest competitors are IBM with [...] and Hewlett Packard with [...]⁷. Furthermore there are a large number of smaller competitors present in each sector.
14. The figures on a national basis for the various products can be higher in some countries. For PC's and workstations the highest market shares meander around the low twenties, exceptionally in the high twenties. The figures given for disk storage subsystems reach the mid thirties, only the combined market shares for low-end servers reach the forties on occasion. These figures appear to be subject to large variations from one year to another. In Ireland for example, where the combined markets share of Compaq and Digital for low-end servers is particularly high their positions became reversed within a

⁴ IV/M.920-Samsung/AST; IV/M.963-Compaq/Tandem.

⁵ Deleted for publication - between 10% - 20%

⁶ Deleted for publication - below 5%

⁷ Deleted for publication - between 10% - 20%

⁸ Deleted for publication - between 5% - 10%

⁹ Deleted for publication - between 20% - 30%

¹⁰ Deleted for publication - between 20% - 30%

¹¹ Deleted for publication - between 10% - 20%

year: while Digital held a [...]² market share in 1996 and Compaq a [...]³ share, in the first three quarters of 1997 Compaq had achieved a market share of [...]⁴ whereas Digital's share had dropped to [...]⁵ .

15. The markets for information technology are characterised by a large number of competitors and fast technological development. Due to these developments the distinctions between different product groups, in particular the server delineations, become increasingly blurred. It appears that the processing power of low-end and mid-range servers is presently increasing significantly. This development and the clustering of such machines would allow them to compete with servers in a higher market segment. This would lead to a larger product market which would decrease the respective market shares of the competitors
16. Competitors and clients contacted by the Commission, expressed that they had no serious concerns about the operation.
17. In view of the described market position of the parties to the concentration, it appears that the notified operation will have no negative impact on competition in the EEA. Consequently, the proposed concentration does not create or strengthen a dominant position as a result of which effective competition would be significantly impeded in the EEA or any substantial part of that area.

V. CONCLUSION

18. For the above reasons, the Commission has decided not to oppose the notified operation and to declare it compatible with the common market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of Council Regulation (EEC) No 4064/89.

For the Commission,

¹² Deleted for publication - between 30% - 40%

¹³ Deleted for publication - between 10% - 20%

¹⁴ Deleted for publication - between 30% - 40%

¹⁵ Deleted for publication - between 10% - 20%