

***Case No IV/M.1380 -
SIEBE / BTR***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 13/01/1999

*Also available in the CELEX database
Document No 399M1380*



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 13.01.99

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EEC) No 4064/89 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus [...]. Where possible the information omitted has been replaced by ranges of figures or a general description.

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying parties

Dear Sirs,

Subject: Case No IV/M.1380 – SIEBE / BTR

Notification of 2.12.1998 pursuant to Article 4 of Council Regulation No 4064/89

1. On 2 December 1998 a notification was received pursuant to Article 4 of Council Regulation (EEC) N° 4064/89 as last amended by Council Regulation (EC) N° 1310/97 ('the Merger Regulation as amended'), by which the undertakings Siebe plc ('Siebe') and BTR plc ('BTR') are to merge.

I THE PARTIES

2. Siebe is a UK-based engineering group, operating on a world-wide basis. Its activities are focused mainly on the supply of controls, systems and automation products, industrial equipment and services. BTR is a UK-based conglomerate industrial group, which has been recently restructured in order to focus its main activities in four main business areas in the engineering field, namely control systems, power drive, automotive products and specialist engineering. Both Siebe and BTR are independent public companies listed on the London Stock Exchange.

II THE OPERATION AND THE CONCENTRATION

3. The notified operation is a merger, to be implemented through a scheme of arrangement ('the Scheme') under section 425 of the UK Companies Act of 1985. Under the scheme BTR's issued ordinary share capital will be cancelled and re-issued to Siebe, which will change initially its name to BTR Siebe. According to the terms of the joint announcement by both companies on 23 November 1998, BTR shareholders who are on the register prior to the effective date of the Scheme will receive, for every BTR share they own, 0.533 of a new fully paid BTR Siebe share. Existing Siebe shareholders will retain their shares in Siebe, renamed as BTR Siebe. On completion of the merger existing Siebe shareholders will hold 55 % of BTR Siebe, and BTR shareholders will hold 45 %.
4. The notified operation constitutes a concentration within the meaning of Article 3(1)(a) of the Merger Regulation as amended.

III COMMUNITY DIMENSION

5. The world-wide turnover of the Siebe group for its 1997/98 accounting year was over EUR 5 000 million¹, and its Community-wide turnover for the same period was in excess of EUR 1 700 million. The world-wide turnover of BTR for the year ended 1997, adjusted to reflect acquisitions and disposals made during the course of the relevant accounting year, was in excess of EUR 5 000 million. The Community-wide turnover of BTR on the same basis was in excess of EUR 2 400 million. Neither company earned more than two thirds of its EC turnover in one and the same EC Member State. The notified operation therefore has a Community dimension. However, it does not fall to be treated as an EFTA co-operation case.

IV COMPATIBILITY WITH THE COMMON MARKET

Relevant product markets.

6. The notifying parties contended that there were no relevant product markets which were affected within the meaning of Form CO, that is, relevant product markets in which both parties were involved and where the concentration would lead to a combined share of 15% or more, or where one party had a 25% or more share of a market downstream or upstream of a relevant product market in which the other was engaged.
7. Notwithstanding this, the parties provided an analysis of possible overlaps based on the business groupings and the individual products manufactured by the two groups. The only areas in which overlaps might potentially have arisen in terms of product overlaps were in relation to control valves, sensors, and servos, and possibly also in relation to certain equipment related to the maintenance of power supplies, and the production of certain automotive components.

¹ Figures quoted in this section were originally supplied by the parties in ECUs, but have been expressed in Euros, on the basis of a one-to-one conversion rate.

Control valves

8. Control valves are a component used in process control systems, and are essentially valves with remote operation, whether by pneumatic, hydraulic or electrical means. Sub-divisions below this level, eg into the five basic types of valve, would be possible, but a division at this level would produce no overlap, as Siebe manufactures only globe or linear valves, and BTR focuses primarily on plug valves and does not manufacture the globe or linear type.
9. The narrowest conceivable segmentation in which an overlap might appear is a category of all control valves. However, a segment defined as all control valves could be too narrow to constitute a product market in its own right, as control valves could be well regarded as part of a wider category of 'instruments' used in process control applications. However, the question could be left open in the present case, as even on the narrower definition the concentration did not give rise to competition concerns.

Sensors

10. Both BTR and Siebe manufacture sensors. The parties contended that the sensors made by BTR and Siebe were different, and not interchangeable. Siebe manufactured pressure, temperature and flow sensors which were incorporated into hardware which was itself integrated into process automation systems, or white goods, environmental control systems, etc, manufactured and sold by Siebe. The only sensors which are manufactured by Siebe for sale in their own right are ICT (pressure and temperature silicone sensors) Le Bow (rotary and torque sensors) and NEI (resistive linear and rotary sensors). BTR does manufacture sensors, but not the same type as Siebe, and overlaps would be found only at the level of an 'all sensors' segmentation. However, the question of whether these constituted a single product market could be left open in the present case, as even on the broader definition the concentration did not give rise to competition concerns.

Power systems

11. BTR manufactures standby and motive batteries and uninterruptible power supply systems used for industrial applications (i.e. in the telecommunications and data processing industry). Siebe makes a range of products concerned mainly with the management or conversion of power supplies, including AC-DC converters, DC-DC converters, and surge suppressors. Thus in very broad terms the BTR products are concerned with providing a power source while the Siebe products are concerned with converting or controlling/managing an externally-provided source of power. If the two activities are considered as forming separate markets there is no overlap. If they are treated as part of the same market, then any overlaps arising would not be sufficient to give rise to competition concerns. Accordingly the question of whether the products concerned fell in the same or separate product markets could be left open.

Servos

12. BTR, through its subsidiary Brook Hansen, makes electro-mechanical drive systems which make use of integral horsepower motors or IHMs. Variable-speed IHMs are controlled by devices known as an inverter. A servo can be considered as a particular type of inverter. Through its Eurotherm subsidiary Siebe manufactures motor drives or inverters, which include AC inverters, AC vector drives, DC drives and also servo drives. A Brook Hansen subsidiary also makes servos. The narrowest possible segmentation on which an overlap would exist is one for servos. However, since even on such a definition the combined shares were not high enough to give rise to competition concerns, the question of product market definition could be left open.
13. There is also a potential vertical effect, in that Brook Hansen, as a manufacturer of electro-mechanical drive systems involving servo-controlled motors, might make use of Siebe servos. However, since the combined shares were not high enough to give rise to competition concerns, the question of vertical effects could be left open.

Automotive components

14. BTR are active in the supply of automotive products which include sealing and anti-vibration systems, as well as engineered polymers (for plastic bumpers and trim components) and drive train or transmission components. Siebe is not active in the manufacture of any of these products. It does however manufacture automotive components for fluid carrying systems and also for use in emission management systems. These include hose and tube assemblies, eg for fuel lines, brakes, power steering, air conditioning, etc, as well as valves, sensors thermostats and similar components. The only point in common between the BTR and Siebe automotive products is that they all contain rubber extrusions, but in the case of Siebe these are not sold as separate parts but as a system. In view of this it was considered unnecessary to pursue the question further.

Relevant geographic markets

15. The parties considered that the geographic scope of any product markets relevant to the assessment of this application would be at least Europe-wide, and possibly world-wide. This view as to the breadth of the market was endorsed by responses from competitors and customers, and indeed by the fact that they did not appear to be influenced by national boundaries within Europe in either their supply or purchasing activities. As the assessment was not substantially affected by whether the markets were considered European or global, the question was left open.

Competitive assessment

Control valves

16. If a product market were defined for control valves, then according to information supplied by the parties, their combined market share would be below 10% whether at European or world-wide level. Responses from those consulted during the Commission's investigations confirmed that any overlaps arising on that product market through the concentration would not be high enough to give rise to competition concerns.

Sensors

17. According to the parties their combined market share in Europe for temperature sensors is very small (around [less than 15 %]). Thus even if a relevant product market were defined for sensors alone, no competition concerns would arise, and thus the question could be left open.

Servos

18. According to information supplied by the parties their overlap in the manufacture of servos is very small, and would be [less than 15 %] on a Europe-wide basis and still smaller on a world-wide basis. Accordingly no competition concerns arose.
19. As regards vertical effects, Siebe, through Eurotherm, is a comparative new entrant in this field. In addition to Siebe's relatively small market share, Brook Hansen's share of the downstream market for the supply of electro-mechanical drive systems is [less than 15 %] on a European basis, and smaller still on a world-wide basis, and therefore not sufficient to give rise to concerns about vertical effects.

V. CONCLUSION

20. In the light of the above the Commission has decided not to oppose the notified operation, and to declare it compatible with the common market and with the functioning of the EEA Agreement. This decision is adopted in application of Article 6 (1)(b) of Council Regulation (EEC) No.4064/89, as amended by Regulation No.1310/97, and of Article 57 of the EEA Agreement.

For the Commission,