

***Case No COMP/M.1728 -
CVC / TORRASPAPEL***

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

Article 6(1)(b) NON-OPPOSITION
Date: 03/12/1999

*Also available in the CELEX database
Document No 399M1728*



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 03.12.1999

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 COMP M.1728 – CVC/Torraspapel

Notification of 8 November 1998 pursuant to Article 4 of Council Regulation No 4064/89

1. On 08.11.1999, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 by which the CVC Group (“CVC”) acquires within the meaning of Article 3(1)(b) of the Council Regulation sole control of the Spanish Torraspapel Group (“Torraspapel”).
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. CVC is a private equity provider active in the provision of services of fund management and investment advice. CVC controls the Italian company Cartiere del Garda, S.p.A. and the French company Smurfit Condat, S.A. (see case IV/M.1319 – Smurfit/Condat CVC). Both these companies are active as producers of coated wood free paper and also have minor activities in wood pallets.
4. Torraspapel is active in the production of coated and uncoated wood free paper. Furthermore, Torraspapel has a certain production of speciality papers such as carbonless, thermal and metalised papers.
5. CVC acquires control over Torraspapel through purchase of shares.

II. COMMUNITY DIMENSION

6. The combined aggregate world-wide turnover of the undertakings concerned is more than Euro 5 000 million (CVC, Euro [.....] million and Torraspapel, Euro [.....] million). Both undertakings have more than Euro 250 million turnover in the Community (CVC Euro [.....] million and Torraspapel Euro [.....] million). Neither CVC or Torraspapel 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. The operation does not constitute a co-operation case pursuant to Article 57 of the EEA Agreement.

III. COMPETITIVE ASSESSMENT

The Relevant Product Market

7. The only overlap between the activities of Torraspapel and CVC is in the production and sale of coated wood free paper. In previous Commission decisions in the paper sector (for example recently in case IV/M.1556 – Mo och Domsjö/SCA) the Commission has left open the question of whether coated wood free paper constitutes a separate product market within fine paper. Furthermore, the Commission has left open whether paper merchanting is a separate relevant product market. Paper merchants act as middlemen (wholesalers) and sell paper products to a large customer base which mainly consists of printers, publishers, resellers (primarily office supply stores) and larger end consumers. For the purpose of the present case the product market definition can be left open as the operation will not lead to the creation or strengthening of a dominant position under either product market definition.

The Relevant Geographic Market

8. In previous decisions in the paper sector (for example recently in case No.IV/M.1556 – Mo och Domsjö/SCA) the Commission has considered the geographic scope of the market for the different types of fine paper, among which coated wood free paper, to be at least EEA wide. It has left open whether paper merchanting is national or wider. However, for the purpose of the present case it is not necessary to finally decide the geographic definition as the operation will not lead to the creation or strengthening of a dominant position under either market definition.

Competitive assessment

9. The combined market share of the parties resulting from the horizontal overlap of their respective activities in coated wood free paper does not exceed 15% in the EEA and still less world-wide. Even lower market shares would result, if the relevant product market was fine paper. If paper merchanting were a separate relevant product market with a national scope, then Torraspapel would have significant market shares in Spain, Portugal and France. However, CVC is not at present active as a paper merchant. Therefore, the operation does not lead to any market share additions in paper merchanting. In addition, most of the big European fine paper producers are also active as paper merchants and are either potential or actual competitors to the new entity.
10. Hence, it is considered that 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.

IV. ANCILLARY RESTRAINTS

11. The vendor undertakes, for a period of [.....] months after completion of the transaction, not to acquire a controlling interest in any business which is involved in the manufacture and/or distribution and/or sale of paper, where a substantial part of that business is carried out in the European Union or the United States. The vendor also undertakes, during that same period, not to solicit employment to any person who was employed by the Torraspapel Group in any skilled or managerial work at any time during the year before completion. These restrictions are directly related and necessary to the implementation of the concentration in that they are necessary to ensure the transfer of the full value of the assets of the Torraspapel Group. They are, therefore, ancillary to the concentration.

V. CONCLUSION

12. 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 and Article 57 of the EEA Agreement.

For the Commission,