

***Case No COMP/M.1970 -
JOHNSON&JOHNSON /
MERCURY ASSET
MANAGEMENT/
AGORA HEALTHCARE
SERVICES JV***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION

Date: 08/06/2000

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 8.06.2000
SG (2000) D/104093

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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.1970 - Johnson & Johnson / Mercury Asset Management / Agora Healthcare Services-JV

Notification of 02/05/2000 pursuant to Article 4 of Council Regulation No 4064/89

1. On 2 May 2000, the Commission received a notification of a proposed concentration arising from the creation of a joint venture between Johnson & Johnson and Mercury Asset Management Limited.
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of the Merger Regulation and does not raise serious doubts as to its compatibility with the common market and with the EEA agreement.

I. THE PARTIES

3. **Johnson & Johnson (“J&J”)** is the ultimate parent company of the USA based group of companies active globally in sectors such as personal care and hygienic products (e.g. baby care products, first aid products and non-prescription drugs, sanitary protection products and skin and hair products); pharmaceutical activities (i.e. the production and sale of prescription drugs); and products and equipment used in professional fields by hospitals and doctors (e.g. mechanical wound closure products, orthopaedic replacements; surgical instruments; diagnosis and disinfecting products etc.).
4. **Mercury Asset Management Limited (“MAM”)** is a UK fund management business providing investment management and advisory services. MAM belongs to the Merrill Lynch Group (USA) (“ML Group”).

5. **Agora Healthcare Services Limited ("Agora")** is a UK company, established in 1997, providing specialist IT healthcare management services, including the provision of clinical audits and IT software for the pharmaceutical industry and healthcare sector in the areas of clinical development and marketing.

II. THE OPERATION

6. The operation concerns the acquisition of joint control by J&J and MAM over the already existing company Agora Healthcare Services ("Agora"). After the operation J&J will hold 19% of the shares and MAM will hold 24.5%. Notwithstanding these minority shareholdings, each of J&J and MAM will, by agreement with the existing shareholders, hold veto rights enabling them to exercise decisive influence over Agora's strategic commercial decisions. As a result, J&J and MAM will obtain, on a *de facto* basis, joint control over Agora.

III. CONCENTRATION

7. The transaction involves the acquisition of joint control by J&J and MAM of Agora, a company which will perform on a lasting basis all the functions of an autonomous economic entity. It is therefore a full function joint venture within the meaning of the Merger Regulation and the transaction therefore constitutes a concentration within the meaning of Article 3(1)b of the Merger Regulation.

IV. COMMUNITY DIMENSION

8. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion¹ (J&J - EUR 25,770 million; ML Group - EUR 32,720 million; Agora - EUR 2.7 million). Each of J&J and ML Group have a Community-wide turnover in excess of EUR 250 million (J&J - EUR 5,610 million; ML Group - EUR 5,160 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.

V. COMPETITIVE ASSESSMENT

9. Agora provides specialist IT healthcare management services. This is a relatively new business area which the parties indicate is developing in response to reforms in the UK's National Health Service.
10. There are no horizontal overlaps arising from this concentration since neither J&J nor MAM is active or has any controlling interest in companies active in the provision of similar functions.
11. It is therefore not necessary to define the relevant product or geographic markets since, even in the narrowest market definition that could be considered, effective competition would not be significantly impeded in the EEA or any substantial part of that area.

¹ Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Notice on the calculation of turnover (OJ C66, 2.3.1998, p25). To the extent that figures include turnover for the period before 1.1.1999, they are calculated on the basis of average ECU exchange rates and translated into EUR on a one-for-one basis.

VI. 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.

For the Commission,

Mario MONTI,
Member of the Commission