

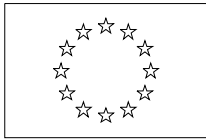
***Case No COMP/M.2223 -
GETRONICS /
HAGEMEYER / JV***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 02/04/2001

*Also available in the CELEX database
Document No 301M2223*



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 02.04.2001

SG (2001) D/287368

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 Sir/Madam,

**Subject: Case No COMP/M.2223 – Getronics/Hagemeyer/JV
Notification of 01.03.2001 pursuant to Article 4 of Council Regulation
No 4064/89¹ (“the Merger Regulation”)**

1. On 22.12.2000, the Commission received a notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which Getronics N.V. (“Getronics”) and Hagemeyer N.V. (“Hagemeyer”) propose to merge their respective Dutch information and communication technology (“ICT”) distribution subsidiaries, namely, Datelcom B.V. (“Datelcom”) and Codis B.V. (“Codis”), into a joint venture.
2. On 23.01.2001, the Commission declared the notification incomplete. A subsequent notification was declared incomplete on 26.02.2001. The notifying parties re-notified, supplying all of the missing information requested by the Commission on 01.03.2001, whereupon their notification became effective within the meaning of Article 4(2) of the Merger Regulation.
3. 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 the functioning of the EEA Agreement.

¹ OJ L 395, 30.12.1989 p. 1; corrigendum OJ L 257 of 21.9.1990, p. 13; Regulation as last amended by Regulation (EC) No 1310/97 (OJ L 180, 9. 7. 1997, p. 1, corrigendum OJ L 40, 13.2.1998, p. 17).

I. THE PARTIES

4. Getronics is a publicly quoted company listed on the Amsterdam Stock Exchange. It is the ultimate parent of all companies within the Getronics group. It provides services in the field of ICT. Its activities are arranged into two business groups: business solutions and consulting; system integration and networked technology services.
5. Hagemeyer is also a publicly quoted company listed on the Amsterdam Stock Exchange. It is the parent company of the Hagemeyer group of companies. Hagemeyer is engaged in the distribution and supply of industrial products and services focusing in particular on business-to-business markets for electrical materials, safety products and IT products.
6. Datelcom is a subsidiary of Getronics. It is a systems, software and network value added distributor ("VAD") (i.e. IT wholesaler) based in the Netherlands. Datelcom's activities are primarily aimed at supplying IT products and services to value added resellers ("VARs").
7. Codis is part of Hagemeyer's wholly-owned subsidiary group, the Computerij Groep which carries out Hagemeyer's IT activities in the Benelux. Codis is also an IT wholesaler based in the Netherlands. It supplies the business-to-business VAR market with IT products and services.

II. THE OPERATION

8. Getronics and Hagemeyer propose to merge their Dutch ICT distribution subsidiaries, Datelcom and Codis respectively into a joint venture, by transferring the business of Datelcom to Codis. Following completion of the operation, Getronics will hold [...] % of the shares in the joint venture, Hagemeyer will hold [...] %. The joint venture will be jointly controlled by Getronics and Hagemeyer; new appointments in the management board, as well as a number of decisions of strategic importance concerning the joint venture (the "reserved matters"), require the unanimous approval of both parent companies. The joint venture will perform on a lasting basis all the functions of an autonomous economic entity. It is sufficiently equipped for this purpose.

III. CONCENTRATION

9. The proposed operation constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

IV. COMMUNITY DIMENSION

10. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion². Each of Getronics and Hagemeyer have a Community-wide turnover in excess of EUR 250 million, but they do not achieve more than two-thirds of their aggregate Community-wide turnover within one and the same Member State. The

² 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.

notified operation therefore has a Community dimension.

V. COMPETITIVE ASSESSMENT

A. The relevant product market(s)

11. According to the notifying parties, the proposed concentration concerns the market for the wholesale distribution of IT products and related services. Wholesale distribution consists of the supply of a broad range of IT products (such as hardware systems, software, peripherals, networking) to a large number of re-sellers, none of which are end-users. Demand in this market is mainly constituted by three categories of resellers: *i)* value-added resellers, “VARs”, who typically integrate proprietary software with products provided by manufacturers and distributors³, *ii)* corporate resellers, who provide their corporate customers with large bulk purchases and installations and *iii)* superstores who primarily sell computer products, large office supply chains and smaller independent establishments.
12. According to the parties, the market for the wholesale distribution of IT products and services is typically characterised by three main features: logistical capacities to ensure efficient stock management; fast delivery; and a broad variety of products. In this respect, a typical wholesaler active in this channel is generally supplied by a large number of hardware manufacturers and software publishers and maintains a significant stocking inventory of IT products, and ensures customers fast delivery (normally within a day). The provision of services is a relatively minor activity in comparison to the distribution of IT products and can be considered as ancillary. The notifying parties estimate that such related IT services will account for approximately [0-10]% of the combined entity’s revenues.
13. The above market definition is in line with previous decisions, in which the Commission has identified the wholesale distribution of IT products and services as a distinct relevant market characterised by three main features, namely: broad product offering; fast delivery; and logistic capacities.⁴ This market definition has been broadly confirmed by the current market investigation as well.
14. In addition to considering a wholesale market with the above characteristics, the Commission has also looked at the new entity's position in the distribution of specific IT products, namely mid-range and low-end servers, because it emerged from the Commission’s market investigation that the proposed transaction might have a particular impact on the distribution of these products.
15. For the purposes of a possible categorisation of servers, the parties relied on the price

³ The notifying parties state that VARs add value through integration/installation/consulting and support services. They typically integrate proprietary software with products provided by manufacturers and distributors and tend only to re-sell within the context of a specifically defined project. Unlike VARs, for whom a significant percentage of their turnover is generated by the sale of services and solutions, other resellers tend to sell standard products such as PCs, portables, peripherals and packaged software.

⁴ See the Commission’s Decisions in Case No. IV/M.492 - Klockner/Computer 2000 of 05.09.1994; Case No. IV/M.1179 - Tech Data/Computer 2000 of 3.06.1998; Case No. IV/M.1192 - CHS Electronics/Metrologie International of 23.06.1998; and Case No. IV/M.1232 - Ingram/Macrotron of 17.07.1998.

band classification used by industry data providers such as IDC, according to which servers may be sub-divided into:

- entry level costing less than US\$ 100,000;
- mid-range servers costing between US\$ 100,000 and US\$ 1million; and
- high-end servers costing over US\$ 1 million.

16. This is in line with previous Commission Decisions which, in the case of concentrations between producers, have followed these price bands without, however, deciding whether or not these constitute distinct product markets.⁵ Also for the purpose of the present case, which concerns a concentration between distributors, it is not necessary to decide on the exact product market definition in terms of product categories, since whatever definition is chosen, the concentration does not lead to the creation or strengthening of a dominant position.
17. The notifying parties submitted that in assessing the conditions of competition in respect of the wholesale distribution of mid-range and entry level servers, it is necessary to consider the overall market for the distribution of such products, which they contended is characterised by two distinct but competing sales channels:
 - Direct sales to end-users of mid-range and entry level servers by the company that manufactures or assembles the product concerned.
 - Indirect sales of third party mid-range and entry level servers to end-users through re-sellers (e.g. VARs) who either buy directly from the manufacturer (so-called 1st tier VARs) and/or source from a wholesale distributor (referred to as 2nd tier VARs).
18. The results of the Commission's market investigation in this case provide some support for the notifying parties' characterisation of the distribution of the products mentioned. It appears that for low volume/high price products (including entry level servers and, even more so, mid-range servers), the relative proportion of direct sales is greater than for typical high-volume/low price products (such as PCs, etc.). Of the total sales of mid-range and entry level servers in the Netherlands, only 54% were realised via the indirect channel of distribution: 16% through 1st tier VARs and 38% through wholesalers/2nd tier VARs. The relatively low proportion of sales through wholesalers can be explained by the fact that for low volume/high price products the distinct characteristics of wholesalers (broad product offering; fast delivery; logistic capacities) are less important in case of a specific demand for such products. In any event, for the purpose of the present case, it is not necessary to decide whether the product market definition should distinguish between the various distribution channels, since whatever definition is chosen, the concentration does not lead to the creation or strengthening of a dominant position.

⁵ See the Commission's Decisions in Case No. IV/M.1120 – Compaq/Digital of 3.03.1998; Case No. IV/M.977 – Fujitsu/Amdahl of 08.09.1997; Case no. IV/M.963 – Compaq/Tandem of 11.08.1997 and Case No IV/JV.22 – Fujitsu/Siemens of 30.09.1999. In Fujitsu/Siemens, the Commission further found that servers in the mid-range and entry level respectively can run on either open or proprietary operating systems ("OS"). The Commission's investigation in this case showed that based on the above price band classifications, most entry level servers run on Windows NT, whereas mid-range servers typically run on Unix (including brand specific variants such as Compaq Alpha or Sun Solaris), or AS/400 (an IBM proprietary system).

B. The relevant geographic market

19. In previous decisions, the Commission has indicated that the market for the wholesale distribution of IT products and services is probably national in scope (or possibly regional/cross-border in some circumstances)⁶. The main elements considered significant by the Commission in this respect were the fast delivery (“within a day”) feature which is characteristic of this market and the “pick-up” nature of many of the purchases of these products, as well as the need for a national presence for the provision of the related services of training and technical support. Furthermore, the Commission considered that the fact that both resellers and wholesalers of IT products tend to organize their activities on a national basis was still another element indicating a national scope for this market. The Commission’s investigation in the present case equally suggests that the market for the wholesale distribution of IT products and services is probably still national in scope. However, also for the purpose of the present case, it is not necessary to decide on the exact geographic market definition, since whatever definition is chosen, the concentration does not lead to the creation or strengthening of a dominant position.
20. As for the distribution of mid-range and entry level servers specifically, respondents have mixed views: some indicate that the geographic dimension is still national, others that it is wider than national. However, for the purpose of the present case, it is not necessary to decide on the exact geographic market definition regarding the distribution of mid-range and entry level servers, since whatever definition is chosen, the concentration does not lead to the creation or strengthening of a dominant position.

C. Impact of the concentration on the relevant market(s)

21. The concentration does not give rise to concerns on the Dutch market for the wholesale distribution of IT products and services. According to 1999 turnover figures, the combined market share of Codis and Datelcom on the Dutch IT wholesale distribution market is approximately [10-20]% (Codis-Hagemeyer [0-10]% and Datelcom-Getronics [0-10]%) on a market totalling EUR 3 billion. There remain four wholesalers of similar size as the new entity (Computer 2000, Landis, Copaco and Ingram Micro).
22. As for the possible markets for the distribution of entry level and/or mid-range servers, market data supplied by the notifying parties based on 2000 turnover figures, suggests that the combined entity will have approximately:
 - [0-10]% of the total Dutch server market (with about [0-10]% of total sales in Unix and [10-20]% of total sales in NT) including both direct and indirect distribution (market total EUR 725 million);
 - [0-10]% of the total Dutch mid-range server market including both direct and indirect distribution (market total EUR 168 million);

⁶ See the Commission’s Decisions in Case No. IV/M.492 - Klockner/Computer 2000 of 05.09.1994; Case No. IV/M.1179 - Tech Data/Computer 2000 of 3.06.1998; Case No. IV/M.1192 - CHS Electronics/Metrologie International of 23.06.1998; and Case No. IV/M.1232 - Ingram/Macrotron of 17.07.1998.

- [10-20]% of the total Dutch low-end server market including both direct and indirect distribution (market total EUR 478 million);
 - [10-20]% of the indirect Dutch mid-range server market including both 1st tier and 2nd tier distribution (market total EUR 31 million);
 - [10-20]% of the indirect Dutch low-end server market including both 1st tier and 2nd tier distribution (market total EUR 334 million);
 - 45-50% of the Dutch market for the wholesale distribution of mid-range servers (market total EUR 8 million); and
 - [10-20]% of the Dutch market for the wholesale distribution of low-end servers (market total EUR 268 million).
23. Thus, the only potential market where the combined entity's market share is relatively high is the Dutch market for the wholesale distribution of mid-range servers. On this market, the combined entity will acquire a pre-eminent position as a result of the merger with its nearest competitors having around 20-25% (Bestware), 10-15% (Landis) and 5-10% (Copaco) respectively. More specifically, the merger will combine the wholesale distribution of two of the leading mid-range server brands under the same roof, namely: Hewlett Packard's HP9000 (Datelcom) and IBM's AS/400 (Codis).⁷ The Commission's investigation further indicated that although 2nd tier VARs did have alternative sources of supply (e.g. they could purchase directly from the manufacturers or from 1st tier VARs), most of them would tend to rely on wholesalers as their primary source for competitively priced supplies of mid-range servers.
24. The majority of suppliers, competitors and VARs who replied to the Commission's enquiries, expressed the view that the operation did not raise any competition concerns. Nevertheless, a small minority of competitors and VARs expressed the view that the new combination may lead to the creation of a dominant position on the Dutch market for the wholesale distribution of mid-range servers. They feared that the new entity may be able to obtain such a dominant position (and even extend it to the low-end segment) due to its range of products compared to its competitors since the new entity will have good coverage of leading brands in both the low-end and mid-range server markets in the Netherlands.⁸
25. However, upon further investigation, the Commission reached the conclusion that the concentration will not lead to the creation of a dominant position with respect to the market for the wholesale distribution of mid-range servers in the Netherlands, as a result of which effective competition would be significantly impeded, having regard to the conditions of demand and supply on that market.

⁷ The merger also adds Datelcom's distribution of Compaq Alpha to Codis. Even though Compaq Alpha is a Unix based system, nevertheless, it tends to retail below US\$ 100,000 and may thus be considered as a low-end server under IDC's product classification.

⁸ At the low-end level, the combined entity brings together Codis and Datecom's distribution of Compaq Proliant and Hewlett Packard's Netserver (both NT based systems). Nevertheless, several other Dutch wholesalers with market shares similar to the combined entity also sell these servers.

26. First, there has been substantial new entry into the Dutch wholesale market for mid-range servers in the last three years with Codis becoming accredited IBM AS/400 distributor in 1998 and Sun appointing GE Access and Tplc as distributors for its Solaris Unix system in 2000. GE Access, a subsidiary of General Electric, is one of the largest Unix focused distributors in the world. These developments are, in the Commission's view, indicative of a competitive wholesale distribution level in the Netherlands.
27. Second, there appears to be substantial inter-brand competition between suppliers of mid-range servers such as HP, IBM, Compaq, and Sun, each of whom has its own particular wholesale distribution strategy. Thus, if the combined entity attempted to increase prices for its mid-range servers, it risks losing sales to other competing Unix-based systems such as IBM RS/6000, Bull Unix, Sun Solaris, or Compaq Alpha which are distributed by other wholesalers. This is particularly the case since most VARs are accredited to re-sell a number of different server brands.
28. In addition, any unilateral price increase by the new entity would not only expose the new entity to the risk of losing sales and market share but also, as a consequence of such losses, to the risk of other wholesalers being appointed by the suppliers which use the new entity. In this respect, it can be mentioned that the new entity's wholesaler contracts can be terminated at relatively short notice and that appointing other wholesalers involves relatively low investments; the suppliers have, by virtue of their wholesale contracts, access to most customer information gathered by the wholesalers. Furthermore, the emphasis of the technical support services for servers lies traditionally with the suppliers. There is, therefore, a substantial degree of potential competition in the wholesale distribution of mid-range servers in the Netherlands.
29. As regards the good coverage of brands in both the low-end and mid-range server markets in the Netherlands, it is unlikely that this would bring particular advantage to the new entity in the segment of concern. First of all, the market position of the new entity in the wholesale distribution low-entry servers is rather moderate, as is witnessed by the relatively low market share ([10-20]%). Secondly, as indicated in the section on product market definition, a broad product offering does not appear to be particularly important for low volume/high price products, in case of a specific demand for such products.
30. A small number of third parties stated that the vertical integration of the combined entity with its parent Getronics, which is a substantial Dutch 1st tier VAR, would enable the combined entity and its parent to strengthen their respective positions over the indirect distribution of mid-range and low-end servers respectively by exploiting their vertical link to achieve significantly greater profit margins which would allow them to act independently of their competitors and customers.
31. However, upon closer examination, the Commission has concluded that this is unlikely to lead to any appreciable effect on competition in the present case. Getronics is not accredited to re-sell IBM AS/400 and is an insignificant reseller of Compaq Alpha servers. Furthermore, the combined entity is prohibited by virtue of its distribution contract with HP to re-sell to any related company. These arrangements are in line with industry practice to ensure the coherence of the distribution systems. Since the three mentioned products are the main products of the new entity, the market position of the

new entity cannot be considered of particular benefit to Getronics as a 1st tier VAR. Similarly, the new entity will not derive a competitive advantage from the link with Getronics.

VI. CONCLUSION

32. 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

Mario MONTI
Member of the Commission