

***Case No COMP/M.2291 -
VNU / AC NIELSEN***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 12/02/2001

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 12.02.2001
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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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 party

Dear Sir,

Subject : Case No COMP/M.2291 – VNU / ACNielsen

1. On 11 January 2001, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 (“the Merger Regulation”) by which the Dutch undertaking VNU N.V. (“VNU”) acquires, within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of ACNielsen Corporation (“ACNielsen”), an undertaking incorporated in the United States, by way of public bid announced on 18 December 2000.
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of application of Council Regulation No 4064/89 and does not raise serious doubts as to its compatibility with the common market and with the functioning of the EEA Agreement.

I. THE PARTIES

3. VNU is a publishing and information company active in Europe, in North America and in other countries. In particular, VNU provides marketing information services (specially under the brand name “Claritas”), including collection and analysis of consumer data for marketing purposes, and media measurement services, including television and Internet audience measurement. Additionally, VNU publishes business magazines, consumer magazines and directories.
4. ACNielsen is a global provider of market research services. It provides in particular retail measurement services, consumer panel services, customised market research and media measurement services.

II. THE OPERATION

5. The operation consists in a public tender offer by VNU for all outstanding ACNielsen’s shares listed on the New-York Stock Exchange.

III. CONCENTRATION

6. VNU is offering to buy 100% of ACNielsen's stock capital. It can thus be concluded that the operation aims at the acquisition of sole control of ACNielsen by VNU, and that the proposed transaction is therefore a concentration within the meaning of Article 3(1)b of the Merger Regulation.

IV. COMMUNITY DIMENSION

7. The aggregate world-wide turnover of VNU or the financial year 1999 was approximately EUR 3,075 million. The aggregate world-wide turnover of ACNielsen for the financial year 1999 was approximately EUR 1,453 million. Therefore, the undertakings concerned have a combined aggregate world-wide turnover of more than EUR 2 500 million.
8. In 1999, VNU and ACNielsen had a combined aggregate turnover of more than EUR 100 million in each of the Netherlands, France, Germany and the United Kingdom. The individual aggregate turnover of each of the parties is also in excess of EUR 25 million in each of the above Member States.
9. Finally, the aggregate Community-wide turnover of each of the parties is more than EUR 100 million (VNU: [...]; ACNielsen: [...]), and neither of the undertakings concerned achieves more than two-thirds of its aggregate Community-wide turnover within one and the same Member State. The notified operation therefore has a Community dimension within the meaning of Article 1(3) of the Merger Regulation.

III. THE MARKETS

Product markets

10. ACNielsen and VNU ("the parties") have indicated that they provide different types of services related to marketing and audience measurement (together: "marketing data services"). Broadly speaking, marketing data services can be separated in three types:
 - Marketing information services, which essentially consist of the provision of data on individual consumers (eg. age, social group, activities, consuming habits, address, etc.) for direct marketing purposes;
 - Market research services, which are aimed at measuring actual purchasing patterns (essentially through measurement of sales at different retail points –"retail tracking" or on the basis of data obtained from consumer panels); and
 - Media measurement services, which are essentially aimed at measuring the audience of specific media (television, internet, broadcast, etc.).
11. The different categories of marketing data services provided by the parties within each of the three main types mentioned above are listed and further described in Annex I.
12. The Commission's investigation has confirmed that the three broad types of marketing data services are not substitutable with each other. In particular, each broad type of services corresponds to specific purposes for the customers. Therefore, each relevant product market consists of one or several categories of services belonging to the same broad type of marketing data services.

Marketing information services

13. In Europe, VNU is active in four main categories of marketing information services: list rental, trade marketing, database management and micromarketing services. In addition, VNU provides other marketing information services, such as permission marketing (through a stake in Euroclix, an Internet-based loyalty program), mail order services and transactional databases pooling.
14. ACNielsen does not offer any marketing information services in Europe.
15. The Commission's market investigation has shown that most third parties consider that each category of marketing information services constitutes a distinct relevant product market. However, for the purpose of the present decision, it is not necessary to establish the precise definitions of the relevant product markets for marketing information services, since irrespective of the considered definitions, the notified operation will not lead to the creation or strengthening of a dominant position.

Market research services

16. In Europe, ACNielsen provides market research services (including consumer panels, retail tracking and customised market research).
17. VNU does not offer any market research services in Europe.
18. The Commission's market investigation has shown that most third parties consider that each category of marketing information services constitutes a distinct relevant product market.
19. However, for the purpose of the present decision, it is not necessary to establish the precise definitions of the relevant product markets for market research services, since irrespective of the considered definitions, the notified operation will not lead to the creation or strengthening of a dominant position.

Media measurement services

20. In Europe, ACNielsen provides television audience measurement services ("TAM") (in Ireland, Sweden and Finland). It also provides Internet audience measurement through its 80% stake in eRatings. The remaining 20% of eRatings' capital is held by NetRatings, which in turn is 54% owned by Nielsen Media Research, a subsidiary of VNU.
21. Additionally, ACNielsen offers advertising expenditure measurement ("AEM") services. These services aim at measuring advertising expenditures by certain companies in various media (print, television, radio, outdoor advertising, etc.)
22. Finally, AC Nielsen provides entertainment information services ("EIS") which consist in particular of the provision of box-office information to the motion picture industry.
23. VNU does not provide TAM, Internet audience measurement, AEM or EIS services in Europe. However, in the US and Canada, VNU offers television audience measurement (for which it has a quasi-monopoly) and is active in internet audience measurement through NetRatings.
24. In Europe, VNU only offers one category of media measurement services: it provides "broadcast data services" through its participation in Aircheck International (a joint venture over which it has control). These services consist of counting the number of times specific songs or records are played by radio stations. These services are provided to the record industry.

25. The Commission's market investigation has shown that broadcast data services are not substitutable with other categories of media measurement services: indeed, broadcast data services differ from TAM, AEM, EIS or internet audience measurement services technically and correspond to a different purpose. Therefore, broadcast data services belong to a distinct product market.
26. For the purpose of the present decision, it is not otherwise necessary to establish any other precise definitions of the relevant product markets for media measurement services, since irrespective of the considered definitions, the notified operation will not lead to the creation or strengthening of a dominant position.

Other business areas

27. In addition to its activities in marketing data services, VNU publishes business magazines, consumer magazines and directories, and owns different business-to-business and consumer information internet sites.
28. ACNielsen is not active in any of these business areas. However, ACNielsen supplies internet audience measurement services to certain of VNU's internet sites. ACNielsen also provides AEM (advertising expenditure measurement services) to certain magazines owned by VNU.

Geographic markets

29. The parties submit that the markets for marketing data services are organised on a national basis because (i) consumption trends for retail products remain essentially national in view of significant economic and cultural differences between consumers in different countries; (ii) data needs to be obtained at national level (for instance through contracts with retail stores or through national consumer panels) ; (iii) certain services (such as television audience measurement) are offered through contracts awarded on a national basis and finally (iv) because the retail, distribution, advertising and media industries are themselves organised on a national basis and are essentially interested in measuring consumers' behaviour and assessing competitors' marketing efforts on the same geographical basis.
30. Most third parties have confirmed that they consider the different markets for marketing data services to be national in scope. Some third parties, however, have indicated that the geographic markets may in the future become wider than national, and possibly European-wide, because consuming patterns tend to be more and more homogeneous across Europe.
31. For the purpose of this decision, however, the issue of whether the geographical markets are European-wide or national may be left open, since, irrespective of the considered definitions, the notified operation will not lead to the creation or strengthening of a dominant position.

IV. ASSESSMENT

No significant vertical or horizontal effects

32. It results from the above description of the relevant product and geographic markets that the operation will not lead to any horizontal effect: indeed, due to the focus of the parties' respective activities, there are no horizontal overlaps as they are not active both in the same geographical area and in the same product market.

33. As explained above in paragraph 28, some vertical relations exist between the parties. However, these relations appear to be very limited and none of the services provided by either party in Europe are dependent on any services supplied by the other. Therefore, the operation does not lead to any significant vertical effect.

Assessment of conglomerate effects

34. ACNielsen has very high market shares in several national markets for retail measurement services (a category of market research services). In particular, ACNielsen has market shares well over 50% for retail tracking services in Austria, Belgium, Denmark, Finland, Ireland, the Netherlands, Norway, Portugal, Spain and Sweden. Furthermore, ACNielsen is the sole provider of television audience measurement in three Member States (Ireland, Sweden and Finland, in joint-venture with Gallup).
35. Given the very strong positions held by ACNielsen in certain national retail measurement and television audience measurement markets, and given the quasi-monopoly of VNU for television audience measurement in the United States and in Canada, the Commission investigated whether the complementarities between the parties' business activities were likely to result in substantial conglomerate effects.
36. The vast majority of third parties have indicated that the complementarities between the services currently provided by ACNielsen and by VNU would not result in significant competitive effects. In particular, most marketing media services customers have indicated that they purchase each category of services separately, rather than "bundling" together several categories of services. Furthermore, among the minority of customers who stated that they purchase marketing media services in bundles, most declared that bundled purchases are only occasional and that they do not see the capacity of a service provider to offer a full line of services as an essential competitive factor.
37. Additionally, the Commission observes that, on the few occasions when marketing media services are purchased in "bundles", the bundle typically involves services of the same type (i.e. market research or media measurement or marketing information). For instance, customers may want to purchase together market research based on consumer panels and a customised research based on interviews with selected consumers, because both services bring different yet complementary insights on consumers' behaviours.
38. It thus appears that bundled offers play a minor role in the markets for marketing data services and that bundles between services of different types are extremely uncommon.
39. Therefore, the Commission concludes that the complementarities between VNU's and ACNielsen's business activities will not result in significant conglomerate effects.

VI. CONCLUSION

40. In view of the above analysis, it is concluded that the operation does not raise serious doubts about its compatibility with the common market, since it will not result in the creation or strengthening of a dominant position.
41. Therefore, 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,

Signed: Mario Monti
Member of the Commission

ANNEX I – MARKETING DATA SERVICES

The parties have proposed the following segmentation of the different marketing data services they offer:

Type of services	Category of services	Description
Marketing information services	List rental	Rental of lists of individuals with relevant data on those individuals to companies which want to contact them in order to promote their products or services.
	Trade marketing	Provision of information on the characteristics of population and retail stores in a given area, aimed at improving the marketing and sales of individual retail outlets. This service is provided by VNU under the “Claritas Spectra” brand.
	Database management services	Management of databases on behalf of one’s customer.
	Micro-marketing services	Analysis of relevant marketing data at individual customer level and at local geographic level. This service is provided by VNU under the “PriZM” brand.
Market research services	Retail measurement services	Tracking of consumer purchases at the point of sale through scanning technology and/or manual audit, primarily for fast moving consumer goods sold through retail chains.
	Consumer panel services	Provision of detailed information on actual purchases made by households. The information is obtained from a representative group of households that periodically report their purchases.
	Customised market research services	Services provided on an ad-hoc basis to deliver information and insights about consumer attitudes and purchasing behaviour. The data can be obtained through interviews and questionnaires in particular.
Media measurement services	Internet audience measurement	This service consists in the collection of real-time internet access data obtained from panels of individuals with Internet access
	Broadcast data services	This service consists in the counting of the number of times a particular song is played by radio stations.
	Television audience measurement	Measurement of audience of television broadcasters at designated dates and times.
	Entertainment information services	This service is provided to the motion picture industry. It consists of box-office information.
	Advertising expenditure measurement	Provision of information on advertising expenditure by specific companies, in particular to assess marketing budgets of competitors.