

***Case No COMP/M.2536 -  
FABRICOM / SULZER***

Only the English text is available and authentic.

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

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Article 6(1)(b) NON-OPPOSITION  
Date: 09/08/2001

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 09.08.2001

SG (2001) D/290948

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 notifying parties

Dear Sir/Madam,

**Subject: Case No COMP/M.2536 – Fabricom / Sulzer**  
**Notification of 06/07/2001 pursuant to Article 4 of Council Regulation**  
**No 4064/89**

1. On 06/07/2001, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89<sup>1</sup> by which the undertaking Groupe Fabricom SA ("Fabricom") acquire within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of the installation of electromechanical systems business ("Sulzer infra") of Sulzer AG, by way of purchase of shares.
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 AND THE OPERATION**

3. Fabricom is a Belgian company that provides installation and management/maintenance services in the field of electromechanical installations and systems, for infrastructure,

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<sup>1</sup> 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).

industry and commercial building. The Belgian electrical company Tractebel, which is ultimately controlled by Suez, controls Fabricom. Fabricom's activities are mainly taking place in the Benelux countries and France, but also in the UK, Norway and Spain.

4. Sulzer Infra, which is a business unit within the Swiss company Sulzer AG, is active in installation and management/maintenance services in the field of electromechanical systems. Sulzer Infra is mainly active in Switzerland, Germany, Spain, Portugal, the UK and the Netherlands.
5. The proposed concentration consists of the acquisition of Sulzer Infra by Fabricom. Fabricom will acquire 100% of the shares of Sulzer Infra.

## **II. CONCENTRATION**

6. Upon completion of the proposed transaction Fabricom will have sole control over Sulzer Infra. The operation therefore constitutes a concentration within the meaning of Article 3(1) (b) of the Merger Regulation.

## **III. COMMUNITY DIMENSION**

7. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion<sup>2</sup> (Fabricom: EUR 34 617 million; Sulzer Infra: EUR 887 million). Each of the parties have a Community-wide turnover in excess of EUR 250 million (Fabricom: EUR [...] million; Sulzer Infra: EUR [...] 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.

## **IV. COMPETITIVE ASSESSMENT**

### **A- RELEVANT MARKETS**

8. Fabricom and Sulzer Infra are both active in installation of electromechanical systems as well as management/maintenance of electromechanical systems for building and industrial production plants.
9. Installation of electromechanical systems and installations have to be distinguished from the supply of equipment to be used in such systems. Another distinction has to be made between residential and non-residential market. None of the parties is active as supplier of equipment or on the residential market.
10. Moreover, it is necessary to distinguish in this sector between installation services and management/maintenance services and, within installation, between installation of electromechanical "systems" and installation of electromechanical "installations" because there are significant differences in the nature of the demand and of the services provided in these two segments. On the one hand, the installation of electromechanical "systems" involves integrated solutions which, on a stand-alone basis, satisfy a specific need of the consumers. Typically, the systems supplier will select the components to be

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<sup>2</sup> 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.

used, design the way such component have to be assembled and install them. On the other hand, the installation of electromechanical "installations" involves installation of equipment which usually takes place according to the customer's instruction and using equipment selected by the customer.

11. As Sulzer Infra has no activity in the field of installation of electromechanical installations, this sector is not relevant for this operation.

*Installation of electromechanical "systems"*

12. Electromechanical systems include building systems (security systems and management systems), cooling systems and automation systems.
13. In the *Siemens/Elektrowatt* case<sup>3</sup>, the Commission considered that within building systems, security systems include fire alarm and intrusion systems while management systems include heat-ventilation-air conditioning (HVAC) systems and sprinkler systems. In this decision the Commission identified separate markets for each segment within security systems and a market for management systems. The Commission decided that markets for security systems are national in scope and that market for management systems were at least EEA-wide.
14. The parties consider that cooling systems could be subdivided into three segments (industry, distribution and transport). In the industry segment, the activity includes installation of refrigerating plants or installation and design of specific food cooling systems. In the distribution sector, the activity concerns supply of cooling systems for the food distribution sector. And, in the transport sector, the activity includes refrigeration systems for trucks. The parties submit that these segments do not constitute distinct product markets.
15. The parties submit that this market is of a EEA-wide scope. They base their contention on the existence of EC-standard, the absence of national or local technical or legal requirements and a growing trend towards an international demand.
16. In the *GEC Alsthom/Cegelec*<sup>4</sup> decision, the Commission considered that automation systems consist of system engineering in a range of airport and industrial handling applications (baggage handling, cargo handling, parcel mechanisation and automated warehousing) and stated that the question whether airport and industrial handling belong to the same product market can be left open. In the present case, the parties submit that airport handling and industrial handling belong to the same product market, as the technology used in these two sectors is very similar.
17. In its *GEC Alsthom/Cegelec* decision, the Commission seemed to consider that for airport and industrial handling, the geographic market to be taken into account was at least EEA-wide, but stated that it was not necessary to further delineate the geographic market
18. The Commission's inquiry tends to confirm the definitions proposed by the parties as to the relevant markets involving cooling systems and automation systems. But, for the purpose of the present case, it is not necessary to define conclusively the relevant

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<sup>3</sup> Case n° COMP/M. 913 - Siemens/Elektrowatt – 18/11/1997

<sup>4</sup> Case n° COMP/M.1164 - GEC Alsthom/Cegelec – 15/05/1998

product and geographic markets, since on no alternative market definition considered would the concentration create or strengthen a dominant position as a result of which effective competition would be significantly impeded in the EEA or in any substantial part of that area.

*Management/maintenance of electromechanical systems and installations*

19. This activity involves a range of works and services relating to building, tertiary and industrial plants. The parties consider that electromechanical maintenance/management for installations and systems constitute a specific market and that further distinction by reference to each electromechanical installation or system being serviced is not justified because the demand would be more and more for the management/maintenance of buildings, plants, facilities as an overall service.
20. The parties consider that this activity is EEA-wide. But, in its *Siemens/Elektrowatt* decision, the Commission considered that this activity was national in scope. This has been confirmed by the Commission investigation in this case.
21. For the purpose of the present case, however, it is not necessary to define conclusively the relevant product and geographic markets, since on no alternative market definition considered would the concentration create or strengthen a dominant position as a result of which effective competition would be significantly impeded in the EEA or in any substantial part of that area.

**B- ASSESSMENT**

22. The combination of Fabricom's and Sulzer Infra's activities does not lead to horizontal overlap sufficient to create a horizontal affected market either on national or on European markets. Although both parties are active in installation of electromechanical systems and management/maintenance of such systems, they operate mostly in different geographic areas. Consequently, at national level, the operation does not create any overlap with regard to most of the possible markets as identified above (see also above). In addition, the combined position of the parties on an EEA level is insignificant and does not raise any competition concerns.
23. In the sector of installation of electromechanical "systems", the only segments for which the activities of Fabricom and Sulzer Infra overlap are for the installation of HVAC and sprinkler systems. These two segments are not affected as the strongest combined market position of the parties occurs in the Netherlands where their total market share would nevertheless largely be below 15% (HVAC: [5-10]%, sprinkler: [5-10]%). In the other geographic areas, the parties' combined market share does not exceed 5%. In addition, for all these segments, the combined position of the parties on an EEA level is insignificant and does not raise any competition concerns.
24. In the markets of Management/maintenance of electromechanical systems and installations, both parties are active in a number of EEA States, such as the Netherlands, the United Kingdom and Germany. However, in each of these countries, their combined market share remains largely below 15%. In addition, the combined position of the parties on an EEA level is insignificant and does not raise any competition concerns.
25. From a vertical point of view, the Belgian market for production/transport of electricity and the Belgian market for the transport of gas are affected by the notified operation. Fabricom and Sulzer Infra are present on the upstream markets and Tractebel on the

downstream market. The Commission's investigations have confirmed that even if vertical integration were to provide a competitive advantage, such a vertical integration existed before the operations and would not be significantly modified by the increment in market shares. Respondents to the Commission's investigation also explained that the majority of these markets are European in scope and that the same type of vertical integration is taking place in the other European countries.

## **V. CONCLUSION**

26. 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  
*(signed by Philippe BUSQUIN  
Member of the Commission)*