

***Case No COMP/M.3820 -  
AVNET / MEMEC***

Only the English text is available and authentic.

**REGULATION (EC) No 139/2004  
MERGER PROCEDURE**

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Article 6(1)(b) NON-OPPOSITION  
Date: 24/06/2005

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 24.06.2005

SG-Greffe(2005) D/202799

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PUBLIC VERSION

MERGER PROCEDURE  
ARTICLE 6(1)(b) DECISION

To the notifying party

Dear Sir/Madam,

**Subject: Case No COMP/M.3820 – Avnet / Memec  
Notification of 20/05/05 pursuant to Article 4 of Council Regulation  
No 139/2004<sup>1</sup>**

1. On 20 May 2005, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 by which the undertaking Avnet, Inc. (“Avnet”, USA) acquires within the meaning of Article 3(1) (b) of the Council Regulation control of the whole of the undertaking Memec Group Holdings Limited (“Memec”, USA) by way of purchase of shares.

## **I. THE PARTIES**

2. **Avnet** is an international group active in the distribution of electronic components and computer products and systems. Its products include semiconductors, interconnect components, passive devices, electromechanical devices, radio frequency and microwave products and original equipment manufacturer systems, such as memory boards and microprocessors. In addition, Avnet distributes a variety of computer products such as servers and related hardware and software to both resellers and end-users and provides technical services to its clients.

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<sup>1</sup> OJ L 24, 29.1.2004 p. 1.

3. **Memec** is a global distributor of semiconductors. It purchases specialised semiconductors devices, including programmable logic devices, analogue products and application specific standard products and distributes them to, amongst others, contract electronic manufacturers (“CEMs”) and original equipment manufacturers (“OEMs”). Memec also offers services to customers and suppliers, such as technical support, IT, warehousing, packaging and global logistical support. It is not active in the distribution of computer products and systems.

## II. CONCENTRATION

4. Avnet will acquire the entire issued share capital and sole control of Memec. As part of the transaction, Avnet shall also purchase certain bonds that were issued by a subsidiary of Memec. In consideration for the purchase of all the outstanding bonds and shares, Avnet will issue to Permira Europe II and the other holders of bonds and shares a certain number of Avnet shares and pay a certain amount of cash.

## III. COMMUNITY DIMENSION

5. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion<sup>2</sup> (Avnet: 8,235 million Euro, Memec: 1,840 million Euro in 2004). Each of Avnet and Memec have a Community-wide turnover in excess of EUR 250 million (Avnet: [...] million Euro, Memec: [...] million Euro in 2004), 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

### 1. Relevant markets

#### *Relevant Product Market*

6. Both parties are active in the distribution of electronic components. Electronic components comprise a wide variety of different products. These can be broadly divided into three main categories: semiconductors, interconnect components and passive and electromechanical components. While Avnet is active in the distribution of products of all three categories, Memec is specialized in the distribution of semiconductors.
7. The parties consider that there is one overall market for the distribution of electronic components, including semiconductors, which is serviced by various types of distributors as well as manufacturers.

#### *Product categories*

8. In previous decisions<sup>3</sup>, the Commission has assumed a product market comprising all three categories of electronic components. It is common practice with respect to distribution businesses to define product markets which cover a range of different

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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).

<sup>3</sup> Case No. IV/M.1700 – *Avnet/Eurotronics*, Case No. COMP/M.1871 – *Arrow Electronics/Tekelec*; Case No. COMP/M.2134 – *Avnet/Veba Electronics* and Case No. COMP/M.2136 – *Schroder Ventures/Memec*

products even if these are usually not substitutable from the demand-side perspective. The reason for such a market definition is that the market players do not mainly compete against each other with specific products but with a range of products and services, even if the concrete assortments offered may differ from each other.

9. In the distribution of electronic components the majority of the largest players cover all three product categories albeit with to some extent differing compositions of products and services and different focuses. All larger international distributors cover the complete range of products. However, in addition to Memec which specializes on semiconductors and the company TTI which is focussed on interconnectors and passive components, there are also a number of smaller companies which are specialized in one or two product categories.
10. In the market investigation some respondents indicated that an expansion by specialized companies into the distribution of other product categories might cause difficulties. The main reason mentioned with respect to such difficulties was the lack of product-specific know-how. Distributors of electronic components regularly do not only sell the products, but they also offer to differing extent technical and other services. In order to be able to advise the customers on the decision for a product / brand to be used as input in the customer's production process and to provide technical services in addition, a profound knowledge of the product is necessary. The parties submit that personnel with the necessary technical expertise are easily available on the market. The respondents to the market investigation broadly confirmed that it is possible to find qualified personnel. It was, however, also stated that the entry into a new product category requires time to find this personnel, training for the staff, some investments (for example into additional warehouse capacity).
11. Since in this case the only overlap between the merging parties relates to semiconductors, it is appropriate to examine also the effects of the transaction on competition between distributors in this product category in order to exclude all possible serious doubts. The concrete delineation of the product market can, however, in this respect be left open since on any alternative market definition the merger does not raise any competition concerns.

#### *Direct supply*

12. The customers of distributors of electronic components are primarily CEMs and OEMs, but also supply system integrators, installers, government agencies, other distributors and non-manufacturing organisations, in a wide range of sectors (for example, automotive, computer, office equipment and telecommunications).
13. The parties submit that these customers, in particular larger OEMs or CEMs, may also be supplied directly by manufacturers. The Commission has, however, in previous cases found that it was not appropriate to include the direct supply by manufacturers in the relevant market. The distribution of electronic components has been found to constitute a separate product market since it is characterised by a number of significant differentiating features such as a product mix from different suppliers, value added services, large stock, local warehouses and short delivery times.
14. This view has been confirmed in the market investigation in the present case. The majority of market participants indicated that many manufacturers supply a large share of their production of electronic components directly to the customers without using any distributor. This relates to very large volume orders and to special conditions, such as the production of "tailor-made" electronic components which are adapted to the a customer's

specific needs and may therefore not be supplied by a distributor. However, a large number of these market participants also indicated at the same time that a switch to direct supply would not be easy.

15. First of all, such a switch to direct supply would only be possible for customers who purchase very large volumes since the manufacturers usually refuse to deal with many clients themselves and therefore reject medium- or small-sized orders. Their aim is often to reduce their customer contacts at least with respect to smaller orders and they use distributors exactly for this reason. In addition, the distributors fulfil an important function with respect to the timing and the logistics of the supply. Manufacturers constantly try to reduce their stock-keeping. They mainly optimize their production processes without taking into account the timing that their final customers require on the basis of their own production processes. This adjustment of the manufacturer's production and the customer's requirements is done by the distributor who uses warehouses in order to deliver the electronic components exactly at the time the customer needs them in the own production process.
16. Another important reason for the use of distributors is the already described technical advice. Distributors offer more extensive technical service than the manufacturers. If the customers wanted to circumvent the distributors they would, moreover, not only have to contact the different manufacturers individually in order to be able to compare their products. They would also have to do without the advice of a technical expert knowing many brands and therefore being able to compare and evaluate them. If a customer, in addition, needs several different components a switch to direct supply would lead to an increase of transaction costs for the customer who would not be able to order several components at once.
17. In view of this, it can be concluded that for the vast majority of customers of electronic components who currently purchase from the distributors, a switch to the manufacturers is not feasible. This is confirmed by the fact that the market participants – as well as the parties – could name only a few instances of such switches in the past three years. The direct supply by manufacturers is therefore excluded from the relevant product market.

#### *International coverage*

18. In the decision in case *M.2134 – Avnet/Veba Electronics* of October 2000, the Commission found that within the delineated product and geographic market, distributors fall broadly into three categories: a first tier of high volume distributors with an EEA-wide presence; a second tier, composed of medium-sized distributors, with a presence in a few or several countries and a third tier of merely national players who enjoy similar local strengths to the second tier.
19. In the light of this, the investigation in the present case also took into account the question whether a market for the distribution to international customers requiring to be supplied by international distributors in several countries in parallel under an international framework agreement might have developed in the past years. Even though it was confirmed in the market investigation that some customers do require such international framework agreements, it was also made clear that they usually can and do also use local distributors who are not internationalized at all or not to a large extent. Therefore, despite the existence of different categories of customers for the distribution business, it cannot be concluded that a distinct “pan-European” distribution market has yet developed.

#### *Line card vs. catalogue*

20. The market investigation has shown that distributors use mainly two different ways of offering their products: line cards and catalogues. Distributors who use catalogues (in the following “catalogue distributors”) mainly sell on a rather irregular basis small quantities of electronic components to customers who address these distributors on the basis of their catalogues. These customers usually request components of specific brands, namely the brands they already use in their current production and for which they need some additional supply, for example quick replacement supply for broken components.
21. The other group of distributors, to which Avnet and Memec belong, uses line cards. A line card is a list which contains all the manufacturers the respective distributor cooperates with and whose electronic components the distributor is able to deliver. Distributors who use line cards (in the following: “line card distributors”) tend to sell larger quantities than catalogue distributors. The main difference to catalogue distributors is that they supply the customers with the bulk of components needed as regular input in their production processes. They mainly acquire new customers by approaching producers who are in the process of developing a new product which will contain electronic components. The line card distributors provide design and application engineering services in order to advise these customers as to which kind and brand of electronic component would fit best into the new product. In the following, the distributors supply the customer with a major part or even the entire quantity of the component needed in the production process of the newly developed product.
22. These ways of distribution follow therefore two very different business models. The respondents to the market investigation usually indicated different groups of competitors depending on their character as line card or catalogue distributor. It was, moreover, reported that catalogue distributors have a higher price level due to the wider range of different products they have to be able to offer and the higher costs for stock-keeping since they have to have this wide range of electronic components readily available for their customers’ short-term orders (e.g. replacement supply). The catalogue distributors do in general not provide the sophisticated engineering services or the large quantities needed for a whole production line to the customer.
23. Even though there seems to be a clear distinction between catalogue and line card distribution, the borders between the two are to some degree blurred. It was reported that for example line card distributors also sometimes deliver small quantities to customers. In the same way, it can be assumed that in particular the two biggest catalogue distributors, Premier Farnell and Electrocomponents, are able to provide some regular “line card style” supply for example to smaller customers. Whether or not these markets have to be distinguished can be left open since on any alternative market definition the merger does not raise any competition concerns. It should be noted that the market for catalogue distribution is very small in size and was estimated to represent only 1.7% of the total EEA market. The market shares on a separate market for line card distribution, therefore, only marginally differ from those in a market including catalogue distribution.

### ***Relevant geographic market***

24. The parties submit that the relevant geographic market is at least EEA-wide due to low transport costs, the lack of technical barriers or national preferences, a high level of cross-border supplies and the increasing globalization of OEM and CEM customers.
25. In previous decisions, the Commission has – even though acknowledging a tendency towards a widening of the market – assumed national geographic markets. This definition

was based on the fact that distributors use local sales offices, the local presence of technical staff for product customisation, development and quality control, and the proximity of warehousing.

26. The investigation in this case has confirmed this view. It has, however, become clear that the location of the warehouses is not the decisive factor. A number of market players do not have warehouses in all of the countries in which their clients reside and some even distribute the goods from a few warehouses into the whole of EEA. However, with only few exceptions all distributors have local sales offices and provide technical service in every country in which they are active. It is seen as essential to have engineers close to the customer, being able to communicate with the customers in their language and to take care of the clients from sales offices located nearby.

## **2. Competition analysis**

### ***Overall market structure***

27. The competition analysis will be based on national markets for the line card distribution of semiconductors even though some fringe competition from catalogue distributors in the segment of smaller customers and from manufacturers in the field of very large customers has to be acknowledged. The analysis also equally applies to the other potential markets for the line card distribution of electronic components, the distribution of electronic components (including line card and catalogue distribution) and the distribution of semiconductors (including line card and catalogue distribution), since in any case the only differences to the market for line card distribution of semiconductors are lower market shares for the parties and a larger number of competitors. The following markets are affected by the merger: Austria, Belgium, Czech Republic, Denmark, Finland, France, Germany, Hungary, Ireland, Italy, The Netherlands, Norway, Poland, Slovenia, Spain, Sweden and UK.
28. In paragraphs 24 to 26 of this decision it was concluded that the geographic market does not cover the EEA, but has to be defined nationally. The market shares which are therefore only “calculative” can, however, give an indication about the overall strength of the distributors in Europe. On an EEA-wide basis, Avnet and its competitor Arrow are by far the strongest distributors which show the highest degree of internationalization. The largest group is Arrow (with a calculative market share of [25-35]% for semiconductors), while the merging parties reach a share of [20-30]% (Avnet: [15-25]%; Memec: [0-10]%) together. Both Arrow and Avnet cover virtually all national markets in the EEA and also various regions outside of the EEA. The next competitors Eurodis, Rutronik and Future Electronics follow with considerably smaller shares of [0-10]% to [0-10]% which to a considerable extent results from their significantly smaller geographical coverage in the EEA. Further international players are Acal, Advanced European and Abacus.
29. This structure is to some extent also reflected in the national markets where, however, also local distributors - which do not reach any visible position on EEA scale – often play significant roles. While Arrow and Avnet are the strongest players, usually a few medium-sized - local and internationalized - companies follow, succeeded by a bigger number of small local competitors. Memec is a rather small distributor and was also characterised as “niche-player” by some respondents due to its small size and its focus on one product category. The increase in market power that Avnet will achieve through the transaction is therefore regarded as limited.

### ***Assessment of the national markets***

30. After the transaction, Avnet and Arrow will both lead with even more distance to the rest of the market. The market investigation did, however, not support the assumption that the merger could lead to tacit collusion between Avnet and Arrow. It was confirmed in the market investigation, that Avnet and Arrow currently actively compete against each other. The wide variety and large number of different products which are distributed by both companies and the combination of the product supply with differing services does not seem to provide for a degree of transparency allowing for tacit collusion. In addition, a significant competitive fringe consisting of the main internationalized competitors and the different local players speak against tacit collusion. Therefore, the following market analysis will focus on the possibility of the creation of a dominant position and unilateral effects.
31. The market shares of Avnet, Memec and the biggest competitor Arrow on the affected national markets for the line card distribution of semiconductors are the following (in %):

	Austria	Belgium	Czech R.	Denmark	Finland	France
Avnet	[15-25]	[20-30]	[10-20]	[10-20]	[20-30]	[25-35]
Memec	[5-15]	[0-10]	[0-10]	[0-10]	[0-10]	[0-10]
<b>Combined</b>	<b>[25-35]</b>	<b>[25-35]</b>	<b>[10-20]</b>	<b>[20-30]</b>	<b>[30-40]</b>	<b>[30-40]</b>
Arrow	[10-20]	[10-20]	[10-20]	[25-35]	[25-35]	[35-45]

	Germany	Hungary	Ireland	Italy	NL	Norway
Avnet	[10-20]	[5-15]	[15-25]	[10-20]	[20-30]	[10-20]
Memec	[0-10]	[0-10]	[10-20]	[0-10]	[0-10]	[10-20]
<b>Combined</b>	<b>[20-30]</b>	<b>[10-20]</b>	<b>[25-35]</b>	<b>[10-20]</b>	<b>[25-35]</b>	<b>[25-35]</b>
Arrow	[15-25]	[5-15]	[5-15]	[40-50]	[10-20]	[25-35]

	Poland	Slovenia	Spain	Sweden	UK
Avnet	[15-25]	[25-35]	[15-25]	[5-15]	[10-20]
Memec	[0-10]	[5-15]	[0-10]	[5-15]	[5-15]
<b>Combined</b>	<b>[25-35]</b>	<b>[35-45]</b>	<b>[20-30]</b>	<b>[10-20]</b>	<b>[20-30]</b>
Arrow	[0-10]*	[< 30]	[25-35]	[35-45]	[20-30]

\* Arrow is not the second largest player in Poland. The company Future Electronics has [10-20]%.

32. In some affected markets competition concerns can already be excluded either due to market shares below or equal 20% (Czech Republic, Hungary, Italy, Sweden) or due to very small increments in market shares (between [0-5]% and [0-5]%) through the transaction (Germany, Netherlands, Spain). It is not probable that under these conditions, competition concerns will arise from the merger since the market position acquired by the parties is in a region which under normal circumstances does not allow for uncontrolled market power or the change brought by the merger is only marginal. The market investigation did not show any special circumstances in these affected markets which would give rise to concerns despite of these market shares.
33. In most of the affected markets Avnet will become the strongest player. However, in some markets, Arrow is more powerful and will keep this position even after the merger. These countries are Denmark and Norway. Avnet will reach market shares of [20-30]% and [25-35]% respectively, while Arrow remains the leading player with a distance to the merged entity between [0-10]% and [0-10]%. The transaction will eliminate a comparatively small player in Denmark where Memec has market shares of [0-10]%. In Norway it will lead to the combination of two medium-sized players (both between [10-20] and [10-20]%). A similar situation, however, on a higher market share level prevails in France,

where Arrow will continue to lead with [35-45]% and Avnet will follow with [30-40]%. The rest of the market is split among small local players and international companies, such as Future Electronics ([0-10]%) and Rutronik ([0-10]%). In any case, it cannot be expected that the parties will be able to act independently of their competitors since Arrow, due to its superior size, is able to restrain any price-increasing strategy by Avnet.

34. In the UK, Arrow will lose its previously leading position following the transaction. However, after the merger, its strength as number two in the market is very similar to that of Avnet. Avnet will have [20-30]% and Arrow [20-30]%. This market structure does not give rise to serious concerns since the combined market share reached remains in a still fairly uncritical field with the merging parties being in addition contested by a competitor of equal size.
35. In Austria, Belgium and Poland quite similar market structures result from the merger. While the merging parties will have a market share ranging between [25-35]% and [25-35]%, the next biggest competitor (Arrow in Austria and Belgium; Future Electronics in Poland) follow with market shares between [10-20]% and [10-20]%. In all three countries some small- to medium-sized players follow: In Austria Eurodis and Codico with [5-15]% and [0-10]% respectively, in Belgium Eurodis, Nijkerk and Alcom with [0-10]%, [0-10]% and [0-10]%. In Poland, Arrow follows with [0-10]%. This market structure suggests that in all three countries there are also after the merger sufficient alternatives to the customers who will still be able to choose among several medium- and small-sized distributors. The market investigation has not shown any specific concerns with respect to these countries arising from the merger.
36. The highest market shares and greater distances to the following competitors are reached in Finland, Ireland and Slovenia.
  - In Finland Arrow will follow the merged entity ([30-40]%) with a market share of [25-35]%. The rest of the market is fragmented. Among the competitors with small market shares are also international players, such as Future Electronics, Acal and Abacus.
  - In Ireland, the distance between the merged entity and the next biggest competitors is also significant, since Avnet and Memec will have a market share of [25-35]% while Arrow will follow with [5-15]% and Future Electronics with [0-10]%.
  - Contrary to the other countries discussed, for Slovenia no market data is publicly available. The parties provided an estimation which resulted in a combined market share of [40-50]% (Avnet: [30-40]%; Memec: [10-20]%). The Commission's own calculations taking into account the main competitors in this market result in a market share of [35-45]% for the merged entity. However, it has to be noted that this may not cover the total market volume and therefore that the real market share is likely slightly lower. In addition, the analysis of the market structure has shown that there are two medium-sized competitors with market shares of [<30]% followed by some smaller players.
37. Even though the market structure shows a significant degree of concentration, the market investigation did not reveal any serious competition concerns in these three countries. In Finland, Arrow has a significant strength which can be assumed to be capable of sufficiently restraining Avnet's behaviour. Even though the following competitors are small, no unchallengeable market position was expected by the Finnish respondents. It can, moreover, be assumed that the international players who are located in Finland and

have so far rather small positions could expand their businesses without major difficulties in case customers looked for alternatives to Avnet.

38. Also in Ireland, Arrow can be regarded as a significant competitor even though its market share is low. In case it is necessary Arrow clearly has the ability and financial strength to expand and to restrict anti-competitive behaviour in a situation where the parties' combined market share only slightly exceeds [25-35]%. Such a market position does not per se create competition concerns since the remaining market volume is still very large and the possibility to find alternative suppliers is still large even if these alternatives are small companies. Moreover, the proximity of the U.K. market has to be taken into account. Ireland has a market volume of [130-150] million Euro, whereas the UK has a market volume of [940-960] million Euro. In the UK, the competitors Future Electronics and Abacus have semiconductor sales of [60-70] million Euro and [70-80] million Euro respectively. Even though they have with these sales only small market shares in the large UK market, it can be assumed that they could due to their size also expand their currently small activities in Ireland in case the parties increased prices. The geographical proximity and the absence of language barriers also lowers the barriers to entry into Ireland for other competitors active in the UK.
39. In Slovenia the parties reach with [35-45]% the highest market share. There are, however, credible medium-sized competitors available as alternatives. In this country it has to be noted, moreover, that the total market volume only accounts for around [15-25] million Euro. Germany as the largest market for semiconductors has a volume of 2.5 billion Euro. Austria as a neighbouring country to Slovenia has a market volume of [180-200] million Euro, whereas Hungary has [120-140] million Euro.
40. It seems that the Slovenian market therefore may not offer sufficient space for a large number of competitors. Moreover, it is likely that a switch of only a few customers could completely reverse the situation in favour of other competitors in terms of market shares. It also has to be considered that Memec does not have a sales office in Slovenia but serves the market from Vienna. A small market volume may lead to a situation in which own sales offices can often not be run profitably in the country. Even though, for the purposes of this decision, national markets were defined on grounds of the technical service and sales offices which tend to be present on a national basis, here the small size of the market has to be taken into account in explaining why its structure is more concentrated than other national markets. There would seem to be no apparent reason why other competitors, in particular the international groups which are present in Austria or Hungary, could use a strategy similar to the one which was used by Memec and serve the market from Austria, where for example Eurodis is present, or from Hungary, where Future Electronics is located. Both these companies are not yet active in the Slovenian market, but belong to the group of internationalized players and are therefore experienced in expansion into new geographical markets.
41. Overall it can be stated that even though the market shares reached by the merging parties are high in some countries, the market investigation has not shown any serious competition concerns. In all affected markets, Arrow was perceived as the closest competitor to Avnet, being due to its similar strategy and overall stronger position even with lower market shares in some of the countries very well able to effectively restrain Avnet's future market position. Memec, on the other hand, was seen as a niche-player whose acquisition by Avnet would not significantly change the market structure.
42. Moreover, the manufacturers of the electronic components are able to restrain Avnet's market power. It can be expected that a price increase by Avnet – which would be an

increase of the margin on the purchasing price from the manufacturers – would not only be to the detriment of the customers but would also directly affect the sales of the manufacturers themselves since with a higher price the quantity sold in the market could be expected to decrease. The manufacturers would have an incentive to conclude their franchise contracts with other distributors in the markets in order to avoid the risk of losing sales due to a monopolistic distributor. These contracts are usually not concluded on a long-term basis (mostly one year). A switch of distributors is therefore quickly possible. Indeed, the manufacturers already use a mixture of internationalized and local distributors. It can, therefore, not be assumed that they are limited to the biggest groups in the market and thereby restrained in their possibilities to switch.

43. In the light of all the fore-going factors and given that the market investigation has not brought to light any serious concerns overall with regard to the competitive impact of the operation, the Commission considers that the proposed transaction will not significantly impede effective competition in the common market or in a substantial part of it, in particular as a result of the creation or strengthening of a dominant position.

#### **IV. CONCLUSION**

44. 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 (EC) No 139/2004.

For the Commission  
*(signed)*  
Jacques BARROT  
Member of the Commission