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***Case No COMP/M.6833 - GOLDMAN SACHS/ TPG  
LUNDY/ BRITANNIA LIVING GROUP LIMITED***

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: 08/03/2013

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Brussels, 8.3.2013  
C(2013) 1516 final

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 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 Where possible the information omitted has been replaced by ranges of figures or a general description.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

**To the notifying parties:**

**Subject: Case No COMP/M.6833 - GOLDMAN SACHS/ TPG LUNDY/  
BRITANNIA LIVING GROUP LIMITED  
Commission decision pursuant to Article 6(1)(b) of Council Regulation  
No 139/2004<sup>1</sup>**

1. On 5 February 2013, the European Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 by which the undertakings The Goldman Sachs Group, Inc. ("Goldman Sachs", USA) and TPG LundyCo, L.P. ("TPG Lundy", Cayman Islands), ultimately controlled by the TPG Group (USA), acquire within the meaning of Article 3(1)(b) of the Merger Regulation joint control of Britannia Living Group Limited ("Britannia", UK), by way of purchase of shares.<sup>2</sup>
2. Goldman Sachs and TPG Lundy are hereinafter referred to as "the Notifying Parties".

**(1) THE PARTIES AND THE OPERATION**

3. Goldman Sachs provides financial services as a global investment banking, securities and investment management firm.

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<sup>1</sup> OJ L 24, 29.1.2004, p. 1 ("the Merger Regulation"). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ("TFEU") has introduced certain changes, such as the replacement of "Community" by "Union" and "common market" by "internal market". The terminology of the TFEU will be used throughout this decision.

<sup>2</sup> Publication in the Official Journal of the European Union No C 41, 13.2.2013, p. 13.

4. TPG Group is a global private investment firm that manages a family of funds that invest in a variety of companies through acquisitions and corporate restructurings. TPG Lundy is a newly formed investment vehicle with financing from the investors of the TPG Group.
5. Britannia is active in the distribution of cooking appliances, cooker hoods and cooking accessories, as well as sale of spare parts for the appliances and provision of after sales services in the form of repair and maintenance of appliances. Britannia is currently controlled by the Lloyds Banking Group (“LBG”), a UK-based financial services group.
6. Following a Sale and Purchase Agreement (“SPA”) signed on 13 August 2012, the Parties are acquiring from LBG a portfolio of debt, equity and/or hedging interests (collectively, the “Lundy Portfolio”), including 45% of the voting rights in Britannia.
7. The Parties will hold their interests in Britannia through Remich Holding I, S.à r.l. (“Remich I”) [...].<sup>3</sup> [...] Remich I [...] will be wholly owned by Lundy, L.P. (“JVCo”), in which each of TPG Lundy (and/or its affiliates) and Goldman Sachs (and/or its affiliates) will hold 50% of the voting interests. The general partner of the JVCo will be Lundy GenPar Ltd. (“GenPar”), in which each of TPG Lundy and Goldman Sachs will hold 50% of its share capital. GenPar will have the right to manage the affairs of JVCo.<sup>4</sup> TPG Lundy and Goldman Sachs will jointly control GenPar (and therefore JVCo) and Remich I by means of a shareholders’ agreement and the constitutional documents of GenPar, JVCo and Remich I (the “Governance Documents”). The Governance Documents will give each of TPG Lundy and Goldman Sachs the right to nominate two directors or managers to the boards of GenPar [and] Remich I [...].<sup>5</sup> The boards of GenPar [and] Remich I [...] will therefore require the approval of both TPG Lundy and Goldman Sachs nominees in order to make decisions or pass resolutions.
8. According to Britannia's Subscription and Shareholders Agreement of 29 January 2010, 45% of the voting rights will give the Parties veto rights over important decisions, including the appointment and removal of any director, the appointment and removal of senior managers and changes to the annual budget.<sup>6</sup>
9. In addition, the remaining shares in Britannia are currently held by individual members of the management (14.14% of the total ordinary shares with 35% of the voting rights) and Graphite Capital Partners (20.20% of the total ordinary shares with 20% of the voting rights). The management members and Graphite Capital Partners do not have any veto rights over Britannia’s strategic decisions. Accordingly, the management and Graphite Capital Partners do not have joint control over Britannia.

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<sup>3</sup> [...].

<sup>4</sup> Clause 2.1 of the Amended and Restated Agreement of Exempted Limited Partnership in respect of Lundy, L.P..

<sup>5</sup> Clause 6.1 and 6.2 of the Shareholders’ Agreement in respect of Lundy GenPar, Ltd, as well as Clause 2.1 of the Lundy LP Agreement

<sup>6</sup> Clause 8 and Schedule 7 of the Subscription and Shareholders Agreement.

10. Consequently, the proposed transaction will result in the acquisition by Goldman Sachs and TPG Lundy of joint control over Britannia.<sup>7</sup>
11. In view of the above, the notified operation therefore constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

## **(2) EU DIMENSION**

12. The undertakings concerned have a combined aggregate world-wide turnover<sup>8</sup> of more than EUR 5 000 million<sup>9</sup> (Goldman Sachs: EUR 29 540 million; TPG Group: EUR [...] million; Britannia: EUR [...] million). The first two of them have an EU-wide turnover in excess of EUR 250 million (Goldman Sachs: EUR [...] million; TPG Group: EUR [...] million), but they do not achieve more than two-thirds of their aggregate EU-wide turnover within one and the same Member State. The notified operation therefore has an EU dimension.

## **(3) RELEVANT MARKETS**

13. The Notifying Parties submit that the proposed operation is a purely financial investment transaction and that neither Goldman Sachs nor the TPG Group, nor any of their controlled portfolio companies, are active in the same markets as Britannia or in vertically related markets. The transaction will therefore not result in any horizontal overlaps or vertical relationships between the activities of Britannia on the one hand and those of Goldman Sachs or the TPG Group, or any of their controlled portfolio companies on the other hand.
14. Similarly, to the extent that the Notifying Parties' activities overlap in investment banking, financial market services, private equity, and asset management services, the Notifying Parties' shares do not give rise to affected markets.

### **A. Market definitions**

#### *(i) Markets for cooking appliances, cooker hoods and cooking accessories*

15. Cooking appliances typically consist of a hob and/or one or more ovens. Hobs and ovens may be supplied separately or together. Cooking appliances also include freestanding stand-alone appliances offering oven and hob cooking facilities. Britannia offers range cookers, built-in ovens and built-in hobs. Hoods are appliances for extracting cooking vapours from above a cooking appliance. Hoods either filter and recycle the cooking vapours back into the kitchen, or pass the vapours outside the house by way of a dedicated vent. Britannia designs and sells a selection of hoods comprising island, wall-mounted and canopy variants. Cooking accessories equip cooking appliances by adding the interior and exterior devices that facilitate cooking. Britannia offers cooking accessories including cast iron griddles, cast iron wok supports, pan

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<sup>7</sup> In line with the Consolidated Jurisdictional Notice, paras. 65 and 69.

<sup>8</sup> Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Consolidated Jurisdictional Notice (OJ C 95, 16.4.2008, p. 1).

<sup>9</sup> Based on Goldman Sachs' 2010 turnover, and TPG Group's and Britannia's 2011 turnover. Furthermore, according to Goldman Sachs the company did not achieve more than two-thirds of its aggregate EU-wide turnover in 2011 in one Member State.

supports, oven shelves, back panels, oven liners, bake liners, cleaning kits and plinth kits which conceal a cooker's legs.

16. In *Merloni/GE/GDA JV* and *Electrolux/AEG*,<sup>10</sup> the Commission identified separate markets for various domestic appliances such as cooking appliances and hoods, although it ultimately left the market definition open. The Notifying Parties agree with the Commission's precedents and submit that further sub-divisions within cooking appliances and hoods markets are not warranted.
17. In *Merloni/GE/GDA JV*,<sup>11</sup> the Commission left open the question of whether the relevant geographic market for each category of domestic appliances is EEA-wide or national. The Notifying Parties consider that due to particular features of the UK market the relevant market should be limited to the UK.

(ii) Market for out-of-warranty repair and maintenance services

18. In *Merloni/GE/GDA JV*, the Commission identified a separate market for out-of-warranty repair services. These services refer to after sale repair services for domestic appliances no longer under the manufacturer's initial warranty provided on an *ad hoc* or an extended warranty basis.<sup>12</sup> The Notifying Parties agree with this market definition.
19. In *Merloni/GE/GDA JV*, the Commission defined the relevant geographic market for out-of-warranty repair services as national in scope. The Notifying Parties agree with this market definition.

(iii) Financial markets

20. Goldman Sachs and TPG Lundy's activities overlap internationally in the areas of investment banking, corporate finance, and the private equity segment of the corporate finance market or asset management services (although they typically invest in different assets).
21. In any event, the exact scope of the relevant market definitions can be left open in this case since the transaction does not raise serious doubts as to its compatibility with the internal market under any reasonable alternative market definition.

**(4) COMPETITIVE ASSESSMENT**

22. None of the companies controlled by Goldman Sachs or the TPG Group is active in the same markets as Britannia or in vertically-related markets. The proposed transaction will therefore not result in any horizontal overlaps or vertical relationships between the activities of Britannia and those of Goldman Sachs or the TPG Group, or any of their controlled portfolio companies.
23. The Commission also assessed whether the proposed transaction will give rise to any risk of spill-over effects within the meaning of Article 2(4) of the Merger Regulation,

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<sup>10</sup> Cases COMP/M.2703 – *Merloni/GE/GDA JV*, COMP/IV.458 – *Electrolux/AEG*.

<sup>11</sup> Case COMP/M.2703 – *Merloni/GE/GDA JV*.

<sup>12</sup> Case COMP/M.2703 – *Merloni/GE/GDA JV*.

between the activities of each of the Notifying Parties and/or their respective portfolio companies. The activities of Britannia appear unrelated to the activities of either of the Notifying Parties or the activities of their portfolio companies. Furthermore, the proposed transaction represents only a small part of the Notifying Parties' portfolio. The Commission therefore considers that the proposed transaction is highly unlikely to give rise to any anti-competitive spill-over effects within the meaning of Article 2(4) of the Merger Regulation.

**(5) CONCLUSION**

24. For the above reasons, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation.

*For the Commission  
(signed)*

*Joaquín ALMUNIA  
Vice-President*