EN

Case No IV/M.757 - 3M / Hoechst

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REGULATION (EEC) No 4064/89
MERGER PROCEDURE

Article 6(1)(b) NON-OPPOSITION
Date: 18/07/1996

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 18.07.1996

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying parties

Dear Sirs,

Subject : Case No IV/M.0757- 3M/Hoechst
Notification of **19.06.1996** pursuant to Article 4 of Council Regulation No 4064/89

1. On 19 June 1996 the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No. 4064/89 by which the undertakings Minnesota Mining and Manufacturing Company (3M) and Hoechst AG (Hoechst) acquire within the meaning of Article3(1)(b) of the Council Regulation joint control of a newly created company, constituting a joint venture, by way of an agreement.

2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of the Council Regulation and does not raise serious doubts as to its compatibility with the common market and with the functioning of the EEA Agreement.

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I. THE PARTIES' ACTIVITIES AND THE OPERATION

3. The business activities of the undertakings concerned are :

- for 3M : A wide range of products for both the industrial and consumer sector including abrasives, chemicals, film products, health care products, office and automotive products.

- for Hoechst: Research, development, production and sales of chemical, pharmaceutical and agricultural products.

4. The joint venture will be jointly controlled by 3M and Hoechst. After completion of the concentration 3M and its subsidiaries will hold 54% of the shares in the joint venture, and Hoechst and its subsidiaries 46%. Furthermore, the joint venture will perform, on a lasting basis, all the functions of an autonomous economic entity and its creation will not give rise to coordination of competitive behaviour of the parties amongst themselves or between them and the joint venture.

II. COMMUNITY DIMENSION

5. Both 3M and Hoechst have a combined aggregate worldwide turnover in excess of ECU 5,000 million (3M, ECU 12,500 billion and Hoechst, ECU 28,181 billion). Each of them has a Community-wide turnover in excess of ECU 250 million (3M, ECU 3,066 billion and Hoechst, ECU 13,771 billion), but they do not achieve more than two-thirds of their aggregate Community turnover within one and the same Member State. The notified operation therefore has a Community dimension, but does not constitute a cooperation case under the EEA Agreement.

III. COMPATIBILITY WITH THE COMMON MARKET

A. Relevant product markets

6. The businesses being contributed from Hoechst to the joint venture are PTFE and melt processable fuoroplastics and, from 3M, fluoroelastomers. The notifying parties state that there are relevant product markets for PTFE, melt processable fluoroplastics and fluoroelastomers. This is confirmed by both competitors and customers. However, it is not necessary to conclude on the definition of the relevant product markets because, in all alternative markets considered, effective competition would not be significantly impeded in the EEA or any substantial part of that area.

B. Relevant geographic markets

7. The relevant geographic market appears to be at least regional. Some customers consider the market to be global. However, it is not necessary to further identify the relevant geographic market because, in all alternative markets considered, effective competition would not be significantly impeded in the EEA or any substantial part of that area.

C. Assessment

8. The only product market in which there is an overlap is that of the melt processable fluoroplastics market in which the parties' combined worldwide market share in 1995 was approximately 2.3%. However, it must be pointed out that 3M, which contributed 0.3% to this figure from its activities in PCTFE and THV, ceased its PCTFE activities in December 1995. Consequently, any remaining overlap is minimal.

9. In view of the market share of the notifying parties, it appears that the notified operation will have a de minimis impact on competition in the European Union and, consequently, effective competition would not be significantly impeded in the EEA or any substantial part of that area.

IV. ANCILLARY RESTRAINTS

10. The joint venture agreement contains a non-compete clause in respect of the parents and the joint venture. Such a clause falls within the scope of paragraph III-A of the Commission's notice regarding ancillary restrictions. Consequently, the clause may be considered as ancillary as it is directly related to and necessary for the implementation of the concentration in order to protect the value of the assets transferred.

V. CONCLUSION

11. 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 functioning of the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of Council Regulation No 4064/89.

For the Commission,