



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 22.12.1997

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying party

Dear Sirs,

Subject: Case No IV/M.1067 Merrill Lynch/Mercury

Notification of 20.11.1997 pursuant to Article 4 of Council Regulation N/ 4064/89

1. On 20.11.1997, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 by which Merrill Lynch & Co., Inc. ("Merrill Lynch") acquires control of the whole of Mercury Asset Management Group plc ("Mercury") by way of a recommended cash offer for the issued share capital.
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' ACTIVITIES AND THE OPERATION

3. Merrill Lynch is an US global investment bank. It provides advice to, and raises capital for, its clients, and is an underwriter of selected insurance products. It is a leading broker in securities, option contracts and commodities and financial futures contracts; a leading dealer in options and corporate and municipal securities; and a provider of asset management services.
4. Mercury is a leading UK fund management business. Its principal activity comprises the provision of investment management and advisory services.
5. After completion of the operation Merrill Lynch will acquire sole control of Mercury thus constituting a concentration within the meaning of Article 3(1)(b) of the Council Regulation.

II. COMMUNITY DIMENSION

6. Merrill Lynch and Mercury achieve a combined aggregate worldwide turnover in excess of ECU 5,000 million (Merrill Lynch, ECU 16,776.2 million; and Mercury, ECU 513.2 million). Each of them has a Community-wide turnover in excess of ECU 250 million (Merrill Lynch, ECU 3,287.9 million; and Mercury, ECU 377.18 million). As regards Mercury, which is active in the fund management business, the parties have provided a calculation based on banking income, in line with point 58 of the Commission Notice on Calculation of Turnover. Only Mercury achieves two-thirds of its Community turnover in the UK. The notified operation has therefore a Community dimension.

III. COMPETITIVE ASSESSMENT

7. The only overlap between Merrill Lynch and Mercury is in respect of assets management or investment management services. Their activities in this sector appear to be largely complementary. Asset management services include the creation, establishment and marketing of retail pooled funds (mutual funds, unit trusts, investment trusts and open ended investment companies), and the provision of portfolio management services to pension funds, institutions, international organisations and private investors.
8. For the purpose of the present case it is not necessary to decide, whether these segments amount to relevant product markets, neither is it necessary to decide upon the geographic dimension of these markets. On the basis of the assessment set out below, a dominant position would not be created or reinforced even on the narrowest market definition.
9. Market shares for these activities are difficult to assess. Participants in the investment banking and other financial services business tend for some areas to rely on “league tables”. These are designed to give an indication of the relative market position and performance in what is a fragmented business sector. The Commission considered also in previous cases that league tables adequately reflect the market position of companies involved in this business.¹
10. According to the information contained in the league tables, there are no markets, however they are defined in terms of product and geographic dimension, where the parties’ combined share would exceed 15%. The only segment where the parties’ activities overlap is that of mutual funds in Luxembourg, where the parties combined share would be less than 2%.
11. Asset management services is a fragmented sector, where a number of important groups like AXA, Barclays, UBS, Schroeder, Morgan Grenfell and many others ensure a high degree of competition. Thus, the present merger does not appear to raise any concern.
12. In view of the position of the parties to the concentration in the affected area, it appears that the notified operation will not create or strengthen a dominant position as a result of which effective competition would be significantly impeded in the EEA or any substantial part of that area.

¹ Case IV/M. 642, Chase Manhattan / Chemical Banking, para. 13.

IV. CONCLUSION

13. 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,