

***Case No IV/M.1090 -
GRE / PPP***

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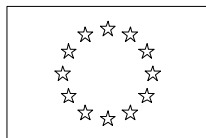
**REGULATION (EEC) No 4064/89
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION

Date: 16/02/1998

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 16.02.1998

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying parties

Dear Sirs,

**Subject: Case No IV/M.1090 - GUARDIAN ROYAL EXCHANGE ASSURANCE PLC ('GREA')/PPP HEALTHCARE GROUP PLC ('PPP')
Notification of 13.01.98 pursuant to Article 4 of Council Regulation No 4064/89**

1. On 13.01.98, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 by which the undertaking GREA, a wholly-owned subsidiary of Guardian Royal Exchange plc (GRE), acquires within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of the issued share capital of PPP 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' ACTIVITIES AND THE OPERATION

3. The business activities of the undertakings concerned are :
 - for GREA and GRE: life and general insurance underwriting and administration, financial services and investments, worldwide;
 - for PPP :private medical insurance underwriting and administration and associated services, principally in the United Kingdom.
4. Both parties are active in private medical insurance (PMI), almost exclusively in the UK. PMI insures individuals and groups against the costs of private medical

treatment, essentially for acute conditions. In the UK, customers buy PMI if they wish to supplement state-funded treatment (under the National Health Service - NHS), notably by earlier access to treatment in non-urgent cases, and a private bed or room in hospital. At present, around 10% of the UK population is covered by PMI of some kind.

II. COMMUNITY DIMENSION

5. GRE and PPP have a combined aggregate worldwide turnover (1996) in excess of ECU 5,000 million (GRE, ECU 5,232 million; and PPP ECU 885 million). Each of them has a Community-wide turnover in excess of ECU 250 million (GRE, ECU 3,889 million; and PPP, ECU 863 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, but does not constitute a cooperation case under the EEA Agreement.

III. COMPETITIVE ASSESSMENT

A. Relevant product market(s)

6. The notifying parties suggest that the relevant product market is that for all non-life insurance. However, it is not necessary to further delineate the relevant product markets because, in all alternative market definitions considered, effective competition would not be significantly impeded in the EEA or any substantial part of that area.

B. Relevant geographic market(s)

7. The notifying parties state that the relevant geographic market is the UK. However, it is not necessary to further delineate the relevant geographic markets because, in all alternative geographic market definitions considered, effective competition would not be significantly impeded in the EEA or any substantial part of that area.

C. Assessment

8. On the basis of a product market for all non-life insurance, the parties' combined share in the UK (net premium income, 1996) would be approximately 5% (increment to GREA 2%). On any wider geographic basis the shares would be smaller, and there are only minimal overlaps outside the UK. On the narrowest plausible alternative product market definition, private medical insurance (PMI), the parties' combined share would be 30% in the UK, although the increment would be only 3%. PPP is the second-largest supplier in the UK of PMI, behind BUPA (which specialises in PMI and has approximately 42%). GREA, on the other hand, ranks only sixth. Entry barriers into PMI do not appear significant, at least for established life and/or general insurers. Several have entered the sector, which is broadly profitable and expanding, in recent years, notably Norwich Union (which has taken a share of 8% in some six years) and Legal and General, which entered in 1996. There remain a number of other large insurers well-established in the UK who do not offer

PMI at present but appear capable of doing so, and so constitute potential competitors.

9. In view of the these factors, the notified operation will have only a minimal impact on competition in the EEA. Consequently, the proposed concentration does 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.

IV. ANCILLARY RESTRICTIONS

10. The operation includes a non-compete clause, under which PPP healthcare foundation limited (holding company for the PPP group) undertakes that for a period of three years from the date of the operation it will not carry on a competing business, solicit customers for such a business, or solicit the services of senior employees from the merged business. In addition there are trade mark agreements [¹ ...]. The non-compete clause is of the type envisaged as ancillary by paragraph III.A.1 of the Commission notice on ancillary restrictions. It has the normal scope for cases involving the sale of a business, and given that PMI insurance products generally have a long life cycle, and that individual customers, at least, are likely to remain loyal to their chosen insurer for several years, its length may also be considered acceptable within the terms of paragraph III.A.2 of the Commission notice. The trade mark agreements can also be regarded as ancillary, in that the PPP trademark is a valuable part of the assets of the PPP business;² [...] paragraphs III.B.2 and 4 of the Commission notice refer.

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

For the Commission,

¹ Deleted for publication

² Deleted for publication