

***Case No IV/M.1179 -  
TECH DATA /  
COMPUTER 2000***

Only the English text is available and authentic.

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

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Article 6(1)(b) NON-OPPOSITION  
Date: 03/06/1998

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 3/6/1998

PUBLIC VERSION

MERGER PROCEDURE  
ARTICLE 6(1)(b) DECISION

To the notifying party

**Case No. IV/M.1179 - TECH DATA/COMPUTER 2000**

**Dear Sirs,**

1. On 27.04.1998, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89<sup>1</sup> by which the undertaking TECH DATA CORPORATION acquires within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of the undertaking COMPUTER 2000 AG.
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 functioning of the EEA Agreement.

**I. THE PARTIES**

3. Tech Data is a wholesale distributor of microcomputer-related hardware and software products and a provider of the related services of after-sale support, training and financial services to customers. It carries out these activities throughout the U.S., Canada, Latin America, the Caribbean, and in Europe through its subsidiaries, Tech

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<sup>1</sup> OJ L 395, 30.12.1989 p. 1; corrected version OJ L 257 of 21.9.1990, p. 13; as last amended by Regulation (EC) No 1310/97, OJ L 180, 9. 7. 1997, p. 1, corrigendum in OJ L 40, 13.2.1998, p. 17.

Data France and Macrotron AG, which it acquired in 1997. In the community, Tech Data is mainly active in Germany and France, to a lesser degree in Austria, and has a limited presence (Belgium, Denmark, Italy, the Netherlands, Spain, Sweden and the UK), or no presence (Portugal, Luxembourg, Ireland, Greece and Finland) in the other Member States.

4. The target company, Computer 2000, is also a wholesale distributor of information technology (IT) products, active in a broad range of products such as personal computers, software, network products, peripheral and communication products, as well as a provider of related services of the type offered by Tech Data. Computer 2000 carries out these activities throughout the Community, with the exception of Greece, but its most important presence is in Germany where it generates approximately one third of its turnover.

## **II. THE OPERATION**

5. The notified transaction will result in Tech Data acquiring sole control of Computer 2000. In this respect, it should be noted that by acquiring 79.88% of the shares in Computer 2000, Tech Data will be able to control the shareholders' meeting decisions, which are taken either by simple majority of the votes cast or, in a number of cases, by majority of the capital. Accordingly, Tech Data will control both the Supervisory Board (where the majority of the members are elected by vote of the shareholders' meeting) and the Management Board (which is appointed by the Supervisory Board).

## **III. CONCENTRATION**

6. As the operation will result in Tech Data acquiring sole control of Computer 2.000, it constitutes a concentration within the meaning of Article 3 (1) (b) of the Merger Regulation.

## **IV. COMMUNITY DIMENSION**

7. The undertakings concerned have a combined aggregate world-wide turnover in excess of ECU 5,000 million (Tech Data, ECU [...]<sup>2</sup>; Computer 2000, ECU [...]<sup>3</sup>. Each of them has a Community-wide turnover in excess of ECU 250 million (Tech Data, ECU [...]<sup>4</sup>; Computer 2000, ECU [...]<sup>5</sup>), 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, and does not constitute a co-operation case under the EEA Agreement.

## **V. THE RELEVANT MARKET**

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## The Relevant Product Market

8. The activities concerned in the operation and in which both Tech Data and Computer 2000 are active, consist of the wholesale distribution of IT products, and the related services of after-sales support, training and financial services to customers, which represent a minor activity in comparison to the said core business.
9. With regard to both after-sales support and training, they can be either free to the customer or subject to a fee charge, but in the case of financial services, they consist essentially of advice and assistance to customers with regard to how to manage trade credit.
10. With regard to the core business of wholesale distribution, this consists of the supply of a broad range of IT products, such as, *inter alia*, hardware systems, software, peripherals, networking, to a very large number of retail customers. In this respect, demand in the market for wholesale distribution of IT products and services is mainly constituted by three categories of retail customers, i.e. *i*) superstores who primarily sell computer products, large office supply chains and smaller independent establishments, *ii*) value-added resellers, “vars”, who typically integrate proprietary software with products provided by manufacturers and distributors, and *iii*) corporate resellers, who typically provide their corporate customers with large bulk purchases and installations, involving more complicated networking solutions over a very large geographic region. The customer base constituted by these three categories of customers is very large. In Europe, Tech Data itself has some [...] <sup>6</sup>customers in Europe and Computer 2000 has some [...] <sup>7</sup>customers.
11. The wholesale distribution of IT products is typically characterised by three main features, namely logistic capacities, fast delivery and a more or less broad variety of products. In this respect, a typical wholesaler active in this channel is generally supplied by a large number of manufacturers and publishers (e.g. Canon, Compaq, IBM, Microsoft, etc.), maintains a significant stocking inventory of IT products (over 45.000 in the case of Tech Data), and ensures customers fast delivery (normally within a day). Within this category, should also be included distributors who are focused on few brands and are smaller in size, as long as they perform this activity with the same characteristics described above, notably supplying a certain variety of items and brands, keeping stocks for the client and ensuring fast delivery.
12. There are several indications that the wholesale of IT products is to be considered as one single product market. In particular, the demand is directed towards a variety of IT products. In addition, given the delivery within a day service which characterizes the wholesale channel, a large stocking inventory is a further characteristic directly relevant to the product market definition.
13. Furthermore, in one of its prior decisions concerning the same activities<sup>8</sup>, the Commission itself has stated that the wholesale of IT products forms one single product market as the demand is directed towards a whole range of IT products,

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<sup>6</sup> deleted for publication

<sup>7</sup> deleted for publication

<sup>8</sup> See case no.IV/M.492 – Klöckner & Co./Computer 2000 AG.

given that the retail customers require an extensive variety of products from the wholesalers.

14. As a consequence, the product market to be taken into account for the purpose of this case is the wholesale of IT products with the characteristics described above.

### **The Relevant Geographic Market**

15. With regard to the relevant geographic market, the notifying party contends that it comprises the European Union, due mainly to the lack of any technical barriers for the use of IT products across the different Member States. Furthermore, the party points out that there are no significant price differences between Member States and indicates that between 15 and 20% of the 1997 turnover within the Community was derived from cross-border deliveries.
16. However, there are indications that the geographic market may be smaller in scope. In this respect, firstly there are language differences which can still influence the demand for IT products. Indeed, retailers tend to act nationally as well as distributors organise their activity on a national basis. Moreover, the “within a day” delivery service, which is characteristic of this distribution channel, constitutes a significant barrier to inter-State trade in this market, with the exception of some cross-border trade in the case of those borders which do not constitute important language barriers, e.g. Belgium/France, Germany/Austria. But even in such cases, it would appear that the actual purchase may often be one of a “pick-up” nature and it seems that many products are “localized”, thus requiring a local presence at a national level. In the same context, the provision of the related after-sales services of training and technical support requires a national presence on the part of the wholesale distributor.
17. Thus, all the above-described factors lead to the conclusion that the market for the wholesale distribution of IT products is more national in character than European, while it may in some instances, as mentioned above, have a certain regional (cross-border) scope. Indeed the Commission in its decision in the Klöckner/Computer 2000 case in 1994 considered the geographic scope to be more of a national or regional dimension, though the question was finally left open. It can also be left open in the present case as, even taking the narrowest possible option, the operation will have no significant impact on competition.

## **VI. ASSESSMENT**

18. The operation will affect especially Germany, France and Austria where the parties’ market shares significantly overlap. In particular, in Germany, the new entity resulting from the merger will reach a market share of [...] <sup>9</sup>, becoming the largest operator. Similarly, in Austria, the parties’ combined market shares will be [...] <sup>10</sup>. In France their combined market shares will be [...] <sup>11</sup>. In Spain, Belgium, Finland and Netherlands the new entity will also have significant market shares, ([...] <sup>12</sup>, [...] <sup>13</sup>,

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<sup>9</sup> deleted for publication; between 15 and 25 %

<sup>10</sup> deleted for publication; between 15 and 25 %

<sup>11</sup> deleted for publication; between 5 and 10 %

<sup>12</sup> deleted for publication; between 20 and 30 %

[...]14, and [...]15 respectively), but its market position will be virtually left unchanged given that in these countries there is very marginal (Spain, Belgium and Netherlands) or no overlap (Finland) between the parties' sales.

19. In assessing the significance of the combined market shares which will result from the operation in the above mentioned national markets, several factors relating to the specific conditions reigning in these markets have to be taken into account. Firstly, in each of these Member States there are several other large players in the market. In particular, in Germany, the closest player, CHS/Merisel/F&W (CHS), has a share of [...]16 and still two others (Peacock and Actebis) hold [...]17. Similarly, in France there are two players with relatively large shares, CHS [...]18 and Metrologie [...]19 (which are currently merging), and still others with shares [...]20. In Austria, there are three other players, CHS, Hayward and NDS, with a market share approaching half that of the combined share of Tech Data/Computer 2000. Also in the other EU countries concerned by the transaction, there are many large competitors such as Ingram (the largest worldwide distributor who is also market leader in many of these countries) and others.
20. Furthermore, given the number and position of the other players in all the above markets and given the lack of loyalty which is characteristic of the typical customer of this type of broad range IT product wholesaler, the conditions on the market concerned by the operation appear to be highly competitive.
21. Moreover, this market appears to have a very high growth rate (approximately 17%) and such growth is likely to render the market inviting for new competitors to enter.
22. Finally, it should also be taken into account the fact that IT wholesalers are exposed to some extent to the competitive pressure from manufacturers performing direct distribution.
23. In the light of all the above-described factors, 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.

## VII. ANCILLARY RESTRAINTS

24. The parties have agreed on a non competition clause for a period of three years under which the seller shall not compete with the company being transferred to the purchaser. As this clause serves to guarantee the transfer to the acquirer of the full

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value of the business being acquired, it is directly related and necessary to the implementation of the concentration.

## **VIII. CONCLUSION**

25. 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