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***Case No IV/M.1366 -
PARIBAS / CDC /
BEAUFOUR***

Only the English text is available and authentic.

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

Article 6(1)(a) INAPPLICABILITY
Date: 09/12/1998

*Also available in the CELEX database
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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 09.12.1998

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EEC) No 4064/89 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 Where possible the information omitted has been replaced by ranges of figures or a general description.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
ARTICLE 6(1)(a) DECISION

Dear Sirs,

Subject: Case No IV/M.1366 - PARIBAS/CDC/BEAUFOUR

Notification of 09.11.1998 pursuant to Article 4 of Council Regulation No 4064/89

1. On 09.11.1998, the Paribas Group, la Caisse des Dépôts et Consignations (CDC) and Mr. Albert Beaufour notified an operation concerning the restructuring of the Beaufour Group.
2. After examination of the notification, the Commission has concluded that the notified operation does not fall within the scope of application of the Merger Regulation.

I. THE PARTIES

3. Albert Beaufour and his family control [...] of the Beaufour Group which is active in the pharmaceutical sector. The other [...] is held by his brother Gérard Beaufour and his family. The Beaufour Group is the third largest privately owned pharmaceutical company in France and develops, manufactures and markets ethical pharmaceuticals in the world-wide.
4. The Paribas Group is a French banking group active in the provision of a variety of general and specialised commercial banking services.
5. CDC is a French public sector institution. Historically it has acted with the French authorities to advance the country's economic and social development and the modernisation of the financial sector. Today it is a financial group and fund manager carrying out both public sector projects and open market activities.
6. The Schwabe family (Schwabe) own and control a German pharmaceutical group Willmar Schwabe Arzneimittel company. This group is active in the manufacture and sale of traditional ethical and "over the counter" pharmaceutical products.

II. THE OPERATION

7. Gérard Beaufour will sell his interests in the Beaufour Group to Albert Beaufour, Paribas, CDC and Schwabe. After the restructuring, Albert Beaufour will own [...] of Mayroy (the holding company for the restructure Group), the investors (Paribas Group and CDC) [...] and Schwabe [...].

III. CONCENTRATION

8. In order to establish whether the above mentioned operation constitutes a concentration within the meaning of article 3 (1) (b) of the Merger Regulation, the Commission recalls that under the shareholders agreement signed between the investors and Albert Beaufour, investors will nominate [...] on the Board of Directors of Mayroy. Decisions such as «the approval of the annual budget of the company and any engagement or investment exceeding the scope of the budget,...» have to be taken by the Board of Directors of Mayroy by a qualified majority of [...].
9. The Commission considers that there is no sole or joint control of Mayroy. In fact, in order for the shareholders to exercise control in accordance with article 3 (3) (b) of the Merger Regulation there would have to be an agreement in relation to voting on matters covered by veto rights between Albert Beaufour and Paribas Group, or Albert Beaufour and CDC, or Paribas Group and CDC. [...].
10. As it appears from the notification and the information at Commission's disposal, none of the above mentioned agreements exists and the shareholders are free to vote as they wish.
11. Therefore, given that Albert Beaufour, Paribas Group, CDC and Schwabe can not be considered as acquiring control over Mayroy within the meaning of article 3 (1) (b) of the Merger Regulation, they are not undertakings concerned and the notified operation is not a concentration within the meaning of article 3 (1) (b) of the Merger Regulation.

IV. CONCLUSION

12. For the above reason, the Commission has concluded that the notified operation does not constitute a concentration within the meaning of Article 3 (1) (b) of Council Regulation (EEC) n° 4064/89 and consequently does not fall within the scope of that Regulation. This decision is adopted in application of Article 6 (1) (a) of the Council Regulation (EEC) n° 4064/89.

For the Commission,