

*Case No COMP/M.1581 -  
AT&T / UNISOURCE /  
AUCS*

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: 08/07/1999

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 08.07.1999  
SG (99) D/5004

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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)(b) DECISION

To the notifying parties

Dear Sirs,

**Subject: Case No IV/M.1581- AT&T/UNISOURCE/AUCS**

Notification of 07.06.1999 pursuant to Article 4 of Council Regulation No 4064/89

1. On 07.06.1999, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 by which Unisource NV ("Unisource") acquires within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of AT&T-Unisource Communications Services ("AUCS") [previously jointly controlled by Unisource and AT&T Corp. ("AT&T")].
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. Unisource is a European telecommunication group, jointly controlled by Sweden's Telia, the Netherlands' KPN and Switzerland's Swisscom telecommunications operators. It provides a broad range of telecommunications and carrier services, and especially distributes the AUCS portfolio of global telecommunications services to multinational companies. It also holds an 18% interest in the WorldPartners Alliance, whose other shareholders are AT&T, KDD, Singapore Telecom and Telstra.
4. AUCS (formerly Uniworld) is a joint venture between AT&T and Unisource, active in global telecommunications services to European business customers. AUCS achieves global reach outside the EEA through, *inter alia*, participation in the WorldPartners alliance, which comprises 19 members and covers 34 countries worldwide.

5. Following the signature of a Framework Agreement, AT&T will withdraw from AUCS and will assign its stake to Unisource. The operation therefore amounts to the acquisition of control of the whole of AUCS by Unisource.

## **II. COMMUNITY DIMENSION**

6. KPN, Telia, Swisscom and AUCS have a combined aggregate worldwide turnover in excess of EUR 5 billion (Unisource's shareholders, EUR 20.1 billion; AUCS, EUR 397 million). Each of Unisource and AUCS has a Community-wide turnover in excess of EUR 250 million (Unisource, EUR [...]; and AUCS, EUR [...]), and 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. It does not constitute a cooperation case under the EEA Agreement.

## **III. COMPETITIVE ASSESSMENT**

7. The operation consists in a change from joint to sole control, and in the withdrawal of AT&T from AUCS. The operation will not bring about any material change in the market position of AUCS or Unisource.
8. Furthermore, since AT&T is also involved in the establishment of a Global Venture with British Telecommunications plc., whose global telecommunications service will compete with those offered by AUCS, the operation even presents some procompetitive features. In that it eliminates a link between two current competitors.
9. It follows that 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 parties have agreed that Unisource, its shareholders and their affiliated companies would not compete with AT&T or its affiliated companies in the provision of voice and data services to certain customers, and that they would not solicit or entice away these customers.
11. The customers concerned are those which have signed contracts with AT&T as a distributor of the AUCS services : AT&T has the commercial relationship, and AUCS provides the services. These contracts will remain owned by AT&T or will be terminated.
12. The parties submit that the transfer of these contracts is part of the consideration for a payment by AT&T to AUCS. In their opinion, the non competition arrangements are therefore intended to ensure the transfer of the full value of this goodwill to AT&T, and thus to facilitate AT&T's withdrawal from AUCS. The parties also submit that these arrangements will ensure continuity of services.
13. However, the non competition arrangements do not directly concern the sale of AT&T's stake in AUCS to Unisource, as they relate instead to AT&T's investment in the contracts concerned.
14. Furthermore, although AT&T's investment in the contracts concerned has been concluded in the same context as AT&T's withdrawal from AUCS, it is a different transaction from

AT&T's withdrawal from AUCS. In particular, AT&T's investment in the contracts concerned cannot be considered as part of the concentration, but rather a contractual and commercial arrangement. AT&T's withdrawal from AUCS could have taken place without such an arrangement. In this context, the non competition clause cannot be considered as directly related and necessary to the operation. Consequently, these arrangements are not covered by the present decision.

## **V. CONCLUSION**

15. 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,