

*Case No COMP/M.1637 -
DB INVESTMENTS /
SPP / ÖHMAN*

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 11/08/1999

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 11.08.1999

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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.1637 – DB INVESTMENTS/ SPP/ ÖHMAN

1. On 9/7/99 the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89, by which the undertakings DB Investments (AXM) Limited (“DBI”) (a wholly owned subsidiary of Deutsche Bank), Försäkringsbolaget SPP (“SPP”) and Öhman Real Estate Fund No.1 AB (“Öhman”) acquire joint control of the undertakings Fastighetsaktiebolaget Backlunda (“Backlunda”) and Fastighetsaktiebolaget Minos (“Minos”), currently owned by Postens Pensionsstiftelse 1996 (a pension trust set up for the sole purpose of securing Sweden Post’s pension liabilities for its employees and their next of kin).
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. Deutsche Bank is a full service bank and DBI, its subsidiary, a special investment vehicle formed for the purpose of the notified transaction. SPP is a large insurance company active in the Nordic countries. Öhman is a Swedish securities institution. The target companies Backlunda and Minos own, maintain and operate real estate business in different areas of Sweden, mainly used within the Sweden Post Group.

II THE OPERATION

4. Under the transaction, DBI, SPP and Öhman acquire joint control of the undertakings Backlunda and Minos, by way of purchase of shares in a newly created company constituting a joint venture. While the parent companies will hold substantially different shares in the joint venture (DBI 49.9% of the shares and votes, SPP 40.1% and Öhman 10%), each of the parties will acquire joint control by way of veto rights going beyond those normally accorded to minority shareholders as means of investment protection. In particular, a number of strategic business decisions concerning the joint venture require an unanimous vote by the parties, such as, *inter alia*, the approval of the business plan. The purpose of the joint venture is to create an instrument for the parties' long-term investments in real estate in Sweden

III CONCENTRATION

5. The newly created company resulting from the operation will take over the target companies Backlunda and Minos, which are existing companies active on the market as fully autonomous economic entities. Accordingly, the operation will result in the constitution of a full-function joint venture. It thus constitutes a concentration within the meaning of article 3(1)b of the Merger Regulation.

IV COMMUNITY DIMENSION

6. The undertakings concerned have a combined aggregate world-wide turnover in excess of EURO 5,000 million (DB, EURO 38 882 million; SPP, EURO 1 551 million). Each of at least two undertakings concerned has a Community-wide turnover in excess of EURO 250 million (DB, EURO 28 124 million; SPP, EURO 1 551 million), but they do not achieve more than two-thirds of their aggregate Community-wide turnover within one and the same Member State. Therefore, the notified operation has a Community dimension. It does not constitute a co-operation case under the EEA Agreement.

V THE RELEVANT MARKET

The relevant product market

7. The operation involves the Swedish sector for real estate. In this respect, the acquired companies own, manage, acquire, sell and lease real estate properties. With respect to the product market definition, such a market may be divided into two segments, notably properties for commercial use and properties for residential use. However, the exact definition of the product markets may be left open since, even on the narrowest possible option, the operation will not have any appreciable competitive impact.

The relevant geographic market

8. With respect to the geographic scope of the market, this can also be segmented into local geographic areas (such as municipalities), in particular by taking into account the demand side of the market. However, this question can be left open since, even taking the narrowest possible option, the operation will have, in any event, an insignificant impact.

VI ASSESSMENT

9. The total size of the Swedish real estate market is approximately 420.000.000 square metres, of which 155.000.000 are for residential use and approximately 265.000.000 square metres are for commercial use. The total lettable area of the target companies' properties is approximately 389.000, all for commercial use. As a consequence, the target companies' market share at national level is absolutely negligible (around 0.15 %).
10. It should be noted that outside the joint venture being constituted through the current operation, DBI, SPP and Öhman operate already in the real estate market in Sweden, but with an insignificant presence as well. More specifically, the aggregate area of the properties owned by the parent companies does not exceed 5% on any product and geographic market. Accordingly, even if the markets are defined as local in scope and are further broken down in residential and commercial, the combined market shares of the joint venture and its parent companies will remain extremely small (in any event below 5%). No competitive concerns thus arise from the notified operation.
11. In the light of the above described scenario, notwithstanding the fact that two of the acquiring parent companies are active on the same market as the joint venture, any appreciable cooperative aspect resulting from the transaction is also to be excluded.
12. From the above it follows that, on the basis of the notification made by the parties, the concentration will have no impact on competition in the EEA. The planned concentration neither creates nor strengthens a dominant position as a result of which effective competition would be significantly impeded in the EEA or in a substantial part of it.

VII CONCLUSION

13. For the above reasons, the Commission decides 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 and article 57 of the EEA Agreement.

For the Commission,