

***Case No COMP/M.1871 -
ARROW ELECTRONICS
/ TEKELEC***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 13/04/2000

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 13.04.2000

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 party

Dear Sirs,

Subject: Case No COMP/M.1871 – Arrow Electronics/Tekelec

Notification of 10.03.2000 pursuant to Article 4 of Council Regulation No 4064/89

1. On 10.03.2000, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 by which the US company, Arrow Electronics Inc. (“Arrow”) acquires sole control over the French company, Tekelec Europe S.A. (“Tekelec”).
2. Following examination of the notification, the Commission has concluded that the notified operation falls within the scope of the said Council Regulation and does not raise serious doubts as to its compatibility with the common market and the EEA agreement.

I. THE PARTIES AND THE OPERATION

3. Arrow is a global group active in the wholesale distribution of a diverse range of electronic components and computer products. It is present in the Americas, Europe and the Asia/Pacific region. Its European presence covers all Member States.
4. Tekelec is active in the wholesale distribution of electronic components. Its activities are practically entirely within Europe, where it is present in most Member States.

II. CONCENTRATION OF A COMMUNITY DIMENSION

5. Arrow will acquire sole control of Tekelec through its proposed acquisition of all the shareholdings in the latter company.
6. The operation constitutes a concentration within the meaning of Article 3.1.b of the Merger Regulation.

7. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion¹ (Arrow, [...]billions; Tekelec [...]billion). Each of them has a Community-wide turnover in excess of EUR 250 million (Arrow,[...]billion; Tekelec, [...]billion), and they do not both 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.

III. RELEVANT MARKETS

A. Relevant Product Market

8. The activities of Arrow overlap with Tekelec in electronic components, in which both are wholesale distributors. Such products fall broadly into three main categories, i.e. semiconductors, interconnect components, and passive and electromechanical components. In addition, wholesale distributors of electronic components offer value-added services to customers, such as technical support, the customisation of products and supply chain management.
9. Customers are primarily original equipment manufacturers (“OEM’s”) and contract electronic manufacturers in a wide range of sectors (e.g. automotive, computer, office equipment, and telecommunications). As such customers (particularly the larger OEM’s) may also be supplied directly by the component manufacturers themselves, Arrow has submitted that both types of distribution (wholesale and direct) belong to the same relevant market.
10. This possible scope for the relevant product market was already considered by the Commission in a recent decision in the same sector, i.e. Case No. COMP/M.1700 – Avnet/Eurotronics of 3.12.1999. In that decision, the Commission highlighted the fact that wholesale distribution of electronic components is characterised by a number of significant differentiating features i.e. a very extensive product mix from different suppliers, value-added services (as described further above), a large stock, local warehouses, short delivery times, and a broad and large customer base. All of these factors were considered strong indicators of a separate market for wholesale distribution.
11. Indeed in the present case, Arrow itself not only recognises the presence of these distinguishing features, but also points out that the growth in wholesale distribution is the result of customers’ policy, aimed at: i) reducing the number of suppliers, ii) guaranteeing more frequent and just-in-time deliveries, and iii) reducing inventory costs by outsourcing this activity. Despite this further confirmation of features which point to a distinct market for wholesale distribution, in the present case, as in the previous case, the precise definition of the relevant product market can be left open, as the operation does not raise serious competition concerns either at the level of wholesale distribution, or at the broader level, where Arrow’s market shares would be smaller.

¹ Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Notice on the calculation of turnover (OJ C66, 2.3.1998, p25). To the extent that figures include turnover for the period before 1.1.1999, they are calculated on the basis of average ECU exchange rates and translated into EUR on a one-for-one basis.

B. Relevant Geographic Market

12. In the previous case, the market for the wholesale distribution of electronic components was found to be predominantly national, despite certain features, such as low transport costs, a lack of technical barriers, and a tendency for multi-national customers to seek pan-European coverage for their needs. The national market characteristics which were identified were: the use of local sales offices in each country, local warehouses for stocking and delivery, a relative lack of cross-border deliveries, a scarcity of pan-European contracts, and a different array of suppliers in different Member States.
13. In the present case, Arrow has contended that the geographic market is already pan-European. In support of this contention it has given as examples, inter alia, some instances of calls for tender by multi-national customers, the tendency to centralize warehousing, and cross-border/regional deliveries by Arrow itself, as well as indicating that further speeding up of the broadening process will result from the introduction of E-commerce.
14. While the market investigation has confirmed the features which evidence a gradual broadening of the scope of the geographic market, it has likewise confirmed the on-going significance of the different national market characteristics mentioned above. The importance of a local presence, both at a commercial level (for sales and marketing) and at a logistics level (for technical support and other value-added services) was highlighted particularly, given customers' need for speed and quality of service. Thus the Commission has retained a national scope for its assessment of the present operation.

IV. ASSESSMENT

15. Arrow has identified seven Member States in which their joint market share with Tekelec is over 15%, i.e. Denmark [40-50%], Italy [30-40%], France [30-40%], Spain [25-35%], UK [15-25%], the Netherlands [15-25%], and Germany [15-25%]. The level of increment brought about by Tekelec in the cases of Denmark, Italy, the UK and Germany has been indicated as being [under 5%], with a larger increment in the cases of France [15-20%], Spain [5-10%], and the Netherlands [5-10%]. These market share levels have been corroborated by competitors during the Commission's market investigation.
16. In Denmark, where the highest market share [40-50%] would be achieved by Arrow through the operation, the impact of the addition of Tekelec's [under 5%] market share can be considered very limited. Furthermore, there are four more players with sizeable market shares [5-15%]. The situation is similar in Italy where Arrow will have some [30-40%]: the increment brought by Tekelec is only [under 5%] and several other players are present, among which two significant players with some [5-10%] each, i.e. Avnet, a global group like Arrow itself, and Eurodis. In the UK and Germany, where the share of Arrow will reach some [15-25%], the increment due to Tekelec is less than [1-5%] and again several competitors are present, including Avnet [10-20%] in the UK and [10-20%] in Germany and another significant player, Veba [5-10%] in the UK and [10-15%] in Germany.
17. In the three markets where the increment is more substantial, Arrow will also be confronted with competition from several competitors with significant market shares:

in the Netherlands, the [35-45%] share of the market leader, Koning & Hartman, will more than double Arrow's [15-25%], while still four more players hold [5-20%] of the market, among which Avnet, with some [10-20%]; in Spain five players hold market shares [5-20%], among which Avnet with some [10-20%]; in France, where Arrow will enjoy its most substantial increase in market share, Avnet and Veba, hold some [15-25%] and [5-15%] of the market respectively, while there are still five more players with shares [1-10%].

18. Thus, after the operation, in all of the affected markets, Arrow will be confronted with competition from several competitors, including, in many cases, players of the importance of Avnet and Veba, apart from significant local players. Moreover, the Commission's market investigation has confirmed that, to ensure timely availability of products and to generally reap the benefits of competition among distributors, customers of electronic components tend to follow a strategy of maintaining alternative suppliers.
19. In the light of all the fore-going factors, and given that the Commission's market investigation has not brought to light any serious concerns overall with regard to the competitive impact of the operation, the Commission considers that the proposed operation will not lead to the creation or strengthening of a dominant position in the sector concerned, as a result of which effective competition would be significantly impeded in the common market or a substantial part thereof.

V. CONCLUSION

20. 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,
Mario Monti, Member of the Commission