

***Case No COMP/M.1883 -  
NEC / MITSUBISHI***

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

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Article 6(1)(b) NON-OPPOSITION  
Date: 03/04/2000

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, **3/04/2000**  
**SG(2000) D/102839**

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 COMP/M.1883 - NEC/Mitsubishi**

Notification of 29.02.2000 pursuant to Article 4 of Council Regulation No 4064/89.

1. On 29.02.2000 the Commission received a notification of a concentration by which NEC Corporation and Mitsubishi Electric Corporation will set up a joint venture company in the field of PC monitors.
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of the Council Regulation No4064/89 and does not raise serious doubts as to its compatibility with the common market and the functioning of the EEA Agreement.

**I. THE PARTIES**

3. NEC Corporation ("NEC") is a Japanese based company operating world-wide in the high technology field and other sectors such as information and communications systems solutions (including telecommunications network products, computer systems and peripherals); semiconductors; industrial devices and Internet services.
4. Mitsubishi Electric Corporation ("Mitsubishi") is also a Japanese based company active on a global basis, mainly in high technology sectors; information, telecommunication and electronic systems and devices.

## **II. THE OPERATION**

5. The operation consists in the creation of a Joint Venture Company which will operate in the field of PC monitors for original equipment manufacturers (OEMs), as set out in a Joint Venture Agreement dated 27 December 1999. The new company will operate under the name of NEC-Mitsubishi Electric Visual Systems Corporation.
6. The object of the operation is to integrate on a world-wide basis the parents' activities in the business of development, design, manufacture, sales and maintenance of PC monitors. The JV will be producing PC monitors of two types, namely CRT and LCD monitors in its parents' facilities of Nagasaki (Japan) and Mexico, and will also undertake R & D activities.
7. In Europe the JV activities will consist in R & D, distribution, sales and after sales services which will be performed by a European holding company, a full subsidiary of the JV and based in Munich, which in turn will establish local sale subsidiaries of the JV in France, Germany and the UK.
8. The rationale of this operation is to maximise economies of scale on a short time basis as CRT monitors are subject to fierce competition in the market and LCD monitors is still a small size market but with large expanding perspectives once prices go down. In this way the parties expect to reduce costs for both types of monitors and to be able to expand production when demand for LCD monitors increases.

## **III. CONCENTRATION**

### Joint Control

9. NEC and Mitsubishi will each hold 50 % of NEC-Mitsubishi Electrical Visual Systems Corporation. According to the JV Agreement any decision in the shareholders' meeting shall be adopted by the approval of more than two-thirds of the number of shares owned. The JV will be managed by a board of directors consisting of an equal number of directors for each of the parties, namely four directors nominated by each party out of the total number of the 8 members initially foreseen. Any decision on key issues such as business plans, budgets and share transfers, shall be adopted by the approval of two-thirds or more of all directors present (quorum of two-thirds needed). These provisions show that both parents will together exercise joint control over the JV.

### Full functionality

10. The Joint Venture company will have an independent management structure and resources. The JV will initially employ around [...] staff, with production facilities initially located in Nagasaki (Japan) and in Mexico. NEC and Mitsubishi will enter into an Assets Transfer and Lease Agreement with the JV, whereby the parents will transfer to the JV fixed assets such as land, buildings, machinery and equipment and various assets. According to the information provided by the parties, the parents will also assign, license or sublicense to the JV all patents owned by Mitsubishi and NEC or by third parties which are necessary for the manufacture and sale of monitors and other

products . Therefore the JV has access to sufficient resources and assets to conduct on a lasting basis its business activities.

11. The JV will develop both a production business of PC monitors and related R &D activity to which it will allocate around [...] of its personnel. The R&D activities will mainly focus on redesigning and improving the current range of monitors although it will also undertake research on future products (e.g. new generation monitors). The production business will encompass monitors of two types, that is Cathodic Ray Tubes (“CRT”) and Liquid Crystal Display (“LCD”) monitors. A PC monitor incorporates different components : the display device (CRT tubes or LCD panels), semiconductors and a chassis board which generates and synchronises the picture image signal. The JV will initially purchase [...] of CRT tubes from one of the parties and between [...] of LCD panels from both parents. However these key components are intended to be supplied also from third parties through an open bidding procedure, as it seems to be current practice in the PC monitors industry. The chassis board will entirely be produced by the JV. In turn, the JV will only supply [...] of its production to NEC for its OEM PC bundle business. Therefore the JV is intended to act independently from its parents.
12. According to the parties’ information a CRT tube represents [...] of the wholesale value of a CRT monitor and a LCD panel would represent around [...] of a LCD monitor; according to third parties these percentage could be higher. This shows that for LCD monitors at least, there is little value added by the JV itself and therefore on the basis of LCD monitors taken alone the full function character of the JV would be questionable. However given the fact that CRT monitors will constitute an important percentage of the total sales of the JV at least in the first three years of its activities, around [...] of total sales, it can be accepted that the JV will play an active role on the market for CRT monitors.
13. On the above basis the Joint Venture Company is to perform on a lasting basis, all the functions of an economic autonomous economic entity and is geared to play an active role on the market. Therefore the operation constitutes a concentration in the meaning of Article 3 (2) of the Merger Regulation.

#### **IV. COMMUNITY DIMENSION**

14. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion<sup>1</sup> (€ 32.51 billions for NEC and € 25.91 billion for Mitsubishi). Each of them have a Community-wide turnover in excess of EUR 250 million ( €[...] million for NEC and €[...] million for Mitsubishi), 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.

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<sup>1</sup> 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.

## V. COMPETITIVE ASSESSMENT

### The relevant product market

15. The exclusive activity of the JV will be the production of PC monitors of two different types, namely Cathode Ray Tubes (“CRT”) monitors and Liquid Crystal Display (“LCD”) Monitors. The parties submit that both types of monitors are part of the same product market of the overall market of PC monitors due to different factors. In particular, the parties maintain that both types of monitors perform the same functions and have the same functionality (both can be used for almost any PC and will produce similar results in terms of the quality of the image and the emerging digital video interface (DVI) can also be used in both of them). However there are important differences concerning mainly the different size/volume and prices of both types as LCD monitors are between two and five times the CRT’s prices, although this difference will be reduced significantly as this is still an embryonic market. In addition LCD types are designed with a flat screen while present CRT monitors have a more voluminous aspect.
16. However it is not necessary to further delineate this market since, even if alternative definitions were considered there would be no creation or strengthening of a dominant position in the EEA or any substantial part of that area.

### The Relevant Geographic market

17. The parties sustain that the PC monitor market has a global dimension or at least a European dimension, as the JV operations are organised on a global basis and the same product range is distributed world-wide, although the manufacturing activities are located in two world regions. However it is not necessary to further delineate the relevant geographic markets as in any market definition considered, effective competition will not be significantly impeded in the EEA or any substantial part of that area.

### Assessment

18. As far as the PC monitors market is concerned the JV will initially hold a market share of roughly [less than 15 %] in the product market for all computer monitors at a world-wide level. If taken separately, in the world-wide market the JV’s share for CRT monitors would be initially [less than 15 %] and in the LCD segment of [between 15 – 25 %] in volume. At the EEA level in the market for all computers the JV will hold market shares below 10% while for the CRT monitors taken separately it would be [less than 5 %] and for LCD monitors of [between 10-20 %] in volume. The JV will probably become market leader in the LCD monitor segment however its market share is likely to decrease as this is still an embryonic market and there is a sufficient number of competitors well placed on it such as Philips, Hewlett Packard, Toshiba, LG Electronics etc.. which will be able to effectively compete with the JV. In addition no physical nor technological barriers seem to exist in this market.
19. There are vertical links both in the upstream and downstream levels of the PC monitors market. In the upstream markets for CRT tubes only Mitsubishi is present with a global market share of [less than 10 %]. For LCD panels the combined market share would be [between 5 – 15 %] world-wide and [between 5 – 15 %] in Europe regardless of the different types of LCD panels used for different applications (e.g. laptop

computers; palm and notebook computers; calculators and LCD monitors) . In the memory semiconductors market the parties' combined market share is around [between 10 – 20 %]. In the downstream market of PCs, NEC is an original equipment manufacturer of different computers both lap-top and desktop, but its market share world-wide is less than [less than 10 %]. NEC sales focus mainly on Japan. Mitsubishi only produces laptop computers with a *de minimis* market share ( below [less than 5 %]).

20. As regards the possible co-operative effects of the JV, NEC is active in PC monitor production for its PC bundle business which it sells exclusively in Japan through its Nagano plant. It is initially foreseen that NEC will supply some PC monitors to the JV on a contract basis in a short term [...]. NEC is also a majority shareholder of a Hong Kong based company producing CRT monitors, [...]. In turn Mitsubishi retains its CRT monitor production facilities in Malaysia which, according to the parties, [...]. Therefore no significant co-operative behaviour between the parties is likely in this market.
21. The operation will therefore not give rise to the creation or strengthening of a dominant position in the EEA market nor in any substantial part of this area.

## **VI. ANCILLARY RESTRAINTS**

22. The parties have requested one contractual provision to be considered as ancillary to the concentration. Article 3 of the JV Agreement contains a non compete clause with the JV in order to protect the parties' investment and for the success of the new company. This provision shows the parties' intention to withdraw from the PC monitors market and therefore it can be considered an integral part of the transaction.

## **VII. CONCLUSION**

23. 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,