

***Case No COMP/M.1946 -
BELLSOUTH / SBC / JV***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 26/05/2000

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 26/05/2000

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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

Dear Sirs,

Subject: Case No Comp/M.1946 – Bellsouth/SBC

Notification of 25.4.2000 pursuant to Article 4 of Council Regulation No 4064/89

1. On 25.4.2000 the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) N° 4064/89 by which the undertakings Bellsouth Corporation (“Bellsouth”) and SBC Communications Inc. (“SBC”) within the meaning of Article 3(2) will set up a joint venture company in order to combine their respective US domestic mobile wireless voice and data services businesses.

I. THE PARTIES AND THE OPERATION

2. Bellsouth is a US-based international communications services company which provides telecommunications, wireless communications, cable and digital TV, directory advertising and publishing, and Internet and data services. Bellsouth and its subsidiaries operate throughout the US and in a number of countries in Latin America, Europe and the Asia/Pacific region.
3. SBC is a US-based international communications services and equipment company which provides telecommunications, wireless communications, voice mail, directory advertising and Internet access services and manufactures telecommunications equipment and security systems. SBC companies operate in more than 25 US states and in a number of other countries in North America, South America, Europe, Asia, Africa and the Middle East.

4. The notifying parties agreed on April 2000 to combine their respective US domestic (including in the case of SBC, the US Virgin Islands and Puerto Rico) mobile wireless voice and data services businesses in a joint venture. The joint venture will combine Bellsouth's US-wide mobile data business and its mobile voice interests in the South Eastern US with SBC's mobile voice interests in California and the Central and Eastern US. The joint venture will not be active outside these areas.

II. THE CONCENTRATION

5. The joint venture will be conducted through a stand-alone newly formed US limited liability company "Newco". SBC will have around 60% of equity interests in Newco, Bellsouth around 40% and "Manager" less than 1%. The management of Newco will be delegated to "Manager", a separate newly-formed US corporation. Bellsouth and SBC will be equal (50%) shareholders of Manager. The board of directors of Manager will consist of equal numbers of directors appointed by Bellsouth and by SBC, and decisions by this board will be made by majority vote. A sub-committee of the board of Manager will deal with certain matters on behalf of the board, including approval of the business plan of Newco. This committee will also consist of equal numbers of directors appointed by Bellsouth and by SBC. Decisions of the sub-committee will be made by [...].
6. The joint venture will be a separate, as yet unnamed, company with a new and dedicated management team and a new headquarters separate from those of SBC and Bellsouth. The joint venture will be responsible for its own commercial strategies and will unveil new brand names and pricing plans for its services. The notifying parties consider that the joint venture will be a full-function entity possessing the assets, finance and management necessary to play an independent competitive role in the relevant US market(s).
7. The joint venture will operate on a lasting basis and will perform all the functions of an autonomous economic entity, and is therefore a concentration within the meaning of Article 3(1) (b) of Council Regulation N° 4064/89.

III. COMMUNITY DIMENSION

8. The combined aggregate world-wide turnover of the undertakings concerned exceeds EURO 5 000 million (EURO 23.7 billion for Bellsouth and EURO 46.6 billion for SBC). Each of the undertakings has a Community –wide turnover in excess of EURO 250 million (EURO 954 million for Bellsouth and [...] for SBC in 1999) 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 has therefore a Community dimension in accordance with Article 1(2) of the Merger Regulation.

IV. COMPATIBILITY WITH THE COMMON MARKET

Relevant product market

9. The joint venture will combine Bellsouth's and SBC's US domestic mobile wireless voice and data services businesses. According to the notifying parties, there are no "affected markets" for the purpose of this transaction as neither of the businesses to be contributed to the joint venture is active in the EEA.

Relevant geographic market

10. There is no geographic overlap between the parties in the EU and therefore the geographic market definition can be left open.

Competitive assessment

11. Neither Bellsouth nor SBC will retain activities in the same markets as those in which the joint venture will be active or in a market which is downstream or upstream from that of the joint venture. The notifying parties have explained that the conditions of competition in the US, US Virgin Islands and Puerto Rico mobile wireless voice and data services markets are entirely distinct from the national markets for mobile telecommunication in the EEA in particular in terms of technical standards, suppliers and customers. Therefore, the transaction does not lead to any addition of market shares or vertical relations within the EEA.
12. In the light of the above information, the proposed concentration does not raise serious doubts as to its compatibility with the common market and the functioning of the EEA agreement.

V. CONCLUSION

13. 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