

*Case No COMP/M.1982 -  
TELIA / ORACLE /  
DRUTT*

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: 11/09/2000

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 11/09/2000  
SG(2000)D/106606

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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.1982 – Telia / Oracle / Drutt**

Notification of 26.06.2000 pursuant to Article 4 of Council Regulation No 4064/89

1. On 26.06.2000 the Commission received a notification whereby Telia AB (Sweden), controlled by the Swedish State, and Oracle Corporation (USA) intend to acquire within the meaning of Article 3(1)(b) of the Council Regulation joint control of Drutt Corporation. On 26.07.2000 this notification was declared incomplete; the notification was subsequently declared complete on 09.08.2000.
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of the Merger Regulation and does not raise serious doubts as to its compatibility with the common market and with the EEA agreement.

**I. THE PARTIES**

3. **Telia A.B.** (“Telia”) is the parent of the Telia Group, controlled by the Swedish State. Shares in Telia AB were quoted on the Stockholm Exchange on 13.06.2000. Telia is the incumbent telecom provider in Sweden, and is also active in more than 30 countries worldwide.
4. **Oracle Corporation** (“Oracle”) is a Delaware company, quoted on the Nasdaq, and which is headquartered in Redwood Shores, California, USA. Oracle is a supplier of software for information management. It offers its software products, along with related consulting, education and support services, in more than 145 countries around the world.
5. **Drutt Corporation** (“Drutt”) was recently incorporated under the laws of Delaware and is currently controlled solely by Oracle. The Swedish subsidiary of Drutt, Drutt

Svenska AB, is the only operational company of Drutt. Drutt is active in developing and marketing an open wireless portal *www.halebop.com*.

## **II. THE OPERATION**

6. Oracle Corporation (USA) currently holds sole control of Drutt Corporation. After the operation, Telia AB (Sweden), controlled by the Swedish State, and Oracle Corporation will each hold joint control of Drutt Corporation and will each own 40% of Drutt. Other stockholders such as key personnel of Drutt, will own the remaining 20% of the shares.

## **III. CONCENTRATION**

### **Joint control**

7. Each of Telia and Drutt will have veto rights enabling them to exercise decisive influence over Drutt's strategic commercial decisions concerning *inter alia* the adoption or amendment to budgets, business plans and the appointment of the chairman of the board. As a result, Telia and Oracle will obtain joint control over Drutt.

### **Full function**

8. Drutt is a company which will perform on a lasting basis all the functions of an autonomous economic entity. It will have a management dedicated to its day-to-day operations and sufficient resources in order to conduct its business on a lasting basis. It will be active on the open market, and any business relations between it and its parents will be on arms-length terms. Drutt is therefore a full function joint venture within the meaning of the Merger Regulation and the transaction therefore constitutes a concentration within the meaning of Article 3(1)b of the Merger Regulation.

## **IV. COMMUNITY DIMENSION**

9. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion<sup>1</sup> (Telia EUR 5,826.2million; Oracle EUR 8,285.5million). Each of Telia and Oracle have a Community-wide turnover in excess of EUR 250 million (Telia EUR [...] million; Oracle EUR [...] million), 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.

## **V. RELEVANT MARKETS**

10. Drutt is active in developing and marketing an open wireless portal *www.halebop.com*. Through this portal Drutt will provide internet access to mobile phone users. Users will be able to access these services with digital mobile phones, whether they are Wireless Application Protocol ("WAP-enabled") or second generation digital mobile phones. If the latter then they will only be able to receive the services via Short Messaging Service messages sent to their phones.

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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.

11. Drutt's services will initially be focused towards Sweden, and will be specifically adapted for the mobile user. Therefore while the services will be accessible to anyone with access to the Internet, they are designed for those with mobile phones. Drutt's services will not be restricted to Telia's mobile phone customers, but will be available to anyone with a mobile phone and access to the Internet.
12. Drutt will be financed by advertising revenues rather than subscription income.
13. It is necessary to consider the possible existence of markets for (i) the provision of internet advertising space, (ii) dial-up Internet access and (iii) the provision of internet portal services. The possible existence of these markets has been identified by the Commission in previous decisions<sup>2</sup>.

#### *Internet advertising*

14. In relation to the parties' sources of revenue, one source of income for Drutt will be the sales of advertising space. In previous decisions the Commission has defined Internet advertising as a market in its own right, and concluded that internet advertising markets are likely to be national, although in certain circumstances may be wider, for example when the same language is spoken in more than one country. It is possible that this market could be further classified into advertising on a mobile platform, however, it is not necessary to decide since however the markets are defined, the concentration does not threaten to create or strengthen any dominant position.

#### *Dial-up access*

15. The development of WAP technology and the commensurate increase in the number of ways that consumers can access the Internet means that it is necessary to look beyond the traditional dial-up access (low bandwidth services) and dedicated (high bandwidth services) using a fixed telephone line and PC as the access mechanism. Using WAP mobile telephones consumers now have the ability to access the internet and to send e-mails using second generation (GSM/DCS) mobile networks and WAP mobile handsets. It is also possible to receive short text messages containing internet-based content using the Short Messaging System ("SMS") and digital mobile phones that are not WAP-enabled. This form of information delivery is also provided by Drutt's halebop portal, however, the initial requests to receive such messages must be made by more traditional means of accessing the internet. As recognised in Vodafone/ Vivendi/ Canal+, accessing the internet via a mobile phone is unlikely to be a substitute for existing methods of accessing the Internet through a PC due to the differences in the size of the screen and the format of the material that can be obtained through the different platforms. However, it is not necessary to reach a conclusion as to whether dial-up access to the internet via mobile telephones (WAP-enabled or not) represents a distinct relevant product market since, however defined, the concentration does not threaten to create or strengthen any dominant positions.
16. Concerning the definition of the geographic market, the Commission has previously noted that national markets may be appropriate for certain internet-related activities.

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<sup>2</sup> Case IV/JV.1, Scandinavian On Line; IV/JV.11, @Home Benelux BV and COMP/JV.48 – Vodafone/ Vivendi/ Canal+.

For example, in BT/Esat<sup>3</sup>, the Commission indicated that the geographical market for ISP dial up services is essentially national based on the need for a local loop service. A similar conclusion could be reached in this case, however, the precise boundaries of the relevant geographic market(s) can be left open since even on the narrowest possible basis, no competition issues arise.

#### *Internet Portal Services*

17. In its recent decision on Vodafone/Vivendi/Canal+, the Commission recognised that there may exist separate markets for internet portals. This built on the Commission's previous analysis which looked at the various revenue streams which portal operators receive (advertising revenue, subscriptions, etc.). The Commission also distinguished between vertical portals, i.e. those that focus on providing relatively narrow access to a particular content category such as SportsLine.com, and horizontal portals such as Yahoo!, Excite and AltaVista which provide comprehensive directories, personal home pages and e-mail. Within horizontal portals, the Commission noted that there are potentially separate markets for horizontal portals according to which platform is used to access the Internet (PC, mobile phone, TV, etc.). According to these classifications, Drutt's halebop portal is a horizontal portal on the mobile platform. It may be appropriate to look more narrowly than this and define the relevant market as horizontal portals on the WAP-enabled mobile platform. However, since Drutt/halebop has more registered members than there are WAP phones in circulation, it appears unlikely that consumption of Drutt/halebop's gateway services is limited to those with WAP phones and therefore unlikely that the relevant product market is so narrow. It is not, however, necessary to reach a formal decision as to the boundaries of the relevant product market, since the current concentration does not threaten to create or strengthen a dominant position however the market is defined.
18. Concerning the definition of the geographic market, the Commission has previously noted that national markets may be appropriate for certain internet-related activities, but that they may also be increasingly European<sup>4</sup>. However, the precise boundaries of the relevant geographic market(s) can be left open since even on the narrowest possible basis, no competition issues arise.

## **VI. ASSESSMENT**

#### *Internet advertising space*

19. There is no overlap between Oracle and either Telia or Drutt since Oracle is not active in Europe in relation to the supply of internet advertising space.
20. On the basis of information from the Institute for Advertising and Media Statistics, Telia has a market share on the market for advertising on the internet of approximately 25% in Sweden and 20% in Finland in 1999. Drutt is a start-up company that has only recently become active on this market. Given that Drutt currently has less than [0-5]% of the market for advertising on the internet in Sweden and has no significant presence

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<sup>3</sup> Case COMP/M.1838 BT/ESAT

<sup>4</sup> See Case COMP/JV.48 – Vodafone/Vivendi/Canal+, paragraph 37

in any other national markets, the concentration does not raise any competition concerns on this wide definition of the market.

21. If a narrower market of advertising on mobile platforms is considered, there would be no overlap between Drutt's activities and Telia's activities because Telia does not currently have any advertising on its existing mobile portal, MyDOF, and neither does it have any negotiations underway for such advertising.
22. Therefore however the markets for the provision of internet advertising space are defined, the concentration does not threaten to create or strengthen any dominant position.

#### *Dial-up Internet access*

23. There is no overlap between Oracle and either Telia or Drutt since Oracle is not active in Europe in relation to the supply of dial-up internet access. Telia, however, is active as a provider of dial-up connection services to the Internet.
24. On the basis of all dial-up services, a recently published survey<sup>5</sup> has estimated Telia's share of these services in Sweden to be 29%. There is no reliable estimate of Telia's share of mobile dial-up services, nevertheless Telia has [45-55]% of the market for mobile phone customers in Sweden, and it can reasonably be assumed that their share of mobile dial-up services is proportional to this share. Therefore however the market for dial-up Internet access in Sweden is defined, it is a vertically affected market in the context of this concentration.
25. Telia's acquisition of control of Drutt/halebop will not strengthen Telia's position on this market because consumers of Drutt's halebop services are not and will not be tied in to Telia's dial-up Internet access services. Consumers will therefore be able to use Drutt/halebop's services without consuming Telia's dial-up access services.
26. It is also of note that Drutt/halebop is not working with Telia to promote WAP internet access, but is working with two of Telia's competitors (Tele1 Europe and Globcom) in order to promote a package aimed at those who do not currently have access to the Internet via WAP-enabled telephones. Under the terms of this package, Tele1 Europe and Globcom together provide customers with a telephone number and the necessary network infrastructure to use the phone both for voice communication and to access the Internet.
27. The concentration therefore raises no concerns about foreclosure in relation to Telia's provision of dial-up Internet access services.

#### *Internet portal services*

28. Since any particular consumer can visit and, if they choose to, register with any number of portals, measures of market share are particularly difficult to derive. However, it is possible to estimate the "reach" of a portal by measuring the number of visits to a site in a given period as a percentage of the total number of web users in that period.

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<sup>5</sup> Source: National Post and Telecom Agency

29. The parties have provided the results of independent research by MMXI Nordics into various portals' reach in Sweden. The results of this research in June 2000 are summarised in Table 1.

**Table 1 – Unique visitors<sup>6</sup> and reach**

	Numbers (000s)	Reach (%)
“WebUniverse”	[...]	[...]
Startsidan.telia.se <sup>7</sup>	[...]	[...]
Passagen.se <sup>8</sup>	[...]	[...]
msn.se	[...]	[...]
Aftonbladet.se	[...]	[...]
Spray.se	[...]	[...]
Torget.se	[...]	[...]
Everyday.se	[...]	[...]
	Total	[...]

30. As this shows, there are more unique visitors to these portals than there are people with access to the Internet. This shows that individual consumers are not limited to consuming just one portal operator's services, but can visit and register with more than one portal. The reach of Telia's MyDOF portal and Drutt's halebop portal (launched mid-May 2000) were too small to appear in this research.
31. Drutt/halebop has 75,000 registered members, 73,000 of whom are in Sweden. Since Drutt/halebop's services can be consumed by anyone with access to the internet and with a mobile phone, its reach can be assessed in relation to the 4 million people who have access to the internet in Sweden on the assumption that they all have mobile phones. On this basis, halebop's reach is currently less than 2%.
32. Looking at a narrower market of internet portals for mobile customers, the parties have been unable to estimate market shares in any meaningful way. They estimate there are 6 million mobile phone customers in Sweden and that there are around 4 million people with access to the internet. Of the other portals Telia controls, only MyDOF is focused on the mobile platform. MyDOF currently has [...] registered users. If only half of the 4 million people with access to the internet also have a mobile phone, Drutt's estimated reach would be [0-10]%. On the same basis, Telia's reach on the mobile platform would be just [0-10]%.
33. With such a low incremental reach provided by Drutt, the concentration would only threaten to create or to strengthen a dominant position in relation to these markets if it

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<sup>6</sup> i.e. the number of individuals in Sweden between 12 and 79 that have visited the portal during the calendar month

<sup>7</sup> Owned by Telia, but also an “open” portal, i.e. access to it is not limited to consumers of Telia's other services

<sup>8</sup> run by Scandinavian OnLine, [20-30]% owned by Telia, see Case IV/JV.1, Scandinavian On Line.

represented the elimination of the only significant potential competitor. Given that there are a number of significant competitors (such as Microsoft) already active in the provision of portal services in Sweden, and that barriers to entry and expansion into portal markets are low, Telia will continue to face competition from a variety of other sources. The concentration therefore does not threaten to create or strengthen a dominant position on market(s) for internet portals in Sweden, however defined.

## **VII. CONCLUSION**

34. 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 and Article 57 of the EEA Agreement.

For the Commission,  
**Mario MONTI**  
**Member of the Commission**