

***Case No COMP/M.2000 -  
WPP GROUP / YOUNG  
& RUBICAM***

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: 24/08/2000

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, **24/08/2000**  
SG(2000)D/

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 Madam/Sir,

**Subject: Case No COMP/M.2000 – WPP/Young & Rubicam**

Notification of 24.07.2000 pursuant to Article 4 of Council Regulation N/4064/89

1. On 24.07.2000 the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 (“the Merger Regulation”) by which the WPP Group plc (“WPP”) of the UK acquires the sole control of the American company Young & Rubicam Inc. (“Y&R”). The Merger Agreement was signed by the parties on 11.05.2000 and made public the following day.

**I THE PARTIES**

2. WPP is an international marketing communications services group operating in 92 countries worldwide. It provides clients, through separate agencies, with advertising, media investment management, information and consultancy, public relations, public affairs, branding and identity, healthcare and specialist communication services. Some of WPP’s leading agencies include J. Walter Thompson, Ogilvy & Mather, Conquest, MindShare and Research International.
3. Y&R is another international marketing communications services group operating through a network of companies in 73 countries worldwide. Clients are provided through separate agencies with services such as advertising, perception management and public relation, brand identity and design consultancy, database marketing and customer relationship management as well as healthcare communication services.

Y&R's primary agencies include Y&R Advertising, The Media Edge, KnowledgeBase Marketing and Burson-Marsteller.

## **II THE OPERATION**

4. Under the Merger Agreement, the operation will take place by way of a statutory merger under Delaware (USA) law whereby an indirect wholly owned subsidiary of WPP will be merged with and into Y&R. WPP will accordingly indirectly own all of the common stock of Y&R, so that Y&R becomes an indirect subsidiary of WPP. Each outstanding share of Y&R will then be swapped against WPP shares following a ratio that will result in WPP be owned approximately two-third by the current WPP shareholders and one third by the Y&R current shareholders. This merger has been unanimously approved by each party's Board of Directors.
5. The parties believe that the combination of their two entities will create a company that should be in a position to provide its clients with a broader and deeper range of products and services across all areas of communication services.

## **III. CONCENTRATION**

6. The operation will result in WPP acquiring sole control of Y&R. Therefore, it constitutes a concentration within the meaning of Art. 3(1) of the Merger Regulation.

## **IV. COMMUNITY DIMENSION**

7. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 2.5 billion<sup>1</sup>. Each of WPP and Y&R has a Community-wide turnover in excess of EUR 100 million. The undertakings concerned 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**

8. Both parties are providers of marketing communications services. They are also active in media buying.
9. Marketing communications services encompass a range of activities :
  - Advertising: development of marketing and branding campaigns as well as production and design of advertisements.
  - Information and Consultancy: conducting consumer, media, corporate communications and policy research, pre-testing, tracking and evaluation of advertising and promotions design as well as management of international market studies and new product development and testing.

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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.

- Public Relations: providing advice and services with respect to corporate, financial and marketing communications, government lobbying, crisis management and public affairs.
- Consumer Relationship Management/Direct Marketing/Event Management: planning, designing and implementing direct marketing and sales promotions, including direct mail, telemarketing, online marketing and event management.
- Identity and Design: providing services with respect to brand and corporate identity, package design, retail design, verbal branding and corporate literature.
- Healthcare: providing marketing and communications services in the healthcare sector.

***Marketing Communications Services:***

10. According to the notifying party, all marketing communication services as described above fall within the scope of the same relevant product market definition. Indeed, WPP considers that these different services only represent different but substitutable methods for a business to communicate with a group of people, be they consumers, the press, an industry, other companies, governments or any other interested body. The product market definition proposed by WPP is in line with the approach taken by the Commission in a previous case<sup>2</sup>, where communication advice services, market research services and advertising were all considered to be part of a single relevant product market.
11. In particular, it is argued by WPP that clients can either use such services on a stand-alone basis for a given project, or as part of a wider strategy or campaign. For either purpose, they can instruct either individual agencies or a number of agencies. Depending on the purpose of a specific campaign (e.g. to launch a corporate or product brand, increase awareness of a certain issue, etc.), different types of services and agencies could be used to achieve an overall goal for a company. The notifying party therefore considers that an advertising agency, a public relations agency or any other type of agency could be appointed to co-ordinate the publicity to be generated in a campaign. Therefore, all services should be considered as substitutable from a supply-side perspective.
12. There indeed appears to be a high degree of supply-side substitutability between different types of marketing communications services. In general, even though the largest groups own many different agencies positioned within particular fields, these agencies, as with smaller independent agencies, will provide a broad range of services to their clients. The notifying party argues that even though certain agencies tend to specialise in certain sectors or in providing only one particular type of service, the significant overlaps between these various activities put agencies that have a focus on different segments of the market in competition with each other. According to WPP, a clear example of this situation is that strategic advice on how best to put a message across an audience can be provided by advertising agencies, public relations agencies or branding and identity agencies.
13. Similarly, WPP claims that there is a high degree of demand side substitution between these different types of marketing communications services, as clients are

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<sup>2</sup> Case IV/M.147 Eurocom/RSCG.

able to use, to a certain extent, a number of types of services as alternatives to achieve the same goal of communicating with a target group. The parties therefore argue that the distinction between the segments of this market is largely meaningless.

14. In general, the investigation carried out by the Commission confirmed that consumers view the different types of marketing communications services as substitutable to a certain extent and consider that most agencies are able to offer all types of services. Customers normally aim at communicating in the most effective way with their targeted audiences and choose one or several types of communications services among the range of available services accordingly.
15. With the possible exceptions of international communication services and media-buying described hereafter, the Commission can thus conclude that all marketing communication services involved in the proposed concentration belong to a single relevant products market.
16. However, most consulted third parties submitted to the Commission that international communication services (e.g. international or world-wide advertising campaigns) can normally only be provided by agencies that have a global network. Furthermore, the organisation and execution of such international campaigns may require specific IT and communication tools. This might support the definition of a separate market segment for international marketing communication services. On the other hand, companies that are active in this market segment are usually also offering purely “national” communication services. Moreover, international communication services are in many respects identical to national services and mostly differ from national services because of specific implementation requirements.
17. For the purpose of this decision, the issue of whether or not international communications services constitute a separate product market may be left open, since regardless of the considered product market definitions, the concentration would not create or strengthen a dominant position.

***Media Buying:***

18. The activity of media buying includes planning and purchasing time and/or space in various media, including broadcast and cable television, radio, newspapers, magazines, billboards and the internet.
19. In a recent case<sup>3</sup>, the Commission considered that media buying activities constitute a separate market within the advertising sector since such activities satisfy a particular demand from customers, which can be performed separately from the creation of advertising campaign. The Commission further considered that media buying activities could not be divided in several markets according to the media concerned.
20. However, in this case, the parties consider there is a great deal of overlap between media buying and other marketing communications services since many activities within the scope of media buying also fall within the scope of advertising services, particularly the media planning aspects of constructing an advertising campaign.

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<sup>3</sup> See case IV/M.1529 Havas Advertising/Media Planning.

21. The parties indeed submit that media buying will usually include media planning or strategic advice, which involves the agency researching the market to define the target audience for the product or service to be advertised, as well as advising on which media in which locations would be most suitable. Moreover, the parties consider that the planning aspect of media buying blurs the boundaries between advertising and media buying, as this is a function which is also often carried out by advertising agencies. Consequently, the parties believe that not only does a significant overlap exist between these two markets, but that, in addition, this overlap creates a competitive constraint on each of these two markets.
22. However, for the purpose of the present decision, it is not necessary to establish whether or not media buying constitutes a separate product market, since with all considered product market definitions, the operation would not create or strengthen a dominant position.

***Geographic dimension of the markets:***

23. Although there are no regulatory or other barriers restricting the choice of multi-national customers to particular agencies, marketing communications services appear to be sought by the majority of these customers on a national basis only. Language differences, different media conditions in different countries, pricing differences between countries and the need to inform the public, the government or other institutions on a national basis indeed support the definition of national geographic markets.
24. As far as media buying activities are concerned, the national scope of the market is clear. There are limited opportunities for the provision of such services on a multi-national basis and a national presence is necessary, among other things, to gather the necessary knowledge of customer patterns as regards the different media channels. The Commission's definition of the market in a previous case<sup>4</sup> is therefore confirmed.

**VI. COMPETITIVE ASSESMENT**

25. The parties have found that defining and calculating market shares for the considered markets proved difficult. WPP indicated that there is a general lack of market share data for the marketing communications services market as a whole. It insists in particular that that it would be very difficult and also illogical to split out agencies' revenues between various segments, as the mix of revenues reflects the reality of the market that all marketing communications services should be assessed together.
26. Furthermore, WPP stressed that market shares can be calculated by different means such as income and gross billings depending on the activities of the agency as well as the availability of statistics for a large number of agencies in a specific country.
27. The parties also believe that some market shares in some countries are overstated by accounting for only the top agencies while the market for marketing communications services is claimed to be characterised by a high level of fragmentation, with hundred of agencies active in every Member-State. Some

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<sup>4</sup> See case IV/M.1529 Havas Advertising/Media Planning.

published statistics therefore fail to capture a significant portion of each market segment, which results in over-inflated market shares for the largest agencies and groups. It is, according to the parties, even more difficult to estimate the true size of the relevant market when, each year many new agencies are established, which can achieve very rapid growth while remaining out of the statistics.

28. In any event, on the basis of estimated incomes, billings or revenues for communication services agencies in the different EEA countries<sup>5</sup>, , the parties estimate that their highest combined market shares would be in the order of: (i) [20-30%] in Italy, [15-25%] in Belgium, and between [10% and 26%] in Portugal on the market segment for advertising services (including branding and specialist communication services); and; (ii) [20-30%] in Belgium, [20-25%] in Spain, and [10%-20%] in Italy on the market segment for public relations agencies.
29. WPP underlines that barriers to entry in the market for marketing communications services and its various segments are very low as it appears that agencies are able to expand their businesses rather easily and quickly either through the recruitment of new personnel or the development of the business into new fields of activities. In addition, the market is seen as very dynamic with many people leaving larger agencies to set up an agency of their own.
30. Furthermore, the parties will still be faced with significant competition from a large number of important players such as Omnicom, Havas, Publicis, BCom3, Interpublic, etc.
31. The proposed concentration will therefore not create or strengthen a dominant position in the marketing communication services.
32. Moreover, it should be noted that numerous important competitors (including all the above-mentioned groups) have the ability to offer international (as opposed to purely national) marketing communication services. In particular, in Belgium, Italy, Portugal and Spain, where the merged group would have its highest market shares, it would still face competition from at least three to four significant competitors which have access to an international agencies network: in each of these four Member states, Interpublic and Omnicom both have market shares of approximately 15-25% for advertising, and either Havas or Publicis has a market share of approximately 5%-10%. It therefore appears that even if one assumed that international communication services belonged to a distinct product market, the proposed concentration would not create any serious concern as to the creation or the strengthening of a possible dominant position.
33. As regards media buying activities, the parties' combined market shares are well below 15% in all EEA countries. The operation will clearly not create any competitive concern in this market segment.
34. Therefore, the operation does not raise serious competition concerns as to the creation or the strengthening of a possible dominant position on a specific market in a specific Member-State.

## **VII. CONCLUSION**

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<sup>5</sup> The corresponding information has been gathered from professional publications, national associations and internally. In some countries, the estimated market shares are overstated because only the top agencies are accounted for.

35. For the above reasons, the Commission considers that the operation will not create or strengthen a dominant position within the EEA or any substantial part thereof.
36. Therefore, the Commission has decided not to oppose the notified operation and to declare it compatible with the common market and with the functioning of the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of Council Regulation (EEC) No. 4064/89.

For the Commission,