

***Case No COMP/M.2101 -
GENERAL MILLS /
PILLSBURY / DIAGEO***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 13/10/2000

*Also available in the CELEX database
Document No 300M2101*



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 13/10/2000
SG(2000)D / 107540

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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.2101 - GENERAL MILLS/PILLSBURY/DIAGEO

Notification of 14/09/00 pursuant to Article 4 of Council Regulation No 4064/89

1. On the 14 September 2000, the Commission received a notification of a proposed concentration pursuant of Article 4 of Council Regulation (EEC) No. 4064/89¹, whereby General Mills, Inc proposes to acquire from Diageo plc The Pillsbury Company and certain other entities through which the Pillsbury business is carried on outside the US.
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of the Council Regulation (EEC) NO 4064/89 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. **General Mills Inc** (General Mills), US, is engaged in the manufacture and marketing of consumer foods products. Its principal products are ready-to-eat cereals, main meals, side dishes, desserts, flour and baking mixes, snacks and yoghurt. Virtually all General Mills activities in the EU are carried out through two joint ventures; Cereal Partners Worldwide (with Nestle) and Snack Ventures Europe (with PepsiCo). Its brands include Cheerios and Betty Crocker.

¹ OJ L 395, 30.12.1989 p.1 corrigendum OJ L 257 of 21.09.1990, p.13; Regulation as last amended by Regulation (EC) No 1310/97 (OJ L 180, 9.7.1997, p1, corrigendum OJ L 40, 13.2.1998, p 17)

4. **The Pillsbury Company** (Pillsbury), US, is a wholly owned subsidiary of Diageo. The Pillsbury business essentially produces, markets and distributes a wide range of consumer products to in-store retail, bakery and food service businesses in the US and Canada. Pillsbury International operates through subsidiaries and joint ventures outside US and Canada where it sells the Pillsbury, Green Giant, Häagen-Dazs and Old El Paso brands.
5. **Diageo** is a consumer goods company which was formed in December 1997 through the merger of GrandMet and Guinness. Its principal products include spirits and wine (Johnnie Walker, Smirnoff and Gordon's), packaged food (Pillsbury), beer (Guinness) and quick service restaurants (Burger King).

II THE OPERATION

6. The operation involves the acquisition of sole control by General Mills of The Pillsbury Company and various international entities which are part of the Pillsbury Business in exchange for common stock.
7. At completion General Mills will issue 141 million common stock shares to Diageo, which will represent approximately 33% of the share capital of General Mills. Diageo's minority shareholding in General Mills however does not give rise to a change of control of General Mills for the purpose of the Merger Regulation. This is mainly because Diageo accepts restrictions on its voting rights and its long-term interests in General Mills.

III CONCENTRATION

8. The operation constitutes an acquisition by General Mills of sole control over Pillsbury, and is therefore 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 € billion² (General Mills €600 million (1999/2000), Pillsbury €100 million (1998/99)). The aggregate Community-wide turnover of each party is in excess of €250 million (General Mills ~~€~~ million (1999/2000), Pillsbury ~~€~~ million (1998/99)), 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.

² 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

A The relevant product market

10. The parties are active in packaged consumer foods. General Mills sells cake and dessert mixes and ready-to-eat cereals in the EEA territory. Pillsbury sells frozen pastry and frozen dough products³, refrigerated baked goods, Häagen-Dazs ice cream, packaged Mexican food and tinned and frozen vegetables in the EEA area. The parties argue that their activities do not overlap and therefore there are no affected markets.
11. The relevant markets where the parties' individual market shares exceed 25% have been identified as follows:
 - Baking and dessert mixes – includes flour mixes, cake mixes, brownie mixes, cookie mixes and sweet bread mixes.(General Mills)
 - Breakfast cereals – cover hot and cold ready-to-eat cereals (General Mills)
 - Ingredient pastry – includes frozen and chilled ingredient pastry (Pillsbury)
 - Part of the market for ethnic meals – includes Chinese, Thai, Indian and Mexican dishes (Pillsbury)
12. The parties consider baking and dessert mixes is a distinct market from ingredient pastry based on different skills needs of the consumers and differences in manufacture and storage. However, even if these products are regarded as part of the same market the merger will not result in the creation of a dominant position. Therefore, the precise market definition for baking and dessert mixes and ingredient pastry will be left open on this occasion.
13. Nor is it necessary to define the market for breakfast cereals or ethnic meals precisely as the operation does not create or strengthen a dominant position in the common market.

B The relevant geographic market

14. The parties regard the relevant market for all products concerned as national. However, it is not necessary to define the geographical markets precisely as even on the narrowest market definition the operation does not create or strengthen a dominant position in the common market.

C Assessment

15. The parties argue that they are not active in the same market and that there is no overlap between the parties' businesses. Furthermore neither party is active in any business in the EEA territory which is upstream or downstream of any of the other party's interests in the EEA territory.

³ Frozen dough products have now been withdrawn in the EEA territory.

16. Even if baking and dessert mixes and ingredient pastry are considered to be in the same market this will only result in an affected market in the UK were the parties will have a combined market share of [25-35]%. Given the presence of other sizeable competitors in each sector (Green's McDougalls (mixes) and Saxby (pastry)) this market position will not result in any competition concerns.
17. The concentration will therefore not create or strengthen a dominant position in the common market.

VI CONCLUSION

18. 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,
