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*Case No IV/M.218 -
EUCOM / DIGITAL*

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

Article 6(1)(b) NON-OPPOSITION
Date: 18.05.1992

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Brussels, 18.05.1992

PUBLIC VERSION

MERGER PROCEDURE -
ARTICLE 6(1)b DECISION

Registered with advice of delivery

To the notifying parties

Dear Sirs,

Subject: Case No. IV/M.218 - EUCOM / DIGITAL
Your notification pursuant to Article 4 of Council
Regulation (EEC) No. 4064/89

1. On 15.04.1992 Eucom Telekommunikation-Mehrwertdienst mbH (EUCOM) and Digital Equipment (Holdings) BV jointly notified to the Commission an operation pursuant to Article 4 of the Merger Regulation concerning the creation of Euro-Log Holding BV (EURO-LOG), a jointly owned company which will provide a value added network service in the transportation sector.
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of application of Council Regulation (EEC) No. 4064/89 and that it is compatible with the common market.

I. THE PARTIES

3. EUCOM, which is a fifty-fifty JV between France Télécom and Deutsche Bundespost Telekom, is a holding company that develops specific value added network services by cooperating with other partners or by investing in existing companies.
4. Digital Equipment (Holdings) BV is a wholly owned subsidiary of Digital Equipment Corporation (Digital). The main activities of the Digital Group include the design, manufacture, sale and service of computer systems, associated peripheral equipment and related software products.

5. EURO-LOG will be a limited liability company under the laws of the Netherlands. It will develop and market a specific value added service in the telecommunications sector. EURO-LOG will provide a freight management information system linking all logistic partners in the transportation chain, which will aim to provide an integrated and comprehensive service to subscribers. At the outset EURO-LOG's share capital will be owned by EUCOM [...] ⁽¹⁾ and Digital [...] ⁽¹⁾. However, within a 2 years period EUCOM's and Digital's shareholdings are expected to be reduced to [...] ⁽¹⁾ and [...] ⁽¹⁾ respectively by accepting as new shareholders the German consulting firm Technologie Management Gruppe GmbH (TMG) with a [...] ⁽¹⁾ stake and a group of financial investors for the balance.

II. CONCENTRATION

6. Although EUCOM will keep under the present and anticipated future capital structure the majority of the share capital, EURO-LOG will be jointly controlled by France Télécom and Deutsche Bundespost via EUCOM, and Digital since the shareholders' agreement provides that major decisions concerning the business activities of EURO-LOG such as for example the approval and implementation of the Business Plan, the dividend policy and the appointment of the top managers need the consent of EUCOM and Digital. [...] ⁽¹⁾
7. EURO-LOG will perform on a lasting basis all the functions of an autonomous economic entity. France Télécom, Deutsche Bundespost and Digital will transfer to EURO-LOG all the know-how and assets required for the initial start up of the operations. For the marketing and customer service of its products EURO-LOG plans to create, in each country it will enter, joint ventures with local investors. EURO-LOG will keep 51% of the shares of these JVs. Thus, EURO-LOG will not depend for the building and maintenance of its customer base on its parents.
8. The freight management system to be marketed by EURO-LOG will be a new type of development, operating through the Europe-wide cellular network Groupe Spécial Mobile (GSM). The parent companies presently are not providing this service and it would not be an economically reasonable course of action for them to do it independently in the foreseeable future. Potential subscribers to the service include consignors and consignees of goods, transport companies, and air, rail and sea carriers. The network will enable the subscribers to effect electronic exchanges of documents thereby integrating existing communication systems in the transport sector.
9. The notifying parties claim that the integrated networking service to be provided by EURO-LOG will be a new development on the market, and accordingly not in competition with any existing value added service.
10. EUCOM has already to a limited extent developed a value added network service in the transportation sector through its majority owned subsidiary TRANSPONET, which provides EDI-based services. The parties intend that TRANSPONET's business will be [...] ⁽²⁾ EURO-LOG.
11. This operation is therefore a concentration within the meaning of Article 3(2) of Council Regulation No. 4064/89.

⁽¹⁾ Deleted: business secrets

⁽²⁾ included in

III. COMMUNITY DIMENSION

12. The notified operation has a Community dimension since total worldwide turnover of the undertakings concerned largely exceed the 5 billion ECU threshold, the aggregate Community-wide turnover of at least two undertakings concerned is more than 250 million ECU and they do not achieve more than two thirds of their Community-wide turnover in one and the same Member State.

Each of France Télécom and Deutsche Bundespost Telekom has to be considered as an undertaking concerned within the meaning of Article 1, since EUCOM is a vehicle to enable the two companies to participate in projects such as EURO-LOG.

IV. COMPATIBILITY WITH THE COMMON MARKET

13. Although there is no unique definition of value added network services (VANS), it is generally accepted that they include a wide range of services associated with the exchange of information via computer facilities connected by a telecommunications network. The VANS supplier will usually add functionality to the telecommunication transmission and switching services and provide a new service on a commercial basis to third parties.
14. Community demand for VANS is expected to exceed 5 billion ECU in 1992. It is a sector which is developing and changing quickly, with high growth rates expected.
15. The service to be marketed by EURO-LOG is described as a highly developed VANS which will provide a specialised network service in the logistics and transportation chain providing for the integration of existing equipment and software of customers with the vendor's in-house system. Tracking and tracing of cargo will also be possible by the use of GSM and satellite communication where applicable. Total annual turnover of EURO-LOG by 1998 is estimated at around [...] ⁽¹⁾. This is based on the assumption that EURO-LOG can attain a [...] ⁽¹⁾ share of the predicted revenue from freight management information systems in the countries where it will initially be set up (Belgium, France, Germany and the Netherlands).
16. Since this is a new service, it is not possible to indicate in precise terms who competitors may be. Potential entrants include inter alia telecommunications operators, telecommunications equipment manufacturers and computer software companies.
17. The service which EURO-LOG will offer is a new one in the fast growing VANS sector where the technology is still evolving. EURO-LOG's purpose is to provide a high value-added open and neutral information system for the complete management and control of the transportation supply chain. There is no indication that EURO-LOG will foreclose a market to any significant extent. France Télécom and Deutsche Bundespost are obliged in any case under Community law to offer the same telecommunications service to competitors of EURO-LOG as they will to EURO-LOG. The assets and know-how which Digital is transferring to EURO-LOG constitute its initial

⁽¹⁾ Deleted: business secret

development work in this business area. The open nature of this initial development work would not appear to allow Digital to foreclose this fast evolving market.

18. On the basis of the facts of this case it is concluded that the proposed concentration does not create or strengthen a dominant position as a result of which effective competition would be significantly impeded in the common market or in a substantial part of it.
19. For the above reasons the Commission has decided not to oppose the notified concentration and to declare it compatible with the common market. This decision is adopted in application of Article 6(1)b of Council Regulation (EEC) No. 4064/89.

For the Commission,