

***Case No COMP/M.2197 -  
HILTON / ACCOR /  
FORTE / TRAVEL  
SERVICES JV***

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: 16/02/2001

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 16.02.2001  
SG (2001) D/286259-61

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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.2197 - HILTON/ACCOR/FORTE/TRAVEL SERVICES JV**

Notification of 15.01.2001 pursuant to Article 4 of Council Regulation No 4064/89

1. On 15.01.2001, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) N° 4064/89<sup>1</sup> by which the undertakings Accor S.A., Forte Limited and Hilton International Hotels (UK) Limited acquire within the meaning of Article 3(1)(b) of the Council Regulation joint control of two newly created companies constituting two joint ventures by way of purchase of shares and contract of management.
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of Council Regulation (EEC) N 4064/89 and does not raise serious doubts as to its compatibility with the common market and with the EEA Agreement.

**THE PARTIES**

3. Accor S.A. is a publicly owned company listed in the Paris Stock Exchange and is the parent company of the Accor group of companies, an international group operating in the areas of travel, tourism and corporate services. The Accor group is active in two major complementary sectors: hotels and related services such as travel agencies and tour

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<sup>1</sup> OJ L 395, 30.12.1989 p. 1; corrigendum OJ L 257 of 21.9.1990, p. 13; Regulation as last amended by Regulation (EC) No 1310/97 (OJ L 180, 9. 7. 1997, p. 1, corrigendum OJ L 40, 13.2.1998, p. 17).

operators on the one hand and on the other hand corporate services (principally luncheon vouchers).

4. Forte Limited is wholly owned by Granada Compass plc, a publicly quoted company in the UK with interests in the media, rental and hospitality sectors. Forte Limited is a company in the Forte Hotels division of Granada Compass plc (“Forte Hotels”). Forte Hotels operates approximately 250 hotels under the brands Meridien, Posthouse, and Heritage, the majority of which are located in the UK.
5. Hilton International Hotels (UK) Limited is a wholly owned subsidiary of the Hilton Group plc, a UK quoted company whose principal activities are hotels and betting and gaming.

## **THE OPERATION**

### *Joint control*

6. The proposed concentration consists in the creation of two full function stand-alone joint ventures. Both companies will be established by the same parties, who will own them in equal proportions with the same rights of veto over strategic decisions.
7. One of the joint ventures (“the back end company”) will develop and operate a GDS<sup>2</sup>, an informatics system and a data base providing hotel information and connectivity for hotel booking facilities via [electronic channels]. According to the notification, virtual travel agencies will be able to obtain information and make hotel reservations through the back end company and hotels will have the possibility to choose a new GDS specialised in hotels with a more developed technology than the existing ones.
8. The other joint venture (“the front end company”) will be an Internet travel agency with a web site and a booking mechanism. It will be aimed primarily at the SMEs and SOHOs<sup>3</sup> and limited to hotel bookings at a first stage. The first countries where it will provide its services are the UK, France and Germany.

### *Full function Joint ventures*

9. The notifying parties are setting up two legal entities under English law. The JV companies are private limited companies. Both companies are set up for a permanent period. The executive management of the joint ventures will be initially common to both. In addition to the funds provided by the notifying parties it is intended that other companies become partners in these joint ventures and provide additional funds to them. In due course, there may be differing equity holders in each joint venture company and potentially different groups of controlling shareholders. The front end company and the back end company are going to recruit key employees, acquire and develop information technology and make any other preparations necessary to start their business. The front end company and the back end company will be managed independently from their parents by a chief executive and senior management remunerated on the basis of the success of the joint venture companies businesses.

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<sup>2</sup> Global Distribution System

<sup>3</sup> Small offices, home offices

10. The dependence of the front end company on the notifying parties revenue is estimated to be only approximately [...] % of the front end company's revenue. The revenue provided by the notifying parties to the back end company is expected to be approximately [...] % of its total revenue.
11. Consequently, both the front end company and the back end company are stand-alone full function companies subject only to the strategic control rights of the notifying parties. They are provided with sufficient funds to enter the travel agency and GDS sectors where they will, at least after the start up phase, act with undue reliance upon revenues from the notifying parties.
12. Accordingly, the back end company and the front end company will be two full-function joint ventures within the meaning of article 3(2) of Council Regulation (EEC) 4064/89, performing all the functions of two autonomous economic entities on a lasting basis.

## **COMMUNITY DIMENSION**

13. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion (EUR 5 871 million Accor, EUR 13 536 Forte (Granada Compass) and EUR 6 527 Hilton). Each of the undertakings have a Community-wide turnover in excess of EUR 250 million (EUR 3 870 million Accor, EUR 9 964 million Forte (Granada Compass) and EUR 4 472 million Hilton), 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.

## **RELEVANT MARKETS**

### **Business Travel Agency**

#### *Relevant product market*

14. As regards the supply of travel agency services the Commission has defined travel agents<sup>4</sup> as retailers supplying various services to travellers such as flights, car rental, hotel booking etc. and remunerated by the supplier of the service concerned. In addition, the Commission has stated in previous decisions that there are two distinct relevant product markets that can be identified in the travel agency sector: business travel services and leisure travel services<sup>5</sup>. Business travel agency services meet the needs of companies for business travel of management and employees in accordance with corporate travel budgets and plans. The front end company will be a new entrant in the business travel agency sector and its products will be aimed at SMEs and SOHOs. As regards a further possible distinction between on line travel agencies and traditional travel agencies, the Commission has stated recently<sup>6</sup> that, at this stage, the provision of travel agency services online is not a different market from the provision of travel agency services by traditional travel agencies. In fact, from the point of view of the demand-side, services provided by virtual travel agencies are substitutable with services provided by traditional travel agencies and customers can choose

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<sup>4</sup> Case IV M 1524 Airtours/Firs Choice

<sup>5</sup> Case IV M.229 Thomas Cook/LTU/West LB, case IV/M 564 Havas Voyages/ American Express, case IV M. 867 Wagon Lits/Carlson and case IV M 988 Maersk DFDS

<sup>6</sup> case Comp M. 1812 Telefónica/Terra/Amadeus

whether to source their requirements from virtual travel agencies or traditional travel agencies. From the point of view of the supply-side, travel agencies are able to migrate to providing services over the Internet without considerable efforts. However, the Commission did not exclude that, in the future, there could be an independent evolution of the online travel agency sector. In the present case, it has not been necessary to analyse the market further since in any event the operation does not raise competitive concerns.

#### *Relevant geographic market*

15. In the above-mentioned Telefónica Terra/Amadeus case<sup>7</sup> the Commission considered that the geographical market for virtual travel agencies was national in scope. This definition was based on language barriers and the need to set up national distribution arrangements for tickets and vouchers given that the “ticketless system” is not yet wide-spread.
16. As regards the present transaction, the newly created virtual travel agency will initially be available in three languages: English, French and German and will be limited to hotel accommodation and accessible to customers world-wide. Nevertheless, marketing efforts will concentrate on European customers. As regards hotel bookings, there is no intention of taking pre-payment and, therefore, no delivery mechanism will be required. Hotel reservations will be confirmed by E-mailing a booking reference. However, if the front-end company extends into other travel bookings (planes, trains and cars), it will be necessary to set up national distribution arrangements (although electronic ticketing may have made further strides by then). Notwithstanding this, the question whether online travel services have a geographical scope larger than national can be left open since the concentration will not lead to the creation or strengthening of a dominant position.

## **GDS**

#### *Relevant product market*

17. The parties consider that the back-end company is a GDS (or CRS<sup>8</sup>). A GDS can be defined as a tool provided to travel agencies in order to allow them to obtain information and make reservations related to airlines and other internationally operating travel services providers including car rental companies and hotels. These travel services providers supply the GDS with data on the products they provide.
18. The parties submit that the “back end company” will be a GDS accessible only via [electronic channels]. Its activities will be limited to information and reservation related to hotels.
19. The notifying parties define the relevant product market as the market for comprehensive GDS-systems regardless of whether they are primarily set up by/for airlines or other travel service providers and regardless of means of access.
20. The Commission in a previous decision<sup>9</sup> has not considered it necessary to decide whether the CRS relevant product markets should be narrowed down further, for instance, on the

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<sup>7</sup> case comp M. 1812

<sup>8</sup> Computerised reservation system.

<sup>9</sup> case IV.M 1547 Lufthansa/Amadeus/Start

basis of the type of travel service concerned (air travel, rail travel, car rental, hotel accommodation etc.).

21. As regards the means of access, the Commission has stated in the past<sup>10</sup> that the GDS market includes the provision of GDS (or CRS) over the Internet to virtual travel agencies as well as the provision of the traditional system to non-virtual travel agencies.

22. In present case the Commission has identified two different types of companies:

- Major GDSs: Amadeus, Sabre, Worldspan and Galileo whose booking engines, only available to subscribers, include inter alia air tickets, provide their services to travel agencies and obtain fees from them as well as from the companies that are bookable through them. They are able to provide two different types of booking facilities: one adapted to traditional travel agencies and one adapted to Internet for online travel agencies. To the extent that they contain air transport products, when offered for use and/or used in the territory of the Community they are submitted to Regulation EEC 2299/89<sup>11</sup>.
- Companies such as Pegasus and Wiz.com that provide a switch between the hotel central reservation systems and major GDSs. Pegasus and Wiz.com have also developed technologies to link directly to Internet sites, thereby, bypassing major GDS where they do not add value. Pegasus also has a web site with which it targets consumers directly, thereby bypassing both major GDSs and virtual travel agencies. These companies provide only Internet booking facilities without subscription fees. They do not provide traditional booking facilities for traditional travel agencies. The “back end company” can be included in this category although it will not target final consumers. It is conceived as a B2B proposition allowing more rich and reliable information and data to flow from the hotels to Internet web sites of virtual travel agencies.

23. It is doubtful that the latter can be assimilated to traditional major GDS. Nevertheless in the present case since the back end company will be a new entrant and there is no risk of creation of a dominant position, it is not necessary to define the product market further.

#### *Relevant geographic market*

24. The relevant geographic market for major GDSs (Galileo, Amadeus, Sabre and Worldspan) has usually been regarded as national in character mainly because the conditions of sale vary from country to country<sup>12</sup> and the fact that travel agencies operate in national markets.

25. The parties claim that in the case of the back end company, to the extent that vouchers and tickets are not required to be issued, and given that the information will be accessible via the Internet in more than one language, it is not clear that the GDS market is necessarily a national market, but instead may be of wider geographical scope. Furthermore, the main

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<sup>10</sup> Se foot note 6

<sup>11</sup> OJ L of 24.7.1989 amended by Regulation 3089/93 OJ L 17 of 11.11.1993, corrigendum OJ L 278 of 25.01.1995 and OJ 83 of 4.4.2000 modified by Regulation 323/99 OJ L 40 of 13.2.1999.

<sup>12</sup> see foot note 6

technological know-how and information and data concerning travel agencies apply to the GDS market as a whole regardless of the national markets. Nevertheless in the present case it is not necessary to define the geographic scope of the market since the operation will not give rise to competition problems.

## **Hotel Accommodation**

### *Relevant product market*

26. The parties are of the opinion that the relevant market to be considered for hotel accommodation is the market for all hotels [although for the purposes of assessing market share,] excluding managed hotels<sup>13</sup> and franchised hotels<sup>14</sup>. There are not uniform rules for classifying hotel accommodation. Furthermore they are of the opinion that the use of star ratings, whilst appearing scientific does not always guarantee the grouping of like-quality hotels. Neither the standard, nor the prices are totally determined by this classification. Nevertheless, the parties acknowledge that some significant price differences exist between the “bottom” and “top” and believe that if segmentation within the general hotel market is to be made, it would be appropriate to identify sub-markets which largely overlap as follows: 1 and 2star hotels, 2 and 3 star hotels, 3 and 4 star hotels or 1,2 and 3 star hotels and 2,3 and 4 star hotels.
27. However, as the competitive assessment of the present operation, presented further below, does not result in any concern in any possible market definition, it is not considered necessary to define the relevant product market more precisely.

### *Relevant geographic market*

28. The parties believe that the relevant market for hotel accommodation is national-wide. However, as already indicated in the past<sup>15</sup>, the Commission believes that the hotel sector displays both national and local (cities) characteristics:
- national, because it appears that the conditions of competition are homogeneous at a national level. The structure of supply may vary from one national market to another, especially considering that the hotel industry is closely linked to the national economic trends;
  - local, because a second degree of competition exists at a local level and takes place between all hotels, whether or not they belong to a chain, the primary criterion for the choice of a hotel being its location. Local geographic markets are useful to measure the substitutability between individual hotels from the customer’s point of view. Cities can be considered as local markets for hotels as one of the main feature of the hotel sector is its individual city character: customers select hotels in the city where they stay.

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<sup>13</sup> given that the owner of the hotel managed by the parties has the right to terminate the management agreement with the manager at short notice

<sup>14</sup> Accor has franchised hotels but has no control over those hotels, or their pricing policy. Franchise arrangements can be terminated by the franchisee at short notice

<sup>15</sup> case IV/M. 1596 Accor, Colony, Blackstone/Vivendi

29. In the present case, it is not necessary to further delineate the relevant geographic markets because, in both alternative geographic market definitions considered, the operation would not lead to competition concerns.

## ASSESSMENT

### *Horizontal aspects*

30. The front-end company will be a new entrant in the business travel agency sector, where Accor has market shares that exceed or may exceed 15% in Denmark (around [30 - 40%]) Belgium/Luxembourg [10 - 20 %] and France [10 - 20 %]. Due to the fact that the front end company will operate only a virtual travel agency aimed at SMEs and SOHOs, with market shares that are expected to be very low, there is no risk of creation or reinforcement of a dominant position.

### *Vertical integration*

31. The parent companies, as hotel services providers, the back-end company as a GDS specialised in hotel information and reservation and the front-end company, as a travel agency, will operate in three sectors which are vertically integrated. There may only be a risk of foreclosure in the GDS and travel agency markets if it were shown that the parents have sufficient market power in the hotel market. Under these circumstances it could be reasonable for the parents to discriminate in favour of the two subsidiaries in the provision of information and offerings related to their hotels, in order to achieve dominance in the corresponding downstream markets.

32. However, the market shares of the parties, by occupancy and by capacity, under all possible market definitions<sup>16</sup>, exceed 25% at the national level only in Belgium and at the local level in Lyon, Marseilles and Toulouse. The table below gives a picture of the situation:

	2 Star				3 star				4 star			
	By capacity		By occupancy		By capacity		By occupancy		By capacity		By occupancy	
		Included franchisees		Included franchisees		Included franchisees		Included franchisees		Included franchisees		Included franchisees
Belgium	[20 - 30%]	[25 - 35%]	[25 - 35%]	[25 - 35%]								
Lyon					[35-45%]		[35-45%]		[25-35%]	[45-55%]	[25-35%]	[45-55%]
Marseilles	[30 - 40%]				[30-40%]	[40 - 50%]	[30-40%]	[35 - 45%]	[25-35%]		[25 - 35%]	
Toulouse					[35 - 45%]	[45 -55%]	[30 - 40%]	[40 -50%]	[20-30%]		[20-30%]	

<sup>16</sup> including different hotel categories and different possible combinations of these categories and taking into account franchised hotels.



33. Since the « front end company » is an online travel agency aimed at a very limited number of clients (SMEs and SOHOs), it is doubtful that an exclusionary and foreclosing strategy may prove profitable.
34. Third parties have pointed out the possibility that the Accor, Forte and Hilton could deny competing GDSs the ability to book the parties' hotel rooms or could establish discriminatory rates only available through it. The Commission considers that even if the parties adopted this discriminatory behaviour it will not have as an impact the creation of a dominant position in the GDS market. Major GDS (Amadeus, Galileo, Sabre and Worldspan) obtain the vast majority of their revenues from air ticket bookings and the impact of bookings from the parties on their total turnover is negligible (less than 1%).
35. If we had to consider that there is a specific market for GDS specialised in hotels and that can be used only through Internet, given their market shares, the parties do not have sufficient market power to create a dominant position. Moreover, the back end company will give other hotels the possibility to choose a new internet GDS with a more developed technology than the existing one. On the other hand, since there are low entry barriers, nothing prevents other hotel chains to create new Internet GDS specialised in hotels.
36. Finally, it has to be remembered that travel agencies with internet web-sites will take advantages from the creation of the « back end company », given that the services provided by it will only be remunerated by hotels and not by travel agents. The creation of this new GDS will give them the possibility to reduce their costs by not paying fees to major GDS when booking hotel rooms.

*Risk of co-ordination*

37. The parties are all active as hotel service providers. On the basis of past experience and the information provided by the parties, the likelihood of co-ordination in this sector appears to be remote due to intensive competition and relatively low market entry barriers. Furthermore this is still a growing market. In addition, on the basis of the information available it is difficult to construe a causal link between the JVs and the coordination of the parents' competitive behaviour. Finally, even if such a co-ordination were to take place the market share data provided show that it would not have an appreciable effect on the markets concerned.

**CONCLUSION**

38. For the above reasons, the Commission decides 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,  
Mario MONTI  
Member of the Commission