

***Case No COMP/M.2228 -
C&N / THOMAS COOK***

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

Article 6(1)(b) NON-OPPOSITION
Date: 09/02/2001

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 09.02.2001
SG(2000)D/

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying party:

Dear Sir/Madam,

Subject: Case No COMP/M.2228 – C&N/Thomas Cook

Notification of 08.01.2001 pursuant to Article 4 of Council Regulation No 4064/89

1. On 08/01/2001, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89¹ by which C&N Touristic AG ('C&N') acquires within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of Thomas Cook Holdings Ltd. ("TC") by way of purchase of shares.
2. The Commission has concluded that the notified operation falls within the scope of Council Regulation No. 4064/89 as amended and does not raise serious doubts as to its compatibility with the common market and with the functioning of the EEA Agreement.

I. THE PARTIES AND THE TRANSACTION

3. C&N is a vertically integrated German tour operator, incorporating package tour operations, travel agencies, an in-house charter airline, and hotel ownership and operation. Its EEA operations are primarily based in Germany, Austria, Benelux, France and Spain. It is jointly controlled by Lufthansa AG and Karstadt Quelle AG. TC is a U.K. based vertically integrated travel business, incorporating package tour

¹ OJ L 395, 30.12.1989 p. 1; corrected version OJ L 257 of 21.9.1990, p. 13, as last amended by Regulation (EC) No 1310/97, OJ L 180, 9.7.1997, p. 1, corrigendum in OJ L 40, 13.2.1998, p. 17.

operations, travel agencies, and an in-house charter airline. TC's EEA leisure travel operations are limited to the U.K. and Ireland.

4. Pursuant to the commitments given in relation to Preussag AG's acquisition of the U.K. – based tour operator Thomson plc. (Case No. Comp./ M. 2002 ;Article 6(2) decision of 26.07.2000) Preussag and WestLB are required to dispose of their shareholdings in TC. Carlson, the other existing shareholder in TC, will exercise its options to acquire the TC shareholdings of Preussag and WestLB , and entered into an agreement on 05.12.2000 to immediately sell on the whole of TC to C&N (the transaction which is the object of the current notification). Thus C&N is the purchaser of TC for the purposes of the above-mentioned commitment.

II. CONCENTRATION

5. C&N is acquiring control of the whole of TC and therefore the operation constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

III. COMMUNITY DIMENSION

6. C&N and TC have a combined aggregate world-wide turnover of more than EUR 5 billion². Each has a Community-wide turnover in excess of EUR 250 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.

IV. COMPETITIVE ASSESSMENT

A. Relevant markets

The notifying party basically uses the same definitions as were used by the Commission in its Airtours / First Choice decision (M.1524) of 22nd September 1999, that is, national markets for short-haul foreign package holidays, travel agency services, and the supply to tour operators of seats on charter flights to short-haul destinations. The Commission's investigation in the present case has confirmed that these definitions remain valid

7. The Commission has also investigated the impact of the proposed transaction as regards the combined buying power of C&N and TC on the procurement markets for hotel accommodation in destination holiday resorts. It is not necessary to define these markets in the present case, as the transaction does not raise competition concerns on any possible market definition (see below).

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.

B. Assessment

a) Downstream markets

The only EU Member States where TC is active in the relevant markets are the U.K. and Ireland, in which countries C&N has no activities ; there is therefore no geographic overlap in the relevant product markets.

b) Procurement markets

C&N is vertically integrated into accommodation, primarily in Spain, whereas TC owns only one hotel (in Menorca), and does not supply in-resort accommodation to third parties.

8. The parties' combined post-merger accommodation buying power reaches 30% in only one overlap resort (Faliraki), and C&N will have to compete for accommodation with all other European tour operators, (Airtours, First Choice, TUI, etc). More generally, particularly in view of planning restrictions and lead times for construction, accommodation is a relatively scarce resource, the supply of which cannot be rapidly expanded in the short term at least, and for which the major tour operators ,all of whom are active in all major destination areas, must compete.

V. **CONCLUSION**

9. 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.

For the Commission,

Mario MONTI
Member of the Commission