

***Case No COMP/M.2386 -  
MEI / PHILIPS***

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: 29/05/2001

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 29.05.2001

SG (2001) D/288793

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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

**Subject: Case No COMP/M.2386 – MEI/PHILIPS  
Notification of 20.04.2001 pursuant to Article 4 of Council Regulation  
No 4064/89<sup>1</sup>**

1. On 20.04.2001, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) 4064/89 by which the Japanese undertaking Matsushita Electric Industrial Co., Ltd. (“MEI”) acquires within the meaning of Article 3(1)(b) of the Council Regulation, sole control of the battery manufacturing undertakings Philips Matsushita Battery Corporation (“PMBC”) and Philips Matsushita Battery Poland SA (“PMBP”) by way of purchase of shares. PMBC and PMBP are currently controlled by MEI and the electronics group Koninklijke Philips Electronics NV (“Philips”).
2. The Commission has concluded that the notified operation falls within the scope of the Merger Regulation and does not raise serious doubts as to its compatibility with the common market.

**I. THE PARTIES**

3. MEI is a world-wide electric and electronic equipment manufacturer mainly active in the following product segments : video and audio equipment, home appliances and household equipment, industrial products and components.

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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).

4. Philips is one of the world's biggest electronics companies and Europe's largest. It is active in more than 60 countries in the areas of lighting, consumer electronics, domestic appliances, components, semiconductors and medical systems.
5. PMBC is a battery manufacturing company established in Belgium and producing mainly alkaline batteries.
6. PMBP is a battery manufacturing company established in Poland and producing predominantly zinc carbon batteries which are assembled into battery packs by PMBC.

## **II. THE OPERATION AND CONCENTRATION**

7. MEI and Philips have entered into a Share Purchase Agreement according to which MEI will acquire 50% of the share capital of PMBC and 50% of the share capital of PMBP from Philips.
8. Prior to the closing of the transaction, the shares in the joint venture PMBC are held by MEI (25%), Matsushita Battery Industrial Co., Ltd. ("MBI") (25%), a subsidiary of MEI, and Philips (50%). In turn, the shares in PMBP belong to MEI (25%), MBI (25%) and a subsidiary of Philips, Philips Lighting Holding (50%). Following the transaction, the shares in both joint ventures will, as a result of an internal reorganization within the MEI group, be held by MEI (40%) and MBI (60%). PMBC will be named Matsushita Battery Belgium NV and PMBP will be named Matsushita Battery Poland SA.

## **III. COMMUNITY DIMENSION**

9. The aggregate world-wide turnover of MEI, PMBC and PMBP (collectively referred to as "the parties") is in excess of EUR 2,500 million. In each of Belgium, France, Germany and the Netherlands, the combined aggregate turnover of the parties is more than EUR 100 million, and the aggregate turnover of each of MEI and PMBC is also in excess of EUR 25 million in each of the above Member States. Finally, the aggregate Community-wide turnover of each of MEI and PMBC is more than EUR 100 million, and the undertakings concerned (with the exception of PMBP in Belgium) 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. RELEVANT MARKETS**

10. The production companies manufacture primary batteries and, in particular, alkaline and zinc carbon batteries. The parties claim that the relevant product market covers both alkaline and zinc carbon batteries. However, even if alkaline and zinc carbon batteries are used for the same applications, there are a number of differences between the two relating to the chemical character and the lifetime of the batteries and consequently on price. Alkaline batteries are more expensive than zinc carbon ones. For the purpose of the assessment of the present case, it is not necessary to decide on whether zinc carbon and alkaline batteries belong to the same product market, since in any event the transaction does not lead to the creation or strengthening of a dominant position.
11. The major battery producers sell their products throughout Europe. According to the notifying parties, due to historical reasons the demand is still to a large extent national,

with the exception of a number of large supermarket chains which source their products on an EU-wide basis. A number of third parties have indicated that the market should be defined as at least pan-European for a number of reasons. From the supply-side, several battery companies operate on a global basis with common branding throughout all or most of the world. These companies supply whole regions, such as the EEA, from strategically positioned manufacturing facilities. From the demand-side, an increasing number of customers buy batteries on a pan-European/global level. A number of retailers engage in pan-European price negotiations, with smaller retailers gathering in buying groups in order to take advantage of common purchasing opportunities. For the purpose of the present assessment, the geographic scope of the market will be considered to be the EEA.

## **V. ASSESSMENT**

12. The parties maintain that the transaction will not have any effect on the competitive structure of the battery market since it will simply result in a change from joint to sole control over two battery production companies. According to the notification, Philips will remain an active competitor in the battery market; it will stop producing batteries and concentrate on sales and marketing activities. The parties claim that after the transaction Philips will not be entirely dependent on MEI, but will be able to rely upon alternative sources of supply, and in particular on battery producers located in China. Philips claims that nothing prevents it from meeting its entire battery requirements from these producers. The market investigation carried out by the Commission has largely confirmed this. Battery companies can economically source batteries outside the EEA as transport costs expressed as a proportion of sales value are extremely low. Asian battery manufacturing companies represent valid source of supplies for Western battery companies. Therefore, the transaction will not have a significant impact on the competitive structure of the battery market in Europe.
13. Even though Philips will cease to produce batteries the transaction does not give rise to competition concerns. The European battery market is characterised by 5 main players (Gillette, Varta, Ralston, Philips and MEI) holding together, at the EEA level, approximately [70-80%] of the market for both zinc carbon and alkaline batteries. In this market, where MEI/Philips combined share is [15-25%], market shares are distributed as follows: Ralston [15-25%], Varta [10-20%], MEI [5-15%], Philips [5-15%] and Gillette [20-30%]. The remaining 25% are in the hands of private labels.
14. As regards zinc carbon batteries, the five main producers hold together approximately [65-75%] of the EEA market, the MEI/Philips combined market being [25-35%]. Market shares are distributed as follows: Ralston [15-25%], Varta [10-20%], MEI [15-25%], Philips [5-15%] and Gillette [5-15%].
15. The five main producers control [60-80%] of the alkaline market, where Gillette, which owns the Duracell brand, is the leading supplier with [30-40%]. MEI/Philips hold together a market share of [10-20%] (MEI [0-10%] and Philips [0-10%]), the other main players are Ralston with [10-20%] and Varta with [10-20%].
16. Therefore, in all the scenarios considered above, the transaction will not lead to the creation or strengthening of a dominant position.

## **VI. ANCILLARY RESTRAINTS**

17. Under the share purchase agreement Philips agree, for a period of one year from the date of the closing, not to poach any personnel from the business being sold. This non-solicitation covenant is necessary to guarantee the full value of the businesses being transferred and can thus be considered as ancillary to the concentration.

## **VII. 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.

For the Commission

Mario MONTI  
Member of the Commission  
(signed)