

***Case No COMP/M.2487 -
BERTELSMANN /
ARNOLDO
MONDADORI / JV***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 23/08/2001

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 23.08.2001

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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

Subject : Case No COMP/M.2487 – Bertelsmann / Arnaldo Mondadori/JV
Notification of 24.7.2001 pursuant to Article 4 of Council Regulation No 4064/89¹

1. On 24 July 2001, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 (“the Merger Regulation”), consisting of the creation by the German company, Bertelsmann AG (“Bertelsmann”), and the Italian company, Arnaldo Mondadori Editore SpA (“Mondadori”), of a new jointly-owned (50%-50%) and jointly-controlled Spanish company (“the JV”), to which they will both transfer their Spanish language book publishing and distribution activities in Spain and the Spanish-speaking countries of Latin America.
2. Following examination of the notification, the Commission has concluded that the notified operation falls within the scope of the said Council Regulation and does not raise serious doubts as to its compatibility with the common market and the EEA agreement.

¹ 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).

I. THE PARTIES AND THE OPERATION

3. Bertelsmann heads the Bertelsmann Group of companies which operates internationally, its main activities being: the printing, publishing and distribution of books and magazines; book clubs; music and records publishing and distribution; and private television and related services.
4. Mondadori heads the Mondadori Group of companies of which the main activities are: book and magazine publishing, graphics and printing, and information services. It forms part of the Italian Fininvest Group which is also active in television, cinema, sports, finance and insurance.
5. The JV will constitute a jointly-controlled, full-function, autonomous company: technically, the parties will use Mondadori's existing Spanish subsidiary, Grijalbo Mondadori S.A., which will be renamed Grupo Editorial Random House Mondadori Holding S.L.; all major strategic decisions relating to the JV will require the consent of both parents through their representatives on the Board; Bertelsmann's relevant businesses will be transferred to the JV, in which, after completion of the transaction, the parties' entire Spanish language publishing, selling and distribution activities in Spain and the Spanish-speaking Latin American countries will be concentrated (with the exception of Bertelsmann's book club activities); the JV is expected to acquire the majority of its publishing rights from the market after its establishment, and during the start-up period it will obtain from its parents the relevant publishing rights which these currently hold.

II. CONCENTRATION OF A COMMUNITY DIMENSION

6. Thus the proposed operation constitutes a concentration within the meaning of Article 3.1.b. of the Merger Regulation.
7. The undertakings concerned have a combined aggregate world-wide turnover of more than €5 billion (Bertelsmann, [...]; Mondadori, [...]). Each of them has a Community-wide turnover in excess of €250 million (Bertelsmann, [...] Mondadori, [...]), and 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-wide dimension.

III. COMPATIBILITY WITH THE COMMON MARKET

A. Relevant Markets

8. In relation to the activities of the proposed JV, the parties' activities overlap in the following categories of Spanish-language book publishing editions in Spain: hard cover, softcover and paperback. While submitting that these different categories of book editions can be distinguished from one another mainly in terms of physical characteristics (book size and quality of cover), price, and timing of publication, the parties nonetheless contend that the relevant product market would be an overall market comprising all these categories. At the same time, the parties submit that the relevant geographic market should comprise both Spain and all the Spanish-speaking Latin American countries.
9. In the present case (as in previous cases in this sector), the Commission does not need to define precisely the scope of the relevant markets, as in the only category where an

affected market is created, i.e. paperback editions in Spain, the operation does not give rise to any serious competition concerns, as can be seen in the assessment below

B. Assessment

10. The operation will result in an affected market at the level of the publishing of paperback editions in Spain, where the parties' combined market share in value is some [20-30%] ([15-25%] Bertelsmann + [5-10%] Mondadori). Were the publishing of kiosk and newspaper editions to be included, then the JV' share would be practically the same at some [20-30%] as, though neither of the parties are active in kiosk or newspaper editions, the volume of these is minimal compared to paperback editions overall. The JV will be confronted with several significant competitors in paperback publishing in Spain, i.e. Editorial Planeta, [10-20%], the Anaya Group, [5-15%], Suma de Letras, S.L., [5-15%], Alfaguara/Santillana Group, [1-10%], Ediciones B, [1-5%], as well as many other publishers with smaller shares, in what the parties characterize as a highly fragmented market.
11. The parties are not active at the wholesale distribution level in Spain and at a retail level only Bertelsmann is present (through its book club activities and one retail shop, this latter to be transferred to the JV company). The retailing of paperback editions of books in Spain is done through bookshops, kiosks, department stores and hypermarkets. This demand is also highly fragmented, as there are only a few book chains, and these only have a limited presence, while there are some 5,000 independent bookshops. Publishers sell books only partly through wholesalers, with this channel accounting for some [...] of sales.
12. The Commission has considered that the proposed operation does not raise any concerns of dominance given, on the one hand, the not too significant market share which the JV company will enjoy in the affected market for publishing of paperbacks in Spain, and given, on the other hand, the presence of several important competitors with sizeable market shares, as well as numerous smaller players.

IV. CONCLUSION

13. 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