

***Case No COMP/M.2654 -
FLEXTRONICS
NETWORK SERVICES /
TELARIS SÖDRA***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 17/12/2001

*Also available in the CELEX database
Document No 301M2654*



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 17.12.2001

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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.2654 - FLEXTRONICS NETWORK SERVICES/
TELARIS SÖDRA
Notification of 15.11.2001 pursuant to Article 4 of Council Regulation
No 4064/89¹**

1. On 15.11.2001, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 by which the undertaking Flextronics Network Services Sweden AB ("Network Services", Sweden) acquires control of the whole of the undertaking Telaris Södra Holding AB ("Telaris", Sweden) by way of purchase of assets.

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).

2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of Council Regulation (EEC) No 4064/89 and does not raise serious doubts as to its compatibility with the common market and with the EEA Agreement.

I. THE PARTIES

3. Network Services is a Swedish company providing implementation of advanced equipment for fixed and mobile telecom infrastructures. It is ultimately controlled by Flextronics International Ltd ("Flextronics"), a Singapore company providing electronic manufacturing services (EMS) to original equipment manufacturers (OEMs) in the high-tech industries, mainly in computers and telecommunications.
4. Telaris is a Swedish company active in design/planning, installation and maintenance control and repair of telecommunication infrastructures and telecom and data communication networks. The Swedish incumbent telecom operator Telia AB ultimately controls it.

II. THE OPERATION

5. The operations consist of a Share Purchase Agreement of 28 October 2001, by which Network Services will acquire 91 % of the shares in Telaris. [...]

III. CONCENTRATION

6. The notified operation constitutes an acquisition of sole control by Network Services over Telaris and, therefore, a concentration within the meaning of Article 3(1) b of the Merger Regulation.

IV. COMMUNITY DIMENSION

7. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion² (Flextronics: EUR 20.5 billion, Telaris: EUR [...] million). Each of Flextronics and Telaris has a Community-wide turnover in excess of EUR 250 million in 2000 (Flextronics: EUR [...] billion, Telaris EUR [...] million). Flextronics does not achieve more than two-thirds of their aggregate Community-wide turnover within one and the same Member State in 2000. The notified operation therefore has a Community dimension, but does not constitute a co-operation case under the EEA Agreement, pursuant to Article 57 of that Agreement.

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.

V. COMPATIBILITY WITH THE COMMON MARKET

(1) Relevant product market

1. Design and planning of mobile telecommunications networks

8. The parties submit that the relevant product market is the market for design and planning of mobile telecommunication networks. This involves estimations of traffic capacity, calculation and planning of radio frequencies as well as planing of traffic and capacity requirements for transmission and switching (transmission design). The main area of activity will be the design and planning of the future UMTS networks.
9. For the purposes of this decision, it is not necessary to further delineate the relevant product market, because, in all alternative market definitions, effective competition would not be significantly impeded in the EEA or any substantial part of that area.

2. Wholesale of private branch PABX

10. A PABX is essentially a switch with the capacity to handle a number of telephone lines simultaneously, and is used by businesses and institutions as a switchboard for internal and external voice telephone system. Switches vary according to the number of lines they handle. A PABX able to handle less than one hundred lines tends to be considered small, and models with capacity of over 100 lines are considered large.
11. The parties consider that large and small PABXs belong to the same product market, as their function is the same regardless of the size and customers seek solutions which may include both large and small PABXs. Customers do not generally want to deal with different suppliers for large and small PABXs.
12. For the purposes of this decision, it is not necessary to further delineate the relevant product market, because, in all alternative market definitions, effective competition would not be significantly impeded in the EEA or any substantial part of that area.

(2) Relevant geographic market

1. Design and planning of mobile telecommunications networks

13. The notifying parties state that the relevant geographic market is at least the EEA. Traditionally the markets in the telecom sector have been defined nationals, but the parties submit that that a number of foreign competitors have entered the Swedish market.
14. It is not necessary to further delineate the relevant geographic markets because, in all alternative geographic market definitions considered, effective competition would not be significantly impeded in the EEA or in any substantial part of that area.

2. Wholesale of private branch PABX

15. The notifying parties state that the relevant geographic market is national, *inter alia*, as it is necessary to have a local sales force, service and marketing staff with the

relevant language skills and local contacts. The Commission previously³ defined the market as national, and this has been generally confirmed by the investigation of the Commission.

(3) Competitive assessment

1. Design and planning of mobile telecommunications networks

16. The activities of the parties overlap in the design and planning of mobile telecommunication services in Sweden. The parties have a combined market share of [10-20] % (Telaris [10-20] %, Network Services [0-10] %) in Sweden, therefore the addition of market shares is de minimis. Since both companies have no activities in other EEA countries, the EEA wide market share of the parties would be less than [0-10] %.
17. On the basis of the foregoing, the Commission does not consider that the operation notified would lead to competition concerns for the market for design and planning of mobile telecommunications networks.

2. Wholesale of private branch PABX

18. Telaris is active in the wholesale distribution of private branch PABX in Sweden, and has a market share of [50-60] %. They are mainly active as a wholesaler for Ericsson and Nortel. Network Services has no activities in this market. Flextronics, the ultimate parent of Network Services, is active in the manufacturing of PABXs, *inter alia* for Ericsson, who are the market leader in Sweden.
19. The Commission investigated whether this indirect vertical relation between manufacturing and wholesale of PABXs can have negative effects on competition, especially foreclosure effects for other PABX manufacturers. For instance, the merged entity could raise distribution costs of manufacturers other than Ericsson (e. g Nortel) via price or other discriminatory practices in order to increase profits from manufacturing and selling Ericsson products. The investigation revealed that danger of foreclosure is not imminent, mainly because most competitors use several paths of distribution, i. a. wholesalers, internal sales and independent resellers. In addition, it is more unlikely that foreclosure will be profitable because hardware manufacturing of the PABX only accounts for a limited part of the total manufacturer's price. Therefore, an increase in profits derived from manufacturing and distribution of its own products is very likely to be more than offset by the reduction in profits obtained from distribution activities of other products.
20. On the basis of the foregoing, the Commission does not consider that the operation notified would lead to competition concerns for the market for wholesale of private branch PABXs.

VI. CONCLUSION

³ COMP/M.1439 Telia/Telenor, paragraph 129.

21. 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