EN

Case No COMP/M.2813 - CARLTON+THOMSON / CIRCUIT A, RMBI, RMBC

Only the English text is available and authentic.

REGULATION (EEC) No 4064/89
MERGER PROCEDURE

Article 6(1)(b) NON-OPPOSITION
Date: 21/06/2002

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COMMISSION OF THE EUROPEAN COMMUNITIES

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PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying parties

Dear Madam,

Subject: Case No COMP/M.2813 – Carlton+Thomson / CircuitA,RMBI,RMBC Notification of 17.05.02 pursuant to Article 4 of Council Regulation No 4064/89[1]

1. On 17.05.2002, Carlton Communications PLC ("Carlton") and Thomson Multimedia, SA ("Thomson") notified their planned acquisition of joint control of Circuit A, RMB Cinema SA (RMBC) and RMB International S.A (RMBI) which are currently owned by UGC and RTBF ("the sellers")

2. After examination of the notification, 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 and with the EEA agreement.

I THE PARTIES

3. Carlton is a media company which, in addition to commercial broadcasting (such as the ITV channels in the United Kingdom) and programme making, supplies products and services to the TV, film and video industries world-wide. Carlton is also active in cinema screen advertising in the USA, through a joint venture with Thomson, and in the United Kingdom with a market share of [55-65]%.

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).

4. Thomson is a publicly held company listed on the Paris Bourse and the New York Stock Exchange. Thomson has five principal activities: Digital Media Solutions, Displays and Components, Consumer Products, New Media Services and Patents. Thomson is also active in cinema screen advertising in the USA (but not in the EEA) through a joint venture with Carlton.

5. The target companies RMBC, the RMBI and Circuit A are all currently subsidiaries of the UGC Group which holds respectively in each of them 49% (joint control with RTBF which holds the remaining 51%), 66% (joint control with RTBF which owns the remaining 34%) and 100% of the shares. The target companies are all predominantly active in providing cinema screen advertising services in several European countries. The target companies are also peripherally involved in providing advertising space in other media including television, printed press and the internet. More precisely, Circuit A is active in France, RMBC is active in Belgium, and the RMBI subsidiaries operate in Denmark, Finland, France, Italy, the Netherlands, Norway, Portugal, Spain, Sweden, the Czech Republic, Hungary, Poland and the Slovak Republic.

II THE OPERATION

6. The proposed concentration entails the indirect acquisition of joint control of Circuit A, RMBC and the RMBI subsidiaries by Carlton and Thomson through Screenvision Holdings (Europe) Limited, a newly incorporated joint venture company. Screenvision has been incorporated for this purpose. Following the operation the current owners of the targets (UGC and RTBF) will not own any shares in the target companies or the newly incorporated joint venture.

7. Thomson and Carlton will jointly exercise control over the newly incorporated joint venture and as a result over the target companies. Each party (Thomson and Carlton) will hold 50% of the capital of the joint venture. The final ownership of the joint venture capital is therefore equal between the parent companies and identical voting rights are attached to their shares and the governing body of the company will consist of 2 members each. Another member, the chief executive officer, will be elected with the consent of both Carlton and Thomson.

Full function company operating on a lasting basis

8. Screenvision will be a full-function joint venture. It will perform on a lasting basis all the functions normally carried out by undertakings operating in the same market. It will take over and merge the activities currently carried on by Circuit A, RMBC and the RMBI subsidiaries. All the assets and employees of these latest companies will thus be transferred to it. The agreement is drafted so as to be for an indefinite duration.

III COMMUNITY DIMENSION

9. The undertakings concerned have a combined aggregate worldwide turnover of more than EUR 5 billion[2]. Carlton and Thomson have a Community-wide turnover in excess

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.

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

Relevant product market

10. The undertaking concerned (RMBI subsidiaries, RMC and Circuit A) are all active in the provision of cinema screen advertising services. They act as an intermediary between cinema owners (exhibitors) and advertisers/agencies.

11. Cinema screen advertising involves a contractor (such as RMBI) negotiating a contract (usually exclusive) with an exhibitor (such as Warner village) for the selling of cinema screen advertising space to advertising agencies or advertisers. The contractor has to "market" cinema screen advertising to agencies by making cinema appear to be an attractive medium and be available in a form which is convenient for national and local advertisers. The contractor has also to be able to provide the necessary reels of advertising footage to a length specified by the exhibitor and be capable of organising the collection and delivery. Further ancillary services are usually provided, such as cleaning and maintenance of the reels once they have been delivered to the exhibitor. The sale of advertising spaces to the advertisers is mainly made (around 80% of total sales) through the advertising agencies and/or their media buying houses (media centers). In other cases, the transaction occurs directly with an advertiser.

12. The Commission has already found in case IV/M1529 Havas Advertising/Media Planning that media buying (that is the buying of space on media including television, radio, newspapers, magazines, billboards etc. for the purpose of exhibiting advertising campaigns) constitutes a relevant product market which is distinct from the market for creating and selling advertising campaigns. The Commission also held that this market cannot be subdivided further according to the media concerned.

13. The parties concur with this definition and consider that cinema screen advertising is a form of media buying. In the view of the parties, cinema screen advertising is only one form of display advertising that competes with other forms of display advertising, which includes television, radio, press periodicals and posters and internet as well as cinema. Therefore, they consider that the relevant market is that for the supply of display advertising services.

14. The Commission's market investigation has partly confirmed the view of the parties. Many customers, mainly the advertising agencies, responding to the Commission's market investigation pointed out that all kinds of publicity can be regarded as interchangeable and that they should not be divided in several markets according to the media in question. Such customers buy space in a variety of media and do not tend to focus on a specific medium. On the one hand, customers underline that different media have different strengths when used to reach an advertiser’s target group (the cinema screen advertising audience is described as upmarket or younger) but they also conclude that media planners take all media into account when planning and buying space on the individual media.

15. Nevertheless, it should also be noted that companies such as the target companies and their competitors are highly specialised companies that are only active on the cinema screen advertising services segment of the market and usually have no other activities in

other media. This can be explained by the fact that a number of factors affect entry to the cinema screen-advertising sector. Indeed, cinema screen advertising contracts are generally of several years' duration and usually provide for the contractor to have exclusive rights to the exhibition of advertising on all these screens listed with the contract. These contracts are generally tendered and a new entrant would be dependent upon winning one of these in order to start its business. In practice, it is difficult for a new entrant to win such a contract without having a track record or without having invested substantially in staff and resources.

16. However, in this case, the definition, of the relevant product market can be left open, as the operation would not lead to competition concerns in any possible market definition, that is whether the market is defined as all display advertising services or cinema screen advertising services.

Relevant geographic market

17. The parties take the view that the geographic market is national in scope. They claim that whilst some advertising agencies are becoming global, their clients operate to a large extent on a national basis. Those brands which are international are conscious of the significant language, social and cultural differences and perceptions of customers and consumers across Europe, and each of these has such an impact on cinema advertising campaigns that for the reasons given above, even such international brands prefer to purchase cinema space on a national basis.

18. The investigation lead by the Commission has largely confirmed that the advertising space is mainly traded locally due to differences in language, tastes and perceptions of customers. Nevertheless, the possibility to define a wider geographic market was raised in the light of the existence of multinational companies, which are increasingly developing international advertising budgets as well as the fact that some suppliers of cinema screen advertising companies are active on an EEA scale (for instance, UGC have many screens all over Europe). Indeed, the parties confirmed that one of the aims of the joint venture would be to offer pan-European services in the future. Nevertheless in the present case it is not necessary to define the relevant geographic market since the impact of the operation would not give rise to competition problems on any given market definition.

Assessment

19. In all display advertising services market (either national or European), the market shares of the parties are minimal ([<0.3]% in Europe and less than 1% in each country). The operation would therefore not produce any significant competitive impact.

20. In a market for cinema screen advertising services, the operation brings together companies that are strong players in several European countries. In most European countries the new entity will have high market shares but will still have to face strong competitors. For supply of cinema screen advertising, the merged entity would have lower market shares than its competitors in France (Circuit A: [40-50]%, Mediavision: [50-60]%, in Spain (RMB: [30-40%], Distel: [20-30]%, Movierecord: [45-55]%, in Sweden (RMB: [25-35]%, Sverige Film Media AB: [70-80]%), in Italy (RMB: [30-40]%, Opus: [20-30%], Sipra: [40-50]%), in The Netherlands (RMB: [40-50]%, Mediavision: [50-60]%). In the United Kingdom (Carlton: [55-65]%, Pearl&Dean [40-50]%), Portugal (RMB: [70-80]%, Mediavision : [20-30]%), Finland (RMB: [90-100]%), Denmark (RMB: [90-100]%), and Belgium (RMB: [90-100]%), the new entity

holds either a monopoly or a very strong position. The merged entity will not be present in Germany, Austria, Ireland, Luxembourg and Greece.

21. On the basis of a national geographic market definition (which as described above appears to still be the case), the operation does not raise any immediate competition concerns since it does not result in any horizontal overlaps. The acquirer and the target companies are not involved in the same geographic market: on the one hand Carlton is only active in United Kingdom whereas the target companies are active in other countries such as Finland, Sweden, Spain, Portugal, Italy, The Netherlands, Belgium and France. Thomson is not active in the EEA. From that perspective, the operation would not change the situation currently pertaining in each national market including those markets where currently the target companies are the only suppliers of cinema screen advertising services.

22. Given, nevertheless the strong position of the parties in several European countries, it should be stressed that the merged entity would improve its position in Europe on the particular segment of cinema screen advertising services as the operation would bring under the same ownership different and important players from several European countries. The Commission therefore examined whether a pan European market for screen advertising services exists or would emerge in the future and whether there would be any risk that the new entity could gain a dominant position in such a market or in the national markets in which it would operate by being the only player able to provide screen advertising on a European scale.

23. The new entity would be the only supplier for cinema screen advertising services active in many European countries. Only Jean Mineur Mediavision, belonging to Publicis Group, is a comparable cross-border operator active in France, in the Netherlands and in Portugal. However, the operation would not be likely to create a dominant position for the new entity for many reasons.

24. First, calculating market shares on an EEA basis, the merged entity would account for a market share of [25-35]% (Carlton: [10-20]% – RMB, Circuit A: [10-20]%). The merged entity would not be active in many Member States and its position on an EEA level would not therefore be such as to give rise to competition concerns.

25. Second, as is evident from the presentation of the market shares of the merged entity and its competitors above, the merged entity would face strong competitors in many of the countries where it would operate and would indeed be only the second largest player in several EEA countries.

26. Third, the market investigation confirmed that the merged entity's ability to offer services in several EEA countries would not produce any anti-competitive effects. Even pan-European exhibitors such as UGC and certainly smaller cinemas across Europe still contract with the parties and their competitors on a national basis and would not be affected by the merged entity's capability to offer services on a pan-European scale. In essence, the operation would not change the current competitive situation to any significant extent. Some cross-border exhibitors do not exclude that in the future they may be interested in entering into European contracts with contractors, but they see this possibility more as a way to improve their share or revenue from screen advertising rather than as a competition concern arising from the merged entity's ability to offer pan-European services. Indeed, the possibility of obtaining such services by competitors operating on a national basis would always be present and the fact that pan-European

services may be an additional option is, if anything, an improvement from the point of view of customers.

27. Finally, it should be noted that, even if cinema screens advertising were considered a distinct product market, it would still form part of the wider market for display advertising services. The existence of other media would therefore continue to exert a competitive constraint on cinema screen advertising, which would be likely to constrain any attempt by the merged entity to raise prices for cinema screen advertising.

V CONCLUSION

28. 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.

Mario MONTI
Member of the Commission