

***Case No COMP/M.2997 -  
ACCOR / EBERTZ /  
DORINT***

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: 23/12/2002

*Also available in the CELEX database  
Document No 302M2997*



## COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 23.12.2002

SG (2002) D/ 233510/233511/233512/233513/  
233514/233515

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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

Dear Sir/Madam,

**Subject: Case No. COMP/M.2997 - ACCOR / EBERTZ / DORINT  
Notification of 26<sup>th</sup> November 2002 pursuant to Article 4 of Council  
Regulation No 4064/89<sup>1</sup>**

1. On 26.11.2002, the Commission received a notification of a proposed concentration by which the undertaking Accor S.A. ("Accor", France) and the Ebertz family, consisting of [...] Ebertz, [...] Ebertz, [...] Ebertz, [...] Ebertz and [...] Maubach (Germany), acquire joint control of the undertaking Dorint AG (Germany) by way of purchase of shares.
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 functioning of the EEA Agreement.

#### **I. THE PARTIES**

3. Accor is active worldwide in hotel management and other travel and tourism services. In particular it operates various brands of hotel chains such as Sofitel, Novotel, Mercure, Ibis, Etap, Formule 1, Coralia, Thalassa, Suitehotel, Red Roof Inns, Motel 6 and Studio 6.
4. The Ebertz family is active in real estate development and fund raising activities, mainly in Germany. It is the main shareholder in the Dorint chain hotels, most of which are situated in Germany.

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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).

## II. CONCENTRATION

5. The notified operation consists of the proposed acquisition by Accor of 30.29% of the issued and outstanding shares in the capital of Dorint. Consequently, on the basis of the contractual arrangements and the strong commonality of interests, Dorint will be jointly controlled by Accor and the Ebertz family. The operation thus constitutes a concentration within the meaning of Article 3(1)(b) of Council Regulation (EEC) No. 4064/89, as amended.

## III. COMMUNITY DIMENSION

6. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion<sup>2</sup> (Accor: EUR 7,290 million; Ebertz: EUR [...] million; Dorint: EUR 489 million). Each of Accor, Ebertz and Dorint have a Community-wide turnover in excess of EUR 250 million (Accor: [...]; Ebertz: [...]; Dorint: [...]), 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 under Article 1(2) of Council Regulation (EEC) No. 4064/89, as amended.

## IV. COMPETITIVE ASSESSMENT

### A. *Relevant product market*

7. The notifying parties are of the opinion that, both on a local and on a national level, there is one general market for all hotels, including chain and independent hotels, except for the cheapest and dearest. The parties acknowledge, however, that some significant price differences exist between “bottom” and “top” hotels when subdividing hotels by star category. The parties support the view taken by the Commission in case *Hilton/Accor/Forte/Travel Services*, namely that if a segmentation within the general hotel market is to be made, it would be appropriate to identify submarkets which largely overlap as follows: 1 and 2 star hotels, 2 and 3 star hotels, 3 and 4 star hotels or 1,2 and 3 star and 2,3 and 4 star hotels<sup>3</sup>. At the Commission’s request the parties have provided market share data according to all alternative market definitions.
8. The Commission has not delineated a product market in the hotel sector in previous decisions<sup>4</sup>. Also, for the purpose of the present case it is not necessary to further delineate the relevant product market, as under all alternative market definitions considered, effective competition would not be significantly impeded in the EEA or any substantial part thereof.

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<sup>2</sup> 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.

<sup>3</sup> See footnote 4 below.

<sup>4</sup> See *inter alia* M.2510, Cendant/Galileo, dated 24.09.2001; M.2451, Hilton/Scandic, dated 31.05.2001; M.2197, Hilton/Accor/Forte/Travel Services JV, dated 16.02.2001; M.1596, Accor/Blackstone/Colony/Vivendi, dated 08.09.1999 and M.1133, Bass Plc/Saison Holdings B.V., dated 23.03.1998.

## ***B. Relevant geographic market***

9. The notifying parties are of the opinion that the geographic market is at least national and in this context reference is made to the Commission's decisional practice. The parties, however, acknowledge that, on the one hand, competition in the hotel sector has a local dimension and, on the other hand, if competition among chain hotels is considered, a national or wider dimension. The parties have provided information at the local level distinguishing between two geographic circles: a narrow circle of "intra muros" hotels (hotels within the city limits) and a wider circle of hotels in the surroundings of cities ("urban agglomeration").
10. However, for the purpose of the present case, the relevant geographic markets need not be defined because under any alternative market definition considered, the concentration does not create or strengthen a dominant position as a result of which effective competition would be significantly impeded in the EEA or any substantial part of that area.

## ***C. Assessment***

11. The operation gives rise to a limited number of local overlaps between Accor's and Dorint's activities, mainly in Germany. In most of these local markets the parties' combined market share, under any alternative market definition, remains below 25%.
12. The only markets in which the parties' combined share rises considerably above 25% are Aachen "intra muros" (under the assumption of an all-hotels market) and Garmisch Partenkirchen (where the overlap concerns the 4\*/5\* market).
13. In Aachen, a combined market share of [30%-40%] would be achieved ([25%-35%] Accor, [0%-10%] Dorint). However, the parties' activities do not overlap in regard to quality categories as most of their hotel beds are situated at opposite ends of the market (most Accor beds are in the 2\* category and the Dorint hotels operate in the 4\*/5\* category). Strong competitors are present on the market and market shares in the wider circle ("urban agglomeration") including the surroundings of Aachen are lower ([15%-25%]).
14. In Garmisch Partenkirchen the parties' market share is estimated to be [40%-45%] in the 4\*/5\* category. Here too, strong competitors are present and neither Accor nor Dorint have any hotels in the surroundings of Garmisch Partenkirchen, necessarily deflating their market share in this wider area. Another element to be taken into account for Garmisch Partenkirchen is that it is a typical tourist area. Elasticity of demand of tourists is generally assumed to be higher than elasticity of business travellers. Thus, for tourists with longer stays, rental apartments or holiday homes constitute possible alternatives and competition by other, comparable, resorts needs to be considered.
15. On a national level, the parties' combined market share in the hotel sector remains relatively low (<25%), even on the basis of a separate market for chain hotels per star category or on the basis of all hotels, irrespective of star category. The parties' activities overlap to the greatest extent in Belgium, where they jointly account for a market share of [20%-25%] in the hotel market comprising all hotels.
16. Based on the above, it can be concluded that the proposed concentration does not create or strengthen a dominant position as a result of which effective competition

would be significantly impeded in the common market or a substantial part thereof under any of the alternative market definitions considered.

## **V. CONCLUSION**

17. 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

*(Signed)*

Mario MONTI

Member of the Commission