

***Case No COMP/M.3030 -
EATON/DELTA***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 23/01/2003

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 23/1/2003

SG (2002) D/228210

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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.3030 – Eaton Corp/Delta plc
Notification of 10.12.2002 pursuant to Article 4 of Council Regulation
No 4064/89¹**

1. On 10 December 2002 the Commission received a notification of a concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 (here after: “the Merger Regulation”) by which the US undertaking Eaton Corporation (“Eaton”) acquires within the meaning of Article 3(1)(b) of the Council Regulation sole control of various companies and businesses relating to the Electrical Division of the UK company Delta plc by way of purchase of shares and assets.
2. After examining the notification, the Commission has concluded that the notified operation falls within the scope of the Merger Regulation and that it does not raise serious doubts as to its compatibility with the common market.

I. THE PARTIES

3. Eaton is a US company active in a wide range of engineering and manufacturing businesses including automotive, fluid and hydraulic power, commercial and electrical controls, electrical distribution and aerospace. It operates in the Medium Voltage (MV) and Low Voltage (LV) electrical sector through its trading division Cutler-Hammer, which is one of the largest competitors in these product markets in the USA.

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. Delta plc is the ultimate parent company of a group of companies active in three different sectors: electrical equipment, galvanising and electrolytic manganese. Only the Electrical Division, which is also active in the Medium Voltage (“MV”) and Low Voltage (“LV”) electrical sector, is concerned by this transaction.

II. THE OPERATION

5. The operation consists in the acquisition by Eaton of shares in various companies and of other assets or liabilities currently comprising the Electrical Division within Delta plc.

III. CONCENTRATION

6. As a result of the transaction Eaton will acquire sole control of the entire Electrical Division business (hereinafter: “Delta”). The operation thus constitutes 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 (Eaton: 8,175 million euros, Delta: 351 million euros). Each of Eaton and Delta have a Community-wide turnover in excess of EUR 250 million (Eaton [...] million euros, Delta: [...] million euros), 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.

V. MARKET DEFINITION

8. The economic sector involved in the concentration is the manufacture and sale of products used for the control and distribution of LV and MV electricity. As identified by the notifying party, the proposed transaction gives rise to two affected markets: (i) the market for the divisional electrical distribution switchboards and (ii) the market for precast electrical ducting. The notifying party submits that these two markets are national in scope.
9. Both the product and geographic market definitions submitted by the notifying party in the notification are in line with those adopted by the Commission in previous decisions. In particular in the Schneider/Legrand decision³ the Commission concluded that precast ducting constitutes a relevant product market which is national in scope. As regards divisional switchboards, in the Schneider/Legrand decision, the Commission did not reach a formal conclusion as to whether each individual component of divisional switchboards constitutes a distinct product market or whether there is only one global product market for divisional switchboards as such. Since the market shares of the merging parties in this case are not materially greater if considered at the level of each individual component or at the level of the entire

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.

³ Case COMP/M.2283

divisional switchboard, there is no necessity to reach a definitive conclusion on that point for the purposes of this case either. The geographic market definition proposed by the notifying party is also in line with the conclusion reached by the Commission in the Schneider/Legrand decision⁴.

VI. COMPETITIVE ASSESSMENT

10. Due to the relatively low market shares of Eaton in the EEA, the transaction only brings about minor horizontal overlaps in the UK where Delta is mainly active.
11. In the UK market for LV divisional switchboards, Delta holds a market share in the range of [20-30%], whilst Eaton's market share is [0-10%]. The main competitor will remain Schneider ([30-40%]); other competitors include Hager ([10-20%]) and Electrium ([0-10%]). Equally, in the UK market for precast ducting, Delta holds a market share of [15-25%], whilst Eaton's market share is [0-10%]. The merged entity will be facing strong competitors, notably Moeller ([25-35%]), Schneider ([20-30%]) and Siemens ([10-20%]).
12. On the basis of the above, and since the accretion in market shares is only minimal, the transaction does not seem to give rise to any competitive concerns as regards its horizontal effects. The transaction does not give rise to vertical or conglomerate concerns neither, since Eaton is only marginally present in the MV and LV electrical sector in the UK. In particular, none of the merging parties is active in the downstream market of panel building or electrical contracting in the UK (Delta has a panel building division active in the Netherlands only). As regards the conglomerate aspects, the merged entity will not hold strong positions in other neighbouring product markets in the UK with the exception of the market for LV terminal switchboards in which Delta alone already holds a market share of [10-20%] - the main competitors being Electrium ([25-35%]) and Hager ([10-20%]). Therefore, there are no apparent vertical or conglomerate issues raised by the proposed transaction.

VIII. 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

⁴ It should be noted that the Court of First Instance judgement of 22.10.2002 in case T-310/01, Schneider/Commission, although annulling the Commission's decision Schneider/Legrand, did not put into question the product and geographic market definitions retained by the Commission in this case.

Mario MONTI
Member of the Commission
(signed)