

***Case No COMP/M.3108 -
OFFICE DEPOT /
GUILBERT***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 23/05/2003

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 23.05.2003
SG (2003) D/229904

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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. 3108 – OFFICE DEPOT / GUILBERT
Notification of 15/04/2003 pursuant to Article 4 of Council Regulation
No 4064/89¹**

1. On 15.04.2003, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 by which the undertaking Office Depot Inc. (“Office Depot”, USA) acquires within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of the undertaking Guilbert SA (“Guilbert”, France) by way of purchase of shares.
2. After examining the notification, the Commission has concluded that the notified operation falls within the scope of the Council Regulation N° 4064/89 and that it does not raise serious doubts as to its compatibility with the common market.

I. THE PARTIES

3. Office Depot is a publicly held US company active as a distributor of office supplies through multiple sales channels. It has a strong position in the USA and Canada where it owns one of the two largest office supply superstores chains. It is also active in the EEA

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).

through the Viking brand as a mail order company (direct sales via catalogues and Internet sites) and since recently as a contract stationer (distributing office supplies on a contract basis).

4. Guilbert is a French company, controlled by the French distribution group Pinault-Printemps-Redoute (“PPR”). Guilbert is also a distributor of office supplies. It is present in nine EEA countries. Since it has sold its mail order business to the US undertaking Staples last year², it is only active in the distribution of office supplies as a contract stationer.

II. THE OPERATION

5. The proposed transaction involves the acquisition by Office Depot of 100% of the outstanding shares of Guilbert from PPR. The agreed purchase price for the sale of Guilbert shares will be approximately € 815 million.

III. CONCENTRATION

6. Office Depot will acquire the exclusive control of Guilbert. The operation is therefore an acquisition of sole control of the whole of Guilbert by Office Depot within the meaning of Article 3(1) (b) of Council Regulation (EEC) N° 4064/89.

IV. COMMUNITY DIMENSION

7. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion³ (EUR 12.010 million for Office Depot and EUR [...] million for Guilbert). Each of the parties have a Community-wide turnover in excess of EUR 250 million (EUR [...] million for Office Depots and EUR [...] million for Guilbert), 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. COMPETITIVE ASSESSMENT

A. Product market

8. Both parties are active in the office supplies distribution sector. Office supplies comprise a large variety of products, which have in common that they are used in offices. Office supplies include commercial envelopes, books and pads, cut office paper, writing and graphic supplies (such as pencils), storage and filing products, electronic office supplies (such as printer cartridges) and office and desk accessories (such as staplers and punches). They also include some basic office furniture, such as seating, desks, storage and computer furniture, and small business machines, such as desk top printers, fax

² Case M.2965 – Staples/Guilbert distant selling

³ 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.

machines and calculators⁴. Although there is some overlap between the distribution of office supplies, on the one hand, and office furniture and office equipment on the other, the distribution of broad ranges of office furniture and the distribution of the larger business machines and the services associated therewith are to be seen as separate activities⁵.

9. The demand for office supplies comes from offices (private sector and public sector), schools, universities and private persons. Within the category "offices", which accounts for the majority (80%) of demand for office supplies, it is customary to distinguish between large, medium-sized and small/home offices (the latter type of customers also being referred to in the industry as SOHO). The borderlines between these categories are not clear-cut. One classification, used by the independent industry data source MPA Ltd. in its surveys of the West European office products markets⁶, distinguishes offices with 0-20 office workers (SOHO), offices with 20-100 office workers (medium-sized) and offices with more than 100 office workers (large).
10. Office supplies are distributed through different channels. The following can be distinguished:
 - Contract distribution refers to the supply of office supplies on the basis of framework contracts under which the customer may order supplies whenever the need arises. Two types of contract distributors are often distinguished: (i) large national contract distributors (often referred to as "contract stationers"), and (ii) regional/local contract distributors (often referred to as "dealers")⁷. Although the distinction is not clear-cut, the former mostly sell to large and medium-sized companies and the public sector, the latter mainly to medium-sized and small companies.
 - Mail order companies, who tend to service the smaller offices, offer a broad range of products which can match that of the contract stationers and dealer groups. Mail order companies source their products from manufacturers and wholesalers.
 - Office superstores, which are large retail stores devoted principally to the sale of office products, and whose prime customer base consists of smaller offices and private persons.
 - Electronic office supplies distributors selling directly to larger end-user offices.

⁴ For the purpose of analysing the competitive impact of mergers between office supplies distributors, the Commission concluded in previous decisions that it was not necessary to further distinguish between the categories of products supplied, since the majority of the products is offered by distributors carrying a whole array of office supplies (cf. cases M.2965 – Staples/Guilbert distant selling, M. 2286 – Buhrmann/Samas Office Supplies, M.1653 – Buhrmann/Corporate Express and M.1117 – Pinault/Guilbert). It should be noted that in case M. 2286 – Buhrmann/Samas Office Supplies, the Commission also investigated the parties' position in the distribution of cut office paper, in view of Buhrmann's significant activities as a paper merchant.

⁵ Cf. M. 2286 – Buhrmann/Samas Office Supplies, para 10.

⁶ MPA Ltd., Cambridge, UK, The West European Office Products Market, Volume I: Benelux, June 2000.

⁷ Cf. The Commission in M. 2286 – Buhrmann/Samas Office Supplies, para 13, and MPA International (an independent industry data source).

- Other resellers such as high street retailers, supermarkets, e-tailers (resellers only selling via the internet and outsourcing stock keeping and delivery to others), hardware dealers.
 - Manufacturers of office supplies selling directly to end-users (mostly electronic office supplies and office paper).
11. Contract distribution is the only channel in which Guilbert and, since recently, Office Depot are both active to any significant extent. Guilbert is one of several leading national contract stationers in the EEA. Office Depot began its channel expansion into the contract distribution activity in September 2000 in the UK and subsequently expanded in Ireland, the Netherlands and France in 2001, in Italy in 2002 and in Germany in January 2003. Office Depot is also active in the mail order channel and, to a limited extent, in the retail superstore channel.⁸ Guilbert has no presence in the mail order channel and no material presence in the retail superstore channel.⁹
 12. In previous decisions, the Commission has indicated that some distinction by sales channel is appropriate for the purpose of defining the relevant product market. In particular, in the case M.2286 - *Buhrmann/Samas Office Supplies (Buhrmann)*, the Commission concluded that the distribution of office supplies by nation-wide contract stationers to larger end-users in the Netherlands¹⁰ (defined as customers with at least 100-200 office workers) constitutes a separate market within the larger market for the distribution of office supplies.
 13. This market definition was based on the finding that contract stationers have specific characteristics that particularly match with large end-users' needs. The main characteristics of a "nation-wide contract stationer" are that it is a distributor which can serve large customers (possibly having multiple offices nation-wide) with a "one stop shop" catering for all the customer's needs and that it can operate on a national basis¹¹. Other distribution channels, such as mail order companies and superstores, but also (local/regional) office supplies dealers were found to be insufficiently able to offer comparable conditions to large customers. As a result, large customers were identified as a group for which primarily nation-wide contract stationers are in competition.
 14. The notifying party contests the Commission's market definition in the *Buhrmann* decision, especially on the point that local/regional dealers are not regarded as being included in the relevant market, together with nation-wide contract stationers¹². The

⁸ Office Depot's retail superstore operations in the EC are presently limited to France (currently 38 stores) and Spain (where Office Depot has announced plans to open superstores).

⁹ Guilbert sold its mail order business to Staples in 2002, a transaction cleared by the Commission in Staples. In Germany, Guilbert inherited less than 10 office supplies retail stores as a result of its acquisitions of regional/local contract distributors in the late 1990s, only one of which is a superstore.

¹⁰ The country under consideration in that case.

¹¹ Case M.2286 – *Buhrmann/Samas Office Supplies*, para. 19.

¹² The notifying party agrees that mail order companies are not in the same relevant antitrust market as national contract distributors, given that there are substantial demand-side differences and a relatively low degree of demand-side substitutability between these two channels. In the view of the notifying party, mail order distributors compete with other channel suppliers, such as superstores and other retail suppliers and regional/local contract distributors.

notifying party indicates that although local/regional contract distributors are not "perfect homogeneous substitutes" to large national contract stationers, they today offer large commercial customers a stronger and more effective competitive alternative to national contract distributors than the Commission found to be the case in the Netherlands more than two years ago in the *Buhrmann* decision.

15. According to the notifying party, local/regional dealers would not, as a segment, be declining relative to national contract distributors. Local/regional dealers would increasingly be competing more successfully for large commercial customers. The parties refer in this respect to the UK MPA Report, which observes that, while regional/local contract distributors still sell office supplies primarily to small-to-medium commercial customers (SMEs with less than 100 employees), "many have recently been successful in winning corporate business back from [national] contract stationers." The parties identified recent examples where local/regional contract distributors competed successfully for large commercial customers.
16. The notifying party explains in this respect that wholesalers and buying/selling groups increasingly give regional/local contract distributors and dealer groups competitive purchasing costs and other supply-side logistics that enable them to compete for large commercial customers. In particular, there are two wholesalers (Spicers and ISA/Kingfield Heath) that were not active in the Netherlands two years ago, but are active today in a number of European countries, including the UK and France. Spicer's in particular specialises in providing regional/local contract distributors competitive purchasing costs and other supply-side logistics to enable them to compete more effectively against other national contract stationers.
17. The notifying party also points at differences in industry conditions today that would facilitate the ability of regional/local contract distributors to compete for large commercial customers. For example, there would be recent indications that the prior trend by large commercial customers towards single-sourcing – a trend cited by the Commission in *Buhrmann* as limiting the ability of regional/local contract distributors to compete for large commercial customers¹³ – may be reversing, as large commercial customers would have enhanced ability to manage the logistics of dual/multiple sourcing¹⁴.
18. In case a narrow product market definition comprised of national contract distributors supplying larger customers were to be retained, the notifying party submits that it would be appropriate to exclude Office Depot from that market given that Office Depot's contract stationing business is not a close substitute to Guilbert or other national contract distributors. According to the notifying party, this would be witnessed by the fact that Office Depot has so far only been succeeding in attracting some large, but not the very large customers. As such, it would not constitute a real competitive threat to Guilbert or other national contract distributors. Alternatively, the notifying party considers that if its contract distribution business were to be viewed as a significant competitor of Guilbert and other national contract distributors, the regional and local contract distributors

¹³ Case M.2286 – *Buhrmann/Samas Office Supplies*, para. 82

¹⁴ Office Depot refers to the MPA UK Report issued in November 2002, which indicates that large commercial customers are now gradually moving back towards greater dual/multiple sourcing, given their enhanced ability to manage the logistics of dual/multiple sourcing. On the other hand, the French MPA Report continues to refer to a trend towards single-sourcing.

should also be viewed as moderately differentiated, but clearly equivalent competitive alternatives to Office Depot in the same overall contract distributor market.

19. The Commission's market investigation in the current case has indicated that it continues to be unclear to what extent local/regional distributors compete with nation-wide contract stationers. A majority of the large customers interviewed in the countries under investigation, such as the UK and France, indicated that they do not regard local/regional distributors as realistic alternatives to the established nation-wide contract stationers. This appears to be the case especially for those customers that have multiple premises in the country and for which a nation-wide service is for that reason important. Even faced with a lasting price increase that would be small but significant, they would not consider switching to the local/regional level.
20. Among the reasons mentioned are that when using several dealers as suppliers, control of spend across group companies would become difficult and control costs would go up¹⁵. Furthermore, local/regional players would generally not be able to offer the same low prices and logistic guarantees as nation-wide contract stationers, even if they are supported by buying groups or wholesalers. In fact, several local/regional dealers surveyed by the Commission during the course of its investigation have confirmed this view.
21. The analysis of bidding data provided by the parties and by large customers which invited tenders for the supply of office supplies reveals that in the clear majority of cases, the nation-wide contract stationers appear as prime contenders. In a limited number of cases, however, also local/regional players secured large contracts¹⁶.
22. The fact that local/regional dealers secured contracts for at least some large customers, as shown by the bidding data, does not contradict the Commission's principal observation that for a significant group of customers, local/regional dealers are not in competition. The Commission recognises that the precise boundaries of the relevant market are difficult to determine, but this should not distract from the main purpose of defining a market, namely to identify those competitors of the undertakings involved that are capable of constraining their behaviour. On the basis of the information available, it would be inappropriate to conclude that for many large sized companies, local/regional dealers do constitute a realistic alternative.
23. As to the specific position of Office Depot, the Commission considers that Office Depot's low market share in nation-wide contract distribution must be interpreted taking into account the short time elapsed since Office Depot's entry. The analysis of bidding data provided by the parties and by large customers which invited tenders for the supply of office supplies reveals that Office Depot has clearly been active in attempting to attract those large customers. In this industry, where it takes time to get acquainted with the needs of each specific customer in order to file a successful bid, it takes time to establish a decent market position. Office Depot's internal business plans and sales forecasts express a clear ambition to grow the contract stationing business in the various EU member states, arguably also in terms of supplying the segment of large customers.

¹⁵ Respondents to the Commission's investigation often qualified the supply of an office supplies as "non-strategic", so that a single sourcing policy would be preferable.

¹⁶ The Commission was not able to precisely determine what part of the cases identified concerned customers concentrated in particular areas of a country or maintaining a specific policy of buying local.

24. On the basis of the information available to the Commission, it is difficult to qualify local/regional dealers as providing an effective competitive constraint on the nation-wide contract stationers, in particular in the supply of larger end-users (with 100-200 office workers or more) requiring national, one-stop shop services. However, for the purpose of this decision it is not necessary to conclude as to the precise market definition, since irrespective of the market definition retained, no competition concerns arise.

B. Geographic market

25. The notifying party submits that the market for nation-wide contract stationing is national in scope. This is in line with the conclusion reached by the Commission in previous decisions relating to the same economic sector¹⁷. The replies obtained in the current investigation confirm this as well.

C. Assessment

C.1 Market position

C.1.1 Total Office Supplies

26. Under a broad market definition including the distribution of office supplies via all channels of distribution, the combined-firm share would be less than 15% in each Member State as shown below (source: Form CO, MPA Ltd., figures for 2002).

Company	Country							
	Belgium	France	Germany	Ireland	Italy	Neth.	Spain	UK
Guilbert	[0-5]%	[5-10]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%	[5-10]%
Office Depot	[0-5]%	[0-5]%	[0-5]%	[5-10]%	[0-5]%	[0-5]%	[0-5]%	[5-10]%
Total	[5-10]%	[10-20]%	[0-5]%	[10-20]%	[5-10]%	[5-10]%	[0-5]%	[10-20]%

27. It is clear that no competition issues arise under this market definition.

C.1.2 Total Contract Distributors

28. In a hypothetical delineation comprising contract distributors whether they are local, regional or national, the combined firm's share would remain modest (below 20%) in all EC countries as shown below (source: Form CO, MPA Ltd.; figures for 2002).

¹⁷ Cases M.2286 – Buhrmann/Samas Office Supplies and M.1653 – Burhmann/Corporate Express.

Company	Country							
	Belgium	France	Germany	Ireland	Italy	Neth.	Spain	UK
Guilbert	[0-5]%	[10-20]%	[0-5]%	[0-5]%	[0-5]%	[10-20]%	[0-5]%	[10-20]%
Office Depot	[0-5]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%
Total	[0-5]%	[10-20]%	[0-5]%	[0-5]%	[0-5]%	[10-20]%	[0-5]%	[10-20]%

29. The rest of the market in each of the member states would be dispersed. No competition issues arise under this market definition.

C.1.3 Nation-wide Contract Stationers

30. As indicated in the section on product market definition, the market for nation-wide contract stationing to larger customers is a market the precise boundaries of which are not easily identifiable. As a consequence, establishing the precise market share that the new entity would obtain in this market is rather complex. Due to a lack of market data which exactly describe the nation-wide contract stationing market to larger customers, the parties have approximated the market shares in this market by first identifying the players in this market and then calculating their market shares as a percentage of the sum of the sales by the players identified to be nation-wide contract stationers. The resulting market share figures for the parties are shown in the following table (figures for 2002):

Company	Country							
	Belgium	France	Germany	Ireland	Italy	Neth.	Spain	UK
Guilbert	[5-10]%	[40-50]%	[10-20]%	[10-20]%	[10-20]%	[20-30]%	[20-30]%	[30-40]%
Office Depot	[0-5]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%
Total	[5-10]%	[40-50]%	[10-20]%	[10-20]%	[10-20]%	[20-30]%	[20-30]%	[30-40]%

31. In a narrowly defined contract stationers market including Office Depot and excluding regional or local contract stationers, affected markets would be France, the UK, Ireland and the Netherlands. The market investigation has confirmed that in the other countries, no competition issues arise.

France

32. In France, Office Depot would increase Guilbert's share by less than [0-5]% to [40-50]%. The next largest competitor would be Lyreco at [40-50]%, the French player Saci ([10-20]%) and Buhrmann/Corporate Express ([0-5]%).
33. Office Depot would thus appear to add only a *de minimis* share to Guilbert if one were to regard the relevant product market as that of nation-wide contract stationers. In assessing the proper impact of the transaction, however, the Commission is of the opinion that it needs to base itself primarily on Office Depot's competitive situation in the foreseeable future. Its current market position is likely to be improved following the progressive implantation of the company. Office Depot's internal business plans and sales forecasts express a clear ambition to grow the contract stationing business in the

various EU member states, arguably also in terms of supplying the segment of large customers. Translated into this year's market shares, the sales forecasts for the year for 2006 would correspond to a [0-10]% market share¹⁸.

34. Office Depot argues that in any possible conceivable scenario, the expected internal growth from its present position is not sufficient to conclude that Office Depot will become, in the foreseeable future, a particularly strong competitor in the French nation-wide contract stationer market. Even working on the hypothesis of considering Office Depot as a substantial future competitor of Guilbert, Office Depot cannot be considered an important or unique competitive constraint on Guilbert such that the concentration would result in the creation of a dominant position.
35. On the basis of the market investigation, it does appear that the other firms in the market, Lyreco, Saci and Buhrmann/Corporate Express, are strong contenders and will continue to provide a strong constraint on the combined firm.
36. Here one can refer in particular to the presence of Lyreco, a large player with a market position in France which is comparable to that of the new entity. Lyreco has a market share of [40-50]% in France, has a strong logistical presence in this country and is well established in most European countries, providing it with a substantial purchasing power vis-à-vis manufacturers of office supplies to obtain input low prices. In addition, according to MPA Ltd, Lyreco has steadily won market shares over the last three years (in 1999, its share of the market was [30-40]% compared to [40-50]% in 2002).
37. As for the other two companies, Buhrmann/Corporate Express is a large international player, not only in the distribution of office supplies but also in the supply of office paper in particular. In France, both its office supplies and its paper merchandising operations are substantial. Saci has grown significantly in recent years and appears to become an increasingly important player.
38. Many large customers organise, or have the possibility to organise, bid or tender procedures for the award of a supply contract for office supplies. Large commercial customers will continue to have four credible alternatives in terms of nation-wide contract stationers, which is likely to be enough in the context of the French market in preserving effective competition.
39. In this respect, it must be mentioned that Lyreco, Saci and Buhrmann/Corporate Express face no substantial or sustained capacity constraints or cost disadvantages or other impediments to supply large customers with office supplies if the combined Office Depot/Guilbert were to attempt to implement an anticompetitive price increase.
40. In addition, brand loyalty and other sources of differentiation (product range, delivery services, procurement services, IT support) also play a limited role since all contract distributors typically provide, or are able to provide, similar offerings.

¹⁸ Office Depot notes that, at this stage of its development, it competes more successfully to obtain contracts with medium-sized customers. As a consequence, according to Office Depot, it cannot be interpreted that the projected sales increase will be the result of successfully targeting large clients. While this is true, the Commission is of the opinion that the forecasts allow for a first indication of the competitive importance of both the merging parties and their competitors in the foreseeable future.

41. The above views are shared by the respondents in the market investigation. No large customer of office supplies has indicated that as a result of the transaction, the number of credible alternatives would become too low for competition to remain effective.
42. In light of the above, it appears that whether one takes the current market position of Office Depot or the anticipated market position, it is not probable that the acquisition of Guilbert by Office Depot would result in a market position where the merged firm would no longer be sufficiently constrained by actions of actual competitors in the relevant market.
43. As for the possibility of anticompetitive co-ordination post-merger, it does not appear that the acquisition will increase the likelihood that a consensus to implement a co-ordinated anticompetitive price increase could be reached and sustained over time.
44. In particular, the contract stationing market exhibits a low degree of market transparency. The Commission notes that large commercial customers typically utilise competitive tender/bid procedures (open or closed) to negotiate supply agreements with contract distributors. During the life of the contract, the precise composition and levels of product required is determined as the needs arise. The precise value of such contracts is not known *ex ante*, as the customer may consume more or less, depending on its precise needs. This is reinforced by the fact that supply contracts with large commercial customers invariably include terms that give these customers a lot of flexibility to (opportunistically) switch some or all of their office supply requirements to one or more alternative suppliers if more attractive terms are offered.
45. Examination of bidding data has revealed that for certain tenders, one merging party (e.g. Office Depot) would estimate the likely value of the contract to be 1,5-2 times larger than the other (e.g. Guilbert) and vice versa. In such circumstances it appears difficult to come to terms on the points of co-ordination.
46. Similarly, contracts involve the sale of hundreds or thousands of different products and there is a lot of variety in the precise needs and preferences on the part of the customers. Although the customer normally requires prospective suppliers to submit quotes on the most commonly consumed office supply products and a discount rate on the remaining products, the number of decision variables remains high.
47. Finally, the contract stationers have very little knowledge about the bids proposed by the other participants. Alternative purchases by customers that switch some or all of their office supply requirements to one or more alternative suppliers, are difficult to detect for the original supplying contract stationer.
48. For the above reasons, the Commission concludes that the present transaction is unlikely to create or strengthen a dominant position as a result of which effective competition would be significantly impeded in the French nation-wide contract stationers market for larger end-users.

The UK

49. In the UK, Office Depot would increase Guilbert's share by less than [0-5]% to [30-40]% (figures of 2002). The next largest competitors would be Lyreco ([10-20]%), Buhrmann/Corporate Express ([10-20]%), Oyez Straker ([10-20]%) and Office2Office ([10-20]%).

50. Office Depot would add a small share to Guilbert. In assessing the transaction, the Commission has also considered Office Depot's competitive situation in the foreseeable future, on the basis of its business plans and sales forecasts. Translated into this year's market shares, the sales forecasts for the year for 2006 would correspond to a market share of around [0–10]%
51. The Commission does not consider it likely that the transaction would result in a market position where the merged firm would no longer be sufficiently constrained by actions of actual competitors in the relevant market.
52. In particular, one can refer to the presence of four competitors with substantial market positions: Lyreco, Buhrmann/Corporate Express, Oyez Straker and Office2Office. All companies have market shares inbetween 10 and 20% and the difference in size between these companies and the new entity remains limited.
53. In view of the presence of at least five substantial players in the market post-merger, it is unlikely that the acquisition would result in higher prices, or otherwise deteriorated sales conditions, in the market for larger end-users in the UK. The reasons mirror those outlined in the context of the French market in paragraphs 38-40.
54. This view is shared by the respondents in the market investigation. No large UK customer has indicated that as a result of the transaction, the number of credible alternatives would become too low for competition to remain effective.
55. As for the possibility of anticompetitive co-ordination post-merger, it does not appear that the acquisition will increase the likelihood that a consensus to implement a co-ordinated anticompetitive price increase could be reached and sustained over time.
56. For the above reasons, the Commission concludes that the present transaction is unlikely to create or strengthen a dominant position as a result of which effective competition would be significantly impeded in the UK nation-wide contract stationers market for larger end-users.

Ireland

57. In Ireland, Office Depot would increase Guilbert's share by [0-5]% to [10-20]%. The combined firm would rank third behind Buhrman/Corporate Express ([50-60]%) and Lyreco ([20-30]%). A fourth player, Office2Office/Banner expanded from the UK into Ireland in late 2001.
58. In view of the above market situation, the Commission considers that the acquisition of Guilbert by Office Depot does not result in a market position where the merged firm would no longer be sufficiently constrained way by actions of actual competitors in the relevant market. The presence of at least four substantial players post-merger makes it unlikely that the acquisition would result in higher prices, or otherwise deteriorated sales conditions, in the market for larger end-users in Ireland. The reasons mirror those outlined in the context of the French market in paragraphs 38-40.
59. This view is shared by the respondents in the market investigation. No large Irish customer has indicated that as a result of the transaction, the number of credible alternatives would become too low for competition to remain effective.

60. As for the possibility of anticompetitive co-ordination post-merger, it does not appear that the acquisition will increase the likelihood that a consensus to implement a co-ordinated anticompetitive price increase could be reached and sustained over time.
61. For the above reasons, the Commission concludes that the present transaction is unlikely to create or strengthen a dominant position as a result of which effective competition would be significantly impeded in the Irish nation-wide contract stationers market for larger end-users.

The Netherlands

62. In the Netherlands, Office Depot would increase Guilbert's share by only [0-5]% to [20-30]%. Buhrman/Corporate Express would continue to have the leading share ([30-40]%). Ahrend ([20-30]%) and Lyreco ([10-20]%) are also active in this market.
63. In view of the above market situation, the Commission considers that the acquisition of Guilbert by Office Depot does not result in a market position where the merged firm would no longer be sufficiently constrained by actions of actual competitors in the relevant market. The presence of at least four substantial players post-merger makes it unlikely that the acquisition would result in higher prices, or otherwise deteriorated sales conditions, in the market for larger end-users in the Netherlands. The reasons mirror those outlined in the context of the French market described above in paragraphs 38-40.
64. This view is shared by the respondents in the market investigation. No large Dutch customer has indicated that as a result of the transaction, the number of credible alternatives would become too low for competition to remain effective.
65. As for the possibility of anticompetitive co-ordination post-merger, it does not appear that the acquisition will increase the likelihood that a consensus to implement a co-ordinated anticompetitive price increase could be reached and sustained over time.
66. For the above reasons, the Commission concludes that the present transaction is unlikely to create or strengthen a dominant position as a result of which effective competition would be significantly impeded in the Dutch nation-wide contract stationers market for larger end-users.

C.2 Market entry, countervailing buyer power and efficiencies

67. The notifying party submits that barriers to entry into nation-wide contract stationing would be relatively low, that there is substantial countervailing buyer power on the part of customers and that the new entity would achieve significant efficiency gains.
68. Office Depot has identified a number of cost-reducing synergies that it expects will be generated by the proposed transaction. Office Depot submits that they are merger-specific, substantial, timely and verifiable, and they will benefit consumers of office supplies in both price and non-price terms. As such, they are put forward as pro-competitive efficiencies generated by the proposed transaction. According to Office Depot, many of these projected savings can be realised without significant investments and will reduce the combined firm's variable costs, for example through savings in purchasing costs, packaging costs and freight costs. Office Depot further submits that the claimed cost savings are likely to result in lower prices for office supplies.

69. As the Commission already concluded on the basis of the competitive analysis in the above sections that the present transaction is unlikely to create or strengthen a dominant position as a result of which effective competition would be significantly impeded in the common market or in a substantial part of it, the assessment of claimed efficiencies, barriers to entry and countervailing buyer power¹⁹ are not necessary for the purposes of this decision.

VI. CONCLUSION

70. 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)

Margot WALLSTROM
Member of the Commission

¹⁹ Except for considerations set forth in paragraph 38 of this decision.