

***Case No COMP/M.3398 -
HEWLETT PACKARD /
TRIATON***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 26/03/2004

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 26.03.2004

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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 Where possible the information omitted has been replaced by ranges of figures or a general description.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.3398 – Hewlett-Packard / Triaton
Notification of 27 February 2004 pursuant to Article 4 of Council Regulation No 4064/89¹

1. On 27/02/2004 the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89, as last amended by Regulation (EC) No 1310/97, by which the US undertaking Hewlett-Packard (“HP”) acquires within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of the German undertaking Triaton GmbH and its subsidiaries (“Triaton”), belonging to the ThyssenKrupp Services AG group, 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.

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).

I. THE PARTIES AND THE OPERATION

3. HP is a global provider of computing hardware (including personal computers, handheld information devices, workstations, servers and storage solutions), imaging solutions (including printers), software and Information Technology (IT) services. Triaton is a provider of IT services to companies within the ThyssenKrupp group and to a range of other clients, mainly based in Germany.

II. CONCENTRATION

4. Following a Sale and Purchase Agreement dated 19 February 2004, Hewlett-Packard Europa Holding GmbH ("HP Europa" – a wholly owned subsidiary of HP) will, through the notified transaction, purchase the entire share capital of Triaton GmbH and its subsidiaries. The acquired Triaton businesses will be integrated into HP's corporate structure. The operation therefore constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

III. COMMUNITY DIMENSION

5. The combined aggregate world wide turnover of the undertakings concerned exceeds € 5000 million² (HP: € 66,461 million, Triaton € [...] million in 2003). The aggregate Community-wide turnover of the parties exceeds € 250 million ([...]). The parties do not achieve more than two-thirds of their aggregate Community-wide turnover in one and the same Member State. The notified operation, therefore, has a Community dimension according to Article 1(2) of the Merger Regulation.

IV. COMPATIBILITY WITH THE COMMON MARKET

A. Relevant product markets

6. The notifying party considers that the relevant product market for the purpose of the proposed transaction is the market for all IT services.
7. In previous decisions³, the Commission has, as an alternative to considering an overall market for IT services, identified seven service categories. These comprise (i) hardware maintenance, (ii) software maintenance and support; (iii) consulting; (iv) development integration; (v) IT management services; (vi) business management services, and (vii) education and training. In the present case, and in support of considering an overall market for IT services, customers have pointed to their "one stop shopping" practices and the existing high degree of supply side substitutability which is further facilitated by the fast technology changes in the IT sector.
8. As an alternative to the seven service categories indicated above, previous decisions have considered the possibility of sub-dividing the IT services market on a sectorial base (identifying sectors of activities such as financial services, manufacturing, government,

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).

³ Case No COMP/M.2946-IBM/PwC Consulting, Case No COMP/M.2609 – HP/Compaq and Case No COMP/M.1901 – Cap Gemini/Ernst&Young

etc.) or by distinguishing between the supply of IT services to large corporations and smaller organisations (i.e. small and medium-sized enterprises “SME”). Whilst such segmentations may be based on demand differences or procurement patterns, the result of the market investigation in the present case appears to attach more importance to the existing high degree of supply side substitutability in defining the relevant markets for IT services.

9. In any case, for the purpose of this case, it is not necessary to further define the market as the concentration would not result in the creation or the strengthening of a dominant position in the EEA or any substantial part of it on any alternative market definition considered.

B. Relevant geographical market

10. Whilst the market investigation has confirmed the continuing internationalisation of IT services, customers continue to value the supplier’s ability to provide products and services tailored to local cultural and business particularities. Whilst IT services can be provided without geographic restrictions, customers continue to consider a local presence as an important criterion when selecting an IT services provider. Therefore, whilst market characteristics point to the existence of an IT services market that is at least EEA-wide, the possibility of national or regional markets cannot be excluded. In any case, for the purpose of the proposed transaction, the exact geographic market definition can be left open, since on any possible geographic market definition, the concentration does not raise competition concerns.

V. ASSESSMENT

11. Were the transaction to be assessed in the light of an EEA market for all IT services, Triaton would only add [0% - 5%] to HP’s market share⁴ of around [0% - 5%]. Other important global players are IBM Global Services (between [5% - 10%] and [10% - 15%] of the EEA market), EDS and Siemens Business Services (both around [0% - 5%] of the EEA market), T-systems and CapGemini, whilst smaller companies account for roughly [80% - 90%] of the market. The above figures illustrate the fragmented nature of competition in the IT services market.
12. Triaton makes the vast majority ([90% - 100%]) of its Community-wide turnover in Germany, and companies from the ThyssenKrupp group are Triaton’s most important customer. As a result of the transaction, the new entity would account for [0% - 5%] of the German market for all IT services, behind T-systems ([10% - 20%]), Siemens ([10% - 20%]) and IBM ([5% - 10%]).
13. When assessed for each of the seven service categories on a national basis, the concentration would lead to a combined market share above 15% for hardware maintenance and support in Portugal ([10% - 20%], albeit all attributable to HP as Triaton has not made sales in Portugal) and Ireland ([20% - 30%] with a ‘de minimis’ [0% - 5%] increment generated by Triaton). Apart from the marginal increment of market share caused by the merger, customers have confirmed that the transaction will

⁴ Market share information as provided under form CO by the parties, based on value data.

not affect their ability to play one supplier against another or that it will lead to an appreciable impact on market conditions.

14. Under alternative market definitions (either by vertical industry sector or by segmenting the market for large companies on the one hand and SMEs on the other hand), the transaction will not lead to affected markets on an EEA- or Member State level.
15. HP holds strong positions in the IT hardware markets that could be considered as markets related to IT services. HP has market shares in excess of 25% for Servers ([30% - 40%] in the overall servers market, with [40% - 50%] for entry level servers, [30% - 40%] for medium servers and [10% - 20%] for large servers) and Disk Storage solutions ([30% - 40%])⁵. Apart from the fact that the market investigation in the present case does not indicate the existence of vertical links between the hardware and services markets (seen that customers generally prefer to select a service provider independent from their hardware supplier), the limited impact of the transaction on HP's IT services position is likely to rule out any competition concerns to arise on either the services or hardware markets.
16. In view of the foregoing, it can be concluded that the proposed operation would not, in any of the markets considered, 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.

VI. CONCLUSION

17. For the above reasons, the Commission decides not to oppose the notified operation and to declare it compatible with the common market and with the functioning of 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

⁵ Markets as defined in case No COMP/M.2609 – HP/Compaq. Market share information as provided under form CO by the parties, based on value data and sourced from IDC.