

***Case No COMP/M.4234 -
CARLSON / ONE
EQUITY PARTNERS /
CARLSON WAGONLIT***

Only the English text is available and authentic.

**REGULATION (EC) No 139/2004
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION
Date: 03/07/2006

***In electronic form on the EUR-Lex website under document
number 32006M4234***



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 03-VII-2006

SG-Greffe(2006) D/203438

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 Madam/Dear Sir,

Subject: Case No COMP/M.4234 - Carlson/One Equity Partners/Carlson Wagonlit Notification of 24.05.2006 pursuant to Article 4 of Council Regulation No 139/2004¹

1. On 24.05.2006, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 by which the undertakings Carlson Companies, Inc (“CCI”, US) and One Equity Partners II, L.P. (“OEP”, US) controlled by JP Morgan Chase & CO (“JPMC”) acquire within the meaning of Article 3(1)(b) of the Council Regulation joint control of the undertaking Carlson Wagonlit B.V. (“CWT”, The Netherlands) currently jointly controlled by CCI and Accor S.A. by way of purchase of shares in a newly created company constituting a joint venture.
2. After examination of the notification, the Commission has concluded that the operation falls within the scope of the Merger Regulation and does not raise serious doubts as to its compatibility with the common market and the EEA agreement.

I. THE PARTIES

3. CCI is a privately owned corporation which provides services in the marketing, travel and hospitality industries. CCI operates and/or is a franchisor of hotels, cruise ships, travel agencies and restaurants around the world.

¹ OJ L 24, 29.1.2004 p. 1.

4. OEP is a private equity company that is ultimately controlled by JPMC which is a leading global financial services firm, the activities of which include the following six business segments: Investment Banking, Treasury & Security Services, Asset & Wealth Management, Retail Financial Services, Card Services and Commercial Banking.
5. CWT is active in travel management and travel consulting services worldwide, serving corporate, leisure and government clients.

II. THE OPERATION.

6. CWT is currently jointly controlled by CCI and Accor S.A.² Under the proposed transaction, Accor will cease to have any interest in CWT and Accor will be replaced by OEP as one of the two jointly controlling parents of CWT with CCI's position remaining unaffected. The notified transaction involves the creation of a joint venture company (Newco) jointly controlled by CCI and OEP. Newco will, via two wholly owned subsidiaries, acquire all the shares in CWT from CCI and Accor. The 1997 joint venture agreement between CCI and Accor will be terminated.
7. CCI will own 55% of the shares in Newco and OEP 45%. However, OEP will have the right to: (a) unilaterally appoint three out of eight of Newco's directors; (b) jointly (with CCI) appoint a fourth director; (c) veto (on reasonable grounds) the appointment of one of CCI's four directors; (d) veto Newco's annual capital expenditure budget (and capital expenditure spending over budget)³; and (e) veto the appointment of Newco's Chief Executive Officer. Moreover, a quorum is required for decisions to be taken at Board of Directors meetings (e.g. approval of annual budget and business plan), which requires the presence of at least two directors appointed by OEP and two appointed by CCI. No deadlock procedure is provided in case of failure to attain the quorum.
8. In the light of the specific circumstances of the case, it can be considered that OEP's rights with respect to Newco's board representation and its veto rights over any investment (via its veto over capital expenditure budget) and over the appointment of senior management, give OEP the possibility of exercising decisive influence over Newco. It can be thus concluded that such rights will confer joint control by CCI and OEP over Newco.

III. CONCENTRATION

9. The operation concerns the acquisition by CCI and OEP of joint control over Newco and ultimately over CWT. The proposed transaction therefore constitutes a concentration within the meaning of Article 3(1)(b) of Council Regulation (EC) No 139/2004.

² See Case No IV/M. 867 *Carlson/Wagon-Lits*.

³ Capital expenditure budget includes investments on essential elements for the running of NewCo such as IT servers and software, hardware, intranet, telephony, installations and refurbishing of agencies.

IV. COMMUNITY DIMENSION

10. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion in 2005⁴. Each of JPMC and CWT has a Community-wide turnover in excess 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.

V. COMPETITIVE ASSESSMENT

11. The present operation does not give rise to any horizontally affected market. CWT is active in the provision of business travel agency services and, to a lesser degree, leisure travel agency services.⁵ CCI and OEP are not active in these sectors within the EEA. CCI, yet, is active in several markets upstream of CWT's travel agency activities (hotels, cruise lines, and marketing/consultancy services for travel businesses).

A. Product market definition

Travel agency services

12. In previous decisions, the Commission has considered that the provision of travel services constitutes a separate market which includes the provision of services to travellers such as flights, car rental and hotel booking. The Commission has further subdivided the market on the basis of the customer-type, distinguishing between *business* travel agency and *leisure* travel agency services.⁶ Business travel agency services meet the needs of companies for business travel of management and employees in accordance with corporate travel budgets and plans. Leisure travel agencies provide services to individuals in connection with their non-business vacation and personal travel needs.
13. The overwhelming majority of the respondents to the market investigation have confirmed this point, considering that the market should be segmented on the basis of the type of customer.⁷ Therefore, it can be concluded that the relevant product markets are the supply of business travel agency services and the supply of leisure travel agency services.

Upstream markets

14. As mentioned above, CCI is active in a number of upstream markets to CWT's activities: (i) hotels, through its subsidiary CHW; (ii) provision of travel-related

⁴ 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.

⁵ CWT has only limited activities in the supply of leisure travel agency services to leisure customers in part of the EEA. Only around [...] % of CWT's EEA sales were generated from the supply of leisure travel agency services, and only in two countries, Belgium and France.

⁶ See Case No COMP/M. 2627 *Otto Versand/Sabre/Travelocity JV*.

⁷ Nearly 100% of the answers received to the Article 11 letter to CWT's competitors dated 31 May 2006.

marketing services, through its subsidiary CMW; and (iii) supply of cruises, through its subsidiary CCW.

15. Hotels: the Commission has considered in previous cases that within the hotel accommodation market one could consider the competitive effects of a concentration following two different approaches. First, segmentation of the market by price and/or comfort level based on the grading or stars awarded to the particular hotel, as a chain of substitution may exist between the different categories of hotels (e.g. 2, 3, 4 star). Second, segmentation by ownership, i.e. whether they formed a network of hotels (chain) or were independent.⁸ In the present case, it is not necessary to further delineate the relevant product markets as the transaction does not give rise to competition concerns.
16. Marketing services: CMW is a marketing services agency which to a limited extent provides travel-related marketing services ([...] % of its turnover). Marketing communications encompass a wide range of activities, including consultancy, public relations, and consumer relationship management. In previous decisions, the Commission has considered that the relevant product market in the supply of marketing communication services sector encompassed all marketing communications services, without further sub-dividing the market on the basis of the type of services or media.⁹ As the transaction does not give rise to competition concerns, the exact delineation of the product market may be left open.
17. Cruises: the Commission has concluded in previous cases that there is a separate market for the supply of oceanic cruises.¹⁰ As the transaction does not give rise to competition concerns, the exact delineation of the product market may be left open.

B. Geographic market definition

Travel agency services

18. In previous Commission decisions, the Commission has considered that the supply of *leisure* travel agency services was national in scope whereas it left open the question whether the supply of *business* travel agency services was broader in scope.¹¹
19. The majority of the respondents to the market investigation have confirmed that the leisure segment should be considered national in scope.¹² As regards the business segment, most of the respondents have considered to be at least EEA-wide, and some even worldwide.¹³

⁸ See Case No COMP/M. 3858 *Lehman Brothers/SCG/Starwood/Le Meridien*.

⁹ See Case No COMP/M. 3579 *WPP/Grey*.

¹⁰ See Case No COMP/M. 2706 *Carnival Corporation/P&O Princess*.

¹¹ See Case No COMP/M. 2627 *Otto Versand/Sabre/Travelocity JV*.

¹² Nearly 60% of the answers received to the Article 11 letter to CWT's competitors dated 31 May 2006.

¹³ Nearly 85% of the answers received to the Article 11 letter to CWT's competitors dated 31 May 2006.

20. It can be concluded, therefore, that the supply of leisure travel agency services is national in scope whereas the question whether the supply of business travel agency services is wider than national can be left open given that under any of the possible geographic market definitions, the present operation would not raise competition concerns.

Upstream markets

21. Hotels: in previous decisions the Commission has considered that the hotel industry may be assessed from both (i) a national approach for graded and chain hotel services, given that competition conditions are homogeneous at a national level (particularly for chain hotel services); and (ii) a local approach for graded hotel services since the primary criterion for the choice of a hotel by a client is its location.¹⁴ For the purpose of this decision is not necessary to further delineate the relevant geographic market definition because the present operation would not raise competition concerns in all alternative geographic market definitions considered.
22. Marketing services: in previous decisions, the Commission has considered that the relevant geographic market for the supply of marketing communication services remains largely national due to *inter alia*, language differences, different media conditions in different countries and pricing differences between countries¹⁵ For the purpose of this decision is not necessary to further delineate the relevant geographic market definition because the present operation would not raise competition concerns in all alternative geographic market definitions considered.
23. Cruises: the Commission has concluded in previous cases that the supply of cruises was national in scope.¹⁶ For the purpose of this decision it is not necessary to further delineate the relevant geographic because the present operation would not raise competition concerns in all alternative geographic market definitions considered.

C. Assessment

24. As stated above, the present concentration does not give rise to any horizontal overlap. CCI is active in some upstream markets to the supply of travel agency services. As seen below, the only vertically affected market by the present operation is the provision of business travel agency services in the Netherlands. However, these vertical links already existed prior to the concentration and are not altered by the acquisition of joint control of OEP over CWT. Neither OEP nor JMPC control any firm that is active in CWT's markets or in markets upstream or downstream of CWT.

CWT's position in the travel agency services sector

25. CWT's estimated market share in the overall travel agency service market on a national and EEA-wide basis is below 25%.

¹⁴ See Case No COMP/M. 3858 *Lehman Brothers/SCG/Starwood/Le Meridien*.

¹⁵ See Case No COMP/M. 2000 *WPP/Young & Rubicam* and COMP/M. 2415 *Intepublic/Ture North*.

¹⁶ See Case No COMP/M. 2706 *Carnival Corporation/P&O Princess*.

26. In the sub-segment for the supply of *leisure* travel agency services, CWT is mainly active in France and Belgium, where its estimated market share is [5-10%]. Accordingly, at EEA-wide level market share is below 25%.
27. In the sub-segment for the supply of *business* travel agency services, the parties consider that on the basis of [...] report [...], CWT's market share is below 25% in all Member States except in the Netherlands, where it has a market share of [25-30%]. The parties have stated, however, that CWT's estimates is own market share to be less than 25% ([20-25%]). The market investigation, however, does not provide consistent evidence as to CWT's market share in this country. At EEA-wide level, CWT's market share is in any event below 25%.

CCI's position in upstream activities

28. Upstream, CCI estimates its market shares to be below 25% in any possible market definition. In particular, in the hotel sector, CCI's market share is below 15% in all Member States in the chain hotel sector. Its share on the basis of star category is below 25% on any national and local basis.
29. In the cruise sector, CCI's activities mainly focus in the US and therefore, its estimated market share does not exceed 5% in any EEA-country. At EEA level, its market share would be in any case below 25%.
30. In the market for the supply of marketing services, CCI's activities are mainly focused in the UK, where CMW generated [...] % of its turnover in 2005. CMW's estimated market share in the UK, in The Netherlands and on an EEA basis is below 1%.

Assessment

31. The present operation is unlikely to raise any competition concerns in the EEA and in The Netherlands in particular. While CCI is active in upstream markets to CWT, the present operation will not lead to the creation of any foreclosure effects within the EEA or in The Netherlands. In particular, it has to be noted that these vertical relationship already existed prior to the transaction. Besides, there is no actual commercial relationship between CCI's cruises and marketing operations and CWT in The Netherlands. CWT does sell rooms in CHW-brand hotels in this country but on a no preferential treatment basis.
32. Moreover, although CCI and JPMC are actually clients of CWT, they only represent an estimated [...] % of CWT's sales.

VI. CONCLUSION

33. 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 (EC) No 139/2004.

For the Commission
signed
Charlie McCREEVY
Member of the Commission