

***Case No COMP/M.4415 -
MOTOROLA / SYMBOL***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 08/01/2007

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 08-I-2007

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PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying party

Dear Sir/Madam,

**Subject: Case No COMP/M.4415 – MOTOROLA/SYMBOL
Notification of 23/11/2006 pursuant to Article 4 of Council Regulation
No 139/2004¹**

1. On 23 November 2006, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 by which the undertaking Motorola Inc. (“Motorola”, USA) acquires within the meaning of Article 3(1)(b) of the Council Regulation sole control of the whole of the undertaking Symbol Technologies Inc. (“Symbol”, USA) by way of purchase of shares.

I. THE PARTIES

2. Motorola is active in the manufacture and delivery of wireless handsets (mobile phones), wireless network infrastructures, laptop computers, communication and network systems and broadband products.
3. Symbol manufactures and distributes ruggedised mobile computers, data capture and scanning devices, wireless local area network (“WLAN”) infrastructure and radio frequency identification technology.

¹ OJ L 24, 29.1.2004 p. 1.

II. THE OPERATION AND THE CONCENTRATION

4. Motorola will acquire sole control of Symbol by way of purchase of shares.
5. The operation therefore constitutes a concentration for the purposes of Article 3(1)(b) of the Merger Regulation.

III. COMMUNITY DIMENSION

6. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion² (€ 29,614 million for Motorola, € 1,419 million for Symbol; all figures relate to turnover achieved in 2005). Each of them have a Community-wide turnover in excess of EUR 250 million [...] for Motorola; [...] million for Symbol), 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.

IV. RELEVANT MARKETS

7. The parties' activities overlap in a number of markets. With respect to the horizontal overlaps, both companies carry out activities in the overall market for ruggedised mobile computers and in the market for WLAN infrastructure. With regard to the vertical relationship, Symbol is active upstream in the manufacture of scanning devices which both Motorola and Symbol integrate in their ruggedised mobile products.

A. Ruggedised mobile computers

8. The Parties submit that the first relevant product market for the assessment of the transaction is the market for "ruggedised mobile computers". This term covers mobile computers manufactured for enterprise customers as opposed to private individual customers. The devices are specifically designed to withstand use in harsher or more demanding working environments where employees need to communicate whilst on the move. Due to the physical demands placed upon these devices, they are of a sturdier quality than their commercial equivalents sold to private individuals. The notifying party suggests that they also differ with respect to price and to the sales channels through which they are sold.
9. However, the size, form³, features and functional characteristics of ruggedised mobile computers vary. Therefore, the Parties have identified discrete segments of the ruggedised mobile computer market according to their size. Considering those, the Parties distinguish two potential sub-markets. The first potential sub-market is the market for larger ruggedised mobile form factor computers, comprising the segments of notebook computers, on-board/fixed vehicle computers, tablet computers and luggable computers. The second potential sub-market is the market for smaller ruggedised mobile form factor computers, comprising the segments of handheld computers and wearable computers.

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 Some mobile computers are designed to be hand-held, some are mounted in a vehicle, some are even wearable. Therefore, their form changes depending on their application.

10. The respondents to the Commission's market investigation have largely confirmed the parties' claims⁴, i.e. that the overall market for ruggedised mobile computers is a distinct market from the market for general computers and that two sub-markets exist within the overall market, one for larger ruggedised mobile form factor computers and another for smaller ruggedised mobile form factor computers. With respect to the possible distinction according to product categories within each sub-segment, the market investigation revealed no clear view from competitors and customers⁵. For the purpose of the present case, however, the precise definition as regards the product categories can be left open since even with the narrower definition the proposed transaction would give rise to no competition concern.
11. With respect to the geographic scope, the Parties submit that the market for ruggedised mobile computers is at least EEA-wide. They state in their notification that manufacturers distribute essentially the same products to all their customers regardless of geographic location; that there are no appreciable price differences within the EEA; that transport costs do not constitute significant limitations to cross-border trade.
12. The market investigation revealed that the distinct markets for ruggedised mobile computers appear to be of world-wide scope. Most respondents agreed that the same products are offered globally without any appreciable price differences. Most products appear to be manufactured in Asia to be shipped to customers throughout the world. However, some respondents considered the relevant geographic market to be more regional, as after sales service and support form an integral part of the respective product and it would be very difficult for them to sell, e.g., in Europe without having service and support facilities based close to the customers. However, as the competitive assessment would not vary significantly with a change in the definition of the geographic market, it appears that the question does not have to be finally resolved in this case.
13. Thus, for the competitive assessment of the proposed transaction, the relevant markets to be considered will be both the global and the EEA-wide overall markets for larger ruggedised mobile form factor computers and for smaller ruggedised mobile form factor computers, but also the potential sub-markets for notebook computers, on-board/fixed vehicle computers, tablet computers, luggagable computers, handheld computers and wearable computers, again both world-wide and EEA-wide.

B. WLAN infrastructure

14. The Parties submit that a further horizontal overlap occurs in the market for WLAN infrastructure. WLAN is the abbreviation for "Wireless Local Area Network". A WLAN is a computer network that allows a computer to connect without the need for a network cable. The Commission has identified the provision of data networking equipment as a

⁴ Slightly more than 75% of the respondents, both competitors and customers, confirm that the overall market for ruggedised mobile computers constitutes a distinct market. The remainder have not expressed any view about it. With respect to the two sub-segments, about 75% of the respondents see ruggedised mobile computers to be part of principally two segments. The remainder had no view and only 5% of respondents were denying the parties' claim.

⁵ About half of the respondents were in favour of such further distinction, while the other disagreed with the parties' view or gave no opinion.

separate product market in previous decisions⁶, with a possible distinction between WLAN and local area network (“LAN”) products as well as single components of the respective systems. However, as the competitive analysis does not vary significantly with a change in the market definition, the question does not have to be finally resolved at this point.

C. Data capture and scanning devices

15. The Parties submit that the market affected by the concentration on a vertical level is the market for data capture and scanning devices supplied to an original equipment manufacturer (“OEM”). These are devices used to capture information (e.g., from bar codes) in retail, warehousing, distribution and manufacturing environments. On the one hand, such scanners may be used on a stand-alone basis, i.e. integrated into a larger device such as the devices used in supermarkets to scan groceries at the checkout points. As these products are not designed to be integrated into mobile computers, they will not be part of the following analyses. On the other hand, however, data capture and scanning devices destined for the OEM market are sold independent of any housing so that brand-owners may incorporate them into their products.
16. The Parties acknowledge that the overall market for data capture and scanning devices could potentially be further divided into different markets for laser scanners, linear imager scanners and 2D imagers. A laser scanner is a bar code scanner that utilises laser technology to scan a spatial pattern, one part after another. Contrary to that, a linear imager scanner consists of a single row of light-sensitive pixels that takes a one-dimensional image of the bar code, thus capturing the entire image area. Finally, a 2D imager takes a two-dimensional image of the bar code, similar to a camera. However, the parties consider that a sub-division according to these functional differences would not accord with the fact that the various technologies compete with one another to meet customer requirements. Especially with a view to the most predominant end-use, the scanning of bar codes, the Parties maintain that the different technologies should be treated as one product market.
17. However, the market analyses showed that bar code scanning capabilities are a distinguishing characteristic for devices used in core enterprise mobility applications⁷. As these have traditionally mostly been laser scanners, it appears from many replies to the market investigation that less costly and power-intensive arrayed imagers are going to partially or wholly replace conventional laser scanners. Thus, the Commission in its competitive assessment will not only analyse the overall market for data capture and scanning devices, but also the narrower sub-segments according to the various functions as distinguished above.
18. With regard to the relevant geographic market, the Parties submit that it is likely to be at least EEA-wide, given that the devices sold throughout the EEA are the same, there are no appreciable price differences within the EEA, customers purchase their supply on a pan-European, if not worldwide basis, and the devices sold in the EEA are typically sourced from one or two distribution centres within the EEA.

⁶ Case No COMP/M.3995 – Belgacom/Telindus.

⁷ According to a report prepared by Venture Development Corporation (“VDC”).

19. Due to the arguments put forward by the Parties, which have not been challenged in the course of the market investigation, it appears that the market for data capture and scanning devices is at least EEA-wide. However, as it cannot be excluded that the relevant geographic market is indeed worldwide, the following assessment will consider both geographical market data as far as possible.

V. ASSESSMENT

A. Ruggedised mobile computers

20. Both Symbol and Motorola are active in the manufacture and supply of ruggedised mobile computers. While Symbol appears to be a strong player in this market, ruggedised mobile computers represent only around [0-10]% of Motorola's group-wide net turnover. Of the potential sub-market for larger ruggedised mobile form factor computers, Symbol offers only one type, i.e. ruggedised on-board/fixed vehicle computers. Thus, based on the narrowest possible market definition, the only market within larger ruggedised mobile form factor computers with a horizontal overlap is the market for ruggedised on-board/fixed vehicle computers. With regard to the possible sub-market for smaller ruggedised mobile form factor computers, Motorola offers only devices that fall within the category of handheld computers. Thus, based on the narrowest possible market definition, the only market within smaller ruggedised mobile form factor computers with a horizontal overlap is the market for ruggedised handheld computers.
21. The combined market share that Motorola and Symbol achieved in 2005 on the overall market for ruggedised mobile computers is [20-30]%⁸ ([0-10]% for Motorola and [20-30]% for Symbol) at the EEA-level⁹. With regard to the potential sub-market for larger ruggedised mobile form factor computers, the Parties' combined market share would be [0-10]% ([0-10]% for Motorola and [0-10]% for Symbol)¹⁰, corresponding with a combined market share in the segment for ruggedised on-board/fixed vehicle computers of [10-20]% ([0-10]% for Motorola and [0-10]% for Symbol)¹¹. On the potential sub-market for smaller ruggedised mobile form factor computers the combined market share would amount to [30-40]% ([0-10]% for Motorola and [30-40]% for Symbol)¹², corresponding with a combined market share in the segment for handheld computers of [30-40]% ([0-10]% for Motorola and [30-40]% for Symbol)¹³.

⁸ The data are derived from a report prepared by Venture Development Corporation ("VDC").

⁹ On a world-wide basis, the combined market would amount to approximately [20-30]% ([0-10]% for Motorola and [10-20]% for Symbol).

¹⁰ On a world-wide basis, the combined market share would amount to approximately [0-10]% ([0-10]% for Motorola and [0-10]%).

¹¹ On a world-wide basis, the combined market share would amount to approximately [20-30]% ([10-20]% for Motorola and [0-10]% for Symbol).

¹² On a world-wide basis, the combined market share would amount to approximately [30-40]% ([0-10]% for Motorola and [30-40]% for Symbol).

¹³ On a world-wide basis, the combined market share would amount to approximately [40-50]% ([0-10]% for Motorola and [30-40]% for Symbol).

As regards all other narrower markets in terms of product categories, the increment in market share is very small since Motorola only has negligible business activities there.

22. The new combined entity continues to face sufficiently strong competition from their competitors. On the overall market for ruggedised mobile computers, Panasonic enjoys at EEA-level a market share of approximately [20-30]%, Intermec of [0-10]%, GD/Idtronix/Tadpole of [0-10]%, Psion/Teklogix of [0-10]% and Denso Wave of [0-10]¹⁴. The remainder in terms of market share is held by many but smaller competitors.
23. Competitors in the sub-market for larger ruggedised form factor computers are Panasonic with a market share of [20-30]%, GD/Idtronix/Tadpole with [10-20]%, Siemens with [0-10]%, Psion/Teklogix with [0-10]%, Qualcomm with [0-10]% and LXE with [0-10]¹⁵. Again, many smaller competitors held the remainder in terms of market shares. The level of market shares shows no significantly different situation when considering the potentially narrower market on a product category basis. The combined market share of the parties remains below 15% and they face the similarly strong competitors. It therefore can be concluded that the proposed transaction would not significantly impede competition when considering the sub-market for larger ruggedised form factor computers, or even its potentially narrower product categories in view of the fact that the parties' combined market is far below 15% and of the presence of many strong competitors that have larger market shares than the combined business of the parties.
24. As regards the sub-market for smaller ruggedised form factor computers, competitors present in this market are Intermec with a market share of approximately [10-20]%, Psion/Teklogix with [10-20]%, Datalogic with [0-10]%, Hand Held Products with [0-10]%, PSC with [0-10]% and Denso Wave with [0-10]¹⁶. Many competitors held the remainder of the market in terms of market share. When considering the potentially narrower product category of ruggedised hand held/PDA computers, Intermec has a market share of approximately [10-20]%, Psion/Teklogix has [10-20]%, Datalogic has [0-10]%, Hand Held Product has [0-10]%, and PSC has [0-10]¹⁷. Since the combined market of the parties exceeds 15%, the further assessment within the overall market for ruggedised mobile computers concentrates on the sub-market for smaller ruggedised form factor computers.
25. Over the past three years the market volumes have increased by roughly 10% annually. Most of the Parties' competitors that are active on the relevant markets have seen benefits from this development in terms of their individual increase in market share

¹⁴ On a world-wide basis, the relevant market shares are very similar to that in the EEA.

¹⁵ On a world-wide basis, Panasonic enjoys a market share of [40-50]%, GD/Idtronix/Tadpole with [10-20]%, Siemens with [0-10]%, Psion/Teklogix with [0-10]%, Qualcomm with [0-10]% and LXE with [0-10]%.

¹⁶ On a world-wide basis, Intermec has a market share of approximately [10-20]%, Psion/Teklogix with [0-10]%, Datalogic with [0-10]%, Hand Held Products with [0-10]%, PSC with [0-10]% and Denso Wave with [0-10]%.

¹⁷ On a world-wide basis, Intermec has a market share of approximately [10-20]%, Psion/Teklogix has [0-10]%, Denso Wave has also [0-10]%, Casio has [0-10]% and PSC has [0-10]%.

terms, and in particular those mentioned above. Within the same period, however, Motorola's revenues have actually declined¹⁸. Forecasts for the future growth of the overall market for ruggedised mobile computers assume that the market volume will be increasing by approximately [0-10]% annually through 2010¹⁹. Thus, taking into consideration the recent developments of the Parties' competitors compared to Motorola's past performance, it can reasonably be expected that other players on the market will continue to profit from the overall market development and that their position vis-à-vis the new entity will not be significantly affected by the proposed transaction.

26. Furthermore, the market analyses showed that the new entity's competitive behaviour will be constrained by considerable countervailing buying power of key customers. In the market for ruggedised mobile computers, a significant proportion of sales are attributed to few, but very large customers. A significant number of customers place large orders in the range between 8,000 and 15,000 units. This is especially the case for public bodies and large postal services that operate on a world-wide basis. In addition, large orders placed by public bodies are put up for public tenders, which allow for open competition by all competitors on the market²⁰. The Commission has previously acknowledged that the fact of a significant proportion of products being awarded by means of tenders imposes additional competitive constraints on market players who repeatedly have to undergo bidding processes²¹. Although contractual relationships with customers tend to be based on longer terms, the bidding structure of the market still plays an important role in the assessment. Thus, the Commission concludes that the buying power enjoyed by customers will act as a significant competitive constraint on the new entity after the proposed transaction.
27. It appears, moreover, that market shares can change rapidly. In particular on the narrowly defined market for ruggedised handhelds it has to be considered, that those markets often are composed of relatively big contracts and others which are smaller. Only a few wins can therefore materially change market shares. Hand Held Products, for example, in 2004 and 2005 managed to obtain major contracts with two postal delivery services in Europe²². As a result, Hand Held Products' market shares both on the overall EEA-wide market and on the EEA-wide market for ruggedised handhelds more than doubled from 2003 to 2005. This shows that Symbol's high market shares on the narrowly defined market for ruggedised handhelds do not appear to hinder the ability of other competitors to win tenders.
28. Finally, the market for ruggedised mobile computers and its various sub-segments is characterised by a significant number of Original Design Manufacturers (ODMs) that

¹⁸ The decrease of Motorola's relative market share can be seen at EEA-level as well as world-wide.

¹⁹ The market, on which the new entity will have the largest market share, i.e. ruggedised handhelds, is expected to grow by [0-10]% annually through 2010, according to the VDC study.

²⁰ According to the VDC study, public authorities represent the single larger customer segment for rugged mobile computing solutions, representing almost [20-30]% of total sales.

²¹ Case M.3571 – IBM/Maersk Data/DMdata, at paragraph 31.

²² This information is provided by the Parties in their notification. However, the increase in market share is also supported by data included in the VDC report.

are highly specialised and experienced in the design and manufacture of all kinds of ruggedised mobile computers. Due to cheap labour costs in Asian countries, in which they are largely based, these ODMs allow the suppliers of products to outsource parts or all of their production to third parties, thus reducing the technological and logistical barriers for both existing competitors and potential market entrants to increase their market shares. As the market investigation showed that the vast majority of contractual relationships between suppliers of ruggedised mobile computers and ODMs are short-term agreements and not based on exclusivity, these ODMs appear to be readily accessible for existing and potential future competitors of the new entity after the proposed transaction.

29. In view of the foregoing, it can be concluded that the proposed operation would not, in any of the markets considered, significantly impede effective competition in particular as a result of creating or strengthening a dominant position in the EEA or any substantial part of it.

B. WLAN infrastructure

30. It is submitted by the Parties that the new entity's combined market share in the segment for WLAN infrastructure remains below 15%. Motorola is a new player on this market, its total sales amounting to [...] in 2005, and an estimated EEA-wide and worldwide market share of below [0-10]%. Symbol's estimated market share is approximately [10-20]% EEA-wide²³ and approximately [0-10]% worldwide²⁴. Irrespective of the exact market definition for WLAN infrastructure, the transaction will not technically give rise to an affected market. Accordingly, none of the respondents to the market investigation (be they competitors or customers) expressed any concerns as to the impact of the concentration on the market for WLAN infrastructure. Thus, from the outset, it appears very unlikely that the proposed transaction would give rise to any competition concerns on the market for WLAN infrastructure.
31. In any event, there are a number of strong competitors in the market for WLAN infrastructure. The Commission has already pointed out the highly competitive character of this market in previous decisions²⁵. Above all, the new entity will face competition from the largest player on the market, which is Cisco²⁶, but also from other strong competitors. In the view of the foregoing, the Commission concludes that the proposed operation would not significantly impede effective competition on the market for WLAN infrastructure or its segments.

²³ These estimates are derived from data of the Dell'Oro Group. The [10-20]% figure relates to the EMEA, but the [...].

²⁴ The Dell'Oro figures are for Q2 2006. However, the Parties consider them representative of Symbol's market share on an annual basis.

²⁵ Case No COMP/M.3995 – Belgacom/Telindus, at paragraph 23.

²⁶ Based on the Dell'Oro figures, Cisco's worldwide market share is approximately [40-50]%.

C. Data capture and scanning devices

32. With regards to the market for data scanning and capture devices, only Symbol is present at the OEM level. Symbol has an EEA-wide market share of around [20-30]%²⁷ on the overall market, which includes around [20-30]% on the market for laser scanners, around [10-20]% on the market for 2D imagers and around [0-10]% on the market for linear imager scanners. Neither the Parties nor independent third parties were able to provide the Commission with a significant amount of data for the worldwide market. However, the Parties estimate that Symbol's share in the global markets is higher than the one on the EEA-wide market. For example, the Parties consider Symbol's share on the global market for laser scanning devices to be approximately [40-50]%. The sales of data capture and scanning devices represent approximately [0-10]% of Symbol's overall sales.
33. As the devices in question are (among other end uses) incorporated into the ruggedised mobile computers of both Motorola and Symbol, or into ruggedised handhelds to be more precise, the transaction will give rise to a vertical relationship. However, the Parties submit that this relationship will not result in market foreclosure, as Motorola's EEA-wide market share in the downstream market for ruggedised mobile computers is only [0-10]% and data capture and scanning devices are also supplied to a large number of other markets. Moreover, the Parties submit that there are sufficient other suppliers for data capture and scanning devices.
34. The market investigation confirmed the Parties' view that the proposed transaction will not give rise to vertical competition concerns. The single segment on the upstream market for data capture and scanning devices potentially causing competitive concerns would be the market for laser scanning devices, where Symbol, according to the Parties' best estimate, enjoys a market share of [20-30]% EEA-wide and approximately [40-50]% worldwide.

No foreclosure of competing suppliers of scanning and imaging devices

35. First of all, there appears to be no risk of a foreclosure of competing manufacturers of scanning and imaging devices, or more specifically of laser scanning devices. As already indicated above (at paragraph 21.), Motorola's EEA-wide market share in the downstream market is between [0-10]% and [0-10]%, depending on whether the market definition comprises all ruggedised mobile computers or more narrowly only ruggedised handhelds. Moreover, data capture and scanning devices are purchased for use in many markets other than ruggedised mobile computers, above all as stand-alone devices. In any case, the addition of Motorola's very narrow market share in the downstream market cannot be reasonably expected to create foreclosure concerns where none previously existed. Accordingly, none of the respondents to the market investigation raised any concerns with regard to a possible foreclosure of competing manufacturers of scanning and imaging devices.

No foreclosure of competing manufacturers of ruggedised mobile computers

36. Secondly, the potential risk of a foreclosure of competing manufacturers of ruggedised mobile computers from the supply in scanning and imaging devices, or more specifically of laser scanning devices, appears to be minimal. Some of the Parties'

²⁷ These figures relate to 2005.

competitors in the manufacture of ruggedised handhelds that are currently being supplied with laser scanners by Symbol have expressed their concern that the proposed transaction might negatively affect their ability to source sufficient amounts of laser scanners. They submit that Symbol, due to a strong patent portfolio and its position on the upstream market, is effectively the only company able to address their demands in laser scanning devices. However, the market investigation strongly suggests that these concerns do not render the proposed transaction a risk of market foreclosure.

37. Only a limited number of competitors in the manufacture of ruggedised mobile computers, or more specifically of ruggedised handhelds, heavily rely on Symbol's supplies in laser scanning devices. More than half of the replies from competitors specified that the share of their overall supplies in laser scanners attributed to Symbol is below 25%. Some competitors indicated that there would be no alternative supply chain for laser scanners, if the new entity decided to stop providing them. However, this submission could not be confirmed by the market investigation. Two of Symbol's strongest competitors currently purchasing laser scanners from Symbol for incorporation into their ruggedised handhelds stated that they would be able to source laser scanning devices from another vertically integrated competitor. Another company that purchased significant annual quantities of laser scanners from Symbol until recently was able to terminate the supply agreement with Symbol, thus becoming entirely independent from Symbol's supplies and switching to alternate sources.
38. With regard to the patent situation, it is true that Symbol currently holds a significant number of patents which are directed towards features of laser scan engines. The examples of successful supplier switches aforementioned, however, already show that the patents held by Symbol are not likely to result in a market foreclosure. Moreover, a large number of the patents in question are quite mature and will expire within the next 3 to 5 years. Finally, the market investigation showed that laser scanning technology appears not to be the technology of the future, but will gradually be superseded by imaging technology, which is already used in a majority of handheld devices supplied by the Parties' competitors. In the corresponding markets for 2D imaging devices and for linear imaging devices, Symbol only enjoys a minor EEA-wide market share of [10-20]% and [0-10]% respectively. It appears, therefore, that the patent situation does not pose a significant risk of market foreclosure.
39. In any case, on the basis of the results of the market investigation, the Commission was not able to ascertain any merger specific aspects that would materially alter the competitive situation on the upstream market for laser scanning devices. The relatively strong position of Symbol on this market, including the patents it holds, will not be affected by the acquisition. Respondent competitors alleged that, while Symbol derived significant revenue from its OEM scan engine business, the new entity may no longer consider this revenue so significant. However, taking into account that currently the sales of data capture and scanning devices represent only around [0-10]% of Symbol's overall sales, these concerns seem to be based on merely hypothetical assumptions not supported by substantial factual evidence.
40. Therefore, in the light of the above, it appears that the proposed transaction will not give rise to significant vertical competition concerns.

VI. CONCLUSION

41. 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
Neelie KROES
Member of the Commission