

***Case No COMP/M.4713 -
AVIVA / HAMILTON***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 27/09/2007

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 27.09.2007

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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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 party:

Dear Sirs,

**Subject: Case No COMP/M.4713 – Aviva/Hamilton
Notification of 23/08/2007 pursuant to Article 4 of Council Regulation
No 139/2004¹**

1. On 23 August 2007, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ("Merger Regulation") by which the undertaking Aviva Plc ("Aviva", UK) acquires within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of the undertakings Hamilton Insurance Company Limited ("Hamilton General", UK) and Hamilton Life Assurance Company Limited ("Hamilton Life", UK; Hamilton General and Hamilton Life together: "Hamilton") by way of purchase of shares.

I. THE PARTIES

2. Aviva, together with its subsidiaries, is active in the transacting of general insurance (non-life insurance) and life assurance business. Other core businesses are long term savings and fund management. It has activities in the UK, Ireland, continental Europe and elsewhere around the world. The Aviva group also invests in securities, properties, mortgages and loans and carries on a property trading business. Its UK insurance business is conducted under the Norwich Union umbrella. Aviva's insurance activities in Ireland are conducted through its Hibernian business.
3. The principal activity of Hamilton Life is the underwriting of life assurance business in the United Kingdom.

¹ OJ L 24, 29.1.2004 p. 1.

4. Hamilton General principally underwrites accident and health, property and general insurance business.

II. THE OPERATION AND THE CONCENTRATION

5. The proposed transaction concerns the acquisition of sole control of Hamilton General and Hamilton Life by Aviva and will be effected by a share purchase agreement.
6. The acquisition takes place within the broader commercial context of an arrangement between Aviva and HSBC that will result in their forming a joint venture company for the marketing of HSBC branded insurance products (home and motor insurance and associated “add-on” products) within HSBC’s network. This transaction is not part of the proposed concentration.
7. There will be a reinsurance arrangement between Aviva and HSBC whereby Aviva group entities will, pursuant to commercial arrangements, reinsure with HSBC certain risks underwritten by Hamilton General. This reinsurance arrangement is not part of the proposed transaction either.

III. COMMUNITY DIMENSION

8. The transaction has a Community dimension pursuant to Article 1(2) of the Merger Regulation. The parties have a combined aggregate worldwide turnover in excess of € 5,000 million (Aviva € 42,149 million, Hamilton € [...] million), and at least two have a Community-wide turnover in excess of € 250 million (Aviva € [...] million, Hamilton € [...] million). Only Hamilton achieves more than two thirds of their Community-wide turnover in one member state (in the UK).

IV. RELEVANT MARKETS

9. The Transaction concerns the provision of life and non-life insurance services in the UK and Ireland. In previous decisions, the Commission has distinguished between the provision of insurance products into non-life/general insurance, life assurance and reinsurance. The present market investigation has also confirmed the division between life assurance and non-life insurance. Although the Commission has not definitively concluded on the matter, it has suggested that life and non-life insurance, can be divided into as many product markets as there are different kinds of risks covered.
10. The Commission has in a number of decisions acknowledged that there is a degree of supply side substitutability in the *non-life insurance* segment, as certain insurance products require a common set of skills and resources including risk management, administration, IT systems and technology². From a supply side perspective the conditions for insurance of different types of risks are similar and most large insurance companies are active in multiple risk types. However, there may be a difference as regards the underwriting of different insurances. This suggests that there is some supply side substitutability between the different segments of non-life insurance therefore many different types of non-life insurance could be included in the same product market³.
11. This substitutability does not exist from the customer’s perspective (demand side) and the market could potentially be divided into as many products as there are different

² See Case No IV/M.1142 – Commercial Union/General Accident.

³ Case No COMP/M.3035 – Berkshire Hathaway Convergence/Gaum/JV; Case No COMP – M.2676 Sampo/Varma Sampo/If Holding/JV; Case No IV/M.1142 – Commercial Union/General Accident.

risks⁴. From the demand side, the Commission has considered that there is limited substitution for the insured between the different categories of policy offered⁵. The market investigation in this case has confirmed this approach; however this question can be left open as no competition concerns arise whichever definition is applied.

12. As regards life assurance, the Commission has found that *life assurance* products can in principle be divided into as many product markets as there are different kinds of risks covered⁶. Their characteristics, premiums and purposes are distinct and there is typically no substitutability for the consumer between the different risks insured⁷. As such the Commission has looked at the various segments of the life assurance market, including life assurance policies, investment policies and pensions. The Commission has not found it necessary however to determine conclusively whether the market should be subdivided accordingly. The exact product market definition can also be left open in this case due to the fact that the proposed concentration does not raise competition concerns in any alternative product market definition.
13. In past decisions⁸, whilst recognising that insurance markets are becoming more open to intra-Community competition, the Commission has held that the markets for non-life insurance and life assurance products are generally national in scope due to the national distribution channels, the established market structures, fiscal constraints and differing regulatory systems⁹. Differences in regulatory regimes and legal obligations mean that the conditions of competition are normally appreciably different in the various Member States. In addition, basic terms and conditions of the policies are determined on a national level and competition normally takes place on a nation-wide basis, with national advertising and increasingly centralised sales functions. The market investigation has confirmed that most market participants consider the relevant geographic market as national in scope. However, the definition of the relevant geographic market can be left open as the proposed transaction would not lead to concerns irrespective of market definition.

V. COMPETITIVE ASSESSMENT

14. The parties to the proposed transaction are active in a number of non-life insurance areas as well as life assurance.
15. As such, the proposed transaction leads to overlaps and affected markets only for the parties' activities in Ireland and the United Kingdom. However, according to the information received from the parties, the aggregate market shares of Aviva and Hamilton do not exceed [17-22] % in any of the possible hypothetical product markets at national level. Furthermore, the maximum increment is less than [1-5] % on any alternative market definition. The market investigation broadly confirmed these figures.

⁴ Case No COMP/M.759 – Sun Alliance/Royal Insurance and Case No COMP/M.862 – AXA/UAP.

⁵ Case No COMP/M.3035 – Berkshire Hathaway Convergence/Gaum/JV.

⁶ Case No COMP/M.2676 – Sampo/Varma Sampo/If Holding/JV.

⁷ Case No COMP/M.862 – AXA/UAP.

⁸ See, for example, Cases No COMP/M.759 - Sun Alliance/Royal Insurance and COMP/M.2225 - Fortis/ASR.

⁹ Whilst not relevant to the markets in the present transaction, the Commission has indicated that some differences in the geographic scope of different types of non-life/general insurance may exist (e.g. in relation to transport liability and marine, aviation and transport (MAT) insurance for large corporate customers and large risk respectively): see Case No COMP/M.3395 - Sampo/If Skadeförsäkring and Case No COMP/M.2676 - Sampo/Sampo-Varma/If Holding/JV.

16. In Ireland the proposed concentration would lead to affected markets only on the basis of a hypothetical overall non-life insurance market for which the parties estimate their combined market share to about [15-20] %, and for life assurance overall with an estimated combined market share of about [14-19] %. The data provided by the competitors in the course of the market investigation confirmed these figures. The increment to Aviva's market share is minor, less than [1-5] % in either segment. The parties did not identify any affected market on a more narrow subdivision of the markets.
17. In the United Kingdom the proposed concentration would not lead to affected markets on an overall non-life insurance markets or life assurance market but the parties identified two affected markets on the basis of a national market for home insurance, with an estimated combined market share of about [17-22] % and for creditor insurance, with an estimated combined market share of about [17-22] %. These figures were also confirmed by the market investigation. The increment to Aviva's market share is also here minor; for home insurance less than [1-5] % and for creditor insurance less than [1-5] %.
18. There are some vertical relationships between the activities of the parties. In particular, Aviva is present in the market of selling insurance products through its Norwich Union Direct and RAC channels in the UK and through Hibernian Direct in Ireland. However irrespective of market definition there would be no affected markets within the meaning of Form CO.
19. The Commission's investigation has confirmed that the proposed transaction would have limited impacts on the markets involved by the proposed transaction and that it would not raise serious doubts as to its compatibility with the common market.

VI. CONCLUSION

20. 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
Vladimir Špidla
Member of the Commission