

***Case No COMP/M.4727 -
SEGULAH / CAPMAN /
JV***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 06/08/2007

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 06/08/2007

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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

Dear Sir/Madam,

**Subject: Case No COMP/M.4727 – SEGULAH/ CAPMAN/ jv
Notification of 07/08/2007 pursuant to Article 4 of Council Regulation
No 139/2004¹**

1. On 3 July 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 private equity companies Segulah II L.P. ("Segulah", Jersey) and CapMan Plc ("Capman", Finland) will acquire within the meaning of Article 3(1)(b) of the Merger Regulation joint control of the pre-existing activities of Powermill Services Group AB ("Powermill", Sweden) and InfoCare Holding AS ("Infocare", Norway) by way of purchase of shares in a joint venture company ("the Combined Entity"). Currently, Powermill is ultimately controlled by Segulah and Infocare is ultimately controlled by Capman.

II. THE PARTIES

2. Segulah and Capman are both private equity firms with investments in a range of different businesses through several portfolio companies.
3. Powermill is a provider of maintenance, repair and logistics services in the field of IT, telecom, consumer electronics products (brown goods) and white goods² from many leading global manufacturers. It is active in Sweden, Denmark, Finland and Estonia.

¹ OJ L 24, 29.1.2004 p. 1.

² "White goods" in the appliances sector are freezers, washing machines, dish washers, clothes dryers, air conditioners, as opposed to (i) "brown goods" e.g. audio and visual appliances such as CD and DVD players, televisions, camcorders, HI-FI and home cinema, telephones, answering machines, (ii) small domestic appliances e.g. toasters, irons, blenders and (iii) computer and communication goods.

4. Infocare is a provider of installation and repair services of IT, office software and consumer electronics products. It is active in Sweden, Finland, Denmark and Norway.

III. THE CONCENTRATION

5. On 21 May 2007 Segulah - which currently controls Powermill - and the minority shareholders of Powermill³ have agreed to transfer all shares owned in Powermill in a capital increase of Infocare, which is currently controlled by Capman. Upon closing of the shares purchase agreement Infocare shall own [a majority shareholding providing sole control] of the shares of Powermill (together also referred to as the "Combined Entity"). As a consideration for the mentioned transfer of shares, Segulah and the minority shareholders of Powermill will receive shares in Infocare constituting [a minority shareholding] of the issued shares, the capital and the votes in Infocare. The Combined Entity will be jointly controlled by Segulah and Capman, as all of the matters to be decided by the board of directors or to be decided at the general meeting will require the consent of both Segulah and Capman. In particular, as regards the board of directors, decisions require unanimity of the Segulah appointed directors and the Capman appointed directors. Therefore, the two parent companies will have to agree not only as regards the strategic decisions such as budget and business plan decisions, but also on any decisions of any kind concerning the Combined Entity.
6. The operation, therefore, constitutes a concentration within the meaning of article 3(1)(b) of the ECMR.

IV. COMMUNITY DIMENSION

7. The combined aggregate worldwide turnover of the undertakings concerned does not meet the threshold of article 1(2)(b) ECMR. The operation has nevertheless a community dimension within the meaning of article 1(3) of the ECMR. The combined aggregate worldwide turnover of the undertakings concerned is more than € 2 500 million € 3 985.4 million. In each of at least three Member States (Sweden, Finland, Denmark), the combined aggregate turnover of all the undertakings concerned is more than €100 million. In each of these Member States the aggregate turnover of each of Segulah and Capman is more than € 25 million. The aggregate Community-wide turnover of each of Segulah and Capman is more than € 100 million. Segulah and Capman do not achieve more than two-thirds of their Community-wide turnover within one and the same Member State.

V. RELEVANT MARKETS

8. The relevant markets⁴ affected by the concentration are (i) the market for maintenance and support of consumer electronics ("CE") products in Sweden and (ii) the market for maintenance and support of CE products in Denmark.

³ Powermill's founders and management.

⁴ Other markets where the parties' activities also overlap are: i) Maintenance and support of CE products in Finland ii) Hardware maintenance and support of IT products in Sweden, Finland and Denmark, iii) Software maintenance and support of IT products in Sweden, Denmark and Finland; all of these market do not constitute "affected market" under the ECMR as the parties' combined market shares are below 15% in each of the mentioned markets/countries and with small increments due to the merger.

9. The parties submit that there is a separate market for maintenance of CE products⁵, as the Commission has previously generally always found maintenance services to be a separate product market distinct from manufacturing, retail etc. of the product⁶. The parties further argue that there is only hardware maintenance for CE products and that, therefore, it is not necessary to sub-divide the market into CE hardware and CE software maintenance.
10. This market is described as a market for independent firms (maintenance service providers) specialising in repair services and acting in competition among each other. In the parties' view, the market comprises both large suppliers of maintenance services - the large players - and small suppliers of maintenance services (e.g. local repair workshops) - the "fringe". The repair work of CE products is normally carried out by maintenance companies, which, in order to run a well-functioning business, need to first obtain an authorization by Original Equipment Manufacturers (OEM) of CE products in order to qualify for carrying out the guarantee (and other type of) repair service of their goods. OEMs provide the warranty vis-à-vis end consumers for defected products and grant the relevant authorization to carry out repair work to repairers based on certain criteria that repairers have to fulfil related to e.g. financial, technical, logistic, qualitative and organizational skills. Repairers also need to have contractual relationships with retailers (i.e. resellers of CE products) to be assigned repair and maintenance work on the OEM-branded CE products. Contracts concluded by large repairers with customers (retailers/OEMs) are often nation-wide, and contracts are normally not exclusive, while their duration is of around one-two years.
11. In general, when a CE product breaks, the consumer brings it to the shop (normally a retailer's chain) from which it was purchased who, in turn, sends the good to the repairer it has a contract with. When products are within the "warranty" period, the cost of the repair is ultimately borne by the OEM, who (as mentioned) selects and authorizes certain repairers according to their qualitative standards. OEMs often require retailers that the maintenance service of their products is carried out by authorized repairers, hence retailers have an interest in concluding service contracts with repairers who have as many brand authorizations as possible. Repairers can be organized in large chains⁷ with workshops spread on a whole nation's territory and "pick-up" services or can be constituted by small service providers with local cabinets. Often large repairers conclude sub-contracting agreements with smaller repairers which are located in certain geographic areas or own special technical expertise in maintenance of particular products.
12. The Commission carried out a market investigation among competitors and customers of the CE maintenance and repair service providers. The outcome confirmed, in general, the proposed market definition and confirmed that this market functions as outlined above. The investigation in particular highlighted that the supply side of the

⁵ The parties submit that, at the retail level, the market for electrical appliances has been, in the Commission's practice, been divided in four major segments: (i) brown goods, such as audio and visual products (ii) large domestic appliances, (iii) small domestic appliances and (iv) computer and communication. In their view, CE belong to the "brown goods" group. In their view, CE products belong to the "brown goods" group.

⁶ See Commission decision in case COMP.M.2703 – Merloni / GE.

⁷ Which can be structured as "franchising" networks.

market is split between two groups, the large players and the fringe, whereas on the demand side two types of entities, the OEMs and the retailers, stand out.

13. The Commission's investigation also showed that, already pre-merger, small repairers satisfy only a limited share of the demand stemming from OEMs and large retailers in comparison with large repairers, who usually have a network of agreements with large retailer chains and OEMs. The market therefore appears to be fairly concentrated, with small repairers hardly qualifying for repair work of OEMs and accessing to large retailers' business.
14. In any case, the product market definition in this case can be left open, as the concentration would not raise competition concerns under any possible market definition.
15. The geographical scope of the relevant market proposed by the parties is national. In this respect, the parties refer to the Commission's practice, which confirmed this view by stating that, for the out-of-warranty repair services, "*in order to provide such repair services, an effective service organisation is required, while rapid response times require local coverage.*"⁸.
16. The Commission investigation confirmed that market players consider the geographic scope of the market to be national, given that customers demand localized on-site presence and fast service (turnaround time) and that warranty rules need to be effectively implemented. This is difficult without a local presence and/or effective logistics. Nevertheless, there are some indications that a wider scope could be considered i.e. the whole Nordic area⁹, as some large repairers are actually active in more than one Nordic country, and providing their services across different States in the Nordic area. This could be the case at least as regards repair work on some CE products of smaller sizes (e.g. excluding large plasma TV screens), which are suitable for transport without major impediments and logistics issues.
17. In any case, the geographic market definition in this case can be left open, as the concentration would not raise competition concerns under any possible market definition.

VI. COMPETITIVE ASSESSMENT

18. At the outset, it has to be noted that the business focus of respectively Infocare and Powermill is slightly different. Whilst Infocare's business is mostly oriented toward maintenance of IT products, Powermill's business is mostly oriented towards maintenance of CE products.
19. As a further preliminary remark, the parties submit that Powermill, as from 2006, has gradually taken over the repair contracts with retailers previously concluded by Strax, a Swedish company, in Sweden, Denmark and Norway eventually declared bankrupt on 6 June 2007. As a result, the market shares previously attributable to Strax have been added to Powermill's market share in the relevant markets.

⁸ See Commission decision in case COMP.M.2703 – Merloni / GE.

⁹ This area comprises Sweden, Finland, Denmark and Norway.

20. On the basis of the information provided by the parties, the combined market share of the merging companies¹⁰ in the CE maintenance and support in Sweden in 2006 is [15-25%] (Powermill [10-20%], Infocare [0-5%] and Strax [0-10%])¹¹, whereas in Denmark it is [15-25%] (Powermill [5-15%], Infocare [0-5%] and Strax [5-15%])¹². While the bare overlaps between Infocare and Powermill are not significant when taken in isolation, the computation of Strax's share of sales results in a more significant increment for the combined entity.
21. As regards Sweden, the merger would create the first CE maintenance service provider (with [15-25%] market share), followed by Assist Servicekedjan AB as the second player (with [10-20%]), and by Anovo Nordic (with [0-10%]). Other service providers would collect approximately [60-70%] of the CE maintenance service market.
22. As regards Denmark, the merger would create the first CE maintenance service provider [15-25%], followed by Elektronik Centret ([5-15%] and Service Center Nord (with [0-10%]). Other players would collect approximately [60-70%] of the CE maintenance service market.
23. The structure of the market in both countries, as already indicated, is characterized by a clear split as regards the supply side between large and small players. As regards demand side, this is primarily characterized by the presence of both OEMs and retailers. The large players in Sweden and in Denmark already satisfy to a very larger extent the demand for maintenance services stemming from large retailers, thus leaving a limited addressable market for smaller repairers, as regards OEM's and retailers' business. In this respect, the merger would not significantly modify the market structure, as the increment in the market share of Powermill due to the acquisition of Infocare would be limited to [<5%] in Sweden and to [<5%] in Denmark. Also, small repairers will most likely still play a role as possible sub-contractors of larger players, as the need for assistance in certain geographic areas or the need for special expertise of technicians employed by small repairers would not be affected by the concentration.
24. A concern was mentioned by some respondents to the Commission's investigation that the merger could have potential exclusionary effects in that the combined entity could further extend the scope of agreements with the retailers, thereby raising barriers to entry vis-à-vis competitors. In particular, the latter could be squeezed out of the

¹⁰ Powermill subcontracts its maintenance services for resellers to third parties (small local repairers and technical couriers) in Sweden. Infocare is itself a subcontractor to Assist, a competitor of Powermill and Infocare, for some retailers in Norway and Sweden. The turnover deriving from these repairing services which are subcontracted by Powermill to other repairers have been attributed to Powermill and the turnover derived from Infocare's invoices to Assist have been included in the market shares presented below.

¹¹ The figure for the total CE market size has been calculated by the parties by using the sales figures of CE products in Sweden. The figures have been obtained by the Swedish Consumer Electronics Association. CE suppliers have reported that guarantee costs constitute 3-5% of their turnover. The parties have therefore calculated that 4% of the CE product sales figure constitutes warranty repair costs. Including after warranty repairs and other services and excluding costs for return or credits the parties have estimated the market size to [0-10%] of the CE suppliers in 2006.

¹² The figure for the total market CE market size has been calculated by the parties by using the sales figures of CE products in Denmark. The figures have been obtained by the Danish Consumer Electronics Association and calculated in the same way as for the Swedish market, see footnote 10 above.

market, in case large potential customers were to be already locked-in by virtue of contracts with the "old" players. It has to be noted firstly that, unlike Powermill, Infocare does not have any significant contractual relationship with large retail chains either in Sweden or in Denmark. Therefore, the merger in itself will not affect the coverage of the existing large retailers / large repairers' contracts of the merger entity in both countries.

25. As regards the effects on potential newcomers, despite the scope of contracts concluded by large repairers with customers is often nation-wide, these contracts are normally not exclusive and the duration is not particularly long (around one-two years at most). Usually contracts with retailers only grant exclusivity for one type of product, even though retailers prefer to have one single repairer for as many products as possible. As regards contracts with OEMs, these contracts are normally not exclusive either. The merger will not affect this situation.
26. In the course of the market investigation, some customers expressed the concern that the Combined entity could lower the quality of its services and rise prices on OEMs as a consequence of the increased market power, with a potential knock-on effect for the prices of products for the consumers. On the other hand, some competitors expressed their concern that Powermill and Infocare could "dump" their prices into the market, by exploiting economies of scale, and could then further squeeze the smaller repairers out of the market.
27. In respect to the issues above, it has to be noted that the merged entity will not have market power. On the demand side, the market in both Sweden and Denmark is characterized by the presence of players who may have an influence on the pricing of the maintenance service (i.e. the OEMs) and on the successful coverage of the large repairer's network of contracts (i.e. the retailers). In particular, prices of the repair services are generally set through negotiations with the OEMs, which have the possibility to compare prices across Europe and to switch repairers swiftly. As regards retailers, they normally belong to large chains, which tend to conclude contracts with one preferred repair partner, in order to increase efficiency. In order to attract the retailers, repairers need to qualify for as many OEMs as possible in order to provide repair services for several product brands¹³.
28. Given the above, the merger does not affect to a significant extent the contractual balance between the parties on the one hand and the OEMs and retailers on the other hand, so as to allow the merged entity to raise (or dump) prices or lower the quality of the service irrespective of a reaction from OEMs and retailers. In addition, the Commission's investigation showed that customers can effectively switch supplier. In particular, this could be feasible also in respect of players who are especially active within the Nordic region. In this respect, the investigation showed that some OEMs can conclude European-wide contracts and create a single European repair centre for easily transportable CE products.

¹³ In practice, retailers often demand that the OEMs agree that products be repaired by the service providers of their trust (otherwise OEMs have to pay an additional cost) while OEMs in return require that their products are repaired by authorized repairers.

29. It appears, therefore, that the proposed concentration would not significantly impede effective competition in the market for maintenance and support of consumer electronics products in Sweden and in Denmark.

VII. CONCLUSION

30. 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)
Joe BORG
Member of the Commission