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***Case No IV/M.512 -
UAP / Provincial***

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

Article 6(1)(b) NON-OPPOSITION
Date: 07/11/1994

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 7.11.1994

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying party

Dear Sirs,

Subject : Case No IV/M.512 - UAP/Provincial

Notification of 30.09.1994 pursuant to Article 4 of Council Regulation No 4064/89

1. The above mentioned notification concerns the agreement signed on 29th September 1994 whereby Rockleigh Limited, a wholly owned subsidiary of the insurance Group UAP, acquires the entire issued share capital of a number of businesses of the insurance and financial services Provincial Group.
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of application of Council Regulation 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.

I. THE PARTIES AND THE OPERATION

3. Compagnie UAP (UAP) is a French insurance company with worldwide operations. It is particularly strong in Europe. It is also engaged in banking and financial services, in particular through its wholly owned French subsidiary banque Worms and through the Belgian bank Ippa. The principal activities of Provincial Group are non-life insurance, mortgage finance and management services, principally in the United Kingdom although it has some minor activities in Africa, Asia and Australasia.
4. The business being acquired forms substantially the whole of the activities of Provincial Group. These are Provincial Insurance plc, Provincial Management Services, Exeter Trust (Holdings) Limited, Provincial Leasing Co. Ltd and certain properties of Sand Aire Properties Limited. Most of the worldwide turnover of the Provincial Group comes from its non-life insurance activities.

II. CONCENTRATION

5. The notified operation constitutes a concentration within the meaning of Article 3(1)b of the Regulation.

III. COMMUNITY DIMENSION

6. The undertakings concerned have a combined aggregate worldwide turnover in excess of 5.000 million ECU. Both UAP and Provincial Group have a Community-wide turnover in excess of 250 million ECU but 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. COMPATIBILITY WITH THE COMMON MARKET

A. THE RELEVANT PRODUCT AND GEOGRAPHICAL MARKET

7. Traditionally the Commission has distinguished between life insurance, general insurance and reinsurance. Reinsurance constitutes a separate market because of its purpose of spreading risk between insurers. It is more specialised and conducted between insurers and reinsurers on an international basis because of the need to pool risks. The regulatory framework is also less stringent. This gives rise to different conditions of competition compared to life and general insurance.
8. On the demand side, life and general insurance can be divided into as many product markets as there are insurances covering different kinds of risk. Their characteristics, premiums and purposes are distinct and there is typically no substitutability for the consumer between the different risks insured. Nevertheless it can be left open in the present case whether each specific type of life and non-life insurance constitutes a separate product market because, even on the basis of the narrowest definition, the operation does not raise serious doubts as to its compatibility with the common market.
9. Although insurance markets are becoming more open to intra-community competition as a result of current and future measures to facilitate cross-border selling, geographical markets seem at present to be mainly national in view of the established market structures, the need for adequate distribution channels, fiscal constraints in some cases and differing national systems of regulatory supervision.

B. COMPETITIVE ASSESSMENT

10. The only current area of overlap in the business of UAP and Provincial Group is non life insurance in the UK. Neither Provincial Group nor any of its subsidiaries carries on life insurance. Provincial Group is the UK's 13th largest non-life insurance company and it has approximately []⁽¹⁾ of the non-life business in the UK. UAP currently has minimal non-life insurance activities in the UK. Even though Provincial Group is present to a minimal extent in the banking and financial services business, its activities do not overlap with the UAP's. Reinsurance activities of Provincial Group are to be considered negligible. The new entity will remain exposed to the competition of other strong operators well established in the United Kingdom such as General Accident, Commercial Union Royal, Sun Alliance, etc. Given the degree of existing competition and the low barriers to entry to this business, the merged entity will not have power to dominate the market or act independently of competitors and consumers.
11. The proposed concentration will therefore not create or strengthen a dominant position as a result of which effective competition will be significantly impeded in the common market or in a substantial part of it.

V. ANCILLARY RESTRAINTS

12. The notifying parties have requested that certain provisions be considered as restrictions ancillary to the concentration.
13. First, there are provisions relating to the period between the date of the agreement and the completion of the transaction (Clause 8 and Schedule 7). During that period Provincial Group will not conduct its business except in the ordinary course and will not enter into transactions inconsistent with the merger without the consent of UAP.
14. Secondly, Provincial Group agrees (Clause 9, Restrictions on Seller's business activities) on its own behalf and on behalf of its present or future subsidiaries whilst they are members of the Group:
 - (i) for a period of five years from completion, not to compete with the acquired business;
 - (ii) not to disclose or use confidential business information whilst such information remains confidential;
 - (iii) not to use certain names, logos, designs, marks and trading styles;
 - (iv) not to solicit customers or employees for a period of two years after completion;
 - (v) not to hold itself out as being in any way associated with any member of the Acquired Business.
15. Thirdly, Provincial Group agrees (Clause 15) that for a certain period after completion it will not make distributions above a certain amount to its shareholders or redeem or reduce its share capital, rearrange, consolidate or reconstruct its corporate structure or carry out certain other activities which may reduce its asset value.
16. Protection by law of a general term such as "Provincial", which forms only part of the name of any of the companies concerned and is in common use among insurers, is much more limited. An indefinite restriction on the use of such a name exceeds what is necessary to guarantee the value of the assets transferred and can be considered ancillary to the

⁽¹⁾ Business secret deleted. Less than 5%.

concentration for a period of five years only. To the extent to which as the other provisions set out above constitute restrictions on competition, they are necessary to guarantee the transfer to UAP of the full value of the assets purchased or are otherwise directly related to and necessary for the successful implementation of the concentration. They can therefore be treated as ancillary to the concentration.

VI. CONCLUSION

17. For the foregoing reasons, the proposed concentration does not raise serious doubts as to its compatibility with the common market and with the functioning of the EEA Agreement.

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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 functioning of the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of Council Regulation No 4064/89.

For the Commission,