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*Case No IV/M.520 -
Direct Line / Bankinter*

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 12/01/1995

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 12.01.95

MERGER PROCEDURE
ARTICLE 6(1)b DECISION

PUBLIC VERSION

Registered with advice of delivery

To the notifying parties.

Dear Sirs,

Subject: Case No.IV/M.520 -DIRECT LINE/BANKINTER.
Notification of 2.12.1994 pursuant to Council Regulation (EC) No. 4064/89

1. The above mentioned notification concerns the agreement signed on 24th November 1994 between Direct Line Group Limited (Direct Line), a wholly-owned subsidiary of The Royal Bank of Scotland, and Bankinter, S.A. (Bankinter) whereby the parties acquire joint control of Bankinter Aseguradora Directa, S.A., Compañía de Seguros y Reaseguros (Bankinter Direct), a newly established insurance company.
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. Direct Line is a wholly-owned subsidiary of The Royal Bank of Scotland. It concentrates its activities on motor and household insurance marketed by direct telephone sales in the UK. Other minor activities of the group include personal loans and mortgages and, in the near future, income protection products and term assurance.
4. Bankinter is a medium size independent Spanish banking group active in commercial and investment banking and related activities. It also offers life insurance and insurance brokage to a very limited extent.
5. Bankinter Direct will be a joint venture vehicle which will offer motor and household insurance policies in Spain and, subsequently, in Portugal, by direct telephone sales. It is currently a wholly-owned subsidiary of Bankinter and does not yet carry out any business. At completion of the transaction Direct Line will acquire a 50% share holding in Bankinter Direct by acquisition of shares from Bankinter. Further to the joint venture agreement, Direct Line will grant exclusive licences and technology. A services agreement is to be signed whereby Bankinter will provide technical and administrative services to Bankinter Direct.

II. CONCENTRATION

6. Bankinter Direct will be a jointly controlled joint venture performing, on a lasting basis, all of the functions of an autonomous economic entity. Direct Line and Bankinter will each hold 50 % of the shares and equal voting rights in Bankinter Direct. The board of Bankinter Direct shall consist of eight members, four appointed by each party. A number of matters will require the unanimous approval of the board of Bankinter Direct, including business plans and business expansion into Portugal, expansion into other insurance segments, acquisitions and disposals above certain thresholds.
7. The joint venture will not give rise to the coordination of competitive behaviour of Direct Line and Bankinter, since those companies are neither actual nor potential competitors. There is no overlap between the parties' business. They are active in different markets, Direct Line in motor and household insurance in the U.K., Bankinter in banking and life insurance in Spain (see below on relevant product and geographic markets section IV.A). The joint venture, Bankinter Direct, will be active on a separate geographic market (Spain) from Direct Line (UK), and in a separate product market from Bankinter. As regards the banking activities of The Royal Bank of Scotland and Bankinter, the risk of coordination of competitive behaviour is to be considered negligible since their activities are carried out on separate geographical markets. The notified operation therefore constitutes a concentration within the meaning of Article 3(1)b of the Regulation.

III. COMMUNITY DIMENSION

8. The undertakings concerned have a combined aggregate worldwide turnover in excess of 5.000 million ECU. Both Royal Bank of Scotland and Bankinter 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

9. The operation concerns the marketing of motor and household insurance policies in the Spain and Portugal by direct telephone sales. In previous decisions 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.
10. Life and general insurance, such as motor and household 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.
11. 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. However, the exact product and geographic market definitions may be left open since, even the narrowest definition, the proposed operation does not pose competition problems (see below, section IV.B.)

B. COMPETITIVE ASSESSMENT

12. The operation will not create any overlap in the non-life insurance sector in which the joint venture intends to operate. The new type of distribution channel, direct sales by telephone, has made Direct Line UK's biggest private car insurer with a market share of approximately 10% by value. Further Direct Line has won approximately 2% of the household insurance segment. This position will not be changed by the present operation since the Bankinter Direct is not going to be present in the UK.

13. The transaction will not adversely affect competition in the segments of car and household insurance in Spain and Portugal in which none of the parties is currently active. The markets are relatively fragmented and the new entity will remain exposed to the competition of other strong well established operators.
14. Given the degree of existing competition and the low barriers to entry to this business, the new entity will 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

15. The notifying parties have requested that certain restrictions be considered as ancillary to the concentration:
 - (i) The area of the operation of the joint venture will be restricted to Spain and Portugal. The joint venture is prevented from using Direct Line's licences and technology [...]¹.
 - (ii) The parties agree not to compete or to enter into any other venture which conflicts with [...]².
 - (iii) Bankinter is prevented from seeking to register any trade mark or other intellectual property right that is the same or substantially similar to certain intellectual property rights licensed under the technology and trade mark licences.

Insofar as these clauses are restrictive, they are necessary and directly related to the successful implementation of the concentration. They can therefore be treated as ancillary to the concentration.

16. Direct Line is prevented from making its systems and other expertise in the fields of [...]³. This restriction is necessary and directly related to the initial setting up of the 'Bankinter Direct' joint venture and can therefore be treated as ancillary to the concentration for a period of [...]⁴ years from its inception.
17. [...]⁵

¹ deleted - business secret

² deleted - business secret

³ business secret : not exceeding 5 years

⁴ deleted : business secret

⁵ deleted - business secret

VI. CONCLUSION

18. 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 and article 57 of the EEA Agreement.

For the Commission