

*Case No IV/M.576 -  
Ferruzzi Finanziaria /  
Fondaria*

Only the English text is available and authentic.

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

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Article 6(1)(b) NON-OPPOSITION  
Date: 09/06/1995

*Also available in the CELEX database  
Document No 395M0576*



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 9 June 1995

PUBLIC VERSION

MERGER PROCEDURE  
ARTICLE 6(1)(b) DECISION

To the notifying parties

Dear Sirs,

Subject : Case No IV/M.576 - Ferruzzi Finanziaria/Fondiarìa  
Notification of 04.05.1995 pursuant to Article 4 of Council Regulation No 4064/89

1. The proposed operation consists in the acquisition by Ferruzzi Finanziaria SpA ("Ferruzzi") of the whole of Fondiarìa SpA ("Fondiarìa"). Hitherto Fondiarìa has been jointly controlled by Ferruzzi and Macla International SA ("Macla"), a holding company regrouping the interests of the heirs of Camillo De Benedetti.
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 OPERATION AND THE PARTIES**

3. Ferruzzi is a holding company with interests in the agro industry, chemical, energy, engineering and concrete sectors and (through its interest in Fondiarìa) the insurance sector. Ferruzzi is a publicly quoted company which is not controlled by any person or undertaking.
4. Macla is a holding company, which essentially holds the interests of the heirs of Mr. Camillo De Benedetti
5. Fondiarìa is a holding company active in the insurance, financial and real estate sectors.

6. Under the notified operation Ferruzzi will purchase the shareholding of Società Europea di Partecipazioni Assicurative e Diverse SA ("SEPAD") in Gaic S.p.A. ("Gaic"). Gaic is presently controlled by SEPAD, a company which is jointly owned by Ferruzzi and by Paleocapa S.r.l. ("Paleocapa"). The controlling shareholder of Paleocapa is Larochette SA, which is jointly controlled by Ferruzzi and by Macla. By letter of 20 April 1995 Ferruzzi irrevocably offered to acquire all the shares of SEPAD in Gaic. On 2 May 1995.

SEPAD accepted this offer. Ferruzzi will thereby acquire sole control over Gaic. Gaic controls Fondiaria directly and indirectly through Gaic International SA.

7. The notified transaction is undertaken in the framework of the financial restructuring of the Ferruzzi group and in particular of its shareholding in Fondiaria.

## **II. CONCENTRATION**

8. As a result of this transaction, Ferruzzi will acquire sole control over Gaic, which it presently jointly controls with Paleocapa. Ferruzzi will thereby acquire, through Gaic, sole control over Fondiaria within the meaning of Article 3(3) of the Merger Regulation.
9. Gaic is controlled by SEPAD, a company which is jointly controlled (50/50) by Ferruzzi and by Paleocapa. This latter company is in its turn controlled by Larochette Corporation (Scpa), the general partner of which (with a right of veto over company resolutions) is Larochette SA, a company jointly owned (50/50) by Ferruzzi and Macla. Under the by laws of Larochette SA, the company is managed by a board of directors composed of 4 members, of whom two have been appointed by Ferruzzi and the other two directors by Macla. The board of directors has the responsibility for all strategic decisions and the business policy of the company, which is determined by the joint signature of 3 directors. Therefore each of the parties has the possibility to veto the principal decisions of Larochette SA. Thus Larochette is jointly controlled by Ferruzzi and Macla.
10. Macla currently has joint control, with Ferruzzi, of both Larochette and SEPAD, which latter controls Fondiaria through Gaic. After the proposed operation, Macla will no longer have an interest in Fondiaria through Gaic, since Ferruzzi will have passed from joint control to sole control, a change which constitutes a concentration under the Merger Regulation.

## **III. COMMUNITY DIMENSION**

11. The combined aggregate worldwide turnover of the undertakings concerned is more than ECU 5,000 million (Ferruzzi 12,385 million Ecu in 1993, Fondiaria 3,267 million Ecu in 1993); the aggregate Community-wide turnover of each of Ferruzzi and Fondiaria (the latter calculated in terms of gross premiums written in accordance with Article 5.3(b) of the Merger Regulation) is more than ECU 250 million (Ferruzzi 10,640 million Ecu, Fondiaria 3,249 million Ecu); and no undertaking concerned achieves more than two-thirds of its aggregate Community-wide turnover within one and the same Member State. Therefore the concentration has a Community dimension.

## **IV. COMPATIBILITY**

12. In previous decisions concerning the insurance sector the Commission has tended to the view that each type of risk insured constitutes a distinct product market (in view of the

absence of demand-side substitutability), and that geographic markets continue to manifest national characteristics (such as different premiums and distribution channels). However, the question of market definition may be left open in the present case, since no dominant position is created even on the narrowest market definition (the Italian market of the various types of risk insured).

13. The transaction will have little impact on the Italian insurance market since it consists in a change from joint to sole control. Furthermore, there is no horizontal market overlap between Ferruzzi and Fondiaria, since Ferruzzi's only activity in the insurance market has been through its 50% share in Fondiaria. Furthermore Fondiaria's share of the Italian insurance market (whatever type of insurance is considered) is relatively modest, between 1.8% and 15.5% and even on the market (guarantee insurance) where Fondiaria has the highest market share there exist strong competitors such as Allianz which holds a market share of 13%.

## V. CONCLUSION

14. In view of the above, the proposed concentration does not raise serious doubts as to its compatibility with the Common Market.

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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