

***Case No COMP/M.5964 -  
TPV/ PHILIPS  
BRANDED MONITORS  
AND COLOUR TVS***

Only the English text is available and authentic.

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

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Article 6(1)(b) NON-OPPOSITION  
Date: 09/11/2010

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EUROPEAN COMMISSION

Brussels, 9.11.2010

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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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 Sir/Madam,

**Subject: Case No COMP/M.5964 – TPV/ Philips monitors and colour TVs  
Notification of 01/10/2010 pursuant to Article 4 of Council Regulation  
No 139/2004<sup>1</sup>**

1. On 1 October 2010, the Commission received a notification of a proposed concentration pursuant to Article 4 of the Merger Regulation which consists of the previously approved transaction by which TPV Technology Limited ("TPV", Bermuda) acquired within the meaning of Article 3(1)(b) of the Merger Regulation control of the whole of Philips' branded PC monitors and digital signage business ("the Meridian transaction")<sup>2</sup> and a new transaction between the same parties by which TPV proposes to acquire within the meaning of Article 3(1)(b) of the Merger Regulation control of Philips' branded colour TV business in China ("the Ebony transaction"), by way of purchase of shares.

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<sup>1</sup> OJ L 24, 29.1.2004, p. 1 ("the Merger Regulation"). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ("TFEU") has introduced certain changes, such as the replacement of "Community" by "Union" and "common market" by "internal market". The terminology of the TFEU will be used throughout this decision.

<sup>2</sup> Case COMP/M.5455 - *TPV/Philips Branded Monitors*.

## **I. THE PARTIES**

2. TPV, a company incorporated in Bermuda and listed on the Hong Kong and Singapore stock exchanges, is active in the design and manufacture of TVs and monitor displays.
3. Ebony Philips Holdco is the holding company for the "Ebony Philips Contributed Business", which relates to the sale and distribution of Philips branded colour TVs in the People's Republic of China (PRC).

## **II. THE OPERATION AND THE CONCENTRATION**

### ***1. The Meridian transaction***

4. The Meridian transaction was a follow-up to the 2005 Harmony transaction approved by the Commission on 5 August 2005<sup>3</sup>, which resulted in TPV buying Philips' PC monitor production business, while Philips retained its branded PC monitor sales and distribution business.
5. The Meridian transaction saw TPV acquire Philips' branded PC monitor sales and distribution business and public signage business ("Meridian Philips Contributed Business").

### ***2. The Ebony transaction***

6. The proposed Ebony transaction will see TPV acquire Philips' business in the sale and distribution of Philips' branded colour TVs in the PRC (the Ebony Philips Contributed Business).
7. For the purpose of consummating the proposed transaction, Philips has completed an internal restructuring, whereby the Ebony Philips Contributed Business will be owned directly by the Ebony Philips Subsidiary, which will in turn be wholly-owned by Ebony Philips Holdco. Pursuant to a share purchase agreement of 29 September 2010, TPV, through its wholly-owned subsidiary AOC Holding Limited ("AOC", Hong Kong, PRC), will acquire the entire share capital of Ebony Philips Holdco. As a result, TPV will acquire sole control of the Ebony Philips Contributed Business.
8. The transaction also involves the conclusion of a trademark license agreement between AOC and Philips (the "Ebony Trademark License Agreement"). Under this agreement, AOC will pay Philips a royalty for a fixed term of five years for the exclusive license to use certain trademarks in connection with the distribution of colour TVs in the PRC. In addition, following the transaction, an IP agreement will be concluded between AOC and Philips, under which Philips grants TPV the use of certain patents, know-how and software (the "Ebony IP Agreement").

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<sup>3</sup> Case COMP/M.3693- *TPV/Philips Monitors*.

### III. EU DIMENSION

9. The Ebony transaction on its own does not meet the thresholds of Articles 1(2) and (3) of the Merger Regulation as the target business does not derive any turnover outside of the PRC. However, as the Ebony transaction takes place between the same undertakings as the Meridian transaction within a two-year period, Article 5(2) second sub-paragraph of the Merger Regulation requires both transactions to be treated as one and the same concentration arising on the date of the last transaction.
10. The parties to the two transactions - to be treated as one and the same transaction - have a combined aggregate worldwide turnover of more than EUR [...] (EUR [...] for TPV, EUR [...] for the Meridian Philips Contributed Business and EUR [...] for the Ebony Philips Contributed Business<sup>4</sup>). The aggregate EU-wide turnover of each of at least two of the parties exceeds EUR [...] (EUR [...] for TPV, EUR [...] for the Philips Meridian Contributed Business; and EUR [...] for the Ebony Philips Contributed Business). In addition, neither TPV nor the Philips Meridian Contributed Business has achieved more than two-thirds of their aggregate EU-wide turnover within one and the same Member State. The concentration therefore has an EU dimension.

### IV. COMPETITIVE ASSESSMENT

#### *1. The Meridian transaction*

11. The Commission has already approved the acquisition by TPV of Philips' branded PC monitor sales and distribution business and public signage business after a market investigation. Since the products concerned by the two transactions are different (computer monitors and digital public signage products for the Meridian transaction and colour TVs for the Ebony transaction) and the effects of the Ebony transaction will be limited to the territory of the PRC, the Commission refers in the present decision to the competitive assessment of the Meridian transaction in its decision of 26 March 2009.<sup>5</sup>

#### *2. The Ebony transaction*

##### *Product market definition*

12. The notifying party submits that colour TVs can either be sold by OEMs (Original Equipment Manufacturers) to companies such as Philips to be branded and sold under the latter's trademark, or, alternatively, they can be sold by OEMs directly under their own brands. TPV manufactures most of its colour TVs for third parties to brand and sell but it also sells a small number of colour TVs it produces under its own brand. The notifying party considers that the sale of branded colour TVs constitutes a separate market.
13. In *Alba/Beko/Grundig*<sup>6</sup>, the Commission considered a distinction between the supply of own-branded OEM colour TVs and the supply of non-branded OEM colour TVs. In *TPV/Philips Branded Monitors*, the Commission considered that the supply of computer

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<sup>4</sup> Figures relate to turnover achieved in the fiscal year 2007 for the Meridian transaction, and to the turnover achieved in the fiscal year 2009 for the Ebony transaction.

<sup>5</sup> Case COMP/M.5455 - *TPV/Philips Branded Monitors*.

<sup>6</sup> Case COMP/M.3381 - *Alba/Beko/Grundig*, paragraphs 8-15.

monitors on an OEM basis and the supply of branded computer monitors could constitute separate markets<sup>7</sup>. In *Foxconn/Sony Slovakia*<sup>8</sup>, the Commission considered a distinction between the in-house production of colour TVs by OEMs and the production of colour TVs by third-party manufacturers. However, in all these cases the Commission eventually left the product market definition open. The exact product market definition can also be left open in the present case, as the proposed transaction does not raise any competition concerns under any alternative product market definition.

14. The colour TVs market could also be segmented according to the underlying technology used, namely Cathode Ray Tube (CRT) technology, Plasma or Thin Film Transistor Liquid Crystal Display ("LCD"). The notifying party submits that the Ebony transaction concerns only LCD colour TVs<sup>9</sup>.
15. The Commission has left open in the past whether the colour TV market should be segmented according to the underlying technology used<sup>10</sup>. This question can also be left open in the current case as, regardless of whether the relevant product market is LCD colour TVs or all colour TVs, the Ebony transaction does not raise any competition concerns.
16. Finally, the Commission has also left open in the past whether the colour TV market should be segmented according to screen sizes<sup>11</sup>. The notifying party submits that this question can also be left open in the current case as, regardless of the different screen sizes, the Ebony transaction does not raise any competition concerns.
17. In conclusion, the exact product market definition for colour TVs can be left open for the purpose of the present case, as the Ebony transaction does not raise any competition concerns under any of the alternative product market definitions considered.

#### Geographic market definition

18. The notifying party considers that the market for branded colour TVs (whether only LCD colour TVs or all colour TVs) is EEA-wide in scope. It submits that producers sell their branded colour TVs to distributors which operate on an EEA-wide basis, and that transport costs and trade barriers are low, and that there exist multinational products standards and globally active suppliers.

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<sup>7</sup> Case COMP/M.5455 - *TPV/Philips Branded Monitors*, paragraph 13.

<sup>8</sup> Case COMP/M.5870 - *Foxconn/Sony Slovakia*, paragraph 11.

<sup>9</sup> The notifying party explains that LCD, a form of flat panel display technology, post-dates CRT technology and sales of LCD colour TVs far outstrip those of CRT colour TVs in Europe today. The substitution of CRT by LCD technology is driven by factors such as improved form, power consumption and brightness as well as the narrowing price gap between CRT and LCD colour TVs due to decreases in LCD display panel prices. While plasma technology is the newest of the three main forms of colour TV technologies, it has had limited success on the European market and beyond. Although plasma technology is arguably yet to reach maturity, the plasma segment of the overall colour TV market is marginal at present. Furthermore, sales of plasma colour TVs are currently in decline, a trend that is expected to continue.

<sup>10</sup> Case COMP/M.3381 - *Alba/Beko/Grundig*, paragraph 11.

<sup>11</sup> Case COMP/M.3381 - *Alba/Beko/Grundig*, paragraph 12

19. As regards colour TVs, the Commission noted in a past case that product-related regulations and standards are EEA-wide<sup>12</sup>.
20. In relation to the Ebony transaction, should the geographic market definition be EEA-wide or narrower, the operation would not have any impact in the EEA as its focus is only in the PRC. However, the notifying party also submitted market shares at global level in order to rule out any concern.
21. In conclusion, the exact geographic market definition of the market for branded colour TVs can be left open for the purpose of the present case, as the Ebony transaction does not raise any competition concerns under any of the alternative geographic market definitions considered.

### Competitive assessment

#### *Horizontal effects*

22. The notifying party submits that the Ebony transaction does not give rise to any affected market.
23. On a geographic market which is no wider than the EEA, irrespective of the possible product market sub-distinctions, there is no horizontal overlap between the parties' activities in the EEA, given that the Ebony Philips Contributed Business is entirely absent from the EEA<sup>13</sup>. TPV's share of the EEA market for branded colour TVs in 2009 is almost negligible ([0-5]% by volume of sales)<sup>14</sup>.
24. The notifying party submits that, regardless of how narrowly the product market is defined, the entirety of the Ebony Philips Contributed Business's turnover is generated in the PRC and any assets, employees or inventory that will form part of the proposed transaction will be exclusively located in the territory of China. The proposed acquisition of the Ebony Philips Contributed Business will therefore not increase TPV's extremely modest share of the EEA branded colour TVs market.
25. In addition, the proposed transaction is limited to the PRC also by the terms of the Ebony Trademark License Agreement. A colour TV subject to the proposed transaction could only find its way onto the EU market, or any other market outside China, as a result of a breach of the Ebony Trademark License Agreement.
26. On a potential global geographic market, the notifying party submits that the Ebony transaction would not raise any competition concerns as TPV's share on the worldwide market for branded colour TVs was [0-5]% and the Ebony Philips Contributed Business's

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<sup>12</sup> Case COMP/M.5870 *Foxconn/Sony Slovakia*, paragraph 20.

<sup>13</sup> Although both Philips and TPV are active in the sale of branded colour TVs in the EEA, the Ebony Philips Contributed Business' activity is confined to the territory of the PRC.

<sup>14</sup> Source: *Display Search* data.

share was less than [0-5]%<sup>15</sup> in 2009 ([10-20] % for Samsung, [10-20] % for LGE and [10-20] % for Sony)<sup>16</sup>.

27. It follows from the above that the proposed transaction does not give rise to any competition concerns of a horizontal nature on the market for the supply of branded colour TVs, regardless of its exact geographic scope.

*Vertical effects*

28. TPV is active in the upstream market for the production of OEM colour TVs (in the EEA and in the PRC), and the Ebony Philips Contributed Business is active in the downstream market for the supply of branded colour TVs in the PRC.
29. On a geographic market which is no wider than EEA, the Ebony transaction does not therefore give rise to any vertically affected market.
30. On a global geographic market, the transaction would not give rise to any vertically affected market either, as the Ebony Philips Contributed Business' share on the downstream market for the worldwide supply of branded colour TVs was less than [0-5]% in 2009 and TPV's shares of the worldwide OEM colour TVs market in 2009 was [5-10]%<sup>17</sup>.
31. It follows from the above that the proposed transaction does not give rise to any competition concerns of a vertical nature on the markets for the OEM production of colour TVs and the supply of branded colour TVs, regardless of their exact geographic scope.

**V. CONCLUSION**

32. For the above reasons, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation.

For the European Commission,  
(signed)  
Joaquín ALMUNIA  
Vice-President of the European  
Commission

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15 The notifying party indicates that Ebony Philips Contributed Business's share of the PRC branded CTV market is [0-5]%, and that, as the Ebony Philips Contributed Business is only active in the PRC, its share of the worldwide market will certainly be lower than this.

16 Source: *DisplaySearch* data.

17 Source: *Display Search* data.