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***Case No COMP/M.6603 - HON HAI/ SHARP/ SHARP
DISPLAY PRODUCTS***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 22/06/2012

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EUROPEAN COMMISSION

Brussels, 22.6.2012
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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 Where possible the information omitted has been replaced by ranges of figures or a general description.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.6603 - HON HAI/ SHARP/ SHARP DISPLAY PRODUCTS
Commission decision pursuant to Article 6(1)(b) of Council Regulation No 139/2004¹

1. On 21 May 2012, the European Commission received notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which the undertakings Hon Hai Precision Industry Co. ("Hon Hai", Taiwan) and Sharp Corporation ("Sharp", Japan) acquire within the meaning of Article 3(1)(b) of the Merger Regulation joint control of the undertaking Sharp Display Products Corporation ("SDP", Japan) by way of purchase of shares. Hon Hai and Sharp are designated hereinafter as the "notifying parties".

I. THE PARTIES

2. **Hon Hai** is a provider of third-party electronic manufacturing services ("EMS") to original equipment manufacturers ("OEMs") of electronic products including computers, mobile phones, video game consoles and TVs. Hon Hai also manufactures and supplies a limited range of electronic products, other than TVs, and components under its own brand.
3. **Sharp** develops, manufactures and sells multiple products incorporating thin film transistor liquid crystal display ("TFT-LCD", hereafter referred to as "LCD") panels such as LCD TV

¹ 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.

sets, LCD monitors and mobile communications handsets. In addition to its own branded products, Sharp produces certain consumer electronic products including LCD TV sets and mobile communications handsets. It sells these products to third parties which then sell them under their own brand.

4. **SDP** currently operates as a consolidated subsidiary of Sharp and manufactures and sells LCD panels. Currently, SDP exclusively supplies Sharp with LCD TV panels.

II. THE OPERATION

5. By virtue of its 93% shareholding, Sharp currently has sole control over SDP.²
6. On 27 March 2012, Sharp and Hon Hai agreed to establish a strategic global partnership in consumer electronics. [...].
7. Following completion of the transaction, Hon Hai will acquire from Sharp a 46.5% stake in SDP. As a result, SDP's shareholding will be distributed as follows: Sharp (46.5%, Hon Hai (46.5%) and Sony Corporation (7%).

III. CONCENTRATION

8. As part of their strategic global partnership, Sharp, SDP and Hon Hai have entered into a Strategic Partnership Agreement which will confer on each of Sharp and Hon Hai the right to appoint [...] directors of SDP. Sharp and Hon Hai will further each be entitled to appoint [...] of SDP's board. Furthermore, Sharp and Hon Hai commit to manage SDP jointly making use of their expertise and strengths.
9. SDP's Articles of Incorporation provide that certain matters, including the adoption of SDP's annual business plan, require a [...] vote of all members of SDP's board of directors. All other matters require a [...] vote of the members of SDP's board. In case of a tie, neither SDP's current Articles of Incorporation nor the Strategic Partnership Agreement provides for a casting vote by any of the members of SDP's board.
10. As a result of these provisions, Hon Hai will acquire joint control of SDP together with Sharp. The proposed transaction therefore constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

IV. EU DIMENSION

11. In 2011, the undertakings concerned had a combined aggregate worldwide turnover of more than EUR 5 000 million³ (Sharp EUR [...] million; Hon Hai EUR [...] million). Each of them had an EU-wide turnover in excess of EUR 250 million (Sharp EUR [...] million Hon Hai EUR [...] million) and both did not achieve more than two-thirds of their aggregate EU-wide turnover within one and the same Member State.
12. The proposed transaction therefore has an EU dimension pursuant to Article 1(2) of the Merger Regulation.

² Sony Corporation currently holds the remaining 7% of the shares in SDP.

³ Turnover calculated in accordance with Article 5 of the Merger Regulation.

V. COMPETITIVE ASSESSMENT

A. Relevant markets

13. SDP currently manufactures LCD panels used exclusively by Sharp in assembling LCD TVs.
14. Downstream of the activities of SDP, Sharp is active in the manufacturing and sale of LCD TVs, [...] are sold under its own brand. It also supplies [...] to third parties which sell them under their own brand.⁴
15. Hon Hai is also active downstream from SDP in the provision of EMS to OEMs.

(1) LCD panels

Relevant product market

16. Display panels comprise screens which are capable of displaying the graphical output of TV tuners, PCs or other electronic devices, and may include several different types of display technologies, including plasma, organic light emitting diode (“OLED”), liquid crystal display (“LCD”) and, to a decreasing extent, cathode ray tube (“CRT”) technologies. Such panels, depending on their size, are employed in a variety of finished products, including TVs, monitors, all-in-one computers, notebook computers, mobile communication devices, public displays and IT equipment.
17. LCD is a type of display technology in which the electrical and optical properties of a liquid crystal substance in neutral states of liquid and solid are applied into displays. Liquid crystals of organic molecules initially have a regular structure like a crystal but the molecule alignment changes when an electrical current is passed through affecting the degree of light penetration. When combined with a backlight and a colour filter, the LCD technology produces viewable images.
18. The Commission has examined the display markets in a number of past decisions.⁵ While the Commission has ultimately left open the relevant market definition for displays, it has contemplated segmentations according to the size of the panel, the technology used to produce the displays, and the end-use application in which panels are used.
19. In its most recent decision concerning display markets, the Commission has considered displays up to 10 inches of size to be small and medium-size displays. Small- and medium-size displays are employed in a wide range of applications including digital still

⁴ Sharp also manufactures LCD modules, which integrate LCD panels and further components such as a backlight, a timing control circuit or an optical film. Sharp either uses these modules in the manufacture of its own LCD-TVs or sells them to third parties which incorporate them into their own LCD-TVs. These modules therefore represent a further step in the manufacturing of LCD-TVs.

⁵ Case COMP/M.3459 – *Seiko Epson / Sanyo / Sanyo Epson Imaging Devices JV*, decision of 22 September 2004, paragraphs 7-11; Case COMP/M.3693 – *TPV / Philips (Monitors)*, decision of 5 August 2005, paragraphs 6-15; Case COMP/M.5414 – *Samsung SDI / Samsung Electronics / SMD*, decision of 23 January 2009, paragraphs 10-24; Case COMP/M.5589 – *Sony / Seiko Epson*, decision of 22 September 2009, paragraphs 9-22; Case COMP/M.5762 – *Innolux / Chi Mei / TPO*, decision of 25 February 2010, paragraphs 9-20.

cameras, mobile phones, amusement applications, multifunction printers, portable DVD players, personal navigation devices, portable media players and other miscellaneous applications.⁶

20. The notifying parties submit that the relevance of differences in the size of panels, the technology used to produce displays, and the end-use application in which panels are used, has significantly diminished and will continue to diminish. Regarding size and technology, while previously only LCD display panels were available in all sizes, since 2012, manufacturers are bringing larger OLED displays to the market. In addition, sales of large plasma panels have decreased markedly as LCD technology has improved and prices have dropped. Suppliers can also typically switch production from one segment to the other in a short period of time without incurring significant costs. As for end-uses, while there are differences in the specifications applied to panels used in different end-uses, the notifying parties claim that there is a high level of supply-side substitutability between the different end-uses of display panels.
21. Since the concentration does not raise serious doubts under any possible approach, the exact product market definition in this case can be left open.

Relevant geographic market

22. In past decisions, the Commission has considered that the geographic scope of the market for LCD panels is worldwide, based on low transportation costs, homogeneous prices, and the large volumes of LCD products traded globally across borders.⁷
23. Since the concentration does not raise serious doubts under any possible approach, the exact geographic market definition in this case can be left open.

(2) TVs

Relevant product market

24. In past decisions, the Commission has contemplated whether to segment TVs according to their underlying display technology (including among others LCD), their screen size and their source of supply.⁸
25. The notifying parties submit that segmentation according to display technology and screen size is not competitively relevant.
26. Since the concentration does not raise serious doubts under any possible approach, the exact product market definition in this case can be left open.

⁶ Case COMP/M.5762 – *Innolux / Chi Mei / TPO*, decision of 25 February 2010, paragraphs 12 and 15.

⁷ Case COMP/M.5414 – *Samsung SDI / Samsung Electronics / SMD*, decision of 23 January 2009, paragraph 27; Case COMP/M.5589 – *Sony / Seiko Epson*, decision of 22 September 2009, paragraphs 23 - 25; Case COMP/M.5762 – *Innolux / Chi Mei / TPO*, decision of 25 February 2010, paragraph 21.

⁸ Case COMP/M.3381 – *Alba / Beko / Grundig*, decision of 29 April 2004, paragraphs 8-15; Case COMP/M.5964 – *TPV/ Philips branded monitors and colours TV*, decision of 9 November 2010, paragraphs 12-17; Case COMP/M.6461 – *TPV / Philips TV Business*, decision of 24 February 2012, paragraphs 7-18.

Relevant geographic market

27. In past decisions, the Commission has left open whether the geographic scope of the market for non-branded and branded LCD colour TVs should be EEA-wide, or narrower than EEA-wide.⁹
28. The notifying parties submit that the geographic scope of the market for non-branded and branded LCD colour TVs is worldwide or, in any event, not narrower than EEA-wide. Producers of TVs are active on a worldwide basis, manufacturing and selling their products in virtually all regions of the world. Transport costs are also low representing less than [0-5]% of the selling price. Further, trade barriers for TVs are low and products standards are largely uniform across the EEA.
29. Since the concentration does not raise serious doubts under any possible approach, the exact geographic market definition in this case can be left open.

(3) EMS

Relevant product market

30. In previous decisions, the Commission has contemplated, but ultimately left open, whether in-house EMS production by OEMs and EMS by third parties are part of the same product market. The Commission has also contemplated, but ultimately left open, whether the EMS market should be further subdivided into narrower segments, due to the existence of certain specific electronic product segments based on to the final product/service in which EMS are incorporated (i.e. the “end use destination”), such as for instance communications, computers or consumer goods.¹⁰
31. Since the concentration does not raise serious doubts under any possible approach, the exact product market definition in this case can be left open.

Relevant geographic market

32. In previous decisions, the Commission has contemplated, but ultimately left open, whether the geographic scope for EMS is worldwide or at least, EEA-wide.¹¹

⁹ Case COMP/M.3381 – *Alba / Beko / Grundig*, decision of 29 April 2004, paragraphs 16 and 17; Case COMP/M.5964 – *TPV/ Philips branded monitors and colours TV*, decision of 9 November 2010, paragraphs 19-21; Case COMP/M.6461 – *TPV / Philips TV Business*, decision of 24 February 2012, paragraphs 20 and 21.

¹⁰ Case COMP/M.3583 – *Flextronics / Nortel*, decision of 28 October 2004, paragraphs 10 and 11; Case COMP/M.4766 – *Flextronics / Solectron*, decision of 28 August 2007, paragraphs 9 and 10; Case COMP/M.5140 – *Foxconn / Sanmina SCI*, decision of 24 June 2008, paragraph 11; Case COMP/M.5870 – *Foxconn / Sony LCD TV Manufacturing Company in Slovakia*, decision of 25 June 2010, paragraphs 15-21.

¹¹ Case COMP/M.2479 – *Flextronics / Alcatel*, decision of 29 June 2001, paragraphs 11 and 12; Case COMP/M.2629 – *Flextronics / Xerox*, decision of 12 November 2001, paragraphs 10 and 11; Case COMP/M.5140 – *Foxconn / Sanmina SCI*, decision of 24 June 2008, paragraphs 18 and 20; Case COMP/M.5870 – *Foxconn / Sony LCD TV Manufacturing Company in Slovakia*, decision of 25 June 2010, paragraphs 23-25.

33. Since the concentration does not raise serious doubts under any possible approach, the exact geographic market definition in this case can be left open.

B. Competitive assessment

Horizontal overlaps

34. A horizontal overlap between SDP and Sharp exists with regard to the production of LCD panels. This overlap, however, existed before the proposed concentration.¹²
35. On the possible relevant markets for the provision of third-party EMS and for the provision of third-party EMS for LCD TVs, there are horizontal overlaps between Hon Hai and Sharp. However, neither of these two overlaps will give rise to any competition concerns, both on a worldwide and EEA-wide basis.
36. Regarding the possible market for the provision of third-party EMS, there would be a minimal overlap, both worldwide and EEA-wide, between the activities of Hon Hai (with a market share in 2011 of [20-30]% worldwide and [40-50]% EEA-wide) and those of Sharp as Original Design Manufacturer (“ODM”), with an increment of less than [0-5]%. In addition, on the worldwide market, Hon Hai and Sharp will continue to face competitive pressure from a number of rivals, including Quanta ([10-20]%), Flextronics ([5-10]%), Compal ([5-10]%), Wistron ([5-10]%) and Pegatrom ([5-10]%). Similarly, on the EEA market, Hon Hai and Sharp will continue to face competitive pressure from a number of rivals, including Flextronics ([10-20]%), Quanta ([10-20]%), Jabil ([0-5]%), Celestica ([0-5]%) and Elcoteq ([0-5]%).
37. As for the narrower EEA-wide market for third-party EMS for LCD TVs, the notifying parties would have a combined market share in 2011 of only [20-30]% (Hon Hai [10-20]%, Sharp [5-10]%). Hon Hai and Sharp will also continue to face competitive pressure from a number of rivals, including TPV ([10-20]%), Amtran ([0-5]%), Compal ([0-5]%), Wistron ([0-5]%) and Unihan ([0-5]%).
38. In addition, a number of large multinational companies are present on both the worldwide market for the supply of LCD TVs (including Samsung, LG, Sony, Toshiba and Panasonic), and on the EEA-wide market for the supply of LCD TVs (including Samsung, LG, Philips, Sony and Toshiba). These large multinational companies can choose to either assemble TVs themselves or outsource assembly to several large EMS providers apart from Hon Hai.
39. Finally, not only are the activities of Hon Hai and Sharp downstream from SDP substantially different, they also serve different customers. On the one hand, Sharp’s customers are distributors and large retailers that purchase the products to resell to end-customers. On the other hand, Hon Hai does not sell LCD TVs, providing instead EMS services to OEMs such as Sharp.

Vertical relationships

40. The transaction will give rise to a vertical relationship between the supply of LCD panels by SDP and the supply of EMS by Hon Hai.

¹² The combined market share of Sharp and SDP for LCD panels for TVs in 2011 was [5-10]% in value and [0-5]% in volume on a worldwide basis, and [0-5]% in value and [0-5]% in volume on an EEA-wide basis.

41. Regarding only third-party EMS (a narrower market than EMS encompassing both in-house and third-party EMS), in 2011, Hon Hai had a market share of [20-30]% worldwide and [40-50]% EEA-wide. In addition, in 2011, Hon Hai had a market share of [10-20]% worldwide and [10-20]% EEA-wide in relation to a narrower market for third-party EMS for LCD TVs.
42. In 2011, SDP's market share for LCD panels was less than [0-5]% (if counted as part of the merchant market) both on a worldwide and EEA-wide basis. Its 2011 market share for LCD panels for TVs was less than [0-5]% (if counted as part of the merchant market) on both a worldwide and EEA-wide basis.
43. However, this relationship will not give rise to any competition concerns in either the possible markets for LCD panels or for LCD TVs and related services, on both a worldwide and EEA-wide basis.

(i) Input foreclosure: access of LCD TV OEMs and EMS providers to supplies of display panels

44. The proposed transaction will not give rise to any competition concerns by foreclosing possible access of competing EMS providers to supplies of display panels. This is because LCD TV OEMs and EMS providers will continue to have access to multiple sources of LCD panels.
45. Following the proposed transaction, LCD TV OEMs or EMS providers will be able to obtain supplies from Samsung (with an approximate [20-30]% market share both on a worldwide and EEA-wide basis), LG (with an approximate [20-30]% market share both on a worldwide and EEA-wide basis) and AUO (with an approximate [10-20]% market share both on a worldwide and EEA-wide basis).
46. Furthermore, Samsung and LG, which together represent around [50-60]% of the LCD TV segment worldwide, are vertically integrated and have their own LCD panel production facilities at their disposal.
47. Finally, since SDP is currently exclusively supplying Sharp with LCD TV panels, the transaction will free up capacity as SDP might seek to supply LCD TV panels not only to Sharp but also to independent third parties. As a result, the transaction may have the effect of releasing onto the merchant market, production capacity that had previously been captive.

(ii) Customer foreclosure: access of SDP's competitors to purchases by Sharp and Hon Hai

48. Although Sharp and Hon Hai have committed to purchase a certain percentage of SDP's total LCD panel production [...], the transaction will not result in the foreclosure of SDP's competitors from access to a significant customer.
49. Sharp currently obtains [...] LCD panels for TVs from its own in-house production. The proposed transaction will not therefore lead to foreclosure of Sharp's demand.
50. As for Hon Hai, it currently accounts for only a small fraction of the total worldwide demand for LCD TV panels. In 2011, Hon Hai purchased only [0-5]% of the total worldwide LCD TV panel production.

51. In addition, many other suppliers will remain on the market for the provision of third-party EMS, including Quanta, Flextronics and Compal. Furthermore, numerous other suppliers will remain on the market for the provision of third-party EMS for LCD TVs, including TPV, Amtran, Compal, Wistron and Unihan.
52. Finally, Hon Hai currently purchases LCD panels largely at the direction of its OEM customers and will continue to do so after the transaction. Consequently, if an OEM directs Hon Hai to source LCD panels from a supplier other than SDP, Hon Hai will be obliged to do so.

VI. CONCLUSION

53. For the above reasons, the Commission considers that the notified operation does not raise serious doubts as to its compatibility with the internal market.
54. It has therefore decided not to oppose the proposed transaction 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 Commission
(signed)
Maroš ŠEFČOVIČ
Vice-President*