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EUROPEAN COMMISSION
DG Competition

***Case M.7771 - PARCOM /
PON / IMTECH MARINE***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 16/10/2015

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EUROPEAN COMMISSION

Brussels, 16.10.2015
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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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 Sirs,

**Subject: Case M.7771 – Parcom/ Pon/ Imtech Marine
Commission decision pursuant to Article 6(1)(b) of Council Regulation
No 139/2004¹ and Article 57 of the Agreement on the European Economic
Area²**

- (1) On 14 September 2015, the European Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004, by which Parcom Capital Management BV ("Parcom", the Netherlands) and Pon Holding BV ("Pon", the Netherlands) jointly acquire control over the Imtech Marine Group BV ("Imtech Marine", the Netherlands) by way of purchase

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.

² OJ L 1, 3.1.1994, p.3 ("the EEA Agreement").

of shares.³ Parcom and Pon are jointly referred to as the "Notifying Parties". Parcom, Pon and Imtech Marine are jointly referred to as the "Parties".

1. THE PARTIES AND THE OPERATION

- (2) **Parcom** is a private equity fund, controlled by NN Group N.V., holding investments in various markets including: oil, gas and offshore industrial engineering and manufacturing as well as business services and food. Parcom focuses on mid-sized companies and is mainly active in the Benelux. One of its portfolio companies is Royal Huisman, a manufacturer and refitter of custom-built luxury sailing boats and motor yachts.
- (3) **Pon** is an international trading and service organisation focused on import, logistics, marketing, distribution, service and maintenance of products varying from passenger cars and commercial vehicles to material handling trucks, tyres, road construction and earthmoving equipment and power generation products. Three of its subsidiaries are active in the market for electrical engineering for the maritime sector: Bakker Sliedrecht Electro Industrie BV ("Bakker"), Verhoef Elektrotechniek B.V. ("Verhoef") and Europe Marine Control B.V. ("EMC"). These subsidiaries are jointly referred to as "Bakker". In addition Pon is active in the supply of engines for ships.
- (4) **Imtech Marine** is active as full-service provider and system integrator of technology solutions for ships. It also provides systems and maintenance services and distributes components to third parties, such as shipbuilders. Imtech Marine is a division of Royal Imtech N.V. ("Royal Imtech"). Royal Imtech offers a wide range of electrical and mechanical solutions and automation. In 2013 Royal Imtech faced its first financial problems and on 13 August 2015 was declared bankrupt.
- (5) After the bankruptcy of Royal Imtech, shares of Imtech Marine, together with some other subsidiaries of Royal Imtech, were (through a warehousing transaction) transferred to Waterval B.V., which is a special purpose vehicle held by the consortium of banks that financed Imtech Marine. This transaction was approved by the bankruptcy trustees of Royal Imtech and is aimed at "warehousing" Imtech Marine until it is sold.
- (6) On 13 August 2015 an unconditional cash offer was submitted by the Notifying Parties to the bankruptcy trustees of Royal Imtech in view of acquiring Imtech Marine. In execution of the transaction a share purchase agreement will be signed and the Notifying Parties will acquire all the shares in Imtech Marine with the consent and cooperation of the bankruptcy trustees. Parcom will own [...]% of shares, while Pon will own [...]% of shares of Imtech Marine.
- (7) On 12 August 2015, a Consortium Term Sheet was signed between Pon and Parcom, which provides for rules governing Pon and Parcom relations as shareholders of Imtech Marine and establishes their joint control over Imtech Marine. On the basis of the Consortium Term Sheet each of Parcom and Pon will appoint two out of five members of the Supervisory Board of Intech Marine and they will jointly appoint the fifth member. As regards reserved matters such as –

³ Publication in the Official Journal of the European Union No C 312 22.09.2015 p. 4.

among others - approval and amendment of business plan they will require approval of the appointees of both Parcom and Pon. Parcom and Pon will thus have joint control over Imtech Marine. Therefore the transaction constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

- (8) On 4 September 2015 the European Commission granted the Notifying Parties, on the basis of Article 7(3) of the Merger Regulation, derogation from the suspension obligation laid down by Article 7(1) of the Merger Regulation. The derogation decision is subject to conditions and obligations, in particular Pon and Parcom are to take only those steps and measures in relation to Imtech Marine, which are necessary in order to avoid further deterioration of its assets.

2. EU DIMENSION

- (9) The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million⁴ (NN Group EUR 13 545 million, Pon EUR 5 958 million and Imtech Marine EUR 476 million). Each of them has an EU-wide turnover in excess of EUR 250 million (NN Group EUR [...], Pon EUR [...], Imtech Marine EUR [...]), and only NN Group and Pon achieve more than two-thirds of their aggregate EU-wide turnover within one and the same Member State ([...]). The notified operation therefore has an EU dimension within the meaning of Article 1(2) of the Merger Regulation.

3. COMPETITIVE ASSESSMENT

3.1. Relevant markets

- (10) The main area of horizontal overlap between the Parties and Imtech Marine is the market for electrical engineering for the maritime sector, where Pon is active through Bakker. Depending on the adopted methodology of calculating the market size, the transaction (i) either does not lead to any affected markets, (ii) or it leads to affected markets in a potential narrower sub segment of the overall market, namely cable engineering for ferries, for specials, and for ferries and cruises combined.
- (11) The activities of Bakker and Imtech Marine also overlap in trading of parts and components for electrical engineering for the maritime sector. In addition, the transaction gives rise to a vertical relationship between Imtech Marine and Parcom given that the latter is active in the manufacturing of custom-built luxury sailing boats and motor yachts. Another vertical relationship arises between Imtech Marine and Pon's activities as distributor of marine diesel engines.
- (12) Neither the horizontal overlap between Bakker and Imtech Marine in trading of parts and components for electrical engineering for the maritime sector, nor the mentioned vertical relationships give rise to affected markets. Therefore these markets will not be discussed further.

⁴ Turnover calculated in accordance with Article 5 of the Merger Regulation.

3.1.1. *Relevant product markets*

- (13) The Commission has no decisional practice concerning the market for electrical engineering for the maritime sector.
- (14) The Notifying Parties have based their proposed market definitions on the precedents relating to the markets for electrical engineering for onshore construction⁵ and for commercial shipbuilding⁶. Thus, the Notifying Parties suggest three different criteria to examine the overall market for electrical engineering for the maritime sector, namely: (i) the type of ships, (ii) the type of electrical engineering work, (iii) the nature of the service (or solution).
- (15) First, the Parties submit that there are specificities as regards electrical engineering for different types of ships, e. g. naval ships, yachts, workboats/cargo, cruises/ferries, specials (that is ships which perform special functions such as cable or pipe laying), and offshore.
- (16) Second, the Notifying Parties submit that there are three main categories of electrical engineering works for the maritime sector, namely: system integration, system installation, as well as maintenance and management.
- (17) Third, a market division alongside the nature of the service/solution would lead to the following product markets: propulsion solutions, power solutions (with the potential distinction between pure power generation and distribution that is cable solutions), automation, HVAC (Heating Ventilation and Air Conditioning), water management, NacCom/IBS (navigation and communication as well as Integrated Bridge Solutions or the ship motion control), entertainment and specialties (for instance tracking or laundry systems).
- (18) The market investigation clearly indicates that the market participants view engineering for the maritime sector as being distinct from engineering for onshore construction.⁷ This is essentially due to differences in regulation, component selection and specifications.⁸ Furthermore, the majority of the replying market participants agree that the overall market could be segmented along the three dimensions (namely by (i) the type of ships, (ii) the type of electrical engineering work, (iii) the nature of the service) indicated by the Notifying Parties.⁹ In addition, some market participants suggested that the market for electrical engineering for the maritime sector could be delineated alongside different voltage ranges used on the ships (namely high vs low voltage). In fact, the overwhelming majority of

⁵ Case COMP/M.6623 – Vinci/EVT Business.

⁶ Case COMP/M.4101 – Aker Yards/Chantiers de l'Atlantique.

⁷ Responses to question 6 of Questionnaire Q1 – Competitors in electrical engineering for maritime sector and to question 4 of Questionnaire Q2 - Customers in electrical engineering for maritime sector.

⁸ Responses to question 6 of Questionnaire Q1 – Competitors in electrical engineering for maritime sector and to question 4 of Questionnaire Q2 - Customers in electrical engineering for maritime sector.

⁹ Responses to question 8, 9, 10 of Questionnaire Q1 – Competitors in electrical engineering for maritime sector and to question 6, 7, 8 of Questionnaire Q2 - Customers in electrical engineering for maritime sector.

the respondents to the market investigation indicate that ship electricity systems run at different voltage ranges depending on the type of ships.¹⁰

- (19) In the present case, it can be left open whether the overall market for electrical engineering for the maritime sector should be segmented further according to the delineations discussed in paragraphs 14-18 above, since the transaction does not lead to competition concerns under any plausible product market definition.

3.1.2. *Geographic Market*

- (20) According to the Notifying Parties, the geographic scope of the market for electrical engineering for the maritime sector and its potential sub segments is global for the following reasons: (i) the market for shipbuilding is global¹¹, (ii) players in the electrical engineering for the maritime sector are active mostly at worldwide level, (iii) ship owners are active globally and they select their providers of electrical engineering also globally.
- (21) The market investigation very clearly supports the Notifying Parties' views. All replying competitors active in the market for electrical engineering for the maritime sectors act globally.¹² The majority of customers source at global level or the EEA level.¹³ Moreover, both customers and competitors confirmed that there are no specific barriers, such as for instance regulatory regimes and tariffs, that characterize the EEA region and suppliers based outside the EEA could easily provide electrical engineering for maritime sector in the EEA.¹⁴
- (22) In the present case, the exact scope of the geographic market can be left open since the transaction does not lead to competition concerns under any plausible geographic market definition (i.e. global or EEA-wide).

3.2. **Competitive assessment**

- (23) The Notifying Parties submit that a large part of Imtech Marine's business (equivalent to 60% of its turnover) consists in activities unrelated to the Parties' business. They also argue that while Imtech Marine is a truly global player in the electrical engineering for maritime sector, Bakker has more limited geographic presence and does not offer all the solutions. Therefore, the scope of the overlap between the two companies is limited. Finally, according to the Notifying Parties, in the potential narrower segments of the market, Imtech Marine and Bakker are not close competitors in view of their focus on different types of solutions.

¹⁰ Responses to question 7 of Questionnaire Q1 – Competitors in electrical engineering for maritime sector and to question 5 of Questionnaire Q2 - Customers in electrical engineering for maritime sector.

¹¹ This has been confirmed by the Commission in the decision in case COMP/M.4956 – STC/Aker Yards.

¹² Responses to question 12 of Questionnaire Q1 – Competitors in electrical engineering for maritime sector.

¹³ Responses to question 10 of Questionnaire Q2 - Customers in electrical engineering for maritime sector.

¹⁴ Responses to question 13 of Questionnaire Q1 – Competitors in electrical engineering for maritime sector and to question 11 of Questionnaire Q2 - Customers in electrical engineering for maritime sector.

- (24) Based on the Notifying Parties' estimates,¹⁵ at global level the combined market share of Bakker and Imtech Marine in the market for electrical engineering in the maritime sector is insignificant ([0-5]%). The global market appears to be rather fragmented and many other players have more significant position than the Parties' (see Table 1).

	Imtech Marine	Bakker	Parties' Combined Market Share	ABB	Siemens	Wärtsila	Kongsberg	Rolls-Royce	Others
Market share (%)	[0-5]	[0-5]	[0-5]	[0-5]	[0-5]	[0-5]	[0-5]	[0-5]	[80-90]

- (25) Even at EEA level, the combined market share of the Parties would not exceed 20% ([10-20]%).
- (26) The transaction would lead to potentially affected markets if narrower segments of the overall market are examined. The Parties' combined market share would exceed 20% in hypothetical market segments defined by nature of service (cable engineering) and type of ships (ferries, specials and cruises) at global level (see Table 2).

	By nature of the service/type of ship		
	Cables for ferries – worldwide	Cables for specials – worldwide	Cables for ferries and cruises - worldwide
Bakker	[0-5]%	[20-30]%	[0-5]%
Imtech	[40-50]%	[0-5]%	[20-30]%
Combined	[40-50]%	[20-30]%	[20-30]%

Source: Parties' best estimate based on [a third party] report

- (27) However, the Notifying Parties contest these market shares and submit that they do not represent the market reality due to the underestimation by [a third party], the author of the market report, of the size of the overall market for cable engineering. The Notifying Parties claim that cable engineering does not represent 5% of the overall electrical engineering market for maritime sector (as assumed by [a third party]) but instead it represents 6–7% of the value of the total ship. The Notifying

¹⁵ The Notifying Parties have provided estimates of market shares on the basis of a third party report ([a third party]), which was prepared at the request of Imtech Marine in April 2014 and is not related with the notified transaction.

Parties claim that support for this assumption can be found in (i) their market intelligence as to the position of Bakker and Imtech Marine on the market for electrical engineering for maritime sector, (ii) review of the data on the number of ships built in the recent years, (iii) internal estimations of both Bakker and Imtech Marine as to the cable installation costs for ferries, and (iv) review of two recent projects for which either Bakker or Imtech Marine tendered for cable engineering.

- (28) On the basis of the Notifying Parties' calculation of the size of cable engineering segment, the combined share at global level would be below [5-10]% in the potential segments for cable engineering for ferries and for cable engineering for specials, whereas it would be below [0-5]% in the segment for cable engineering for ferries and cruises combined.¹⁶
- (29) On the basis of the results of the market investigation, the Commission cannot conclude whether the Parties' estimation as to the cable engineering work's share of the value of a newly built ship are correct. Competitors took the view that cable engineering work accounted for 1–5% of the total value of a newly built ship. According to customers, this value amounts to 2–10% in general and to up to 20% in complex vessels, e. g. dredgers or diesel electric ships.¹⁷ However, even considering the narrowest size of the market (i.e. taking into account market shares based on the [a third party] report), the transaction does not give rise to competition concerns.
- (30) Regardless of the precise delineation of the market, the Notifying Parties submit that multiple other companies are active in the electrical engineering for the maritime sector, including the field of cable installation. These companies include Alewijnse, Croon, Eekels, Van der Leun and IHC D&A. Moreover, the Notifying Parties submit that the market for electrical engineering for the maritime sector is a bidding market and customers usually organize competitive tender procedures to select their supplier of electrical engineering services. Therefore, post-transaction the market will remain highly competitive.
- (31) The Commission considers, taking into account the market investigation, that customers can rely on several potential suppliers in addition to Bakker and Imtech.¹⁸ Companies such as for instance Alewijnse, ELTEC, Brouwer Seaking, Marelang, Van der Leun were pointed by customers as viable alternatives to the Parties in terms of range of services offered in the market for electrical engineering for the maritime sector and its potential sub segments.
- (32) The Notifying Parties also submit that cabling services are standardized type of services and thus this hypothetical market would have very low entry barriers. The Commission notes that competitors confirmed this claim in the course of the market investigation, as they explained that cable engineering is considered as a technically non-complex activity, which is thus usually performed usually directly

¹⁶ At the EEA level there would still not be any affected market.

¹⁷ Responses to question 16 of Questionnaire Q1 – Competitors in electrical engineering for maritime sector and question 13 of Q2 - Customers in electrical engineering for maritime sector.

¹⁸ Responses to question 12 of Questionnaire Q2 - Customers in electrical engineering for maritime sector.

by customers (i.e. shipyards).¹⁹ The overwhelming majority of customers consider that cable engineering is a standard and basic service provided by most competitors.²⁰ The low complexity of the cable engineering service suggests that suppliers could easily enter this specific service domain.

- (33) Finally, in the course of the market investigation no substantiated concern was raised by either customers²¹ or competitors²² about the potential impact of the transaction.
- (34) Based on the above and on all the other available evidence, the Commission therefore considers that the proposed transaction does not raise serious doubts as to its compatibility with the internal market with respect to the horizontal overlap between the Parties' activities in market for the electrical engineering for the maritime sector.

4. CONCLUSION

- (35) 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 and Article 57 of the EEA Agreement.

*For the Commission
(Signed)*

*Margrethe VESTAGER
Member of the Commission*

¹⁹ Responses to question 17 of Questionnaire Q1 – Competitors in electrical engineering for maritime sector.

²⁰ Responses to question 14 of Questionnaire Q2 - Customers in electrical engineering for maritime sector.

²¹ Responses to question 17 and 18 of Questionnaire Q2 - Customers in electrical engineering for maritime sector.

²² Responses to question 20 and 21 of Questionnaire Q1 – Competitors in electrical engineering for maritime sector.