

***Case No IV/M.789 -
Enderly / S.B.E.***

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

Article 6(1)(b) NON-OPPOSITION
Date: 15/07/1996

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 15.07.1996

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying parties

Dear Sirs,

Subject: Case No. IV/M.789 - ENDERLY/S.B.E.

Notification of 17 June 1996 pursuant to Article 4 of Council Regulation (EEC) No. 4064/89

- 1 On 17.06.1996, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No. 4064/89⁽¹⁾ by which ENDERLY HOLDINGS LIMITED (EHL), jointly controlled by Indelec Holding AG, a wholly owned subsidiary of Swiss Bank Corporation (SBC), and by QCM Private Equity Fund LP (QCM), controlled by Crédit National S.A., acquires within the meaning of Article 3(1)(b) of the Council Regulation, the control over the electronics division of Williams Holdings plc (WHP) by way of the purchase of all of WHP's shareholdings in the group of companies known as SAIA-Burgess Electronics (SBE) which constitutes the electronics division of WHP.
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope 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.

⁽¹⁾ OJ No L 395 of 30.12.1989; Corrigendum: OJ No L 257 of 21.09.1990, p. 13.

I. THE PARTIES' ACTIVITIES AND THE OPERATION

3. The business activities of the undertakings concerned are :
 - for EHL: investment holding;
 - for SBC and Crédit National S.A.: banking and investment;
 - for SBE: designing, manufacturing and selling electromechanical microswitches, small electromechanical motors and small electronic controllers. It also designs and supplies complete solutions and sub-systems integrating microswitches, motors and electronics technology.
4. EHL is an investment and holding company which was constituted by Indelec Holding AG (controlled by SBC) holding 40.39% of the capital; QCM (controlled by Credit National S.A.) with 35.81%; WHP with 21.22% and managers with 2.58%. EHL is jointly controlled by Indelec Holding AG and by QCM.

II. COMMUNITY DIMENSION

5. The combined aggregate world-wide turnover of SBC, Crédit National S.A. and SBE exceeded ECU 5,000 million in the last financial year calculated in accordance with Article 5 of the Merger Regulation. (1/10 of the total assets of SBC amounted to ECU 19,540 million, 1/10 of the total assets of Crédit National amounts to ECU 5,115 million and the turnover of SBE amounted to ECU 130 million). SBC and Crédit National have a Community-wide turnover in excess of ECU 250 million 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 but does not constitute a cooperation case under the EEA Agreement.

III. COMPATIBILITY WITH THE COMMON MARKET

- a) Relevant product market
6. The business being acquired is active in electromechanical switches, motors and controllers. The notifying party states that micro-switches, motors and controllers form relevant product markets. However, it is not necessary to further identify the relevant product markets because, in all alternative markets considered, effective competition would not be significantly impeded in the EEA or any substantial part of that area.
- b) Relevant geographic market
7. The relevant geographic market appears to be at least regional. However, it is not necessary to identify further the relevant geographic market because, in all alternative geographic markets considered, effective competition would not be significantly impeded in the EEA or any substantial part of that area.
- c) Assessment
8. There is no overlap between the activities of EHL and SBE.

9. In view of the market position of the notifying party it appears that the notified operation will have no impact on competition in the European Union and, consequently, effective competition would not be significantly impeded in the EEA or any substantial part of that area.

IV. ANCILLARY RESTRICTIONS

10. Various non-competition covenants have been submitted, by the notifying party, to the Commission to seek agreement that they constitute ancillary restrictions. These covenants state that Williams Holdings plc will not, for a period of five years, be concerned in any business that competes with that of SBE at the time of its sale to EHL. The geographic scope of these covenants is limited to where SBE is carrying on business at the date of completion.
11. Paragraph III-A-3 of the Commission's notice, regarding restrictions ancillary to concentrations, accepts that a prohibition on competition for a period of five years is appropriate when goodwill and know-how is transferred. Paragraph III-A-3 limits the geographic scope of such a prohibition to the area where the vendor company has established the product before the transfer.
12. Accordingly, these covenants can be accepted as ancillary in those countries where SBE is carrying on business prior to completion.

V. CONCLUSION

13. 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