

*Case No IV/M.791 -  
British Gas Trading Ltd  
/ Group 4 Utility  
Services*

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: 07/10/1996

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 7.10.1996

**PUBLIC VERSION**

MERGER PROCEDURE  
ARTICLE 6(1)(b) DECISION

To the notifying parties

Dear Sirs,

Subject: Case No.IV/M.791-BRITISH GAS TRADING LTD/GROUP 4 UTILITY SERVICES LTD

**Notification of 5 September 1996 pursuant to Council Regulation (EC) No. 4064/89**

1. On 5 September 1996 British Gas Trading Ltd (United Kingdom) (BGT) and Group 4 Utility Services Ltd (United Kingdom) (G4US) notified to the Commission an intended operation whereby they acquire within the meaning of article 3(1)(b) of Council Regulation 4064/89 joint control of AccuRead Ltd (United Kingdom).
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 PARTIES**

3. BGT is an ultimate subsidiary of British Gas plc (United Kingdom). Its principal activity is the supply of gas through pipelines within Great Britain to the industrial and domestic markets. Until 1986 British Gas enjoyed a statutory monopoly in this field, but competition is now being introduced into both the industrial and domestic sectors. BGT also reads meters and undertakes some meter inspection work on behalf of TransCo, the division of British Gas which owns the pipelines system and which transports gas within Great Britain.

4. G4US, an ultimate subsidiary of Group 4 Securitas NV (Netherlands Antilles) (Group 4), has been incorporated for the purposes of the present operation. The principal activity of Group 4 in Europe is the supply of various security services, such as manned-guarding and the transportation of cash and valuables.

## **II THE OPERATION**

### Introduction

5. AccuRead will supply meter-reading services to the gas industry in Great Britain. It is also intended that it offers those services to the electricity and water utilities in Great Britain (also until recently statutory monopolies). Meter-reading services consist essentially of a specifically requested or a cyclical visit to the premises of a consumer of gas, electricity or water to obtain a manual (ie visible) reading.<sup>(1)</sup> The data thereby obtained can be used by the utility supplier and the operator of the relevant network for billing and for forecasting and monitoring supply and demand conditions. Meter reading is a normal function in the supply of gas, electricity and (for the industrial sector) water in Great Britain but not in the supply of water to the domestic sector, which is subject to limited (but increasing) metering. In Great Britain each of the gas, electricity and water utilities has until recently obtained the meter-reading services which it requires from staff which it employs. However, following the privatisation of these utilities their regulators are now seeking to dismantle this vertical integration and create a separate competitive market for meter reading.
6. The creation of AccuRead originates in particular from the recommendation made by the Monopolies and Mergers Commission in its report under the Gas Act 1986 (1993) that competition be introduced into the market for the provision of meter-reading services in the industry. Initially AccuRead will in effect carry on the business of supplying meter-reading services formerly carried on by BGT.

### Joint control

7. BGT will hold 49 per cent of the shares (A shares) and G4US 51 per cent of the shares (B shares) in AccuRead. Relations between BGT and G4US will be governed by a shareholders agreement. BGT will appoint two directors (A directors), G4US four directors (B directors), and the parties jointly will appoint the seventh member (who will also be the chairman). The attendance of at least one A director and of at least two B directors is necessary for a quorum of the board. Despite their differing interests AccuRead will be subject to the joint control of BGT and AccuRead. This is because major decisions such as commercial strategy and the appointment of senior managers require their joint decision. These decisions include those as to the adoption and amendment of the business plan and budget, changes in the nature and scope of the business, acquisition of or investment in another company; disposing of any material part of the business or assets, engaging employees remunerated in excess of a specified rate, entering into contracts outside the business plan and budget and in excess of specified levels, and appointing or removing the managing director and any additional director.

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<sup>(1)</sup> The technological possibility exists of remote reading of meters (telemetry) but this has so far been implemented only to a very limited extent.

8. AccuRead will therefore be subject to the joint control of BGT and G4US.

Autonomous long-lasting economic entity

9. AccuRead will have all the resources necessary to operate its business activities on a lasting basis. Its headquarters will be leased from a subsidiary of British Gas on an arm's-length basis for 15 years. Meter reading is highly labour-intensive; the staff needed will be automatically transferred by BGT to AccuRead under the Transfer of Undertakings (Protection of Employment) Regulations 1981. BGT will transfer to leasing companies the necessary equipment (in particular computer hardware and vehicles); AccuRead will lease the equipment from those companies. BGT will license to AccuRead or obtain licences in its favour of the software required. A Group 4 subsidiary will supply to AccuRead on an arm's-length basis administrative services required for the commencement of its business; these arrangements can be terminated by AccuRead after two years; any further services of BGT or G4US must be supplied on an arm's-length basis and on terms which are commercially fair and reasonable.
10. The shareholders agreement is valid initially <sup>(2)</sup>[...], subject to prior termination for standard commercial reasons.
11. The initial business of AccuRead will be providing meter reading services to TransCo. From about December 1996 it will also supply such services to BGT. Following the demerger in 1997 of British Gas, TransCo and BGT - and thus also TransCo and AccuRead - will be members of different corporate groups. AccuRead will enter into supply contracts with Transco and BGT, but only two of them will extend beyond 1997. One minor agreement (relating to maintenance of meters) lasts until <sup>(3)</sup>[...] and an agreement to supply meter reading services to BGT expires on <sup>(4)</sup>[...]; at that point BGT must seek tenders for a new contract. Nor is it certain that AccuRead will obtain any business from TransCo after March 1997, since TransCo has issued a call for competition for its meter-reading services. AccuRead will therefore find it necessary to offer its services to the 52 gas shippers and the 18 licensed gas suppliers which continue to increase their share of the United Kingdom gas markets at the expense of BGT. It is also intended that AccuRead will expand its services to the reading of electricity and water meters, to the extent that competition is introduced for these services. AccuRead will thus not be dependent upon sales to its parents.
12. AccuRead will therefore perform on a lasting basis all the functions of an autonomous economic entity.

Absence of coordination

13. BGT will cease completely to provide meter-reading services and is precluded by the Office of Gas Supply (the industry regulator) from re-entering the market for the supply of meter-reading services. Although other members of the British Gas group are engaged in activities relating to production and supply of gas, the activities of the Group 4 companies consist of the provision of security services.

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<sup>(2)</sup> Deleted for publication. At least five years.

<sup>(3)</sup> Deleted for publication. Not beyond year 2001.

<sup>(4)</sup> Deleted for publication. Not beyond year 2000.

14. There is thus no possibility of coordination between BGT and G4US or between companies in their corporate groups arising from the joint venture.

#### Conclusion

15. The operation accordingly constitutes a concentration within the meaning of article 3(1)(b) of the Regulation.

### **III CONCENTRATION OF COMMUNITY DIMENSION**

16. British Gas and Group 4 Securitas have a combined aggregate worldwide turnover in excess of 5000 million ECU (British Gas - ECU 10,378 million, Group 4 Securitas - ECU 603 million). British Gas generates a significant proportion of its aggregate worldwide turnover within the European Union. The Community-wide turnover of Group 4 Securitas is ECU 373 million. British Gas (but not Group 4 Securitas) achieves more than two-thirds of its aggregate Community-wide turnover within the United Kingdom.
17. The operation therefore has a Community dimension within the meaning of article 1(1) of the Regulation. It does not qualify under the EEA Agreement for cooperation with the EFTA Surveillance Authority.

### **IV COMPATIBILITY WITH THE COMMON MARKET**

18. The product market for this operation is the supply of meter-reading services.
19. As discussed in more detail below, the other suppliers or potential suppliers of these services in Great Britain include electricity companies capable of supplying metering services, most immediately the 12 regional electricity companies (RECs), companies with experience of supplying utilities markets and security companies similar to Group 4. The RECs and the utilities which will be the customers for meter-reading services will operate to some extent upon a regional basis. The geographical market for meter-reading services might thus be Great Britain or various regions of Great Britain. It is, however, unnecessary to define the geographical market more accurately, since on either analysis no competition problems arise.
20. There is no overlap between the activities of British Gas and Group 4 Securitas. The operation accordingly produces no horizontal increase in market shares. Similarly in the absence of any overlap between the activities of AccuRead and either British Gas or Group 4 the operation produces no vertical increase in market shares.
21. AccuRead will initially be the only supplier of meter-reading services in Great Britain. However the operation neither creates nor strengthens a dominant position. AccuRead simply succeeds to the position formerly held by BGT. Furthermore AccuRead will face potential competition from the RECs and other electricity companies, companies with experience of supplying utilities markets and security companies similar to Group 4. . The RECs enjoy the advantages that they have more meters in total than BGT, that they have a dedicated workforce and that they can combine the reading of both gas and electricity meters on a single visit; in addition some of the RECs are also gas shippers or suppliers. Some indication of the range of companies which regard themselves as

capable of providing meter-reading services is provided by the list of 58 companies which responded to the call for competition made by British Gas for a partner for the present joint venture and by the list of 21 companies (of which 10 were shortlisted) which responded to the call for competition made by TransCo for a supplier of meter-reading services. Another indication is the existence of 16 meter-reading companies, including several RECs, which have agreed to comply with the Office of Gas Supply guidance notes on best practice for the reading of gas meters. There are thus convincing reasons for concluding that AccuRead will face strong competition. In addition barriers to entry are low.

## V ANCILLARY RESTRAINTS

22. The parties have requested that the following provision, if a restriction, be considered as ancillary to the concentration.
23. AccuRead will supply meter-reading services to BGT under a non-exclusive commercial contract negotiated at arm's length. This contract will last until <sup>(5)</sup>[...] with annual price reviews and relates primarily to the domestic gas market. A contract of this length is necessary in order for AccuRead to reduce its base cost - and thus make a return on its investment - over a reasonable period. The principal cost is the labour force which it is obliged to inherit from BGT as a result of the Transfer of Undertakings (Protection of Employment) Regulations 1981. Furthermore, when in <sup>(6)</sup>[...] BGT tenders for its meter-reading service any new supplier might itself be obliged under the regulations to inherit the labour force used by AccuRead, with the consequence that the costs of supplying the service will remain high. This possibility will be reduced if AccuRead has the opportunity to reduce its costs and if it has diversified its activities to other customers.
24. In so far as this provision amounts to a restriction it is directly related to and necessary for the successful implementation of the concentration. It can therefore be treated as ancillary to the concentration.

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<sup>(5)</sup> Deleted for publication. Not beyond year 2000.

<sup>(6)</sup> Deleted for publication.

## VI CONCLUSION

25. For the foregoing reasons, the proposed concentration does not raise serious doubts as to its compatibility with the common market and with the functioning of the EEA Agreement.

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26. 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