

***Case No IV/M.846 -
PHILIPS / HEWLETT-
PACKARD***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 17/02/1997

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 17.02.1997

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying parties

Dear Sirs,

Subject : Case No IV/M.846 - PHILIPS/HEWLETT PACKARD

Notification of 16.01.1997 pursuant to Article 4 of Council Regulation (EEC) No 4064/89

1. On 16.01.1997, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 by which Philips Lighting B.V. (belonging to Philips Electronics N.V.) and Hewlett-Packard Europe B.V. (belonging to the Hewlett-Packard Company) acquire within the meaning of Article 3(1)(b) of the Council Regulation joint control of the company JV B.V. by way of the purchase of shares in a newly created company constituting a joint venture.
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of Council Regulation (EEC) 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' ACTIVITIES AND THE OPERATION

3. The business activities of the undertakings concerned are :
 - for Philips Lighting B.V. ("Philips") : the manufacture and sale of illumination products.
 - for Hewlett-Packard Europe B.V. ("HP") : the holding and financing of the majority of Hewlett-Packard Company subsidiaries outside the USA. The Hewlett-Packard

Company produces, amongst other things, opto-electronic components which include light emitting diodes ("LEDs").

- for JV B.V. : the development, manufacture and sale of LED based components for lighting products.
4. Philips and HP will provide assets and will licence intellectual property rights to JV B.V. Specifically Philips will provide those relating to lighting products and HP those in respect of LEDs; [...]⁽¹⁾.
 5. The joint venture will be jointly controlled by Philips and HP but it will make sales to both parent groups, during its initial start-up period, in order to establish itself and its products on the market. However this fact does not detract from the conclusion that the joint venture will perform, on a lasting basis, all the functions of an autonomous economic entity and its creation will not give rise to coordination of the competitive behaviour of the parties amongst themselves or between them and the joint venture.

II. COMMUNITY DIMENSION

6. Philips Electronics N.V. and the Hewlett-Packard Company have a combined aggregate worldwide turnover in excess of ECU 5 000 million (Philips Electronics N.V., ECU 30 991 million; and the Hewlett-Packard Company, ECU 30 736 million). Each of them has a Community-wide turnover in excess of ECU 250 million (Philips Electronics N.V., ECU 15 132 million; and the Hewlett-Packard Company, ECU 8 419 million), but they 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. COMPETITIVE ASSESSMENT

A. Relevant product market

7. The notifying parties state that there is a relevant product market for LED based power signalling and illumination products. However, it is not necessary to further delineate the relevant product market because, in all alternative market definitions considered, effective competition would not be significantly impeded in the EEA or any substantial part of that area.

B. Relevant geographic market

8. The notifying parties indicate that the relevant geographic market appears to be worldwide. However, it is not necessary to further delineate the relevant geographic market because, in all alternative geographic market definitions considered, effective competition would not be significantly impeded in the EEA or any substantial part of that area.

⁽¹⁾ deleted for publication

C. Impact of the concentration

9. There is no overlap between the activities of Philips and those of HP due to the creation of JV B.V.
10. In view of the market position of the parties to the concentration, it appears that the notified operation will have no impact on competition in the EEA. Consequently, the proposed concentration does not create or strengthen a dominant position as a result of which effective competition would be significantly impeded in the EEA or any substantial part of that area.

IV. ANCILLARY RESTRICTIONS

11. The parties have completed a non-competition agreement by which both parent companies undertake not to compete with the joint venture in the development and manufacture of certain LED based products. It has been concluded that this agreement falls within the ambit of point V of the Commission notice regarding restrictions ancillary to the concentration.

V. CONCLUSION

12. 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 (EEC) No 4064/89.

For the Commission,