



EUROPEAN COMMISSION

***Case No COMP/M.9293 - ICONEX /
HANSOL DENMARK / R+S GROUP***

Only the English text is available and authentic.

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

Article 22

Date: 15.03.2019



EUROPEAN COMMISSION

Brussels, 15.3.2019
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PUBLIC VERSION

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 Where possible the information omitted has been replaced by ranges of figures or a general description.

**To the French
Competition Authority**

**Subject: Case M.9293 - ICONEX / HANSOL DENMARK / R+S GROUP
Request for referral of 7 February 2019 by Germany to the
Commission pursuant to Article 22(1) of Council Regulation (EC) No.
139/2004¹ and Article 57 of the Agreement on the European Economic
Area²**

Ref.: Letter of 26 February 2019 by Mr. Emmanuel Combe, Vice-President of the Autorité de la concurrence, the competent Competition Authority of France, to the Directorate-General for Competition.

Dear Sir,

1. INTRODUCTION

(1) In its letter of 26 February 2019, the Autorité de la concurrence (“French Competition Authority”) joined, pursuant to Article 22(2) of the Merger Regulation, the request of the Bundeskartellamt of Germany (“German Competition Authority”) of 7 February 2019 to examine, in application of Article

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").

22(3) of Council Regulation (EC) No 139/2004 (the "Merger Regulation"), the concentration whereby Iconex LLC ("Iconex", United States) acquires sole control of Hansol Denmark ApS ("Hansol Denmark", Denmark) and R+S Group GmbH ("R+S Group", Germany) by way of purchase of shares (the "Transaction"). Iconex, Hansol Denmark and R+S Group are together referred to as the "Parties".

- (2) Pursuant to Article 22(1) of the Merger Regulation, one or more Member States may request the Commission to examine any concentration, as defined in Article 3 of the Merger Regulation, that does not have a Union dimension within the meaning of Article 1 of the Merger Regulation but affects trade between Member States and threatens to significantly affect competition within the territory of the Member State or States making the request. Such a request must be made within 15 working days of the date of the notification of the concentration. Pursuant to Article 22(2) of the Merger Regulation, any other Member State may join the initial request within a period of 15 working days of being informed by the Commission of the initial request.
- (3) In the present case, Iconex notified the concentration to the German Competition Authority on 18 January 2019. On 7 February 2019, the Commission received a referral request pursuant to Article 22(1) of the Merger Regulation from Germany. In accordance with Article 22(2) of the Merger Regulation, the Commission informed the competent authorities of the other Member States, the EFTA Surveillance Authority and the undertakings concerned of the request on 8 February 2019.
- (4) On 26 February 2019, the French Competition Authority has requested to join the German Competition Authority's referral request.

2. THE PARTIES AND THE OPERATION

- (5) Iconex offers solutions for printer consumables, labels and receipts. [A controlling stake] of the shares in Iconex are held by two investment companies which are managed by Atlas Holdings LLC, USA. Atlas Holdings is an industrial holding company whose portfolio includes manufacturers and wholesalers active in the packaging, pulp, paper and logistics sector. Atlas Holdings has a world-wide turnover of EUR [...] (EUR [...] in the EU). Iconex has a world-wide turnover of EUR [...] (EUR [...] in the EU). Iconex has production sites in the US, Mexico, France and the UK. It sells to customers throughout the EEA from its plants in France and the UK.
- (6) Hansol Denmark and R+S Group (the "Target companies") produce and sell self-adhesive labels and receipt rolls. The parent company of the Target companies is the South Korean company Hansol Paper Co. Ltd. Hansol Denmark is a sub-holding, which functions as a parent company of the Schades group, which owns the relevant operative companies. They have a combined world-wide turnover of EUR [...] (EUR [...] in the EU) and they achieve more than EUR 25 million only in Germany and the UK. They have production sites in Germany, France, UK and Denmark from which they sell to customers throughout the EEA.
- (7) Pursuant to a sale and purchase agreement entered into by the Parties on 5 November 2018, Iconex will acquire 100% of shares in the Target companies.

- (8) As the Transaction will result in Iconex acquiring sole control over the Target companies, it constitutes a concentration within the meaning of Article 3 of the Merger Regulation. However, given the respective turnovers of the undertakings concerned (as indicated above in recitals (5) and (6)), the concentration would not have a Union dimension within the meaning of Article 1 of the Merger Regulation.³
- (9) Although the criteria for notification were met in Germany and the UK, the Transaction was only notified to the Bundeskartellamt.⁴

3. ASSESSMENT OF THE LETTER

- (10) In addition to the procedural requirement that a Member State joins the initial request within a period of 15 working days of being informed by the Commission of the initial request, according to Article 22(3) the Commission may decide to examine the concentration where it considers that it (i) will affect trade and (ii) threaten significantly to affect trade within the territory or territories making the request.⁵

Procedural criteria

- (11) On 8 February 2019 the Commission informed the competent authorities of the other Member States of the referral request of the German Competition Authority. The Commission received the French Competition Authority's letter stating France's request to join the referral request on 26 February 2017.
- (12) Therefore, France joined the initial request within 15 working days following the date on which it was informed of the referral request by the Commission, within the deadline of Article 22(2) second indent of the Merger Regulation.

Substantive criteria

Effect on trade between Member States

- (13) Paragraph 43 of the Referral Notice provides that a concentration fulfils this requirement to the extent that it is liable to have some discernible influence on the pattern of trade between Member States.
- (14) The German Competition Authority referral request, joined by the French Competition Authority, states that the Transaction affects trade between Member States. First, the production sites affected by the Transaction are situated in different Member States. Second, the Parties and their main competitors supply customers throughout the EEA from a limited number of sites.⁶ Iconex for instance only has plants in France and the UK but has customers in other

³ This was confirmed by the services in charge of Merger Control in the Directorate-General for Competition of the Commission in reply to the Parties' consultation of 4 January 2019.

⁴ However, the Parties engaged in pre-notification discussions with the UK Competition Authority.

⁵ See also Commission Notice on Case Referral in respect of Concentrations (OJ C 56, 5.3.2005, p. 2) (the "Referral Notice"), paragraphs 42-44.

⁶ Referral request submitted by the Bundeskartellamt on 7 February 2019, Section 4.

countries such as Germany, where its activities overlap with those of the Target, which does have plants there. Finally, according to the Parties a substantial share of customer demand of receipt rolls for cash registers and ATMs is covered by European wide tenders.⁷ Therefore, at least some of the affected markets are likely to be defined as EEA-wide in scope.

- (15) Therefore, on the basis of the *prima facie* analysis referred to in the French Competition Authority's letter, the Commission considers, without prejudice to the outcome of its investigation, that trade between Member States would be affected. Consequently, the first substantive criterion of Article 22(1) is fulfilled.

Threat to significantly affect competition within the territory of the Member State(s)

- (16) Paragraph 44 of the Referral Notice provides that a referring Member State should demonstrate that, based on a preliminary analysis, there is a real risk that the transaction may have a significant adverse effect on competition and thus deserves close scrutiny, without prejudice to the outcome of a full investigation.
- (17) According to the initial referral request, to which the French Competition Authority's Letter refers, the Transaction would significantly affect competition in the market for the supply of receipt rolls for cash registers within the EEA. In its investigation of Iconex's acquisition by Atlas Holdings in 2016, the German Competition Authority established a market share of the Target companies of [significantly above [20-30]%] on the market for the supply of receipt rolls for cash registers in the EEA. In a possible narrower market for the supply of receipt rolls for cash registers in the retail sector, the Parties would achieve a combined market share of 70-80 % in each of Germany, the UK and France.⁸
- (18) In its joining request, the French Competition Authority considers that the merger would amount to a reduction from three to two competitors, as only one competitor would be in a position to supply large orders. In its request, the German Competition Authority submits that larger German customers have raised concerns in relation to this issue.⁹
- (19) Therefore, in light of the *prima facie* analysis referred to in the French Competition Authority's Letter, the Commission considers, without prejudice to the outcome of its investigation, that the concentration in question threatens to significantly affect competition at least within Germany and France. Consequently, the second substantive criterion of Article 22(1) is fulfilled.

On the appropriateness of a referral of the present case to the Commission

- (20) Pursuant to paragraph 45 of the Referral Notice, referrals of concentrations already notified should normally be limited to those cases which appear to present a real risk of negative effects on competition and trade between Member States and where it appears that these would be best addressed at the EEA level.

⁷ The Notifying Party also considered in its submission to the German Competition Authority that the scope of the market is likely EEA-wide.

⁸ Referral request submitted by the Bundeskartellamt on 7 February 2019, Section 5.2.

⁹ Referral request submitted by the Bundeskartellamt on 7 February 2019, Section 5.2.

- (21) Furthermore, pursuant to paragraph 8 of the Referral Notice, in exercising its discretion to accede to a referral, the Commission must respect the general principles guiding referrals, notably the principle that, by preference, the most appropriate authority should carry out the investigation, bearing in mind the need to ensure effective protection of competition in all markets affected by the transaction.
- (22) One of the categories of cases normally most appropriate for referral under Article 22 of the Merger Regulation are cases giving rise to serious competition concerns in one or more market(s) wider than national.
- (23) In the present case, the proposed concentration matches the type of cases where the Commission appears to be the most appropriate authority to carry out the investigation. At least some of the markets concerned by the concentration appear to be at least EEA-wide. The proposed concentration may give rise to serious competition concerns for the supply of receipt rolls (or possible sub-segments) in the EEA. As a result, the market investigation will have to include market participants from jurisdictions of other Member States such as France, where the transaction would not otherwise be notified. Therefore, the Commission has concluded that, in the present circumstances, the potential risks to competition caused by the transaction would be best addressed at the EEA level.
- (24) In addition, the Commission would have better possibilities than the German Competition Authority to implement any remedies which involve the production sites of the Parties in the EU but outside Germany.
- (25) In light of the above, the present concentration falls under the category of cases referred to in paragraph 45 of the Referral Notice.
- (26) As a result, the Commission considers that it is appropriate to accept the referral of the Transaction pursuant to Article 22 of the Merger Regulation.

4. CONCLUSION

- (27) On the basis of the above considerations, the Commission has concluded that the Letter by the French Competition Authority stating France's request to join the initial referral request made by the German Competition Authority meets the procedural requirements laid down in Article 22(2). Moreover, the requirements laid down in Article 22(3) of the Merger Regulation are also met.
- (28) Therefore, the Commission has decided to examine the concentration by which Iconex acquires sole control over Hansol Denmark and R+S Group under the Merger Regulation. This decision is based on Article 22(3) of the Merger Regulation and Article 57 of the EEA Agreement.

For the Commission

(Signed)
Margrethe VESTAGER
Member of the Commission