



# competition policy NEWSLETTER

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## Contents

1 European Competition Day in Lisbon

### Articles

- 2 The case Totalfina/Elf Aquitaine: preserving a contestable and competitive market in an industry that is of a particularly sensitive nature to the consumer, by *Alexander SCHAUB, Claude RAKOVSKY, Henri PIFFAUT and Peter DE LUYCK*
- 5 Nordic Satellite Cases, by *Andrew HOBBS*

### Opinion and comments

- 7 Who can be the beneficiary of a State aid, by *Ben SLOCOCK*

### Anti-trust Rules

- 13 Commission approves an agreement to improve energy efficiency of washing machines, by *Manuel MARTINEZ LÓPEZ*
- 15 La Commission inflige des amendes à un cartel de producteurs de tubes d'acier sans soudure pour partage de marchés, par *Ingrid BREIT et Francisco PÉREZ FLORES*
- 17 The Commission fines FEG, the Dutch association of electrotechnical equipment wholesalers and its biggest member TU, by *Ernst FERDINANDUSSE*

### Mergers

- 19 Recent developments and important decisions, by *Tiina PITKÄNEN and Neil MARSHALL*
- 28 Commission fines Deutsche post, KLM, Anheuser-Busch and Scottish & Newcastle for supplying incorrect or misleading information in competition procedures, by *Holger DIECKMANN, Gudrun SCHMIDT, Matthijs VISSER and Nils VON HINTEN-REED*
- 30 Case No COMP/JV.26 - FreeCom / Dangaard Holding
- 31 Commission authorises creation of joint venture BOL Spain by Bertelsmann AG and Planeta Corporación S.R.L., by *Hubert GAMBS*
- 31 Commission authorises takeover of Cdnw by Time Warner and Sony, by *Ali NIKPAY*
- 32 La Commission européenne autorise la création de l'entreprise commune Hearst Mondadori Editoriale SRL, by *Jacques LOVERGNE*

### State Aid

- 33 The Multisectoral framework on regional aid for large investment projects: a mid-term review, by *Adolfo BARBERÁ DEL ROSAL*
- 42 Main developments between 1<sup>st</sup> September and 31<sup>st</sup> December 1999

### Information Section

- 49 DG IV Staff list
- 51 Documentation
- 78 Coming up

79 CASES COVERED IN THIS ISSUE

## EUROPEAN COMPETITION DAY

LISBON, JUNE 9<sup>th</sup> 2000

Following a proposal of Commissioner Monti, a European Competition Day will be organised in Lisbon, on June 9<sup>th</sup>. This event is dedicated to the citizens of the European Union who are not really aware of the positive impact of European competition policy on their day-to-day life.

The Conference will take place in :

Forum Telecom  
Av. Fontes Pereira de Melo 38c  
1050 Lisbon

For more information, please contact :

European Commission-DG Comp  
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Mr. Eric Cuziat (tel: 32 2 295 77 62)

Direcção-Geral do Comercio e da Concorrença

Av. Visconde Valmor, 72  
1050-242 Lisboa  
Mr. A. Bangy (21/ 791 92 62)

## JOURNEE EUROPENNE DE LA CONCURRENCE

LISBONNE, LE 9 JUIN 2000

À la suite d'une proposition du Commissaire Monti, une Journée européenne de la concurrence sera organisée le 9 juin à Lisbonne. Cet événement est destiné aux citoyens de l'Union européenne qui n'ont pas toujours conscience des incidences positives de la politique européenne de concurrence sur leur vie quotidienne.

La conférence se tiendra:

Forum Telecom  
Av. Fontes Pereira de Melo 38c  
1050 Lisbonne

Pour de plus amples informations, vous pouvez contacter:

Commission Européenne-DG Comp  
Direction A - Unité A1  
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## The case TotalFina / Elf Aquitaine: preserving a contestable and competitive market in an industry that is of a particularly sensitive nature to the consumer

*By Alexander SCHAUB, Director General,  
Claude RAKOVSKY, Henri PIFFAUT and  
Peter DE LUYCK, DG COMP-B-1*

On 24 August 1999 the Commission was notified of the proposed acquisition by TotalFina of Elf Aquitaine. These two companies are the French national players in the oil industry. This transaction gave birth to the world's fourth-largest oil group valued at around € 101 billion. After a full investigation, the Commission adopted on 9 February 2000 a clearance decision conditional on the realisation of various divestitures in France.

TotalFina's public takeover bid was initially hostile and triggered a counter offer by Elf Aquitaine. This created the unprecedented situation of two competing notifications. Elf eventually recommended TotalFina's offer and the transaction was successfully completed in the Autumn. Both groups carry out their principal activities in the sectors of exploration and production of petroleum and natural gas, refining, distribution of petroleum products, petrochemicals, speciality chemicals and in the case of Elf, healthcare.

On 6 October 1999, the Commission announced its intention to initiate a detailed investigation of the proposed operation.

The Commission's investigation revealed a number of serious competition problems, firstly on the wholesale markets for motor fuels and heating oil, secondly on the retail market for the sale of motor fuels on motorways, thirdly on the liquefied petroleum gas market (LPG) and lastly on the market for Aviation fuel sales at the Lyon and Toulouse airports.

**The wholesale market.** One of the main peculiarities of the French motor fuel market has been the emergence, over the last decade, of the hyper- and supermarket chains as major retailers, accounting today together for 52% of total sales. This has led to price-levels (before taxes) among the lowest within the EU. However, retail chains are only resellers and they must procure fuels from the integrated refiners who are also their competitors on the retail market. Prior to the

concentration this situation was not problematic as refiners were themselves in competition on the wholesale market and for the provision of logistic services. In fact competition existed at the wholesale level firstly between the refiners based in France and secondly because of European-wide over-capacities in the refining industry that made possible the import of refined products. It could however only take place because of the ability of the resellers to access the logistics necessary to import, stock and transport refined products...

The Commission found that the concentration between TotalFina and Elf would have put in jeopardy every element of the competitive balance of these markets. The notified transaction would have put an end to the rivalry between the two main national refiners (Totalfina and Elf) and would have placed in their hands 55% of the refining capacities (and an equivalent market share on the wholesale market), control over a majority of the French import terminals, control over the three principal pipelines supplying French territory and over a substantial part of the local terminals. This combination would have conferred on TotalFina/Elf a substantial market power on the wholesale market that could not be contested either by demand (supermarkets or large final customers) or by competing refiners or even by imports. It would have, in turn, allowed TotalFina/Elf to contain any



competitive pressure on the retail market from the retail chains and, ultimately, to increase retail prices for motor fuels and domestic heating oil.

In order to obtain the agreement of the Commission to their proposed concentration, TotalFina has therefore committed to divest the majority of the assets of the new combined entity in logistics. These divestments, if fully complied with, will open facilities for importing, storing and transporting refined products on French territory. In fact, only such a significant opening of the infrastructure could enable third parties to contest efficiently TotalFina/Elf's market power through recourse to imports and to independent transport and storage facilities.

In practice, TotalFina gives up all presence it has or abandons its control positions in the majority of French import terminals, and in particular in those that supply the major pipeline systems supplying French territory. Moreover, TotalFina/Elf will keep only minority shares in the two principal French pipeline systems and completely withdraw from the third pipeline system as well as from all adjacent terminals. Finally a number of inland terminals (terminals located in the most important urban areas) will be divested.

The opening of the logistics, up to now dominated by the major

refiners, was considered sufficient to allow the maintenance of the competitive conditions on the retail market and will have a dissuasive effect on those refiners who would be tempted to raise prices for motor fuel and domestic heating oil.

**Motorways.** The Commission also found that the merger would eliminate competition in the market for retailing motor fuel on the French motorways. As the Commission had already noted in previous cases (the Total/Fina and Exxon/Mobil case), motor fuel sales on the motorways constitute a separate market with prices being significantly higher than prices charged off-motorways. The supermarkets are almost absent from this market, which was essentially shared between five operators, all being integrated refiners. The investigation conducted by the Commission has shown that competition, already reduced before the TotalFina/Elf concentration, would be nearly eliminated as the combined entity would hold almost two thirds of the market.

TotalFina proposed to divest 70 service stations, a figure roughly corresponding to Elf's motorway network, bringing the total down to 144. The elimination of the overlap was considered by the Commission as necessary to preserve the free choice of the motorists, and as the only means of preserving effective competition on a market characterised by partially captive customers.

**LPG.** Liquefied petroleum gas (LPG) is used by households for cooking and heating as well as by industry. The market was already very concentrated prior to the concentration. In fact, the four principal operators hold between 20 and 28% of market shares each, and two smaller competitors are linked with TotalFina and Elf through participation or joint venture.

The investigation of the Commission revealed that, post concentration, the new entity would acquire a dominant position on the market and would control an important part of the import logistics, storage and bottling infrastructure (for conditioned LPG), all of which would guarantee the new entity full autonomy throughout French territory, freeing it from dependency on infrastructure-access exchanges with its competitors. As the French LPG logistics situation is tense, it would be difficult for competitors to increase supply if the dominant group should increase its prices. In such a scenario, competitors of TotalFina / Elf would then follow the market leader rather than risk a confrontation.

TotalFina proposed the divestment of Elf Antargaz, the second actor on the LPG market in France. This eliminates the overlap between TotalFina and Elf. Also in this market, the implementation of the commitments will allow the maintenance of an accessible and competitive market in an



economic sector that is of a particularly sensitive nature for consumers.

**Airports.** Finally, the Commission raised concerns that the new entity would have the possibility to foreclose the supply of aviation fuels at the Lyon and Toulouse airports as the operation would concentrate the essential infrastructure in the hands of the merging parties. The Commission found that each of these two airports, which rank respectively as the third and fourth French airports, constituted substantial parts of the Common market. Indeed, they ensure an extended geographical cover of important urban and industrial areas as well as isolated regions. Moreover, Lyon – Satolas and Toulouse – Blagnac are both on the list of airports for priority liberalisation under the directive on groundhandling services.<sup>1</sup> Under this directive, the Commission publishes four lists of airports covered by the liberalisation requirements laid down in it.

TotalFina committed itself to divest the 50% share acquired from Elf in the supply of these two airports.

### Conclusion

The review of this transaction was of a particular importance for at least two reasons. First, the markets (motor fuel, energy sources, etc.) where the notified operation led to competition problems are vital in the daily life of most individuals. Second, this case illustrates the approach followed by the Commission where national majors are liable to combine to form a national champion. Such operations may result in the partitioning of the common market. In such circumstances, the Commission has to ensure the elimination of the activity overlaps (as the case for fuel retail on motorways, LPG and aviation fuel sales) and of all the bottlenecks that could enable the new entity to foreclose the market to its profit (control of the import logistics, transport and distribution of refined petroleum products).

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<sup>1</sup> Council Directive 96/67/EC of 15 October 1996 on access to the groundhandling market at Community airports, OJ L 272, 25.10.1996.



## Nordic Satellite Cases

By Andrew HOBBS, DG COMP-C-2

During the later part of 1998 and most of 1999 the Commission examined a series of notifications<sup>2</sup> involving agreements relating to satellite transponder capacity in the Nordic region. As well as raising issues in their own right, these cases were of particular interest because of their connections to two merger cases, Telia/Telenor<sup>3</sup> and NSD.<sup>4</sup>

The first of these merger cases involved the combination of Telenor, the leading supplier of satellite transponder capacity in the Nordic region and a shareholder in a Nordic pay-TV

operator, and Telia. Telia controls a major cable operator and leases a significant amount of transponder capacity from NSAB, the only other operator in the Nordic region. The examination of the merger benefited from the knowledge of the market gained by examining the notifications, in particular on market power in relation to satellite transponder capacity and the structure of pay-TV operations in the Nordic region.

The second merger case, NSD, related to various parties involved in the provision of pay-TV. It was prohibited by the Commission in 1995. The joint venture would have foreclosed the market for satellite transponder capacity in the Nordic region, as well as having an anti-competitive impact on pay-TV, cable-TV operators and the related markets for technological and administrative services. As NSD and the notifications involved a similar set of parties (a satellite transponder capacity provider, a pay-TV operator and a cable TV operator) and markets, it was considered whether the agreements constituted an attempt to replicate what that Decision had prohibited. Accordingly the agreements were considered collectively and a Notice was published in the

Official Journal<sup>5</sup> to see if any third parties had made similar connections.

All the notifications involved NSAB, or its parents. NSAB owns and operates satellites, primarily providing transponder capacity for broadcasting services to the Nordic and Baltic regions. It is owned by two state-owned Swedish companies, SSC and Teracom, and Tele Danmark, Denmark's largest cable-TV operator.

The first concern was to ensure that there was no collusion between existing Nordic satellite operators, NSAB and Telenor, or restriction on potential new entrants. Co-operation with Telenor to promote the sales of a dual-antenna capable of receiving from both NSAB and Telenor satellites, as well as a agreements with SES (the operator of the Astra satellites) to lease an NSAB satellite and the GECSI (a satellite builder) to jointly finance a new satellite, were examined. It was found that there was no restriction of competition.

The next concern was with competition between parents of NSAB, in particular whether Tele Danmark could have provided its own satellite capacity and whether the limits placed on the parents use of NSAB's transponder capacity were a form of market sharing. The later was of particular

<sup>2</sup> The 1999 cases were: Case No. IV/35.650 – NSAB, Kinnevik and Tele Danmark transponder lease agreement; Case No. IV/C-2/36.517 – NSAB, MTG, MTV Europe, Sci Fi Channel Europe LLC, and Nickelodeon International Ltd; Case No. IV/36.895 Tele Danmark and Canal Digital; Case No. IV/C-2/37.303 – NSAB and SES Sirius 3 lease; Case No. IV/C-2/37.406 – NSAB, Terracom, SSC and Tele Danmark operations agreement; and , Case No. IV/C-2/37.517 – NSAB and SVT. Two related cases with in 1998 were: Case No. IV/35.891 – NSAB+GECSI: Transponder Purchase Agreement; and, Case No. IV/36.150 - NSAB and Telenor Joint Marketing Agreement.

<sup>3</sup> Case No M.1439 – Telia/Telenor, 13/10/99

<sup>4</sup> Case IV/M490 Nordic Satellite Distribution, Official Journal L053, 02/03/96, page 20.

<sup>5</sup> Official Journal C168 16/06/99, page 9



## ➤ ARTICLES

concern as it involved unfamiliar markets and led to the publication of the Notice in the Official Journal.

Another issue involved NSAB's agreements with broadcasters (SVT) and pay-TV operators (MTG/Viasat). It was necessary to ensure they were neither tied to NSAB, or in a position where they controlled sufficient transponder capacity to deny access to other customers. This is

particularly of concern when, as is the case in the Nordic region, there are only two satellite operators and two pay-TV operators in the relevant markets. In such a market there must be strong justification for any exclusivity.

Finally, in relation to an issue raised in NSD, it was considered whether any party could use control of transponder capacity to impose a proprietary conditional

access and encryption system on broadcasters, pay-TV operators and cable television operators. Again this issue warranted the publication of a Notice in the Official Journal.

The conclusion of the examination was that, despite the similarities, the agreements did not replicate NSD. Having examined the notifications on an individual basis as well they all received comfort letters.



# OPINION AND COMMENTS

*In this section DG IV officials outline developments in community competition procedures. It is important to recognise that the opinions put forward in this section are the personal views of the officials concerned. They have not been adopted or in any way approved by the Commission and should not be relied upon as a statement of the Commission's or DG IV's views.*

## Who can be the beneficiary of a State aid ?

By Ben SLOCOCK, DG COMP-G-1

The title of this article is deliberately ambiguous: it can mean at the same time: "who is entitled to benefit from a state aid?" and also "for a given state aid, who can be said to be a beneficiary for the purpose of assessing its compatibility with the Treaty and for deciding the consequences if the aid is incompatible?"

This article identifies a number of linked issues which arise in answering these questions in the exercise of the Commission's state aid control under articles 87-89 EC, and signals some recent developments. The article does not attempt to list all cases in which these issues arise or to provide a definitive analysis. However, it will argue that a coherent picture is emerging on the Commission's view of such issues.

### The assumption of a single beneficiary

State aid analysis traditionally operates on the assumption that a given individual grant of aid has a single beneficiary, which is, crudely put, the name to whom the cheque is made out. There is of course an element of fiction in the implied belief that only this enterprise enjoys the benefit of the aid. In most cases not only

this enterprise but also its shareholders, suppliers, creditors, clients and employees may be better off as a result of the aid than they would have been without it. However, the assumption of a single beneficiary is entirely defensible as a means of carrying out state aid control in a manageable way. It is also fair to say that distortion of competition, at least in the markets of suppliers and clients, is likely to be limited, on the assumption that these markets are open (in particular because their competitors always have the option to trade with the aid beneficiary)<sup>6</sup>.

<sup>6</sup> In some recent decisions, the Commission found that an analysis on the assumption that there was a single beneficiary, namely the direct recipient of the advantage conferred by the Member State, could not adequately assess the measure's distortive effect. This is the case where Member States have devised schemes granting incentives to one set of economic operators to provide finance, services, premises etc to another set. Examples are section 52(8) of the German Income Taxes Act (OJ L 212/50 of 30.7.1998) and the Partnerships Investment Programme of English Partnerships (Case C 39/99, decision of 22 December 1999, not yet published). Such measures, often described as public/private partnerships, present their own difficulties in terms of state aid control. They are not however the subject of this article.

However, although it is usually reasonable to regard a measure as having a single beneficiary, the question can arise what is actually the precise meaning of the term. Is it the legal person? Is it the economic activity? What if one or both of these has disappeared or changed ownership?

### New guidelines on rescue and restructuring aid

Such issues often arise in the analysis of state aid granted to restructure a company in difficulty. In the recent revision of the relevant guidelines covering such aid<sup>7</sup>, the Commission clarified its position on two points. Firstly, it observed that the justification for accepting such aid is to allow a potentially viable enterprise to rid itself of the "weight of the past". It concluded from this that a new enterprise could not be eligible for such aid, including in that term *an enterprise which emerges from the liquidation of a previous firm or merely takes over a previous firm's assets*. Thus the Commission was effectively saying that the legal entity receiving the aid had to be the same as the one whose difficulties justified public intervention.

This position can be justified in several ways. From an economic point of view, the new enterprise has decided to buy the assets of the old one at a particular price

<sup>7</sup> OJ C 288 of 9.10.1999



which will take into account the restructuring costs which will follow. Adding aid simply distorts the market for those assets. It may help the creditors but makes little or no difference to the continuation of the activity in question, which is of course the aim of (and reason for authorising) a restructuring aid. So such aid is likely in any case to fail the necessity test. Against this it can be argued that assets may have a negative value and will not be purchased at all without aid: but then that is a good indication in a market economy that they will never be viable – so another important test applied to such aid is likely not to be met<sup>8</sup>.

From a legal point of view also, the new and old legal entities are entirely separate. Under national insolvency law the new one is rarely if ever responsible for the actions or omissions of the last one, even under special procedures (such as the French system of “reprise après redressement judiciaire”) where

<sup>8</sup> The Commission has accepted a limited exception to the “new companies” rule in the New Laender of Germany (see footnote 10 in the new guidelines). The economic argument for doing so is that the rule that assets sold for €1 without debt and still not viable, have little or no chance of ever being viable, holds because market forces would normally have ensured that the use of viable assets is optimised. Where there have been no market forces, it is more likely to happen that viable assets can be extracted from a non-viable whole but that the costs of doing so exceed the future profits from doing so.

the continuation of the activity, rather than the reimbursement of creditors, is the prime objective. If the Commission were to allow restructuring aid in such cases, successive liquidations and aided “Phoenix” companies, keeping alive non-viable operations through the creation of new legal vehicles, would be much more likely.

The Commission was thus identifying the legal entity, rather than the economic activity, as the important concept for the purpose of state aid analysis. It maintained this position in the second point to note in the new guidelines, namely in the application of the newly-introduced “one time last time” rule to successor companies purchasing the assets of previous aid beneficiaries. It indicated that such successor companies would not “inherit” the ban on a second restructuring aid from the previous beneficiary, provided that certain safeguards to prevent abuse were met. These are that the purchaser is clearly separate from the old firm; that the purchaser has acquired the old firm’s assets at market prices; and that the winding-up or court-supervised administration and purchase of the old company are not merely circumvention devices (the Commission could decide that this is the case if, for example, the difficulties encountered by the purchaser were clearly foreseeable when it took over the assets of the old company). These safeguards are referred to further below.

### Recovery of incompatible aid from successor companies

When a Member State has granted state aid illegally (ie without Commission authorisation) and the Commission finds this aid to be incompatible with the common market, it normally decides that the Member State must recover the aid. In normal circumstances (ie where the original beneficiary still exists and is continuing its activity) there is no doubt over where recovery should be sought from. However the Commission has been confronted with other circumstances and has had to decide from where recovery should be sought.

An important case in this area is Finmeccanica/Alfa Romeo. The Commission decided in 1989 that capital injections to Alfa Romeo made in 1985 and 1986 through public holding company Finmeccanica were illegal and incompatible state aid<sup>9</sup>. It ordered recovery. In the meantime the main productive assets of Alfa Romeo had been sold to Fiat. The legal entity (Alfa Romeo SpA) which had received the aid initially remained in Finmeccanica’s ownership but had its remaining assets (apart from tax credits) transferred to Finmeccanica and was then sold. It was liquidated in December 1987.

The Commission had to decide from whom the recovery should

<sup>9</sup> OJ L 394/9 of 1989.



be sought. The Commission decided that recovery should be sought from Finmeccanica and not from Fiat, even though the latter was now carrying out the economic activity in respect of which the aid had been granted. This decision was upheld by the ECJ<sup>10</sup>.

Here too we can see a concentration on the legal entity rather than the economic activity. But the concentration is not total and dogmatic. Strictly speaking the legal entity which had received the aid no longer existed at the time of the Commission decision, having had all its remaining assets transferred to its parent. That being the case the Commission sought recovery from the parent. The point tested by the Court was whether recovery should have been sought from Fiat. Noone contested that recovery was by then impossible because the legal vehicle had ceased to exist.

The Commission has dealt with similar issues more recently. In the Gröditzter decision<sup>11</sup> the Commission indicated that recovery should be made from Gröditzter or “any other undertaking to which assets have been transferred in such a way as to deprive paragraph 1 [the recovery decision] of any effect”. The Commission took this unusual step because it had

been hinted that the assets of Gröditzter might be transferred to another legal vehicle, in the same ownership, to evade the recovery decision. Thus the Commission saw a possibility that a future operator of the original beneficiary’s assets might be liable to pay recovery. This possibility was also raised in the case of the French shipyards ACH and in the Italian case Seleco.

So would the Commission always “pursue the assets” in order to effect recovery when the original legal entity no longer exists or is not in a position to repay the aid? The answer must be no. The obligation on the Member State is to use all available remedies to recover the aid from the entity which received it. Assuming it is a company, this may extend to forcing the company’s liquidation. Even if the liquidation does not produce enough proceeds to repay the aid in full, this could not in itself justify pursuing any future owner of the assets. Such a liquidation has a significant value in terms of the conditions of competition, since competing undertakings, which may have been harmed by the incompatible state aid, will have the opportunity to fill the market void left and/or to acquire the assets being sold<sup>12</sup>. (There is

also a salutary lesson for creditors and shareholders of the dangers of trading with and owning businesses receiving incompatible state aid.)

The question, then, is where the line is drawn between cases where assets can be pursued and those where they cannot. In all candour the line is not yet precisely defined. A parallel can however be drawn with the safeguard conditions mentioned above in connection with the “one time last time” rule<sup>13</sup>. One important test is whether the assets are still in the same ultimate ownership, as was the case both in Finmeccanica, in relation to the “remaining assets” of Alfa Romeo, and – potentially – in Gröditzter (cf the “clearly separate” condition above, which is clearly not met by the old and new owners of assets which are in the same ultimate ownership as before)<sup>14</sup>. Another is whether the transfer of assets was at market conditions. A third is whether the specific aim of the

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in compliance with the Commission decision.

<sup>13</sup> The kind of situation which would lead the Commission to pursue the assets can also be compared with national insolvency provisions on fraud on creditors etc.

<sup>14</sup> A further interesting example from the world of anti-trust is the case of SAGA Petrokemi which had its assets transferred to, and was then liquidated by, a new parent Statoil between the time of its participation in the polypropylene cartel and the imposition of fines. The Commission imposed the fine on Statoil. See OJ L 230/1 of 18.8.1986, recitals 97ff.

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<sup>10</sup> Case C-305/89, judgment of 21 March 1991, I-1603

<sup>11</sup> OJ L 292/27 of 13.11.1999

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<sup>12</sup> This is true even in the worst case scenario that the liquidation has already happened before the Member State tries to seek recovery



transfer was to frustrate recovery of the aid, though the Commission would probably not feel it necessary to prove this was the case if other tests showed that the recovery decision had, in fact, been deprived of effect. But these may not be exhaustive.

### The “pass-through” doctrine

Underlying all this thinking is the view that assets transferred at market conditions between independent economic operators are “cleansed” by the transaction both of the difficulties of their previous owners - assets carry no debts with them - and of any continuing advantage conferred by previous aid (but not if transferred at other conditions). There is a certain logic in this: it is hard to argue, at least in the majority of cases, that the price of those assets, and therefore the situation of the new owner, would have been lower in the absence of the previous owner's difficulties or higher in the absence of the state aid. By contrast there is nothing in the arguments and examples above which would suggest that change of ownership of a given legal entity, such as a company, on whatever terms, would affect the assessment that that entity continued to enjoy the benefit of a previous state aid. This different treatment of “asset sales” and “share sales” is further referred to below.

The view that a benefit continues to be enjoyed after a change of ownership, whether of assets or

of shares, is known as the “pass-through” doctrine. A version of this doctrine was recently tested in a different context from Community state aid control, namely an appeal to the World Trade Organisation by the Community against imposition by the USA of countervailing duties on certain hot-rolled lead and bismuth carbon steel products from the UK<sup>15</sup>. In 1992 the USA imposed duties against a company called UES which was previously 50% owned by the public (and subsidised) British Steel Corporation (BSC). BSC established UES in 1986 in association with another company GKN. British Steel plc was the successor of BSC in the sense that the former assumed the property, rights and liabilities of the latter in September 1988.

The UK government privatised British Steel plc in December 1988 through a sale of shares. It was not disputed that the privatisation of British Steel plc was at market conditions. The US found that a portion of the alleged subsidies in question (in the form of capital contributions dating from 1977-1985, which the US allocates over an 18 year period) “passed through” from BSC to UES and remained with UES after privatisation of British Steel plc. The US therefore imposed countervailing duties on imports of leaded bars produced by UES (later renamed BSES) based on that portion of “benefit”

from prior subsidies that was deemed to have passed through to UES.

The US argued that the determinative factor is the productive assets, not the owners, citing relevant WTO texts referring to the “subsidy” as being “bestowed, directly or indirectly, upon the manufacture, production or export of” the product. In focusing on the productive assets, the US asserted that the successor firm really is “no different” from the subsidy recipient. Clearly, this is a very different logic from the one which emerges from Community state aid texts and decisions described above, even if the case in question is complicated by the chain of transactions before and after the privatisation, and even if the concepts and aims of WTO disciplines are not directly parallel to those of Community state aid law.

The WTO panel's finding is an interesting one. Essentially it rejects the pass-through doctrine. It has, however, been appealed by the US (the WTO appellate body is due to report by late April 2000). It finds in the first instance that “fair market value was paid for all productive assets, goodwill etc. employed by UES and BSplc/BSES in the production of leaded bars imported into the United States in 1994, 1995 and 1996” (the period of the measures in question). In these circumstances, the panel failed to see “how pre-1985/86

<sup>15</sup> Panel decision dated 23.12.1999. Available at <http://www.wto.org/wto/ddf/ep/public.html>.



"financial contributions" bestowed on BSC could subsequently be considered to confer a "benefit" on UES and BSplc/BSES during the relevant periods of review". Thus it can certainly be seen that in the circumstances where the Commission would generally, for state aid purposes, see no transfer of advantage (sale of assets at market conditions between independent economic operators), the WTO panel would also do so.

The panel goes on to make a further statement, in connection with the argument that the privatisation of British Steel on market terms also eliminated any aid effects. The panel said "in our view, it is irrelevant that the aforementioned fair market value was paid by the (new) owners of UES and BSplc/BSES respectively, rather than those companies themselves. Any approach requiring that fair market value be paid by the company itself, rather than its owners, would elevate form over substance. In the context of privatizations negotiated at arm's length, for fair market value, and consistent with commercial principles, the distinction between a company and its owners is redundant for the purpose of establishing "benefit"".

On this point it can be argued that the panel diverges with Commission practice in state aid cases. As a rule, the Commission does distinguish between a company and its owners. Since

quoted companies change their ownership many times a day, it is hard to see how it could be otherwise. There is however established practice in the area of privatisation which suggests that the outcome in this particular case is not divergent. In the Commission's 23<sup>rd</sup> (1993) annual competition report the Commission noted that "When the privatisation is effected by the sale of shares on the stock exchange, it is generally assumed to be on market conditions and not to involve aid. Before flotation, debt may be written off or reduced without this giving rise to a presumption of aid as long as the proceeds of the flotation exceed the reduction in debt". Thus where a business is owned by the state and afterwards sold, debt write-off before the sale – which, without the sale, would certainly be considered to be aid to that enterprise – is no longer held to confer an advantage on the business after it.

### Conclusion

The author of this article is not a lawyer (this may already be clear to those who are). As such he tends to dislike the elevation of legal form over economic reality (or "form over substance" as the WTO expressed it). But it is too easy to fall into thinking that economic reality consists of activity, assets, employees while legal entities are mere chimeric constructions. Legal entities, and in particular companies, are in fact collections of economic interests organised in a particular

way. There is an economic logic, as well a legal one, in the view that the beneficiary of a state aid should generally be held only to be the legal entity which has received, or is proposed to receive it.

This general view can be seen to be maintained coherently by the Commission in the various examples cited above. The Commission does not, and should not, elevate this view to the level of dogma. Nor is there a strict logical need that this view should apply equally in all instances. It would, for example, be possible to defend a stricter position on the "one time last time" rule – no second aid for the same economic activity using the same assets – while maintaining the same view as now in relation to recovery and eligibility.

There are of course possible objections to the general view. In relation to eligibility for restructuring aid, it can be observed that when an enterprise buys the shares of a company in difficulty then the price will take into account the restructuring costs which will follow just as much as if it had purchased the assets. The crucial difference, however, is that a buyer of shares acquires an enterprise complete with liabilities. It is of course possible to construct an example where, perhaps following a concordat of creditors, an enterprise in difficulty has rid itself of most liabilities and the economic difference between a share and



## ➤ OPINION AND COMMENTS

an asset sale is minimal. But these cases are exceptional if they ever exist in practice at all. The Commission took the view in the new guidelines that the need to avoid abuse through drawing a clear line overrode any potential “hard cases” which could be theoretically imagined.

The general view should certainly not be maintained when it denies state aid decisions of

effect (hence the need to retain the possibility of “pursuing assets” in cases of aid recovery, even if the circumstances in which this can be done have not been precisely defined by the Commission). Against this, it can be argued that if the rule is not absolute, or if the exceptions are not clear, there is a lack of legal certainty. However in state aid, legal certainty comes from notification and approval. In the

recovery situation it should be remembered that we are by definition dealing with cases of illegality. Some doubt may be unavoidable – absolutely clear rules would need to be extremely complex (and would be an invitation to devise ways to get round them).



# ANTI-TRUST RULES

*Application of Articles 81 & 82 EC and 65 ECSC*

*Main developments between 1<sup>st</sup> November 1999 and 31<sup>st</sup> January 2000*

## Commission approves an agreement to improve energy efficiency of washing machines

*By Manuel MARTÍNEZ LÓPEZ, DG COMP-F-1*

On 24 January 2000, the Commission adopted an exemption decision<sup>16</sup> regarding an agreement notified by the European Council of Domestic Appliance Manufacturers (CECED).

The agreement gathers the principal European producers and importers of washing machines and aims at reducing energy consumption of domestic washing machines thereby reducing polluting emissions from power generation. To achieve this, participants, which hold in excess of 95% of the EC market, will stop producing for and importing into the EU the least energy-efficient machines<sup>17</sup>. The parties also undertake to achieve a common target of efficiency, promote technology and awareness on environmentally friendly use of machines and monitor implementation with annual reports.

This is the first time that a formal decision of application of Article 81 concerns a horizontal agreement between almost all EC manufacturers and importers aiming at eliminating products which do not meet environmental criteria. It is therefore useful to summarise the criteria set forth in it.

Among the four commitments, only the discontinuation of production and import of certain categories of washing machines is found to fall under Article 81 (1). The three others, in view of their modalities of implementation, are unlikely to appreciably restrict competition and affect trade between Member States.

The commitment to promote information and technology dissemination is formulated in a general way and does not limit the parties' autonomy of behaviour in the market. The exchange of information takes place in a non oligopolistic market and concerns one year old aggregated data. The contribution to a common efficiency target is formulated in a general way. Since there are no «quotas» on the basis of which individual contributions are

allocated, the commitment to contribute to the target is not deemed restrictive.

However, the discontinuation of production and imports of some categories of washing machines covers 10-11% of the machines sold in the EC. These machines amounted to a considerable proportion of the sales of some manufacturers prior to the agreement. Moreover, energy-efficiency is an important purchase criterion, on which manufacturers focus advertising and, therefore, on which competition takes place in the market. Finally, technical improvements may also increase prices in the short run.

Such an agreement between almost all producers and importers in the market falls under the prohibition of Article 81 (1). The decision concludes in respect of Article 81 (3) as follows:

- The agreement objectively contributes to technical and economic progress, by focusing production on more efficient machines. Such benefits would be unlikely or would occur less quickly without the agreement.
- Consumers derive benefits at the same time individually and for society as a whole: likely higher purchase costs of more efficient washing machines are quickly compensated by savings in electricity bills; the agreement contributes to EC environmental objectives and the benefits very largely

<sup>16</sup> Not yet published. Publication pursuant to article 19(3) of Regulation 17 in OJ C/382 of 9.12.98, p.6. Press release IP/00/148 of 11 February 2000.

<sup>17</sup> Such machines are labelled under categories D to G, pursuant to Commission Directive 95/12 (EC)



## > ANTI-TRUST RULES

exceed potential cost increases triggered as a result of the agreement. Even if individual purchasers were not to derive the financial benefits that they actually attain, the magnitude of environmental benefits is such that the net contribution to society's economic welfare would still be positive.

- The restrictions of competition are indispensable to attaining those benefits. Consumers do not sufficiently take external costs into account in their purchase decisions. The application of a minimum efficiency ratio mitigates this market failure. Alternatives such as public awareness campaigns or application of ecolabels would be complementary, rather than substitutable to the agreement.
- The agreement does not eliminate competition. Various technical means to improve energy efficiency of washing machines are economically available to all manufacturers; competition remains also on important purchase criteria such as prices, technical effectiveness, brand image etc; finally, 90% of sales of washing machines are not directly concerned.

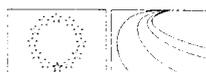
Three additional aspects need to be stressed in connection with the exemption decision. First, the decision illustrates the Treaty principle of integration of environmental concerns in

competition policy, taking into account quantitatively the costs and the benefits for the environment<sup>18</sup>. It also recognises the contribution of initiatives on the part of industry to achieve EC environmental objectives, in particular as regards energy efficiency and reduction of air pollution. Finally, the existence of a de facto minimum energy efficiency ratio renders superfluous legislation in this respect.

The exemption is granted for a short duration, from the date of notification until 31 December 2001, which is the expiry date of the agreement. Thereafter, it will become apparent whether the actual results and effects of the agreement are, on balance, satisfactory.

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<sup>18</sup> Article 174 of the EC Treaty and Articles 3(1)(f) and 7 of EP and Council Decision 2179/98/EC of 24 September 1998 on the review of the European Community programme of policy and action in relation to the environment and sustainable development "Towards sustainability" (OJ L 275, 10.10.1998, p.1).



## La Commission inflige des amendes à un cartel de producteurs de tubes d'acier sans soudure pour partage de marchés

Par Ingrid BREIT, DG COMP-E-1 et  
Francisco PÉREZ FLORES, DG COMP-H-1

### (1) Introduction

Le 8 décembre 1999 la Commission a adopté une décision sur base de l'article 81 CE imposant des amendes totalisant 99 millions d'euros à huit producteurs de tubes d'acier sans soudure. Ils se sont concertés jusqu'en 1995 sur le respect de leurs marchés domestiques respectifs en ce qui concerne certains tubes sans soudure destinés à la prospection et au transport de pétrole.

Cette décision s'inscrit dans le cadre de la lutte de la Commission contre les ententes illégales dans le secteur sidérurgique<sup>19</sup>.

### (2) Rappel des faits

#### (a) Les produits

Les produits ayant fait l'objet du cartel sont les tubes de sondage en acier (communément appelés

OCTG) "standard" et les tubes de transport (communément appelés linepipe) "project" qui constituent une partie des tubes utilisés pour le sondage et le transport du pétrole et du gaz.

#### (b) Les producteurs de tubes d'acier sans soudure concernés

Les huit entreprises concernées figurent parmi les plus grands producteurs de tubes sans soudure au niveau mondial. Il s'agit de quatre entreprises communautaires (British Steel Limited, Royaume-Uni, Dalmine S.p.A., Italie, Mannesmann-röhren Werke A.G., Allemagne, et Vallourec S.A., France) et de quatre entreprises japonaises (Kawasaki Steel Corporation, NKK Corporation, Nippon Steel Corporation et Sumitomo Metal Industries Limited).

#### (c) Le fonctionnement du cartel

En vue de coordonner leur comportement sur les marchés des OCTG standard et des linepipe project, les producteurs européens et japonais ont mis sur pied un cartel qu'ils ont appelé le « Club Europe - Japon ».

Ce cartel a restreint la concurrence dans le marché

commun en prévoyant le respect des marchés domestiques des différents producteurs (c'est-à-dire les marchés allemand, français, italien, britannique, japonais) dans la mesure où l'offre de tubes sans soudure dans les Etats de la Communauté où était établi un producteur national a été limitée par l'abstention des autres producteurs parties à l'accord de livrer des tubes sur ces marchés. D'autres volets de l'accord de cartel concernant certains marchés tiers n'ont pas fait l'objet de décision puisque la Commission n'a pas pu apporter la preuve d'un effet restrictif à l'intérieur de l'UE.

En ce qui concerne la durée de l'infraction, la Commission a retenu la période 1990-1995 (sauf pour British Steel Limited qui a abandonné la production des tubes en question en 1994).

#### (d) Amendes

Lors de la fixation des montants des amendes la Commission a tenu compte du fait qu'un accord visant le respect des marchés domestiques des entreprises participantes constitue par nature une infraction très grave au droit communautaire puisqu'il porte atteinte au bon fonctionnement du marché intérieur. De plus, les quatre Etats membres en cause représentent la majorité de la consommation des OCTG et des linepipe sans soudure dans la CE et, dès lors, un marché géographique étendu.

<sup>19</sup> Décision du 16.02.1994 dans l'affaire « Poutrelles » (JO L 116 du 6.5.1994, p.1), décision du 26.11.1997 dans l'affaire « Wirtschaftsvereinigung Stahl » (JO L 1 du 31.01.1998) et décision du 21.01.1998 dans l'affaire « Extra d'alliage » (JO L 100 du 01.04.1998, p.55)



## ➤ ANTI-TRUST RULES

Cependant, la Commission a aussi tenu compte du fait que les OCTG standard et les linepipe project vendus par les entreprises destinataires de la décision dans la Communauté ne représentent qu'environ 19% de la consommation communautaire des OCTG et linepipe sans soudure. En outre, une partie de la demande d'OCTG et de linepipe sans soudure pouvait être couverte par des tubes soudés de moyen diamètre. Enfin, les ventes de ces produits par les entreprises destinataires de la décision dans les quatre Etats membres concernés ne s'élevaient qu'à environ 73 millions d'euros par an pendant la période 1990-1995. L'impact concret de l'infraction sur le marché est dès lors resté limité.

La Commission a retenu comme circonstance atténuante la crise de longue durée qu'a connu le secteur et le fait que depuis 1991 la situation du secteur s'est détériorée ce qui, combiné à l'afflux croissant des importations, a entraîné des réductions de capacités et des fermetures d'usines.

Il a enfin été fait application de la communication concernant la non-imposition d'amendes ou la réduction de leur montant dans les affaires portant sur les ententes<sup>20</sup>.

Vallourec a été la seule entreprise à fournir des éléments substantiels sur l'existence et le

contenu de l'entente et a ainsi permis à la Commission de constater l'infraction à l'article 81, paragraphe 1, CE avec moins de difficulté. Cette coopération a justifié une réduction de 40 % du montant de l'amende. Dalmine, qui n'a pas contesté la matérialité des faits sur lesquels la Commission avait fondé ses accusations, a obtenu une réduction de 20 % du montant de l'amende.

La décision fait une nette distinction entre ces deux entreprises qui ont réellement coopéré et celles au comportement ambigu comme Mannesmannröhren Werke et British Steel: bien qu'elles n'aient pas contesté les faits, elles n'ont jamais clairement exprimé leur position ou mis en doute l'existence de l'accord tel que décrit dans la communication de griefs. Un tel comportement ne constitue pas une coopération effective qui aurait pu justifier une application de la communication précitée.

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<sup>20</sup> JO C 207 du 18 juillet 1996, p.4



## The Commission fines FEG, the Dutch association of electrotechnical equipment wholesalers and its biggest member TU

By Ernst FERDINANDUSSE, DG COMP-F-1

On 26 October 1999, the Commission adopted a Decision by which fines have been imposed on the Dutch association of electrotechnical equipment wholesalers (FEG) and its biggest member Technische Unie (TU) for violating Article 81(1) of the EC Treaty<sup>21</sup>. The Commission found that FEG and TU restricted competition by operating a system of collective exclusive dealing in combination with a system of price co-ordination on the Dutch wholesale market for electrotechnical equipment. The Commission therefore imposed fines of euro 4.4 million on FEG and euro 2.15 million on TU.

The case started as a result of a complaint in 1991 by the UK based wholesaler in electrotechnical equipment City Electrical Factors and its Dutch subsidiary ("CEF"). It concerns two infringements of Article 81(1) of the EC Treaty on the Dutch wholesale market for electrotechnical equipment, essentially over the period 1986-1994. Electrotechnical equipment includes a wide range of electrical products such as cables, plugs, lightsources,

switches and sockets used for creating an electrical system in buildings, houses and industries. The first infringement regarded the operation of a collective exclusive dealing arrangement involving the FEG, the association of importers of such products in the Netherlands ("NAVEG") and a large number of individual suppliers of such products.

Under this agreement FEG prohibited members of the NAVÉG and individual suppliers from selling to wholesalers which were not members of FEG. The prohibition deprived these wholesalers of many of their sources of supply and complicated and delayed the entry to the Dutch market of foreign wholesalers such as the complainant. At the same time, the arrangement prevented suppliers from selling their products on the Dutch market via wholesalers who were not FEG members. As the turnover of the NAVÉG members, especially depended for a large part on sales to FEG members it was difficult for them to ignore the wishes of the FEG.

The arrangement was based on a gentleman's agreement between the FEG and the NAVÉG which was joined by individual suppliers. It appeared that until the late fifties the collective exclusive dealing arrangement had been based on a formal written agreement. The Commission found evidence that after its prohibition by the Dutch competition authorities the parties had decided to convert the formal written agreement into the above-mentioned more covert gentleman's agreement.

The second infringement identified by the Commission regarded the interference by FEG in the pricing policy of its members. It appeared from many documents that FEG and its members aimed at lessening price competition among themselves and at creating artificial price stability to ensure healthy margins. In order to achieve these goals FEG and its members had recourse to the following instruments:

- a binding FEG decision prohibiting its members from advertising using specially-reduced prices;
- a binding FEG decision obliging the FEG members to pass on to their customers price increases implemented by the supplier after they have ordered the products;
- discussions among FEG members on prices and discounts in the context of FEG meetings; and
- price recommendations issued by FEG to its members.

<sup>21</sup> OJ L 39 of 14 February 2000, p. 1



## ➤ ANTI-TRUST RULES

The effects of the price arrangements were enhanced by the collective exclusive dealing arrangement. As the exclusive collective dealing arrangement intended to deprive potential price cutters such as non-FEG wholesalers from their sources of supply, the possibility that the artificial price stability created by FEG and its members would be put at risk by outsiders was strongly reduced.

Considering that FEG members account for 96% of the Dutch wholesale market for electrotechnical equipment, the violations have appreciably restricted competition. As between 30-50 % of all electrotechnical products sold on the Dutch market are imported, trade between Member States has also been appreciably restricted.

The decision orders the parties to put an end to the above infringements in so far as this has not yet occurred and imposes fines on both FEG and TU. The Commission has calculated the fines on the basis of its published fining guidelines<sup>22</sup>. In determining the amounts of the fines the Commission has taken into account that the infringements were serious and of long duration.

The Commission has identified FEG as the initiator and controller of both the collective

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<sup>22</sup> Guidelines on the method of setting fines, OJ No. C 9 of 14.1.1998

exclusive dealing arrangement and the pricing arrangements. The Commission has also fined FEG's biggest and most important member TU for two reasons, namely for supporting the infringements through:

- its active and long-term participation in the board of FEG and its committees; and
- its individual behaviour in support of both restrictions in its contacts with individual companies.

The Commission decided not to act against the 6 other members of the FEG which also received the Statement of objections. The information provided by those 6 parties in their written observations to the Statement of Objections and their comments during the hearing showed that in their case the Commission possessed insufficient evidence.

The procedure which started in 1991 has taken a considerable amount of time. Although the Commission considers that it is not solely responsible for the length of the proceedings, it has accepted its responsibility by taking into consideration the case law of both the Court of First Instance and the European Court of Justice in setting the amount of the fine<sup>23</sup>. The fines for both FEG and TU were therefore reduced by 100.000 euro each.

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<sup>23</sup> See the Court of Justice, case C-185/95 P, *Baustahlgewebe* [1998] ECR I-8485 and the Court of First Instance in the joined cases T-213/95 and T-18/96, *SCK and FNK v Commission* [1997] ECR II-1739.

At the start of this year FEG (T-05/00) and TU (T-06/00) lodged appeals with the Court of First Instance against the Commission Decision.



# MERGERS

Application of Council Regulation 4064/89

## Recent developments and important decisions

By Tiina PITKÄNEN, DG COMP-B-2 and  
Neil MARSHALL, DG COMP-B-1

### Introduction and statistical overview

The number of incoming notifications continued at record levels between 1 September and 31 December 1999. A total of 107 operations were notified and 92 decisions were adopted on cases under the Merger Regulation's main provisions (Articles 6 and 8). This was nine decisions more than over the previous four month period. The Commission also adopted one partial referral decision under Article 9 of the Merger Regulation.

In total, the Commission cleared 63 transactions in the first phase of the investigation. Of these 4 were approved in the first phase only after the parties submitted undertakings. A detailed enquiry in accordance with Article 6(1)c of the Merger Regulation was opened in a record number of 10 cases. One further operation was abandoned. The Commission took a decision after a detailed investigation in 5 cases. This included one prohibition decision. The others were approved subject to divestiture and other commitments, none was cleared without some form of commitment

The Commission imposed fines for providing incorrect information in merger proceedings in 2 cases. Nine decisions were taken involving joint ventures where the risk of parental co-ordination was analysed under Article 2(4). One of these was cleared subject to commitments, the remainder cleared without commitments. The Commission issued a decision under Article 7(4) in 4 cases.

### Decisions adopted following a detailed investigation (Article 8)

#### Decision adopted under Article 8(3) (declaring the operation incompatible with the common market)

Following a detailed investigation, the Commission decided to prohibit the proposed merger between *Airtours* plc and *First Choice*<sup>24</sup> in the UK package holiday sector, as competition in the short-haul package tour market in the UK would have been significantly reduced. The transaction would

have led to the creation of a situation of collective dominance between the merged *Airtours/First Choice* and the two other large, vertically integrated suppliers, Thomson and Thomas Cook. This was the first occasion on which the Commission prohibited a merger on the grounds of collective dominance among more than two firms.

The Commission found that all four companies were fully vertically-integrated, both upstream into charter airline operation, and downstream into distribution via the chains of travel agents which they owned. This tended to align their cost structures and increase the transparency of the market by making the large firms' costs more easily visible to each other, reducing the likelihood of strong price competition between them. It also increased the scope for commercial links between them. Another key feature of the market was the relative inflexibility of supply, which created an incentive for the larger, integrated tour operators to keep the market 'tight' and not to expand capacity in order to compete aggressively with each other for market share. The Commission also found that there were potentially significant barriers to expansion by the many smaller tour operators to a size comparable to that of the four large firms.

The Commission found that the risk of an oversupplied market would act as a deterrent for the

<sup>24</sup> Case No. IV/M.1524 – *Airtours/First Choice*; Article 8(3) decision 22 September 1999



oligopolists to compete for market share. The Commission also found that there would be scope for retaliation among the oligopolists if one of them were to do so. Against this background, the removal of First Choice as a competitor in tour operation and travel agency, and its likely loss as a major supplier of airline seats to third parties would, in the Commission's view, lead to the creation of a collective dominant position among the three remaining large firms, with significant anticompetitive consequences. It would strengthen their interdependency, further marginalise the 'fringe' of smaller players, and increase market transparency. That would raise the incentives for the oligopolists to restrict their capacity, and facilitate the adoption of effective strategies for doing so.

Airtours proposed undertakings to remedy the Commission's competition concerns. The proposal was to divest certain tour operating assets - including brand names and existing bookings - to a suitable third party. However, this was found to be inadequate largely because it did not address the problem of access for the prospective buyer to a suitable channel of distribution for its holidays. It would not, therefore, have remedied one of the main competition detriments of the merger. Subsequently the operation was prohibited.

### **Decisions adopted under Article 8(2)**

In the five cases summarised below, the transactions were cleared subject to undertakings following in-depth investigations.

In *Exxon/Mobil*<sup>25</sup>, the operation as notified would have created or strengthened dominant positions in a large number of markets. Serious competition concerns arose, amongst others, on the markets for wholesale transmission of natural gas in the Netherlands and Germany, motor fuel retailing in several Member States, group I base oils (an ingredient for the production of lubricants) in the EEA and aviation lubricants world-wide. In order to remedy these concerns, the parties offered what is the most comprehensive remedy package accepted under the Merger Regulation to date. Several of these remedies raised particularly difficult issues. For example, Mobil agreed to withdraw from its joint venture with BP covering motor fuel and lubricants retailing in Europe. But the Commission had to balance the need for a quick resolution of its competition concerns against the need for the parties to get a proper consideration for Mobil's interests in a sale to a monopsonist buyer. In relation to aviation lubricants, the

Commission obtained the divestiture of Exxon's business after the parties had initially proposed to divest Mobil's aviation lubricants business. The Commission considered the sale of Mobil's business to be inadequate because even though it would have eliminated the overlap between the parties, the Commission found that Mobil's business was more integrated with the Mobil group than that of Exxon. Therefore, Exxon's aviation lubricants business was considered to be more viable as a stand-alone entity, allowing the eventual purchaser to compete independently from the parties.

At the same time as the Commission was investigating *Exxon/Mobil*, it was also investigating another important merger in the oil and chemicals sector: the take-over by *BP Amoco* of *Atlantic Richfield*<sup>26</sup>. To illustrate the rapid pace of consolidation in this sector, the BP Amoco Group had itself only been formed after the merger between The British Petroleum Company and Amoco Corporation in December 1998. As initially notified, the operation would have created dominant positions on the market for the transport of unprocessed natural gas to the UK mainland through off-shore pipelines from fields in the Southern North Sea ('SNS')

<sup>25</sup> Case No. IV/M.1383 - Exxon/Mobil; Article 8(2) decision with undertakings of 29 September 1999

<sup>26</sup> Case No. IV/M.1532 - BP Amoco/Atlantic Richfield; Article 8(2) decision with undertakings 29 September 1999



## ➤ MERGERS

sector of the UK Continental Shelf and also on the market for processing natural gas in processing facilities on the UK mainland servicing the SNS area. In order to eliminate the competitive concerns, BP Amoco undertook to divest certain pipeline and processing interests which had the effect that the merged entity's position remains similar to that of BP Amoco's beforehand.

In its investigation into the merger between the Swedish *Telia* and the Norwegian *Telenor*<sup>27</sup>, the Commission concluded that the concentration as originally notified would have caused serious competition concerns in a number of telecommunications and related services markets in both Sweden and Norway. The operation would have also led to adverse competition effects in the Irish mobile telephony market, where the merged entities would have had control over both of the only two operators active on the Irish market. Lastly, there were serious competition concerns in a number of Nordic, Swedish and Norwegian television services markets. The operation was subject to far-reaching commitments to open up access to the local access networks for telephony as well as to divest *Telia* and *Telenor*'s respective cable-TV businesses and other overlapping business. In particular, *Telia* and *Telenor*

committed to divest all existing overlaps in the field of telecom services. The parties also undertook to sell either company's stake in one of the two existing Irish mobile telephony operators. The parties also undertook to divest their respective interests in cable-TV networks in Sweden and Norway and to implement a set of measures to introduce local loop unbundling (LLU) in both countries.

In the form notified to the Commission, the transaction between *Sanitec* and *Sphinx*<sup>28</sup> would have led to adverse competition effects in ceramic sanitary-ware and other bathroom products in the Nordic countries. The high market shares (up to 90%), an absence of countervailing buying power and only marginally present competitors led the Commission to conclude that the operation would have had a particularly negative effect on the Nordic customers. *Sanitec* offered subsequently a full divestiture of *Sphinx*'s Gustavsberg business in the Nordic countries. A notable feature of these undertakings is that while the Commission did not find competition problems in taps and mixers as such, the possibility for the potential buyer to buy this business as well was considered important for the viability of the divested

business. The option to acquire this taps and mixers business will ensure that the buyer will be able to offer a full range of products and compete fully with *Sanitec* on the Nordic market.

Finally, in *Honeywell/AlliedSignal*<sup>29</sup>, the Commission's investigation focused on the markets for avionics for commercial applications (products generally found in the aircraft cockpits, such as communication and navigation equipment). The operation combined the first and the third largest world-wide suppliers of commercial avionics with major presence in all aviation segments. The combined market shares produced by the merger in some markets were as much as 100 % in weather radars for civil helicopters. The combined entity would have reached market shares up to 74 % in Airborne Collision Avoidance Systems (ACAS) processors and Mode S Transponders and there would have been only one remaining competitor in this market which exhibited high barriers to entry. Furthermore, the parties' strong position in the market for Terrain Awareness Warning Systems (TAWS) would have had an effect on the future market for Integrated Hazard Awareness Systems (IHAS), since the TAWS is a key part of this system. The new entity would have been able to

<sup>27</sup> Case No IV/M.1439 – *Telia/Telenor*; Article 8(2) decision with undertakings 13 October 1999

<sup>28</sup> Case No IV/M.1578 – *Sanitec/Sphinx*; Article 8(2) decision with undertakings 1 December 1999

<sup>29</sup> Case No IV/M.1601 – *AlliedSignal/Honeywell*; Article 8(2) decision with undertakings 1 December 1999



technically link its engineering force and technology for the next generation of IHAS and thereby foreclose competition. In order to remedy their resulting dominant positions, the parties offered to divest Honeywell's entire ACAS business and AlliedSignal's weather radar business. With respect to TAWS, commitments were given to supply third parties with details of the open interface standards of other avionics products of the new entity, so that new suppliers can have their products installed on aircraft equipped with other avionics from the new entity. Regarding IHAS, there will be an obligation to supply third parties with TAWS technology as well as interface data so that future product development by competing suppliers can continue to take place.

**Decisions adopted under Article 6(1)c**

The period saw a record number of ten proceedings opened under Article 6(1)c of the Merger Regulation.

The Commission decided to open a full investigation in two operations in the industrial gases industry. In *Air Liquide/BOC*<sup>30</sup>, the main competition concerns arose from the strong position Air Liquide would obtain in particular in markets for the supply of oxygen and nitrogen in large quantities to industrial

<sup>30</sup> Case No. IV/M.1630 – Air Liquide/BOC; Article 6(1)c decision of 16, September 1999

users (so-called tonnage markets), in the markets for helium and for speciality gases used in the electronics industry. The proposed acquisition of the Swedish company AGA AB by the German company Linde Aktiengesellschaft (*Linde/AGA*)<sup>31</sup> raised serious doubts as to its compatibility with the common market in particular in Germany, the Netherlands and Austria.

Competition concerns arise also in case *TotalFina/Elf Aquitaine*<sup>32</sup>. The concentration, as notified to the Commission, could lead to dominant positions on the French territory, in particular on the markets of wholesale of fuel (petrol, gas oil, LPG), fuel retail sale of fuel on the motorways, production and the sale of LPG and the jet fuel supply of the Toulouse and Lyons airports. TotalFina presented undertakings, but these were judged insufficient both in scope and in substance so as to eliminate the serious doubts raised by the operation. For these reasons, the Commission decided to open a full investigation into the notified operation.

The proposed acquisition by the Canadian *Onex Corporation* of *Air Canada* and *Canadian*

<sup>31</sup> Case No. IV/M.1641 – Linde/AGA; Article 6(1)c decision of 1, October 1999

<sup>32</sup> Case No. IV/M.1628 – Totalfina/Elf Aquitaine; Article 6(1)c decision of 5 October 1999

*Airlines Corporation*<sup>33</sup> would have brought the two main Canadian airlines serving routes between Canada and London under common control. It would also have resulted in the *Oneworld* airline alliance becoming the only one serving UK-Canada direct routes. The Commission was concerned that the operation would have led to anticompetitive effects as the two Canadian airlines, together with British Airways (BA) are at present the only ones allowed, under bilateral government agreements, to fly scheduled direct services between Canada and London Heathrow, and all three have substantial shares of this traffic. Moreover, the Commission's enquiries suggested that potential competitors may experience difficulty in obtaining appropriate take-off and landing 'slots' at Heathrow. The operation was abandoned a month after the Commission opened its detailed investigation.

A detailed investigation was begun into the acquisition by *Volvo of Scania*<sup>34</sup>, both leading European suppliers of trucks, buses and engines in the EEA and world-wide. The Commission's initial investigation suggested that the merger would lead to adverse competition effects in the sectors of heavy trucks and buses. For

<sup>33</sup> Case No. IV/M.1696 – Onex/Air Canada/Canadian Airlines; Article 6(1)c decision of 15 October, 1999

<sup>34</sup> Case No. IV/M.1672 – Volvo/Scania; Article 6(1)c decision of 25 October 1999



both sectors, the combined market share of Volvo/Scania after the merger would be extremely high, especially in the whole of the Nordic area of Europe (Denmark, Finland, Norway, Sweden), as well as in the UK and Ireland, in particular in buses.

The Commission also opened in-depth investigations into three operations affecting the worldwide aluminium markets. The proposed merger between aluminium producers *Alcan*, *Alusuisse* and *Pechiney*<sup>35</sup> represented two of these operations since Alcan had made two separate and independent share exchange offers, one for the shares of Alusuisse and the other for the shares of Pechiney. Although the ultimate aim of the companies was a three-way merger, the two offers were not conditional upon each other so that it was possible for one merger to happen without the other. The initial investigation of the Commission identified a number of markets where the operation would raise serious doubts as to its compatibility with the common market. More particularly, the Commission was concerned that competition problems could arise in alumina trihydrate, several flat rolled aluminium products (e.g. lithographic sheet, beverage can

stock, food can stock, automotive sheet and architectural sheet), and packaging products (e.g. flexible aluminium packaging, semi-rigid aluminium containers, aluminium cartridges and aluminium aerosol cans).

The third case in the aluminium sector was the proposed merger between *Alcoa* and *Reynolds*<sup>36</sup> that would create one of the largest integrated aluminium companies in the world. The Commission's initial investigation identified a number of markets where the merger would raise serious competition concerns. Competition concerns would arise in smelter-grade alumina (SGA), commodity hydrate, aluminium fluoride and synthetic zeolite, high purity aluminium and in particular P0404 aluminium.

In *MMS/DASA/Astrium*<sup>37</sup>, the Commission had concerns that the creation of Astrium, a joint venture of the German DaimlerChrysler Aerospace AG (DASA) and the Netherlands-based Matra Marconi Space N.V. (MMS) could lead to the creation of a dominant position on certain institutional markets for space systems in Europe. On the prime contracting level, Astrium would have a leading position in observation and

scientific satellites and space infrastructure and is an important supplier of certain components to its main competitors, *i.e.* Alcatel Space and Alenia Aerospazio. Astrium might therefore be in a position to foreclose these prime contracting markets. Similarly, there were risks that the operation could have adverse effects at the component level, as Astrium could use its strong position as a purchaser to favour in-house suppliers and therefore foreclose such markets to third party suppliers.

Finally, the Commission decided to open a full investigation into the proposed acquisition by *Dow Chemical* of *Union Carbide* (UCC)<sup>38</sup>. The operation would result in the creation of one of the world's largest polyolefin companies. Serious doubts as to the compatibility of the operation with the common market arose on the polyethylene resins, polyethylene technology and ethyleneamines sectors. More particularly, on the polyethylene resins sector, the parties would have high market shares for all linear low density polyethylene (LLDPE) resins and in particular in C6 LLDPE and C8 LLDPE. The operation also gave rise to serious concerns also in relation to the market for polyethylene technology. In the ethyleneamines sector, the merger would result in significant

<sup>35</sup> Cases No. IV/M.1663 – Alcan/Alusuisse; Article 6(1)c decision of 10 November 1999; No. IV/M.1715 – Alcan/Pechiney; Article 6(1)c decision of 10 November 1999

<sup>36</sup> No. IV/M.1693 – Alcoa/Reynolds; Article 6(1)c decision of 20 December, 1999

<sup>37</sup> Case No. IV/M.1636 – MMS/S'DASA/Astrium; Article 6(1)c decision of 3 December 1999

<sup>38</sup> Case No. IV/M.1671 – Dow Chemical/Union Carbide; Article 6(1)c decision of 22 December 1999



overlaps, giving the parties high market shares both in the EEA-wide and globally.

**Decisions adopted under Article 6(1)b involving remedies**

The Commission cleared, subject to undertakings, four operations in the initial phase of the investigation.

In *Pakhoed/Van Ommeren*<sup>39</sup>, the Commission cleared a merger between the Dutch companies Pakhoed and Van Ommeren following the undertakings of the merging firms to divest part of their liquids storage terminals in Rotterdam and Antwerp. A merger proposal between the two companies had already been filed to the European Commission one and a half years ago, but at that time the divestment proposals were not sufficient to remove the competition problems that had been identified and the merger was called off. As a result of the current divestment proposals, the competitive overlaps in the storage markets in the ARA area (Antwerp - Rotterdam - Amsterdam) will be eliminated and the merger therefore does not raise competition concerns.

The Commission further approved the creation of a joint venture, *EdF Trading Ltd*, by *Electricité de France (EdF)* and

*Louis Dreyfus*<sup>40</sup> in the field of energy trading. As a result of its investigation, the Commission found that the proposed operation could strengthen the dominant position of EdF on the market for the supply of electricity to eligible customers in France, during the period between the establishment of EdF Trading and the legal and effective opening of this market. In order to remove the Commission's serious doubts as to the compatibility of the operation with the common market, the parties agreed that EdF Trading would not directly or indirectly assist EdF in establishing prices or structuring contracts for eligible customers in France, nor would it assume the risks associated with such complex offers until the French market had been opened.

The Commission approved the transaction between *New Holland* and *Case*<sup>41</sup> in the agricultural machinery and construction equipment sectors following far-reaching commitments. The concentration as originally notified would have caused serious competition concerns in the agricultural machinery sector by threatening to create or strengthen dominant positions in the markets for standard tractors, combine harvesters and large square

balers in a number of Member States. The Commission's concerns related in particular to the parties' high combined market shares, to the substantial brand and/or dealer loyalty in the agricultural machinery sector, and to the high barriers to entry caused by the need for dense distribution and aftersales networks. In the construction equipment sector, the concentration would have caused serious competition concerns by threatening to create a collective dominant position on the EEA market for backhoe loaders. In order to address these serious doubts, the parties committed to divest various ranges and brands of tractors, combine harvesters, large square balers and backhoe loaders. Moreover, the parties committed to open up their dealer networks in the EEA for all of the products divested. These undertakings will materially reduce the market shares of the merged entity in each of the markets where competition concerns were identified by the Commission.

The Commission approved the transaction between *Akzo Nobel* and *the Hoechst Roussel Vet Group*<sup>42</sup> subject to substantial commitments to divest of products for veterinary pharmaceuticals and biologicals. The Commission's investigation showed that the concentration would have caused serious

<sup>39</sup> Case No. IV/M.1621- Pakhoed/Van Ommeren; Article 6(1)b decision of 10 September 1999

<sup>40</sup> Case No. IV/M.1557 - EDF/Louis Dreyfus; Article 6(1)b decision of 28 September 1999

<sup>41</sup> Case No. IV/M.1571 - New Holland/Case; Article 6(1)b decision of 28 October 1999

<sup>42</sup> Case No. IV/M.1681 - Akzo Noble/Hoechst Roussel VET; Article 6(1)b decision of 22 November 1999



competition concerns by threatening to create or strengthen dominant positions in the markets for mastitis treatments as regards dry cow products based on cephalosporins in France. In the market sector of endocrine treatments the operation raised concerns of collective dominance in the market for synthetic prostaglandins in Portugal and of single dominance in the market for gonadotrophins in Spain. Moreover, competition concerns with regard to possible range effects also arose as both parties hold strong positions in particular in France and Germany for different endocrine treatments. The concentration would have also caused serious competition concerns by threatening to create or strengthen dominant positions in animal vaccines in several Member States. In order to address these serious doubts, the parties committed to divest products, and to licence and transfer to a viable independent third party the products in those markets where the Commission had serious competition concerns. The undertakings given will materially reduce the market shares of the merged entity in each of the markets where competition concerns were identified and the Commission therefore found that the modified concentration no longer raised serious doubts.

**Decisions adopted under Article 2(4) (co-operative joint ventures)**

The Commission issued decisions under Article 2(4) of the Merger Regulation in nine cases. Eight operations were cleared without undertakings while the co-operative joint venture between *Fujitsu* and *Siemens*<sup>43</sup> was cleared subject to the companies' compliance with certain commitments. This operation combined the European businesses of Siemens and Fujitsu for the development, manufacture and sale of computer hardware and related products, including desktop PCs, laptops, workstations, servers and storage systems. The Commission found that there was a risk of parental co-operation on the financial workstations market. To address the Commission's serious competitive concerns in that market, Siemens undertook to divest Siemens Nixdorf Retail and Banking Systems GmbH, a subsidiary active on that market.

**Decisions adopted under Article 9 (referrals to Member States)**

The French authorities asked, under Article 9 of the Merger Regulation, for the referral of certain product markets considered as local in the case *TotalFina/Elf Aquitaine*. These were the markets for storage of petroleum products, for sales of

motor fuels on the French motorways and wholesales of LPG. In response to this request, the Commission granted a partial referral, that is, certain local markets considered as non substantial parts of the common market, such as several local petroleum storage depots serving the areas of Port-La-Nouvelle (south-eastern France), the northern part of Paris and the southern part of Paris and of Lyon, in view of the application of national legislation. However, as the Commission had initiated proceedings in relation to the other markets covered by the request of the French authorities, it did not refer the remaining markets, pending of a final assessment at Community level. Eventually, the undertakings offered by TotalFina remedied the problems indicated by the French authorities in those markets. Consequently the French authorities withdrew their request for the markets not included in the Commission's referral decision, to the extent that the concerns raised by the French authorities were removed through the undertakings offered by the parties to the Commission.

**Decisions adopted under Article 14**

The Commission imposed fines under the provisions of the Merger Regulation in two cases. In *Deutsche Post/trans-o-flex*<sup>44</sup>, Deutsche Post AG notified its

<sup>43</sup> JV.22 Fujitsu/Siemens

<sup>44</sup> Case No.IV/M.1610 – Deutsche Post/trans-o-flex; Article 14 decision of 14 December 1999



planned acquisition of the German high-speed delivery service, trans-o-flex GmbH in February 1999. According to Deutsche Post, it had acquired a minority shareholding in trans-o-flex in 1997 but the notification contained facts that pointed to an acquisition of sole control during that time. If that had been the case, the Commission would have had no jurisdiction to assess the transaction as notified in 1999 but, instead, the evaluation of the acquisition of the shares in 1997 would have had to be carried out by a number of national authorities. On the basis of these indications, the Commission requested additional information from Deutsche Post and others concerning the 1997 transaction. In the course of this investigation, it became apparent that Deutsche Post had deliberately supplied incorrect and misleading information to deceive the Commission. The Commission's investigation suggested that Deutsche Post had exercised control over trans-o-flex since 1997 through its largest shareholder, Industrial Information. The Commission found that Deutsche Post had committed a serious infringement of two provisions of the Merger Regulation and therefore imposed two separate fines, the maximum amount of EUR 50 000 permitted under the Merger Regulation for each.

The Commission also imposed a fine on KLM for supplying incorrect and misleading information in case

*KLM/Martinair*<sup>45</sup>. KLM notified to the Commission its planned acquisition of Martinair in September 1998 but this notification was withdrawn. The operation was re-notified to the Commission in December 1998<sup>46</sup>. The Commission started proceedings in that case because KLM supplied incorrect information in its first notification, the one issued in September 1998. In that notification, KLM submitted incorrect information on the charter destinations of its subsidiary Transavia and withheld relevant information on scheduled flights of Transavia. In particular, KLM gave an incorrect description of the destinations of Transavia and failed to list ten important Transavia destinations. KLM presented the operations of Transavia and of Martinair as 'largely complementary' while, in reality, both airlines operated to all Mediterranean destinations. Furthermore, KLM failed to inform the Commission about the fact that Transavia had substantial scheduled operations to Mediterranean destinations and sold a significant number of seats on these flights to Dutch tour operators, thereby giving a misleading description of the activities of Transavia. The Commission considered the

behaviour of KLM as grossly negligent, at the very least, and imposed a fine of EUR 40 000.

### **Decisions adopted under Article 7 (derogation from suspension)**

Pursuant to Article 7(4) of the Merger Regulation, the Commission may, on request, grant a derogation from the obligation to suspend the implementation of a concentration until it has been declared compatible with the common market. In taking its decision, the Commission takes into account, *inter alia*, the effects of the suspension on one or more of the undertakings concerned by the concentration or on a third party, and the threat to competition posed by the concentration.

The Commission granted a derogation from suspension under Article 7(4) in four cases. In two cases involving the dissolution of a joint venture between *BP Amoco* and *Mobil* in fuels and lubricants, both BP and ExxonMobil requested a derogation from suspension<sup>47</sup>. These requests were directly related to the clearance of the *Exxon/Mobil* merger. The clearance of this merger was conditional upon fulfilment of a whole series of commitments, including the dissolution of the

<sup>45</sup> Case No.IV/M.1608 – *KLM/Martinair*; Article 14 decision of 14 December 1999

<sup>46</sup> The operation was abandoned in May 1999 after the Commission raised objections against the operation.

<sup>47</sup> Case No.IV/M.1820 – *BP/JV* dissolution; Article 7(4) decision of 22 December 1999; No.IV/M.1822 – *Mobil/JV* dissolution; Article 7(4) decision of 22 December 1999.



## ➤ MERGERS

BP/Mobil joint venture. The joint venture was active in certain markets for which the Commission considered that the merger, without the commitment, would have led to the creation or strengthening of a dominant position. The Commission considered that the speedy transfer of control to BP Amoco was the best and most effective means of giving effect to the commitments secured by the Commission as it enabled BP Amoco to re-establish itself quicker as a competitor to the merged entity ExxonMobil.

The case *BBL/BT/ISP Belgium*<sup>48</sup> involved the creation of an Internet service provider (ISP) joint venture in Belgium. The derogation from suspension was requested because Skynet, Belgacom's Internet subsidiary, was about to launch an subscription free Internet product in Belgium. In the face of this, any delay in the implementation of the joint venture would have resulted in Belgacom achieving a very strong market share, causing significant damage to the parties. The Commission considered that the derogation from the suspension would not pose any threat to competition since the joint venture was a new entrant, which was supposed to challenge the incumbent Belgacom.

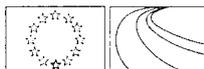
In *Onex/Air Canada/Canadian Airlines*<sup>49</sup> the parties requested a derogation from suspension in order to enable Onex to put certain matters to Air Canada shareholders at a special meeting which was essential for the bid to be successfully completed and which was to take place before the expiry of the Commission's review of the transaction under the Merger Regulation. The Commission considered that there were grounds to grant the derogation as the suspensive effect of Article 7(1) could have caused serious damage to the parties concerned.

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<sup>48</sup> Case No.IV/M.1667 – BBL/BT/ISP Belgium; Article 7(4) decision of 23 September 1999

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<sup>49</sup> Case No.IV/M.1696 – Onex/Air Canada/Canadian Airlines; Article 7(4) decision of 15 October 1999



## Commission fines Deutsche Post, KLM, Anheuser-Busch and Scottish & Newcastle for supplying incorrect or misleading information in competition procedures

*By Holger DIECKMANN, COMP-B-1,  
Gudrun SCHMIDT, COMP-B-3  
Matthijs VISSER, COMP-F-3 and  
Nils VON HINTEN-REED, COMP-F-3*

On 14 December 1999, the Commission adopted three decisions by which it imposed two fines of 50.000 Euro on Deutsche Post, a fine of 40.000 Euro on the Dutch airline KLM and fines of 3.000 Euro on each of the brewers Anheuser-Busch and Scottish & Newcastle. All companies had supplied incorrect or misleading information in competition procedures to the Commission. In the enforcement of the EC competition rules it is an essential condition that companies provide accurate and complete information to the Commission. These decisions underline the Commission's determination to ensure that firms comply fully with their legal obligations.

The Commission attaches considerable importance to ensuring that its role of creating and maintaining competitive markets, for the benefit of all companies and consumers in the EU, is not compromised. Incorrect or misleading information can lead the

Commission to take flawed decisions, with potentially serious effects on businesses and consumers in the EU. Therefore, the Commission is determined to strictly apply its procedural rules and to impose fines if and when these rules are broken.

Pursuant to article 14 of the Merger Regulation<sup>50</sup>, the Commission can impose fines between 1.000 Euro and 50.000 Euro when a company provides intentionally or negligently incorrect or misleading information in a notification or in a response to a request for information. Pursuant to article 15 of Regulation 17<sup>51</sup> of 1962, the implementing regulation for procedures under Articles 81 and 82 of the EC Treaty concerning

<sup>50</sup> Council Regulation (EC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings (OJ L 395, 30.12.1989, p. 1; corrected version OJ L 257, 21.9.1990, p. 13)

<sup>51</sup> Council Regulation 17/62 of 6 February 1962, first regulation implementing Articles 81 and 82 of the Treaty (OJ L 13, 21.2.1962, p. 204)

cartels and the abuse of a dominant position, the range of fines for the same infringements is from 100 Euro to 5.000 Euro.

### Deutsche Post

In February 1999, Deutsche Post AG notified, in accordance with the Merger Regulation, its intention to acquire sole control over the German high-speed delivery service trans-o-flex GmbH. It had acquired a minority-shareholding already in 1997. Deutsche Post withdrew this notification some weeks after the Commission opened an in-depth investigation. In the merger proceedings of 1999, during its initial examination, however, the Commission found indications that the notified transaction of 1999 might not lead to the acquisition of control by Deutsche Post, because it could have acquired control over trans-o-flex already in 1997. If that had been the case, the Commission would have had no jurisdiction to assess the transaction notified in 1999.

On the basis of these indications, the Commission requested additional information from Deutsche Post and others concerning the transaction of 1997. In the course of this investigation it became apparent, that Deutsche Post had deliberately supplied incorrect and misleading information to deceive the Commission about its jurisdiction. Deutsche Post withheld information relevant in this context. The investigation of the Commission showed that Deutsche Post may have



exercised control over trans-o-flex since 1997 through a third party which had acquired the majority of the shares: agreements show that Deutsche Post carried the economic risk for this majority shareholding.

This intentional supply of incorrect and misleading information in its notification and incorrect information in replying to information requests of the Commission by Deutsche Post, constitutes a serious infringement of two provisions of the Merger Regulation, which made the Commission adopt a decision by which two fines of 50.000 Euro each are imposed on Deutsche Post. Meanwhile, the German Bundeskartellamt has also launched an investigation in the matter.

### **KLM**

In September 1998, KLM notified, in accordance with the Merger Regulation its planned acquisition of full control of Martinair. KLM is the leading Dutch airline and Martinair is the second largest Dutch airline. The notification was withdrawn by KLM after the Commission had discovered that it contained incorrect and misleading information. The operation was again notified in December 1998 and finally abandoned in May 1999 after the Commission raised objections against the operation. The Commission then started proceedings concerning the supply of incorrect information contained in the initial notification of September 1998.

In its initial notification, KLM submitted incorrect information on the charter destinations of its subsidiary Transavia and withheld relevant information on scheduled flights of Transavia. In the notification, KLM gave a table of the Mediterranean charter destinations of Transavia and of Martinair. In this table KLM failed to list ten important Transavia destinations. Furthermore, the table was presented in conjunction with the statement that the operations of Transavia and Martinair were "largely complementary", whereas in reality Transavia operated to all Mediterranean destinations which were also served by Martinair.

KLM also gave a misleading description of the activities of Transavia as it referred to Transavia only as a charter airline and failed to make any reference to the fact that Transavia had substantial scheduled operations to Mediterranean destinations and sold a significant number of seats on these flights to Dutch tour operators. In both instances the incorrect or misleading information was relevant for the assessment of the case. The Commission considers the behaviour of KLM as grossly negligent, at the very least and therefore decided to impose a fine of 40.000 Euro.

### **Anheuser-Busch and Scottish & Newcastle**

Anheuser-Busch (USA) is the world's largest brewing organisation and brews the

American Budweiser brand. Scottish & Newcastle is the largest UK brewer. The companies are party to agreements concerning the brewing, distributing and marketing of Budweiser beer in the UK. Scottish & Newcastle became a party to the agreement following its take-over of Courage in 1995.

In the course of the Commission investigation following the notification of the agreements to the Commission, a formal request for information was sent to ask the parties whether there had been any changes to the agreements after Scottish & Newcastle signed up to them. In their joint response to the Commission's request for information, the parties omitted the so-called Budweiser marketing guidelines, which were agreed and accepted by Scottish & Newcastle. The negligence of the parties in this case seriously hindered the proper instruction of the file. The Commission therefore adopted a decision imposing fines of 3.000 Euro on both Anheuser-Busch and Scottish & Newcastle.<sup>52</sup>

### **Concluding remarks**

In the cases of Deutsche Post and KLM the amount of the fine is at or close to maximum permitted, reflecting the Commission's view of their seriousness. The maximum fine which can be imposed for an infringement of the procedural

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<sup>52</sup> OJ L 49 of 20.02.2000, p.37



rules is relatively low, 50.000 Euro in Merger cases and only 5.000 Euro in cases concerning Articles 81 and 82 of the EC Treaty. In view of the

importance of accurate information in competition procedures the Commission is therefore considering whether it might be appropriate to propose

to the Council to increase the amounts for an infringement of these rules.

### **Subject: Case No COMP/JV.26 - FreeCom./Dangaard Holding**

The Commission approved the creation of a joint venture between the German companies BHS Holding GmbH & CoKG/debitel AG and the Danish companies Fleggaard Holding AS/Fleggaard Partner AS. The parent companies transferred to the joint venture their respective wholesale businesses (FreeCom GmbH and Dangaard Holding AS) concerning mobile telecommunications devices, in particular mobile phones, and related value added services (e.g. hot-line and repair services, implementation of promotion

programmes for retailers, packaging for retailers). The operation allowed the joint venture to offer its customers a pan-European company structure and to better face increasing competition from network operators and service providers in bringing mobile phones to the market.

The Commission, while considering it not strictly necessary to define in detail the relevant product market, tended towards considering the wholesaling and the provision of related value added services to

be two distinct markets. As to whether the geographical market was EU-wide or national could be left open. FreeCom had a well-established position on the German market while Dangaard was dominantly active in the Scandinavian markets and in Switzerland. Therefore, the activities of the two companies were to a large degree geographically complementary. In Germany, where the Parties' activities overlapped, the resulting market share of the joint venture in the wholesale market did not exceed 15 percent.

The Commission concluded that the operation did not lead to the creation of a dominant position.



## **Commission authorises creation of joint venture BOL Spain by Bertelsmann AG and Planeta Corporación S.R.L.**

*By Hubert GAMBS, DG COMP-C-2*

The European Commission has cleared the concentration between Bertelsmann AG and Planeta Corporación S.R.L. Through this operation the parties will obtain joint control over Books On-Line Ibérica, S.A (BOL Spain). The operation will not lead to the creation or strengthening of a dominant position.

Bertelsmann heads a group of companies that operate internationally in printing,

publishing and distribution of books, music and private television as well as related services. Planeta belongs to the Planeta group that operates in publishing and distribution of cultural and leisure content by means of all types of print and other media, mainly in Spanish language. BOL Spain is active in the sale of books in the Spanish language as well as the other official languages of Spain (Catalan, Galician, Basque) via the Internet.

The parties will concentrate their on-line sale activities of books in these languages in BOL Spain. For this purpose, Planeta will acquire an 50% stake in BOL Spain, which is currently a wholly owned subsidiary of Bertelsmann.

Although the parties are active in the markets for distant sales of books as well as for Internet sales of books in Spain, they are not dominant in these markets. There is also no indication of co-ordination in any other market, like e.g. the market for the publishing of books in Spain.

The Commission has, therefore, decided not to oppose this operation.

## **Commission authorises takeover of CDnow by Time Warner and Sony**

*By Ali NIKPAY, DG COMP-C-2*

The European Commission has cleared the takeover of Cdnw by Time Warner and Sony. Cdnw will become a subsidiary of a new corporation Holdco which will be jointly controlled by Time Warner and Sony. CDnow's share of the market in which it operates is low, as are those of Time Warner and Sony. At the horizontal level therefore the operation will not lead to the

creation or strengthening of a dominant position. It will also not alter the competitive situation from a vertical perspective as Time Warner and Sony will need to continue to sell music and home video products through other third party distributors and retailers in the EEA and world-wide. The operation will also not lead to the co-ordination of the

competitive behaviour of Sony and Time Warner either. Time Warner is a Delaware corporation, which is engaged in the media and entertainment industries. Sony is a New York corporation which is an indirect subsidiary of Sony Corporation, based in Tokyo, Japan. Sony Corporation is an entertainment and consumer electronics company, providing entertainment and electronic products and services to consumers around the world.

The Commission has, for the above reasons, decided not to oppose this operation.



## **La Commission européenne autorise la création de l'entreprise commune Hearst Mondadori Editoriale SRL**

*By Jacques LOVERGNE, DG COMP-C-2*

La Commission Européenne donne le feu vert à la création en Italie de l'entreprise commune Hearst Mondadori Editoriale SRL par la société américaine HMI International Holdings Inc et la société italienne Arnoldo Mondadori Editore S.p.A. L'objet de la filiale commune est d'assurer l'édition et la diffusion d'une version italienne du magazine

féminin "Cosmopolitan", appartenant au groupe Hearst. L'opération n'entraînera ni la création, ni le renforcement d'aucune position dominante et ne soulève donc pas de problème de concurrence.

HMI est une filiale du groupe Hearst, une société active dans les métiers de la communication. Mondadori

appartient au groupe Fininvest, dont il constitue la filiale regroupant ses activités dans l'édition.

L'opération concerne le marché des magazines féminins en Italie, qui se subdivise en marché du lectorat et en marché de la vente d'espace publicitaire.

Si Mondadori détient un certain nombre de magazines féminins, il n'est pas en position dominante en Italie sur le marché concerné. Le groupe Hearst n'a aucune activité en Italie.

# STATE AID

Main developments between 1<sup>st</sup> October 1999 and 1<sup>st</sup> January 2000

## The Multisectoral framework on regional aid for large investment projects: a mid-term review

By Adolfo BARBERÁ DEL ROSAL, DG COMP-H-2

### Introduction

On 16 December 1997, the Commission adopted the Multisectoral framework on regional aid for large investment projects<sup>53</sup> (hereinafter “the Multisectoral Framework”). This Framework became applicable from 1 September 1998 for an initial trial period of three years. Before the end of the trial period, the Commission will carry out a thorough review of the utility and scope of the Framework, which will *inter alia* consider the question of whether it should be renewed, revised or abolished.

The framework is intended to limit the amounts of regional aid for large investment projects.

One of the main objectives of the new approach under the Multisectoral Framework on regional aid for large investment projects is to re-focus regional aid on job creation.

It also fits into the Commission's broader objective of ultimately putting an end to the various existing sectoral rules on state

aid with a view to adopting a single approach to major awards under regional aid schemes regardless of the sector involved, except in the case of coal and steel, which will remain subject to the ECSC Treaty until July 2002.

The new framework generalises, in all sectors not covered by sectoral rules on state aid, the obligation to notify individually any aid planned for large-scale projects under regional aid schemes where one of the following two criteria is met:

(i) the total project cost comes to more than ECU 50 million **and** the aid intensity is more than 50% of the relevant allowable ceiling **and** the aid per job created or safeguarded exceeds ECU 40 000;

(ii) the aid amount exceeds ECU 50 million.

For large-scale projects thus defined, the framework lays down rules aimed at reducing any competition-distorting effects by lowering the aid ceiling compared with the maximum ceiling of intensity authorised in the region

concerned, and this on the basis of three criteria:

- the capital-labour ratio;
- the degree of competition in the relevant market; and
- the impact on regional development.

These three criteria are each translated into a coefficient the value of which varies with the project's characteristics.

To obtain the theoretical ceiling of permissible aid for a large-scale project, the maximum intensity authorised in the region concerned must be multiplied by the three coefficients obtained, provided the product of these coefficients is less than one.

In this latter respect, it is important to note that the Multisectoral Framework indicates that the maximum aid intensity (regional aid ceiling) to be used for the calculations is the one a large company could obtain in the assisted area concerned within the context of the authorized regional aid system valid *at the moment of notification*. A pre-condition for this provision to be applied is that a valid regional aid map exists at the time of the notification. However, this is not the case for a number of Member States after 31 December 1999. However, all the notifications received so far have been made at a point in time where a valid regional aid map existed.

The Multisectoral Framework thus aims at awarding a 'bonus'

<sup>53</sup> OJ C 107 of 7.04.1998, p. 7.



## ➤ STATE AID

to aid financing investments which generate direct and indirect jobs. It has also set out to reduce the amount of aid in cases where the investment creates an increase in capacity in a declining sector or where an over-capacity situation exists, or in cases where the benefiting firm owns, before the assisted investment is carried out, a market share of at least 40%.

On the procedural level, the Commission has either to approve aid within two months of their notification or, where there are doubts, to open an inquiry procedure and to take a final decision after four months maximum.

### **The decisions taken on the basis of the Multisectoral Framework**

Until now (15 February 2000), the Commission has received 14 notifications, of which 4 have resulted in a final decision. One notification was withdrawn after several exchanges of information with the Member State concerned.

The four decisions were taken without opening the investigation procedure, and can be summarised as follows<sup>54</sup>:

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<sup>54</sup> A non-confidential version of these decisions in the official language of the Member State concerned can be found at:

[http://europa.eu.int/comm/secretariat\\_general/sgb/state\\_aids/index.htm](http://europa.eu.int/comm/secretariat_general/sgb/state_aids/index.htm).



## ➤ STATE AID

Case N 94/99 (Spain) – Aid to Rockwool Peninsular S.A.

<b>Date of decision</b>	21 April 1999
<b>Type of investment</b>	Factory for the production of stone wool
<b>Eligible costs</b>	€ 64.7 million
<b>Amount of aid</b>	€ 15.2 million
<b>Small and medium size company</b>	No
<b>Location of the investment</b>	Caparroso (Navarra, Spain)
<b>Type of assisted area</b>	87 (3) c)
<b>Regional aid ceiling</b>	15% NGE
<b>Net Grant Equivalent (NGE)</b>	13.2%
<b>Direct jobs creation</b>	107
<b>Indirect jobs creation</b>	56
<b>Relevant product market</b>	Mineral wool
<b>Relevant geographical market</b>	European Community
<b>&gt; 40% market share</b>	No
<b>Market features</b>	Non declining market
<b>Competition factor</b>	1
<b>Capital/Work factor</b>	0.8
<b>Regional development factor</b>	1.1
<b>Conclusion</b>	Proposed intensity accepted

Case N 582/99 (Italy) – Aid to Marina di Stabia s.p.a.

<b>Date of decision</b>	8 December 1999
<b>Type of investment</b>	Construction of a sea marina
<b>Eligible costs</b>	€ 71.3 million
<b>Amount of aid</b>	€ 50.6 million
<b>Small and medium size company</b>	Yes
<b>Location of the investment</b>	Castellmare di Stabia (Campania, Italy)
<b>Type of assisted area</b>	87 (3) a)
<b>Regional aid ceiling</b>	50% NGE plus 15% gross for SME
<b>Net Grant Equivalent (NGE)</b>	47.36%
<b>Direct jobs creation</b>	141
<b>Indirect jobs creation</b>	374
<b>Relevant product market</b>	Renting or purchase of moorings for recreational crafts
<b>Relevant geographical market</b>	Tirrenian coastline and Côte d'Azur
<b>&gt; 40% market share</b>	No
<b>Market features</b>	Non declining market

## ➤ STATE AID

<b>Competition factor</b>	1
<b>Capital/Work factor</b>	0.8
<b>Regional development factor</b>	1.5
<b>Conclusion</b>	Proposed intensity accepted

Case N 583/99 (Italy) – Aid to Benfil s.r.l.

<b>Date of decision</b>	22 December 1999
<b>Type of investment</b>	Installation of a cotton yarn production site
<b>Eligible costs</b>	€ 49.56 million
<b>Amount of aid</b>	€ 37.36 million
<b>Small and medium size company</b>	Yes
<b>Location of the investment</b>	Airola (Campania, Italy)
<b>Type of assisted area</b>	87 (3) a)
<b>Regional aid ceiling</b>	50% NGE plus 15% gross for SME
<b>Net Grant Equivalent (NGE)</b>	50.57%
<b>Direct jobs creation</b>	154
<b>Indirect jobs creation</b>	131
<b>Relevant product market</b>	Cotton-type weaving market
<b>Relevant geographical market</b>	European Community
<b>&gt; 40% market share</b>	No
<b>Market features</b>	Structural overcapacity
<b>Competition factor</b>	0.75
<b>Capital/Work factor</b>	0.9
<b>Regional development factor</b>	1.25
<b>Conclusion</b>	Proposed intensity accepted

Case N 583/99 (Italy) – Aid to Tessival s.r.l.

<b>Date of decision</b>	22 December 1999
<b>Type of investment</b>	Installation of a cotton woven fabrics site
<b>Eligible costs</b>	€ 80.09 million
<b>Amount of aid</b>	€ 65.92 million
<b>Small and medium size company</b>	Yes
<b>Location of the investment</b>	Airola (Campania, Italy)
<b>Type of assisted area</b>	87 (3) a)
<b>Regional aid ceiling</b>	50% NGE plus 15% gross for SME
<b>Net Grant Equivalent (NGE)</b>	50.7%
<b>Direct jobs creation</b>	400

<b>Indirect jobs creation</b>	273
<b>Relevant product market</b>	Cotton-type weaving market
<b>Relevant geographical market</b>	European Community
<b>&gt; 40% market share</b>	No
<b>Market features</b>	Structural overcapacity
<b>Competition factor</b>	0.75
<b>Capital/Work factor</b>	0.9
<b>Regional development factor</b>	1.25
<b>Conclusion</b>	Proposed intensity accepted

**The application of the Multisectoral Framework: particular remarks on the competition and the regional impact factors**

As expected, the experience until now has shown that the two critical steps in the assessment of the maximum allowable aid intensity for a project are the establishment of the competition factor as well as the determination of the regional impact factor.

The competition factor

As regards the competition factor, its calculation involves a thorough examination of both the capacity utilisation in the sector concerned and the relevant market. The conclusions reached in the four decisions are as follows:

*N 94/99 (Rockwool)*

The relevant product market consists of mineral wool insulation materials (mainly fibre-glass and mineral wool) because most competing plastics insulation (e.g. polyurethane and

polystyrene) and other insulation materials (e.g. cellulose, perlite and vermiculite) have not the combined very high thermal, acoustic and fire protection values. Moreover, some important market participants have specialised in one category of insulation products so that the relative positions of competitors differ strongly in different product market segments.

In the notification, Spain considered that the relevant geographical market corresponds to the area which can be served in a profitable way from the Caparrosa. This area corresponds to France, Spain and Portugal. However, in its decision, the Commission took a different view. In conformity with point 7.6 of the Multisectoral Framework, the relevant geographic market comprises usually the EEA or, alternatively, any significant part of it if the conditions of competition in that area can be sufficiently distinguished from other areas of the EEA. Given the geographical dispersion of the European manufacturers, the various supply areas can be seen

as a series of overlapping circles with their centres at the mineral wool plants. There is relatively low concentration of mineral wool plants in Southern Europe. To a certain extent, the argument could be made that this represents a different market. However, given the dispersion of the individual mineral wool plants and various degrees of overlap for the natural supply areas, so that effects can be transmitted from one circle to another, it seems appropriate to consider, in the absence of other arguments put forward by Spain, that the geographical relevant market is the Community as a whole.

In the absence of sufficient data on capacity utilisation, the Multisectoral Framework provides in its point 3.4 that the Commission will consider whether the investment takes place in a declining market. For this purpose, the Commission has to compare the evolution of apparent consumption of the product in question (that is, production plus imports minus exports) with the growth rate of



EEA manufacturing industry as a whole.

The average annual growth rate for the EC manufacturing industry over the period 1992-1997 was 3.235%. On the basis of the information provided by the European Insulation Manufacturers Association "EURIMA", the annual average growth rate for mineral wool in Europe was 3.475%, for the period 1992-1997. To support their view that the mineral wool market is expected to grow, the Spanish authorities indicated that other manufacturers of mineral wool are also planning to expand their capacities. Isover (Saint Gobain) is increasing its capacity in Orange (MT 15 000), Châlon (MT 5 000) and Etten Leurre (MT 15 000). Pleiderer is planning to increase its output by MT 40 000. Poliglas is currently building a new factory in St Avold (MT 22 000). According to the Spanish authorities these increases are intended to cope with the expected market growth.

On the basis of the above, the Commission considered that the mineral wool market could not be deemed to constitute a declining market. Since the Commission was satisfied that the market share of Rockwool did not exceed 40% whatever the product or geographical market definition used, it concluded that the competition factor was equal to 1.

*N 582/99 (Marina di Stabia)*

The Commission decided to consider the whole Tirrenian coastline of Italy plus Côte d'Azur as the relevant market. Bar the 18% transit and safety moorings, the core of the traffic (around 82% of the total) of the newly built marina will be represented by local yachters, mainly from the provinces of Naples and Salerno. Marina di Stabia will cover only 6.46 % of the demand for moorings in Campania and just 0.7% of the estimated supply nation-wide in the year 2005.

The new marina will favour the promoters and operators who will either sell or lease the moorings. In terms of availability of moorings for recreational crafts, Italy finds itself at a competitive disadvantage *vis-à-vis* other Member States. The project aims at filling the existing gap along the coasts of Campania, notably in the Gulf of Naples. At the moment, Italy has just 343 tourist ports and marinas unevenly distributed along a coast 8.000 km long. It thus appears that there is large scope for an expansion of the market for these infrastructures, as the few moorings which do exist offer little or nothing by way of facilities.

The market for recreational crafts is strictly linked to the marina-building market but will not be significantly affected at the EU level by the new project.

As far as the three-star hotel is concerned, it is certain that it will not affect the intra-EU exchanges to an extent that is incompatible with the competition conditions in the internal market since:

- the relevant market for the hotel facilities is essentially limited to the marina residents, and
- the promotion or organisation of package holidays usually sold by international agencies and tours operators is incompatible with both the hotel's standard and the marina's business plan.

On the basis of the above considerations, and since Marina di Stabia does not hold a market share of 40% or more of the relevant market, the Commission decided to consider a competition factor of 1.

*N 583/99 (Benfil)*

The cotton yarn (NACE 17.11) produced by Benfil and delivered to Tessival Sud Srl and Tessival SpA is the basic material for the production of cotton fabrics. According to the Italian authorities, for technical reasons the production equipment for cotton woven fabrics can not be reconverted for the production of alternative fabrics, i.e. synthetics or cotton-mixed. The production of synthetics requires looms operating at double speed compared to the weaving of cotton.



The cotton fabrics can be used in different applications:

- for the clothing market, which can be subdivided in the categories velvet, flats, denim, fabrics for shirting and tissues, used for shirts, trousers, and coats.
- for technical articles to imitate leather, footwear, wallpaper as well as for the furniture sector (upholstery, curtains).

Thus, from the demand-side substitution for cotton woven fabrics, many of the aforementioned final applications, namely fabrics for technical articles, can be thought to admit substitution by alternative fabrics, i.e. synthetic fibres, by reason of their characteristics, their prices and their intended use.

Consequently, the Commission considered as relevant market the cotton-type weaving market as a whole, which includes manufacture of broad woven cotton-type fabrics, either with cotton or artificial or synthetic yarns.

On the basis of the information supplied by the Italian authorities, the Commission further decided that the relevant geographical market was the Community as a whole.

The Commission scrutinised the market for the time period of 1995 to 1998 instead of a five years period, as it was impossible to obtain data for a longer time period. The data

comprise the main EU Member States. However, due to the fact that the data on which the Commission based its assessment cover 2/3 of the installed capacity, it considers the figures to be sufficient to give a representative picture of the market situation.

Accordingly, the Commission assessed the average capacity utilisation for the whole manufacturing industry for the period 1995 to 1998 at 82.2%.

As to the capacity utilisation rate, the Italian authorities provided capacity data for the weaving sector showing an average capacity utilisation of 90.5% based on a 220 days-a-year benchmark used as a theoretical ceiling to which the effective working time of the looms is reported. However, bearing in mind the above-mentioned considerations, the average capacity utilisation for the sector of cotton-type weaving in the period 1995-1998, on the basis of a 240 days-a-year benchmark, which is the usual benchmark in this industry, amounts to 77.8%. This represents a difference of minus 4.4 %. Thus, the Commission notes that a structural overcapacity exists in the relevant market segment.

Based on the above, and taking into consideration that the aid beneficiary did not have a market share of 40% or more in the relevant market, the Commission decided that the

competition factor to be applied was 0.75.

*N 584/99 (Tessival)*

Cotton fabric is a material made from cotton yarn. The fabrics can be used in different applications. The cotton fabric for the clothing market, wherein the aid beneficiary will be operating, can be subdivided in the categories velvet, flats, denim, fabrics for shirting and tissues. The aid beneficiary will produce the category "flats" which represents about 70% of the market concerned.

Within the clothing sector, fabrics produced by the aid beneficiary will be used for shirts, trousers, and coats. Other applications of beneficiary's production are technical articles for imitation leather, footwear, wallpaper as well as for furniture (upholstery, curtains). The product competes with substitutes which the consumer might consider by reason of its characteristics, their prices and their intended use.

Thus, from the demand-side substitution for woven cotton, many of the aforementioned final applications, namely fabrics for technical articles, can be thought to admit substitution by alternative fabrics, i.e. synthetic fibres. In accordance with point 7.6 of the Multisectoral Framework, the Commission considered as relevant market the cotton-type weaving market as a whole which includes manufacture of broad woven



cotton-type fabrics, either with cotton or artificial or synthetic yarns.

In the absence of precise information, it seems appropriate to consider that the geographical relevant market is the Community as a whole.

The Commission scrutinised the market for the time period of 1995 to 1998 instead of a five years period, as it was impossible to obtain data for a longer time period. The data comprise the main EU. However, due to the fact that the data on which the Commission based its assessment cover 2/3 of the installed capacity, it considers the figures to be sufficient to give a representative picture of the market situation.

Accordingly, the Commission assessed the average capacity utilisation for the whole manufacturing industry for the period 1995 to 1998 at 82.2%.

The Italian authorities provided capacity data for the weaving sector showing an average capacity utilisation of 85.7% based on a 233 days-a-year benchmark used as a theoretical ceiling to which the effective working time of the looms is reported. However, according to available data provided by Eurocoton and the International Textile Manufacturers Federation, the average capacity utilisation in the period 1995-1998, on the basis of a 240 days-a-year benchmark which is the usual benchmark in this industry,

amounted to 77.8% representing a difference of minus 4.4%. Thus, the Commission considered that a structural overcapacity exists in the relevant market segment.

Based on the above, and taking into consideration that the aid beneficiary did not have a market share of 40% or more in the relevant market, the Commission decided that the competition factor to be applied was 0.75.

#### The regional impact factor

The regional impact factor is based on the number of jobs created by first-tier suppliers and customers in response to the aided investment. The conclusions reached in the four decisions are as follows:

#### *N 94/99 (Rockwool)*

The transport of end-product is the most important source of indirect job creation (45). The Spanish authorities justify this on the following basis:

For an estimated production of 800 000 m<sup>3</sup>, 10 000 trips are scheduled. The average distance per trip is estimated at 450/500 km. One driver is estimated to make 220 trips per year.

The transport of raw material is the second source (together with the maintenance) of indirect job creation. For an estimated production of 800 000 m<sup>3</sup>, 110 000 MT per year of basalt, slag and/or coke are needed.

Basalt, coke and slag are sourced, respectively, from suppliers located at 100 km, 200 km and 400 km from Caparroso. A total of 4 500 trips are needed, that is 3 000 for basalt (50 MT per day over a year), 1 000 for slag (25 MT per day) and 1 000 MT for coke (50 MT per day).

The extraction of MT 55 000 of basalt is expected to result in the creation of 2 indirect jobs.

The manufacturing by a sub-contractor of MT 40 000 of bricks from the recycling of waste is expected to result in the creation of 4 indirect jobs.

The Commission considered that the justifications provided by the Spanish authorities are acceptable. Accordingly, a factor of 1.1 was applied.

#### *N 582/99 (Marina di Stabia)*

The new marina would have a capacity of 1 292 moorings and create around 515 new jobs, both directly (141) and indirectly (374). The project also includes a three-star hotel with 220 double rooms, a dry dock for 161 crafts and an area destined for services, commercial and leisure activities. The Commission also considered that the justifications provided by the Italian authorities were acceptable. Accordingly, a factor of 1.5 was applied.

#### *N 583/99 (Benfil)*

The most important source of indirect job creation (80) is in



the re-processing sector. About 4 000 tons/year of cotton yarn produced by Benfil need re-processing before their final manufacture by Tessival Sud Srl and Tessival SpA. The companies Tessilsud, Fil Mer and Filatura di Trani, all of them located in objective 1 regions (Campania and Puglia) will carry out the re-processing.

The second source of indirect job creation is in the supply services (51).

The Commission was satisfied by the evidence provided by the Italian government for the causality between the Benfil project and these jobs. Furthermore, they fulfil the criteria of point 7.5 of the Multisectoral Framework, namely that they are permanent full-time jobs or part-time equivalents. They are all created in objective 1 areas (Campania and Puglia).

Based on these facts, the regional impact factor is to be calculated from the ratio indirect jobs created in assisted area/direct jobs created by the investment. The above mentioned figures account for the creation of 131 jobs which represents a medium degree of indirect job creation, and thus a factor of 1.25.

*N 584/99 (Tessival)*

According to the Italian authorities, the most important source of indirect job creation (276) is the customer market.

This involves dressmaking companies. However, the Commission noted that the beneficiary's production will be sold to its mother company, Tessival. Although the fabrics supplied to the clothing industry in the region substitute partly Tessival's imports from third countries, it seems inconsistent to expect that the beneficiary's production will generate any new job in this industry. Consequently, the Commission did not consider an increase in indirect jobs in the clothing industry in the region.

The most important source of indirect job creation provides the external final treatment. The number of 127 is calculated on the basis of 2.05 jobs per million m<sup>2</sup> out of the envisaged total production of 62 million m<sup>2</sup>. The Commission held that the figure of 127 indirects jobs created through the external final treatment of the total production of the aid beneficiary was realistic.

The third source of indirect job creation is estimated in the supplier market. The Commission notes that the aid beneficiary will buy two types of raw material, 8 700 tons of open-end cotton yarn, supplied by Benfil, and 4 500 tons of ring cotton yarn, supplied by five companies located in the region or in adjacent regions. According to the Italian authorities, the production of 100 kg of ring cotton yarn requests 4 man/hour. On the basis of 1 700 man/hour/year,

the production of 4,500 corresponds to 106.

Finally, the Commission considered the indirect jobs amounting to 55 to be created in the supply of services to be over-estimated and not proportionate to the size of the project. Therefore, the Commission held that only 40 full time jobs should be considered.

Taking into account the above, the total number of indirect jobs created in the assisted and adjacent assisted regions amounted to 273. According to this figure compared to the direct job creation of 400, the ratio is between 50% and 100% and therefore a factor of 1.25 is applicable.

### Conclusion

As shown above, the Multisectoral Framework has worked well so far and is expected to work properly during the 3-year trial period.

With the exception of the fact that at present there is no valid regional aid map for some Member States, there have been no major obstacles with the implementation of the Multisectoral Framework.

As expected, the experience until now has shown that the two critical steps in the assessment of the maximum allowable aid intensity for a project are the establishment of the competition factor as well as the determi-



nation of the regional impact factor.

Whereas the competition factor is to be determined in advance by the Commission, the regional impact factor depends very much on the effective creation of the anticipated indirect jobs. The latter, by definition, can only be monitored after the implementation of the project. That is why the ex-post monitoring laid down in point 6 of the Multisectoral Framework is of the greatest importance in order to ensure that the Framework works properly and that the maximum

allowable intensity for a project is not unduly increased.

In order to ensure compliance with the Commission decision, the Member States, in cooperation with the aid beneficiaries, must provide the Commission with an annual report on the project, including information on the subsidies already paid, any interim report on the execution of the aid contract, and a final report indicating the objectives in terms of the timetable, the investments, and compliance with any specific conditions laid down by the authority granting the aid.

In the four above cases, the Commission was satisfied that the Member States concerned explicitly undertook to comply with and to accept the obligations resulting from the application of point 6 of the Multisectoral Framework. The decisions were therefore adopted on the basis of this understanding. Should the monitoring show that the execution of the project is not in compliance with the Commission decision, then the Commission shall require the Member State to activate the aid reimbursement instruments.

## Main developments between 1st September and 31st December 1999

**The Commission has adopted a notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees.**

The Commission adopted on 24th November 1999 the "Commission notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees". Its purpose is to give Member States more detailed explanations about the principles on which the Commission intends to base its interpretation of Articles 87 and 88 and their application to State guarantees. The Commission intends in this

way to make its policy in this area as transparent as possible, thereby ensuring that its decisions are predictable and that equal treatment is guaranteed. The document does in fact not set up new rules but only openly states the existing principles of assessment.

In 1989 the Commission addressed two letters on State guarantees to the Member States. In the first letter<sup>55</sup> it pointed out that it regards all guarantees given by a State as falling within

<sup>55</sup> Commission letter to the Member States, SG(89) D/4328 of 5 April 1989.

the scope of Article 87(1). According to this letter, the Commission must therefore be notified of any plans to give or alter such guarantees in sufficient time to enable it to submit its comments. In the second letter<sup>56</sup> the Commission made it clear that it intended to examine the establishment of State guarantee schemes, and that individual guarantees given under an approved scheme would not need to be notified. In 1993 the Commission adopted a communication<sup>57</sup> which address-

<sup>56</sup> Commission letter to the Member States, SG(89) D/12772 of 12 October 1989.

<sup>57</sup> Commission Communication to the Member States on the application of Articles 92 and 93 of the EEC Treaty and of Article 5 of Commission Directive 80/723/EEC to public undertakings in the



sed the subject of guarantees as well. Experience gained in the meantime suggested that the Commission's policy in this area should be reviewed. The new Notice replaces the two Commission letters of 1989 and paragraph 38 of the Commission communication of 1993.

Guarantees are usually associated with a loan or other financial obligation to be contracted by a borrower with a lender and may be granted as individual guarantees or within guarantee schemes. If aid is involved, this aid is in most cases granted to the borrower. Typically, with the benefit of the State guarantee, the borrower can obtain lower rates and/or offer less security. In some cases, the borrower would not, without a State guarantee, find a financial institution prepared to lend on any terms. The Notice explains how the aid element of a guarantee should be calculated and offers several ways for this calculation.

The Notice does not prejudice the rules in Member States governing the system of property ownership. However, the principles explained in the Notice apply to all forms of public guarantees, regardless whether they are fixed in a contract or in a law. The Commission also regards as aid in the form of a guarantee, the more favourable funding terms obtained by enterprises whose

legal form rules out bankruptcy or other insolvency procedures or provides an explicit State guarantee or coverage of losses by the State. The same applies to the acquisition by a State of a holding in an enterprise if unlimited liability is accepted instead of the usual limited liability.

Under certain circumstances (e.g. if a guarantee is given ex post in respect of a loan or other financial obligation already entered into without the terms of this loan or financial obligation being adjusted, or if one guaranteed loan is used to pay back another, non-guaranteed loan to the same credit institution), there may also be an aid to the lender. This has to be examined on a case to case basis.

The Notice also states some conditions under which the Commission a priori assumes that no aid element is included in a guarantee (and thus no notification is necessary). These conditions comprise that the borrower is not in financial difficulty and could in principle obtain a loan on market conditions from the financial markets, that the guarantee is linked to a specific financial transaction, is for a fixed maximum amount and does not cover more than 80 % of the outstanding loan and that the market price for the guarantee is paid. For guarantee schemes similar considerations apply, including that the premiums paid by the beneficiary enterprises should be calculated in a way

making the scheme, in all probability, self financing. However, this enumeration does not mean that guarantees automatically include aid if not all of these conditions are met.

The Notice does not address the question of compatibility of aid granted in the form of guarantees. In that respect the same rules apply as to State aid in other forms.

Furthermore, the Notice explains the consequences of failure to notify State aid in the form of guarantees. Guarantees differ from other State aid measures (e.g. grants) in so far as in the case of a guarantee the State does not only enter into a legal relation with the beneficiary but also with third parties, e.g. the lender of a loan which is guaranteed by the State. Therefore, it has to be examined whether the fact that a State aid has been illegally granted has also consequences for these third parties. However, this question is a matter which has to be assessed under national law; national courts may have to examine whether national law prevents the guarantee contracts from being honoured. Nevertheless, lenders may have an interest in verifying, as a standard precaution, that the Community rules on State aid have been respected, whenever guarantees are granted.

In the past, Member States have not always recognised the aid content of State guarantees and the fact that the aid is granted

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manufacturing sector (OJ C 307, 13.11.1993, p. 3).



when a guarantee is given and not when it is actually honoured. Therefore, Commissioner Monti has asked the Member States in a separate letter to communicate within four months all State guarantees falling within the scope of Article 87 (1) which should be, but have not been, notified to the Commission as well as all State aid in the form of State guarantees which might constitute existing aid within the meaning of Article 88 (1).

### **Nouvelles Décisions sur les cartes des aides d'Etat à finalité régionale**

Tous les Etats membres ont désormais communiqué officiellement leurs projets de cartes des aides régionales. Après une première évaluation de ces propositions, la Commission a cependant été amenée à exprimer des doutes sur la compatibilité avec le Traité des projets de certains Etats membres. Ainsi, en juillet 1999, elle a ouvert la procédure prévue à l'article 88§2 du traité CE à l'encontre des propositions relatives aux cartes de la Belgique, de la France et des Pays-Bas, ainsi qu'en ce qui concerne la partie de la carte relative aux régions éligibles à la dérogation de l'article 87§3.c) du traité CE en Allemagne. Depuis lors, de nouvelles décisions ont été prises à l'égard des projets de cartes soumis par le Danemark, la Grèce, l'Irlande, le Portugal et la Finlande.

En raison de leur notification tardive, les cartes des autres Etats

membres (tout comme, à cause des doutes à l'égard de leur compatibilité avec les dispositions des lignes directrices, les parties "87.3.c)" des cartes allemande et portugaise) n'ont pas pu être approuvées avant la fin 1999. En attendant leur approbation, les Etats concernés ne sont plus en mesure d'octroyer ce type d'aides depuis le 1er janvier 2000.

#### Danemark

La Commission a approuvé la carte danoise le 26 octobre 1999. La part de la population habitant dans les régions éligibles, toutes retenues au titre de la dérogation prévue à l'article 87§3.c) du traité CE, diminue de 20% à 17,1%.

L'aide ne pourra en général pas dépasser 10% net de la valeur de l'investissement, à l'exception des régions de Bornholm et Storestrøm (20% net). Ces deux dernières régions, constituées de multiples îles, rencontrent en effet des problèmes spécifiques de développement liés à l'insuffisance des infrastructures de transport.

#### Grèce

La Commission a approuvé la carte grecque le 22 décembre 1999. Compte tenu du fait que le PIB par habitant reste inférieur à 75% de la moyenne communautaire dans toutes les régions grecques, cet Etat membre est entièrement éligible à la dérogation prévue à l'article 87§3.a) du traité CE.

Cependant, les intensités maximales des aides diminuent de façon significative, et ne pourront pas dépasser 50% net de la valeur des investissements dans les régions Anatoliki Makedonia, Thraki, Ipeiros, Dykiti Ellada, Peloponissos et Voreio Aigaio. Dans toutes les autres régions grecques, cette intensité maximale a été fixée à 40% net. En outre, ces taux maximaux sont modulés en fonction du type de projets d'investissement, ainsi que du secteur d'activité concerné.

#### Irlande

La Commission a approuvé la carte irlandaise le 26 octobre 1999. Alors que la nécessité d'aides régionales continue de se faire sentir dans toutes les régions irlandaises, le développement économique impressionnant qu'a connu l'Irlande durant les dernières années a été pris en compte au travers d'une réduction importante des intensités d'aide.

Ainsi, l'intensité maximale des aides à l'investissement a été fixée à 40% net dans les régions Border, Midlands et West. Avec un PIB par habitant inférieur à 75% de la moyenne communautaire, ces régions continuent d'appartenir aux régions les moins développées de l'Union, et restent donc éligibles au titre de la dérogation prévue à l'article 87§3 a) du traité CE.

En revanche, des intensités moins élevées sont prévues pour les autres régions irlandaises, toutes



éligibles à la dérogation prévue à l'article 87§3 c). Ainsi, dans le South-East, le Mid-West et le South-West, les intensités d'aide seront progressivement ramenées de 40% (en 2000) à 20% net (à partir de 2004), et dans le Mid-East de 40% à 18% net. Enfin, l'intensité d'aide qui s'applique à Dublin à partir de 2000 est de 17,5% net.

#### Portugal

Le 8 décembre 1999, la Commission a approuvé la partie de la carte qui concerne les régions portugaises éligibles à la dérogation prévue à l'article 87§3.a) du Traité CE (Norte, Centro, Alentejo, Algarve, Açores et Madeira). Les intensités maximales d'aide autorisées varient de 40% à 62% net, tout en étant modulées à l'intérieur de chaque région, compte tenu de sa situation socio-économique.

En ce qui concerne la région de Lisboa e Vale do Tejo, qui sera entièrement éligible à la dérogation prévue à l'article 87§3 c) en tant que «région 87§3 a) sortante», la notification portugaise prévoit que l'entièreté de cette région, qui représente 33,4% de la population nationale, bénéficie d'une période de transition de 4 ans pour l'adaptation des intensités d'aide actuelles. Or, au vu des limitations établies par les lignes directrices à l'égard de la portée géographique de cette disposition transitoire, seul un pourcentage de 10,2% de la population portugaise pourrait bénéficier

d'une telle période. En conséquence, la Commission a décidé d'ouvrir la procédure prévue à l'article 88§2 du Traité CE à l'égard de cette partie de la carte.

#### Finlande

La Commission a approuvé la carte finlandaise le 26 octobre 1999. Si la part de la population habitant dans les régions éligibles augmente très légèrement (de 41,7% à 42,2%), les intensités d'aide sont par contre en diminution sensible.

La région de Itä-Suomi, éligible au titre de la dérogation prévue à l'article 87§3 a) du traité CE, bénéficiera des intensités maximales les plus élevées (24% net), tandis que pour ses autres régions la Finlande limitera les aides aux grandes entreprises à 8%, 10% ou 12% net selon les cas.

**United-Kingdom -With regards to article 86 § 2 of EC Treaty, the Commission authorizes the financing of a 24-hour advertising-free channel out of the licence fee by the BBC, "BBC News 24".**

In 1997 a private competitor filed a complaint against the launching by the BBC of a 24-hours news service in the United Kingdom to be financed solely by the licence fee. BBC News 24 is a channel delivered free of advertising and free of charge to carriers (cable or satellite operators).

The service was originally developed as part of the basic tier on the digital satellite platform that, at the time of the complaint, was being developed in the UK by British Sky Broadcasting Ltd. As the launching of the digital satellite service was delayed from the originally-planned Autumn 1997, the BBC decided to make BBC News 24 available also on the free-to-air network during night hours, and on the analogue cable infrastructure, while waiting for the digital satellite service.

According to the complainant, the financing of BBC News 24 by licence fees:

- would have constituted State aid in the sense of Article 87, as comprised of State resources,
- was unlawful, as it was not notified in accordance with the EC Treaty State aid rules,
- was not compatible with the common market, as it could not qualify for any of the exemptions provided for in Articles 87, paragraphs (2) and (3), and Article 86(2).

The Commission took a decision on 29 September 1999. In accordance with the jurisprudence of the Court<sup>58</sup>, it decided that funds stemming from licence fees are in fact to be considered State aid in the sense of Article 87. Also, it found out that such aid was to be granted without prior notification and approval.

<sup>58</sup> Case T-106/95 *FFSA and others v Commission*, [1997] ECR II-229



However, the Commission rejected the third allegation of the complainant, finding out that the State aid in question was compatible with the common market, as it is granted as compensation for the delivery of "services of general economic interest", as defined and entrusted by the UK authorities.

The Commission concluded that the four conditions set out by Article 86(2) are fulfilled. In particular, the Commission considered that the United Kingdom did not abuse its competence by defining a 24-hour news channel with the specific features described above as part of the public service remit for broadcasting. Also, it found that the BBC was entrusted with such public service task by means of an official act of the Government.

In addition, the financial means granted to the channel do not exceed its actual costs and are therefore proportionate to the public service.

Finally, the Commission concluded that trade within the EU is not affected by the creation and financing of BBC News 24 to an extent contrary to the common interest. In order to reach this conclusion, the Commission analysed the effect on the market of the UK decision to launch a 24-hour news service funded solely by the licence fee. It found out that competition is indeed affected by such decision, in that some competitors lost market share and revenues in

consequence of the launching of BBC News 24.

However, the Commission considered that, according to Article 86(2), a certain distortion of competition has to be tolerated when a Member State decides to provide a service of general economic interest. Article 86(2) only requires such distortion not to be excessive, to an extent that it would preclude the development of trade in the sector concerned. The Commission considered this to be the case of BBC News 24, in that, although it gained some of its competitors' market share, it did not make it impossible for competitors to continue operating on the market.

Therefore, since all the conditions of Article 86 (2) of the EC Treaty were met, the Commission decided that the funds from the licence fees dedicated to BBC News 24, although constituting State aid in the sense of Article 87, are compatible with the Treaty rules.

**France - La Commission autorise l'octroi d'aides aux petites et moyennes entreprises par les collectivités territoriales françaises.**

Le 22 décembre 1999, la Commission a décidé de ne pas soulever d'objection à l'égard d'un régime qui permettra aux collectivités territoriales d'accorder des aides aux PME pour des investissements matériels ou immatériels, ainsi que pour soutenir les efforts de

de ces entreprises en matière de protection de l'environnement. Ce régime est appelé à remplacer plusieurs régimes d'aides existants et précise le cadre juridique des interventions des collectivités territoriales françaises en faveur de leurs petites et moyennes entreprises. Les bénéficiaires en sont des PME définies conformément à l'Encadrement communautaire des aides d'Etat aux petites et moyennes entreprises<sup>59</sup>.

La Commission a analysé les dispositions du régime et a conclu qu'il était conforme à l'Encadrement communautaire des aides d'Etat aux petites et moyennes entreprises et à l'Encadrement communautaire des aides d'Etat pour la protection de l'environnement<sup>60</sup>. Les dispositions des Lignes directrices concernant les aides d'Etat à finalité régionale<sup>61</sup> sont également respectées.

Ainsi, en s'inscrivant clairement dans le cadre des dispositions applicables en matière d'aides d'Etat, le régime d'aide se conforme parfaitement au droit communautaire et assure une pleine transparence des interventions économiques des collectivités.

<sup>59</sup> JO C 213 du 23.7.1996, p.4

<sup>60</sup> JO C 72 du 10.3.1994, p.3

<sup>61</sup> JO C 74 du 10.3.1998, p.4



**Germany - The Commission approved R&D aid for Dornier Luftfahrt GmbH for the development of a family of regional aircraft.**

On 8 December 1999, the Commission approved a proposal to grant R&D aid to Dornier Luftfahrt GmbH. It considered that the aid, which takes the form of a State guarantee and was notified by the Federal Government in accordance with State aid rules, is compatible with the EC Treaty.

On 15 June 1999 the Federal Republic notified the Commission, under Article 88(3) EC, of its intention, together with the State of Bavaria, to guarantee a loan of up to USD 350 million (€ 350 million) to Dornier Luftfahrt GmbH to finance a development project. The Federal Government guarantees a maximum of USD 270 million (€ 270 million), while Bavaria guarantees a maximum of USD 80 million (€ 80 million). In each case the guarantee covers 80% of the loan volume.

The aid is granted for a R&D project which forms part of a wider project for the development of a new family of regional aircraft, including the 728JET and two variants, the 528JET and 928JET. The overall development costs far exceed the costs of the research and development project at issue here. The project covers the development of the technology

needed for the 728JET and subsequently for the 528JET and 928JET. It can be classified as precompetitive development.

After examining this ad hoc aid in the light of the rules laid down in the EC Treaty, the Commission concluded that it is compatible with those rules and in particular with the Community framework for State aid for research and development.<sup>62</sup>

**Italie - La Commission interdit l'octroi d'aides régionales en faveur de la Société Fiat pour son projet d'investissement dans son établissement de Mirafiori Meccanica.**

Le 22 décembre 1999, la Commission a interdit l'octroi d'aides régionales d'une intensité de 4,6% en faveur d'un projet d'investissement mené par Fiat. La Commission a constaté que les aides en cause n'étaient pas nécessaires à la réalisation du projet de Mirafiori Meccanica.

Fin 1997, en application de la Loi 488/92, l'Italie avait notifié six dossiers d'aides régionales en faveur de Fiat Auto, dont Mirafiori Meccanica. Après une première analyse des cas, les informations fournies par l'Italie n'avaient pas permis de démontrer que les aides régionales envisagées étaient conformes aux principes de l'encadrement automobile. La Commission avait donc ouvert

en février 1999 la procédure au titre de l'article 88 § 2 du traité CE<sup>63</sup> à l'encontre des 6 projets d'aides. Dans le courant du mois de mai, trois cas (dont Mirafiori Meccanica) avaient fait l'objet d'une décision d'extension de la procédure<sup>64</sup> centrée sur la question de la nécessité des aides envisagées.

L'encadrement automobile stipule que pour être compatibles avec le marché commun, les aides régionales doivent être nécessaires à la réalisation du projet d'investissement dans la région assistée concernée. Or, d'une part, l'étude de localisation qui a amené Fiat à choisir Mirafiori pour son investissement s'est déroulée vers 1993-1994, époque à laquelle Mirafiori n'appartenait pas encore à une zone assistée. Ce n'est qu'en mars 1995 que Mirafiori a été classée en région assistée au titre de l'article 87 paragraphe 3 alinéa c du Traité CE. Dès lors, Fiat n'a pas pu intégrer dans le plan de financement de son projet à Mirafiori l'obtention d'une aide régionale. D'autre part, la mobilité du projet n'a pas été suffisamment démontrée par les autorités italiennes. Mirafiori s'avère en effet l'unique site où Fiat a envisagé d'implanter son projet et aucun autre site crédible n'a été indiqué à la Commission. Les aides notifiées par l'Italie en faveur de Fiat Mirafiori Meccanica ne sont donc pas

<sup>62</sup> OJ C 45, 17. 2.1996, p. 6.

<sup>63</sup> JO C 120 du 01.05.1999.

<sup>64</sup> JO C 288 du 09.10.1999.



## ➤ STATE AID

nécessaires pour atteindre les buts prévus par l'article 87 paragraphe 3 alinéa c du Traité

CE, en l'espèce faciliter le développement de certaines régions économiques. Dès lors,

ces aides s'avèrent incompatibles avec le marché commun et ne peuvent pas être octroyées.



# INFORMATION SECTION

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## ➤ INFORMATION SECTION

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## Documentation...

*This section contains details of recent speeches or articles given by Community Officials that may be of interest. Copies of these are available from Competition DG's home page on the World Wide Web. Future issues of the newsletter will contain details of conferences on competition policy which have been brought to our attention. Organisers of conferences that wish to make use of this facility should refer to page 1 for the address of Competition DG's Information Officer.*

### SPEECHES AND ARTICLES

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Global Airline Industry Competition and Service Adequacy in an Open Market Environment - Jean-François PONS - CHICAGO BEYOND OPEN SKIES CONFERENCE - Chicago - 07.12.1999

Das Weißbuch der Europäischen Kommission über die Modernisierung der Vorschriften zur Anwendung der Artikel 81 und 82 EG-Vertrag - Die Reform der Verordnung Nr.17 - Alexander SCHAUB /Rüdiger DOHMS - Wirtschaft und Wettbewerb (WuW), issue 11/1999 - 30.11.1999

Concorrenza e regolazione nell'Unione europea - Mario MONTI - Convegno dell'Autorità Garante della Concorrenza e del Mercato - Roma - 22.11.1999

Competition Policy and Financial Services - Mario MONTI - European Banking Congress 1999 - Frankfurt - 19.11.1999

Les opérateurs-câble et la concurrence en Europe - Jean-François PONS - ECCA - Bruxelles - 18.11.1999

Decentralised enforcement of Community Competition Law - John TEMPLE LANG - Conference

on Competition Enforcement - Dublin - 11.11.1999

Current issues arising with airline alliances - Joos STRAGIER - EUROPEAN AIR LAW ASSOCIATION - 11th Annual Conference - Lisbon - 05.11.1999

Sport and European Competition Policy - Jean-François PONS - Fordham Corporate Law Institute - New York - 14.10.1999

### COMMUNITY PUBLICATIONS ON COMPETITION

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#### LEGISLATION

**Competition law in the European Communities-Volume IA-Rules applicable to undertakings**

Situation at 30 June 1994; this publication contains the text of all legislative acts relevant to Articles 85, 86 and 90.

Catalogue No: CM-29-93-A01-xx-C (xx=language code: ES, DA, DE, EL, EN, FR, IT, NL, PT).

**Competition law in the European Communities-Addendum to Volume IA-Rules applicable to undertakings**

Situation at 1 March 1995.

Catalogue No: CM-88-95-436-xx-C (xx=language code: ES, DA, DE, EL, EN, FR, IT, NL, PT).

**Competition law in the European Communities-Volume IIA-Rules applicable to State aid**

Situation at 30 June 1998; this publication contains the text of all legislative acts relevant to Articles 42, 77, 90, 92 to 94.

Catalogue No: PD-15-98-875-xx-C (xx=language code: ES, DA, DE; EN, FR, IT, NL, PT, SV; the other versions will be available later).

**Competition law in the EC-Volume II B-Explanation of rules applicable to state aid**

Situation at December 1996

Catalogue No: CM-03-97-296-xx-C (xx=language code= ES, DA, DE, EL, EN, FR, IT, NL, PT, FI, SV)

**Competition law in the European Communities-Volume IIIA-Rules in the international field-**

Situation at 31 December 1996 (Edition 1997)

Catalogue No: CM-89-95-858-xx-C (xx= language code: ES, DA, DE, EL, EN, FR, IT, NL, PT, FI, SV)

**Merger control law in the European Union-Situation in March 1998**

Catalogue No: CV-15-98-899-xx-C (xx=language code: ES, DA, DE, EL, EN, FR, IT, NL, PT, FI, SV)

**Brochure concerning the competition rules applicable to undertakings as contained in the EEA agreement and their implementation by the EC Commission and the EFTA surveillance authority.**

Catalogue No: CV-77-92-118-EN-C

### OFFICIAL DOCUMENTS

**Application of EC State aid law by the member state courts**

Catalogue No: CM-20-99-365-EN-C



**Dealing with the Commission (Edition 1997)-Notifications, complaints, inspections and fact-finding, powers under Articles 85 and 86 of the EEC Treaty**

Catalogue No: CV-95-96-552-xx-C (xx= ES, DA, DE, EN, FR, IT, NL, PT, FI,SV)

**Green paper on vertical restraints in EC competition policy -COM (96) 721- (Ed. 1997)**

Catalogue No: CB-CO-96-742-xx-C (xx= ES DA DE GR EN FR IT NL PT SV FI)

**Final report of the multimodal group - Presented to Commissioner Van Miert by Sir Bryan Carsberg, Chairman of the Group (Ed. 1997).**

Catalogue No: CV-11-98-803-EN-C

**The institutional framework for the regulation of telecommunications and the application of EC competition rules - Final Report (Forrester Norall & Sutton).**

Catalogue No: CM-94-96-590-EN-C

**Competition aspects of access pricing-Report to the European Commission**

December 1995 (M. Cave, P. Crowther, L. Hancher).

Catalogue No: CM-94-96-582-EN-C

**Community Competition Policy in the Telecommunications Sector (Vol. I: July 1995; Vol. II: March 1997)-volume II B a compedium prepared by DG IV-C-1; it contains Directives under art 90, Decisions under Regulation 17 and under the Merger Regulation as well as relevant Judgements of the Court of Justice.**

- Copies available through DG IV-C-1 (tel. +322-2968623, 2968622, fax +322-2969819).

**Brochure explicative sur les modalités d'application du Règlement (CE) N° 1475/95 de la Commission concernant certaines catégories d'accords de distribution et de service de vente et d'après vente de véhicules automobiles - Copies available through DG IV-F-2 (tel. +322-2951880, 2950479, fax. +322-2969800) EN, FR, DE**

### COMPETITION DECISIONS

**Recueil des décisions de la Commission en matière d'aides d'Etat -Article 93, paragraphe 2 (Décisions finales négatives)-1964-1995**

Catalogue No: CM-96-96-465-xx-C [xx=FR, NL, DE et IT (1964-1995); EN et DA (73-95); EL (81-95); (ES et PT (86-95); FI et SV (95)]

**Reports of Commission Decisions relating to competition -Articles 85, 86 and 90 of the EC Treaty.-94/98**

Catalogue No: CV-90-95-946-xx-C (xx=language code= ES, DA, DE, EL, EN, FR, IT, NL, PT, FI, SV)

**Reports of Commission Decisions relating to competition -Articles 85,86 and 90 of the EC Treaty.-93/94**

Catalogue No: CV-90-95-946-xx-C (xx=ES, DA, DE, EL, EN, FR, IT, NL, PT)

**Reports of Commission Decisions relating to competition -Articles 85,86 and 90 of the EC Treaty.-90/92**

Catalogue No: CV-84-94-387-xx-C (xx=ES, DA, DE, EL, EN, FR, IT, NL, PT)

**Reports of Commission Decisions relating to competition -Articles 85,86 and 90 of the EC Treaty.-89/90**

Catalogue No: CV-73-92-772-xx-C (xx=ES, DA, DE, EL, EN, FR, IT, NL, PT)

**Reports of Commission Decisions relating to competition -Articles 85,86 and 90 of the EC Treaty.-86/88**

Catalogue No: CM-80-93-290-xx-C (xx=ES, DA, DE, EL, EN, FR, IT, NL, PT)

**Reports of Commission Decisions relating to competition -Articles 85,86 and 90 of the EC Treaty.-81/85**

Catalogue No: CM-79-93-792-xx-C (xx=DA, DE, EL, EN, FR, IT, NL.)

**Reports of Commission Decisions relating to competition -Articles 85,86 and 90 of the EC Treaty.-73/80**

Catalogue No: CM-76-92-988-xx-C (xx=DA, DE, EN, FR, IT, NL.)

**Recueil des décisions de la Commission en matière de concurrence - Articles 85, 86 et 90 du traité CEE-64/72**

Catalogue No: CM-76-92-996-xx-C (xx=DE, FR, IT, NL.)

### COMPETITION REPORTS

**XXVIII Report on Competition Policy 1998**

Catalogue No: CV-20-99-785-xx-C (xx= ES, DA, DE, EL, EN, FR, IT, NL, PT, FI, SV)

**European Community on Competition Policy 1998**

Catalogue No: CV-20-99-301-xx-C (xx= ES, DA, DE, EL, EN, FR, IT, NL, PT, FI SV)

**XXVII Report on Competition Policy 1997**

Catalogue No: CM-12-98-506-xx-C



## ➤ INFORMATION SECTION

### **European Community on Competition Policy 1997**

Catalogue No: CV-12-98-263-XX-C  
(xx= FR, ES, EN, DE, NL, IT, PT, SV, DA, FI)

### **XXVI Report on Competition Policy 1996**

Catalogue No: CM-04-97-242-xx-C

### **European Community Competition Policy 1996**

Catalogue No: CM-03-97-967-xx-C  
(xx= ES\*, DA\*, DE\*, EL\*, EN\*, FR\*, IT\*, NL\*, PT\*,FI\*, SV\*)

### **XXV Report on Competition Policy 1995**

Catalogue No: CM-94-96-429-xx-C

### **European Community Competition Policy 1995**

Catalogue No: CM-94-96-421-xx-C  
(xx= ES\*, DA\*, DE\*, EL\*, EN\*, FR\*, IT\*, NL\*, PT\*, FI\*, SV\*)

### **XXIV Report on competition policy 1994**

Catalogue No: CM-90-95-283-xx-C  
(xx= language code: ES, DA, DE, EL, EN, FR, IT,NL, PT, FI, SV)

### **European Community competition policy 1994**

(xx=ES, DA, DE, EL, EN, FR, IT, NL, PT, FI, SV ). Copies available through Cellule Information DG IV

### **XXIIIe Report on competition policy 1993**

Catalogue No: CM-82-94-650-xx-C  
(xx=ES, DA, DE, EL, EN, FR, IT, NL, PT)

### **XXIIe Report on competition policy 1992**

Catalogue No: CM-76-93-689-xx-C  
(xx=ES, DA, DE, EL, EN, FR, IT, NL, PT)

### **XXIe Report on competition policy 1991**

Catalogue No: CM-73-92-247-xx-C  
(xx= ES, DA, DE, EL, EN, FR, IT, NL, PT)

### **Fifth survey on State aid in the European Union in the manufacturing and certain other sectors (Edition 1997)**

Catalogue No: CV-06-97-901-xx-C  
(xx= ES, DA, DE, EL, EN, FR, IT, NL, PT, FI, SV )

### **Sixt survey on State aid in the European Union in the manufacturing and certain other sectors**

Catalogue No: CV-18-98-704-xx-C

### **Septième rapport sur les aides d'Etat dans le secteur des produits manufacturés et certains autres secteurs de l'Union européenne [COM (1999) 148 final]**

Catalogue No: CB-CO-99-153-xx-C  
(xx= language code: DE, FR; the other versions will be available later)

### **OTHER DOCUMENTS and STUDIES**

#### **Buyer power and its impact on competition in the food retail distribution sector of the European Union**

Catalogue No: CV-25-99-649-EN-C

#### **The application of articles 85 & 86 of the EC Treaty by national courts in the Member States**

Cat. No: CV-06-97-812-xx-C (xx= FR, DE, EN, NL, IT, ES, PT)

#### **Examination of current and future excess capacity in the European automobile industry - Ed. 1997**

Cat. No: CV-06-97-036-EN-C

### **Video : Fair Competition in Europe-Examination of current**

Cat. No: CV-ZV-97-002-xx-V (xx= ES, DA, DE, GR, EN, FR, IT, NL, PT, FI, SV)

### **Communication de la Commission: Les services d'intérêt général en Europe (Ed. 1996)**

Cat. No: CM-98-96-897-xx-C xx= DE, NL, GR, SV

### **Study of exchange of confidential information agreements and treaties between the US and Member States of EU in areas of securities, criminal, tax and customs (Ed.1996)**

Cat. No: CM-98-96-865-EN-C

### **Survey of the Member State National Laws governing vertical distribution agreements (Ed. 1996)**

Cat. No: CM-95-96-996-EN-C

### **Services de télécommunication en Europe: statistiques en bref, Commerce, services et transports. I/1996**

Cat. No: CA-NP-96-001-xx-C xx=EN, FR, DE

### **Report by the group of experts on competition policy in the new trade order [COM(96)284 fin.]**

Cat. No: CM-92-95-853-EN-C

### **New industrial economics and experiences from European merger control: New lessons about collective dominance ? (Ed. 1995)**

Cat. No: CM-89-95-737-EN-C

### **Proceedings of the European Competition Forum (coédition with J. Wiley) -Ed. 1996**

Cat. No: CV-88-95-985-EN-C

### **Competition Aspects of Interconnection Agreements in**



the Telecommunications Sector (Ed. 1995)  
Cat. No: CM-90-95-801-EN-C

Proceedings of the 2nd EU/Japan Seminar on competition (Ed. 1995)  
Cat. No: CV-87-95-321- EN-C.

Bierlieferungsverträge in den neuen EU-Mitgliedstaaten Österreich, Schweden und Finnland - Ed. 1996  
Cat. No: CV-01-96-074-DE-C DE

Surveys of the Member States' powers to investigate and sanction violations of national competition laws (Ed. 1995)  
Cat. No: CM-90- 95-089-EN-C

Statistiques audiovisuelles: rapport 1995  
Cat. No: CA-99-56-948-EN-C

Information exchanges among firms and their impact on competition (Ed. 1995)  
Cat. No: CV-89-95-026-EN-C

Impact of EC funded R&D programmes on human resource development and long term competitiveness (Ed. 1995)  
Cat. No: CG-NA-15-920-EN-C

Competition policy in the new trade order: strengthening international cooperation and rules (Ed. 1995)  
Cat. No: CM-91-95-124-EN-C

Forum consultatif de la comptabilité: subventions publiques (Ed. 1995)  
Cat. No: C 184 94 735 FR C

Les investissements dans les industries du charbon et de l'acier de la Communauté: Rapport sur l'enquête 1993 (Ed. 1995)  
Cat. No: CM 83 94 2963 A C

Study on the impact of liberalization of inward cross border mail on the provision of the universal postal service and the options for progressive liberalization (Ed. 1995) Final report,  
Cat. No: CV-89-95-018-EN-C

Meeting universal service obligations in a competitive telecommunications sector (Ed. 1994)  
Cat. No: CV-83-94-757-EN-C

Competition and integration: Community merger control policy (Ed. 1994)  
Cat. No: CM-AR-94-057-EN-C

Growth, competitiveness, employment: The challenges and ways forward into the 21st century: White paper (Ed. 1994)  
Cat. No: CM 82 94 529 xx C (xx=ES, DA, DE, GR, EN, FR, IT, NL, PT)

Growth, competitiveness, employment: The challenges and ways forward into the 21st century: White paper (Ed. 1993)-Volume 2 Part C  
Cat. No: CM-NF-93-0629 A C

The geographical dimension of competition in the European single market (Ed. 1993)  
Cat. No: CV-78-93-136-EN-C

International transport by air, 1993  
Cat. No: CA-28-96-001-xx-C xx=EN, FR, DE

Les investissements dans les industries du charbon et de l'acier de la Communauté: Enquête 1992 (Ed. 1993) - 9 languages  
Cat. No: CM 76 93 6733 A C

EG Wettbewerbsrecht und Zulieferbeziehungen der Automobilindustrie (Ed. 1992)  
Cat. No: CV-73-92-788-DE-C

Green Paper on the development of the single market for postal services, 9 languages  
Cat. No: CD-NA-14- 858-EN-C

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**31<sup>st</sup> January 2000**

**ARTICLES 85, 86 (RESTRICTIONS AND DISTORTIONS OF COMPETITION BY UNDERTAKINGS)**

25.01.2000

**C 21** 2000/C 021-0023  
Notification of a joint venture (Case COMP/E-2/37.769)Text with EEA relevance

15.01.2000

**C 12** 2000/C 012-0010  
Notification of a joint venture (Case COMP/E-/37.711)Text with EEA relevance

**C 12** 2000/C 012-0009  
Notification of an agreement (Case COMP/37.718 - EBN)Text with EEA relevance

13.01.2000

**C 9** 2000/C 009-0009  
Notification of a joint venture (Case COMP/E-/37.747)Text with EEA relevance

08.01.2000

**L 5** 2000/L 005-0055  
Commission Decision of 20 July 1999 relating to a proceeding under Article 82 of the EC Treaty and Article 54 of the EEA Agreement (Case IV/36.888 - 1998 Football



## ➤ INFORMATION SECTION

- World Cup)Text with EEA relevance (notified under document number C(1999) 2295)
- 17.12.1999  
**C 63** 1999/C363-0002  
Communication made pursuant to Article 19(3) of Council Regulation No 17 concerning request for negative clearance or for exemption pursuant to Article 81(3) of the EC Treaty(Case No 37.632 - UEFA rule on integrity of the UEFA club competitions: independence of clubs)Text with EEA relevance
- 08.12.1999  
**C 355** 1999/C 355-0006  
Notification of a joint venture (Case COMP/E-3/37.654 - Shell/Statoil)Text with EEA relevance
- 06.12.1999  
**L 312** 1999/L 312-0001  
Commission Decision of 15 September 1999 relating to a proceeding under Article 81 of the EC Treaty (Case IV/36.539 - British Interactive Broadcasting/Open) (notified under document number C(1999/2935))
- 19.11.1999  
**C 331** 1999/C 331-0003  
Notification of a joint venture (Case COMP/37.659/C 3 - Koninklijke Philips Electronics NV (Philips) and LG Electronics Inc. (LGE))Text with EEA relevance
- 18.11.1999  
**C 330** 1999/C 330-005  
Notification of an agreement between undertakings - Case COMP/37.652 - Telefónica/Sogecable/AVS IIText with EEA relevance
- 29.10.1999  
**C 311** 1999/C 311-0004  
Notification of cooperation agreements (Case No IV/37.669 - Mediterranean Cable Maintenance Agreement)Text with EEA relevance
- 27.10.1999  
**C 308** 1999/C 308-0006  
Notification of joint venture agreements (Case No IV/E-2/37.650)Text with EEA relevance
- 26.10.1999  
**L 275** 1999/L 275-0017  
Commission Decision of 15 September 1999 relating to a proceeding under Article 81 of the EC Treaty and Article 53 of the EEA Agreement (Case No IV/36.748 - REIMS II)Text with EEA relevance (notified under document number C(19
- 21.10.1999  
**L 271** 1999/L 271-0028  
Commission Decision of 8 September 1999 relating to a proceeding under Article 81 of the EC Treaty (IV/34.010 - Nederlandse Vereniging van Banken (1991 GSA agreement), IV/33.793 - Nederlandse Postorderbond, IV/34.234 - Verenigde Nederlandse
- 16.10.1999  
**C 298** 1999/C 298-0011  
Notification of joint venture agreements (Case No IV/E-2/37.644)Text with EEA relevance
- 13.10.1999  
**C 292** 1999/C 292-0005  
Notification of cooperation agreements (Case No IV/37.562 - Eutelsat)Text with EEA relevance
- 08.10.1999  
**C 287** 1999/C 287-0005  
Notification of cooperation agreements (Case No IV/37.648 - ScottishTelecom)Text with EEA relevance
- CONTROL OF CONCENTRATIONS / MERGER PROCEDURE*
- 29.01.2000  
**C 27** 2000/C 027-0020  
Prior notification of a concentration (Case COMP/M.1774 - Deutsche BP/DaimlerChrysler AG/Union-Tank Eckstein)Text with EEA relevance
- C 27** 2000/C 027-0019  
Non-opposition to a notified concentration (Case COMP/M.1633 - RWE Umwelt/Vivendi/Berliner Wasserbetriebe)Text with EEA relevance
- 27.01.2000  
**C 23** 2000/C 023-0004  
Non-opposition to a notified concentration (Case COMP/M.1397 - Sanofi/Synthelabo)Text with EEA relevance
- 26.01.2000  
**C 22** 2000/C 022-0011  
Non-opposition to a notified concentration (Case COMP/JV.23 - Telefonica/Portugal Telecom/Medi Telecom)Text with EEA relevance
- 25.01.2000  
**L 20** 2000/L 020-0001  
Commission Decision of 9 March 1999 relating to a proceeding under Council Regulation (EEC) No 4064/89 (Case IV/M.1313 - Danish Crown/Vestjyske Slagterier)



## ➤ INFORMATION SECTION

(notified under document number C(1999) 560)Text with EEA relevance

**C 21** 2000/C 021-0024 Prior notification of a concentration (Case COMP/M.1796 - Bayer/Lyondell)Text with EEA relevance

**C 21** 2000/C 021-0022 Prior notification of a concentration (Case COMP/M.1810 - VW/Europcar)Text with EEA relevance

**C 21** 2000/C 021-0026 Non-opposition to a notified concentration (Case COMP/M.1765 - KKR Associates/Siemens Nixdorf Retail and Banking Systems)Text with EEA relevance

**C 21** 2000/C 021-0027 Non-opposition to a notified concentration (Case COMP/JV.29 - Lafarge/Readymix)Text with EEA relevance

**C 21** 2000/C 021-0026 Non-opposition to a notified concentration (Case COMP/M.1717 - Siemens/Italtel)Text with EEA relevance

**C 21** 2000/C 021-0025 Renotification of a previously notified concentration (Case COMP/JV.38 - KPN/BellSouth/E-Plus)Text with EEA relevance

**C 21** 2000/C 021-0002 Opinion of the Advisory Committee on Concentrations given at the 60th meeting on 25 February 1999 concerning a preliminary draft decision relating to Case

IV/M.1313 - Danish Crown/Vestjyske Slagterier

20.01.2000

**C 16** 2000/C 016-0004 Non-opposition to a notified concentration (Case COMP/M.1538 - Dupont/Sabanci)Text with EEA relevance

**C 16** 2000/C 016-0003 Prior notification of a concentration (Case COMP/M.1822 - Mobil/JV Dissolution)Text with EEA relevance

**C 16** 2000/C 016-0005 Non-opposition to a notified concentration (Case COMP/M.1597 - Castrol/Carless/JV)Text with EEA relevance

**C 16** 2000/C 016-0004 Non-opposition to a notified concentration (Case COMP/M.1771 - Sedgwick Noble Lowndes/Woolwich)Text with EEA relevance

**C 16** 2000/C 016-0005 Non-opposition to a notified concentration (Case COMP/M.1790 - Deutsche Bank/BHS/Pago)Text with EEA relevance

19.01.2000

**C 14** 2000/C 014-0005 Renotification of a previously notified concentration (Case COMP/M.1782 - American Home Products/Warner-Lambert)Text with EEA relevance

**C 14** 2000/C 014-0006 Prior notification of a concentration (Case COMP/M.1741 - MCI WorldCom/Sprint)Text with EEA relevance

**C 14** 2000/C 014-0007 Non-opposition to a notified concentration (Case COMP/M.1791 - UBS Capital/Vencap/Stiga)Text with EEA relevance

**C 14** 2000/C 014-0007 Non-opposition to a notified concentration (Case COMP/M.1736 - ULAG/Carlyle/Andritz)Text with EEA relevance

18.01.2000

**C 13** 2000/C 013-0003 Prior notification of a concentration (Case COMP/M.1803 - Electrabel/Epon)Text with EEA relevance

**C 13** 2000/C 013-0004 Non-opposition to a notified concentration (Case COMP/M.1787 - Deutsche Bahn/NS Groep/JV Service Stores)Text with EEA relevance

**C 13** 2000/C 013-0002 Prior notification of a concentration (Case COMP/M.1801 Neusiedler/American Israeli Paper Mills/JV)Text with EEA relevance

15.01.2000

**C 12** 2000/C 012-0011 Prior notification of a concentration (Case COMP/ECSC.1322 - Scholz/Loacker/Saarländische Rohprodukte)Text with EEA relevance

14.01.2000

**C 11** 2000/C 011-0004 Non-opposition to a notified concentration (Case COMP/JV.17 - Mannesmann/Bell Atlantic/OPI)Text with EEA relevance



## ➤ INFORMATION SECTION

**C 11** 2000/C 011-0005 Non-opposition to a notified concentration (Case COMP/M.1553 - FranceTelecom/Editel/Lince)Text with EEA relevance

**C 11** 2000/C 011-0005 Non-opposition to a notified concentration (Case COMP/M.1681 - AKZO Nobel/Hoechst Roussel Vet)Text with EEA relevance

**C 11** 2000/C 011-0003 Non-opposition to a notified concentration (Case COMP/M.1637 - DB Investments/SPP/Öhman)Text with EEA relevance

**C 11** 2000/C 011-0004 Non-opposition to a notified concentration (Case COMP/M.1711 - Tyco/Siemens)Text with EEA relevance

**C 11** 2000/C 011-0003 Non-opposition to a notified concentration (Case COMP/M.1623 - Allied Signal/MTU)Text with EEA relevance

**C 11** 2000/C 011-0002 Prior notification of a concentration (Case COMP/M.1794 - Deutsche Post/Air Express International)Text with EEA relevance

**C 11** 2000/C 011-0006 Non-opposition to a notified concentration (Case COMP/M.1768 - Schoyen/Goldman Sachs/Swebus)Text with EEA relevance

13.01.2000

**C 9** 2000/C 009-0012 Non-opposition to a notified

concentration (Case COMP/M.1571 - New Holland/Case)Text with EEA relevance

**C 9** 2000/C 009-0008 Non-opposition to a notified concentration (Case COMP/M.1701 - Gruner + Jahr/Dekra/Faircar)Text with EEA relevance

**C 9** 2000/C 009-0010 Non-opposition to a notified concentration and napplicability of the Regulation to a notified operation (Case COMP/M.1587 - Dana/GKN)Text with EEA relevance

**C 9** 2000/C 009-0011 Prior notification of a concentration (Case COMP/M.1820 - BP/JV Dissolution)Text with EEA relevance

12.01.2000

**C 8** 2000/C 008-0016 Prior notification of a concentration (Case COMP/M.1797 - Saab/Celsius)Text with EEA relevance

11.01.2000

**C 7** 2000/C 007-0002 Non-opposition to a notified concentration (Case COMP/M.1728 - CVC/Torraspapel)Text with EEA relevance

**C 7** 2000/C 007-0006 Prior notification of a concentration (Case COMP/M.1782 - American Home Products/Warner-Lambert)Text with EEA relevance

**C 7** 2000/C 007-0005 Prior notification of a concentration (Case COMP/JV.37 - BSkyB/KirchPayTV)Text with EEA relevance

**C 7** 2000/C 007-0004 Prior notification of a concentration (Case COMP/JV.30 - BVI Television (Europe) Inc./SPE Euromovies Investments Inc./Europe Movieco Partners)Text with EEA relevance

**C 7** 2000/C 007-0003 Prior notification of a concentration (Case COMP/M.1830 - Finalrealm/United Biscuits)Text with EEA relevance

**C 7** 2000/C 007-0002 Non-opposition to a notified concentration (Case COMP/M.1710 - Industri Kapital 1997 Ltd Marmorandum)/Neste Chemicals)Text with EEA relevance

**C 7** 2000/C 007-0007 Prior notification of a concentration (Case COMP/M.1825 - Suzuki Motor/Suzuki KG/Fafin)Text with EEA relevance

08.01.2000

**C 5** 2000/C 005-0004 Prior notification of a concentration (Case COMP/JV.38 - KPN/BellSouth/E-Plus)Text with EEA relevance

**C 5** 2000/C 005-0007 Initiation of proceedings (Case COMP/M.1671 - Dow Chemical/Union Carbide)Text with EEA relevance

**C 5** 2000/C 005-0005 Prior notification of a concentration (Case COMP/JV.35 - Chemag/Beiselen/BayWa)Text with EEA relevance

**C 5** 2000/C 005-0008 Initiation of proceedings (Case COMP/M.1663 -



## ➤ INFORMATION SECTION

Alcan/Alusuisse)Text with EEA relevance

**C 5** 2000/C 005-0009 Non-opposition to a notified concentration (Case COMP/M.1640 - Aceralia/Ucin)Text with EEA relevance

**C 5** 2000/C 005-0008 Initiation of proceedings (Case COMP/M.1715 - Alcan/Pechiney)Text with EEA relevance

**C 5** 2000/C 005-0007 Non-opposition to a notified concentration (Case COMP/M.1348 - Archer Daniels Midland/Alfred C. Toepfer International/Intrade)Text with EEA relevance

**C 5** 2000/C 005-0006 Prior notification of a concentration (Case COMP/JV.36 - TXU Europe/EDF London Investments)Text with EEA relevance

07.01.2000

**C 4** 2000/C 004-0008 Prior notification of a concentration (Case COMP/M.1786 - General Electric Company/Thomson-CSF)Text with EEA relevance

**C 4** 2000/C 004-0009 Non-opposition to a notified concentration (Case COMP/M.1677 - BT/LGTTTelecom)Text with EEA relevance

**C 4** 2000/C 004-0010 Non-opposition to a notified concentration (Case COMP/M.1740 - Heinz/United Biscuits Frozen and Chilled Food)Text with EEA relevance

**C 4** 2000/C 004-0009 Non-opposition to a notified concentration (Case COMP/M.1644 - Wienerberger/DSCB/Steinzeug)Text with EEA relevance

**C 4** 2000/C 004-0010 Non-opposition to a notified concentration (Case COMP/M.1599 -Dupont/Teijin)Text with EEA relevance

28.12.1999

**C 376** 1999/C 376-0006 Prior notification of a concentration (Case COMP/ECSC.1321 - VEBA/VIAG)Text with EEA relevance

**C 376** 1999/C 376-0005 Prior notification of a concentration (Case COMP/M.1816 - Churchill Insurance Group/NIG Holdings)Text with EEA relevance

**C 376** 1999/C 376-0004 Prior notification of a concentration (Case COMP/M.1821 - BellSouth/VRT (E-Plus))Text with EEA relevance

22.12.1999

**C 371** 1999/C 371-0011 Prior notification of a concentration (Case COMP/M.1673 - VEBA/VIAG)Text with EEA relevance

**C 371** 1999/C 371-0010 Prior notification of a concentration (Case COMP/M.1778 - Freudenberg/Phoenix/JV)Text with EEA relevance

**C 371** 1999/C 371-0009 Prior notification of a concentration (Case COMP/M.1817 - BellSouth/Vodafone (E-Plus))Text with EEA relevance

**C 371** 1999/C 371-0008 Re-notification of a previously

notified concentration (Case COMP/M.1683 - The Coca-Cola Company/Kar-Tess Group (Hellenic Bottling))Text with EEA

21.12.1999

**C 369** 1999/C 369-0024 Non-opposition to a notified concentration (Case OMP/JV.3 - BT/Airtel)Text with EEA relevance

18.12.1999

**C 365** 1999/C 365-0002 Non-opposition to a notified concentration (Case COMP/JV.6 - Ericsson/Nokia/Psion)Text with EEA relevance

**C 365** 1999/C 365-0002 Non-opposition to a notified concentration (Case COMP/JV.26 - Freecom/Dangaard)Text with EEA relevance

17.12.1999

**C 63** 1999/C363-0006 Prior notification of a concentration (Case COMP/M.1800 - Marconi/Bosch Public Network)Text with EEA relevance

**C 63** 1999/C363-0005 Renotification of a previously notified concentration (Case COMP/M.1709 - Preussag/Babcock/Celsius)Text with EEA relevance

**C 63** 1999/C363-0007 Prior notification of a concentration (Case COMP/M.1777 - CGU/Hibernian)Text with EEA relevance

16.12.1999

**C 62** 1999/C362-0005 Prior notification of a concentration (Case COMP/M.1807 -



## ➤ INFORMATION SECTION

- FNAC/Coin/JV)Text with EEA relevance
- 15.12.1999  
**C 61** 1999/C361-0005 Prior notification of a concentration (Case OMP/ECSC.1319 - VIAG (ASD)/Richardsons-Westgarth)Text with EEA relevance
- 14.12.1999  
**C 360** 1999/C 360-0003 Prior notification of a concentration (Case COMP/M.1792 - Ahlström/CapMan/Folding Carton Partners)Text with EEA relevance
- 11.12.1999  
**C 359** 1999/C 359-0033 Renotification of a previously notified concentration (Case COMP/M.1684 - Carrefour/Promodès)Text with EEA relevance
- 10.12.1999  
**C 358** 1999/C 358-0007 Non-opposition to a notified concentration (Case COMP/M.1761 - Toyota Motor/Toyota France)Text with EEA relevance
- C 358** 1999/C 358-0007 Initiation of proceedings (Case COMP/M.1636 - MMS/DASA -Astrium)Text with EEA relevance
- 09.12.1999  
**C 357** 1999/C 357-0004 Non-opposition to a notified concentration (Case COMP/M.1748 - Industri Kapital Limited/Superfos)Text with EEA relevance
- C 357** 1999/C 357-0004 Non-opposition to a notified concentration (Case COMP/M.1652 -
- D'Ieteren/PGSI)Text with EEA relevance
- C 357** 1999/C 357-0005 Non-opposition to a notified concentration (Case COMP/M.1702 - Vedior/Select Appointments)Text with EEA relevance
- C 357** 1999/C 357-0006 Non-opposition to a notified concentration (Case IV/JV.21 - Skandia/Storebrand/Pohjola)Text with EEA relevance
- C 357** 1999/C 357-0012 Corrigendum to prior notice of a concentration (Case COMP/JV.32 - BT/Autostrade/BLU) (OJ C 342 of 30 November 1999)
- C 357** 1999/C 357-0005 Non-opposition to a notified concentration (Case COMP/M.1719 - Delta Lloyd Verzekeringsgroep/Nuts Ohra)Text with EEA relevance
- C 357** 1999/C 357-0006 Renotification of a previously notified concentration (Case COMP/M.1716 - Gehe/Herba Chemosan Apotheker)Text with EEA relevance
- 08.12.1999  
**C 355** 1999/C 355-0007 Prior notification of a concentration (Case COMP/M.1799 - BSCH/AC/CGD/Totta/ CPP)Text with EEA relevance
- 07.12.1999  
**C 353** 1999/C 353-0005 Non-opposition to a notified concentration (Case COMP/M.1714 - Föreningssparbanken/FI-Holding/FIH)Text with EEA relevance
- C 353** 1999/C 353-0004 Prior notification of a concentration (Case COMP/M.1742 - Sun Chemical/TotalFina/Coates)Text with EEA relevance
- 04.12.1999  
**C 351** 1999/C 351-0038 Prior notification of a concentration (Case COMP/M.1772 - Continental Teves/Automotive Distance Control)Text with EEA relevance
- C 351** 1999/C 351-0037 Non-opposition to a notified concentration (Case COMP/M.1707 - Gilde Buy-Out Fund/Synbra)Text with EEA relevance
- 03.12.1999  
**C 347** 1999/C 347-0007 Prior notification of a concentration (Case COMP/M.1784 - Delphi Automotive Systems/Lucas Diesel)Text with EEA relevance
- C 347** 1999/C 347-0007 Non-opposition to a notified concentration (Case COMP/M.1596 - Accor/Blackstone/Colony/Vive ndi)Text with EEA relevance
- C 347** 1999/C 347-0006 Non-opposition to a notified concentration (Case COMP/M.1694 - EMC/Data General)Text with EEA relevance
- 02.12.1999  
**C 345** 1999/C 345-0008 Renotification of a previously notified concentration (Case COMP/M.1671 - DOW Chemical/Union Carbide)Text with EEA relevance
- C 345** 1999/C 345-0007 Prior notification of a concentration



(Case COMP/M.1790 - Deutsche Bank/BHS/PAGO)Text with EEA relevance

**C 345** 1999/C 345-0006 Prior notification of a concentration (Case COMP/M.1720 - Fortum/Elektrizitätswerk Wesertal)Text with EEA relevance

01.12.1999

**C 344** 1999/C 344-0006 Prior notification of a concentration (Case COMP/M.1789 - Ina/LuK)Text with EEA relevance

**C 344** 1999/C 344-0007 Prior notification of a concentration (Case COMP/M.1779 - Anglo American/Tarmac)Text with EEA relevance

**C 344** 1999/C 344-0008 Prior notification of a concentration (Case COMP/M.1791 - UBS Capital/VenCap/Stiga)Text with EEA relevance

30.11.1999

**C 342** 1999/C 342-0004 Prior notification of a concentration (Case COMP/JV.32 - Granaria/Ültje/Intersnack/May Holding)Text with EEA relevance

**C 342** 1999/C 342-0008 Prior notification of a concentration (Case COMP/JV.33 - Hearst/VNU Magazine Group International BV/VNU Hearst Romania SRL)Text with EEA relevance

**C 342** 1999/C 342-0012 Non-opposition to a notified concentration (Case COMP/M.1588 - Tyco/Raychem)Text with EEA relevance

**C 342** 1999/C 342-0012 Non-opposition to a notified concentration (Case COMP/M.1643 - IBM/Sequent)

**C 342** 1999/C 342-0011 Prior notification of a concentration (Case COMP/M.1755 - CVC/Acordis)Text with EEA relevance

**C 342** 1999/C 342-0010 Prior notification of a concentration (Case COMP/JV.27 - Microsoft/Liberty Media/Telewest)Text with EEA relevance

**C 342** 1999/C 342-0009 Prior notification of a concentration (Case COMP/JV.32 - BT/Autostrade/BLU)Text with EEA relevance

**C 342** 1999/C 342-0007 Prior notification of a concentration (Case COMP/M.1771 - Sedgwick Noble Lowndes/Woolwich)Text with EEA relevance

**C 342** 1999/C 342-0006 Prior notification of a concentration (Case COMP/M.1787 - Deutsche Bahn/NS Groep/JV ServiceStores)Text with EEA relevance

**C 342** 1999/C 342-0005 Prior notification of a concentration (Case COMP/M.1775 - Ingersoll-Rand/Dresser-Rand/Ingersoll-Dresser Pump)Text with EEA relevance

26.11.1999

**C 339** 1999/C 339-0013 Prior notification of a concentration (Case COMP/M.1767 - AT&T/IBM/Intesa)Text with EEA relevance

**C 339** 1999/C 339-0012 Prior notification of a concentration

(Case COMP/M.1773 - Nordic Capital/Trelleborg)Text with EEA relevance

**C 339** 1999/C 339-0011 Prior notification of a concentration (Case COMP/M.1675 - Ducros/Hero France)Text with EEA relevance

**C 339** 1999/C 339-0010 Prior notification of a concentration (Case COMP/JV.29 - Lafarge/Readymix)Text with EEA relevance

**C 339** 1999/C 339-0009 Prior notification of a concentration (Case COMP/JV.25 - Time Warner/Sony/CDNow)Text with EEA relevance

**C 339** 1999/C 339-0008 Prior notification of a concentration (Case COMP/M.1763 - Solutia/Viking Resins)Text with EEA relevance

**C 339** 1999/C 339-0014 Prior notification of a concentration (Case COMP/M.1693 - Alcoa/Reynolds)Text with EEA relevance

25.11.1999

**C 337** 1999/C 337-0003 Prior notification of a concentration (Case COMP/M.1781 - Electrolux/Ericsson)Text with EEA relevance

24.11.1999

**C 336** 1999/C 336-0007 Prior notification of a concentration (Case COMP/M.1765 - KKR Associates/Siemens Nixdorf Retail and Banking Systems)Text with EEA relevance

**C 336** 1999/C 336-0008 Prior notification of a concentration (Case COMP/JV.23 - Telefónica/Portugal)



## ➤ INFORMATION SECTION

- Telecom/Médi Telecom)Text with EEA relevance
- C 336** 1999/C 336-0006 Prior notification of a concentration (Case COMP/M.1760 - Mannesmann/Orange)Text with EEA relevance  
23.11.1999
- C 335** 1999/C 335-0003 Non-opposition to a notified concentration (Case COMP/M.1403 - Astra/Zeneca)Text with EEA relevance
- C 335** 1999/C 335-0003 Non-opposition to a notified concentration (Case COMP/M.1679 - France Telecom/STI/SRD)Text with EEA relevance  
22.11.1999
- C 332** 1999/C 332-0014 Non-opposition to a notified concentration (Case COMP/M.1632 - Reckitt+Colman/Benckiser)Text with EEA relevance
- C 332** 1999/C 332-0013 Prior notification of a concentration (Case COMP/M.1764 - Skandinaviska Enskilda Banken/BfG Bank)Text with EEA relevance
- C 332** 1999/C 332-0012 Prior notification of a concentration (Case COMP/M.1712 - Generali/INA)Text with EEA relevance
- C 332** 1999/C 332-0013 Prior notification of a concentration (Case COMP/M.1717 - Siemens/Italtel)Text with EEA relevance  
19.11.1999
- C 331** 1999/C 331-0004 Prior notification of a concentration (Case COMP/JV.31 - Hearst/Mondadori/Hearst Mondadori Editoriale Srl)Text with EEA relevance  
18.11.1999
- C 330** 1999/C 330-005 Prior notification of a concentration (Case No OMP/M.1759 - RMC/Rugby)Text with EEA relevance  
17.11.1999
- C 328** 1999/C 328-0005 Prior notification of a concentration (Case No COMP/M.1728 - CVC/Torraspapel)Text with EEA relevance
- C 328** 1999/C 328-0006 Prior notification of a concentration (Case No COMP/M.1768 - Schoyen/Goldman Sachs/Swebus)Text with EEA relevance
- C 328** 1999/C 328-0007 Non-opposition to a notified concentration (Case No COMP/M.1581 - AT&T/Unisource/AUCS)Text with EEA relevance  
16.11.1999
- C 327** 1999/C 327-0004 Prior notification of a concentration (Case No COMP/M.1709 - Preussag/Babcock/Celsius)Text with EEA relevance  
13.11.1999
- C 326** 1999/C 326-0012 Prior notification of a concentration (Case No COMP/M.1744 - UPM-Kymmene/Stora Enso/Metsäliitto/JV)Text with EEA relevance
- C 326** 1999/C 326-0013 Prior notification of a concentration (Case No COMP/M.1735 - Seita/Tabacalera)Text with EEA relevance
- C 326** 1999/C 326-0014 Prior notification of a concentration (Case No COMP/M.1636 - MMS/DASA/Astrium)Text with EEA relevance
- C 326** 1999/C 326-0011 Non-opposition to a notified concentration (Case No COMP/M.1708 - Tapis Saint-Maclou/Allied Carpets Group)Text with EEA relevance  
12.11.1999
- C 324** 1999/C 324-0010 Prior notification of a concentration (Case No COMP/M.1739 - Iveco/Fraikin)Text with EEA relevance
- C 324** 1999/C 324-0010 Initiation of proceedings (Case No COMP/M.1672 - Volvo/Scania)Text with EEA relevance
- C 324** 1999/C 324-0009 Renotification of a concentration (Case No COMP/M.1683 - The Coca-Cola Company/Kar-Tess Group (Hellenic Bottling))Text with EEA relevance  
11.11.1999
- C 323** 1999/C 323-0007 Prior notification of a concentration (Case No COMP/JV.24 - Bertelsmann/Planeta/BOL Spain)Text with EEA relevance
- C 323** 1999/C 323-0009 Prior notification of a concentration (Case No COMP/M.1716 - Gehe/Herba Chemosan Apotheker)Text with EEA relevance
- C 323** 1999/C 323-0010 Prior notification of a concentration (Case No COMP/M.1740 - Heinz/United Biscuits Frozen



and Chilled Foods)Text with EEA relevance

**C 323** 1999/C 323-0011 Non-opposition to a notified concentration (Case No COMP/M.1557 - EDF/Louis Dreyfus)Text with EEA relevance

**C 323** 1999/C 323-0008 Prior notification of a concentration (Case No COMP/M.1700 - Avnet/Eurotronics)Text with EEA relevance

10.11.1999

**C 322** 1999/C 322-0005 Initiation of proceedings (Case No COMP/M.1628 - Totalfina/Elf)Text with EEA relevance

09.11.1999

**C 321** 1999/C 321-0003 Prior notification of a concentration (Case No COMP/M.1671 - Dow Chemical/Union Carbide)Text with EEA relevance

**C 321** 1999/C 321-0004 Prior notification of a concentration (Case No COMP/M.1650 - ACEA/Telefónica)Text with EEA relevance

**C 321** 1999/C 321-0005 Prior notification of a concentration (Case No COMP/M.1754 - Morgan Grenfell/Piaggio)Text with EEA relevance

**C 321** 1999/C 321-0006 Prior notification of a concentration (Case No IV/M.1761 - Toyota Motor/Toyota France)Text with EEA relevance

06.11.1999

**C 319** 1999/C 319-0006 Non-opposition to a notified concentration (Case No

IV/M.1649 - Gefco/KN Elan)Text with EEA relevance

**C 319** 1999/C 319-0007 Prior notification of a concentration (Case No COMP/JV.26 - FreeCom/Dangaard)Text with EEA relevance

05.11.1999

**C 318** 1999/C 318-0015 Non-opposition to a notified concentration (Case No IV/JV.22 - Fujitsu/Siemens)Text with EEA relevance

04.11.1999

**C 316** 1999/C 316-0008 Prior notification of a concentration (Case No COMP/M.1732 - Sydkraft/HEW/Hansa Energy Trading)Text with EEA relevance

**C 316** 1999/C 316-0009 Non-opposition to a notified concentration (Case No IV/M.1689 - Nestlé/Pillsbury/Häagen-Dazs US)Text with EEA relevance

30.10.1999

**C 313** 1999/C 313-0007 Withdrawal of notification of a concentration (Case No IV/M.1703 - Phelps Dodge/Asarco)Text with EEA relevance

**C 313** 1999/C 313-0006 Non-opposition to a notified concentration (Case No IV/M.1654 - Telexis/EDS)Text with EEA relevance

**C 313** 1999/C 313-0007 Non-opposition to a notified concentration (Case No IV/M.1691 - Aegon/Guardian Life)Text with EEA relevance

**C 313** 1999/C 313-0006 Non-opposition to a notified

concentration (Case No IV/M.1651 -Maersk/Sea-Land)Text with EEA relevance

**C 313** 1999/C 313-0005 Prior notification of a concentration (Case No IV/M.1710 - Industri Kapital Ltd (Marmorandum)/Neste Chemicals)Text with EEA relevance

29.10.1999

**C 311** 1999/C 311-0005 Renotification of a previously notified concentration (Case No IV/M.1538 - DuPont/Sabancı)Text with EEA relevance

28.10.1999

**C 309** 1999/C 309-0003 Non-opposition to a notified concentration (Case No IV/M.1669 - Deutsche Telekom/One2One)Text with EEA relevance

**C 309** 1999/C 309-0005 Prior notification of a concentration (Case No IV/M.1748 - Industri Kapital Ltd/Superfos A/S)Text with EEA relevance

**C 309** 1999/C 309-0004 Prior notification of a concentration (Case No IV/M.1599 - E.I. du Pont de Nemours and Company/Teijin Limited)Text with EEA relevance

**C 309** 1999/C 309-0003 Non-opposition to a notified concentration (Case No IV/M.1682 - Ashland/Superfos)Text with EEA relevance

27.10.1999

**C 308** 1999/C 308-0005 Prior notification of a concentration (Case No IV/M.1667 -



- BBL/BT/ISP-Belgium)Text with EEA relevance
- 26.10.1999
- C 307** 1999/C 307-0004 Prior notification of a concentration (Case No IV/ECSC.1316 - RAG/Burton)Text with EEA relevance
- 23.10.1999
- L 274** 1999/L 274-0001 Commission Decision of 3 February 1999 relating to proceedings under Council Regulation (EEC) No 4064/89 (Case No IV/M.1221 - Rewe/Meinl) [notified under document number C(1999) 228]Text with EEA relevance.
- C 306** 1999/C 306-0040 Opinion of the Advisory Committee on concentrations given at the 59th meeting on 19 January 1999 concerning a preliminary draft Decision relating to Case IV/M.1221 - Rewe/Meinl
- C 306** 1999/C 306-0037 Non-opposition to a notified concentration (Case No IV/M.1616 - Antonio De Sommer Champalimaud/Banco Santander Central Hispanoamericano)Text with EEA relevance
- C 306** 1999/C 306-0038 Prior notification of a concentration (Case No IV/M.1736 - UIAG/Carlyle/Andritz)Text with EEA relevance
- C 306** 1999/C 306-0039 Prior notification of a concentration (Case No IV/M.1701 - DEKRA/Gruner+Jahr/FairCar) Text with EEA relevance
- 22.10.1999
- C 305** 1999/C 305-0002 Prior notification of a concentration (Case No IV/M.1723 - Illinois Tool Works/Premark)Text with EEA relevance
- C 305** 1999/C 305-0003 Prior notification of a concentration (Case No IV/M.1626 - SAirGroup/SAA)Text with EEA relevance
- C 305** 1999/C 305-0002 Prior notification of a concentration (Case No IV/M.1723 - Illinois Tool Works/Premark)Text with EEA relevance
- C 305** 1999/C 305-0003 Prior notification of a concentration (Case No IV/M.1626 - SAirGroup/SAA)Text with EEA relevance
- 21.10.1999
- C 304** 1999/C 304-0003 Prior notification of a concentration (Case No IV/M.1652 - D'Ieteren/PGSI)Text with EEA relevance
- C 304** 1999/C 304-0004 Non-opposition to a notified concentration (Case No IV/M.1452 -Ford/Volvo)Text with EEA relevance
- 19.10.1999
- C 302** 1999/C 302-0006 Non-opposition to a notified concentration (Case No IV/JV.18 - Chronopost/Correos)Text with EEA relevance
- 16.10.1999
- C 298** 1999/C 298-0014 Prior notification of a concentration (Case No IV/M.1711 - Tyco/Siemens)Text with EEA relevance
- C 298** 1999/C 298-0013 Prior notification of a concentration (Case No IV/M.1684 - Carrefour/Promodès)Text with EEA relevance
- C 298** 1999/C 298-0012 Prior notification of a concentration (Case No IV/M.1703 - Phelps Dodge/Arsarco)Text with EEA relevance
- C 298** 1999/C 298-0010 Non-opposition to a notified concentration (Case No IV/M.1526 - Ford/Kwik-Fit)Text with EEA relevance
- 15.10.1999
- C 295** 1999/C 295-0002 Non-opposition to a notified concentration (Case No IV/M.1699 - TPG Bacchus/Bally)Text with EEA relevance
- C 295** 1999/C 295-0002 Non-opposition to a notified concentration (Case No IV/M.1430 - Vodafone/Airtouch)Text with EEA relevance
- 14.10.1999
- C 294** 1999/C 294-0004 Re-notification of a previously notified concentration (Case No IV/M.1681 - Akzo Nobel/Hoechst Roussel Vet)Text with EEA relevance
- 13.10.1999
- C 292** 1999/C 292-0004 Prior notification of a concentration (Case No IV/M.1719 - Delta Lloyd Verzekeringsgroep/Nuts Ohra)Text with EEA relevance
- C 292** 1999/C 292-0003 Non-opposition to a notified concentration (Case No IV/M.1594 -Preussag/Babcock



## ➤ INFORMATION SECTION

- Borsig)Text with EEA  
relevance  
12.10.1999
- C 290** 1999/C 290-0002 Non-opposition to a notified concentration (Case No IV/M.1534 - Pinault-Printemps-Redoute/Gucci)Text with EEA relevance
- C 290** 1999/C 290-0003 Prior notification of a concentration (Case No IV/M.1348 - Archer Daniels Midland/InTrade/Alfred C. Toepfer International)Text with EEA relevance  
09.10.1999
- C 288** 1999/C 288-0047 Renotification of two previously notified concentrations (Case No IV/M.1663 - Alcan/Alusuisse) (Case No IV/M.1715 - Alcan/Pechiney)Text with EEA relevance
- C 288** 1999/C 288-0046 Prior notification of a concentration (Case No IV/M.1677 - BT/LGT TeleCom)Text with EEA relevance  
08.10.1999
- C 287** 1999/C 287-0004 Non-opposition to a notified concentration (Case No IV/M.1396 - AT&T/IBM Global Network)Text with EEA relevance
- C 287** 1999/C 287-0003 Non-opposition to a notified concentration (Case No IV/M.1504 - NSR/VSN/CMI/IGO Plus)Text with EEA relevance
- C 287** 1999/C 287-0004 Non-opposition to a notified concentration (Case No IV/M.1631 - Suez Lyonnaise/Nalco)Text with EEA relevance
- C 287** 1999/C 287-0003 Non-opposition to a notified concentration (Case No IV/M.1656 Huhtamäki OYJ/Packaging Industries van Leer)Text with EEA relevance
- C 287** 1999/C 287-0006 Prior notification of a concentration (Case No IV/M.1697 - TPG Partners II/Piaggio)Text with EEA relevance  
07.10.1999
- C 285** 1999/C 285-0004 Initiation of proceedings (Case No IV/M.1641 - Linde/AGA)Text with EEA relevance (
- C 285** 1999/C 285-0005 Prior notification of a concentration (Case No IV/M.1687 - Adecco/Olsten)Text with EEA relevance
- C 285** 1999/C 285-0006 Non-opposition to a notified concentration (Case No IV/M.1661 - Crédit Lyonnais/Allianz-Euler/JV)Text with EEA relevance  
06.10.1999
- C 283** 1999/C 283-0007 Prior notification of a concentration (Case No IV/M.1587 - Dana/GKN)Text with EEA relevance  
05.10.1999
- C 282** 1999/C 282-0003 Non-opposition to a notified concentration (Case No IV/M.1621 - Pakhoed/Van Ommere (II))Text with EEA relevance
- C 282** 1999/C 282-0002 Prior notification of a concentration (Case No IV/M.1708 - Tapis Saint-Maclou/Allied Carpets Group)Text with EEA relevance
- C 282** 1999/C 282-0007 Corrigendum to the prior notification of a concentration (Case No IV/M.1681 - Akzo Nobel/Hoechst Roussel Vet) (OJ C 272, 25.9.1999)  
02.10.1999
- C 280** 1999/C 280-0040 Prior notification of a concentration (Case No IV/M.1538 - DuPont/Sabancı)Text with EEA relevance  
01.10.1999
- C 278** 1999/C 278-0003 Prior notification of a concentration (Case No IV/M.1714 - FöreningsSparbanken/FI-Holding/FIH)Text with EEA relevance
- C 278** 1999/C 278-0004 Non-opposition to a notified concentration (Case No IV/M.1653 - Buhrmann/Corporate Express)Text with EEA relevance
- C 278** 1999/C 278-0004 Non-opposition to a notified concentration (Case No IV/M.1598 - Hicks, Muse, Tate & Furst Investment Partners/Hillsdown Holdings)Text with EEA relevance
- C 278** 1999/C 278-0005 Non-opposition to a notified concentration (Case No IV/M.1559 - STN Atlas Marine Electronics/Sait Radio Holland)Text with EEA relevance



## ➤ INFORMATION SECTION

**C 278** 1999/C 278-0005 Non-opposition to a notified concentration (Case No IV/M.1627 - CU Italia/Banca Delle Marche/JV)Text with EEA relevance

**C 278** 1999/C 278-0006 Non-opposition to a notified concentration (Case No IV/M.1670 - Geril/FCC Construcion/Engil)Text with EEA relevance

### STATE AID

29.01.2000

**C 27** 2000/C 027-0017 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objectionsText with EEA relevance

**C 27** 2000/C 027-0013 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning measure C 56/99 (ex N 668/97) - Measures to promote employment - Italy - Sicily: Article 11(1) of Regional Law No 16 of 27 May 1997Text with EEA relevance

15.01.2000

**C 12** 2000/C 012-0007 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objections

**C 12** 2000/C 012-0006 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the

Commission raises no objectionsText with EEA relevance

**C 12** 2000/C 012-0002 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objections

12.01.2000

**L 7** 2000/L 007-0006 Commission Decision of 28 July 1999 on state aid granted by the Federal Republic of Germany to Brockhausen Holze GmbHText with EEA relevance (notified under document number C(1999) 2914)

08.01.2000

**C 5** 2000/C 005-0002 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objectionsText with EEA relevance

06.01.2000

**C 3** 2000/C 003-0005 Authorisation of State aid pursuant to Article 61 of the EEA Agreement and Article 1(3) of Protocol 3 to the Surveillance and Court Agreement - EFTA Surveillance Authority decision not to raise objections

**C 3** 2000/C 003-0004 Authorisation of State aid pursuant to Article 61 of the EEA Agreement and Article 1(3) of Protocol 3 to the Surveillance and Court Agreement - EFTA Surveillance Authority decision not to raise objections

31.12.1999

**C 379** 1999/C 379-0012 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objections

**C 379** 1999/C 379-0011 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objectionsText with EEA relevance

**C 379** 1999/C 379-0004 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning aid C 67/99 (ex NN 148/98) in favour of Dampfkesselbau Hohenturm GmbH, GermanyText with EEA relevance

24.12.1999

**C 375** 1999/C 375-0004 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objectionsText with EEA relevance

**C 375** 1999/C 375-0003 State aid - C 3/98 (ex NN 162/97) - AustriaText with EEA relevance

18.12.1999

**L 326** 1999/L 326-0057 Commission Decision of 28 July 1999 on State aid granted by the Federal Republic of Germany to Kranbau Eberswalde GmbHText with EEA relevance (notified under document number C(1999) 2915)



**C 365** 1999/C 365-0007  
Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objections

**C 365** 1999/C 365-0008  
Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objections

**C 365** 1999/C 365-0009  
Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objectionsText with EEA relevance

**C 365** 1999/C 365-0008  
Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objections

**C 365** 1999/C 365-0003 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning the aid C 34/99 (ex N 576/97) - Recapitalisation of the company Siciliane Acque Minerali SrlText with EEA relevance

11.12.1999

**C 359** 1999/C 359-0027 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty concerning aid C 71/99 (ex N 258/98) - Germany - Investment in an on site environmental sugar beet cleaning method

**C 359** 1999/C 359-0013 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty concerning the aid measure C 72/99 (ex NN 149/98) Sweden - Aid to Nya Holmlunds Livs AB

**C 359** 1999/C 359-0007 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty concerning aid C 70/99 (ex N 79/99) - France - Aid for adapting the vineyards in Charentes

**C 359** 1999/C 359-0005  
Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objectionsText with EEA relevance

**C 359** 1999/C 359-0004  
Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objections

**C 359** 1999/C 359-0002  
Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objections

04.12.1999

**L 310** 1999/L 310-0056  
Commission Decision of 28 July 1999 on state aid granted by the Federal Republic of Germany to Everts Erfurt GmbHText with EEA relevance (notified under document number C(1999) 3024)

**C 351** 1999/C 351-0020 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning the aid C 62/99 (ex NN 140/98) - Capital increase and other support measures in favour of RAIText with EEA relevance

**C 351** 1999/C 351-0012 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning aid C 69/99 (ex NN 83/99) - training aid granted to Sabena by the Flemish RegionText with EEA relevance

**C 351** 1999/C 351-0029 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty concerning tax aid in the form of a 45 % tax credit in the Province of Guipúzcoa (Spain) - C 53/99 ex NN 33/99 - and in the Province of Vizcaya Spain) - C 54/99 ex NN 60/99Text with EEA relevance

**C 351** 1999/C 351-0035  
Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objectionsText with EEA relevance

**C 351** 1999/C 351-0036  
Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objections

**C 351** 1999/C 351-0002 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty,



## ➤ INFORMATION SECTION

concerning the measure C 58/99 (ex N 289/99) - Regional aid map - Belgium (2000 to 2006)Text with EEA relevance

27.11.1999

**C 340** 1999/C 340-0064 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty concerning the aid C 25/99 (ex N 702/98) Germany - Common Guidelines of Berlin Land for the use of the economic development fundText with EEA relevance

**C 340** 1999/C 340-0002 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objections

**C 340** 1999/C 340-0004 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objections

**C 340** 1999/C 340-0005 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objectionsText with EEA relevance

**C 340** 1999/C 340-0007 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objections

**C 340** 1999/C 340-0008 State aid - Invitation to submit comments pursuant to Article

88(2) of the EC Treaty, concerning the aid measure C 47/99 (ex N 195/99) - New delimitation of assisted areas of the Joint Action Programme Improvement of the regional economic structure in Ge

**C 340** 1999/C 340-0052 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty concerning aid C 51/99 (ex NN 31/99) - Tax aid in the form of 50 % tax relief on corporation tax for newly established firms in the Autonomous Community of Na

**C 340** 1999/C 340-0057 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty concerning the aid C 60/99 (ex NN 167/95) - Capital increases and other ad hoc subsidies in favour of France 2 and France 3Text with EEA relevance

22.11.1999

**C 332** 1999/C 332-0011 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objections

**C 332** 1999/C 332-0002 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty concerning measure C 59/99 (ex N 352/99) - France - Regional aid map 2000 to 2006Text with EEA relevance

**C 332** 1999/C 332-0009 State aid - Invitation to submit comments pursuant to Article 88(2) (ex Article 93(2)) of the EC Treaty, concerning the aid C 19/99 (ex N 125/98, N

126/98 and N 341/98) -Italy - Ilva Lamiere e Tubi SpA and Siderumbra SpA Text with EEA relevance

**C 332** 1999/C 332-0008 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objectionsText with EEA relevance

13.11.1999

**L 292** 1999/L 292-0027 Commission Decision of 8 July 1999 on State aid granted by Germany to Gröditzter Stahlwerke GmbH and its subsidiary Walzwerk Burg GmbH (notified under document number C(1999) 2264)Text with EEA relevance(notified under document number C(1999) 903)Text with

**L 292** 1999/L 292-0023 Commission Decision of 30 March 1999 on State aid which France is planning to grant as development aid in the sale of two cruise vessels to be built by Chantiers de l'Atlantique and operated by Renaissance Financial in French Polynesia (notified under doc

**L 292** 1999/L 292-0001 Commission Decision of 24 February 1999 concerning State aid granted by Spain to Daewoo Electronics Manufacturing España SA (Demesa) (notified under document number C(1999) 498)Text with EEA relevance.

**C 326** 1999/C 326-0002 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty



## ➤ INFORMATION SECTION

concerning the measure C 66/99 (ex N 245/99) - Regional aid map - The Netherlands (2000 to 2006)Text with EEA relevance

**C 326** 1999/C 326-0008 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objectionsText with EEA relevance

**C 326** 1999/C 326-0009 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objectionsText with EEA relevance

**C 326** 1999/C 326-0010 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objections

**C 326** 1999/C 326-0011 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objections

30.10.1999

**L 280** 1999/L 280-0087 Commission Decision of 20 July 1999 on the state aid implemented by the Netherlands for 633 Dutch service stations located near the German borderText with EEA relevance (notified under document number C(1999) 2539)

**C 313** 1999/C 313-0004 State aid - C 4/96 (ex N 360/95) - Italy

**C 313** 1999/C 313-0004 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objections

**C 313** 1999/C 313-0003 State aid - C 6/94 (ex NN 151/B 93) - Italy

**C 313** 1999/C 313-0002 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objectionsText with EEA relevance

23.10.1999

**L 274** 1999/L 274-0037 Commission Decision of 20 July 1999 concerning presumed aid allegedly granted by France to Sécuripost [notified under document number C(1999) 2537]Text with EEA relevance

**L 274** 1999/L 274-0023 Commission Decision of 3 February 1999 relating to proceedings under Council Regulation (EEC) No 4064/89 (Case No IV/M.1221 - Rewe/Meinl) [notified under document number C(1999) 228]Text with EEA relevance.

**C 306** 1999/C 306-0011 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning the aid C 65/99 (ex N 20/99) - Netherlands - additional measures accompanying the reform of the pig sector

**C 306** 1999/C 306-0019 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty concerning State aid C 63/99 (ex NN 84/99), Germany, Impact of new electricity tax on feed-in price under StromeinspeisungsgesetzText with EEA relevance

**C 306** 1999/C 306-0025 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty concerning aid measure C 61/99 (ex NN 153/96) - State aid to Deutsche Post AGText with EEA relevance

**C 306** 1999/C 306-0002 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty concerning the C 64/99 (ex NN 68/99) - Italy. State aid to the Gruppo Tirrenia di Navigazione companiesText with EEA relevance

**C 306** 1999/C 306-0036 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objectionsText with EEA relevance

**C 306** 1999/C 306-0037 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objectionsText with EEA relevance

22.10.1999

**L 272** 1999/L 272-0016 Commission Decision of 3 February 1999 on State aid which Germany is planning to



## ➤ INFORMATION SECTION

introduce for Graphischer Maschinenbau GmbH, BerlinText with EEA relevance (notified under document number C(1999) 327

**L 272** 1999/L 272-0016 Commission Decision of 3 February 1999 on State aid which Germany is planning to introduce for Graphischer Maschinenbau GmbH, BerlinText with EEA relevance (notified under document number C(1999) 327

21.10.1999

**L 271** 1999/L 271-0025 Commission Decision of 25 February 1998 concerning aid which Germany intends to grant under the 26th framework plan of the joint scheme for improving regional economic structures with a view to promoting teleworking (26. Rahmenplan der Gemei

19.10.1999

**L 269** 1999/L 269-0029 Commission Decision of 3 March 1999 concerning aid granted by Italy to firms affected by the bankruptcy of Sirap SpAText with EEA relevance (notified under document number C(1999) 584)

**L 269** 1999/L 269-0036 Commission Decision of 26 May 1999 on State aid granted by Germany to Dow/Buna SOW Leuna Olefinverbund GmbH (BSL)Text with EEA relevance (notified under document number C(1999) 1469)

16.10.1999

**L 268** 1999/L 268-0019 Commission Decision of 1 July 1999 on State aid which Spain

is planning to implement in favour of Brilén SAText with EEA relevance (notified under document number C(1999) 2131)

**L 268** 1999/L 268-0025 Commission Decision of 20 July 1999 which Germany is planning to implement for Saxonylon Textil GmbHText with EEA relevance (notified under document number C(1999) 2535)

**C 298** 1999/C 298-0002 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty concerning aid C 29/99 (ex NN 20/99) - France - Presumed aid for Manufacture Corrézienne de Vêtements (MCV) and planned aid for the new company MCVText with E

**C 298** 1999/C 298-0008 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objectionsText with EEA relevance

**C 298** 1999/C 298-0010 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objections

15.10.1999

**L 267** 1999/L 267-0051 Commission Decision of 22 December 1998 concerning aid granted by Germany to Riedel-de Ha%on AGText with EEA relevance (notified under document number C(1998) 4566)

09.10.1999

**L 263** 1999/L 263-0019 Commission Decision of 9 December 1998 on State aid granted by Germany to Maschinenfabrik Sangerhausen (Samag)Text with EEA relevance (notified under document number C(1998) 4274)

**C 288** 1999/C 288-0024 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty concerning aid C 40/99 (ex NN 178/97) - Belgium - for Verlipack (Wallonia)Text with EEA relevance

**C 288** 1999/C 288-0037 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty concerning the aid Cases C 5/99 (ex N 728/97) - Italy - Fiat Mirafiori Carrozzeria, C 8/99 (ex N 834/97) - Italy - Fiat Rivalta and C 9/99 (ex N 838/97) - Italy - Fiat Mi

**C 288** 1999/C 288-0022 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objections

**C 288** 1999/C 288-0002 Community Guidelines on State aid for rescuing and restructuring firms in difficulty (Notice to Member States including proposals for appropriate measures)Text with EE relevance

**C 288** 1999/C 288-0019 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the



Commission raises no objections

**C 288** 1999/C 288-0020 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objections Text with EEA relevance

**C 288** 1999/C 288-0039 State aid - Invitation to submit comments pursuant to Article 6(5) of the Commission Decision 2496/96/ECSC, concerning aid C 35/99 (ex N 106/99) - Italy - Ferriere Nord Text with EEA relevance (Italy - Fiat Mirafiori eccanica Text with

**C 288** 1999/C 288-0021 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objections

06.10.1999

**L 260** 1999/L 259-0019 Commission Decision of 3 March 1999 on the aid which Germany has granted by way of development assistance to Indonesia in connection with the construction of two dredgers by Volkswerft Stralsund and the sale of the dredgers to Pengerukan

**L 260** 1999/L 260-0019 Commission Decision of 16 December 1998 on German aid in favour of Addinol Mineralöl GmbH i.GV and the newly established separate hive-off vehicle Addinol Lube Oil GmbH & Co. KG (notified under document number

C(1998) 3867) Text with EEA relevance

**L 260** 1999/L 260-0001 Commission Decision of 25 November 1998 on measures by Germany to assist InfraLeuna Infrastruktur und Service GmbH (notified under document number C(1998) 3840) Text with EEA relevance.

**L 260** 1999/L 259-0023 Commission Decision of 8 July 1999 on the measure which Germany is planning to implement for Neue Maxhütte Stahlwerke GmbH i.K. Text with EEA relevance (notified under document number C(1999) 2269)

02.10.1999

**C 280** 1999/C 280-0002 Authorisation for State aid pursuant to Articles 87 and 88 (ex Articles 92 and 93) of the EC Treaty - Cases where the Commission raises no objections

**C 280** 1999/C 280-0003 State aid - France Text with EEA relevance

**C 280** 1999/C 280-0008 State aid - Invitation to submit comments pursuant to Article 88(2) (ex Article 93(2)) of the EC Treaty, concerning the aid C 13/99 (ex NN 78/98) - Germany - activities of the Landesentwicklungsgesellschaft Thüringen mbH in relation to industrial p

**C 280** 1999/C 280-0012 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning aid C 44/99 - (ex NN 23/99 (ex N 678/98) - Ewe supplementary measure (1998))

and (ex NN 79/99 (ex N 90/99) - Scheme of Assistance for Winter Fodder Losse

**C 280** 1999/C 280-0022 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning Aid No C 33/98 (ex N 332/99 and C 33/98) - Spain: New capital contribution to Babcock Wilcox España SA Text with EEA relevance

**C 280** 1999/C 280-0024 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning the aid C 55/99 (ex N 534/97) Netherlands - Modification of parafiscal taxes financing existing aid for capacity reduction in the cattle slaughtering se

**C 280** 1999/C 280-0029 State aid - Invitation to submit comments pursuant to Article 6(5) of Commission Decision No 2496/96/ECSC, concerning the aid C 57/99 (ex N 601/98) - Environmental aid to Sidmar, ECSC steel Text with EEA relevance

## COURT OF JUSTICE / COURT OF FIRST INSTANCE

*DEVANT LE TRIBUNAL*

**Devant le Tribunal**

**Aff. T-112/99**

**Métropole Télévision - M6 e.a. Télévision française 1 SA (TF1) / Commission**

Annulation des art. 2 et 3 de la décision de la Commission, du 3 mars 1999, relative à une procédure d'application de l'article 85 du traité



CE (IV/36.237 - TPS), en ce qu'elle ne prévoit pas une attestation négative ou, subsidiairement, une exemption d'une durée supérieure à trois ans concernant certaines des clauses contenues dans les accords portant création de la société de télévision par satellite (TPS)

**Aff. T-115/99**

**Société Système Européen Promotion (SEP) / Commission**

Annulation de la décision de la Commission, du 8 mars 1999, rejetant la plainte déposée par la requérante contre Renault France, Renault Nederland et Renault Autocenter et concernant des prétendues entraves aux importations parallèles des mandataires ainsi qu'une demande de retrait du bénéfice de l'exemption par catégorie aux contrats de distribution de Renault résultant du règlement (CE) n. 1475/95

**Aff. T-116/99**

**Ilmailulaitos / Commission**

Annulation de la décision 1999/198/CE de la Commission du 10 février 1999 relative à une procédure d'application de l'art. 86 du traité (IV/35.767 - Ilmailulaitos/Lufffartsverket) concernant le système de rabais sur les redevances d'atterrissage dans les aéroports de Finlande

**Aff. T-126/99**

**Graphischer Maschinenbau GmbH / Commission**

Annulation partielle de la décision K(1999) 327 endg. de la Commission, du 3 février 1999, (aff. Staatliche Beihilfe Nr. C 54/98 /ex NN 101/98) en ce qu'elle limite à DM 4.435 mio. le montant de l'aide que le Land de Berlin peut accorder à la requérante

**Aff. T-127/99**

**Diputación Foral de Álava / Commission**

Annulation de la décision C(1999) 498 final de la Commission, du 24 février 1999, relative à l'aide accordée par les autorités espagnoles à la société Daewoo Electronics Manufacturing España SA (DEMESA) dans la mesure où celle-ci déclare aides incompatibles avec le marché commun les avantages fiscaux octroyés par la «Diputación Foral de Alava»

**Aff. T-129/99**

**Comunidad Autónoma del País Vasco et Gasteizko Industria Lurra SA / Commission**

Annulation de la décision C(1999) 498 final de la Commission, du 24 février 1999, relative à l'aide accordée par les autorités espagnoles à la société Daewoo Electronics Manufacturing España SA (DEMESA)

**Aff. T-144/99**

**Institut des mandataires agréés près l'Office Européen des Brevets (IMA) / Commission**

Annulation partielle de la décision de la Commission, du 7 avril 1999, relative à une procédure d'application de l'article 81 CE (IV/36.147 : Code de conduite de l'IMA (EPI), en ce qu'elle concerne les dispositions du code de conduite de l'Institut des mandataires agréés auprès de l'Office européen des brevets (IMA) qui interdisent la publicité comparative ainsi que celles qui se réfèrent à l'offre de services aux utilisateurs qui ont déjà été clients d'autres mandataires

**Aff. T-148/99**

**Daewo Electronics Manufacturing España SA / Commission**

Annulation de la décision C(1999) 498 final de la Commission, du 24 février 1999, relative à l'aide accordée par les autorités

espagnoles à la société Daewoo Electronics Manufacturing España SA (DEMESA)

**Aff. T-152/99**

**Hijos de Andrés Molina SA (en liquidación) / Commission**

Annulation de la décision de la Commission C(1999) 41 final, du 3 février 1999, concernant l'aide accordée par le gouvernement espagnol en faveur de Hijos de Andrés Molina SA (HAMSA)

**Aff. T-161/99**

**Navigazione Libera del Golfo SpA / Commission**

Recours en carence visant à faire constater que la Commission s'est illégalement abstenue de prendre une décision suite à la plainte déposée par la requérante sur le fondement des articles 92 et 93 du traité CE (devenus articles 87 et 88 CE) relative aux aides prétendument accordées par les autorités italiennes à l'entreprise publique CAREMAR

**Aff. T-168/99**

**Diputación Foral de Álava / Commission**

Annulation de la décision de la Commission (SG(99)D/2945), du 31 mars 1999, d'engager la procédure prévue au paragraphe 2 de l'article 93 du traité CE (devenu article 88 CE) en ce qui concerne l'aide accordée par les autorités espagnoles à la société Ramondin SA, dans la mesure où celle-ci considère aides incompatibles avec le marché commun les avantages fiscaux octroyés par la «Diputación Foral de Alava»

**Aff. T-170/99**

**RJB Mining plc / Commission**

Annulation d'une décision de la Commission, du 4 mai 1999, autorisant les interventions financières de l'Espagne en faveur de l'industrie houillère en 1999



**Aff. T-175/99**

**UPS Europe SA / Commission**

Annulation de la décision de la Commission, du 10 juin 1999, rejetant la plainte introduite par la requérante sur le fondement de l'article 82 CE et relative à l'acquisition partielle de DHL par la Deutsche Post AG

**Aff. T-187/99**

**AGRANA Zucker GmbH / Commission**

Annulation de la décision de la Commission 1999/342/CE, du 30 septembre 1998, concernant les projets d'aide de l'Autriche à la société AGRANA Stärke-GmbH pour la création et la transformation d'installations de production d'amidon [notifiée sous le numéro C(1998) 3023]

**Aff. T-190/99**

**Sniace SA / Commission**

Annulation de la décision de la Commission, du 28 octobre 1998, concernant l'aide d'Etat accordée par l'Espagne à la partie requérante, dans la mesure où elle qualifie d'aides d'Etat incompatibles avec le marché commun les accords de rééchelonnement de dettes passés avec les autorités de la sécurité sociale ainsi que les accords passés avec le FOGASA (fonds de la protection des salariés en cas d'insolvabilité de l'employeur) en ce qu'ils prévoyaient un taux d'intérêt inférieur au taux du marché

**Aff. T-195/99**

**SIM 2 Multimedia SpA / Commission**

Annulation de la décision n. C(1999) 1524 de la Commission, du 2 juin 1999, concernant l'aide d'Etat accordée par la région Friuli-Venezia et le gouvernement italien à Seleco SpA, dans la mesure où elle considère la requérante solidairement responsable pour la

partie de l'aide non récupérée auprès de Seleco

**Aff. T-210/99**

**Johan Henk Gankema / Commission**

Annulation de la décision de la Commission C(1999)2539 def, du 20 juillet 1999, relative aux aides accordées par les Pays-Bas à 633 stations-services situées dans la région frontalière entre les Pays-Bas et l'Allemagne

**Aff. T-219/99**

**British Airways plc / Commission**

Annulation de la décision de la Commission, du 14 juillet 1999, relative à une procédure d'application de l'art. 82 du traité (IV/D-2/34.780 - Virgin / British Airways) concernant des accords conclus entre British Airways et les agences de voyage établissant des systèmes de commission et d'autres avantages liés à l'augmentation du volume de vente de tickets de ladite compagnie aérienne

**Aff. T-224/99**

**European Council of Transport Users ASBL e.a. / Commission**

Annulation de la décision de la Commission n. SG(99) D/6480, communiquée aux parties requérantes par lettre du 6 août 1999, de ne pas soulever d'objections, au sens de l'article 12, paragraphe 3, du règlement (CEE) n. 1017/68 du Conseil, et d'accorder, en conséquence, une exemption en faveur de la version révisée du «Trans-Atlantic Conference Agreement» (TACA) (affaire n. IV/37.396 - TACA révisé et affaire n. IV/37.527 - European Shippers Council (ESC) / TACA révisé)

**Aff. T-227/99**

**Kvaerner Warnow Werft GmbH / Commission**

Annulation de la décision de la Commission C 66/98, du 8 juillet

1999, concernant une aide accordée par les autorités allemandes à la Kvaerner Warnow Werft

**Aff. T-228/99**

**Westdeutsche Landesbank Girozentrale / Commission**

Annulation de la décision K(1999)2265 de la Commission, du 8 juillet 1999, concernant une mesure prise par les autorités allemandes en faveur de la banque Westdeutsche Landesbank Girozentrale («WestLB») dans le cadre de l'absorption par celle-ci de la «Wohnungsbauförderungsanstalt des Landes Nordrhein-Westfalen»

**Aff. T-231/99**

**Colin Joynson / Commission**

Annulation de la décision de la Commission, du 16 juin 1999, relative à une procédure d'application de l'article 81 du traité CE (Affaire IV/36.081/F3 - Bass), accordant une exemption individuelle à durée déterminée aux contrats types de louage («baux type») appliqués par la société Bass aux locataires de ses débits de boissons, ainsi qu'à l'obligation d'achat exclusif et à l'obligation de non-concurrence («beer tie») qu'ils comportent

**Aff. T-232/99**

**Margaret Mary McKenzie Campbell / Commission**

Annulation de la décision de la Commission, du 16 juin 1999, relative à une procédure d'application de l'article 81 du traité CE (Affaire IV/35.992/F3 - Scottish and Newcastle), accordant une exemption individuelle à durée déterminée aux contrats types de louage («baux type») appliqués par la société Scottish and Newcastle aux locataires de ses débits de boissons, ainsi qu'à l'obligation d'achat exclusif et à l'obligation de



non-concurrence («beer tie») qu'ils comportent

**Aff. T-235/99**  
**Garage Bergsteyn BV /**  
**Commission**  
Voir l'affaire T-210/99

**Aff. T-236/99**  
**Direcks Service Station Bocholtz**  
**BV / Commission**  
Voir l'affaire T-210/99

**Aff. T-237/99**  
**BP Nederland vof e.a. /**  
**Commission**  
Voir l'affaire T-210/99

**Aff. T-238/99**  
**Paulina Catharina Petronella Van**  
**Oppen-Veger / Commission**  
Voir l'affaire T-210/99

**Aff. T-239/99**  
**J.J.L. Alofs / Commission**  
Voir l'affaire T-210/99

**Aff. T-242/99**  
**Esso Nederland BV / Commission**  
Voir l'affaire T-210/99

**Aff. T-244/99**  
**Sadam Abruzzo SpA /**  
**Commission**  
Annulation de la décision de la Commission du 11 mai 1999 [C (1999) 1363 def.] relative aux aides accordées par l'Italie en faveur du secteur du sucre - Aides octroyées à deux fabriques de sucre de betteraves

**Aff. T-245/99**  
**Sadam Castiglionesse SpA /**  
**Commission**  
Voir l'affaire T-244/99

**Aff. T-246/99**  
**Tirrenia di Navigazione SpA e.a. /**  
**Commission**  
Annulation de la décision de la Commission, du 6 août 1999, concernant le système d'aides

accordées par les autorités italiennes aux entreprises de transport maritime du groupe Tirrenia di Navigazione SpA

**Aff. T-248/99**  
**Autobedrijf Diepenmaat vof /**  
**Commission**  
Voir l'affaire T-210/99

**Aff. T-249/99**  
**Gebr. Jongste BV / Commission**  
Voir l'affaire T-210/99

**Aff. T-250/99**  
**Shell Nederland Verkoop-**  
**maatschappij BV / Commission**  
Voir l'affaire T-210/99

**Aff. T-251/99**  
**Texaco Nederland BV e.a. /**  
**Commission**  
Voir l'affaire T-210/99

**Aff. T-252/99**  
**Total Nederland NV et Fina**  
**Nederland BV / Commission**  
Voir l'affaire T-210/99

**Aff. T-253/99**  
**Oliehandel Van den Belt BV /**  
**Commission**  
Voir l'affaire T-210/99

**Aff. T-254/99**  
**Maja Srl / Commission**  
Annulation de la décision de la Commission, du 5 août 1999, portant suppression de l'aide accordée à la requérante pour la modernisation d'une unité de production aquicole à Contarina (Veneto) dans le cadre du règlement (CEE) n. 4028/86 du Conseil, du 18 décembre 1986, relatif à des actions communautaires pour l'amélioration et l'adaptation des structures du secteur de la pêche et de l'aquaculture

**Aff. T-256/99**  
**Fédération nationale**  
**d'agriculture biologique des**  
**régions de France / Conseil**

Annulation du règlement (CE) n. 1804/1999 du Conseil du 19 juillet 1999 modifiant, pour y inclure les productions animales, le règlement (CEE) n. 2092/91 concernant le mode de production biologique de produits agricoles et sa présentation sur les produits agricoles et les denrées alimentaires

**Aff. T-258/99**  
**Makro Zelfbedieningsgroothandel**  
**CV / Commission**  
Voir l'affaire T-210/99

**Aff. T-259/99**  
**Tankstation Jagt BV /**  
**Commission**  
Voir l'affaire T-210/99

**Aff. T-262/99**  
**Anthony Goldstein / Commission**  
Recours en indemnité visant à obtenir réparation du préjudice prétendument subi par le requérant suite au défaut de la part de la Commission d'avoir fourni, en application de l'article 10 CE (ex article 5) et conformément à la Communication relative à la coopération entre la Commission et les juridictions nationales pour l'application des articles 85 et 86 du traité CEE, certains renseignements demandés par la juridiction nationale saisie par le requérant

**Aff. T-263/99**  
**Autobedrijf Chr. Kerres BV /**  
**Commission**  
Voir l'affaire T-210/99

**Aff. T-264/99**  
**Demarol BV / Commission**  
Voir l'affaire T-210/99

**Aff. T-265/99**  
**Algemene Service- en**  
**Verkoopmaatschappij Arnhemse**  
**Poort BV / Commission**  
Voir l'affaire T-210/99



**Aff. T-267/99**

**Grooters Rekken BV e.a. / Commission**  
Voir l'affaire T-210/99

**Aff. T-269/99**

**Diputación Foral de Gipuzkoa / Commission**

Annulation de la décision de la Commission, (SG/99/D/6873), du 17 août 1999, d'engager la procédure prévue au paragraphe 2 de l'article 88 CE en ce qui concerne les aides fiscales à l'investissement octroyées par la «Diputación Foral de Gipuzkoa» sous forme d'un crédit d'impôt de 45 %

**Aff. T-271/99**

**Diputación Foral de Alava / Commission**

Annulation de la décision de la Commission (SG/99/D/6873), du 17 août 1999, d'engager la procédure prévue au paragraphe 2 de l'article 88 CE en ce qui concerne les aides fiscales à l'investissement octroyées par la «Diputación Foral de Alava» sous forme d'un crédit d'impôt de 45 %

**Aff. T-272/99**

**Diputación Foral de Bizkaia / Commission**

Annulation de la décision de la Commission (SG/99/D/6871), du 17 août 1999, d'engager la procédure prévue au paragraphe 2 de l'article 88 CE en ce qui concerne les aides fiscales à l'investissement octroyées par la «Diputación Foral de Bizkaia» et par la «Diputación Foral de Gipuzkoa» sous forme d'un crédit d'impôt de 45 %

**Aff. T-273/99**

**Autoservice J. van Deursen BV / Commission**

Annulation de la décision de la Commission C(1999)2539 def, du 20 juillet 1999, relative aux aides accordées par les Pays-Bas à 633 stations-services situées dans la

région frontalière entre les Pays-Bas et l'Allemagne

**Aff. T-274/99**

**Self Service Station Borne BV / Commission**

Voir l'affaire T-273/99

**Aff. T-275/99**

**Self Service de Bleek BV / Commission**

Voir l'affaire T-273/99

**Aff. T-276/99**

**Self Service Station Hasselerbaan BV / Commission**

Voir l'affaire T-273/99

**Aff. T-277/99**

**Self Service Station Weghorst BV / Commission**

Voir l'affaire T-273/99

**Aff. T-278/99**

**Shell Hengelo Zuid BV / Commission**

Voir l'affaire T-273/99

**Aff. T-279/99**

**De Haan Minerale Oliën BV / Commission**

Voir l'affaire T-273/99

**Aff. T-280/99**

**Van Gelder Aardolie BV / Commission**

Voir l'affaire T-273/99

**Aff. T-281/99**

**Visser's Oliehandel Horst BV / Commission**

Voir l'affaire T-273/99

**Aff. T-282/99**

**Visser's Tankstations BV / Commission**

Voir l'affaire T-273/99

**Aff. T-283/99**

**Glutters Handelsonderneming BV / Commission**

Voir l'affaire T-273/99

**Aff. T-284/99**

**Glutters Kapitein BV / Commission**

Voir l'affaire T-273/99

**Aff. T-285/99**

**Maria Gerardus Wilhelmus Ruypers / Commission**

Voir l'affaire T-273/99

**Aff. T-286/99**

**Tankstation en Automobielfabriek Tromp CV / Commission**

Voir l'affaire T-273/99

**Aff. T-287/99**

**Autobedrijf G. Nelissen St. Geertruid vof / Commission**

Voir l'affaire T-273/99

**Aff. T-288/99**

**Evers vof / Commission**

Voir l'affaire T-273/99

**Aff. T-289/99**

**Heiliger vof / Commission**

Voir l'affaire T-273/99

**Aff. T-290/99**

**Autobedrijf Ueffing / Commission**

Voir l'affaire T-273/99

**Aff. T-291/99**

**Autobedrijf Vrugink / Commission**

Voir l'affaire T-273/99

**Aff. T-292/99**

**Bouw- en Handelsonderneming J. Peeters BV / Commission**

Voir l'affaire T-273/99

**Aff. T-293/99**

**Brand Oil Service Stations BV / Commission**

Voir l'affaire T-273/99

**Aff. T-294/99**

**Gebr. Derks Beers BV / Commission**

Voir l'affaire T-273/99



**Aff. T-295/99**  
**Diesel Oil Company BV /**  
**Commission**  
 Voir l'affaire T-273/99

**Aff. T-296/99**  
**Driessen Oosterbeek BV /**  
**Commission**  
 Voir l'affaire T-273/99

**Aff. T-297/99**  
**Emos BV / Commission**  
 Voir l'affaire T-273/99

**Aff. T-298/99**  
**Firma Erkens Servicestation en**  
**Verhuurbedrijf vof / Commission**  
 Voir l'affaire T-273/99

**Aff. T-299/99**  
**Firma Fieten / Commission**  
 Voir l'affaire T-273/99

**Aff. T-300/99**  
**Firma Reuvekamp vof /**  
**Commission**  
 Voir l'affaire T-273/99

**Aff. T-301/99**  
**Dirk Adrianus Gaikhorst /**  
**Commission**  
 Voir l'affaire T-273/99

**Aff. T-302/99**  
**Haagmans Taxicentrale voor**  
**Valkenburg e.o. BV / Commission**  
 Voir l'affaire T-273/99

**Aff. T-303/99**  
**Hoogendijk ATW BV /**  
**Commission**  
 Voir l'affaire T-273/99

**Aff. T-304/99**  
**Oliehandel Kuster BV /**  
**Commission**  
 Voir l'affaire T-273/99

**Aff. T-305/99**  
**OK Nederland BV / Commission**  
 Voir l'affaire T-273/99

**Aff. T-306/99**  
**Oliecentrum Nederland BV /**  
**Commission**  
 Voir l'affaire T-273/99

**Aff. T-307/99**  
**Oliecentrum Strijbos BV /**  
**Commission**  
 Voir l'affaire T-273/99

**Aff. T-308/99**  
**H. Peeters Service BV /**  
**Commission**  
 Voir l'affaire T-273/99

**Aff. T-309/99**  
**Snijders Olie BV / Commission**  
 Voir l'affaire T-273/99

**Aff. T-310/99**  
**Strijbos en zoon BV / Commission**  
 Voir l'affaire T-273/99

**Aff. T-311/99**  
**Tankstation Haarhuis BV /**  
**Commission**  
 Voir l'affaire T-273/99

**Aff. T-312/99**  
**Technische Handelonderneming**  
**van Dooren BV / Commission**  
 Voir l'affaire T-273/99

**Aff. T-313/99**  
**Veka BV / Commission**  
 Voir l'affaire T-273/99

**Aff. T-314/99**  
**Weghorst-Oliko BV / Commission**  
 Voir l'affaire T-273/99

**Aff. T-315/99**  
**J.H.Th. Verlinden / Commission**  
 Voir l'affaire T-273/99

**Aff. T-316/99**  
**Theresia Lucia Pierik-Bomers /**  
**Commission**  
 Voir l'affaire T-273/99

**DEVANT LA COUR**

**Aff. C-261/99**  
**Commission / France**  
 Manquement d'Etat - Défaut d'avoir adopté dans le délai imparti les mesures nécessaires pour récupérer auprès de leur bénéficiaire, «Nouvelles Filatures Lainière de Roubaix», les aides déclarées illégales et incompatibles avec le marché commun par la décision de la Commission du 4 novembre 1998

**Aff. C-275/99**  
**Adidas Sarragan France SARL**  
**et Directeur des services fiscaux**  
**du Bas-Rhin**  
 Préjudicielle - Tribunal administratif de Strasbourg - Validité de la décision 89/487/CEE du Conseil, du 28 juillet 1989, autorisant la République française à appliquer une mesure dérogatoire à l'art. 17, par. 6, deuxième alinéa, de la sixième directive 77/388/CEE en matière d'harmonisation des législations des Etats membres relatives aux taxes sur le chiffre d'affaires - Principe de proportionnalité

**Aff. C-276/99**  
**Allemagne / Commission**  
 Annulation de la décision K(1999)1123 final dans une procédure au titre de l'art. 88 CA concernant une aide d'Etat de l'Allemagne en faveur de Neue Maxhütte Stahlwerke AG - Modalités de la répétition d'une aide incompatible avec le marché commun - Obligation d'étendre les poursuites judiciaires au montant total de l'aide à rembourser, à l'exclusion d'une poursuite «pour le principe» - Obligation de combattre une décision de sursis du juge national en attendant une décision du juge communautaire



**Aff.jtes. C-280/99 P, C-281/99 P et C-282/99 P**

**Moccia Irme SpA e.a. / Commission e.a.**

Pourvoi contre l'arrêt du Tribunal (troisième chambre élargie), rendu le 12 mai 1999, dans les affaires jointes T-164/96, T-165/96, T-166/96, T-167/96, T-122/97 et T-130/97 opposant Moccia Irme SpA e.a. à la Commission - Refus d'annuler la décision de la Commission C(96) 2385 def., du 30 juillet 1996, déclarant incompatible avec le marché commun les aides d'Etat que le gouvernement italien projette d'accorder à certaines entreprises, dans le cadre de la restructuration du secteur sidérurgique

**Aff. C-302/99 P**

**Commission / Télévision française 1 SA (TF1) France**

Pourvoi contre l'arrêt du Tribunal (troisième chambre élargie), rendu le 3 juin 1999, dans l'affaire T-17/96 opposant Télévision française 1 SA à la Commission, en ce que le Tribunal a jugé recevable un recours en carence dirigé contre l'abstention de la Commission d'agir au titre de l'art. 90 du traité CE (devenu art. 86 CE)

**Aff. C-308/99 P**

**France et Télévision française 1 SA (TF1) Commission**

Pourvoi contre l'arrêt du Tribunal (troisième chambre élargie), rendu le 3 juin 1999, dans l'affaire T-17/96 opposant Télévision française 1 SA (TF1) à la Commission, en ce que le Tribunal a jugé recevable un recours en carence dirigé contre l'abstention de la Commission d'agir au titre de l'art. 90 du traité CE (devenu art. 86 CE) et en ce que le Tribunal a condamné la France aux dépens exposés en raison de son intervention par TF1

**Aff. C-309/99**

**J.C.J. Wouters Raad van de Balies van de Europese Gemeenschap**

**J.W. Savelbergh et Price Waterhouse Belastingadviseurs BV et Algemene Raad van de Nederlandse Orde van Advocaten** Préjudicielle - Nederlandse Raad van State - Interprétation des art. 85, 86 et 90 du traité CE (devenus art. 81, 82 et 86 CE) - Notions d'«association d'entreprises» et «entreprise» (exploitant une position dominante) - Législation nationale organisant le barreau en organisme de droit public avec pouvoir d'établir des règles de déontologie - Décision du barreau ainsi organisé interdisant aux avocats de s'associer avec des experts comptables («accountants») - Interprétation des art. 52 à 58 du traité CE (devenus art. 43 à 48 CE) (liberté d'établissement) et 59 à 66 du traité CE (devenus art. 49 à 55 CE) (libre prestation de services)

**Aff. C-318/99**

**Italie / Commission**

Annulation de la décision de la Commission du 11 mai 1999 [C (1999) 1363 def.] relative aux aides accordées par l'Italie en faveur du secteur du sucre - Aides octroyées à deux fabriques de sucre de betteraves

**Aff. C-321/99 P**

**Associação dos Refinadores de Açúcar Portugueses (ARAP) e.a. et Commission Portugal DAI - Sociedade de Desenvolvimento Agro-Industrial SA**

Pourvoi contre l'arrêt du Tribunal (quatrième chambre élargie), rendu le 17 juin 1999, dans l'affaire T-82/96 opposant Associação dos Refinadores de Açúcar Portugueses (ARAP) e.a. à la Commission - Annulation de la décision de la Commission, du 19 mars 1996, refusant d'ouvrir une procédure au

titre de l'art. 93, par. 3, du traité CE (devenu art. 88, par.3, CE) suite à une plainte des requérants relative à une aide accordée par le gouvernement portugais dans le secteur du sucre, ainsi que de la décision de la Commission, du 11 janvier 1996, autorisant l'aide en question

**Aff. C-328/99**

**Italie / Commission**

Annulation partielle d'une décision de la Commission, du 2 juin 1999, relative à une aide d'Etat concédée par l'Italie à la société Seleco SpA

**Aff. C-334/99**

**Allemagne / Commission**

Annulation de la décision K(99)2264 endg. de la Commission, du 8 juillet 1999, relative aux aides accordées par le gouvernement allemand à l'entreprise Gröditzer Stahlwerke GmbH et à sa filiale Walzwerk Burg GmbH

**Aff. C-337/99**

**Commission / Belgique**

Manquement d'Etat - Défaut d'avoir transposé, dans le délai prévu, l'art. 4 bis, par. 4, de la directive 90/388/CEE de la Commission, du 28 juin 1990, relative à la concurrence dans les marchés des services de télécommunication, telle que modifiée par la directive 96/19/CE de la Commission, du 13 mars 1996 - Réalisation de la pleine concurrence sur le marché des télécommunications

**Aff. C-340/99**

**TNT Traco SpA et Poste Italiane SpA Michele Carbonne e.a.**

Préjudicielle - Tribunale di Genova - Concurrence - Compatibilité avec les art. 86 et 90 du traité CE (devenus art. 82 et 86 CE) d'une réglementation nationale soumettant la prestation des services de courrier



exprès par les entités n'ayant pas la gestion exclusive des services universels au paiement de droits postaux normalement appliqués aux services universels classiques - Attribution des bénéfices découlant du paiement desdits droits à l'entité chargée de la gestion des services universels

**Aff. C-345/99**

**Commission / France**

Manquement d'Etat - Art. 17, par. 2, de la directive 77/388/CEE : Sixième directive du Conseil, du 17 mai 1977, en matière d'harmonisation des législations des Etats membres relatives aux taxes sur le chiffre d'affaires - Système commun de taxe sur la valeur ajoutée : assiette uniforme - Déductibilité de la taxe grevant l'acquisition de véhicules utilisés pour les besoins d'opérations taxées - Limitation aux véhicules affectés à l'enseignement de la conduite de façon exclusive

**Aff. C-364/99 P(R)**

**DSR-Senator Lines GmbH / Commission e.a.**

Pourvoi formé contre l'ordonnance en référé du Tribunal (Président) du 21 juillet 1999, DSR-Senator Lines/Commission (T-191/98 R) - Rejet de la demande du requérant de surseoir à l'exécution de la décision de la Commission, du 16 septembre 1998, relative à la procédure d'application des art. 85 et 86 du traité CE (devenus art. 81 et 82 CE) (affaire n. IV/35.134 - Trans Atlantic Conference Agreement)

**Aff. C-376/99**

**Allemagne / Commission**

Annulation de la décision K(99)2265 de la Commission du 8 juillet 1999 concernant une mesure de la République fédérale d'Allemagne en faveur de la banque Westdeutsche Landesbank Girozentrale

(«WestLB») - Absorption de la «Wohnungsbauförderungsanstalt des Landes Nordrhein-Westfalen» par la WestLB - Rémunération de l'augmentation des fonds propres en résultant - Aide d'Etat

**Aff. C-382/99**

**Pays-Bas / Commission**

Annulation de la décision C(1999)2536 déf. de la Commission concernant les aides accordées par les autorités néerlandaises à 633 stations-service situées dans la zone frontalière avec l'Allemagne - Application prétendument erronée de la communication de la Commission concernant les aides «de minimis»

**Aff. C-391/99**

**Portugal / Commission**

Annulation de la décision C (1999) 2406 final de la Commission du 20 juillet 1999 relative à une procédure au titre de l'art. 21, du règlement (CEE) n. 4064 du Conseil, du 21 décembre 1989, relatif au contrôle des opérations de concentration entre entreprises (Proc. IV/M. 1616 - A. Champalimaud/BSCH)

**Aff. jtes C-396/99 et C-397/99**

**Commission / Grèce**

Manquement d'Etat - Défaut d'avoir transposé, dans le délai prévu, l'art. 2, par. 1, de la directive 96/2/CE de la Commission, du 16 janvier 1996, modifiant la directive 90/388/CEE en ce qui concerne les communications mobiles et personnelles, en combinaison avec l'art. 3a, par. 2 et 3 de la directive 90/388/CEE de la Commission, du 28 juin 1990, relative à la concurrence dans les marchés des services de télécommunication, telle que modifiée par la directive 96/2/CE

**Aff. C-400/99**

**Italie / Commission**

Annulation de la lettre de la Commission SG (99) D 6463, du 6 août 1999, relative au commencement d'une procédure d'enquête formelle sur les aides octroyées par la République italienne à des entreprises du Gruppo Tirrenia di Navigazione

**Aff. C-427/99 P**

**RJB Mining plc / Commission**

Pourvoi formé contre l'arrêt du Tribunal (première chambre élargie) du 9 septembre 1999, RJB Mining / Commission (T-110/98) rejetant, en ce qu'il se fondait sur deux moyens déterminés, un recours en annulation d'une décision de la Commission portant sur des interventions financières de l'Allemagne en faveur de l'industrie houillère en 1997

**Aff. C-429/99**

**Commission / Portugal**

Manquement d'Etat - Art. 2, par. 4, 2., de la directive 90/388/CEE de la Commission, du 28 juin 1990, relative à la concurrence dans les marchés des services de télécommunication, tel que modifié par la directive 96/19/CE de la Commission, du 13 mars 1996 - Interdiction du service «call back» international - Délai supplémentaire accordé au Portugal pour l'abolition des droits exclusifs de Portugal Telecom en ce qui concerne la prestation de services de téléphonie vocale - 97/310/CE : Décision de la Commission du 12 février 1997 concernant l'octroi au Portugal de délais supplémentaires pour la mise en oeuvre des directives 90/388/CEE et 96/2/CE en ce qui concerne la pleine concurrence dans les marchés des télécommunications (Texte présentant de l'intérêt pour l'EEE)



**Aff. C-462/99**

**Connect Austria Gesellschaft für Telekommunikation GmbH et Telekom-Control-Kommission Mobilkom Austria AG**

Préjudicielle -  
 Verwaltungsgerichtshof -  
 Interprétation de l'art. 5 bis, par. 3, de la directive 90/387/CEE du Conseil, du 28 juin 1990, relative à l'établissement du marché intérieur des services de télécommunication par la mise en oeuvre de la fourniture d'un réseau ouvert de télécommunication, telle que modifiée par la directive 97/51/CE du Parlement européen et du Conseil du 6 octobre 1997 - Pourvoi devant une instance indépendante contre les décisions de l'autorité réglementaire - Effet direct -  
 Interprétation de l'art. 86 du traité CE (devenu article 82 CE), de l'art. 90 du traité CE (devenu art. 86 CE), de l'art. 2 de la directive 96/2/CE de la Commission, du 16 janvier 1996, modifiant la directive 90/388/CEE en ce qui concerne les communications mobiles et personnelles, et des art. 9 et 11 de la directive 97/13/CE du Parlement européen et du Conseil du 10 avril 1997 relative à un cadre commun pour les autorisations générales et les licences individuelles dans le secteur des services de télécommunications - Législation nationale en matière d'attribution de fréquences dans la bande 1800 MHz

**Aff. C-480/99 P**

**Gerry Plant e.a. / Commission South Wales Small Mines Association**

Pourvoi formé contre l'ordonnance du Tribunal de première instance (deuxième chambre) du 29 septembre 1999, J.G. Evans e.a. / Commission (T-148/98 et T-162/98), par laquelle le Tribunal a rejeté comme irrecevables des recours visant à l'annulation d'une décision de la Commission, du 30 juillet 1998 (affaire IV/E-3/SWSMA), rejetant les plaintes déposées par les requérants contre le Central Electricity Generating Board (CEGB) et British Coal, relatives à une prétendue entente concernant les prix de vente du charbon destiné à la production d'électricité

**Aff. C-482/99**

**France / Commission**  
 Annulation de la décision C(1999)3148 final de la Commission concernant les aides accordées par la France à l'entreprise Stardust Marine

**Aff. C-497/99 P**

**Irish Sugar plc / Commission**  
 Pourvoi formé contre l'arrêt du Tribunal de première instance (troisième chambre) du 7 octobre 1999, Irish Sugar plc / Commission (T-228/97) - Annulation de la décision de la Commission, du 14 mai 1997, relative à une procédure d'application de l'art. 86 du traité CE

(devenu art. 82 CE) (IV/34.621, 35.059/F-3 - Irish Sugar plc)

**Aff. C-499/99**

**Commission / Espagne**  
 Manquement d'Etat - Défaut de s'être conformé aux décisions 91/1/CEE de la Commission, du 20 décembre 1989, concernant les aides accordées en Espagne par le gouvernement central et plusieurs gouvernements autonomes à MAGEFESA, producteur d'ustensiles de cuisine en acier inoxydable et de petits appareils électriques et C(1998)3211 final de la Commission, du 14 octobre 1998, relative à une aide accordée aux entreprises du groupe MAGEFESA

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Competition Policy Newsletter 2000 - June -

European Community Competition Policy - 1999

XXIX Report on Competition Policy 1999



## Cases covered in this issue

### Anti-Trust Rules

- 13 Agreement to approve energy efficiency of washing machines
- 15 Carel de producteurs de tubes d'aciers
- 17 FEG - TU

### Mergers

- 19 Airtours/First Choice
- 20 Exxon/Mobil
- 20 BP Amoco/Atlantic Richfield
- 21 Telia/Telenor
- 21 Sanitec/Sphinx
- 21 Honeywell/Alliedsignal
- 22 Air Liquide/BOC
- 22 Linde/AGA
- 22 Totalfina/Elf Aquitaine
- 22 Onex/Air Canada/Canadian Airlines
- 22 Volvo/Scania
- 23 Alcan/Alusuisse
- 23 Alcoa/Reynolds
- 23 MMS/DASA/Astrium
- 23 Dow Chemical/Union Carbide
- 24 Pakhoed/Van Ommeren
- 24 EDF/Louis Dreyfus
- 24 New Halland/Case
- 24 Akzo Nobel/Hoechst
- 25 Fujitsu/Siemens
- 25 Deutsche Post/Trans-o-flex
- 26 KLM/Martinair
- 27 BBL/BT/ISP Belgium
- 28 Incorrect or misleading information in competition procedures
- 30 Freecom/Dangaard Holding
- 31 BOL Spain/Bertelsmann/Planeta Corporación
- 31 Cdnw/Time Warner/Sony
- 32 Hearst Mondadori Editoriale

### State Aid

- 33 Regional aid
- 35 Rockwool Peninsular S.A.
- 35 Marina di Stabia s.p.a.
- 36 Benfil s.r.l.
- 36 Tessival s.r.l.



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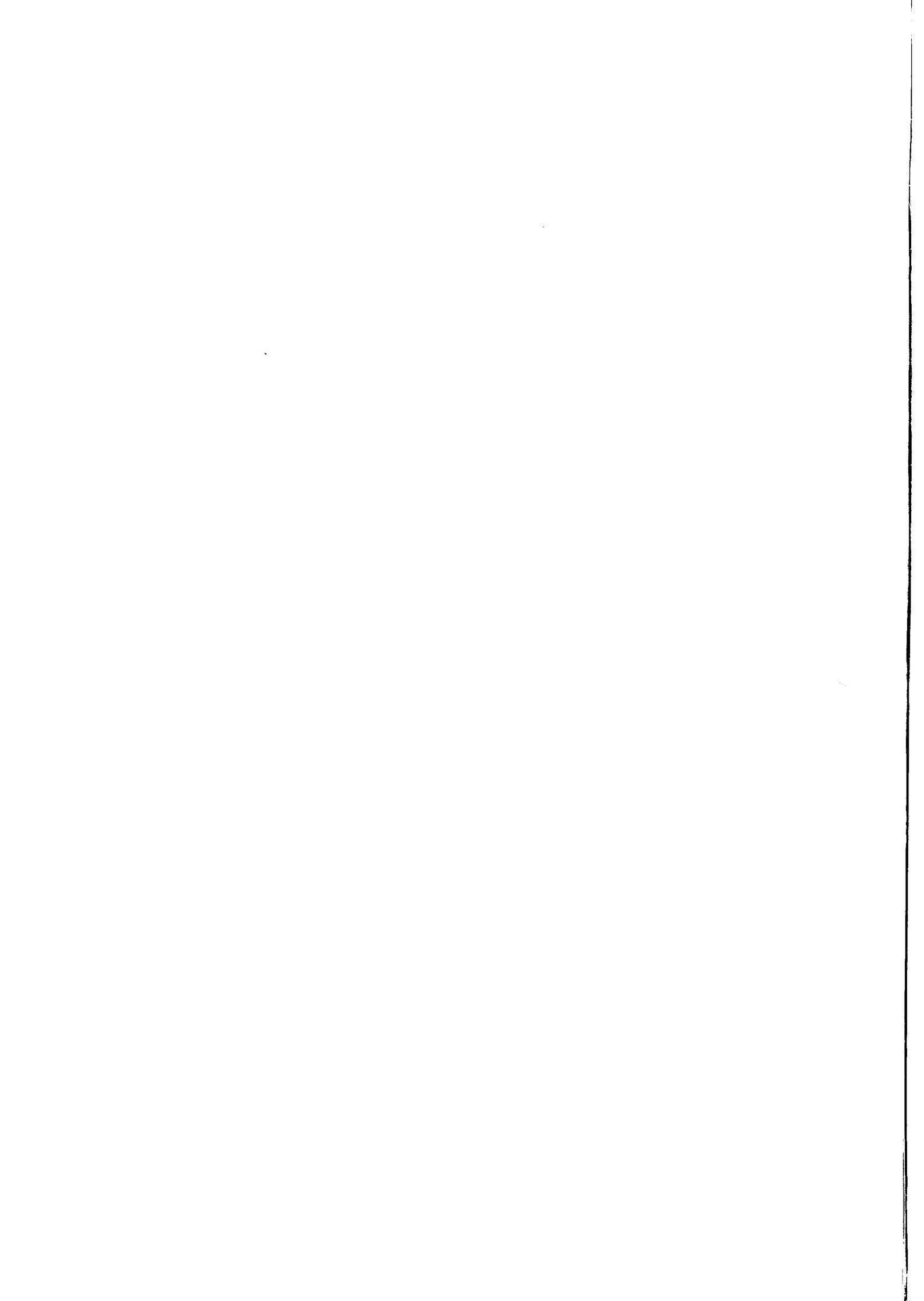
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