COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 13.09.1999
COM(1999)439 final

REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT

ON THE APPLICATION OF THE

Agreement between
the European Communities and
the Government of the United States of America
regarding the application of their competition laws

1 January 1998 to 31 December 1998

1. INTRODUCTION

On 23.09.1991 the Commission concluded an Agreement with the Government of the United States of America regarding the application of their competition laws[1] ("the 1991 Agreement"), the aim of which is to promote cooperation between the competition authorities. By the joint decision of the Council and the Commission of 10.04.1995[2] the Agreement was approved and declared applicable.

On 8.10.1996 the Commission adopted the first report on the application of the Agreement for the period of 10.04.1995 to 30.06.1996[3]. The second report completes the 1996 calendar year, covering the period of 1.07.1996 to 31.12.1996[4]. The third report covers the whole calendar year 1997[5], and the present report covers the calendar year from the 1.01.1998 to 31.12.1998. This report should be read in conjunction with the first report which sets out in detail the benefits, but also the limitations of this kind of cooperation.

2. EC/US COOPERATION : THE RECORD SO FAR

In the period from April 1995 till December 1998 application of the 1991 Agreement gave rise to contacts on more than 200 competition cases.

In all cases of mutual interest it has become the norm to establish contacts at the outset in order to exchange views and, when appropriate, to coordinate enforcement activities. The two sides, where appropriate, seek to coordinate their respective approaches on the definition of relevant markets, on possible remedies in order to ensure that they do not conflict, as well as on points of foreign law relevant to the interpretation of an agreement or to the effectiveness of a remedy. Cooperation under this heading has involved the

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1 *Agreement between the Government of the United States of America and the Commission of the European Communities regarding the application of their competition laws* (OJ L 95, 27.4.95, pp.47 and 50)

2 See OJ L 95, 27.4.95, pp.45 and 46.

3 Com(96) 479 final, see XXVIth Report on Competition Policy, pp. 299-311.

4 Com(97) 346 final, see XXVIth Report on Competition Policy, pp. 312-318.

5 Com(98) 510 final, see XXVIIth Report on Competition Policy, pp. 317-327.

synchronisation of investigations and searches. This is designed to make fact-finding action more effective and helps prevent companies suspected of cartel activity from destroying evidence located in the territory of the agency investigating the same conduct after its counterpart on the other side of the Atlantic has acted.

Formal activation of the positive comity provision (Article V of the 1991 Agreement) was felt appropriate in the ***Sabre/Amadeus*** case. The US Department of Justice ("DoJ") requested the Commission to investigate specific allegations of discrimination advanced by the US Computerised Reservation System (CRS) SABRE regarding the operation of the CRS AMADEUS set up by a number of European airlines. The Commission is currently investigating the case in close co-operation with the DoJ. More details will be published in the first EC/US cooperation report following the closure of this case.

2.1 Mergers

Since the adoption of the Merger Regulation, there has been nearly every year a steep increase in the number of operations notified to the Commission. The number of cases increased annually by more than 30% in 1997 and 1998.

On top of the increase in the number of transactions, there are a number of indications that the current merger wave has a new, global dimension. Indeed, there is an increase in the co-operation between the US and the EC on merger cases.

International co-operation has proved effective in the context of individual cases. An example of best cooperation practices is set by the ***WorldCom/MCI*** case, where the two case-teams worked smoothly together. Indeed, joint negotiations were undertaken between the parties and the US DoJ and the European Commission, as a result of which the parties agreed to find a buyer and to divest MCI's Internet activities prior to completing the merger. On the basis of these undertakings, the Commission cleared the transaction on 8 July 1998 and, following approval from the US DoJ and the FCC, MCI's Internet business was sold to Cable & Wireless. The merger was cleared in September 1998. This kind of co-operation has been replicated in many other transactions.

In fact, the co-operation is very extensive : co-operation on timing, on market definition, (in the ***Boeing/McDonnell Douglas*** case, for example, both the Federal Trade Commission ("FTC") and the Commission reached the same product definition of "large commercial aircraft"), co-operation on remedies and co-operation on the assessment of anti-competitive effects. US antitrust authorities have moreover participated as observer in some Commission hearings (***Guinness/Grand Metropolitan, Boeing/MDD*** and ***Worldcom/MCI***), and the Commission is exploring the possibility for its officials to attend, under similar conditions and with the consent of the parties, certain key meetings between the US competition authorities and parties to proceedings under US antitrust rules.

The complexities involved in the handling of cases involving more than two competition agencies need also be taken into consideration. Co-operation between, for instance, four or even more agencies might be more difficult to manage than a single transatlantic communication. The risks of reaching diverging decisions, or simply of the agencies being unable to grasp the economic significance of all aspects of a given transaction, would then be higher. In a few instances, transactions needed clearance by several competition agencies (for example the ***Price Waterhouse/Coopers & Lybrand*** merger).

In such cases, the various agencies involved have co-ordinated their investigations. None of the two potential pitfalls identified above has yet materialised. It is true that in some rare instances (cf the ***Boeing*** case), the final outcomes of procedures have been different. However, final decisions have never been in conflict.

2.2. Cartels

The US-DoJ has suggested in the past that cooperation in cartel cases would be facilitated if there was in DGIV one contact point responsible for major international cartel cases. It is expected that the new DGIV cartel structure, the Cartel Unit[6], will be in a position to provide this interface with officials of the DoJ responsible for criminal investigations. This should facilitate cartel cooperation, even if it cannot solve all problems.

Until now, despite excellent cooperation with the US in merger cases, DGIV has experienced difficulties regarding cooperation in cartel cases, primarily because of confidentiality rules. DG IV receives no advance notice of settlements in "guilty plea" cases, our leniency policies are not sufficiently co-ordinated and we have difficulties in planning joint investigations.

On the issue of *advance information* (in the absence of waivers, which are rare in such cases), it is clear that the DoJ is in some instances not able to provide advance notifications is normally contemplated in the EC-US Agreement because of the confidentiality constraints. The situation could be improved, if an EC/US Bilateral Agreement, pursuant to the 1998 OECD Recommendation concerning Effective Action against Hard Core Cartels[7], made it possible for the US authorities and the Commission to share confidential information. It is clear that EC and US actions against serious infringements (e.g. hard core cartels) would be more effective if we could share confidential information.

A comparison of the *leniency* scheme in the EC and the *corporate immunity* scheme in the US also reveals divergences that could create practical problems. Some common strategy in order to solve these problems appears desirable.

2.3. Abuses of Dominance

One of the best examples of co-operation with the US in a case of abuse of dominant position is the 1993 ***Microsoft*** case which led, in 1994, to an undertaking from Microsoft to modify its licensing practices. This followed a period of intense negotiations involving Microsoft and a team of senior officials drawn from the European Commission and the United States Department of Justice. These negotiations also resulted in Microsoft settling charges brought by the United States Department of Justice by signing a consent decree.

The negotiation of the undertaking remains a milestone in the co-operation between the EC Commission and the United States Department of Justice: during the investigations

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6 IP/98/1060, Brussels 3.12.1998.

7 C(98)35/FINAL.

conducted by DG IV and by the DoJ respectively, Microsoft consented to the exchange of information between the two competition authorities by waiving its right to secrecy with respect to both authorities. A number of contacts between DG IV and the DoJ followed; a co-ordinated approach was elaborated, and it was agreed to negotiate jointly with Microsoft. To this end, trilateral talks were held, both in Brussels and in Washington DC. They resulted in an undertaking by Microsoft to both authorities.

Although this type of joint action was carried out independently of the Cooperation Agreement in competition matters concluded in 1991 (its legal validity was at that time still under scrutiny by the Court of Justice), it served as an important model for the future, as it showed how the two authorities can combine their efforts to deal effectively with giant multinational companies. The success of this joint approach also sent a strong signal to all multinational companies, including those in other sectors.

The 1996 investigation into the practices of ***Nielsen***, a provider of retail tracking services, is also a good example of successful cooperation

3. THE 1998 EC/US AGREEMENT ON POSITIVE COMITY

It is clear that the 1991 Agreement has provided a solid and quite satisfactory framework for cooperation. However, with the increasing integration of transatlantic (and global) markets there was a need to broaden, deepen and intensify EU-US cooperation in the area of competition. It was also beyond doubt that certain conflicts can be avoided by using the positive comity concept more extensively.

On the basis of a mandate by the Council, the Commission negotiated with the United States an agreement which strengthens the relevant provisions of the 1991 Agreement. The product of these negotiations, the **1998 EC/US Positive Comity Agreement**[8] was signed in Washington and entered into force on 4.06.1998.

The 1998 EC/US Positive Comity Agreement, like the 1991 Agreement, does not alter existing law, nor does it require any change in existing law. However, it does create a presumption that when anticompetitive activities occur in the whole or in a substantial part of the territory of one of the parties and affect the interests of the other party, the latter "will normally defer or suspend its enforcement activities in favour of" the former. This is expected to happen particularly when these anticompetitive activities do not have a direct, substantial and reasonably foreseeable impact on consumers in the territory of the party deferring or suspending its activities.

The presumption of deferral will only occur if the party in the territory of which the restrictive activities are occurring has jurisdiction over these activities and is prepared to deal actively and expeditiously with the matter. When dealing with the case that party will keep its counterpart closely informed of any developments in the procedure, within the limits of its internal rules protecting confidentiality.

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[8] Agreement between the European Communities and the Government of the United States of America on the application of positive comity principles in the enforcement of their competition laws, OJ L 173, 18/06/1998, pp. 26 – 31.

The new Agreement constitutes an important development, since it represents a commitment on the part of the European Union and the United States to cooperate with respect to antitrust enforcement in certain situations, rather than to seek to apply their antitrust laws extraterritorially.

3.1. Protection of confidential information

Following its 1st Statement[9] in 1995, the Commission indicated in a new "Statement on Confidentiality of Information" made during the adoption on 29.05.1998 of the Joint Council and Commission Decision concluding the 1998 Positive Comity Agreement that:

- "The Statement made by the Commission in April 1995 on the confidentiality of information and the exchange of interpretative letters dated May 31 and July 31, 1995 in relation to the 1991 Agreement apply in their entirety to this Agreement.

- Article VII of this Agreement states that existing laws remain unchanged and that the Agreement must be interpreted consistently with those existing laws. This Agreement therefore cannot permit either of the Parties' competition authorities to do any act they do not already have the power to do. One consequence of this is that the Commission may only provide information to the US authorities where it is consistent with Community law to do so.

- While this Agreement envisages that it may be appropriate to provide information to the other party in order to keep it informed of enforcement activities, confidential information may only be provided with the consent of the source of that information. Community law provides a high level of protection to confidential information provided to the Commission, and it will be necessary that any consent obtained is sufficient to discharge the Commission from its obligation of confidentiality pursuant to general principles of Community law, the case-law of the Court of Justice of the European Communities and Article 20(2) of Council Regulation No 17".

3.2. Transparency vis-à-vis Member States concerned

Member States concerned are kept informed of cooperation activities under the 1991 EC/US Agreement in accordance to the 1st Statement by the Commission to the Council[10] in 1995. The Commission indicated in a new "Statement on Transparency" made during the adoption on 29.05.1998 of the Joint Council and Commission Decision concluding the 1998 Positive Comity Agreement that:

- "The principles on transparency which govern the relationship between the Commission and the Member States in the application of the competition rules as enshrined, in particular, in Council Regulation No 17, the statement made by the

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9 Submitted by the Commission to the Council during the adoption on 10.04.1995 of the Joint Council and Commission Decision regarding the entry into force of the 1991 EC/US Agreement and published in the 3rd EC/US cooperation report at point 3, Com(98) 510 final; see also XXVIIth Report on Competition Policy, pp. 317-327.

10 Submitted by the Commission to the Council during the adoption on 10.04.1995 of the Joint Council and Commission Decision regarding the entry into force of the 1991 EC/US Agreement and published in the 3rd EC/US cooperation report at point 4, Com(98) 510 final; see also XXVIIth Report on Competition Policy, pp. 317-327.

Commission in April 1995 on transparency and the arrangements contained in the exchange of interpretative letters dated 31 May and 31 July 1995, in relation to the 1991 Agreement shall apply.

- The Member States whose interests are affected shall be informed as soon as is reasonably possible of all requests by the US authorities to investigate or remedy anticompetitive activities and of all proceedings opened by the Commission as a result of a request by the US authorities under Article III of this Agreement.

- The Member States whose interests are affected shall be informed as soon as is reasonably possible of requests to the US authorities under Article III of this Agreement to investigate anticompetitive activities.

- The Member States whose interests are affected shall be informed as soon as is reasonably possible of Commission and US deferrals or suspensions of enforcement activities pursuant to Article IV(2) of the Agreement, or of Commission and US initiations or re-institutions of such activities pursuant to Article IV(4) of the Agreement.

- When the Commission opens proceedings following a request by the US authorities under Article III of this Agreement, the undertakings concerned shall be informed of the existence of the request, at the latest when the statement of objections is issued, or when a publication pursuant to Article 19(3) of Council Regulation No 17 is made.

- The annual report presented by the Commission to the European Parliament and the Council on the application of the 1991 Agreement shall also cover the application of this Agreement, including any cases where information has been exchanged under the Agreements".

3.3. Application of the 1998 Agreement

In the period from its entry into force (4.6.1998) to 31.12.1998 no requests have been submitted by the EC or the US under the 1998 Positive Comity Agreement.

4. CASE SPECIFIC COOPERATION WITHIN 1998

The cases listed below are those which fall directly under the EC/US Agreement and are dealt in the US by either the US DoJ or the FTC. Some competition cases are dealt in the US by other agencies, for instance the US Department of Transportation (DoT), the Federal Maritime Commission (FMC) or the US Department of Commerce (DoC). These agencies do not formally cooperate with the Commission directly, but do so indirectly, mostly through the DoJ. There are therefore informal contacts between the Commission and these agencies. These cases are not discussed in this report.

4.1 Statistical information

a) Number of cases notified by the Commission and by the US

There were the total of fifty-two notifications made by the Commission during the period between 1 January 1998 and 31 December 1998. The cases are divided into merger and non-merger cases and are listed in the **Annex 1**.

The Commission received the total of forty-six notifications from the US authorities during the same period. Twenty-four were received from the DoJ and twenty-two from the FTC. A list of these cases is found in the **Annex 2**, again broken down in merger and non-merger cases.

Merger cases made up the majority of all notifications in both directions. There were forty-three merger notifications by the Commission and thirty-nine by the US authorities.

The figures given represent the number of cases in which one (or more) notifications took place and not the total number of individual notifications. Under Article II of the Agreement, notifications are made at certain stages of the procedure and so several notifications may be made concerning the same case

Table 1 sets out in figures the number of cases notified under the 1991 EC/US Agreement during the period from 1 January 1998 to 31 December 1998. *Table 2* sets out in figures the number of cases notified since 23 September 1991.

Table 1

CASES NOTIFIED

Year	**No. of EC notifications**	**No. of US notifications**		**No. of merger notifications**	
		FTC	DoJ		
1998	52	22	24	43 (EC)	39 (US)

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Table 2

CASES NOTIFIED

Year	No. of EC notifications	No. of US notifications		No. of merger notifications
		FTC	DoJ	
1991	5	10	2 (=12)	3 (EC) + 9 (US)
1992	26	20	20 (=40)	11 (EC) + 31 (US)
1993	44	22	18 (=40)	20 (EC) + 20 (US)
1994	29	16	19 (=35)	18 (EC) + 20 (US)
1995	42	14	21 (=35)	31 (EC) + 18 (US)
1996	48	20	18 (=38)	35 (EC) + 27 (US)
1997	42	12	24 (=36)	30 (EC) + 20 (US)
1998	52	22	24 (=46)	43 (EC) +39 (US)

b) Notifications by the Commission to Member States

The text of the interpretative letter sent by the European Communities to the US as well as the Statement on Transparency made by the Commission to the Council on 10 April 1995 (see point 3.2 above) provides that the Commission, after notice to the US Competition authorities, will inform the Member State or Member States, whose interests are affected, of the notifications sent to it by the US antitrust authorities. Thus, when notifications are received from the US Authorities, they are forwarded immediately to the relevant units of DG IV and at the same time copies are sent to the Member States, if any, whose interests are affected. Equally, at the same time that DG IV makes notifications to the US authorities, copies are sent to the Member State(s) whose interests are affected.

In most instances, the US authorities also notify the Member States directly, under the OECD Recommendation[11]. During the period under review 35 cases were notified to the United Kingdom, 17 to Germany, 11 to the Netherlands, 8 to France, 3 to Spain and Sweden, 2 to Italy and 1 to Denmark, Finland and Ireland each.

4.2 Substantive aspects of case-specific cooperation[12]

1998 was notable not only for the continuation of a substantial level of merger and acquisition activity but also for the increasing size of the deals being announced.

[11] Revised recommendation of the OECD Council concerning cooperation between Member countries on anti-competitive practices affecting international trade, adopted 27/28 July 1995.

[12] This report concentrates on aspects of case handling related to the EC/US cooperation. For more information on a particular case see the XXVIIth Report on Competition Policy.

Throughout the year there were a string of announcements of ever larger global-scale mergers.

At the start of the year the merger with largest claimed value was the ***WorldCom/MCI*** deal, with a figure in the order of US$37 billion. During the course of year this was surpassed by mergers with higher announced values, for example, the ***Travelers Group/Citicorp*** deal, the ***BP/Amoco*** and ***Exxon/Mobil*** mergers, as well as ***SBC/Ameritech***, ***Daimler Benz/Chrysler***, and ***American Home Products/Monsanto***. Other headline cases announced in 1998 included ***Price Waterhouse/Coopers & Lybrand*** and ***KPMG/Ernst & Young***, as well as numbers of smaller concentrations which had implications beyond their home territory.

Not all large mergers require filing in Europe - ***SBC/Ameritech*** is one example which did not fall under EC jurisdiction. But as most of those mentioned above were international, if not global in scale, the majority required multiple competition filings with different agencies, including normally the EC and the US anti-trust enforcement agencies.

It might be thought that large mergers would normally require more extensive co-operation simply because of their scale, but this is not necessarily true. While some relatively large cases fell technically within the EC jurisdiction, they had little or no competitive impact in Europe. This might be because the main focus of activity is outside Europe, such as in the ***Travelers Citicorp*** case, or because the merging parties were coming together from home positions in their respective territories and the competitive impact of the overlap was minimal. In the ***Daimler Benz/Chrysler*** and ***BP/Amoco*** cases each party was active principally in its respective home continent, but absent or not substantially present in the territory of the other, hence overlaps were marginal or non-existent.

In such cases co-operation will be limited, and typically involve case handlers in the EC and US respectively making contact with one another, keeping each other informed about their respective timetables, and perhaps discussing product and geographic market definitions.

In another category of case, the EC and US agencies may adopt differing views on product and geographic markets, but find co-operation helpful in establishing why those differences exist, and to satisfy themselves that they are comfortable with their own reasoning. ***American Home Products/Monsanto***, and ***Hoffmann-La Roche/Boehringer Mannheim***, were cases where the conditions of competition were different in Europe from those in the US. Even if the product or geographic markets and hence the competition analysis differ, there may still be cases where a certain co-ordination of treatment of remedies is desirable. ***Hoffmann-La Roche/Boehringer Mannheim*** and ***Halliburton/Dresser*** were examples where discussions took place about possible remedies.

More substantial co-operation in the assessment phase may arise where the geographic extent of the product or service markets is either world-wide, or covers both the United States and Europe. In these cases both agencies have an interest in ensuring consistency of product and service market definition, and in knowing whether the other believes there is a substantial competition issue. In ***Price Waterhouse/Coopers & Lybrand***, ***WorldCom/MCI***, ***Wolters Kluwer/Reed Elsevier***, ***Exxon/Shell*** and ***Marsh &***

McLennan/Sedgwick, discussions took place about product market definition and geographic extent, with a view toconfirming each agency's analytical approach.

It is becoming more common for case handlers to ask for waivers on a routine basis in order to enable the agencies to exchange confidential information between one another. Frequently the main benefit of this is not so much the information which might be exchanged, but the removal of constraints which prevented the agencies from having a free and unfettered dialogue. For example, such exchanges prevent misunderstandings which might otherwise arise owing to an imperfect understanding of the position or intentions of case handlers in the other jurisdiction. And where co-operation is carried into the investigation stage, a co-ordinated approach can reduce the burden on the notifying parties and third parties. Finally, co-operation in the devising of remedies can help the notifying parties avoid 'double-jeopardy' whereby they are required to negotiate remedies sequentially, and thus have to make further concessions to the second agency to secure the clearance of a deal which has already received the blessing of the first.

If such dialogue is to be of value, it is important to facilitate it as early as possible in the assessment process. A common feature of earlier attempts to secure waivers was lengthy negotiations with the parties about the terms of their waiver, to the point where the value of any subsequent co-operation might be lost. The Commission has begun to take the initiative in suggesting to notifying parties a 'standard form' waiver, which they are invited to sign, and hence to minimise the time spent on negotiating the terms.

In a few cases, co-operation has been taken a stage further, to include co-ordination of investigative activity. Although both agencies would continue to make their own enquiries of third parties, they might discuss who should be contacted, and co-ordinate the questions to be asked. In ***WorldCom/MCI***, assessments were greatly facilitated by the readiness of many firms who responded to parallel enquiries from the EC and US agencies and allow information to be shared between them, or who supplied the same submission to both.

Co-operation can go further still. In ***WorldCom/MCI*** and ***Exxon/Shell*** case the co-operation which had begun during the assessment stage was continued when discussions of remedies began. In ***WorldCom/MCI*** trilateral remedy negotiations were conducted between the notifying parties and the two agencies. In addition, the US Department of Justice ("DoJ" - the US agency responsible for handling the case) and the Commission jointly conducted the market testing of a first set of remedies. This included the presence of one person from DG IV case team in the DoJ premises to take part to the DoJ market testing. In ***Exxon/Shell***, the remedy was extensively discussed between the US and EC agencies before either agency came to a final view.

There are as yet few cases on record where co-operation has taken place regarding the implementation of undertakings offered, but this may be an area of growth in the future. In ***WorldCom/MCI*** there was an exchange of letters between the EC and the US DoJ where the Commission requested the DoJ's co-operation regarding the undertakings which were mutually offered by the parties to both the Commission and the DoJ. The DoJ confirmed that it would take whatever steps are necessary and appropriate to evaluate, and if it found them to be sufficient, to seek the effective implementation of these undertakings. In a good example of such co-operation, the ***Halliburton/Dresser*** case was cleared within the first Phase in the EC, but in the US it took somehow longer because of several serious problems identified there. One of the problem areas found

related to the market for drilling fluids. Although this was of concern to the European Commission as well as to the DoJ, the US Antitrust Division was considered to be better placed to deal with it, as it involved divestitures of assets located in the US. Therefore, the Commission kept in close contact with its US counterparts, and relied on their pursuing the required divestiture as an element in deciding to clear the case at Phase 1. Subsequently, the US Antitrust Division kept the Commission fully informed throughout the divestiture process.

5. CONCLUSIONS

The implementation of the bilateral EC/US 1991 Agreement has been very successful so far. Approaches by the respective antitrust authorities have been largely converging rather than diverging. The experience has shown that co-operation with the US is not merely an option but rather an absolute necessity if both competition authorities want to be able to deal effectively with the ever-increasing problem of cross-border restrictive business activities.

This co-operation is even more necessary because of the importance of the sectors principally concerned (transport, telecom, pharmaceuticals, computers,...), and because of the implications of competition decisions for these key industries.

It is clear that these Agreements do not eliminate the possibility of conflicting views, because the different authorities retain the right to make their own analysis and to reach decisions independently of each other. However, increased cooperation contributes to improving the effectiveness and efficiency of both the EC's and the US's competition laws and reduces the risks of divergent decisions.

ANNEX 1

NOTIFICATIONS BY THE EUROPEAN COMMISSION TO THE US AUTHORITIES 01.01.1998 - 31.12.1998

Merger cases[13]:

01 Case n° IV/M.1094 - Caterpillar/Perkins Engines
02 Case n° IV/M.1042 - Eastman Kodak/Sun Chemical
03 Case n° IV/M.986 - Agfa-Gevaert/DuPont
04 Case n° IV/M.1081 - Dow Jones/NBC - CNBC Europe
05 Case n° IV/M.970 - TKS/ITW Signode/Titan
06 Case n° IV/1069 - WorldCom/MCI
07 Case n° IV/M.1040 - Wolters-Kluwer/Reed-Elsevier
08 Case n° IV/M.1120 - Compaq/Digital
09 Case n° IV/M.1112 - Advent International/EMI/WH Smith
10 Case n° IV/M.1109 - Owens-Illinois/BTR Packaging
11 Case n° IV/M.1020 - GE Capital/Sea Containers
12 Case n° IV/M.1155 - Cendant Corporation/NPC
13 Case n° IV/M.1139 - DLJ/FM Holdings
14 Case n° IV/M.1162 – GE/BAYER
15 Case n° IV/M.1168 – Deutsche Post/Lufthansa/DHL
16 Case n° IV/M.1192 – CHS Electronics/Metrologie International
17 Case n° IV/M.1196 – Johnson Controls/Becker
18 Case n° IV/M.1182 – Akzo Nobel/Courtaulds
19 Case n° IV/M.1140 – Halliburton/Dresser
20 Case n° IV/M.1137 – Exxon/Shell
21 Case n° IV/M.1208 – Jefferson Smurfit/Stone Container
22 Case n° IV/JV.5 – Cegetel/Canal+/America Online/Bertelsmann
23 Case n° IV/M.1204 – Daimler Benz/Chrysler
24 Case n° IV/M.1229 – American Home Products/Monsanto
25 Case n° IV/M.1289 – Harbert Management/DB/Bankers Trust/SPP/Öhman
26 Case n° IV/M. 1276– NEC/PBN
27 Case n° IV/M.1306 – Berkshire Hathaway/General Re
28 Case n° IV/M.1292 – Continental/ITT
29 Case n° IV/M.1300 – Allied Signal/AMP
30 Case n° IV/M.1304 – Hercules/BetzDearborn
31 Case n° IV/M.1307 – Marsh & McLennan/Sedgwick
32 Case n° IV/M.1246 – LHZ/Carl Zeiss
33 Case n° IV/M.1293 – BP/Amoco
34 Case n° IV/M.1286 – Johnson & Johnson/Depuy
35 Case n° IV/M.1298 – Kodak/Imation
36 Case n° IV/M.1301 – Texaco/Chevron
37 Case n° IV/M.1327 – Canal+, CDPQ and Bank America/NC
38 Case n° IV/M.1252 – AT&T/TCI
39 - Case n° IV/JV.15 – BT/AT&T
40 Case n° IV/M.1335 – Dana/Glacier Vandervell

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[13] Due to the confidentiality requirements, this list names only those investigations or cases which have been made public.

41 **Case n° IV/M.1368 – Ford/ZF**
42 **Case n° IV/JV.12 – Motorola/Ericsson/Nokia/Psion**
43 **Case n° IV/M.1355 – Newell/Rubbermaid**

Non-merger cases[14]:

01 **Case n° IV/36.638 - FIA/FOA**
02 **Case n° IV/36696 - Parallel Products of DuPont Paints and Pigments**
03 **Case n° IV/36890 - Monitoring of Digital's Undertaking of 8 October 1997**
04 **Case n° IV/36702 - Investigation of Iomega Corporation agreements and market behaviour**
05 **Case n° IV/34237 – Anheuser Bush/Scottish and Newcastle**
06 **Case n° IV/37241 – Boeing/Airbus**
07 **Case n° IV/36967 – Beloit/Valmet**
08 **Case n° IV/36545 – Aminoacids**
09 **Case n° IV/37174 – Network Solutions Premier Partner Program**

[14] Due to the confidentiality requirements, this list names only those investigations or cases which have been made public.

ANNEX 2

NOTIFICATIONS BY US AUTHORITIES TO THE EUROPEAN COMMISSION 01.01.1998 - 31.12.1998

Merger cases[15]

01	see footnote
02	DuPont/Degussa
03	T &N PLC/Federal-Mogul
04	Engine Alliance
05	Flir/Spectra
06	GNK/Armstrong
07	Sentrachem/Dow
08	Reed Elsevier/Wolters Kluwer
09	Siemens/FPG
10	Wolters Kluwer/Thomson
11	Nutone/Nortek
12	SC Investments/Andes
13	Sungard/Rolfe & Nolan
14	Wolters Kluwer/Waverly
15	ANRFS/ANRP/Transok/Shell
16	Harsco/Pandrol Jackson
17	Coloniale/Parmalat/Kinnett
18	Boeing-McDonnell Douglas helicopter business
19	PMSI/Cognizant
20	Intel Corporation/Digital Equipment Corporation
21	Worldcom/MCI
22	Reed Elsevier/Matthew Bender
23	Crosfield ICI/Grace
24	see footnote
25	ChryslerCorporation/Daimler-Benz
26	Alcatel/DSC
27	American Home Products/Monsanto
28	Pearson/Viacom
29	Wandel & Goltermann/Wavetek
30	Metallgesellschaft/Cyprus Foote
31	Giant Food/Ahold
32	Jefferson Smurfit/Stone Container
33	Halliburton/Dresser
34	see footnote
35	BP/Amoco
36	see footnote
37	Elsag Bailey/Finmeccanica/ABB
38	Sulzer/Guidant
39	AT & T/BT

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[15] Due to the confidentiality requirements, this list names only those investigations or cases which have been made public.

40 **see footnote**
41 **Exxon/Shell**
42 **Marsh &McLennan/Sedgwick**

Non-merger cases[16]

01 **ICI Explosives**
02 **see footnote**
03 **see footnote**
04 **see footnote**
05 **see footnote**
06 **see footnote**
07 **see footnote**

16 Due to the confidentiality requirements, this list names only those investigations or cases which have been made public.