

Opinion of the Advisory Committee on mergers given at its meeting of 3 June 2015 regarding a draft decision relating to Case M.6800 — PRSfM/STIM/GEMA/JV

Rapporteur: Italy

(2015/C 341/06)

Concentration

1. The Advisory Committee agrees with the Commission that the notified transaction constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.
2. The Advisory Committee agrees with the Commission that the notified transaction constitutes a joint venture performing on a lasting basis all the functions of an autonomous economic entity within the meaning of Article 3(4) of the Merger Regulation.
3. The Advisory Committee agrees with the Commission that the notified transaction must be deemed to have a Union dimension pursuant to Article 4(5) of the Merger Regulation.

Market definition

4. The Advisory Committee agrees with the Commission's definitions of the relevant product markets in the draft Decision.

In particular, the Advisory Committee agrees that the following markets should be distinguished:

- (a) the market for the provision of copyright administration services to CMOs and option 3 publishers in relation to transactional multi-territorial licenses; and
 - (b) the market for the licensing of online music publishing rights.
5. The Advisory Committee agrees with the Commission on the geographic market definition for both markets, i.e. that they are EEA-wide in scope.

Competitive assessment

6. Concerning non-coordinated anti-competitive effects, the Advisory Committee agrees with the Commission's view that the transaction would significantly impede effective competition because it would lead to an increase in barriers to entry and expansion in the market for the provision of copyright administration services to CMOs and option 3 publishers in relation to transactional multi-territorial licenses.
7. The Advisory Committee agrees with the Commission that the transaction would not significantly impede effective competition in the market for the licensing of online music publishing rights because, in spite of the JV's larger repertoire, the transaction would not give the JV increased bargaining power and, hence, lead to more onerous licensing terms for digital platforms.
8. Concerning other anticompetitive effects, the Advisory Committee agrees, in view of the business separation measures that the Notifying Parties will put in place and the fact that the transaction will not significantly change the current situation as regards the aggregation of commercially sensitive information, that the transaction would not significantly impede effective competition because of the exchange of commercially sensitive information.
9. The Advisory Committee agrees that the transaction would not lead to spill-over effects between the Notifying Parties in the sense of Article 2(4) of the Merger Regulation.

Commitments

10. The Advisory Committee agrees with the Commission that the final commitments offered by the Notifying Parties on 10 April 2015 address the competition concerns identified by the Commission on the market for the provision of copyright administration services to CMOs and option 3 publishers in relation to transactional multi-territorial licenses.
11. The Advisory Committee agrees with the Commission's conclusion that, subject to the full compliance with the final commitments, the notified transaction is not likely to significantly impede effective competition in the internal market or in a substantial part of it.

Conclusion

The Advisory Committee agrees with the Commission's conclusion that the notified concentration must be declared compatible with the internal market and the functioning of the EEA Agreement in accordance with Articles 2(2) and 8(2) of the Merger Regulation and Article 57 of the EEA Agreement.
