

Final report of the Hearing Officer ⁽¹⁾**Syniverse/Mach****(COMP/M.6690)****(2014/C 60/04)****I. BACKGROUND**

- (1) On 16 November 2012, the European Commission received a notification of a proposed concentration pursuant to Article 4 of the Merger Regulation ⁽²⁾ by which Syniverse Holdings, Inc. acquires sole control over the whole undertaking WP Roaming III Sàrl ('Mach') ⁽³⁾, within the meaning of Article 3(1)(b) of the Merger Regulation.
- (2) The proposed transaction does not have an EU dimension within the meaning of Article 1 of the Merger Regulation. However, it was referred to the Commission at the request of the notifying party pursuant to Article 4(5) of the Merger Regulation.
- (3) The Commission initiated proceedings according to Article 6(1)(c) of the Merger Regulation on 20 December 2012. The notifying party was given access to non-confidential versions of certain key documents collected during the first phase investigation on 21 December 2012.

II. PROCEDURE**Statement of objections**

- (4) On 5 March 2013, the Commission adopted a statement of objections ('SO') pursuant to Article 18 of the Merger Regulation.
- (5) In the SO, the Commission preliminarily concluded that the proposed transaction would raise competition concerns in the markets for (i) roaming data clearing services worldwide as well as in the EEA and (ii) near real-time roaming data exchange ('NRTRDE') services worldwide and in the EEA. As to the latter, the same conclusion was preliminarily found if a broader market encompassing NRTRDE services and data clearing feeds was defined.
- (6) The notifying party replied to the SO on 19 March 2013. The notifying party did not request an oral hearing.

Access to file

- (7) The notifying party received access to the file through CD-ROM which it received on 6 March 2013, 11 April 2013 and 7 May 2013 respectively.

Third persons

- (8) One competitor of the merging parties, Transaction Network Services Inc., as well as two of their customers, Deutsche Telecom AG and Belgacom ⁽⁴⁾ demonstrated 'sufficient interest' within the meaning of Article 18(4) of the Merger Regulation and were thus recognised interested third persons. They received information of the nature and subject matter of the procedure and were given the opportunity to make known their views.

⁽¹⁾ Pursuant to Articles 16 and 17 of Decision 2011/695/EU of the President of the European Commission of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings (OJ L 275, 20.10.2011, p. 29).

⁽²⁾ Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the 'Merger Regulation') (OJ L 24, 29.1.2004, p. 1).

⁽³⁾ The transaction does not include the acquisition of Evenex ApS and its wholly-owned subsidiary Evenex AS.

⁽⁴⁾ The decision also included Belgacom International Carrier Services.

Commitments

- (9) In order to address the competition concerns identified in the SO, the notifying party submitted commitments on 11 March 2013. The Commission concluded that the commitments were insufficient to address the competition concerns arising from the merger.
- (10) On 26 March 2013, the notifying party submitted revised commitments. The Commission launched a market test on the revised commitments and concluded that improvements were needed to solve the competition concerns.
- (11) On 19 April 2013, the notifying party submitted final commitments consisting of the divestiture of Mach's businesses related to roaming data clearing services and NRTRDE services in the EEA. The final commitments were subject to a number of conditions and obligations, in particular the inclusion of certain purchaser requirements and an upfront buyer clause. The Commission concluded that the final commitments removed the competitive concerns identified in the markets for roaming data clearing services and NRTRDE services.

III. THE DRAFT DECISION

- (12) In my opinion the draft decision relates only to objections in respect of which the merging parties have been afforded the opportunity to make known its views.

IV. CONCLUDING REMARKS

- (13) I consider that all participants have been able to effectively exercise their procedural rights in this case.

Brussels, 21 May 2013.

Michael ALBERS
