

**Final Report of the Hearing Officer <sup>(1)</sup>****ASL/Arianespace****(M.7724)**

(2017/C 438/08)

1. On 8 January 2016, the European Commission received a notification of a proposed concentration (the 'Proposed Transaction') by which Airbus Safran Launchers ('ASL', France), a joint venture jointly controlled by Airbus Group S.E. ('Airbus', the Netherlands) and Safran S.A. ('Safran', France), would acquire sole control of Arianespace Participation S.A. and Arianespace S.A. (together, 'Arianespace', France). Airbus, Safran and ASL are hereinafter referred to as the 'Parties'.
2. On 1 February 2016, the Commission informed the Parties of the concerns resulting from the preliminary assessment of the Proposed Transaction during a 'State of play' meeting. Subsequently, the Parties proposed commitments on 5 February 2016, and draft revised commitments on 9 February 2016.
3. On 26 February 2016, the Commission adopted a decision initiating proceedings pursuant to Article 6(1)(c) of the Merger Regulation <sup>(2)</sup>. In that decision, the Commission indicated that the proposed commitments did not allow ruling out the competition concerns identified in the first phase investigation.
4. On 11 March 2016, the Parties submitted written comments on the decision initiating proceedings.
5. On 22 March 2016, upon reasoned request, I admitted Avio s.p.a, a competitor of ASL, to be heard as interested third person pursuant to Article 5 of Decision 2011/695/EU. On 24 June 2016, upon their reasoned request, I have also admitted MacDonald, Dettwiler and Associates Ltd (Canada), and its subsidiary Space Systems/Loral (USA), a competitor of Airbus, as interested third persons.
6. On 1 April 2016, pursuant to Article 10(3), second subparagraph, third sentence, of the Merger Regulation, the second phase period for reviewing the Proposed Transaction was extended by 10 working days. On 27 April 2016, the Commission decided to extend that review period by 10 further working days, under the same legal basis.
7. The Parties submitted a new package of proposed commitments on 4 May 2016. On the basis of feedback from the Commission's targeted market testing of this package, the Parties offered revised commitments on 20 May 2016.
8. The Commission did not issue a statement of objections pursuant to Article 13(2) of the Merger Implementing Regulation <sup>(3)</sup>. Accordingly, there was no formal oral hearing pursuant to Article 14 of that regulation.
9. The draft decision declares the Proposed Transaction, as modified by the commitments offered by the Parties on 20 May 2016, compatible with the internal market and the EEA Agreement, subject to conditions and obligations intended to ensure that the Parties comply with these commitments.
10. Pursuant to Article 16 of Decision 2011/695/EU, I have examined whether the draft decision deals only with objections in respect of which the parties have been afforded the opportunity of making known their views. I conclude that it does.

<sup>(1)</sup> 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) ('Decision 2011/695/EU').

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

<sup>(3)</sup> Commission Regulation (EC) No 802/2004 of 7 April 2004 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (OJ L 133, 30.4.2004, p. 1; corrigendum OJ L 172, 6.5.2004, p. 9).

11. Overall, I consider that the effective exercise of procedural rights has been respected during the present proceedings.

Brussels, 11 July 2016.

Joos STRAGIER

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