

Pleas in law and main arguments

In support of the action, the applicant relies on two pleas in law.

1. First plea in law, alleging that the contested decision suffers from the breach of an important procedural duty as defined in Article 296(2) TFEU, as the Commission has failed to provide adequate reason for the measure it has adopted.
 - The Commission failed to provide sufficiently clear and comprehensive reasons for its decision to accept certain commitments aimed at offsetting the serious competitive concerns it had identified in the course of the merger control investigation. The decision failed in particular to provide reasons why the Commission assumes that a third party beneficiary of the commitments would be able to effectively compete with the assets in question.
2. Second plea in law, alleging that the Commission failed in its duty to correctly apply the law as its decision suffers from a substantively incorrect application of EU merger control provisions.
 - Parts of the commitments will most likely not be implemented, and parts will merely preserve the status quo ante, but they won't contribute to an increased intensity of competition. The remaining parts are insufficient to offset the serious harm to competition caused by the transaction in question.

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

Action brought on 5 June 2015 — 1&1 Telecom v Commission**(Case T-307/15)**

(2015/C 270/44)

*Language of the case: English***Parties**

Applicant: 1&1 Telecom GmbH (Montabaur, Germany) (represented by: J. Murach, J. Schmidt and R. Klotz, lawyers, and P. Alexiadis, Solicitor)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the European Commission's decision C(2014) 4443 adopted on 2 July 2014 in Case No COMP/M.7018 — Telefónica Deutschland/E-Plus (the 'Decision') declaring the concentration between Telefónica Deutschland Holding AG and EPlus Mobilfunk GmbH & Co. KG compatible with the common market and the functioning of the EEA Agreement, subject to Telefónica's compliance with the commitments set out in the Annexes to the Decision; and
- order the Commission to bear its own costs and those of the applicant.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law.

1. First plea in law, alleging that in establishing whether the Concentration gives rise to a significant impediment to effective competition ('SIEC'), the Commission infringed essential procedural requirements by failing to state reasons, including its duty of care, and engaged in a manifest error in the application of EU merger control rules in relation to:

- the omission to conduct an analysis of the vertical effects of the Concentration;
 - the insufficiency of the reasoning in support of the conclusion that it can be left open whether the Concentration gives rise to an SIEC on the wholesale market for access and call origination in Germany; and
 - the insufficiency of the reasoning as regards conclusions drawn regarding horizontal coordinated effects in the wholesale market for access and call origination and in the retail mobile telecommunications market in Germany.
2. Second plea in law, alleging that the Commission committed serious errors of law and manifest errors of assessment when it:
- accepted the Final Commitments proposed by Telefónica;
 - concluded that these Final Commitments would address in full the SIEC; and
 - authorised the Concentration subject to Telefónica's compliance with the Final Commitments.
3. Third plea in law, alleging that the Commission, in adopting its Decision, misused its powers by taking account policy considerations unrelated to competition rather than pursuing the competition objectives of the Treaties and the European Union Merger Regulation ('EUMR')⁽¹⁾.

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

Action brought on 3 June 2015 — Reisen­thel v OHIM (keep it easy)

(Case T-308/15)

(2015/C 270/45)

Language of the case: German

Parties

Applicant: Peter Reisen­thel (Gilching, Germany) (represented by: E. Aliko Busse, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

Details of the proceedings before OHIM

Trade mark at issue: Community word mark 'keep it easy' — Application No 12 877 924

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 26 March 2015 in Case R 2659/2014-5

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;