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II

(Information)

INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN COMMISSION

Information provided by the Commission in accordance with Article 8, second subparagraph, of Directive (EU) 2015/1535 of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (1)

Statistics on technical regulations notified in 2018 under the Directive (EU) 2015/1535 notification procedure

(Text with EEA relevance)

(2019/C 402/01)

I. Table showing the different types of reactions addressed to Member States of the European Union regarding their respective notified drafts.

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<tr>
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<th>Number of Notifications</th>
<th>Comments (1)</th>
<th>Detailed opinions (1)</th>
<th>Proposals for EU legislation</th>
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(1) Article 5.2 of the Directive.
(2) Article 6.2 of the Directive.
(3) Under the Agreement on the European Economic Area, EFTA countries which are contracting parties to this Agreement shall apply Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services, adapted as necessary, in accordance with Annex II, Chapter XIX, Point 1 and Annex XI, point 5i, and may therefore issue comments concerning drafts notified by European Union Member States. Switzerland may also issue such comments, on the basis of an informal agreement on the exchange of information in the field of technical regulations.
(4) The notification procedure under the Directive was extended to Turkey under the Association Agreement concluded with that country (the Association Agreement between the European Economic Community and Turkey (OJ P 217, 1964, p. 3687) and Decisions 1/95 and 2/97 of the EC-Turkey Association Council).
(5) Article 6.3 of the Directive requiring Member States to postpone the adoption of the notified draft (with the exception of draft technical regulations relating to Information Society services) for twelve months from its reception by the Commission if the latter announces its intention to propose or adopt a directive, a regulation or a decision on this subject.
(6) Article 6.4 of the Directive requiring Member States to postpone the adoption of the notified draft for twelve months from its reception by the Commission if the latter announces its finding that the draft concerns a matter which is covered by a proposal for a directive, regulation or decision presented to the European Parliament and the Council.
### Table showing the breakdown by sector of the drafts notified by Member States of the European Union

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III. Table showing the breakdown by number of comments issued by the European Commission on behalf of the European union concerning drafts notified by Iceland, Lichtenstein, Norway (1) and Switzerland (2).

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(1) The only type of reaction provided for under the Agreement on the European Economic Area (see footnotes 4 and 8) is the possibility that the European Union issues comments (Article 8.2 of Directive 98/34/EC as incorporated in Annex II, Chapter XIX, Point 1 of this Agreement). The same type of reaction may be issued with regard to notifications from Switzerland on the basis of the informal agreement between the EU and this country (see footnotes 4 and 9).

IV. Table showing the breakdown by sector of drafts notified by Iceland, Norway, Liechtenstein and Switzerland

<table>
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<th>Liechtenstein</th>
<th>Norway</th>
<th>Switzerland</th>
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<td>0</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Transport</td>
<td>0</td>
<td>0</td>
<td>4</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>Construction</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total per country</strong></td>
<td><strong>1</strong></td>
<td><strong>3</strong></td>
<td><strong>13</strong></td>
<td><strong>4</strong></td>
<td><strong>21</strong></td>
</tr>
</tbody>
</table>

V. Table showing drafts notified by Turkey and the comments issued by the European Commission on behalf of the European Union relating to these drafts

<table>
<thead>
<tr>
<th>Turkey</th>
<th>Notifications</th>
<th>EU Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total</strong></td>
<td><strong>26</strong></td>
<td><strong>2</strong></td>
</tr>
</tbody>
</table>

VI. Table showing the breakdown by sector of drafts notified by Turkey

<table>
<thead>
<tr>
<th>Sector</th>
<th>Turkey</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction</td>
<td>16</td>
</tr>
<tr>
<td>Goods and Miscellaneous Products</td>
<td>3</td>
</tr>
<tr>
<td>Transport</td>
<td>6</td>
</tr>
<tr>
<td>Environment</td>
<td>1</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>26</strong></td>
</tr>
</tbody>
</table>
VII. Statistics on infringement proceedings in progress in 2018 and launched on the basis of Article 258 TFEU for breach of the provisions of Directive (EU) 2015/1533

<table>
<thead>
<tr>
<th>Country</th>
<th>Number of infringements in progress and launched in 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>EU total</strong></td>
<td>0</td>
</tr>
</tbody>
</table>
Non-opposition to a notified concentration
(Case M.9576 — Blackstone/Dream Global Reit)

(Text with EEA relevance)

(2019/C 402/02)

On 19 November 2019, the Commission decided not to oppose the above notified concentration and to declare it compatible with the internal market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004 (1). The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

— in the merger section of the Competition website of the Commission (http://ec.europa.eu/competition/mergers/cases/). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,


Non-opposition to a notified concentration
(Case M.9473 — Kirkbi/Blackstone/CPPIB/Merlin)

(Text with EEA relevance)

(2019/C 402/03)

On 18 October 2019, the Commission decided not to oppose the above notified concentration and to declare it compatible with the internal market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004 (1). The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

— in the merger section of the Competition website of the Commission (http://ec.europa.eu/competition/mergers/cases/). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,


# EUROPEAN COMMISSION

## Euro exchange rates (1)

### 27 November 2019

(2019/C 402/04)

1 euro =

<table>
<thead>
<tr>
<th>Currency</th>
<th>Exchange rate</th>
<th>Currency</th>
<th>Exchange rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>USD US dollar</td>
<td>1,1009</td>
<td>CAD Canadian dollar</td>
<td>1,4605</td>
</tr>
<tr>
<td>JPY Japanese yen</td>
<td>120,18</td>
<td>HKD Hong Kong dollar</td>
<td>8,6176</td>
</tr>
<tr>
<td>DKK Danish krone</td>
<td>7,4712</td>
<td>NZD New Zealand dollar</td>
<td>1,7121</td>
</tr>
<tr>
<td>GBP Pound sterling</td>
<td>0,85450</td>
<td>SGD Singapore dollar</td>
<td>1,5028</td>
</tr>
<tr>
<td>SEK Swedish krona</td>
<td>10,5580</td>
<td>KRW South Korean won</td>
<td>1 295,88</td>
</tr>
<tr>
<td>CHF Swiss franc</td>
<td>1,0986</td>
<td>ZAR South African rand</td>
<td>16,1885</td>
</tr>
<tr>
<td>ISK Iceland króna</td>
<td>135,00</td>
<td>CNY Chinese yuan renminbi</td>
<td>7,7353</td>
</tr>
<tr>
<td>NOK Norwegian krone</td>
<td>10,1020</td>
<td>HRK Croatian kuna</td>
<td>7,4390</td>
</tr>
<tr>
<td>BGN Bulgarian lev</td>
<td>1,9558</td>
<td>IDR Indonesian rupiah</td>
<td>15 517,01</td>
</tr>
<tr>
<td>CZK Czech koruna</td>
<td>25,515</td>
<td>MYR Malaysian ringgit</td>
<td>4,5930</td>
</tr>
<tr>
<td>HUF Hungarian forint</td>
<td>335,95</td>
<td>PHP Philippine peso</td>
<td>55,958</td>
</tr>
<tr>
<td>PLN Polish zloty</td>
<td>4,3109</td>
<td>RUB Russian rouble</td>
<td>70,4425</td>
</tr>
<tr>
<td>RON Romanian leu</td>
<td>4,7841</td>
<td>THB Thai baht</td>
<td>33,286</td>
</tr>
<tr>
<td>TRY Turkish lira</td>
<td>6,3442</td>
<td>BRL Brazilian real</td>
<td>4,6743</td>
</tr>
<tr>
<td>AUD Australian dollar</td>
<td>1,6220</td>
<td>MXN Mexican peso</td>
<td>21,4480</td>
</tr>
<tr>
<td></td>
<td></td>
<td>INR Indian rupee</td>
<td>78,5495</td>
</tr>
</tbody>
</table>

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(1) Source: reference exchange rate published by the ECB.
Opinion of the Advisory Committee on restrictive practices and dominant positions at its meeting on 6 July 2018 concerning a draft decision in Case AT.40099 — Google Android

Rapporteur: Czechia

(2019/C 402/05)

1. The Advisory Committee agrees with the Commission that:
   a. The first relevant product market is the worldwide market (excluding China) for the licensing of smart mobile operating systems as defined in the draft decision.
   b. The second relevant product market is the worldwide market (excluding China) for Android app stores as defined in the draft decision.
   c. The third relevant product market (or group of markets) consists of national markets for general search services as defined in the draft decision.
   d. The fourth relevant product market is the worldwide market for non-operating system-specific mobile web browsers as defined in the draft decision.

2. The Advisory Committee agrees with the Commission that Google held a dominant position in:
   a. The worldwide market (excluding China) for the licensing of smart mobile operating systems since 1 January 2011;
   b. The worldwide market (excluding China) for Android app stores since 1 January 2011;
   c. Each national market for general search services in the EEA since 1 January 2011.

3. The Advisory Committee agrees with the Commission's analysis of the capability of Google's tying relating to its proprietary mobile apps (namely tying of the Google Search app with the Play Store and tying of Google Chrome with the Play Store and the Google Search app) to have anti-competitive effects and with the Commission's conclusion that this tying relating to its proprietary mobile apps constitutes an abuse of a dominant position.

4. The Advisory Committee agrees with the Commission that Google has not demonstrated that its tying relating to its proprietary mobile apps was counterbalanced or outweighed by advantages in terms of efficiency that also benefit the consumer.

5. The Advisory Committee agrees with the Commission's analysis of the capability of Google's conduct of licensing of the Play Store and the Google Search app on condition that hardware manufacturers enter into the anti-fragmentation obligations in the Anti-fragmentation Agreements to have anti-competitive effects and with the Commission's conclusion that this conduct constitutes an abuse of a dominant position.

6. The Advisory Committee agrees with the Commission that Google has not demonstrated that its conduct of licensing of the Play Store and the Google Search app on condition that hardware manufacturers enter into the anti-fragmentation obligations in the Anti-fragmentation Agreements was counterbalanced or outweighed by advantages in terms of efficiency that also benefit the consumer.

7. The Advisory Committee agrees with the Commission that the portfolio-based revenue share payments granted by Google to hardware manufacturers and mobile network operators as described in the draft decision were exclusivity payments.

8. The Advisory Committee agrees with the Commission's analysis of the capability of Google's conduct of granting portfolio-based revenue share payments to hardware manufacturers and mobile network operators conditional on the pre-installation of no competing general search service on any device within an agreed portfolio to have anti-competitive effects and with the Commission's conclusion that this conduct constitutes an abuse of a dominant position.

9. The Advisory Committee agrees with the Commission that Google has not demonstrated that its conduct of granting portfolio-based revenue share payments to hardware manufacturers and mobile network operators conditional on the pre-installation of no competing general search service on any device within an agreed portfolio was counterbalanced or outweighed by advantages in terms of efficiency that also benefit the consumer.
10. The Advisory Committee agrees with the Commission's assessment that all above mentioned conducts constitute a single and continuous infringement as described in the draft decision.

11. The Advisory Committee agrees with the Commission's assessment as regards the duration of the infringement as described in the draft decision.

12. The Advisory Committee agrees with the Commission that it has jurisdiction to apply Article 102 TFEU and Article 54 EEA in the present case.

13. The Advisory Committee agrees with the Commission that the different forms of conduct covered by the draft decision have individually and collectively an appreciable effect on trade between Member States and between the Contracting Parties within the meaning of Article 102 TFEU and Article 54 EEA.

14. The Advisory Committee recommends the publication of its opinion in the *Official Journal of the European Union*. 
Opinion of the Advisory Committee on restrictive practices and dominant positions at its meeting on 17 July 2018 concerning a draft decision

In Case AT.40099 — Google Android

Rapporteur: Czechia

(2019/C 402/06)

(1) The Advisory Committee agrees with the Commission that a fine should be imposed on the addressees of the draft decision.

(2) The Advisory Committee agrees with the Commission that Google’s gross revenues generated on GMS devices via clicks on search advertisements when users, located in the EEA, click on such advertisements should be taken into account for the purpose of the calculation of the basic amount of the fine.

(3) The Advisory Committee agrees with the Commission on the basic amount of the fine set in this case.

(4) The Advisory Committee agrees with the Commission that an additional amount (‘entry fee’) should be applied in this case.

(5) The Advisory Committee agrees with the Commission that there are no aggravating and no mitigating circumstances applicable in this case.

(6) The Advisory Committee agrees with the Commission on the final amount of the fine.

(7) The Advisory Committee recommends the publication of its opinion in the Official Journal of the European Union.
Final Report of the Hearing Officer

Google Android

(AT.40099)

(2019/C 402/07)

Introduction

(1) The draft decision concerns conduct of the undertaking that includes Google LLC (formerly Google Inc. (1)) and Alphabet Inc. (together or interchangeably as required by the context, ‘Google’) with regard to certain conditions in agreements associated with the use of Google’s smart mobile operating system, Android, and certain proprietary mobile ‘apps’ and services.

(2) On 15 April 2015, having received two complaints (2), the Commission initiated proceedings, for the purposes of Article 11(6) of Council Regulation (EC) No 1/2003 (3) and Article 2(1) of Commission Regulation (EC) No 773/2004 (4), in respect of Google Inc. in relation to a number of suspected practices.

Written procedure

The statement of objections

(3) On 20 April 2016, the Commission addressed a statement of objections (the ‘SO’) to Google Inc. and Alphabet Inc. (5), setting out the provisional conclusion that certain conditions in agreements concluded by Google constituted separate infringements of Article 102 TFEU and Article 54 of the EEA Agreement and also constituted a single and continuous infringement of those articles. According to the SO, the conditions in question: (i) tied the Google Search app with Google’s ‘Play Store’; (ii) made the licensing of the Play Store conditional on Google Search being set as the default general search service; (iii) tied the web browser Google Chrome with the Play Store and the Google Search app; (iv) made the licensing of the Play Store and the Google Search app subject to ‘anti-fragmentation obligations’; (v) granted revenue share payments to original equipment manufacturers (‘OEMs’) and mobile network operators (‘MNOs’) on condition that they pre-install no competing general search service on any device within an agreed portfolio; and (vi) granted revenue share payments to OEMs and MNOs on condition that they pre-install no competing general search service on a given device.

Access-to-file following the SO

(4) On 3 May 2016, DG Competition granted Google access to an encrypted electronic storage device containing non-confidential versions of documents on the investigation file, including those mentioned in the SO. It supplied further material, including less-redacted versions of certain documents provided on 3 May 2016, in the same way on several occasions between 12 May and 20 July 2016. For the remainder of the investigation file, DG Competition arranged access by means of: (i) a series of confidentiality ring arrangements (6) agreed, in June to August 2016 inclusive,

(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) (‘Decision 2011/695/EU’).
(2) In September 2017, Google Inc. changed its legal form and became Google LLC.
(3) See (20) below concerning these and later complaints.
(6) Also on 20 April 2016, following the reorganisation of Google Inc. and the creation of Alphabet Inc. as a holding company sitting above Google Inc., the Commission initiated proceedings in respect of Alphabet Inc.
(7) In the context of access-to-file, a ‘confidentiality ring’ is a form of restricted disclosure by which a party entitled to access-to-file agrees, with an information provider seeking confidential treatment of certain information obtained from it by the Commission, that that information be received on that party’s behalf by a restricted circle of persons (decided by negotiation on a case-by-case basis). See further point 96 of the Commission notice on best practices for the conduct of proceedings concerning Articles 101 and 102 TFEU (OJ C 308, 20.10.2011, p. 6) (‘the Antitrust Best Practices Notice’). In this case, some of the confidentiality rings involved included two of Google’s in-house counsel.
between Google and several third parties from whom the Commission had obtained information; and (ii) a data room procedure (8) that took place in late August and early September 2016.

(5) On 25 July 2016, Google addressed to the Hearing Officer an extensive request for further access-to-file. In the light of Article 3(7) of Decision 2011/695/EU and of the particular circumstances of the access-to-file process in this case, the Hearing Officer considered that the issues raised in this request were not at that stage ripe for independent review in accordance with Article 7(1) of Decision 2011/695/EU. Accordingly, Google's request of 25 July 2016 was referred back to and addressed by DG Competition.

(6) Google subsequently addressed several requests to the Hearing Officer under Article 7(1) of Decision 2011/695/EU for further access-to-file (9). Some of these related to accessible versions of documents as these versions stood after DG Competition's handling of Google's request dated 25 July 2016 (10).

(7) By two decisions dated 11 October 2016 and a third dated 13 December 2016, the Hearing Officer described how these requests had been or would be dealt with by the Commission. To the extent that further access was considered necessary for the proper exercise of Google's right to be heard, the Hearing Officer arranged for DG Competition to provide Google with such further access. In certain cases, and where appropriate, this access was by means of confidentiality ring arrangements involving Google's external advisers. There were also four data room procedures between October and December 2016 inclusive. In other cases, where the Hearing Officer did not consider that any further access was necessary for the proper exercise of Google's right to be heard, Google's requests for further access were rejected.

The period for responding in writing to the SO

(8) DG Competition initially granted Google 12 weeks in which to submit a written response to the SO and considered that this period had started to run on 4 May 2016, the day after Google received non-confidential versions of the documents on which the SO was based. In response to requests by Google, the period for responding in writing to the SO was extended several times, by DG Competition and by the Hearing Officer. Ultimately, the Hearing Officer set a deadline of 11 November 2016 for Google's preliminary written response to the SO, but allowed Google to submit a supplementary consolidated response on the basis of any further access-to-file that might be received on the basis of certain requests that were still outstanding at that time. Once progress with those requests was sufficiently advanced, the Hearing Officer set a deadline of 23 December 2016 for the submission of Google's consolidated written response to the SO.

(9) Google submitted its initial written response to the SO on 10 November 2016. This was supplemented and replaced by Google's consolidated written response, submitted on the applicable deadline date of 23 December 2016. In that response, Google complained of ‘insufficient time’ in which to review all the further information disclosed to it after the submission of the initial response of 10 November 2016. However, before submitting its consolidated written response, Google did not raise such a complaint with the Hearing Officer or seek any further modification of the applicable deadline (11).

(8) In the context of access-to-file, a data room procedure is a form of restricted disclosure by which material is disclosed to a limited number of specified advisers for a limited period of time in a secure room on the Commission's premises, subject to a number of restrictions and safeguards designed to prevent confidential information being disclosed beyond this 'data room'.

(9) In particular on 6 and 13 September, 7, 17, 21 and 27 October and 8 December 2016.

(10) In a letter to the Hearing Officer dated 7 October 2016, Google indicated that it had 'received satisfactory responses' from DG Competition relating to 'the great majority of Google's requests concerning documents initially disclosed by way of confidentiality rings.'

(11) The Hearing Officer's decision of 13 December 2016 confirming the deadline for Google's consolidated written response to the SO specified that if there were to be an unexpected delay in the provision of any of the remaining further access-to-file to which Google was entitled on the basis of that decision, an opportunity to submit written comments separately from the consolidated written response to the SO could if necessary be granted.
The first letter of facts

(10) On 31 August 2017, the Commission addressed a letter of facts to Google (the ‘1stLoF’).

(11) DG Competition provided additional access-to-file (concerning accessible documents added to the case file on or after 3 May 2016) by means of an encrypted electronic storage device received by Google on 1 September 2017, a data room procedure that commenced on 4 September 2017, and supplementary confidentiality ring arrangements. On 8 September 2017, Google sought additional disclosures or clarifications from DG Competition in relation to certain documents. DG Competition dealt with these requests, providing its consolidated response on 19 September 2017.

(12) By letter to the Hearing Officer dated 21 September 2017, Google sought further access to 15 specified documents. The Hearing Officer arranged for DG Competition to organise a data room procedure for the majority of these in early October 2017. As subsequently explained in the Hearing Officer’s decision dated 16 October 2017, the documents concerned contained confidential information that would have been difficult or even impossible to summarise in a non-confidential manner yet in the detail that would usefully serve the exercise of the right to be heard. The Hearing Officer procured and released to Google revised accessible versions of two documents and rejected Google’s request as to the remainder.

(13) The 1stLoF set 2 October 2017 as the deadline for Google’s submissions in relation to it. After DG Competition accepted Google’s extension request, Google submitted its response on the revised deadline date of 23 October 2017.

The second letter of facts

(14) On 11 April 2018, the Commission addressed another letter of facts to Google (the ‘2ndLoF’). On 12 April 2018, the Commission provided Google with non-confidential versions of all except one of the accessible documents added to the case file on or after 1 September 2017. That one document was disclosed by means of a confidentiality ring arrangement.

(15) The deadline for Google’s written response was 23 April 2018. Google sought from DG Competition an extension to bring this deadline to 24 May 2018. DG Competition granted instead a one-week extension, to 30 April 2018.

(16) By letter to the Hearing Officer of 24 April 2018, Google took issue with that extension and reiterated before the Hearing Officer its request for a revised deadline of 24 May 2018. By decision of 26 April 2018, the Hearing Officer granted an additional week in which to respond to the 2ndLoF, bringing the applicable deadline to 7 May 2018. Google responded to the 2ndLoF on that date.

No oral hearing

Google declined an oral hearing following the SO

(17) In its consolidated written response to the SO, Google declined to opt for an oral hearing. Google suggested that its decision was swayed by what it portrayed as tight time constraints imposed by the Commission. However, Google did not avail of the right, which would have been available had Google requested an oral hearing when responding in writing to the SO, to request a postponement in accordance with Article 12(1) of Decision 2011/695/EU. Neither did Google seek to submit separate comments concerning the last two less-redacted texts that, shortly before the deadline for its consolidated written response to the SO, had been made available to Google as a result of requests to the Hearing Officer for further access-to-file (c).
Rejection of Google’s later request for an oral hearing

(18) By letter to the Hearing Officer dated 7 May 2018 (the same date as Google’s response to the 2ndLoF), Google asked that an oral hearing be convened. Arguing primarily that the 1stLoF and the 2ndLoF (the ‘LoFs’) should have been communicated as a supplementary statement of objections, Google claimed that in any event the Hearing Officer has a discretionary power to grant an oral hearing upon a reasoned request by a party concerned at any stage of proceedings. Google submitted that, in view of its right to be heard and of what it described as ‘substantial developments’ in proceedings since its written response to the SO, such a discretion should be exercised in Google’s favour.

(19) By letter dated 18 May 2018, the Hearing Officer declined Google’s request. The LoFs did not alter or extend any objection contained in the SO, or add any new objection. No supplementary statement of objections was thus needed. Where, as was the case in relation to the LoFs, a party has been in a position to make known its views in writing, there was no fundamental right to be heard orally in addition (14). The Hearing Officer did not have competence under Decision 2011/695/EU to grant a request for an oral hearing that has not been made in accordance with Articles 10 and 12 of Regulation (EC) No 773/2004. Contrary to what Google suggested, neither did the Hearing Officer have a discretionary power to convene an oral hearing at any stage of proceedings or following receipt of a letter of facts. In any event, even if such a power did exist, the ‘developments’ described by Google would not warrant the organisation of an oral hearing.

Complainants and third persons

(20) In March 2013 and June 2014 respectively, Fairsearch and Aptoide S.A. submitted complaints that led to the initiation of proceedings in Case AT.40099. Other complaints were submitted by Yandex S.A. in April 2015, by Disconnect Inc. in June 2015 and Open internet Project in March 2017. Google received and submitted observations on a non-confidential version of each of these complaints. In accordance with Article 6(1) of Regulation (EC) No 773/2004, each complainant received and could comment in writing on a non-confidential version of the SO.

(21) On their reasoned applications on various dates, 14 entities were, in accordance with Article 5 of Decision 2011/695/EU, admitted to proceedings as interested third persons (15).

Procedural issues raised by Google

Access-to-file

(22) In its consolidated written response to the SO, Google claimed to be ‘entitled to full and unfettered access to all documents in the case file’, especially in view of the ‘SO’s extensive reliance on third party evidence’. Google complained in particular that it had not seen the full confidential versions of 142 documents to which the Commission provided access by means of either confidentiality ringing arrangements or data room procedures.

(13) According to Google, these developments were: the LoFs (which in Google’s view introduced critical new elements to the Commission’s case); the Court of Justice judgment in Intel v Commission (C-413/14 P, EU:C:2017:632) and the Opinions of Advocates General Wahl and Wathelet in MEO (C-525/16, EU:C:2017:1020) and Orange Polska v Commission (C-123/16 P, EU:C:2018:87) respectively; and ‘public interest in the case’.


(15) Two of these entities applied and were admitted jointly. Another applicant did not make out a ‘sufficient interest’ for the purposes of Article 27(3) of Regulation (EC) No 1/2003, Article 13(1) of Regulation (EC) No 773/2004 and Article 5 of Decision 2011/695/EU. In the absence of a response to the Hearing Officer’s provisional negative assessment under Article 5(3) of Decision 2011/695/EU, this application to be heard as an interested third person was deemed rejected. A different applicant did not respond to an invitation to clarify its application and the interest it relied on. The application could not be processed further and the Hearing Officer deemed it to have been withdrawn.
However, a right of ‘full and unfettered access’, such as that claimed by Google, does not emerge from the relevant provisions and case law. Access-to-file is not an end in itself, but simply a corollary of the rights of the defence. Where competing interests of confidentiality and the rights of defence need to be weighed up and if necessary reconciled, (further) access-to-file may justifiably involve restricted forms of access.

The relevant decisions of the Hearing Officer explain that access by Google itself to confidential versions of the documents concerned was not necessary for the proper exercise of Google's right to be heard and that the appropriate balance was struck by means of various forms of restricted access. The variants of restricted access used were the least restrictive that were feasible in the circumstances. Google claimed that it had been ‘unable to comment meaningfully’ on matters on which its relevant external advisers were less well placed to comment. However, it did not point to specific instances where this was said to undermine the effective exercise of the right to be heard. As for Google's remark that documents had been provided in a fragmentary manner, it is inherent in the provisions and texts relating to access-to-file that, if requests for further access-to-file are well-founded, additional materials may be made available in instalments after the provision of the initial body of access-to-file, particularly if this is done in response to a series of separate requests.

When requesting, on 24 April 2018, an extension of the period for responding to the 2ndLoF (see (16) above), Google also indicated that the case file disclosed to it did not include certain (unnamed) ‘third-party submissions, or reports of calls, that Google [understood had] been made to the Commission concerning the proceeding’. Google asked for confirmation that ‘all of the third-party submissions, reports of calls, and any material of a similar nature’ in this regard had been provided to Google, but offered no further details about the additional third-party calls and submissions that it appeared to have in mind. The Hearing Officer responded in essence that, in the absence of more specific information from Google, its request relating to third-party submissions called for no further action.

By letter to the Hearing Officer dated 12 June 2018, Google sought the disclosure of letters or other communications received by the Commission from four named third parties that Google believed might have expressed their views on Case AT.40099. The Hearing Officer transferred this request to DG Competition which dealt with the matter. As a result, Google was provided with two letters from two different third parties.

Notes of meetings and telephone calls

As part of access-to-file following the SO, in line with point 44 of the Antitrust Best Practices Notice, DG Competition provided Google with brief notes of meetings and telephone calls involving DG Competition and third parties.

On 2 September 2016, Google requested the Commission to provide ‘full notes’ for all of the meetings at which representatives of the Commission spoke with third parties about the matters under investigation in the present case. On 22 September 2016, DG Competition rejected that request on the basis of applicable case law.


One letter post-dates by several weeks Google's request of 26 April 2018. The other letter, which dates from late 2017, was not directly related to the subject matter of Case AT.40099 but does include remarks on, among other things, mobile operating systems including Android. DG Competition's internal checks and inquiries with the other two third parties named in Google's request of 12 June 2018 did not reveal the existence of any further communications of the type sought by Google. On 27 June 2018, Google made written submissions concerning these two letters.
(29) In a letter to the Hearing Officer of 7 October 2016, Google requested, among other things, (i) disclosure of the names that were redacted in the notes that DG Competition had provided and (ii) that the Hearing Officer direct DG Competition to provide the fuller notes sought by Google (\(^9\)). The Hearing Officer’s decision dated 13 December 2016 rejected the former request. Concerning the latter request, that decision explained that the Hearing Officer did not have decisional competence under Decision 2011/695/EU to make such a direction.

(30) In its consolidated written response to the SO, Google submitted that the texts that DG Competition had provided fell short of the requirements of Article 19 of Regulation (EC) No 1/2003 as interpreted in the Advocate General’s Opinion in Intel v Commission (\(^20\)). On 15 September 2017, following the judgment of 6 September 2017 in the same case (\(^21\)), Google asked DG Competition for, among other things: full records of meetings between Commission representatives and third parties relating to the investigation in the present case; copies of any internal documents used to reconstitute records if no contemporaneous records were originally made; and contact details for each of the third parties concerned.

(31) By letter dated 28 February 2018, DG Competition responded, providing a series of minutes and notes of meetings and telephone calls and describing how these materials were drawn up.

(32) On 14 March 2018, Google complained to the Hearing Officer about that response, seeking what Google described as ‘full meeting notes, as required by the Intel judgment’. In particular, Google claimed that DG Competition had: failed to provide adequate meeting notes or explanations of how the materials provided had been ‘constituted’; excluded arbitrarily meetings involving the Commissioner for Competition and/or a member or members of her ‘cabinet’ from the set for which materials were provided; and improperly redacted the names of certain third parties in the materials provided.

(33) In a letter to Google dated 30 April 2018, the Hearing Officer explained that his decisional powers did not extend to overturning DG Competition’s position on the possibility that the Commission might be required, in the circumstances of the present case, to provide fuller records of meetings and telephone calls with third parties than those already provided. To the extent that Google’s requests sought further access to the Commission’s investigation file in accordance with Article 7 of Decision 2011/695/EU, the Hearing Officer confirmed that there were no documents in the Commission’s possession other than those that DG Competition had already provided, where necessary with redactions to protect identities for which confidential treatment had been sought. In relation to Google’s requests for divulgence of those redacted identities, the Hearing Officer arranged for certain less-redacted documents to be made available to Google.

(34) By letter dated 1 June 2018, Google invited the Hearing Officer to reconsider some of the conclusions set out in the Hearing Officer’s letter of 30 April 2018. In a letter dated 20 June 2018, the Hearing Officer declined to do so.

(35) The issue of whether, in circumstances such as those of the present case, the material provided by the Commission pertaining to third-party meetings and calls satisfied, to the extent applicable, the requirements of Article 19 of Regulation (EC) No 1/2003 read in conjunction with Article 3 of Regulation (EC) No 773/2004, is not as straightforward as Google has sought to portray it. The material initially provided by DG Competition was in principle compliant with the requirements of the case law (\(^22\)). Moreover, following the Court of Justice judgment in

\(^9\) In a subsequent letter to the Hearing Officer dated 21 October 2016, Google added a reference to the Advocate General’s Opinion of 20 October 2016 in Intel v Commission (C-413/14 P, EU:C:2016:788), claiming that it confirmed the legal obligation on the Commission to provide meeting notes of the kind that Google had requested.


**Concluding remarks**

(37) The draft decision reflects the fact that, in the light of Google’s submissions, objections included in the SO have been dropped concerning suspected abuses related to (i) the licensing of the Play Store on condition that Google Search be set as the default general search service, and (ii) ‘device-based’ revenue-sharing arrangements.

(38) In accordance with Article 16 of Decision 2011/695/EU, it has been examined whether the draft decision deals only with objections in respect of which Google has been afforded the opportunity of making known its views. It does.

(39) Overall, the effective exercise of procedural rights has been respected in this case.


Joos STRAGIER

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(25) The material ultimately provided by the Commission appears to have been designed to meet the concerns expressed in Google’s consolidated written response to the SO that Google be able ‘to understand the content of the information provided by a third party to the Commission, whether the Commission took due account of this information, and to verify whether the information provided orally corroborates or conflicts with that third party’s written submissions, if any’.
On 18 July 2018, the Commission adopted a decision relating to a proceeding under Article 102 of the Treaty on the Functioning of the European Union and Article 54 of the EEA Agreement. In accordance with the provisions of Article 30 of Council Regulation (EC) No 1/2003, the Commission herewith publishes the names of the parties and the main content of the decision, including any penalties imposed, having regard to the legitimate interest of undertakings in the protection of their business secrets.

1. Introduction

(1) The Decision establishes that conduct by Google LLC ('Google') with regard to certain conditions in agreements associated with the use of Google’s smart mobile operating system, Android, and certain proprietary mobile applications (app’s) and services, constitutes a single and continuous infringement of Article 102 of the Treaty on the Functioning of the European Union (TFEU) and Article 54 of the EEA Agreement.

(2) This Decision also establishes that Google's conduct constitutes four separate infringements of Article 102 TFEU and Article 54 of the EEA Agreement, each of which is also part of the single and continuous infringement.

(3) The Decision orders Google and its parent company Alphabet Inc. ('Alphabet') to bring the infringement effectively to an end, and imposes a fine on Google and Alphabet for the abusive conduct for the period 1 January 2011 to date.

(4) On 6 July 2018 and 17 July 2018, the Advisory Committee on Restrictive Practices and Dominant Positions issued favourable opinions on the Decision pursuant to Article 7 of Regulation (EC) No 1/2003 and on the fine imposed on Google and Alphabet.

2. Market definition

(5) The Decision concludes that the relevant product markets for the purpose of this case are:
   (a) the worldwide market (excluding China) for the licensing of smart mobile operating systems (OS’s);
   (b) the worldwide market (excluding China) for Android app stores;
   (c) the national markets for general search services; and
   (d) the worldwide market for non OS-specific mobile web browsers.

3. Dominance

(6) The Decision concludes that since 2011, Google holds a dominant position in: (i) the worldwide market (excluding China) for the licensing of smart mobile OSs; (ii) the worldwide market (excluding China) for Android app stores; and (iii) each of the national markets for general search services in the EEA.

(1) OJ L 1, 4.1.2003, p. 1
(7) The conclusion that Google holds a dominant position in the worldwide market (excluding China) for the licensing of smart mobile OSs is based on Google's market share, the existence of barriers to entry and expansion, the lack of countervailing buyer power and the insufficient indirect constraint from non-licensable smart mobile OSs (such as Apple's iOS).

(8) The conclusion that Google holds a dominant position in the worldwide market (excluding China) for Android app stores is based on Google's market share, the quantity and popularity of apps available on the Google Play Store, the automatic update functionalities of the Play Store, the fact that the only way for original equipment manufacturers ('OEM's) to obtain Google Play Services is to obtain the Play Store, the existence of barriers to entry and expansion, the lack of countervailing buyer power of OEMs and the insufficient constraint from app stores for non-licensable smart mobile OSs (such as Apple's AppStore).

(9) The conclusion that Google holds a dominant position in each of the national markets for general search services in the EEA is based on Google's market shares, the existence of barriers to entry and expansion, the infrequency of user multi-homing and the existence of brand effects and the lack of countervailing buyer power.

4. Abuse of a dominant position

Tying of the Google Search app

(10) Since at least 1 January 2011, Google has tied the Google Search app with the Play Store. The Commission concludes that this conduct constitutes an abuse of Google's dominant position in the worldwide market (excluding China) for Android app stores.

(11) First, the Decision demonstrates that: (i) the Play Store and the Google Search app are distinct products; (ii) Google is dominant in the market for the tying product (worldwide market (excluding China) for Android app stores); and (iii) the tying product (Play Store) cannot be obtained without the tied product (the Google Search app).

(12) Second, the Decision concludes that the tying of the Google Search app with the Play Store is capable of restricting competition. This is because: (i) the tying provides Google with a significant competitive advantage that competing general search service providers cannot offset; and (ii) the tying helps to maintain and strengthen Google's dominant position in each national market for general search services, increases barriers to entry, deters innovation and tends to harm, directly or indirectly, consumers.

(13) Third, the Decision concludes that Google has not demonstrated the existence of any objective justification for the tying of the Google Search app with the Play Store.

Tying of Google Chrome

(14) Since 1 August 2012, Google has tied Google Chrome with the Play Store and the Google Search app. The Commission concludes that this conduct constitutes an abuse of Google's dominant position in the worldwide market (excluding China) for Android app stores and the national markets for general search services.

(15) First, the Decision demonstrates that: (i) Google Chrome is a distinct product from the Play Store and the Google Search app; (ii) Google is dominant in the markets for the tying products (worldwide market (excluding China) for Android app stores and national markets for general search services); and (iii) the tying products (the Play Store and the Google Search app) cannot be obtained without the tied product (Google Chrome).
Second, the Decision concludes that the tying of Google Chrome with the Play Store and the Google Search app is capable of restricting competition. This is because: (i) the tying provides Google with a significant advantage that competing non OS-specific mobile browsers cannot offset; and (ii) the tying deters innovation, tends to harm, directly or indirectly, consumers of mobile web browsers and helps to maintain and strengthen Google’s dominant position in each national market for general search services.

Third, the Decision concludes that Google has not demonstrated the existence of any objective justification for the tying of Google Chrome with the Play Store and the Google Search app.

The licensing of the Play Store and the Google Search app conditional on the anti-fragmentation obligations in the AFAs

Since at least 1 January 2011, Google makes the licensing of the Play Store and the Google Search app conditional on hardware manufacturers agreeing to the anti-fragmentation obligations in the AFAs. The Commission concludes that this conduct constitutes an abuse of Google’s dominant positions in the worldwide market (excluding China) for Android app stores and the national markets for general search services.

First, the Decision demonstrates that entering into the anti-fragmentation obligations is unrelated to the licensing of the Play Store and the Google Search app, that Google is dominant in the worldwide market (excluding China) for Android app stores and in the national markets for general search services, and that the Play Store and the Google Search app cannot be obtained without entering into the anti-fragmentation obligations.

Second, the Decision establishes that the anti-fragmentation obligations are capable of restricting competition. This is because: (i) Android forks constitute a credible competitive threat to Google; (ii) Google actively monitors compliance with, and enforces, the anti-fragmentation obligations; (iii) the anti-fragmentation obligations hinder the development of Android forks; (iv) compatible forks do not constitute a credible competitive threat to Google; (v) the capability of the anti-fragmentation obligations to restrict competition is reinforced by the unavailability of Google’s proprietary APIs to fork developers; and (vi) Google’s conduct helps to maintain and strengthen Google’s dominant position in each national market for general search services, deters innovation, and tends to harm, directly or indirectly, consumers.

Third, the Decision concludes that Google has not demonstrated the existence of any objective justification for making the licensing of the Play Store and Google Search conditional on the anti-fragmentation obligations.

Portfolio-based revenue share payments conditional on the pre-installation of no competing general search service

Between at least 1 January 2011 and 31 March 2014, Google granted payments to OEMs and mobile network operators (MNOs) on condition that they pre-installed no competing general search service on any device within an agreed portfolio. The Decision concludes that this conduct constituted an abuse of Google’s dominant position in the national markets for general search services.

First, the Decision concludes that Google’s portfolio-based revenue share payments constituted exclusivity payments.

Second, the Decision concludes that Google’s portfolio-based revenue share payments were capable of restricting competition. This is because Google’s portfolio-based revenue share payments: (i) reduced the incentives of OEMs and MNOs to pre-install competing general search services; (ii) made access to the national markets for general search services more difficult; and (iii) deterred innovation.
Third, the Decision concludes that Google has not demonstrated the existence of any objective justification for the grant of portfolio-based revenue share payments.

**Single and continuous infringement**

The Decision concludes that the four different forms of conduct described above constitute a single and continuous infringement of Article 102 TFEU and Article 54 of the EEA Agreement.

First, the four different forms of conduct all pursue an identical objective of protecting and strengthening Google’s dominant position in general search services and thus its revenues via search advertisements.

Second, the four different forms of conduct are complementary in that Google creates an interlocking interdependence between them.

5. **Jurisdiction**

The Decision concludes that the Commission has jurisdiction to apply Article 102 TFEU and Article 54 of the EEA Agreement to Google’s conduct, since it is implemented in the EEA and is capable of having substantial, immediate and foreseeable effects in the EEA.

6. **Effect on trade**

The Decision concludes that Google’s conduct has an appreciable effect on trade between Member States within the meaning of Article 102 TFEU and between the EEA Contracting Parties within the meaning of Article 54 of the EEA Agreement.

7. **Remedies and Fines**

The Decision requires Google and Alphabet to bring effectively to an end the single and continuous infringement and each of the four separate infringements, within 90 days of notification of the Decision, insofar as they have not already done so, and to refrain from adopting any act or conduct having the same or equivalent object or effect. The Decision indicates that if Google and Alphabet fail to comply with the requirements of the Decision, the Commission imposes a daily periodic penalty payment of 5% of Alphabet’s average daily turnover in the preceding business year.

The fine imposed on Google and Alphabet for the infringements is calculated on the basis of the principles laid out in the 2006 Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation (EC) No 1/2003. For the single and continuous infringement consisting of four separate infringements, the Decision imposes a fine of EUR 4,342,865,000 on Google, of which EUR 1,921,666,000 jointly and severally with Alphabet.
(Announcements)

PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION POLICY

EUROPEAN COMMISSION

Prior notification of a concentration
(Case M.9627 — APG/Elecnor/CC&I)
Candidate case for simplified procedure
(Text with EEA relevance)
(2019/C 402/09)

1. On 20 November 2019, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 (1).

This notification concerns the following undertakings:
— APG Asset Management N.V. (‘APG’, Netherlands), part of the APG Group N.V.,
— Grupo Elecnor S.A. (‘Elecnor’, Spain),
— Celeo Concesiones e Inversiones S.L. (‘CC&I’ or the ‘JV’, Spain), currently part of Grupo Elecnor.

APG and Elecnor acquire within the meaning of Article 3(1)(b) and 3(4) of the Merger Regulation joint control of CC&I. The concentration is accomplished by way of purchase of shares.

2. The business activities of the undertakings concerned are:
— for APG: APG carries out executive consultancy, asset management, pension administration and communication for pension funds in the field of collective pensions,
— for Elecnor: Elecnor carries out engineering, construction and services projects in areas including electricity, power generation, gas, telecommunications and railways. Elecnor is also active in wind and solar power generation,
— for CC&I: CC&I manages Elecnor’s investment in power transmission projects and as principal concessionaire with concessions in Brazil and Chile, develops and manages photovoltaic and thermoelectric electricity generation in Spain and is active in generation and wholesale supply of electricity. Post-transaction, CC&I will serve as joint platform to develop and manage energy transmission infrastructure projects and renewable energy projects (except for wind renewable energy projects), mainly in Chile, Brazil and Spain.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the Merger Regulation. However, the final decision on this point is reserved.

Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under the Council Regulation (EC) No 139/2004 (2) it should be noted that this case is a candidate for treatment under the procedure set out in the Notice.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. The following reference should always be specified:

M.9627 — APG/Elecnor/CC&I

Observations can be sent to the Commission by email, by fax, or by post. Please use the contact details below:

Email: COMP-MERGER-REGISTRY@ec.europa.eu

Fax +32 22964301

Postal address:
European Commission
Directorate-General for Competition
Merger Registry
1049 Bruxelles/Brussel
BELGIQUE/BELGIË
Prior notification of a concentration
(Case M.9671 — Apollo/Blue Group)
Candidate case for simplified procedure

(Text with EEA relevance)

(2019/C 402/10)

1. On 20 November 2019, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 (1).

This notification concerns the following undertakings:
— Blue Group Hold Co Limited (‘Blue Group’, United Kingdom).

Apollo acquires, within the meaning of Article 3(1)(b) of the Merger Regulation, sole control of the whole of Blue Group. The concentration is accomplished by way of purchase of shares.

2. The business activities of the undertakings concerned are:
— for Apollo: investments in companies and debt issued by companies involved in various businesses throughout the world,
— for Blue Group: retail supply of home furniture in the United Kingdom under the brands Harveys Furniture and Bensons for Beds.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the Merger Regulation. However, the final decision on this point is reserved.

Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under the Council Regulation (EC) No 139/2004 (2) it should be noted that this case is a candidate for treatment under the procedure set out in the Notice.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. The following reference should always be specified:
M.9671 — Apollo/Blue Group

Observations can be sent to the Commission by email, by fax, or by post. Please use the contact details below:

Email: COMP-MERGER-REGISTRY@ec.europa.eu
Fax +32 22964301
Postal address:
European Commission
Directorate-General for Competition
Merger Registry
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

EUROPEAN COMMISSION

Publication of an application for registration of a name pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs

(2019/C 402/11)

This publication confers the right to oppose the application pursuant to Article 51 of Regulation (EU) No 1151/2012 of the European Parliament and of the Council (1) within three months from the date of this publication.

SINGLE DOCUMENT

‘CAPPERO DELLE ISOLE EOLIE’
EU No: PDO-IT-02395 – 15.3.2018
PDO (X) PGI ()

1. Name
   ‘Cappero delle Isole Eolie’

2. Member State or Third Country
   Italy

3. Description of the agricultural product or foodstuff

3.1. Type of product
   Class 1.6. Fruit, vegetables and cereals, fresh or processed

3.2. Description of product to which the name in 1 applies
   The Protected Designation of Origin ‘Cappero delle Isole Eolie’ refers to the ‘capers’, i.e. the flower buds, and ‘caper berries’, i.e. the fruit, of the botanical species Capparis spinosa, subsp. spinosa and subsp. inermis, including the biotypes Nocellara, Nocella and Spinoso di Salina, which are released for consumption ‘with sea salt’ or ‘in brine’.

   When released for consumption, capers and caper berries with the ‘Cappero delle Isole Eolie’ PDO must have the following characteristics:
   — Firm texture;
   — Spherical or slightly flattened in shape with a pronounced apex;
   — Glabrous surface;
   — Green to mustard-coloured with purple streaks;
   — Free of any visible foreign matter;
   — Not smaller than 4 mm in the case of capers;
   — Not larger than 20 mm in the case of caper berries;
   — Taste: intense and pungent;
   — Aroma: aromatic, strong, with no trace of mould or foreign odours;

— Resistance to handling;
— Oleic acid content of not less than 6 %.

3.3. *Feed (for products of animal origin only) and raw materials (for processed products only)*

Sea salt is added in its natural form and in varying proportions to ‘Cappero delle Isole Eolie’ with sea salt and in aqueous solution (25 kg of sea salt dissolved in 75 litres of water) to ‘Cappero delle Isole Eolie’ in brine.

3.4. *Specific steps in production that must take place in the identified geographical area*

The ‘Cappero delle Isole Eolie’ must be harvested, ripened (in brine or with sea salt) and selected in the defined area.

3.5. *Specific rules concerning slicing, grating, packaging, etc. of the product the registered name refers to*

When released for consumption, capers and caper berries with the ‘Cappero delle Isole Eolie’ PDO must be packaged, within the identified area, as follows:

a) ‘with sea salt’ in containers of various sizes and materials

b) ‘in brine’ in containers of various sizes and materials

The ‘Cappero delle Isole Eolie’ must be packaged in the defined production area in order to ensure that the characteristics of the product are maintained. During packaging, the product is taken from the ripening containers and packaged while adding the correct amounts of salt or brine, as appropriate. The salt or brine is added by local operators. The right quantity of salt and correct salt concentration are crucial in ensuring that the product packaged for consumers has the characteristics of the product. Any processing errors at this stage would give rise to the activation of cell degradation processes which would impair the firmness of the product and adversely affect its specific quality.

3.6. *Specific rules concerning labelling of the product to which the registered name refers*

In addition to the information and the EU logo that must feature on the packaging under the legislation in force, the logo of the ‘Cappero delle Isole Eolie’ must also appear, as shown below. The label may bear the name of the island where the product is produced and the name of the producer.

4. *Concise definition of the geographical area*

The geographical area where the product with the Protected Designation of Origin (PDO) ‘Cappero delle Isole Eolie’ is produced and packaged comprises the entire administrative territory of the municipality of Lipari, including the islands of Lipari, Vulcano, Filiucudi, Alicudi, Panarea and Stromboli, and the municipalities of Santa Marina Salina, Malfa and Leni on the island of Salina, in the province of Messina.

5. *Link with the geographical area*

The specific nature of the ‘Cappero delle Isole Eolie’ is linked to the combination of natural factors such as climate, moisture content of soil and land, and the human factors that have shaped the operational and production methods of caper-growing in the Aeolian Islands.
The area in which the ‘Cappero delle Isole Eolie’ is grown is completely distinct from caper-growing areas elsewhere in the region. The capers grow and mature in soils of volcanic origin which are excellent for farming due to their high mineral content and texture.

The volcanic soils of the Aeolian islands, which are characterised by a light texture with a high content of pumice, sand and often stones, allow air and water to move freely and are an ideal substrate for the assimilation of nutrients and water.

The wealth of rapidly assimilable macro and micro elements in the soil helps boost the yields of the caper plants, while the presence of calcium gives the tissues greater structural resistance, particularly the cell walls and membranes, making both the flower buds (capers) and the fruit (caper berries) firm and compact.

The environmental conditions of particularly high humidity (with summer values around 50 % during warmer and sunny daytime hours, and extremely high values at night in excess of 90 %), due to the micro-insular nature of the production area, give rise to a frequent phenomenon of ‘hidden rainfall’.

This phenomenon provides the plant, which is dry-cultivated, with a significant additional source of water, in the form of dew, which is essential to channel the micro and macro nutrients found in the soil and to allow optimal development of the plant without water stress.

The absence of water stress and the correct absorption by the plant of micro and macro nutrients, in particular waterborne calcium, give the cell membranes greater structural resistance, imparting a particular firmness to both the flower buds (capers) and fruit (caper berries) grown on the Aeolian Islands, which are therefore particularly resistant to processing.

In addition, a comparative chemical analysis has shown oleic acid content of more than 90 %, due to the influence of numerous soil- and climate-related factors; in sensory terms, this gives the ‘Cappero delle Isole Eolie’ its intense and pungent taste.

Another characteristic of the ‘Cappero delle Isole Eolie’ is the presence of a purplish strip, obtained from plant selection by the Aeolian farmers.

Human intervention has contributed to the selection of the unique caper cultivars that are typical of the area. Continuous plant selection and constant plant reproduction using cuttings have made it possible to establish this typical characteristic, which is not to be found in capers of a different origin.

The cuttings are skilfully picked by the expert hands of the Aeolians and are taken exclusively from mother plants which the farmers have cultivated over the years.

These mother plants, which have been perpetuated over the centuries through propagation by cuttings and have adapted over the years to the defined area’s favourable microclimate and soil conditions, are now a virtually limitless source of cuttings that can be sold, at the time of pruning, to those wishing to start growing capers.

The source of the plant propagating material is therefore one of the main aspects to be respected when producing the ‘Cappero delle Isole Eolie’.

The combination of soil and climate conditions that cannot be found elsewhere and the traditional method of cultivation of the ‘Cappero delle Isole Eolie’ constitute a causal and inextricable link between the geographical area and the characteristics of the product.

Reference to publication of the specification

(the second subparagraph of Article 6(1) of this Regulation)

The full text of the product specification is available via the following link:

https://www.politicheagricole.it/lex/cm/pages.ServeAttachment.php/L/IT/D/c%252F3%252Fa%252F85d4f26b54355e413d8d/P/BLOB%3AID%3D3335/E/pdf

or directly on the home page of the Ministry of Agricultural, Food, Forestry and Tourism Policy (www.politicheagricole.it), click on ‘Qualità’, then ‘Prodotti DOP IGP e STG’ (on the left-hand side of the screen) and finally ‘Disciplinari di Produzione all’esame dell’UE’.