

By its fourth and final ground of appeal, the appellant complains that the General Court committed errors of law and manifest errors of assessment in that it disregarded the relevant legal criteria for assessing the creation or strengthening of a dominant position and whether the commitments were appropriate in relation to the Commission's findings.

(<sup>1</sup>) Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings (OJ 1989 L 395, p. 1).

**Appeal brought on 25 November 2010 by the European Commission against the judgment delivered by the General Court (Sixth Chamber) on 13 September 2010 in Case T-452/04 *Éditions Jacob v European Commission***

(Case C-553/10 P)

(2011/C 46/07)

*Language of the case: French*

**Parties**

*Appellant:* European Commission (represented by: A. Bouquet, O. Beynet and S. Noë, Agents)

*Other parties to the proceedings:* Éditions Odile Jacob SAS, Wendel Investissement SA, Lagardère SCA

**Form of order sought**

— set aside the judgment of 13 September 2010 in Case T-452/04 *Éditions Odile Jacob SAS v Commission* in so far as it annulled Commission Decision D(2004) 203365 of 30 July 2004 relating to the approval of Wendel Investissement as purchaser of the assets sold in accordance with Commission Decision 2004/422/EC of 7 January 2004 declaring a concentration compatible with the common market and the functioning of the EEA Agreement (Case COMP/M.2978 — Lagardère/Natexis/VUP); (<sup>1</sup>)

— rule, if appropriate, definitively on the issues which form the subject-matter of this appeal and dismiss the action for annulment, and

— order Éditions Jacob to pay the costs of both instances.

**Pleas in law and main arguments**

The appellant puts forward three grounds in support of its appeal.

By its first ground of appeal, the Commission submits that the General Court erred in law in that it failed to examine the

consequences of the possible lack of independence of the trustee vis-à-vis Editis in respect of the trustee's duties in relation to Wendel. In the appellant's submission, the lack of independence of a person responsible for assessing a candidate is of no legal significance unless it is established that that person took account in his assessment of an interest other than that of the proper exercise of his duties.

By its second ground of appeal, the appellant alleges that the General Court erred in law and misinterpreted the facts in so far as it found that the trustee's report had a decisive influence on the contested decision, whereas, in actual fact, even if the Commission is required to take it into account, it is not bound by the trustee's opinion and is still required to undertake the necessary investigation in order to ascertain that the purchaser does indeed satisfy the approval criteria.

By its third ground of appeal, which is in two parts, the Commission alleges, first, a misinterpretation of the law as regards the relevance of the plea raised by the applicant at first instance on the validity of the contested decision and, second, an infringement of the obligation to state reasons in that connection.

(<sup>1</sup>) OJ 2004 L 125, p. 54.

**Appeal brought on 26 November 2010 by Lagardère SCA against the judgment of the General Court (Sixth Chamber) delivered on 13 September 2010 in Case T-452/04 *Éditions Jacob v European Commission***

(Case C-554/10 P)

(2011/C 46/08)

*Language of the case: French*

**Parties**

*Appellant:* Lagardère SCA (represented by: A. Winckler, F. de Bure et J.-B. Pinçon, avocats)

*Other parties to the proceedings:* Éditions Odile Jacob SAS, European Commission, Wendel Investissement SA

**Form of order sought**

— set aside the judgment of 13 September 2010 in Case T-452/04 in so far as that judgement annulled the European Commission's Decision of 30 July 2004 approving Wendel Investissement as purchaser of the assets sold in merger control procedure No COMP/M.2978 — Lagardère/Natexis/VUP;