

Opinion of the Advisory Committee on mergers given at its meeting of 8 August 2012 regarding a draft decision relating to Case COMP/M.6314 — Telefónica UK/Vodafone UK/Everything Everywhere/JV

Rapporteur: Portugal

(2013/C 66/02)

Concentration

1. The Advisory Committee agrees with the Commission that the notified operation constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.
2. The Advisory Committee agrees with the Commission that the notified transaction has a Community dimension pursuant to Article 1(3) of the Merger Regulation.

Market definition

3. The Advisory Committee agrees with the Commission's definitions of the relevant product and geographic markets in the draft decision.
4. In particular, does the Advisory Committee agree that the operation needs to be assessed on the following markets:
 - (a) market for the wholesale supply of mobile wallet platforms, at least UK-wide;
 - (b) market for secure storage, at least UK-wide;
 - (c) market for the retail distribution of mobile wallet services to customers, at least UK-wide;
 - (d) market for advertising services, at least UK-wide;
 - (e) market for mobile advertising intermediation services, at least UK-wide;
 - (f) market for retail and wholesale bulk SMS services, at least UK-wide;
 - (g) market for data analytics services, at least UK-wide;
 - (h) UK market for retail mobile telephony services?

Competition assessment

Vertical effects

5. The Advisory Committee agrees with the Commission's assessment that the proposed operation is not likely to give rise to non-coordinated and coordinated vertical effects that would significantly impede effective competition on the at least UK-wide market for the wholesale supply of mobile wallet platforms.
6. In particular, the Advisory Committee agrees with the Commission's assessment that the Notifying Parties are not likely to have:
 - (a) the technical ability to substantially foreclose competing mobile wallet providers;
 - (b) the commercial ability, to substantially foreclose competing mobile wallet providers; and
 - (c) the unilateral or coordinated incentives to foreclose competing mobile wallet providers.

7. The Advisory Committee agrees with the Commission's assessment that the proposed operation is not likely to give rise to non-coordinated and coordinated vertical effects that would significantly impede effective competition on the at least UK-wide market for the wholesale and retail supply of bulk SMS services.

Conglomerate effects

8. The Advisory Committee agrees with the Commission's assessment that the proposed operation is not likely to give rise to non-coordinated and coordinated effects that would significantly impede effective competition on the UK-wide market for the retail mobile telephony services.

Horizontal effects

9. The Advisory Committee agrees with the Commission's assessment that the proposed operation is not likely to give rise to horizontal effects that would significantly impede effective competition on the relevant markets.

Conclusion

10. The Advisory Committee agrees with the Commission's conclusion that the proposed operation is not likely to significantly impede effective competition in the internal market or in a substantial part of it, and that as a result it must be declared compatible with the internal market and the functioning of the EEA Agreement in accordance with Articles 2(2) and 8(1) of the Merger regulation and Article 57 of the EEA Agreement.
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