

Opinion of the Advisory Committee on mergers given at its meeting of 17 January 2012 regarding a draft decision relating to Case M.6166 — Deutsche Börse/NYSE Euronext

Rapporteur: UK

(2014/C 254/04)

1. The Advisory Committee agrees with the Commission that the notified operation constitutes a concentration within the meaning of Article 3(1)(a) of the Merger Regulation.
 2. The Advisory Committee agrees with the Commission that the notified transaction has a Union dimension pursuant to Article 1 of the Merger Regulation.
 3. The Advisory Committee agrees with the Commission's definitions of the relevant product and geographic markets as stated in the draft decision.
 4. The Advisory Committee agrees with the Commission's assessment that the notified transaction would not lead to a significant impediment of effective competition in the markets concerned in the areas of: (1) Cash Instruments; (2) Market Data and Index Licensing; (3) Information Technology Products and Services; and (4) Collateral Management.
 5. The Advisory Committee agrees with the Commission's assessment that the notified transaction, as originally proposed by the notifying parties, would lead to a significant impediment of effective competition in the following markets and this irrespective of their geographic scope:
 - Market for existing and new European exchange-traded interest rate futures and options, irrespective of whether the effects of the transaction are analysed on a single overall market for interest rate futures and options, separate markets for short term or long term futures and options, and within these on separate markets for interest rates according to currency (euro and sterling),
 - Market for existing and new European exchange-traded single stock equity futures and options, irrespective of whether the effects of the transaction are analysed on the basis of individual underlyings, all underlyings of a given nationality, or all EEA underlyings,
 - Market for new European exchange-traded equity index futures and options,
 - Market for off-order book services for block size European ETD contracts (irrespective of whether this market is further divided on any of the lines considered for on-book trading), and
 - Market for trade registration, confirmation and CCP clearing services for flexible versions of European equity futures and options traded OTC.
 6. The Advisory Committee agrees with the Commission's analysis of efficiencies and the conclusion that they are not of a nature to counteract the significant impediment to effective competition resulting from the notified transaction.
 7. The Advisory Committee agrees with the Commission that the final commitments offered by the notifying Parties on 14 December 2011 do not address the competition concerns identified by the Commission in a sufficient manner and will therefore not eliminate the significant impediment to effective competition resulting from the notified transaction.
 8. The Advisory Committee agrees with the Commission that the notified transaction must therefore be declared incompatible with the common market and the functioning of the EEA Agreement. One Member State abstains.
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