

Opinion of the Advisory Committee on mergers
at its meeting of 28 June 2019
concerning a preliminary draft decision relating to
Case M.8864 — Vodafone/Certain Liberty Global Assets
Rapporteur: Latvia
(2019/C 382/05)

Jurisdiction

1. The Advisory Committee (15 Member States) agrees with the Commission that the notified transaction constitutes a concentration within the meaning of Article 3(1)(b) of the Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings ('the Merger Regulation')⁽¹⁾.
2. The Advisory Committee (15 Member States) agrees with the Commission that the notified transaction has a Union dimension pursuant to Article 1(2) of the Merger Regulation.

Market definition

3. The Advisory Committee (15 Member States) agrees with the conclusions reached by the Commission in the draft Decision in relation to the definition of the relevant product and geographic markets for:
 - a. Retail supply of fixed telephony services;
 - b. Retail supply of fixed internet access services;
 - c. Retail supply of mobile telecommunications services;
 - d. Retail supply of TV services;
 - e. Retail supply of TV signal transmission in Germany;
 - f. Retail supply of multiple play services;
 - g. Retail business connectivity services;
 - h. Retail internet hosting services;
 - i. Wholesale call termination services on fixed networks;
 - j. Wholesale leased lines;
 - k. Wholesale termination and hosting of calls to non-geographic numbers;
 - l. Wholesale provision of domestic call transit on fixed networks;
 - m. Wholesale international carrier services;
 - n. Wholesale internet connectivity services;
 - o. Wholesale access and call origination on mobile networks;
 - p. Wholesale market for call termination on mobile networks;
 - q. Wholesale international roaming services;
 - r. Wholesale supply and acquisition of TV channels;
 - s. Wholesale TV signal transmission;
 - t. Intermediary TV signal delivery in Germany;
 - u. Licensing and acquisition of broadcasting rights for TV content.

⁽¹⁾ OJ L 24, 29.1.2004, p. 1.

Competitive assessment

4. The Advisory Committee (15 Member States) agrees with the Commission's assessment that the notified transaction would significantly impede effective competition as a result of horizontal non-coordinated effects in:
 - a. The market for the retail supply of fixed internet access services in Germany;
 - b. The hypothetical market for the retail supply of multiple play bundles including fixed telephony services and fixed internet access services in Germany;
 - c. The market for the wholesale supply and acquisition of TV channels and the market for the wholesale TV signal transmission in Germany.
5. The Advisory Committee (15 Member States) agrees with the Commission's assessment that the notified transaction is unlikely to significantly impede effective competition as a result of:
 - a. Horizontal non-coordinated effects in markets other than those indicated at question 4;
 - b. Horizontal coordinated effects;
 - c. Vertical non-coordinated effects;
 - d. Conglomerate effects.

Commitments

6. The Advisory Committee (15 Member States) agrees with the Commission that the final commitments offered by the Notifying Party on 11 June 2019 remove the significant impediment to effective competition identified in the draft Decision.
7. The Advisory Committee (15 Member States) agrees with the Commission that, subject to the full compliance with the final commitments offered by the Notifying Party on 11 June 2019, the notified transaction is not likely to significantly impede effective competition in the internal market or in a substantial part of it.

Compatibility with the internal market and the EEA Agreement

8. The Advisory Committee (15 Member States) agrees with the Commission that the notified transaction must therefore be declared compatible with the internal market and the functioning of the EEA Agreement in accordance with Article 2(2) and 8(2) of the Merger Regulation and Article 57 of the EEA Agreement.

Helena LARSSON HAUG
Chair of the Advisory Committee meeting
