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⁽¹⁾ Text with EEA relevance

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⁽¹⁾ Text with EEA relevance

II

(Information)

INFORMATION FROM EUROPEAN UNION INSTITUTIONS AND BODIES

COMMISSION

Non-opposition to a notified concentration**(Case COMP/M.5170 — E.ON/Endesa Europa/Viesgo)****(Text with EEA relevance)**

(2008/C 237/01)

On 19 June 2008, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. 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:

- from the Europa competition website (<http://ec.europa.eu/comm/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
- in electronic form on the EUR-Lex website under document number 32008M5170. EUR-Lex is the on-line access to European law (<http://eur-lex.europa.eu>).

Non-opposition to a notified concentration**(Case COMP/M.5260 — BNP Paribas/Chomette/GE/Capital France Hôtel)****(Text with EEA relevance)**

(2008/C 237/02)

On 21 August 2008, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. 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:

- from the Europa competition website (<http://ec.europa.eu/comm/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
 - in electronic form on the EUR-Lex website under document number 32008M5260. EUR-Lex is the on-line access to European law (<http://eur-lex.europa.eu>).
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Non-opposition to a notified concentration**(Case COMP/M.5191 — Perstorp/LyondellBasell/Rhodia Diisocyanates Businesses)**

(Text with EEA relevance)

(2008/C 237/03)

On 28 August 2008, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. 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:

- from the Europa competition website (<http://ec.europa.eu/comm/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
- in electronic form on the EUR-Lex website under document number 32008M5191. EUR-Lex is the on-line access to European law (<http://eur-lex.europa.eu>).

Non-opposition to a notified concentration**(Case COMP/M.5068 — L'Oréal/YSL Beauté)**

(Text with EEA relevance)

(2008/C 237/04)

On 17 June 2008, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. The full text of the decision is available only in French and will be made public after it is cleared of any business secrets it may contain. It will be available:

- from the Europa competition website (<http://ec.europa.eu/comm/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
 - in electronic form on the EUR-Lex website under document number 32008M5068. EUR-Lex is the on-line access to European law (<http://eur-lex.europa.eu>).
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Non-opposition to a notified concentration**(Case COMP/M.5009 — Randstad/Vedior)****(Text with EEA relevance)**

(2008/C 237/05)

On 17 April 2008, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1) in conjunction with Article 6(2) of Council Regulation (EC) No 139/2004. 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:

- from the Europa competition website (<http://ec.europa.eu/comm/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
- in electronic form on the EUR-Lex website under document number 32008M5009. EUR-Lex is the on-line access to European law (<http://eur-lex.europa.eu>).

Non-opposition to a notified concentration**(Case COMP/M.4667 — Syral/Tate & Lyle Assets)****(Text with EEA relevance)**

(2008/C 237/06)

On 23 August 2007, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. 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:

- from the Europa competition website (<http://ec.europa.eu/comm/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
 - in electronic form on the EUR-Lex website under document number 32007M4667. EUR-Lex is the on-line access to European law (<http://eur-lex.europa.eu>).
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Non-opposition to a notified concentration
(Case COMP/M.5291 — Abenex Capital/Natixis Private Equity/Colbison SAS)

(Text with EEA relevance)

(2008/C 237/07)

On 2 September 2008, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. The full text of the decision is available only in French and will be made public after it is cleared of any business secrets it may contain. It will be available:

- from the Europa competition website (<http://ec.europa.eu/comm/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
- in electronic form on the EUR-Lex website under document number 32008M5291. EUR-Lex is the on-line access to European law (<http://eur-lex.europa.eu>).

Non-opposition to a notified concentration
(Case COMP/M.5157 — Volkswagen/Scania)

(Text with EEA relevance)

(2008/C 237/08)

On 13 June 2008, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. 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:

- from the Europa competition website (<http://ec.europa.eu/comm/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
 - in electronic form on the EUR-Lex website under document number 32008M5157. EUR-Lex is the on-line access to European law (<http://eur-lex.europa.eu>).
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IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS AND
BODIES

COMMISSION

Euro exchange rates ⁽¹⁾

15 September 2008

(2008/C 237/09)

1 euro =

Currency	Exchange rate	Currency	Exchange rate
USD US dollar	1,4151	TRY Turkish lira	1,7865
JPY Japanese yen	149,87	AUD Australian dollar	1,7544
DKK Danish krone	7,4573	CAD Canadian dollar	1,5140
GBP Pound sterling	0,79395	HKD Hong Kong dollar	11,0295
SEK Swedish krona	9,5519	NZD New Zealand dollar	2,1524
CHF Swiss franc	1,5903	SGD Singapore dollar	2,0342
ISK Iceland króna	129,73	KRW South Korean won	1 570,76
NOK Norwegian krone	8,1830	ZAR South African rand	11,5609
BGN Bulgarian lev	1,9558	CNY Chinese yuan renminbi	9,6864
CZK Czech koruna	24,313	HRK Croatian kuna	7,1102
EEK Estonian kroon	15,6466	IDR Indonesian rupiah	13 372,70
HUF Hungarian forint	240,92	MYR Malaysian ringgit	4,8892
LTL Lithuanian litas	3,4528	PHP Philippine peso	66,510
LVL Latvian lats	0,7046	RUB Russian rouble	36,2000
PLN Polish zloty	3,3490	THB Thai baht	48,977
RON Romanian leu	3,6195	BRL Brazilian real	2,5871
SKK Slovak koruna	30,270	MXN Mexican peso	15,2052

⁽¹⁾ Source: reference exchange rate published by the ECB.

Opinion of the Advisory Committee on Mergers given at its meeting of 6 May 2008 regarding a draft decision relating to Case COMP/M.4854 — TomTom/Tele Atlas

Rapporteur: Ireland

(2008/C 237/10)

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 EC Merger Regulation and that it can be deemed to have a community dimension pursuant to Article 4(5) of that Regulation.
 2. The Advisory Committee agrees with the Commission that this is a vertical merger comprising the following relevant product markets:
 - Navigable Digital Map Database — Upstream market,
 - Navigation Software — Intermediate market,
 - Portable Navigation Devices — Downstream market.
 3. The Advisory Committee agrees with the Commission that the relevant geographic market for Navigable Digital Map Database is worldwide in scope.
 4. The Advisory Committee agrees with the Commission that the relevant geographic market for Navigation Software is worldwide in scope.
 5. The Advisory Committee agrees with the Commission that the relevant geographic market for Portable Navigation Devices is EEA-wide in scope.
 6. The Advisory Committee agrees with the Commission's conclusion that the merged entity may have the ability to increase price or degrade quality/delay access to Navigable Digital Map Databases to some of its competitors in the Portable Navigation Devices and Navigation Software markets.
 7. The Advisory Committee agrees with the Commission's conclusion that the merged entity would have no incentive to increase the price or degrade quality/delay access to Navigable Digital Map Databases to its competitors in the Portable Navigation Devices and Navigation Software markets.
 8. The Advisory Committee agrees with the Commission's conclusion that the proposed concentration is not likely to result in any anti-competitive impact to the detriment of consumers.
 9. The Advisory Committee agrees with the Commission's conclusion that the proposed concentration will not result in a significant impediment of effective competition in the common market or a substantial part of it.
 10. The Advisory Committee agrees with the Commission that the notified concentration should therefore be declared compatible with the common market pursuant to Article 8(1) of the EC Merger Regulation.
-

Final report of the Hearing Officer in Case COMP/M.4854 — TomTom/Tele Atlas

(Pursuant to Articles 15 and 16 of Commission Decision 2001/462/EC, ECSC of 23 May 2001 on the terms of reference of Hearing Officers in certain competition proceedings — OJ L 162, 19.6.2001, p. 21)

(2008/C 237/11)

On 22 October 2007, the Commission received a notification of a proposed concentration pursuant to Article 4 and following a referral pursuant to Article 4(5) of Council Regulation (EC) No 139/2004 ⁽¹⁾ by which TomTom NV ('TomTom') would acquire within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of Tele Atlas NV ('Tele Atlas') by way of a public bid.

After examination of the notification, the Commission concluded on 28 November 2007 that the notified operation fell within the scope of the Merger Regulation and that it raised serious doubts as to its compatibility with the common market and the EEA Agreement. The Commission therefore initiated proceedings in accordance with Article 6(1)(c) of the Merger Regulation.

Access to key documents was provided to the notifying party on 3 and 12 December 2007, in accordance with paragraph 45 of DG Competition's Best Practices on the conduct of EC merger control proceedings.

The Commission sent a Statement of Objections ('SO') to TomTom on 29 February 2008. Tele Atlas also received a copy of the SO. TomTom was granted access to file upon issuance of the SO. TomTom and Tele Atlas replied jointly on 17 March 2008. The parties did not request a formal oral hearing.

I granted requests from eight undertakings to be admitted to the proceedings as interested third parties within the meaning of Article 18(4) of the Merger Regulation and Article 11(c) of Commission Regulation (EC) No 802/2004. TomTom was granted access to non-confidential versions of written comments submitted by four of the third parties.

As a result of the in-depth investigation, the Commission has concluded that the proposed concentration does not significantly impede effective competition in the common market or a substantial part of it.

In the light of the above, I consider that the rights to be heard in the present proceeding have been respected.

Brussels, 6 May 2008.

Karen WILLIAMS

⁽¹⁾ OJ L 24, 29.1.2004, p. 1.

Summary of Commission Decision**of 14 May 2008****declaring a concentration compatible with the common market and the functioning of the EEA Agreement****(Case COMP/M.4854 — TomTom/Tele Atlas)****(Only the English version is authentic)****(Text with EEA relevance)**

(2008/C 237/12)

On 14 May 2008, the Commission adopted a Decision in a merger case under Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings, and in particular Article 8(1) of that Regulation. A non-confidential version of the full decision can be found in the authentic language of the case and in the working languages of the Commission on the website of the Directorate-General for Competition, at the following address:

http://ec.europa.eu/comm/competition/index_en.html

1. THE PARTIES**4. RELEVANT MARKETS**

(1) TomTom NV, headquartered in Amsterdam, Netherlands, is a manufacturer of portable navigation devices (PNDs) and a supplier of navigation software for use in navigation devices.

(2) Tele Atlas NV, headquartered in 's-Hertogenbosch, Netherlands, is one of two main suppliers (in Europe and North America) of digital map databases for navigation and other end-uses.

2. THE OPERATION

(3) On 22 October 2007, the Commission received a formal notification pursuant to Article 4 of the Merger Regulation by which TomTom acquires within the meaning of Article 3(1)(b) of the Merger Regulation control of the whole of Tele Atlas by way of a public bid.

3. ARTICLE 4(5) REFERRAL

(4) The parties to the proposed concentration do not meet either of the alternative thresholds set out in Article 1(2) and (3) of the Merger Regulation. The proposed transaction would have been subject to mandatory scrutiny under national merger control law in four Member States; Germany, the Netherlands, Spain and Portugal.

(5) On 24 August 2007, the Commission received a reasoned submission by TomTom in which the company requested a referral to the Commission pursuant to Article 4(5) of the Merger Regulation. No Member State objected to the referral of the proposed transaction to the Commission. The proposed transaction is therefore deemed to have a Community dimension and has been examined by the Commission.

4.1. The Upstream Market — Navigable Digital Map Databases*Definition of the relevant product market*

(6) A digital map database is a compilation of digital data which typically includes (i) geographic information about the position and shape of each feature on a map; (ii) information about additional features of the map (e.g. street names, addresses, driving directions, turn restrictions and speed limits); and (iii) display information. In addition to the core database, several layers of add-on information are provided by the providers of digital map databases.

(7) Digital map databases are sold to manufacturers of navigation devices, producers of navigation software and providers of non-navigation applications (e.g. Internet maps). Digital map databases are used for a variety of purposes, the most important being address location, route planning and navigation.

(8) The Commission considered it inappropriate to delineate separate product markets for digital map databases depending on the format in which the data is delivered to the customers or depending on the type of navigation device they are used in.

(9) The Commission considered whether or not digital map databases for navigation purposes and non-navigation purposes constitute separate relevant product markets. Given the lack of demand-side as well as supply-side substitutability, the Commission concluded that digital map databases for navigation and non-navigation applications constitute separate product markets.

(10) Finally, the Commission considered whether the market for the provision of navigable digital map databases should be sub-divided according to the geographic coverage of the databases sold⁽¹⁾. From the demand side, the substitutability of navigable digital map databases with different geographic coverage is limited. The degree of supply-side substitutability of navigable digital map databases with different geographic coverage is also limited, because of the resources and time required to build a navigable digital map database from 'scratch'. The Commission therefore concluded that separate relevant product markets should be defined depending on the geographic coverage of each navigable digital map database. The exact delineation of the relevant product markets (i.e. whether or not individual country or regional licences constitute separate product markets) was left open, since it did not affect the Commission's assessment of the proposed transaction.

Definition of the relevant geographic market

(11) Tele Atlas distributes its products from the Netherlands to device makers and software providers located elsewhere in the EEA and in other parts of the world. NAVTEQ distributes its databases from the US to the EEA and other parts of the world. Major device makers and software developers are located in the EU, the US, Japan and South Korea. No quotas, tariffs or other trade barriers limit these imports and exports of digital data of this kind. There are no material differences in the way in which navigable digital map databases are sold or distributed within the EEA and in other parts of the world. The Commission concluded that the relevant geographic market for the provision of navigable digital map databases is worldwide.

4.2. The Intermediate Market — Navigation Software

Definition of the relevant product market

(12) Navigation software combines geographic positioning from a GPS-receiver and data contained in a navigable digital map database to provide navigation functionality. The navigation software calculates routes and provides real time turn-by-turn directions. Navigation software is either sold as a stand-alone product or as a bundle with the map database. There are three main types of navigation software; on-board systems, off-board systems and hybrid systems. The question whether separate relevant product markets should be defined depending on the type of navigation software was left open, since TomTom only provides on-board systems.

⁽¹⁾ Please note that the geographic coverage of navigable digital databases is a product feature relevant for the delineation of the relevant product market in this case. The geographic coverage of the database must not be confused with the geographic scope of the market, which is dealt with separately below (in the section on the definition of the relevant geographic market).

(13) The Commission considered it inappropriate to delineate separate product markets depending on the database formats used to integrate the data with the navigation software or depending on the type of navigation device the navigation software is installed in.

Definition of the relevant geographic market

(14) Navigation software is created and distributed throughout the world and licensed to customers wherever the customer is located. There are no technological differences, trade barriers or legal barriers that could justify a narrower scope of the geographic market. The Commission therefore concluded that the relevant geographic market for the provision of navigation software is worldwide in scope.

4.3. The Downstream Market — PNDs

Definition of the relevant product market

(15) At present, four main types of navigation devices may be identified: (i) Portable Navigation Devices (PNDs); (ii) Personal Digital Assistants (PDAs); (iii) mobile telephones with navigation functionality and (iv) in-dash navigation devices.

(16) The Commission's market investigation indicated that a number of circumstances distinguish PNDs from other types of navigation devices. A PND is primarily a navigation device while a mobile telephone with navigation capability usually comes with a wide range of functions. The different functionalities are reflected in prices. The Commission considered that PNDs and mobile telephones with navigation capability constitute separate relevant product markets. For similar reasons — i.e. different functionalities, different prices and different degrees of adaptation to automotive use — the Commission considered that PNDs and PDAs constitute separate product markets. PNDs are sold and marketed as normal consumer electronics in retail outlets while in-dash systems are pre-installed in new cars at the time of production. In-dash devices have more features, larger screens and may be integrated with car safety systems. These differences are reflected in prices. The suppliers of PNDs and in-dash devices are largely different, although a few in-dash providers have attempted to enter the PND market. For these reasons, the Commission considered that PNDs and in-dash devices constitute separate relevant product markets.

(17) For the purposes of this decision, the relevant product market downstream is the market for the provision of PNDs.

Definition of the relevant geographic market

- (18) PNDs used in different EEA countries require substantially the same hardware and software to operate. The largest PND suppliers operate and compete for customers on an EEA-wide basis. Most brands are sold throughout the EEA and the relative strength of the main players is broadly similar in most national markets. There is also scope for significant supply-side substitution. On this basis, the Commission concluded that the geographic market is at least EEA-wide.

5. MARKET CONDITIONS**5.1. Navigable Digital Map Databases***Market shares*

- (19) There are two main providers of navigable digital map databases which cover countries situated in the EEA; Tele Atlas and NAVTEQ. The market(s) for the provision of navigable digital map databases covering EEA-countries may therefore be regarded as a duopoly. Depending on the product market definition, Tele Atlas has a market share of [40-60] % and NAVTEQ [40-60] %.

Market entry

- (20) There are no indications that any of the current providers of navigable digital map databases active outside the EEA plan to enter the markets for databases with coverage of countries in the EEA. Entry by US firm Facet is uncertain and would in any case not be timely enough to constrain the behaviour of the incumbent providers. 'Greenfield' entry by firms offering internet-based map applications must also be regarded as unlikely. Apart from AND — whose products are clearly inferior to those of Tele Atlas and NAVTEQ — the market investigation contains no indications that any of the producers currently producing non-navigable digital map databases with European coverage intends to upgrade its databases to make them navigable. Even if they did have intentions to enter, the substantial time-lag involved in producing from 'scratch' a navigable digital map database covering the EEA would prevent any potential future entry from being timely enough to constrain the competitive behaviour of the incumbents in the short or medium term.

- (21) While marginal entry may not be excluded, the Commission concluded that entry into the markets for the provision of navigable digital map databases with EEA-coverage would be neither timely (i.e. sufficiently swift and sustained), nor sufficient (in scope and magnitude) to deter or defeat any potential anti-competitive effects of the merger.

5.2. Navigation Software

- (22) Tele Atlas is not active in the market for the provision of navigation software. Only a minor part TomTom's production of navigation software is supplied to third parties. In the merchant market for navigation software the largest providers are Navigon with an estimated market share of 25 %, Navn'Go with 18 % and Destinator with 15 %. TomTom's market share is estimated to 6 %.
- (23) The Commission market investigation indicated that barriers to entry are surmountable. The vast majority of the PND-manufacturers which participated in the Commission market investigation responded that they were already able or would be able to develop their own navigation software in-house.

5.3. PNDs*Market shares*

Volume market shares EEA (units)		
	All portable end-uses	PNDs
TomTom	[30-40]	[30-50]
Mio Tech & Navman	[10-20]	[10-20]
Garmin	[10-20]	[10-20]
MEDION	[0-10]	[0-10]
MyGuide	[0-5]	[0-5]

Table 7

EEA market shares by value (turnover) in 2006

Value market shares EEA		
	All portable end-uses	PNDs
TomTom	[30-50]	[30-50]
Mio Tech & Navman	[10-20]	[10-20]
Garmin	[10-20]	[10-20]
MEDION	[0-5]	[0-5]
MyGuide	[0-5]	[0-5]

Market entry

- (24) The very large number of companies that have entered market during the previous four years indicates that barriers to entry are not significant. However, the vast majority of market entrants — including major companies with 'deep pockets' and strong brand names — have failed to capture other than marginal market shares and remain minor niche players.

6. ASSESSMENT

6.1. Input Foreclosure in the PND and Navigation Software Markets

(25) The analysis of input foreclosure was carried out in accordance with the Non-horizontal Merger Guidelines.

Ability to foreclose

(26) Given Tele Atlas' market share of more than [40-60] % and given the absence of counter-strategies detailed below, the Commission concluded that the merged entity enjoys a significant degree of market power on the upstream market, which is a pre-condition for the ability to foreclose competitors according to the Non-horizontal Merger Guidelines.

(27) Although digital map databases only account for a relatively limited share of the price of a PND, they constitute a critical component without which PNDs could not serve their purpose.

(28) The Commission considered whether there are effective and timely counter-strategies that rival firms in the PND market could deploy.

(29) NAVTEQ would still compete with Tele Atlas post-merger, thereby limiting Tele Atlas' ability to foreclose its competitors. However, it appears likely that NAVTEQ's best response to a price increase by Tele Atlas would be to also increase prices, which could potentially reinforce the effect of a foreclosure strategy by the merged entity on the downstream market.

(30) Entry is unlikely to provide an effective and timely counter-strategy that would constrain the merged entity's ability to foreclose its downstream competitors. As stated above, the Commission considered it unlikely that a new map database provider would build a navigable digital map database with the same level of coverage and quality as Tele Atlas or NAVTEQ and provide a timely constraint on the merged entity.

(31) Another limit to Tele Atlas' ability to increase prices or degrade quality could be provided by intermediaries that have a license from Tele Atlas or NAVTEQ to supply the map database together with their navigation software. Such intermediaries constitute an effective constraint only if they are themselves protected from price increases and quality degradation.

(32) Tele Atlas' ability to foreclose its downstream competitors is limited by the long-term contract that Garmin has concluded with NAVTEQ, which protects Garmin at least until [...]. Since Garmin represents less than [10-20] % of the PND market, even taking Garmin's protection into account, the merged entity's ability to foreclose would still

affect more than two third of the sales of TomTom's competitors downstream. If one takes into account that [Navigation Device Manufacturer] and [Navigation Software Provider] are also partially protected, approximately half of the market could possibly be affected by a foreclosure strategy.

(33) In light of the above, the Commission concluded that the merged entity is likely to have the ability to increase prices or degrade quality/delay access for some PND manufacturers and navigation software providers competing with TomTom.

Incentive to foreclose

(34) Post-merger, TomTom/Tele Atlas will take into account how the sales of map databases to TomTom's competitors will affect its profits not only upstream but also on the downstream market. The merged entity faces a trade-off between the profit lost in the upstream market and the profit gained on the downstream market by raising its rivals' costs.

(35) For reasons described below, Tele Atlas would be likely to lose significant sales to NAVTEQ if it increased prices upstream or degraded map database quality/delays access to updates, while the benefits from increasing map database prices to TomTom's competitors are likely to be relatively limited.

(36) First, since map databases account on average for less than 10 % of the PND wholesale price, map database prices would have to increase substantially to have an effect on downstream PND market prices and allow the merged entity to capture a significant amount of sales on the downstream market. Second, it appears that at least some PND suppliers would be reluctant to pass on an increase in map database prices in the PND price, which would further reduce any effect on PND prices. Third, Garmin's protection from foreclosure due to its long-term contract with NAVTEQ will limit the profits that TomTom could capture on the downstream market if it engaged in input foreclosure strategy. Fourth, switching costs in the upstream market are surmountable. As a result, Tele Atlas would lose significant amount of sales to NAVTEQ if it increased prices of map databases, degraded their quality or delayed access to updates. Finally, quality degradation only applies to Tele Atlas customers, since NAVTEQ would arguably continue to provide good-quality map databases to all PND manufacturers in a non-discriminatory manner. It is also important to note that degrading map database quality would be less profitable for the merged entity than increasing prices since, unlike a price increase, degrading quality does not bring higher margins for the map databases that Tele Atlas would continue to sell upstream.

- (37) In order to measure the upstream/downstream trade-off, the Commission carried out an econometric estimation of downstream price elasticities to measure the sales that the merged entity could capture if it increased map database prices to TomTom's competitors downstream.
- (38) The Commission first examined the likelihood of a total input foreclosure strategy. If the merged entity were to stop selling map databases, it would lose all its profits on map databases but would only recuperate profits on the sales that it is able to capture downstream. For a total foreclosure strategy to be profitable for Tele Atlas, it would have to recuperate enough profits downstream to at least compensate the lost profits on map databases. Since map database prices represent a relatively minor proportion of the price of PND devices, and given the elasticity estimates, the Commission's analysis indicated that it would be necessary for NAVTEQ to increase prices by very a substantial amount to ensure that an input foreclosure strategy would be profitable for the merged entity. In fact, the Commission calculated that if NAVTEQ does not raise prices by several hundred percent, a total input foreclosure strategy would not be profitable for Tele Atlas.
- (39) The Commission also examined the likelihood of a partial input foreclosure strategy. The Commission concluded that the merged entity would only capture a relatively limited amount of sales downstream by increasing map database pricing to TomTom's competitors, which implies that the incentive to foreclose competitors would be limited. The Commission's subsequent sensitivity analysis confirmed the conclusion that any significant price increase would be unprofitable for the merged entity. The results of this simple profit test indicate that any price increase that would have a non-negligible impact on the downstream market would not be profitable for the merged entity as the downstream gains would not be sufficient to compensate upstream losses.
- (40) The Commission concluded that the merged entity would have no incentive to increase prices in a manner which would lead to anticompetitive effects in the downstream market for PNDs. An input foreclosure strategy in the navigation software market appears even less likely, in particular in view of the more limited presence of TomTom in this market and the smaller profits that could be captured in the software market.

Effects in the downstream market

- (41) The same qualitative factors that explained the lack of an incentive to engage in partial foreclosure also result in a lack of effects. For instance, the low share of the map database in the PND price, the evidence regarding limited pass-through, the limited switching costs and the competition with NAVTEQ all tend to limit the price increase that could be imposed by Tele Atlas on TomTom's competitors.

The fact that Garmin is protected against price increases by its long-term contract with NAVTEQ, limits further the possible effects of foreclosure. The Commission therefore concluded that the proposed transaction would not lead to any anticompetitive harm in the downstream market.

- (42) The overall impact of the transaction will also be impacted by the likely efficiencies that brought about by the merger. The Commission estimated the overall impact of the elimination of the double marginalization by the integrated company as well as other efficiencies such as the production of better maps faster by using trace and feedback data from TomTom. These efficiencies reinforced the Commission's conclusion that the proposed transaction would not lead to any anticompetitive harm.

6.2. Access by the Merged Entity to Confidential Information in the Market for PNDs

- (43) The confidentiality concern, as expressed by third parties, is based on the premise that Tele Atlas' customers have to share information on their future competitive actions with their map supplier. Current contracts do not oblige customers to pass such information about future conduct to Tele Atlas. However, customers have voluntarily passed on information about their estimated future sales, product roadmaps, and new features included in the latest versions of their devices.
- (44) The parties have presented convincing evidence showing that such exchanges are limited and that they could even be reduced post-merger without detriment to Tele Atlas' customers, should these customers be concerned about the use that the merged entity could make of the information exchanged.
- (45) The market investigation showed that customers can avoid discussing sales forecasts with Tele Atlas. New customers can agree to a minimum purchasing requirement and thus avoid revealing sensitive information about future sales.
- (46) Information about add-on features to be included in future products does not have to be passed on to TomTom. Firstly, add-on layers are supplied by a number of smaller companies. Alternative suppliers can therefore be a good source for add-on features for companies concerned about confidentiality. Secondly, customers sometimes approach map database suppliers to encourage them to invest in a new feature or extend coverage of their map databases. However, Tele Atlas does not base its investment decisions on requests of individual companies. A decision to invest in new features or geographic coverage is taken after consultations with the largest customers which implies that most ideas related to new content are communicated to other customers (including TomTom) prior to investment decisions. Once a new feature is developed, it is offered to all Tele Atlas customers at the same time.

- (47) Confidential information shared during technical consultations with Tele Atlas could possibly be passed on to TomTom. However, as far as the incorporation of add-on layers is concerned, Tele Atlas provides its customers with all the technical specifications for this purpose. Technical problems which only Tele Atlas is able to solve are very rare.
- (48) Post-merger, Tele Atlas would still have incentives to prevent its current customers from leaving to NAVTEQ due to confidentiality concerns because losing a customer would not be compensated by sufficient additional gains downstream even if NAVTEQ significantly raised its prices. In addition, confidentiality concerns could result in damage to Tele Atlas' reputation which would harm the merged company's map database business. Due to the absence of incentives for the parties to engage in input foreclosure, it is likely that the parties would react to possible confidentiality concerns, e.g. by offering customers conditions which make switching to NAVTEQ unattractive.
- (49) In view of the above, the Commission considered it unlikely that the proposed transaction would significantly impede effective competition due to confidentiality concerns.

6.3. Coordinated effects

- (50) There is currently no indication of coordination between Tele Atlas and NAVTEQ. On the contrary, the results of

the market investigation indicated that, pre-merger, Tele Atlas and NAVTEQ competed on both price and non-price aspects. Effective coordination appears unlikely in the market for navigable digital map databases. Coordination on prices would be difficult since map database prices are not transparent and an allocation of customers would be difficult in the PND market, where the relative size of PND manufacturers is far from stable and numerous firms have entered since 2004. It also appears unlikely that effective monitoring and deterring mechanisms could be established in light of existing market characteristics. Finally, there is no clear evidence that the vertical integration of TomTom and Tele Atlas would increase the scope for coordination between map database producers.

- (51) The Commission therefore concluded that the proposed operation is unlikely to lead to anticompetitive effects through coordination.

7. CONCLUSION

- (52) The Commission concluded that the proposed concentration would not give rise to any competition concerns as a result of which effective competition would be significantly impeded in the Common Market or in a substantial part of it. Consequently, the Commission declared the concentration compatible with the Common Market and the EEA Agreement, in accordance with Article 8(1) of the Merger Regulation and Article 57 of the EEA Agreement.

NOTICES FROM MEMBER STATES

Commission communication in the framework of the implementation of the Council Directive 88/378/EEC on the approximation of the laws of the Member States concerning the safety of toys

(Text with EEA relevance)

(Publication of titles and references of harmonised standards under the directive)

(2008/C 237/13)

ESO ⁽¹⁾	Reference and title of the harmonised standard (and reference document)	Reference of superseded standard	Date of cessation of presumption of conformity of superseded standard (Note 1)	Date of first publication
CEN	EN 71-1:2005 + A6:2008 ⁽²⁾ Safety of toys — Part 1: Mechanical and physical properties	EN 71-1:2005 + A4:2007	30.11.2008	This is the first publication
CEN	EN 71-2:2006 + A1:2007 Safety of toys — Flammability	EN 71-2:2006	The date of this publication	This is the first publication
CEN	EN 71-3:1994 Safety of toys — Part 3: Migration of certain elements	EN 71-3:1988	Date expired (30.6.1995)	12.10.1995
	EN 71-3:1994/A1:2000	Note 3	Date expired (31.10.2000)	14.9.2001
	EN 71-3:1994/A1:2000/AC:2000			8.8.2002
	EN 71-3:1994/AC:2002			15.3.2003
CEN	EN 71-4:1990 Safety of toys — Part 4: Experimental sets for chemistry and related activities	—		9.2.1991
	EN 71-4:1990/A1:1998	Note 3	Date expired (31.10.1998)	5.9.1998
	EN 71-4:1990/A2:2003	Note 3	Date expired (31.1.2004)	9.12.2003
	EN 71-4:1990/A3:2007	Note 3	Date expired (30.11.2007)	4.10.2007
CEN	EN 71-5:1993 Safety of toys — Part 5: Chemical toys (sets) other than experimental sets	—		1.9.1993
	EN 71-5:1993/A1:2006	Note 3	Date expired (31.7.2006)	31.5.2006

ESO ⁽¹⁾	Reference and title of the harmonised standard (and reference document)	Reference of superseded standard	Date of cessation of presumption of conformity of superseded standard (Note 1)	Date of first publication
CEN	EN 71-6:1994 Safety of toys — Part 6: Graphical symbol for age warning labelling	—		22.6.1995
CEN	EN 71-7:2002 Safety of toys — Part 7: Finger paints — Requirements and test methods	—		15.3.2003
CEN	EN 71-8:2003 Safety of toys — Part 8: Swings, slides and similar activity toys for indoor and outdoor family domestic use	—		9.12.2003
	EN 71-8:2003/A1:2006	Note 3	Date expired (30.11.2006)	26.10.2006
Cenelec	EN 62115:2005 Electric toys — Safety (IEC 62115:2003 + A1:2004 (Modified))	EN50088:1996 and its amendments Note 2	Date expired (1.1.2008)	8.3.2006

⁽¹⁾ ESO: European Standardisation Organisation:

— CEN: rue de Stassart 36, B-1050 Brussels, tel. (32-2) 550 08 11, fax (32-2) 550 08 19 (<http://www.cen.eu>),

— Cenelec: rue de Stassart 35, B-1050 Brussels, tel. (32-2) 519 68 71, fax (32-2) 519 69 19 (<http://www.cenelec.eu>),

— ETSI: 650, route des Lucioles, F-06921 Sophia Antipolis, tel. (33) 492 94 42 00, fax (33) 493 65 47 16 (<http://www.etsi.eu>).

⁽²⁾ Notice: 'In case of projectiles toys with suction cups with an impact area, the requirement laid down in clause 4.17.1(b), according to which the tension test is performed in accordance with clause 8.4.2.3, does not cover the risk of asphyxiation presented by these toys'. Commission Decision 2007/224/EC (OJ L 96, 11.4.2007, p. 18).

Note 1 Generally the date of cessation of presumption of conformity will be the date of withdrawal ('dow'), set by the European Standardisation Organisation, but attention of users of these standards is drawn to the fact that in certain exceptional cases this can be otherwise.

Note 2 The new (or amended) standard has the same scope as the superseded standard. On the date stated, the superseded standard ceases to give presumption of conformity with the essential requirements of the directive.

Note 3 In case of amendments, the referenced standard is EN CCCC:YYYY, its previous amendments, if any, and the new, quoted amendment. The superseded standard (column 3) therefore consists of EN CCCC:YYYY and its previous amendments, if any, but without the new quoted amendment. On the date stated, the superseded standard ceases to give presumption of conformity with the essential requirements of the directive.

Note:

— any information concerning the availability of the standards can be obtained either from the European Standardisation Organisations or from the national standardisation bodies of which the list is annexed to the Directive 98/34/EC of the European Parliament and of the Council ⁽¹⁾ amended by the Directive 98/48/EC ⁽²⁾,

— publication of the references in the *Official Journal of the European Union* does not imply that the standards are available in all the Community languages,

— this list replaces all the previous lists published in the *Official Journal of the European Union*. The Commission ensures the updating of this list.

More information about harmonised standards on the Internet at:

<http://ec.europa.eu/enterprise/newapproach/standardisation/harmstds/>

⁽¹⁾ OJ L 204, 21.7.1998, p. 37.

⁽²⁾ OJ L 217, 5.8.1998, p. 18.

V

(Announcements)

ADMINISTRATIVE PROCEDURES

EUROPEAN PERSONNEL SELECTION OFFICE (EPSO)

NOTICE OF OPEN COMPETITION EPSO/AST/72/08

(2008/C 237/14)

The European Personnel Selection Office (EPSO) is organising open competition EPSO/AST/72/08 to recruit Assistants (AST 3) with Dutch as their main language as proofreaders in the field of publications production for the Office for Official Publications of the European Communities (OPOCE) in Luxembourg and/or the institutions of the European Union.

The competition notice is published in Dutch only in Official Journal C 237 A of 16 September 2008.

Further details can be found on the EPSO website: <http://europa.eu/epso>

EUROPEAN MEDICINES AGENCY

Recruitment for the European Medicines Agency (London)

(2008/C 237/15)

The Agency is responsible for co-ordinating the evaluation and supervision of medicinal products for human and veterinary use in the European Union (see Regulation (EC) No 726/2004 of the European Parliament and of the Council — OJ L 136, 30.4.2004, p. 1). The EMEA was established in January 1995. It has many close contacts with the European Commission, 27 EU Member States, EEA-EFTA countries and many other groups in government and the private sector.

Further information on the EMEA and its activities is readily accessible through the Internet; our web address is: <http://www.emea.europa.eu>

The European Medicines Agency is organising a selection procedure with a view to drawing up a reserve list for:

EMEA/AD/271 — Head of Sector, Internal Audit Capability (AD 9)

Selected candidates will be included on a reserve list and, depending on the budgetary situation, may be offered a five-year renewable contract in accordance with the Conditions of employment of other servants of the European Communities (OJ L 56, 4.3.1968).

The place of employment shall be London.

Candidates must be nationals of a Member State of the European Communities, or of Iceland, Norway or Liechtenstein, on condition that they have full rights as a citizen.

The complete conditions and job description should be downloaded from the EMEA website:

<http://www.emea.europa.eu/htms/general/admin/recruit/recruitnew.htm>

Applications must be made electronically using the form available on the EMEA website. Applications must be sent no later than midnight on 28 October 2008.

Please note that due to the large numbers of applications EMEA receives, when reaching the deadline for submission of applications, the system may have problems to process the large amounts of data. Applicants are therefore advised to send in their application well ahead of the deadline.

If you wish to receive notification of vacancy publications electronically please register online at: <http://www.emea.europa.eu/> under 'Online Mailing Service'.

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON COMMERCIAL POLICY

COMMISSION

Notice of initiation of a partial interim review of the anti-dumping measures applicable to imports of certain prepared or preserved sweet corn in kernels originating in Thailand

(2008/C 237/16)

The Commission has decided on its own initiative to initiate a partial interim review pursuant to Article 11(3) of Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾ ('the basic Regulation'). The review is limited in scope to the examination of the form of the measure and in particular to the examination of the acceptability and workability of undertakings offered by certain exporting producers in Thailand.

1. Product

The product under review is sweet corn (*Zea mays* var. *saccharata*) in kernels, prepared or preserved by vinegar or acetic acid, not frozen, normally declared within CN code ex 2001 90 30, and sweet corn (*Zea mays* var. *saccharata*) in kernels, prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006, normally declared within CN code ex 2005 80 00, originating in Thailand. These CN codes are only given for information.

2. Existing measures

The measures currently in force are a definitive anti-dumping duty imposed by Council Regulation (EC) No 682/2007 ⁽²⁾ on imports of certain prepared or preserved sweet corn in kernels originating in Thailand. Price undertakings were accepted by Commission Decision 2007/424/EC ⁽³⁾.

3. Grounds for the review

The Commission deems it necessary to reassess the appropriateness of accepting undertakings based on a fixed minimum import price as a form of the measure, particularly in view of the volatility of prices of both the product concerned and of the main raw material used in the production of the product concerned.

This reassessment appears to be necessary, since the price fluctuations mentioned above appear to show an increasing trend over time and in particular since the original investigation period, indicating that the circumstances on the basis of which measures were established have significantly changed and that these changes are of a lasting nature.

Therefore, the initiation of a partial interim review, limited to the form of the measure, is warranted.

4. Procedure

Having determined, after consulting the Advisory Committee, that sufficient evidence exists to justify the initiation of a partial interim review, the Commission hereby initiates a review in accordance with Article 11(3) of the basic Regulation, limited in scope to the examination of the form of the measure.

(a) Questionnaires

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the Community producers, to the exporting producers in Thailand and to the authorities of the exporting country concerned. This information and supporting evidence should reach the Commission within the time limit set in point 5(a).

(b) Collection of information and holding of hearings

All interested parties are hereby invited to make their views known, submit information, including information other than questionnaire replies, and to provide supporting evidence. This information and supporting evidence must reach the Commission within the time limit set in point 5(a).

⁽¹⁾ OJL 56, 6.3.1996, p. 1.

⁽²⁾ OJL 159, 20.6.2007, p. 14.

⁽³⁾ OJL 159, 20.6.2007, p. 42.

Furthermore, the Commission may hear interested parties, provided that they make a request showing that there are particular reasons why they should be heard. This request must be made within the time limit set in point 5(b).

5. Time limits

- (a) *For parties to make themselves known, to submit questionnaire replies and any other information*

All interested parties, if their representations are to be taken into account during the investigation, must make themselves known by contacting the Commission, present their views and submit questionnaire replies or any other information within 40 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified. Attention is drawn to the fact that the exercise of most procedural rights set out in the basic Regulation depends on the party's making itself known within the aforementioned period.

- (b) *Hearings*

All interested parties may also apply to be heard by the Commission within the same 40-day time limit.

6. Written submissions, questionnaire replies and correspondence

All submissions and requests made by interested parties must be made in writing (not in electronic format, unless otherwise specified) and must indicate the name, address, e-mail address, telephone and fax numbers of the interested party. All written submissions, including the information requested in this notice, questionnaire replies and correspondence provided by interested parties on a confidential basis shall be labelled as '*Limited*'⁽¹⁾ and, in accordance with Article 19(2) of the basic Regulation, shall be accompanied by a non-confidential version, which will be labelled '*For inspection by interested parties*'.

Commission address for correspondence:

European Commission
Directorate-General for Trade
Directorate H
Office: J-79 4/23
B-1049 Brussels
Fax (32-2) 295 65 05

7. Non-co-operation

In cases in which any interested party refuses access to or does not provide the necessary information within the time limits, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made in accordance with Article 18 of the basic Regulation, on the basis of the facts available.

Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of the facts available. If an interested party does not cooperate or cooperates only partially and findings are therefore based on facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

8. Schedule of the investigation

The investigation will be concluded, according to Article 11(5) of the basic Regulation, within 15 months of the date of the publication of this notice in the *Official Journal of the European Union*.

9. Processing of personal data

It is noted that any personal data collected in this investigation will be treated in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data⁽²⁾.

10. Hearing Officer

It is also noted that if interested parties consider that they are encountering difficulties in the exercise of their rights of defence, they may request the intervention of the Hearing Officer of DG Trade. He acts as an interface between the interested parties and the Commission services, offering, where necessary, mediation on procedural matters affecting the protection of their interests in this proceeding, in particular with regard to issues concerning access to the file, confidentiality, extension of time limits and the treatment of written and/or oral submission of views. For further information and contact details, interested parties may consult the Hearing Officer's web pages on the website of DG Trade (<http://ec.europa.eu/trade>).

⁽¹⁾ This means that the document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of the basic Regulation and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-dumping Agreement).

⁽²⁾ OJ L 8, 12.1.2001, p. 1.

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMPETITION
POLICY

COMMISSION

Withdrawal of notification of a concentration
(Case COMP/M.5252 — Hombergh-De Pundert/RSDB)

(Text with EEA relevance)

(2008/C 237/17)

(Council Regulation (EC) No 139/2004)

On 5 August 2008, the Commission of the European Communities received notification of a proposed concentration between Hombergh-De Pundert and RSDB. On 8 September 2008, the notifying parties informed the Commission that they withdrew their notification.
