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II

*(Information)*INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES
AND AGENCIES

EUROPEAN COMMISSION

Interpretative communication from the Commission on certain provisions of Directive 2007/58/EC

(2010/C 353/01)

1. INTRODUCTION

This interpretative communication sets out the Commission's views on implementation of Directive 2007/58/EC of 23 October 2007 which regulates opening of the market for international rail passenger transport services and had to be transposed by Member States by 4 June 2009 ⁽¹⁾. The need for a communication like this emerged from a survey on implementation of the Directive by Commission staff at the end of 2009 and subsequent discussions with representatives of Member States and rail sector associations. On these occasions, railway regulatory bodies and transport ministries sought information and guidance from the Commission on how to implement certain provisions of the Directive. This communication therefore aims to ensure that the transposition measures adopted by the Member States fully comply with the Directive.

The stakeholders raised two main questions which are of crucial importance for opening up the international rail passenger transport market, as they have a direct impact on the rights of access to infrastructure granted to railway undertakings:

1. How to determine whether the principal purpose of a rail service is to carry passengers travelling on an international journey; and
2. How to assess whether the economic equilibrium of public service contracts is compromised by the new service.

This communication is limited to these two issues. Other aspects of Directive 2007/58/EC may be addressed subsequently, as appropriate.

1. How to determine the principal purpose of a rail service*Recital 8*

The introduction of new, open-access, international services with intermediate stops should not be used to bring about the opening of the market for domestic passenger services, but should merely be focused on stops that are ancillary to the international route. On that basis, their introduction should concern services whose principal purpose is to carry passengers travelling on an international journey. The determination of whether that is the service's principal purpose should take into account criteria such

⁽¹⁾ Directive 2007/58/EC of the European Parliament and of the Council of 23 October 2007 amending Council Directive 91/440/EEC on the development of the Community's railways and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure. The article numbering used in this communication refers to the latest consolidated version of Directive 91/440/EEC (the basic act).

as the proportion of turnover, and of volume, derived from transport of domestic or international passengers, and the length of the service. This determination should be made by the respective national regulatory body at the request of an interested party.

Article 10(3)(a)

Railway undertakings within the scope of Article 2 shall be granted by 1 January 2010 the right of access to the infrastructure in all Member States for the purpose of operating an international passenger service. Railway undertakings shall, in the course of an international passenger service, have the right to pick up passengers at any station located on the international route and set them down at another, including stations located in the same Member State.

The right of access to the infrastructure of the Member States for which the share of international carriage of passengers by train constitutes more than half of the passenger turnover of railway undertakings in that Member State shall be granted by 1 January 2012.

Whether the principal purpose of the service is to carry passengers between stations located in different Member States shall be determined by the relevant regulatory body or bodies referred to in Article 30 of Directive 2001/14/EC following a request from the relevant competent authorities and/or interested railway undertakings.

Responsibilities

Article 10(3)(a) stipulates that the regulatory bodies alone are responsible for determining whether the principal purpose of a service is to carry passengers between stations located in different Member States. In doing so, the regulatory bodies must act independently. This implies that their decision cannot be preconditioned or predetermined by instructions received from any other public authorities under national law.

Under Article 10(3)(a) several regulatory bodies may be responsible for determining the principal purpose of a service in specific cases. This implies that, when the railway activity of several Member States might be affected by any potential decision, two or more regulatory bodies have to be involved in the decision. Considering the international nature of the rail services in question, it is of utmost importance to ensure that the decisions which have a cross-border impact are appropriately coordinated between the regulatory bodies concerned. Regulatory bodies should therefore systematically inform their counterparts in other Member States concerned by the rail service in question and exchange their preliminary views on whether it meets the principal purpose requirement before they take any decision under their competence.

Decision-making process

Article 10(3)(a) stipulates that regulatory bodies act following a request from the relevant competent authorities and/or interested railway undertakings. This implies that regulatory bodies should not act on their own initiative, but only following a request from one of the interested parties.

When railway undertakings request access to infrastructure with a view to operating an international passenger service, the service should be presumed to be international if the train crosses at least one border of a Member State, independently of whether the service includes cabotage or not. The regulatory bodies should verify the principal purpose of the service, case by case. The 'interested railway undertakings' are exclusively those which can demonstrate that the new service could have a potential impact on them. The 'competent authorities' are those responsible for granting, limiting or prohibiting access to rail infrastructure.

To ensure that the principles of equality and non-discrimination are fully respected, the decision-making process should be clear, transparent and non-discriminatory. It should be published and based on a stakeholder's consultation and exchanges of information with other regulatory bodies to ensure an appropriate level playing field. The timing and duration for such process has to take into account the need to provide to all market players a sufficient legal certainty to develop their activities. The procedure should be as simple, efficient and transparent as possible and coherent to the track application process. The details of the process may evolve over time, in particular in the light of regulatory bodies' experience.

Criteria

Article 10(3)(a) sets no pre-established criteria for determining the principal purpose of a rail service. However, recital 8 mentions three criteria that regulatory bodies may take into account: the proportion of turnover and of volume derived from transport of domestic and international passengers and the length of the service. These criteria are mentioned only as examples. They are therefore not obligatory and other criteria could also be taken into account.

The criteria set should clearly state the factors to be taken into account by the regulatory bodies when determining the principal purpose of a service. They should enable the regulatory bodies to identify the *vocation* of the service in the medium term, rather than its characteristics at a given moment. There should be an element of foresight in the evaluation and likely gradual changes of the service and market conditions have to be taken into account. Business plans and market forecasts provided by the railway undertaking which intends to operate the new service are possible basis for a decision.

In order to identify the principal purpose of a service, the analysis by the regulatory bodies should be both quantitative and qualitative. It is therefore not possible to apply any quantified threshold strictly or in isolation. In this context, the way the service is marketed, its stopping pattern and the type of rolling stock used are qualitative factors that regulatory bodies might consider in order to determine the purpose of the service.

2. How to assess whether the economic equilibrium of public service contracts is compromised

Recital 10

Opening up international passenger services, which include the right to pick up passengers at any station located on the route of an international service and to set them down at another, including stations located in the same Member State, to competition may have implications for the organisation and financing of rail passenger services provided under a public service contract. Member States should have the possibility to limit the right of access to the market where this right would compromise the economic equilibrium of these public service contracts and where approval is given by the relevant regulatory body referred to in Article 30 of Directive 2001/14/EC on the basis of an objective economic analysis, following a request from the competent authorities that awarded the public service contract.

Recital 12

The assessment of whether the economic equilibrium of the public service contract could be compromised should take into account predetermined criteria such as the impact on the profitability of any services which are included in a public service contract, including consequential impacts on the net cost to the competent public authority that awarded the contract, passenger demand, ticket pricing, ticketing arrangements, location and number of stops on both sides of the border and timing and frequency of the proposed new service. Respecting such an assessment and the decision of the relevant regulatory body, Member States might authorise, modify or deny the right of access for the international passenger service sought, including the levying of a charge on the operator of a new international passenger service, in line with the economic analysis and in accordance with Community law and the principles of equality and non-discrimination.

Recital 17

The national regulatory bodies should, on the basis of Article 31 of Directive 2001/14/EC, exchange information and, where relevant in individual cases, coordinate the principles and practice of assessing whether the economic equilibrium of a public service contract is compromised. They should progressively develop guidelines based on their experience.

Article 10(3)(b)

Member States may limit the right of access defined in paragraph 3a on services between a place of departure and a destination which are covered by one or more public service contracts conforming to the Community legislation in force. Such limitation may not have the effect of restricting the right to pick up passengers at any station located on the route of an international service and to set them down at

another, including stations located in the same Member State, except where the exercise of this right would compromise the economic equilibrium of a public service contract.

Whether the economic equilibrium would be compromised shall be determined by the relevant regulatory body or bodies referred to in Article 30 of Directive 2001/14/EC on the basis of an objective economic analysis and based on predetermined criteria, following a request from:

- the competent authority or competent authorities that awarded the public service contract,
- any other interested competent authority with the right to limit access under this Article,
- the infrastructure manager, or
- the railway undertaking performing the public service contract.

The competent authorities and the railway undertakings providing the public services shall provide the relevant regulatory body or bodies with the information reasonably required to reach a decision. The regulatory body shall consider the information provided, consulting all the relevant parties as appropriate, and shall inform the relevant parties of its reasoned decision within a predetermined, reasonable time, and, in any case, within two months of receipt of all relevant information. The regulatory body shall give the grounds for its decision and specify the time period within which, and the conditions under which,

- the relevant competent authority or competent authorities,
- the infrastructure manager,
- the railway undertaking performing the public service contract, or
- the railway undertaking seeking access

may request a reconsideration of the decision.

Responsibilities

Article 10(3)(b) stipulates that limiting the right of access on routes covered by public service contracts, if new international services would compromise their economic equilibrium, is one option open to Member States, not an obligation. Only if Member States decide to use this possibility, the regulatory bodies are responsible for determining whether the economic equilibrium of public service contracts would be compromised by the new rail service proposed. In doing so, the regulatory bodies have to act independently. Recital 14 underlines, in particular, how regulatory bodies should be organised in order to ensure that they can exercise this power independently from the authorities that award public service contracts.

Any limitation of the right of access by Member States under Article 10(3)(b) should respect the regulatory body's assessment. As stated in recital 10, *approval* by the relevant regulatory body is a prerequisite for limitation of the right of access by Member States. This approval might be granted by a binding opinion assessing whether the economic equilibrium of public service contracts is compromised and proposing a specific measure or by an assent procedure scrutinising any draft decision to limit the right of access.

The assessments and decisions of regulatory bodies should be coordinated, where relevant in individual cases. This applies, in particular, when the public service contracts concerned are of a cross-border nature or, more generally, in cases where restriction of cabotage rights in one Member State could have repercussions on the viability of an international rail service provided in another. In such circumstances, in order to reach a common understanding of the situation, the regulatory bodies concerned should exchange information and their preliminary views on whether the economic equilibrium of public service contracts is compromised and on any limitation which could be appropriate. Regulatory bodies should consult their counterparts regardless of the possibility to limit the right of access on routes covered by public service contracts in the Member State of the regulatory body consulted.

Beside the specific cases mentioned above, recital 17 of Directive 2007/58/EC underlines that, on the basis of Article 31 of Directive 2001/14/EC, regulatory bodies should systematically exchange information about their work and decision-making principles and practices in order progressively to develop guidelines based on their experience.

Decision-making process

Assessment of whether the economic equilibrium of a public service contract could be compromised is an exercise that regulatory bodies should be able to conduct whether or not the principal purpose of the rail service has been verified. These two exercises can be run together, but one cannot be considered a prerequisite for the other.

As stipulated in Article 10(3)(b), the assessment should be triggered by a request submitted to the relevant regulatory body. This request may be made exclusively by (1) the competent authority or authorities that awarded the public service contract covered by the assessment; (2) any other competent authorities with the right to limit access to the infrastructure concerned; (3) the infrastructure manager concerned or (4) the railway undertaking performing the public service for which an assessment is requested. If the party requesting an assessment cannot provide the information required in order to reach a decision or if the request is not submitted within a reasonable time, predetermined by the regulatory body, no assessment should be conducted. The timing and duration for the assessment should take into account the need to provide to all market players a sufficient legal certainty to develop their activities. The procedure should be as simple, efficient and transparent as possible and coherent to the track application process.

Regulatory bodies should not carry out such assessments on their own initiative, but only at the request of one of the abovementioned interested parties. The assessment conducted by the regulatory body should be limited to the points mentioned in the request received.

The assessment should be based on an objective method and predetermined criteria. The regulatory bodies alone are responsible for developing such a method, including the criteria to apply. This responsibility cannot be constrained by any public authority involved in awarding public service contracts or in exercising shareholder control over a railway undertaking.

The assessment method should be established in a way consistent with market developments and that allows it to evolve over time, in particular in the light of regulatory bodies' experience and to comply with the common guidelines foreseen in recital 17.

The method should consist of a detailed *economic analysis*. This implies that the regulatory bodies must conduct a proper assessment of the economic and financial impact of the new rail service on the public service contract concerned. Therefore, normally, simple application of pre-established thresholds should not be regarded as sufficient.

The impact assessment should demonstrate whether the economic equilibrium of the contract is compromised. This implies that identification of an impact caused by the new service is necessary but not enough in itself. The economic analysis should determine the extent to which the economic equilibrium of the contract is impaired. Beyond that, this impact should be attributable specifically to the new rail service and not to other factors, such as the general economic climate. The public service contracts concerned are those for providing services between places of departure and destinations catered for by the new rail service proposed or those covering services of similar nature between the same places of departure and destinations provided on a parallel route which may be affected.

To ensure that the principles of equality and non-discrimination are fully respected, the method used should be clear, transparent and non-discriminatory. It should be published and based on a stakeholder's consultation and exchanges of information with other regulatory bodies to ensure an appropriate level playing field. The details of the method may evolve over time, in particular to adapt them to the common guidelines developed in the light of regulatory bodies' experience.

Criteria

The analysis should focus on the economic impact of the new service on the public service contract as a whole, not on individual services. As mentioned in recital 12, this implies taking into account (1) the net costs for the authority that awarded the contract and (2) the profitability of the services which the railway undertaking is operating under the contract. The simple fact that the new service is offered at a lower price or during the same time period than those under public service contract does not allow concluding that the economic equilibrium of such contract would be compromised.

To determine the impact on profitability for the railway undertaking and on net costs for the relevant authority, recital 12 suggests various items which it is useful to consider: passenger demand, ticket pricing, ticketing arrangements, location and number of stops on both sides of the border and the timing and frequency of the new service. However, giving consideration to these factors does not, in itself, count as the economic analysis required by the Directive and does not suffice to determine whether the economic equilibrium would be compromised. These aspects are mentioned only as examples. This list is neither exhaustive nor compulsory.

Not every impact on a public service contract should be considered to compromise its economic equilibrium. Any limited or one-off impact, in particular within the margins specified in the contract itself, should not be considered 'compromising'. The assessment should demonstrate that the viability of the services operated under the public service contract is affected. The equilibrium should be considered compromised when it can be demonstrated that the economic feasibility of operating these public services providing a reasonable level of quality would be jeopardised.

In this context, demonstrating that the entry of the new operator on the market would lead to a rise in the public contribution would not be sufficient. In order to be considered as compromising the economic equilibrium of the public service contract in question, any such increase in the public contribution would have to be substantial.

This interpretative communication is without prejudice to the obligation of Member States to adopt transition measures to comply with the provisions of Directive 2007/58/EC.

Non-opposition to a notified concentration**(Case COMP/M.5971 — PPC/Urbaser/JV)****(Text with EEA relevance)**

(2010/C 353/02)

On 17 December 2010, 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:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/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 (<http://eur-lex.europa.eu/en/index.htm>) under document number 32010M5971. EUR-Lex is the on-line access to the European law.

Non-opposition to a notified concentration**(Case COMP/M.5957 — CD&R Fund VIII/Goldman Sachs/HGI)****(Text with EEA relevance)**

(2010/C 353/03)

On 3 September 2010, 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:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/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 (<http://eur-lex.europa.eu/en/index.htm>) under document number 32010M5957. EUR-Lex is the on-line access to the European law.
-

Non-opposition to a notified concentration**(Case COMP/M.6002 — Intel/GE/JV)****(Text with EEA relevance)**

(2010/C 353/04)

On 22 October 2010, 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:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/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 (<http://eur-lex.europa.eu/en/index.htm>) under document number 32010M6002. EUR-Lex is the on-line access to the European law.

Non-opposition to a notified concentration**(Case COMP/M.6074 — CEZ/EPH/Mibrag Group)****(Text with EEA relevance)**

(2010/C 353/05)

On 17 December 2010, 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:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/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 (<http://eur-lex.europa.eu/en/index.htm>) under document number 32010M6074. EUR-Lex is the on-line access to the European law.
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Non-opposition to a notified concentration**(Case COMP/M.5961 — Bertrand Restauration/InBev France/Bars&Co)****(Text with EEA relevance)**

(2010/C 353/06)

On 17 December 2010, 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:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/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 (<http://eur-lex.europa.eu/en/index.htm>) under document number 32010M5961. EUR-Lex is the on-line access to the European law.
-

Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty**Cases where the Commission raises no objections**

(Text with EEA relevance)

(2010/C 353/07)

Date of adoption of the decision	8.4.2009
Reference number of State Aid	N 628/08
Member State	France
Region	—
Title (and/or name of the beneficiary)	Aide à la protection sociale complémentaire des militaires
Legal basis	Article 40 de la loi n° 2007-148 du 2 février 2007 de la modernisation de la fonction publique. Projet de décret relatif à la participation de l'État et de ses établissements publics au financement de la protection de militaires.
Type of measure	Aid scheme
Objective	Social support to individual consumers
Form of aid	Direct grant
Budget	Annual budget: EUR 91 million Overall budget: EUR 13 million
Intensity	—
Duration (period)	1.1.2010-31.12.2016
Economic sectors	Service activities
Name and address of the granting authority	Ministère de la défense
Other information	—

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/state_aids_texts_en.htm

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

COUNCIL

Notice for the attention of the persons and entities to which restrictive measures provided for in Article 4(1)(b) of Council Decision 2010/801/CFSP renewing the restrictive measures against Côte d'Ivoire apply

(2010/C 353/08)

COUNCIL OF THE EUROPEAN UNION,

The following information is brought to the attention of the persons and entities that appear in Annex II to Council Decision 2010/801/CFSP ⁽¹⁾ renewing the restrictive measures against Côte d'Ivoire.

The Council of the European Union has decided that the persons and entities that appear in the above-mentioned Annex should be included in the list of persons and entities subject to restrictive measures provided for in Decision 2010/801/CFSP.

The persons and entities concerned may submit a request to the Council, together with supporting documentation, that the decision to include them on the abovementioned lists should be reconsidered, to the following address:

Council of the European Union
General Secretariat
Rue de la Loi/Wetstraat 175
1048 Bruxelles/Brussel
BELGIQUE/BELGIË

The attention of the persons and entities concerned is also drawn to the possibility of challenging the Council's decision before the General Court of the European Union, in accordance with the conditions laid down in Article 275, second paragraph, and Article 263, fourth and sixth paragraphs, of the Treaty on the Functioning of the European Union.

⁽¹⁾ OJ L 341, 23.12.2010.

Notice for the attention of the persons and entities to which restrictive measures provided for in Council Decision 2010/800/CFSP and in Council Regulation (EC) No 329/2007 apply

(2010/C 353/09)

COUNCIL OF THE EUROPEAN UNION,

The following information is brought to the attention of the persons and entities that appear in the Annex I to Council Decision 2010/800/CFSP and in Annex IV to Council Regulation (EC) No 329/2007.

The United Nations Security Council has designated the persons and entities that should be included in the list of persons and entities to which the provisions of paragraph 8 of UNSCR 1718 (2006) applies.

The persons and entities concerned may submit at any time a request to the UN Committee established pursuant to paragraph 12 of UNSCR 1718 (2006), together with any supporting documentation, for the decisions to include them in the UN list to be reconsidered. Such request should be sent to the following address:

United Nations — Focal point for delisting
Security Council Subsidiary Organs Branch
Room S-3055 E
New York, NY 10017
UNITED STATES OF AMERICA

See for more information at: <http://www.un.org/sc/committees/751/comguide.shtml>

Further to the UN decision, the Council of the European Union has determined that the persons and entities that appear in the above-mentioned Annexes should be included in the lists of persons and entities which are subject to the restrictive measures provided for in Council Decision 2010/800/CFSP and in Council Regulation (EC) No 329/2007. The grounds for designation of the persons and entities concerned appear in the relevant entries in Annex I to the Council Decision and in Annex IV to the Council Regulation.

The attention of the persons and entities concerned is drawn to the possibility of making an application to the competent authorities of the relevant Member State(s) as indicated in the web-sites in Annex II to Regulation (EC) No 329/2007, in order to obtain an authorisation to use frozen funds for basic needs or specific payments (cf. Article 7 of the Regulation).

The persons and entities concerned may submit a request to the Council, together with supporting documentation, that the decision to include them on the abovementioned lists should be reconsidered, to the following address:

Council of the European Union
General Secretariat
Rue de la Loi/Wetstraat 175
1048 Bruxelles/Brussel
BELGIQUE/BELGIË

The attention of the persons and entities concerned is also drawn to the possibility of challenging the Council's decision before the General Court of the European Union, in accordance with the conditions laid down in Article 275, 2nd paragraph, and Article 263, 4th and 6th paragraphs, of the Treaty on the Functioning of the European Union.

Notice for the attention of the persons and entities to which restrictive measures provided for in Council Decision 2010/800/CFSP and in Council Regulation (EC) No 329/2007 apply

(2010/C 353/10)

COUNCIL OF THE EUROPEAN UNION,

The following information is brought to the attention of the persons and entities that appear in Annexes II and III to Council Decision 2010/800/CFSP and in Annex V to Council Regulation (EC) No 329/2007.

The Council of the European Union has decided that the persons and entities that appear in the above-mentioned Annexes should be included in the lists of persons and entities subject to restrictive measures provided for in Council Decision 2010/800/CFSP and in Council Regulation (EC) No 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea.

The attention of the persons and entities concerned is drawn to the possibility of making an application to the competent authorities of the relevant Member State(s) as indicated in the web-sites in Annex II to Regulation (EC) No 329/2007, in order to obtain an authorisation to use frozen funds for basic needs or specific payments (cf. Article 7 of the Regulation).

The persons and entities concerned may submit a request to the Council, together with supporting documentation, that the decision to include them on the above-mentioned lists should be reconsidered, to the following address:

Council of the European Union
General Secretariat
Rue de la Loi/Wetstraat 175
1048 Bruxelles/Brussel
BELGIQUE/BELGIË

The attention of the persons and entities concerned is also drawn to the possibility of challenging the Council's decision before the General Court of the European Union, in accordance with the conditions laid down in Article 275, 2nd paragraph, and Article 263, 4th and 6th paragraphs, of the Treaty on the Functioning of the European Union.

EUROPEAN COMMISSION

Euro exchange rates ⁽¹⁾

23 December 2010

(2010/C 353/11)

1 euro =

Currency		Exchange rate	Currency		Exchange rate
USD	US dollar	1,3064	AUD	Australian dollar	1,3049
JPY	Japanese yen	108,95	CAD	Canadian dollar	1,3273
DKK	Danish krone	7,453	HKD	Hong Kong dollar	10,1629
GBP	Pound sterling	0,8482	NZD	New Zealand dollar	1,7531
SEK	Swedish krona	8,963	SGD	Singapore dollar	1,7069
CHF	Swiss franc	1,2553	KRW	South Korean won	1 510,51
ISK	Iceland króna		ZAR	South African rand	8,8216
NOK	Norwegian krone	7,837	CNY	Chinese yuan renminbi	8,6785
BGN	Bulgarian lev	1,9558	HRK	Croatian kuna	7,39
CZK	Czech koruna	25,305	IDR	Indonesian rupiah	11 824,28
EEK	Estonian kroon	15,6466	MYR	Malaysian ringgit	4,0675
HUF	Hungarian forint	278,43	PHP	Philippine peso	57,703
LTL	Lithuanian litas	3,4528	RUB	Russian rouble	40,0035
LVL	Latvian lats	0,7094	THB	Thai baht	39,401
PLN	Polish zloty	3,9798	BRL	Brazilian real	2,2226
RON	Romanian leu	4,2888	MXN	Mexican peso	16,1027
TRY	Turkish lira	2,0302	INR	Indian rupee	58,97

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

Euro exchange rates ⁽¹⁾**24 December 2010**

(2010/C 353/12)

1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	1,3099	AUD	Australian dollar	1,3052
JPY	Japanese yen	108,63	CAD	Canadian dollar	1,3236
DKK	Danish krone	7,4527	HKD	Hong Kong dollar	10,1913
GBP	Pound sterling	0,84960	NZD	New Zealand dollar	1,7508
SEK	Swedish krona	8,9885	SGD	Singapore dollar	1,7025
CHF	Swiss franc	1,2618	KRW	South Korean won	1 507,20
ISK	Iceland króna		ZAR	South African rand	8,8353
NOK	Norwegian krone	7,8260	CNY	Chinese yuan renminbi	8,6807
BGN	Bulgarian lev	1,9558	HRK	Croatian kuna	7,3870
CZK	Czech koruna	25,328	IDR	Indonesian rupiah	11 842,02
EEK	Estonian kroon	15,6466	MYR	Malaysian ringgit	4,0548
HUF	Hungarian forint	279,20	PHP	Philippine peso	57,713
LTL	Lithuanian litas	3,4528	RUB	Russian rouble	39,9415
LVL	Latvian lats	0,7094	THB	Thai baht	39,570
PLN	Polish zloty	3,9655	BRL	Brazilian real	2,2155
RON	Romanian leu	4,2878	MXN	Mexican peso	16,1904
TRY	Turkish lira	2,0289	INR	Indian rupee	59,0952

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

Euro exchange rates ⁽¹⁾**27 December 2010**

(2010/C 353/13)

1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	1,3136	AUD	Australian dollar	1,3113
JPY	Japanese yen	108,89	CAD	Canadian dollar	1,3240
DKK	Danish krone	7,4532	HKD	Hong Kong dollar	10,2211
GBP	Pound sterling	0,85230	NZD	New Zealand dollar	1,7569
SEK	Swedish krona	8,9771	SGD	Singapore dollar	1,7095
CHF	Swiss franc	1,2626	KRW	South Korean won	1 511,06
ISK	Iceland króna		ZAR	South African rand	8,8290
NOK	Norwegian krone	7,8350	CNY	Chinese yuan renminbi	8,7102
BGN	Bulgarian lev	1,9558	HRK	Croatian kuna	7,3878
CZK	Czech koruna	25,350	IDR	Indonesian rupiah	11 866,25
EEK	Estonian kroon	15,6466	MYR	Malaysian ringgit	4,0656
HUF	Hungarian forint	278,83	PHP	Philippine peso	57,882
LTL	Lithuanian litas	3,4528	RUB	Russian rouble	39,9191
LVL	Latvian lats	0,7092	THB	Thai baht	39,651
PLN	Polish zloty	3,9763	BRL	Brazilian real	2,2194
RON	Romanian leu	4,2884	MXN	Mexican peso	16,2203
TRY	Turkish lira	2,0356	INR	Indian rupee	59,4250

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

Acknowledgement of receipt — Pre-closure notice regarding multiple complaints registered under reference No CHAP/2010/310 — Multiple letters on collective management in Spain

(2010/C 353/14)

The European Commission has received and continues to receive a series of letters based on a standard form concerning a possible infringement by Spain of Article 106 in conjunction with Article 102 of the Treaty on the Functioning of the European Union (‘TFEU’) regarding the collective management of intellectual property rights in Spain. The European Commission has registered and will continue to register these letters under No CHAP/2010/310.

Given the very large number of letters received on this subject, the Commission, with a view to informing all those concerned while making the most economical use of its administrative resources, is publishing the present notice in the *Official Journal of the European Union* in order to acknowledge receipt of the letters and inform the senders of the results of the examination of the letters by the Commission services. This notice is also published on the following Commission website:

http://ec.europa.eu/community_law/complaints/receipt/index_fr.htm

All letters received draw the European Commission’s attention to a Report by the Spanish Competition Authority (CNC) titled ‘Informe sobre la gestión colectiva de derechos de propiedad intelectual’ from December 2009 ⁽¹⁾. With reference to the report, the letters ask the Commission to open proceedings against Spain for violation of Article 106 in combination with Article 102 TFEU. No further information is provided in the letters.

The purpose of the CNC Report is to analyse the sector of collective management of copyright in Spain from a competition angle, and to make recommendations on ways to improve the legislative framework and to encourage more competition between collecting societies. The Report refers to instances of possible anti-competitive behaviour by collecting societies in Spain, which may be caught by Articles 101 and/or 102 TFEU (and Articles 1 and/or 2 of the Spanish Competition Law). Nonetheless, no details are given as regards the possible application of Article 106 TFEU, as this issue falls outside the scope of the Report.

The Commission’s services would like to inform the complainants that they do not intend to propose to the Commission to launch proceedings against Spain on the basis of the letters received. The CNC has made a number of recommendations to improve the legislative framework so that it is more supportive of competition between collecting societies. It is now for the competent authorities in Spain to examine these recommendations and draw the appropriate conclusions. Furthermore, the CNC itself is currently handling cases concerning alleged infringements by collecting societies of Article 101 and/or 102 TFEU (and/or the equivalent provisions of Spanish law). Therefore, and in the exercise of the discretion which the Commission enjoys when deciding to bring infringement proceedings against a Member State under Article 106 TFEU, it would not be an appropriate use of the Commission’s resources to pursue an investigation on the basis of the letters received.

This does not prejudice the complainants’ right to submit other complaints to the competent authorities if they believe that collecting societies have infringed Articles 101 and/or 102 TFEU. Similarly, the Commission is not prevented from acting against Spain at a later stage, should it receive information showing that an infringement of Article 106 TFEU may have been committed.

Complainants can, if they so wish, submit their comments on the proposed closure of the procedure or any other aspect of the case which they consider appropriate within a period of 30 days from the publication of this notice. Any comments received after this time will not be taken into account.

⁽¹⁾ Available at <http://www.cncompetencia.es/Inicio/Informes/Estudios/tabid/228/Default.aspx>

NOTICES FROM MEMBER STATES

Information communicated by Member States regarding State aid granted under Commission Regulation (EC) No 1857/2006 on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products and amending Regulation (EC) No 70/2001

(2010/C 353/15)

Aid No: XA 123/10**Member State:** Netherlands**Region:** Provincie Utrecht (Utrecht)**Title of aid scheme or name of company receiving an individual aid:** Pilots duurzaam ondernemen**Legal basis:**

Subsidieverordening inrichting landelijk gebied 2006

Besluit subsidiekader ILG-AVP, artikel 3.2.1 Pilots duurzaam ondernemen

Article 15 of Regulation (EC) No 1857/2006 — technical support

The granting of the aid in question complies with the conditions stipulated in paragraphs 2 to 4 of Article 15.

More specifically:

- Regarding paragraph 2: aid is granted only for the costs referred to in this paragraph.
- Regarding paragraph 3: the aid percentage is less than 100 % of the project costs. The aid is granted to the consultancy firm providing the services for the participating producers. The consultancy services are therefore subsidised. There are no direct financial payments to the producers.
- Regarding paragraph 4: participation in the supported project is open to all producers in the sector and area concerned.

Annual expenditure planned under the scheme or overall amount of individual aid granted to the company: One-off granting of aid of a maximum of EUR 104 103 over the period 1 April 2010 to 31 December 2012.**Maximum aid intensity:** Up to 90 % of the eligible costs.**Date of implementation:** 28 June 2010, but after publication in the *Official Journal of the European Union* as referred to in Article 18(1) of Commission Regulation (EC) No 1857/2006.**Duration of scheme or individual aid award:** Until 31 December 2012.**Objective of aid:**

One-off granting of aid to Bio Fruit Advies B.V. for the introduction of a residue/pollution-free strategy for combating fruit moth at fruit-growing enterprises in the Province of Utrecht.

Bio Fruit will carry out the following activities:

- training and supporting participating fruit growers in applying the new strategy to combat fruit moth;
- holding group meetings for participating fruit growers;
- providing information on relevant current developments via its website;
- assessing results by inspecting participating enterprises;
- holding evaluation meetings for participating fruit growers;
- communicating results to other fruit growers in the Province of Utrecht.

Sector(s) concerned: All fruit-growing enterprises in the Province of Utrecht.

Name and address of the granting authority:

Provincie Utrecht
Postbus 80300
3508 TH Utrecht
NEDERLAND

Website:

<http://www.provincie-utrecht.nl/onderwerpen/landbouw/vitaal-platteland/steunregelingen/#subcontent>

Other information: —

Aid No: XA 133/10

Member State: Spain

Region: Navarra

Title of aid scheme or name of company receiving an individual aid: Ayudas a las Agrupaciones de Defensa Sanitaria (ADS) por la realización de programas sanitarios de prevención, lucha y erradicación de enfermedades en vacuno, ovino-caprino, caballar y conejos

Legal basis: Orden Foral de la Consejera de Desarrollo Rural y Medio Ambiente, por la que se establecen las bases reguladoras para la concesión de subvenciones a las Agrupaciones de Defensa Sanitaria por la realización de programas sanitarios de prevención, lucha y erradicación de enfermedades en vacuno, ovino, caballar y conejos, y se aprueba la convocatoria para 2010

Annual expenditure planned under the scheme or overall amount of individual aid granted to the company: EUR 150 000

Maximum aid intensity: Up to 100 %, in 2010, of the expenditure incurred by the *Agrupación de Defensa Sanitaria* (Animal Health Protection Group) in contracting veterinary services for the prevention, control and eradication of animal diseases

Date of implementation: From the date of publication of the identification number of the request for exemption provided for in Regulation (EC) No 1857/2006 on the website of the European Commission's Directorate-General for Agriculture and Rural Development

Duration of scheme or individual aid award: From the publication of the *Orden Foral* (Regional Order) in the *Boletín Oficial de Navarra* until 31 December 2013

Objective of aid: The primary aim is to provide aid in kind to producers in the form of subsidised services to offset the cost of preventing and eradicating animal diseases. Article 10(1) of Regulation (EC) No 1857/2006: Aid in respect of animal diseases

Sector(s) concerned: Animal production and health

Name and address of the granting authority:

Gobierno de Navarra
Departamento de Desarrollo Rural y Medio Ambiente
C/ González Tablas, 7
31005 Pamplona
ESPAÑA

Website:

<http://www.cfnavarra.es/agricultura/COYUNTURA/AyudasEstado/pdfs/STNO10046%20OF.pdf>

<http://www.cfnavarra.es/agricultura/COYUNTURA/AyudasEstado/pdfs/STNO10046%20OF%20bis.pdf>

Other information:

Pamplona, 21 July 2010

Dirección General de Agricultura y Ganadería
C/ González Tablas, 7
31005 Pamplona
ESPAÑA

Tel. +34 848425780
E-mail: jlizarbc@cfnavarra.es
Gobierno de Navarra

Aid No: XA 151/10

Member State: Italy

Region: Sardegna

Title of aid scheme or name of company receiving an individual aid: Legge regionale 11 marzo 1998, n. 8, articolo 23 (aiuti per i danni alla produzione agricola). Aiuti per il pagamento di premi assicurativi — (UPB S06.04.006 — CAP. SC06 0971 — SC06.0974) — Direttive regionali.

Legal basis:

L.R. 11 marzo 1998, n. 8, articolo 23

Deliberazione della Giunta regionale n. 26/20 del 6 luglio 2010 recante «Legge regionale 11 marzo 1998, n. 8, articolo 23 (aiuti per i danni alla produzione agricola). Aiuti per il pagamento di premi assicurativi — (UPB S06.04.006 — CAP. SC06 0971 — SC06.0974) — Direttive regionali».

Annual expenditure planned under the scheme or overall amount of individual aid granted to the company:

EUR 4 000 000 in 2010

EUR 9 500 000 in 2011

EUR 9 500 000 in 2012

EUR 9 500 000 in 2013

Maximum aid intensity:

- (a) up to 80 % of the cost of the insurance premium where the policy provides compensation for damage exceeding 30 % of production (policies providing cover only for losses caused by adverse climatic events which can be assimilated to natural disasters);
- (b) up to 50 % of the cost of the insurance premium where the policy provides cover against losses as referred to in point (a) combined with other losses caused by adverse climatic events not assimilated to natural disasters, and/or losses caused by animal or plant diseases or pest infestations;
- (c) up to 100 % of the specific costs of insurance premiums paid by farmers in respect of the removal and destruction of 'fallen stock' (see Aid No XA 361/07).

Date of implementation: The aid applies with effect from the date of publication of the registration number of the request for exemption on the website of the Commission's Directorate-General for Agriculture and Rural Development.

Duration of scheme or individual aid award: Until 31 December 2013

Objective of aid: Article 12(2)(a) and (b) and Article 16(1)(d) of Regulation (EC) No 1857/2006

Sector(s) concerned: Primary production

Name and address of the granting authority:

Regione Autonoma della Sardegna
Assessorato dell'agricoltura e riforma agro-pastorale
Via Pessagno 4
09125 Cagliari CA
ITALIA

Website:

Decision No 26/20 of 6 July 2010

http://www.regione.sardegna.it/documenti/1_106_20100730100756.pdf

Annex to Decision No 26/20

http://www.regione.sardegna.it/documenti/1_106_20100730100427.pdf

Other information: —

Direttore Servizio sostegno delle imprese agricole e sviluppo delle competenze
Bianca CARBONI

Aid No: XA 162/10

Member State: Germany

Region: Bayern

Title of aid scheme or name of company receiving an individual aid: Richtlinie des Bayerischen Staatsministeriums für Ernährung, Landwirtschaft und Forsten zur Einzelbetrieblichen Investitionsförderung Nr. G 4-7271-7642 Teil C; Bayerisches Bergbauernprogramm — Investitionsförderung (BBP-C)

Legal basis: Richtlinie des Bayerischen Staatsministeriums für Ernährung, Landwirtschaft und Forsten zur Einzelbetrieblichen Investitionsförderung Nr. G 4-7271-7642 Teil C; Bayerisches Bergbauernprogramm — Investitionsförderung (BBP-C)

Annual expenditure planned under the scheme or overall amount of individual aid granted to the company: EUR 4 million for investment in agricultural holdings in accordance with Article 4 of Regulation (EC) No 1857/2006.

Maximum aid intensity: Up to 25 %

Date of implementation: Annual approvals, at the earliest from when the European Commission has approved/exempted the aid.

Duration of scheme or individual aid award: Until 31 December 2013

Objective of aid: In order to support sustainable, environment-friendly, animal welfare-friendly and multifunctional agriculture, aid can be granted for investment in agricultural holdings in the Bavarian mountain area and in municipalities and/or districts of the core area of the less-favoured agricultural zone which on average lie above 800 m or at least 50 % of whose utilised agricultural area lies at between 600 and 800 m with an inclination of more than 18 % (= core area with comparable farming difficulties). The aid contributes to maintaining agriculture over as large an area as possible in the mountain area and in the core area with comparable farming difficulties, to maintaining biodiversity, creating and maintaining regional economic strength and developing rural areas.

Sector(s) concerned: Agricultural holdings

Name and address of the granting authority:

Staatliche Führungsakademie für Ernährung, Landwirtschaft und Forsten
Am Lurzenhof 3c
84036 Landshut
DEUTSCHLAND

Website:

http://www.stmelf.bayern.de/agrarpolitik/programme/26373/rili_bbp_teil_c.pdf

Other information: —

Aid No: XA 163/10

Member State: Spain

Region: Castilla y León

Title of aid scheme or name of company receiving an individual aid:

Subvenciones destinadas a la mejora de las estructuras de producción de las explotaciones agrarias

Inversiones en obras de regadío y equipos de riego

Legal basis:

Órdenes AYG/759/2010 y AYG/1188/2010 de la Consejería de Agricultura y Ganadería

This aid scheme is covered by the exemption laid down in Commission Regulation (EC) No 1857/2006 of 15 December 2006 and complies with Article 4 thereof.

Annual expenditure planned under the scheme or overall amount of individual aid granted to the company: EUR 3 000 000

Maximum aid intensity:

(a) 50 % in less-favoured areas included in the lists referred to in Article 55(4) of Council Regulation (EC) No 1257/1999 or, where applicable, in the lists drawn up pursuant to Article 36(a) of Regulation (EC) No 1698/2005 of 20 September 2005;

(b) 40 % in other areas

Date of implementation: From the date of publication of the registration number of the request for exemption on the website of the European Commission's Directorate-General for Agriculture and Rural Development

Duration of scheme or individual aid award: Annual

Objective of aid: Improvement of the efficiency of irrigated farms (water savings)

Sector(s) concerned: Agriculture

Name and address of the granting authority:

Dirección General de Industrialización y Modernización Agraria
Consejería de Agricultura y Ganadería
C/ Rigoberto Cortejoso, 14
47014 Valladolid
ESPAÑA

Website:

http://www.jcyl.es/web/jcyl/Gobierno/es/Plantilla100/1262860153335/_/_/_

Other information: —

V

(Announcements)

PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION
POLICY

EUROPEAN COMMISSION

Prior notification of a concentration

(Case COMP/M.6089 — PAI/Hunkemöller)

Candidate case for simplified procedure

(Text with EEA relevance)

(2010/C 353/16)

1. On 16 December 2010, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽¹⁾ by which PAI Partners SAS ('PAI', France) acquires within the meaning of Article 3(1)(b) of the Merger Regulation control of the whole of Hunkemöller International BV ('HKM', The Netherlands) by way of purchase of shares.

2. The business activities of the undertakings concerned are:

— for PAI: private equity fund,

— for HKM: retail sale of different types of women's underwear.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the EC Merger Regulation. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under the EC Merger Regulation ⁽²⁾ it should be noted that this case is a candidate for treatment under the procedure set out in the Notice.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (+32 22964301), by email to COMP-MERGER-REGISTRY@ec.europa.eu or by post, under reference number COMP/M.6089 — PAI/Hunkemöller, to the following address:

European Commission
Directorate-General for Competition
Merger Registry
J-70
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

⁽¹⁾ OJ L 24, 29.1.2004, p. 1 (the 'EC Merger Regulation').

⁽²⁾ OJ C 56, 5.3.2005, p. 32 ('Notice on a simplified procedure').

V *Announcements*

PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION POLICY

European Commission

2010/C 353/16

Prior notification of a concentration (Case COMP/M.6089 — PAI/Hunkemöller) — Candidate case for simplified procedure ⁽¹⁾ 22



⁽¹⁾ Text with EEA relevance

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