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### Information and Notices

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**EN**
**Price:**  
**EUR 3**

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<sup>(1)</sup> Text with EEA relevance

## II

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

## EUROPEAN COMMISSION

**Authorisation for State aid pursuant to Articles 107 and 108 of the TFEU****Cases where the Commission raises no objections****(Text with EEA relevance, except for products falling under Annex I to the Treaty)**

(2012/C 215/01)

Date of adoption of the decision	15.7.2011	
Reference number of State Aid	SA.32714 (11/N)	
Member State	Netherlands	
Region	Nederland	Non-assisted areas
Title (and/or name of the beneficiary)	Staatssteunmelding Productschap Tuinbouw, sector Bloemkwekerijproducten	
Legal basis	Verordening PT heffing handel bloemkwekerijproducten 2010 Verordening PT vakheffing aanbod bloemkwekerijproducten 2010	
Type of measure	Scheme	—
Objective	Advertising (AGRI)	
Form of aid	Subsidised services	
Budget	Overall budget: EUR 95 million Annual budget: EUR 15,80 million	
Intensity	100 %	
Duration (period)	1.9.2011-1.9.2017	
Economic sectors	Crop and animal production, hunting and related service activities	
Name and address of the granting authority	Productschap Tuinbouw Louis Pasteurlaan 6 2719 EE Zoetermeer NEDERLAND	
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/competition/elojade/isef/index.cfm>

**Non-opposition to a notified concentration**  
**(Case COMP/M.6603 — Hon Hai/Sharp/Sharp Display Products)**

(Text with EEA relevance)

(2012/C 215/02)

On 22 June 2012, 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 32012M6603. EUR-Lex is the on-line access to the European law.

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**Non-opposition to a notified concentration**  
**(Case COMP/M.6608 — Tereos/Wilmar/JV)**

(Text with EEA relevance)

(2012/C 215/03)

On 11 July 2012, 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 32012M6608. EUR-Lex is the on-line access to the European law.
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**Non-opposition to a notified concentration**  
**(Case COMP/M.6616 — Lion Capital/Alain Afflelou Group)**

(Text with EEA relevance)

(2012/C 215/04)

On 16 July 2012, 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 32012M6616. EUR-Lex is the on-line access to the European law.
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## III

(Preparatory acts)

## COUNCIL

## COUNCIL RECOMMENDATION

of 10 July 2012

on the appointment of a member of the Executive Board of the European Central Bank

(2012/C 215/05)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 283(2) thereof,

Having regard to the Protocol on the Statute of the European System of Central Banks and of the European Central Bank, and in particular Article 11.2 thereof,

HEREBY RECOMMENDS TO THE EUROPEAN COUNCIL:

To appoint Mr Yves MERSCH as member of the Executive Board of the European Central Bank for a term of office of eight years.

Done at Brussels, 10 July 2012.

*For the Council*

*The President*

V. SHIARLY

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## IV

(Notices)

## NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

## EUROPEAN COMMISSION

Euro exchange rates <sup>(1)</sup>

20 July 2012

(2012/C 215/06)

1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	1,2200	AUD	Australian dollar	1,1739
JPY	Japanese yen	95,86	CAD	Canadian dollar	1,2323
DKK	Danish krone	7,4394	HKD	Hong Kong dollar	9,4634
GBP	Pound sterling	0,77835	NZD	New Zealand dollar	1,5237
SEK	Swedish krona	8,4540	SGD	Singapore dollar	1,5332
CHF	Swiss franc	1,2009	KRW	South Korean won	1 393,41
ISK	Iceland króna		ZAR	South African rand	10,0778
NOK	Norwegian krone	7,4230	CNY	Chinese yuan renminbi	7,7775
BGN	Bulgarian lev	1,9558	HRK	Croatian kuna	7,5060
CZK	Czech koruna	25,570	IDR	Indonesian rupiah	11 539,91
HUF	Hungarian forint	285,97	MYR	Malaysian ringgit	3,8448
LTL	Lithuanian litas	3,4528	PHP	Philippine peso	51,186
LVL	Latvian lats	0,6962	RUB	Russian rouble	39,0160
PLN	Polish zloty	4,1626	THB	Thai baht	38,674
RON	Romanian leu	4,5995	BRL	Brazilian real	2,4636
TRY	Turkish lira	2,2075	MXN	Mexican peso	16,2327
			INR	Indian rupee	67,5330

<sup>(1)</sup> Source: reference exchange rate published by the ECB.

**Commission communication in the framework of the implementation of Directive 2004/108/EC of the European Parliament and of the Council on the approximation of the laws of the Member States relating to electromagnetic compatibility and repealing Directive 89/336/EEC**

**(Text with EEA relevance)**

*(Publication of special measures accepted under Article 4(2) of the Directive)*

(2012/C 215/07)

The European Commission hereby informs that the United Kingdom, after following the procedure of Article 4 of the Directive 2004/108/EC, issued a special measure referred to as 'The wireless telegraphy (control of interference from apparatus) (The London Olympic Games and Paralympic Games) Regulations 2012 (Statutory Instrument 2012/No 1519)'.

This special measure has been accepted under Article 4 of Directive 2004/108/EC and its text is published on the European Commission's website at the following page:

[http://ec.europa.eu/enterprise/sectors/electrical/documents/emc/guidance/index\\_en.htm](http://ec.europa.eu/enterprise/sectors/electrical/documents/emc/guidance/index_en.htm)

The European Commission will provide, upon request, a translation of this measure in any of the official languages of the European Union.

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# EUROPEAN DATA PROTECTION SUPERVISOR

## **Executive summary of the Opinion of the European Data Protection Supervisor on the proposal for a Council decision on the conclusion of the Anti-Counterfeiting Trade Agreement between the European Union and its Member States, Australia, Canada, Japan, the Republic of Korea, the United Mexican States, the Kingdom of Morocco, New Zealand, the Republic of Singapore, the Swiss Confederation and the United States of America**

(Abridged version. The full text of this Opinion can be found in EN, FR and DE on the EDPS website: <http://www.edps.europa.eu>)

(2012/C 215/08)

### **I. Introduction**

#### *I.1. The EU legislative process on ACTA*

1. On 24 June 2011, the Commission put forward a proposal for a Council decision on the conclusion of the Anti-Counterfeiting Trade Agreement ('ACTA' or the 'Agreement') between the European Union and its Member States, Australia, Canada, Japan, the Republic of Korea, the United Mexican States, the Kingdom of Morocco, New Zealand, the Republic of Singapore, the Swiss Confederation and the United States of America <sup>(1)</sup>.

2. The Agreement aims at tackling the enforcement of intellectual property rights ('IP rights') by developing a common approach to enforcement and facilitating cooperation at international level. Chapter II contains measures in several areas of the law, namely in the field of civil enforcement (Section 2), border measures (Section 3), criminal enforcement (Section 4), and enforcement of intellectual property rights in the digital environment (Section 5). Chapter III contains measures to improve enforcement practices, and Chapter IV deals with international cooperation.

3. ACTA was adopted unanimously by the Council in December 2011 <sup>(2)</sup> and signed by the European Commission and 22 Member States <sup>(3)</sup> on 26 January 2012. According to Article 40 of the Agreement, ACTA will enter into force after ratification by six signatory States. However, to enter into force as EU law the Agreement must be ratified by the EU, which means approval by the European Parliament under the consent procedure for international commercial agreements <sup>(4)</sup> and ratification by Member States under their constitutional procedures. The European Parliament's vote on ACTA is scheduled to take place in the course of 2012 in plenary session.

#### *I.2. State of play of ACTA in the EU*

4. Growing concerns have been expressed over the last months about ACTA <sup>(5)</sup>. This has led the European Commission to announce on 22 February 2012 its intention to refer the agreement to the

<sup>(1)</sup> Commission proposal for a Council decision on the conclusion of the Anti-Counterfeiting Trade Agreement between the European Union and its Member States, Australia, Canada, Japan, the Republic of Korea, the United Mexican States, the Kingdom of Morocco, New Zealand, the Republic of Singapore, the Swiss Confederation and the United States of America, COM(2011) 380 final.

<sup>(2)</sup> The text of the Agreement, in its latest version of the Council of 23 August 2011, is available at: <http://register.consilium.europa.eu/pdf/en/11/st12/st12196.en11.pdf>

<sup>(3)</sup> Germany, Cyprus, Estonia, the Netherlands and Slovakia have not signed it yet.

<sup>(4)</sup> Pursuant to Article 218(6) of the TFEU.

<sup>(5)</sup> See amongst others: <http://euobserver.com/9/115043>; <http://euobserver.com/871/115128>; [https://www.bfdi.bund.de/bfdi\\_forum/showthread.php?3062-ACTA-und-der-Datenschutz](https://www.bfdi.bund.de/bfdi_forum/showthread.php?3062-ACTA-und-der-Datenschutz), <http://www.bbc.co.uk/news/technology-17012832>

Court of Justice of the European Union for an opinion <sup>(6)</sup>. Such procedure is foreseen in Article 218(11) of the Treaty on the Functioning of the European Union ("TFEU") <sup>(7)</sup>.

5. On 4 April 2012, the Commission decided that it would ask the Court the following question: 'Is the Anti-Counterfeiting Trade Agreement (ACTA) compatible with the European Treaties, in particular with the Charter of Fundamental Rights of the European Union?' <sup>(8)</sup>. In case the outcome would be negative, Article 218(11) of the TFEU makes it clear that 'the agreement envisaged may not enter into force unless it is amended or the Treaties are revised.'

6. However, the referral of the Agreement to the Court of Justice by the Commission would not automatically suspend the consent procedure currently under way in the European Parliament. After discussion in the International Trade Committee of the European Parliament, it was decided to proceed with the vote on the Agreement in accordance with the planned schedule <sup>(9)</sup>.

### 1.3. The reasons for a second EDPS Opinion on ACTA

7. In February 2010, the EDPS issued an Opinion on his own initiative in order to draw the attention of the Commission on the privacy and data protection aspects that should be considered in the ACTA negotiations <sup>(10)</sup>. While negotiations were being conducted confidentially, there were indications that ACTA would contain online enforcement measures having an impact on data protection rights, notably the three strikes mechanism <sup>(11)</sup>.

8. The EDPS at the time focused his analysis on the lawfulness and proportionality of this type of measure and concluded that the introduction in ACTA of a measure that would involve the massive surveillance of Internet users would be contrary to EU fundamental rights and in particular the rights to privacy and data protection, which are protected under Article 8 of the European Convention on Human Rights and Articles 7 and 8 of the Charter of Fundamental Rights of the EU <sup>(12)</sup>. The EDPS furthermore underlined the safeguards needed for international exchanges of personal data in the context of IP rights' enforcement.

9. Now that the text of the proposed agreement on ACTA has been made public <sup>(13)</sup>, the EDPS considers it appropriate to issue a second Opinion on ACTA to assess some of the provisions contained in the Agreement from a data protection perspective, and by doing so to provide specific expertise that could be taken into consideration in the ratification process. Acting on his own initiative, the EDPS has therefore adopted the current Opinion based on Article 41(2) of Regulation (EC) No 45/2001 in view of providing guidance on the privacy and data protection issues raised by ACTA.

*(Abridged version. The full text of this Opinion can be found in EN, FR and DE on the EDPS website: <http://www.edps.europa.eu>)*

<sup>(6)</sup> Statement by Commissioner Karel De Gucht on ACTA (Anti-Counterfeiting Trade Agreement), <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/12/128>

<sup>(7)</sup> Article 218(11) of the TFEU provides that 'a Member State, the European Parliament, the Council or the Commission may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the Treaties. Where the opinion of the Court is adverse, the agreement envisaged may not enter into force unless it is amended or the Treaties are revised.' According to Article 107(2) of the Rules of procedures of the Court of Justice, '[t]he Opinion may deal not only with the question whether the envisaged agreement is compatible with the provisions of the Treaties but also with the question whether the Union or any Union institution has the power to enter into that agreement.'

<sup>(8)</sup> <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/12/354&format=HTML&aged=0&language=en&guiLanguage=en>

<sup>(9)</sup> See <http://www.neurope.eu/article/parliament-halts-sending-acta-court-justice>

<sup>(10)</sup> Opinion of the European Data Protection Supervisor on the current negotiations by the European Union of an Anti-Counterfeiting Trade Agreement (ACTA), OJ C 147, 5.6.2010, p. 1.

<sup>(11)</sup> 'Three strikes Internet disconnection policies' or 'graduated response' schemes allow copyright holders, or entrusted third parties, to monitor Internet users and identify alleged copyright infringers. After contacting the Internet service providers ('ISPs') of the alleged infringer, ISPs would warn the user identified as infringer, and he would be disconnected from Internet access after having received three warnings.

<sup>(12)</sup> Charter of Fundamental Rights of the European Union, OJ C 303, 14.12.2007, p. 1.

<sup>(13)</sup> See footnote 3.

## II. Conclusion

67. While the EDPS acknowledges the legitimate concern of ensuring the enforcement of IP rights in an international context, a right balance must be struck between demands for the protection of IP rights and the rights to privacy and data protection.

68. The EDPS emphasizes that the means envisaged for strengthening enforcement of IP rights must not come at the expense of the fundamental rights and freedoms of individuals to privacy, data protection and freedom of expression, and other rights such as presumption of innocence and effective judicial protection.

69. Many of the measures envisaged in the Agreement in the context of enforcement of IP rights in the digital environment would involve the monitoring of users' behaviour and of their electronic communications on the Internet. These measures are highly intrusive to the private sphere of individuals and, if not implemented properly, may therefore interfere with their rights and freedoms to, inter alia, privacy, data protection and the confidentiality of their communications.

70. It should be ensured that any online enforcement measure implemented within the EU as a result of entering into ACTA is necessary and proportionate to the aim of enforcing IP rights. The EDPS underlines that measures that entail the indiscriminate or widespread monitoring of Internet user' behaviour, and/or electronic communications, in relation to trivial, small-scale not for profit infringement would be disproportionate and in breach of Article of the ECHR, Articles 7 and 8 of the Charter of Fundamental Rights, and the Data Protection Directive.

71. The EDPS has furthermore specific concerns in relation to several provisions of the Agreement, in particular:

- the Agreement is unclear about the scope of enforcement measures in the digital environment envisaged in Article 27, and whether they only target large-scale infringements of IP rights. The notion of 'commercial scale' in Article 23 of the Agreement is not defined with sufficient precision, and acts carried out by private users for a personal and not-for profit purpose are not expressly excluded from the scope of the Agreement,
- the notion of 'competent authorities' entrusted with the injunction power under Article 27(4) of the Agreement is too vague and does not provide sufficient certainty that the disclosure of personal data of alleged infringers would only take place under the control of judicial authorities. Furthermore, the conditions to be fulfilled by right holders to be granted such an injunction are also not satisfactory. These uncertainties may have a particular impact in cases of requests from foreign 'competent authorities' to EU-based ISPs,
- many of the voluntary enforcement cooperation measures that could be implemented under Article 27(3) of the Agreement would entail a processing of personal by ISPs which goes beyond what is allowed under EU law,
- the Agreement does not contain sufficient limitations and safeguards in respect of the implementation of measures that entail the monitoring of electronic communications networks on a large scale. In particular, it does not lay out safeguards such as the respect of the rights to privacy and data protection, effective judicial protection, due process, and the respect of the principle of the presumption of innocence.

Done at Brussels, 24 April 2012.

Giovanni BUTTARELLI  
*Assistant European Data Protection Supervisor*

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## NOTICES FROM MEMBER STATES

**Reorganisation measures****Decision concerning the approval of the resumption of activities by Societatea de asigurare-reasigurare LIG Insurance SA**

*(Publication in accordance with Article 6 of Directive 2001/17/EC of the European Parliament and of the Council on the reorganisation and winding-up of insurance undertakings)*

(2012/C 215/09)

Insurance undertaking	Societatea de asigurare-reasigurare LIG Insurance SA with its registered office in Bucharest, Str. Tudor Vianu nr. 25-27, ap. 2, sector 1, Romania, J40/21751/19.8.1992, CUI 2626923/30.12.1992, legally represented by Ms Violeta-Mihaela SIMEDRE, in her capacity as general manager
Date, entry into force and nature of the decision	Decision No 341 of 13 June 2012 concerning the resumption of activities by Societatea de asigurare-reasigurare LIG Insurance SA
Competent authorities	The Insurance Supervisory Commission, with its head office at Str. Amiral Constantin Bălescu nr. 18, Sector 1, Bucharest, Romania, Tax Registration Number 14045240/1.7.2001
Supervisory authority	Insurance Supervisory Commission, with its head office at Str. Amiral Constantin Bălescu nr. 18, Sector 1, Bucharest, Romania, Tax Registration Number 14045240/1.7.2001
Applicable law	Law No 32/2000 on insurance and insurance supervision, as subsequently amended and supplemented







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