Official Journal of the European Union

C 338

Volume 61

English edition

Information and Notices

21 September 2018

Contents

EN

[1] Text with EEA relevance.

IV *Notices*

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

Council

European Commission

European Data Protection Supervisor

[1] Text with EEA relevance.

V *Announcements*

PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION POLICY

European Commission

([1]) Text with EEA relevance.

I

(Resolutions, recommendations and opinions)

RECOMMENDATIONS

EUROPEAN SYSTEMIC RISK BOARD

RECOMMENDATION OF THE EUROPEAN SYSTEMIC RISK BOARD

of 16 July 2018

amending Recommendation ESRB/2015/2 on the assessment of cross-border effects of and voluntary reciprocity for macroprudential policy measures

(ESRB/2018/5)

(2018/C 338/01)

THE GENERAL BOARD OF THE EUROPEAN SYSTEMIC RISK BOARD,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board ([1]), and in particular Article 3 and Articles 16 to 18 thereof,

Having regard to Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 ([2]), and in particular Article 458(8) thereof,

Having regard to Decision ESRB/2011/1 of the European Systemic Risk Board of 20 January 2011 adopting the Rules of Procedure of the European Systemic Risk Board ([3]), and in particular Articles 18 to 20 thereof,

Whereas:

(1) In order to ensure effective and consistent national macroprudential policy measures, it is important to complement the mandatory reciprocity required under Union law with voluntary reciprocity.

(2) The framework on voluntary reciprocity for macroprudential policy measures set out in Recommendation ESRB/2015/2 of the European Systemic Risk Board ([4]) aims to ensure that all exposure-based macroprudential policy measures activated in one Member State are reciprocated in the other Member States.

(3) Recommendation ESRB/2017/4 of the European Systemic Risk Board ([5]) recommends the relevant activating authority to propose a maximum materiality threshold when submitting a request for reciprocation to the European Systemic Risk Board (ESRB), below which an individual financial service provider's exposure to the identified macroprudential risk in the jurisdiction where the macroprudential policy measure is applied by the activating

([1]) OJ L 331, 15.12.2010, p. 1.
([2]) OJ L 176, 27.6.2013, p. 1.
([3]) OJ C 58, 24.2.2011, p. 4.
([4]) Recommendation ESRB/2015/2 of the European Systemic Risk Board of 15 December 2015 on the assessment of cross-border effects of and voluntary reciprocity for macroprudential policy measures (OJ C 97, 12.3.2016, p. 9).
([5]) Recommendation ESRB/2017/4 of the European Systemic Risk Board of 20 October 2017 amending Recommendation ESRB/2015/2 on the assessment of cross-border effects of and voluntary reciprocity for macroprudential policy measures (OJ C 431, 15.12.2017, p. 1).

authority can be considered non-material. The ESRB's permanent Assessment Team, established under Decision ESRB/2015/4 of the European Systemic Risk Board [1], may recommend a different threshold if deemed necessary.

(4) From 30 April 2018, credit institutions authorised in Belgium and using the Internal Ratings Based Approach for calculating regulatory capital requirements are subject, pursuant to Article 458(2)(d)(vi) of Regulation (EU) No 575/2013, to a risk-weight add-on for retail exposures secured by residential immovable property located in Belgium, composed of: (a) a flat risk-weight add-on of 5 percentage points; and (b) a proportionate risk-weight add-on consisting of a fraction (33 per cent) of the exposure-weighted average of the risk-weights.

(5) Following the request by Belgium to the ESRB under Article 458(8) of Regulation (EU) No 575/2013, and in order to prevent the materialisation of negative cross-border effects in the form of leakages and regulatory arbitrage that could result from the implementation of the macroprudential policy measure applied in Belgium in accordance with Article 458(2)(d)(vi) of Regulation (EU) No 575/2013, the General Board of the ESRB has decided to include this measure in the list of macroprudential policy measures which are recommended to be reciprocated under Recommendation ESRB/2015/2.

(6) Therefore, Recommendation ESRB/2015/2 should be amended accordingly,

HAS ADOPTED THIS RECOMMENDATION:

AMENDMENTS

Recommendation ESRB/2015/2 is amended as follows:

1. in Section 1, sub-recommendation C(1) is replaced by the following:

'1. The relevant authorities are recommended to reciprocate the macroprudential policy measures adopted by other relevant authorities and recommended for reciprocation by the ESRB. It is recommended that the following measures, as further described in the Annex, be reciprocated:

Estonia:

— a 1-per cent systemic risk buffer rate applied in accordance with Article 133 of Directive 2013/36/EU to the domestic exposures of all credit institutions authorised in Estonia;

Finland:

— a 15-per cent floor for the average risk-weight on residential mortgage loans secured by a mortgage on housing units in Finland applied in accordance with Article 458(2)(d)(vi) of Regulation (EU) No 575/2013 to credit institutions authorised in Finland, using the Internal Ratings Based (IRB) Approach for calculating regulatory capital requirements;

Belgium:

— a risk-weight add-on for retail exposures secured by residential immovable property located in Belgium, applied in accordance with Article 458(2)(d)(vi) of Regulation (EU) No 575/2013 to credit institutions authorised in Belgium, using the IRB Approach for calculating regulatory capital requirements and composed of:

(a) a flat risk-weight add-on of 5 percentage points; and

(b) a proportionate risk-weight add-on consisting of 33 per cent of the exposure-weighted average of the risk-weights applied to the portfolio of retail exposures secured by residential immovable property located in Belgium.';

[1] Decision ESRB/2015/4 of the European Systemic Risk Board of 16 December 2015 on a coordination framework for the notification of national macroprudential policy measures by relevant authorities, the issuing of opinions and recommendations by the ESRB, and repealing Decision ESRB/2014/2 (OJ C 97, 12.3.2016, p. 28).

2. the Annex is replaced by the Annex to this Recommendation.

Done at Frankfurt am Main, 16 July 2018.

Francesco MAZZAFERRO

Head of the ESRB Secretariat

on behalf of the General Board of the ESRB

ANNEX

'Annex

Estonia

1 per cent systemic risk buffer rate applied in accordance with Article 133 of Directive 2013/36/EU to the domestic exposures of all credit institutions authorised in Estonia

I. Description of the measure

1. The Estonian measure constitutes a 1-percent systemic risk buffer rate applied in accordance with Article 133 of Directive 2013/36/EU to the domestic exposures of all credit institutions authorised in Estonia.

II. Reciprocation

2. Where Member States have implemented Article 134 of Directive 2013/36/EU in national law, relevant authorities are recommended to reciprocate the Estonian measure for exposures located in Estonia of domestically authorised institutions in accordance with Article 134(1) of Directive 2013/36/EU. For the purposes of this paragraph, the deadline specified in sub-recommendation C(3) applies.

3. Where Member States have not implemented Article 134 of Directive 2013/36/EU in national law, relevant authorities are recommended to reciprocate the Estonian measure for exposures located in Estonia of domestically authorised institutions in accordance with sub-recommendation C(2). Relevant authorities are recommended to adopt the equivalent measure within six months.

Finland

A credit institution-specific minimum level of 15 per cent for the average risk-weight on loans secured by a mortgage on housing units in Finland applicable to credit institutions using the Internal Ratings Based (IRB) Approach (hereinafter "IRB credit institutions") under Article 458(2)(d)(vi) of Regulation (EU) No 575/2013.

I. Description of the measure

1. The Finnish measure, applied in accordance with Article 458(2)(d)(vi) of Regulation (EU) No 575/2013, consists of a credit institution-specific average risk-weight floor of 15 per cent for IRB credit institutions, at the portfolio level, for residential mortgage loans secured by housing units in Finland.

II. Reciprocation

2. In accordance with Article 458(5) of Regulation (EU) No 575/2013, relevant authorities of the Member States concerned are recommended to reciprocate the Finnish measure and apply it to IRB credit institutions' portfolios of retail mortgage loans secured by housing units in Finland issued by domestically authorised branches located in Finland. For the purposes of this paragraph, the deadline specified in sub-recommendation C(3) applies.

3. Relevant authorities are also recommended to reciprocate the Finnish measure and apply it to IRB credit institutions' portfolios of retail mortgage loans secured by housing units in Finland issued directly across borders by credit institutions established in their respective jurisdictions. For the purposes of this paragraph, the deadline specified in sub-recommendation C(3) applies.

4. In accordance with sub-recommendation C(2), the relevant authorities are recommended to apply, following consultation with the ESRB, a macroprudential policy measure available in their jurisdiction that has the effect most equivalent to the above measure recommended for reciprocation, including adopting supervisory measures and powers laid down in Title VII, Chapter 2, Section IV of Directive 2013/36/EU. The relevant authorities are recommended to adopt the equivalent measure within four months.

III. Materiality threshold

5. The measure is complemented by a materiality threshold of EUR 1 billion exposure to the residential mortgage lending market in Finland to steer the potential application of the *de minimis* principle by the reciprocating Member States.

6. In line with Section 2.2.1 of Recommendation ESRB/2015/2, relevant authorities of the Member State concerned may exempt individual IRB credit institutions with non-material portfolios of retail mortgage loans secured by housing units in Finland below the materiality threshold of EUR 1 billion. In this case the relevant authorities should monitor the materiality of the exposures and are recommended to reciprocate when an IRB credit institution exceeds the threshold of EUR 1 billion.

7. Where there are no IRB credit institutions authorised in other Member States concerned with branches located in Finland or providing financial services directly in Finland that have exposures of EUR 1 billion or above to the Finnish mortgage market, relevant authorities of the Member States concerned may decide not to reciprocate as provided by Section 2.2.1 of Recommendation ESRB/2015/2. In this case the relevant authorities should monitor the materiality of the exposures and are recommended to reciprocate when an IRB credit institution exceeds the threshold of EUR 1 billion.

Belgium

A risk-weight add-on for retail exposures secured by residential immovable property located in Belgium, imposed on credit institutions authorised in Belgium using the IRB Approach and applied in accordance with Article 458(2)(d)(vi) of Regulation (EU) No 575/2013. The add-on is composed of two components:

(a) **a flat risk-weight add-on of 5 percentage points; and**

(b) **a proportionate risk-weight add-on consisting of 33 per cent of the exposure-weighted average of the risk-weights applied to the portfolio of retail exposures secured by residential immovable property located in Belgium.**

I. Description of the measure

1. The Belgian measure, applied in accordance with Article 458(2)(d)(vi) of Regulation (EU) No 575/2013 and imposed on credit institutions authorised in Belgium using the IRB Approach, consists of a risk-weight add-on for retail exposures secured by residential immovable property located in Belgium, which is composed of two components:

   (a) The first component consists of a 5 percentage point increase to the risk-weight for retail exposures secured by residential immovable property located in Belgium obtained after computing the second part of the risk-weight add-on in accordance with point (b).

   (b) The second component consists of a risk-weight increase of 33 per cent of the exposure-weighted average of the risk-weights applied to the portfolio of retail exposures secured by residential immovable property located in Belgium. The exposure-weighted average is the average of the risk-weights of the individual loans calculated in accordance with Article 154 of Regulation (EU) No 575/2013, weighted by the relevant exposure value.

II. Reciprocation

2. In accordance with Article 458(5) of Regulation (EU) No 575/2013, relevant authorities of the Member States concerned are recommended to reciprocate the Belgian measure by applying it to branches located in Belgium of domestically authorised credit institutions using the IRB Approach within the deadline specified in sub-recommendation C(3).

3. Relevant authorities are recommended to reciprocate the Belgian measure by applying it to domestically authorised credit institutions using the IRB Approach that have direct retail exposures secured by residential immovable property located in Belgium. In accordance with sub-recommendation C(2), the relevant authorities are recommended to apply the same measure as the one that has been implemented in Belgium by the activating authority within the deadline specified in sub-recommendation C(3).

4. If the same macroprudential policy measure is not available in their jurisdiction, the relevant authorities are recommended to apply, following consultation with the ESRB, a macroprudential policy measure available in their jurisdiction that has the most equivalent effect to the above measure recommended for reciprocation, including adopting supervisory measures and powers laid down in Title VII, Chapter 2, Section IV of Directive 2013/36/EU. Relevant authorities are recommended to adopt the equivalent measure by no later than four months following the publication of this Recommendation in the *Official Journal of the European Union*.

III. Materiality threshold

5. The measure is complemented by an institution-specific materiality threshold of EUR 2 billion to steer the potential application of the *de minimis* principle by the relevant authorities reciprocating the measure.

6. In line with Section 2.2.1 of Recommendation ESRB/2015/2, relevant authorities of the Member State concerned may exempt individual domestically authorised credit institutions using the IRB Approach having non-material retail exposures secured by residential immovable property in Belgium which are below the materiality threshold of EUR 2 billion. When applying the materiality threshold, the relevant authorities should monitor the materiality of exposures and are recommended to apply the Belgian measure to previously exempted individual domestically authorised credit institutions when the materiality threshold of EUR 2 billion is breached.

7. Where there are no credit institutions authorised in the Member States concerned with branches located in Belgium or which have direct retail exposures secured by residential immovable property in Belgium, which use the IRB Approach and which have exposures of EUR 2 billion or above to the Belgian residential immovable property market, relevant authorities of the Member States concerned may, pursuant to Section 2.2.1 of Recommendation ESRB/2015/2, decide not to reciprocate the Belgian measure. In this case the relevant authorities should monitor the materiality of the exposures and are recommended to reciprocate the Belgian measure when a credit institution using the IRB Approach exceeds the threshold of EUR 2 billion.

8. In line with Section 2.2.1 of Recommendation ESRB/2015/2, the materiality threshold of EUR 2 billion is a recommended maximum threshold level. Reciprocating relevant authorities may therefore instead of applying the recommended threshold set a lower threshold for their jurisdictions where appropriate, or reciprocate the measure without any materiality threshold.'.

II

(Information)

INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN COMMISSION

Non-opposition to a notified concentration

(Case M.9069 — Kuwait Investment Authority/North Sea Midstream Partners)

(Text with EEA relevance)

(2018/C 338/02)

On 14 September 2018, the Commission decided not to oppose the above notified concentration and to declare it compatible with the internal market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004 [1]. 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/homepage.html?locale=en) under document number 32018M9069. EUR-Lex is the online access to European law.

[1] OJ L 24, 29.1.2004, p. 1.

Non-opposition to a notified concentration

(Case M.9024 — Abry Partners/Link)

(Text with EEA relevance)

(2018/C 338/03)

On 17 September 2018, the Commission decided not to oppose the above notified concentration and to declare it compatible with the internal market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004 [1]. 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/homepage.html?locale=en) under document number 32018M9024. EUR-Lex is the online access to European law.

[1] OJ L 24, 29.1.2004, p. 1.

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

COUNCIL

COUNCIL DECISION

of 18 September 2018

appointing the Executive Director of the European Union Intellectual Property Office

(2018/C 338/04)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark [1] and in particular Article 158(2) thereof,

Whereas on 8 June 2018, a list of candidates to the post of the Executive Director of the European Union Intellectual Property Office ('the Office') was submitted to the Council by the Management Board of the Office,

HAS ADOPTED THIS DECISION:

Article 1

1. Mr Christian L.L.G. ARCHAMBEAU, born in Vielsalm (Belgium) on 11 April 1960, is hereby appointed the Executive Director of the European Union Intellectual Property Office ('the Office') for a term of five years.

2. The date on which the five-year term referred to in paragraph 1 commences shall be determined by the Management Board of the Office.

Article 2

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Done at Brussels, 18 September 2018.

For the Council

The President

G. BLÜMEL

[1] OJ L 154, 16.6.2017, p. 1.

EUROPEAN COMMISSION

Euro exchange rates [1]

20 September 2018

(2018/C 338/05)

1 euro =

	Currency	Exchange rate		Currency	Exchange rate
USD	US dollar	1,1769	CAD	Canadian dollar	1,5174
JPY	Japanese yen	131,98	HKD	Hong Kong dollar	9,2313
DKK	Danish krone	7,4592	NZD	New Zealand dollar	1,7643
GBP	Pound sterling	0,88590	SGD	Singapore dollar	1,6064
SEK	Swedish krona	10,3350	KRW	South Korean won	1 316,62
CHF	Swiss franc	1,1312	ZAR	South African rand	17,0297
ISK	Iceland króna	129,60	CNY	Chinese yuan renminbi	8,0559
NOK	Norwegian krone	9,5885	HRK	Croatian kuna	7,4265
BGN	Bulgarian lev	1,9558	IDR	Indonesian rupiah	17 471,00
CZK	Czech koruna	25,560	MYR	Malaysian ringgit	4,8694
HUF	Hungarian forint	323,75	PHP	Philippine peso	63,436
PLN	Polish zloty	4,2925	RUB	Russian rouble	78,0670
RON	Romanian leu	4,6545	THB	Thai baht	38,055
TRY	Turkish lira	7,4320	BRL	Brazilian real	4,8390
AUD	Australian dollar	1,6158	MXN	Mexican peso	22,0233
			INR	Indian rupee	84,7510

[1] *Source*: reference exchange rate published by the ECB.

Opinion of the Advisory Committee on restrictive practices and dominant positions given at its meeting on 10 July 2018 concerning a draft decision in case AT.40465 — Asus

Rapporteur: Sweden

(2018/C 338/06)

1. The members of the Advisory Committee agree on the Commission's assessment that the conduct covered by the draft decision constitutes two single and continuous infringements of Article 101 TFEU.

2. The members of the Advisory Committee agree with the Commission on the final amount of the fine, including its reduction based on paragraph 37 of the 2006 Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Council Regulation (EC) No 1/2003 [1].

3. The members of the Advisory Committee recommend the publication of its opinion in the Official Journal.

[1] OJ L 1, 4.1.2003, p. 1.

Final Report of the Hearing Officer [1]

Case AT.40465 — Asus

(2018/C 338/07)

(1) The draft decision addressed to AsusTek Computer Inc., Asus Computer GmbH and Asus France SARL (together, 'Asus') finds that Asus infringed Article 101 TFEU through practices aimed at restricting the ability of retailers in Germany and in France to determine their resale prices independently.

(2) The investigation started with unannounced inspections at the premises of retailers in Germany and in France in March 2015.

(3) On 2 February 2017, the Commission initiated proceedings within the meaning of Article 2(1) of Regulation (EC) No 773/2004 [2] against Asus. On 15 February 2017, the Commission addressed a request for information to Asus Computer GmbH, to which Asus Computer GmbH replied on 13 March 2017.

(4) Shortly after the initiation of proceedings, Asus indicated its interest to cooperate with the Commission. On […], Asus submitted further evidence regarding the relevant conduct.

(5) By letter dated […], Asus submitted a formal offer to cooperate in view of the adoption of a decision ('Settlement Submission'). The Settlement Submission contains:

— an acknowledgement in clear and unequivocal terms of Asus' liability for the two infringements summarily described as regards its object, the main facts, their legal qualification, including the role and the duration of AsusTek Computer Inc.'s, Asus Germany's and Asus France's participation in the two infringements,

— an indication of the maximum amount of the fine Asus expects to be imposed by the Commission and which it would accept in the context of a cooperation procedure,

— the confirmation that Asus has been sufficiently informed of the objections the Commission envisages raising against it and that it has been given sufficient opportunity to make its views known to the Commission,

— the confirmation that Asus does not envisage requesting further access to the file or requesting to be heard again in an oral hearing, unless the Commission does not reflect its Settlement Submission in the statement of objections (the 'SO') and the final decision,

— the agreement to receive the SO and the final decision in English.

(6) On 24 May 2018, the Commission adopted the SO, to which Asus replied by confirming that the SO reflected the content of its Settlement Submission.

(7) The infringements found and the fines imposed in the draft decision correspond to those acknowledged and accepted in the Settlement Submission. The amount of the fines is reduced by 40 % on the ground that Asus has cooperated with the Commission beyond its legal obligation to do so by: (i) providing additional evidence representing significant added value with respect to the evidence already in the Commission's possession as that evidence strengthened to a large extent the Commission's ability to prove the infringements; (ii) acknowledging the infringements of Article 101 TFEU in relation to the conduct; and (iii) waiving certain procedural rights, resulting in administrative efficiencies.

(8) In accordance with Article 16 of Decision 2011/695/EU, I have examined whether the draft decision deals only with objections in respect of which Asus has been afforded the opportunity of making known its views. I conclude that it does.

[1] Pursuant to Articles 16 and 17 of Decision 2011/695/EU of the President of the European Commission of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings (OJ L 275, 20.10.2011, p. 29).

[2] Commission Regulation (EC) No 773/2004 of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty (OJ L 123, 27.4.2004, p. 18).

(9) Overall, I consider that the effective exercise of procedural rights has been respected in this case.

Brussels, 12 July 2018.

Wouter WILS

Summary of Commission Decision

of 24 July 2018

relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union

(Case AT.40465 — Asus (vertical restraints))

(notified under document number C(2018) 4773 final)

(Only the English text is authentic)

(2018/C 338/08)

On 24 July 2018, the Commission adopted a decision relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union. In accordance with the provisions of Article 30 of Council Regulation (EC) No 1/2003 ([1]), the Commission herewith publishes the names of the parties and the main content of the decision, including any penalties imposed, having regard to the legitimate interest of undertakings in the protection of their business secrets.

1. INTRODUCTION

(1) The Decision is addressed to AsusTek Computer Inc., Asus Computer GmbH and Asus France SARL (collectively 'Asus'). Asus is a manufacturer of computer hardware and electronic products. Asus Computer GmbH and Asus France SARL are wholly-owned subsidiaries of AsusTek Computer Inc (Taiwan).

(2) The Decision relates to two single and continuous infringements of Article 101 of the Treaty on the Functioning of the European Union ('TFEU'). In violation of Article 101 TFEU Asus Computer GmbH and Asus France SARL implemented practices aimed at restricting the ability of retailers to determine their resale prices independently in Germany and France respectively.

2. CASE DESCRIPTION

2.1. Procedure

(3) The case against Asus originated from unannounced inspections on 10 March 2015 at the premises of an online retailer in Germany and of another online retailer in France, these retailers sell, inter alia, Asus' products.

(4) On 2 February 2017 the Commission opened proceedings with a view to taking a decision under Chapter III of Regulation (EC) No 1/2003.

(5) Shortly after the initiation of proceedings, Asus indicated its interest to cooperate with the Commission and submitted further evidence regarding the relevant conduct.

(6) Subsequently, Asus submitted a formal offer to cooperate in view of the adoption of a decision pursuant to Article 7 and Article 23 of Regulation (EC) No 1/2003.

(7) On 24 May 2018, the Commission adopted a Statement of Objections addressed to Asus. On 28 May 2018, Asus submitted its reply to the Statement of Objections.

(8) The Advisory Committee on Restrictive Practices and Dominant Positions issued a favourable opinion on 10 July 2018.

(9) The Commission adopted the Decision on 24 July 2018.

([1]) OJ L 1, 4.1.2003, p. 1.

2.2. **Addressees and duration**

(10) The following undertakings have infringed Article 101 TFEU by directly participating, during the periods indicated below, in anti-competitive practices:

Undertaking	Duration
Infringement in Germany: Asus Computer GmbH	3 March 2011-27 June 2014
Infringment in France: Asus France SARL	7 April 2013-15 December 2014

2.3. **Summary of the infringements**

(11) The products concerned by the Decision are: (i) in relation to Germany the products sold by Asus' Systems business group and the networking, desktop and display products sold by its Open Platform business group; and (ii) in relation to France, all products in the Open Platform business group. These products were affected by the business strategy of Asus in Germany and France that aimed at keeping resale prices in the two Member States stable at the level of the recommended resale price.

(12) Asus distributes its products via independent distributors. However, Asus' account managers in Germany and France were frequently in contact with retailers even if there is no direct supply relationship.

(13) During the infringement periods, price monitoring was conducted in Germany and France via various means, in particular through the observation of price comparison websites and, for some product categories, by way of internal software monitoring tools that allowed Asus to identify the retailers that were selling Asus' products below the desired price level which typically equalled the recommended resale price.

(14) Asus was also informed about low-pricing retailers via complaints of other retailers. Retailers that were not complying with the desired price level would typically be contacted by Asus and be asked to increase the price.

(15) Retailers which repeatedly did not observe the desired resale price level were threatened and/or sanctioned by Asus.

2.4. **Remedies**

(16) The Decision applies the 2006 Guidelines on Fines [1].

2.4.1. *Basic amount of the fine*

(17) In setting the fines, the Commission took into account the value of sales of the products concerned by these proceedings in 2013, which is the last full business year of the participation of Asus Computer GmbH in the infringement in Germany and of Asus France SARL in the infringement in France.

(18) The Commission took into account the fact that resale price maintenance, by its very nature, restricts competition within the meaning of Article 101(1) TFEU and that vertical agreements and concerted practices such as resale price maintenance are, by their nature, often less damaging to competition than horizontal agreements. Taking account of these factors and in light of the specific circumstances of the case the proportion of the values of sales is set at 7 %.

(19) The Commission took into account the duration of the two single and continuous infringements, as mentioned above.

2.4.2. *Adjustments to the basic amount*

(20) There are no aggravating or mitigating circumstances in this case.

[1] OJ C 210, 1.9.2006, p. 2.

2.4.3. *Application of the 10 % turnover limit*

(21) None of the fines calculated exceed 10 % of Asus' worldwide turnover.

2.4.4. *Reduction of the fine in view of cooperation*

(22) The Commission concludes that, in order to reflect that Asus has effectively cooperated with the Commission beyond its legal obligation to do so, the fine that would otherwise have been imposed should, pursuant to point 37 of the Guidelines on Fines, be reduced by 40 %.

3. **CONCLUSION**

(23) In light of the above, the final amount of the fine imposed on Asus pursuant to Article 23(2)(a) of Regulation (EC) No 1/2003 for the single and continuous infringement in Germany amounts to EUR 58 162 000 and for the single and continuous infringement in France amounts to EUR 5 360 000.

Opinion of the Advisory Committee on restrictive practices and dominant positions given at its meeting on 10 July 2018 concerning a draft decision in Case AT.40182 — Pioneer

Rapporteur: Sweden

(2018/C 338/09)

1. The members of the Advisory Committee agree on the Commission's assessment that the conduct covered by the draft decision constitutes a single and continuous infringement of Article 101 TFEU and Article 53 of the EEA Agreement.

2. The members of the Advisory Committee agree with the Commission on the final amount of the fine, including its reduction based on paragraph 37 of the 2006 Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Council Regulation (EC) No 1/2003 ([1]).

3. The members of the Advisory Committee recommend the publication of its opinion in the Official Journal.

([1]) OJ L 1, 4.1.2003, p. 1.

Final Report of the Hearing Officer [1]

Case AT.40182 — Pioneer

(2018/C 338/10)

(1) The draft decision addressed to Pioneer Europe NV ('Pioneer Europe'), Pioneer GB Ltd and their ultimate parent company Pioneer Corporation (together, 'Pioneer') finds that Pioneer infringed Article 101 TFEU and Article 53 EEA through practices aimed at restricting the ability of retailers to determine their resale prices independently and restricting the territories into which retailers could sell.

(2) The investigation started with unannounced inspections at the premises of Pioneer Europe in Belgium in December 2013.

(3) Shortly after the inspection, Pioneer indicated its interest to cooperate with the Commission. On […], Pioneer submitted further evidence regarding the relevant conduct.

(4) On 2 February 2017, the Commission initiated proceedings within the meaning of Article 2(1) of Regulation (EC) No 773/2004 [2] against Pioneer Europe, Pioneer Corporation and all legal entities directly or indirectly controlled by them. On 7 February 2017, the Commission addressed a request for information to Pioneer Europe, to which Pioneer Europe replied on 27 February 2017.

(5) On […], Pioneer Corporation and Pioneer Europe submitted a formal offer to cooperate ('Settlement Submission'). The Settlement Submission contains:

— an acknowledgement in clear and unequivocal terms of Pioneer Corporation's and Pioneer Europe's joint and several liability for the infringement summarily described as regards its object, the main facts, their legal qualification, including their role and the duration of their participation in the infringement. Pioneer Europe also acknowledged liability on behalf of Pioneer GB Ltd,

— an indication of the maximum amount of the fine Pioneer Corporation and Pioneer Europe expect to be imposed by the Commission and which they would accept in the context of a cooperation procedure,

— the confirmation that Pioneer Corporation and Pioneer Europe have been sufficiently informed of the objections the Commission envisages raising against them and that they have been given sufficient opportunity to make their views known to the Commission,

— the confirmation that Pioneer Corporation and Pioneer Europe do not envisage requesting further access to the file or requesting to be heard again in an oral hearing, unless the Commission does not reflect its Settlement Submission in the statement of objections (the 'SO') and the decision,

— the agreement to receive the SO and the final decision in English.

(6) On 7 June 2018, the Commission adopted the SO, to which Pioneer Europe, Pioneer GB Ltd and Pioneer Corporation replied jointly by reiterating their commitment to follow the cooperation procedure and confirming that the SO reflected the content of the Settlement Submission. Pioneer Europe, Pioneer GB Ltd and Pioneer Corporation confirmed that they did not wish to be heard again by the Commission.

(7) The infringement found and the fines imposed in the draft decision correspond to those acknowledged and accepted in the Settlement Submission. The amount of the fines is reduced by 50 % on the ground that Pioneer has cooperated with the Commission beyond its legal obligation to do so by: (i) providing additional evidence representing significant added value with respect to the evidence already in the Commission's possession as that evidence strengthened to a very large extent the Commission's ability to prove the infringement; (ii) acknowledging the infringement of Article 101 TFEU in relation to the conduct; and (iii) waiving certain procedural rights, resulting in administrative efficiencies.

(8) In accordance with Article 16 of Decision 2011/695/EU, I have examined whether the draft decision deals only with objections in respect of which Pioneer Europe, Pioneer GB Ltd and Pioneer Corporation have been afforded the opportunity of making known its views. I conclude that it does.

[1] Pursuant to Articles 16 and 17 of Decision 2011/695/EU of the President of the European Commission of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings (OJ L 275, 20.10.2011, p. 29).

[2] Commission Regulation (EC) No 773/2004 of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty (OJ L 123, 27.4.2004, p. 18).

(9) Overall, I consider that the effective exercise of procedural rights has been respected in this case.

Brussels, 12 July 2018.

Wouter WILS

Summary of Commission Decision

of 24 July 2018

relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA Agreement

(Case AT.40182 — Pioneer (vertical restraints))

(notified under document number C(2018)4790 final)

(Only the English text is authentic)

(Text with EEA relevance)

(2018/C 338/11)

On 24 July 2018, the Commission adopted a decision relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA Agreement. In accordance with the provisions of Article 30 of Council Regulation (EC) No 1/2003 [1]*, the Commission herewith publishes the names of the parties and the main content of the decision, including any penalties imposed, having regard to the legitimate interest of undertakings in the protection of their business secrets.*

1. INTRODUCTION

(1) The Decision is addressed to Pioneer Corporation, Pioneer Europe N.V. and Pioneer GB Ltd (collectively 'Pioneer'). During the infringement period Pioneer Europe N.V. and Pioneer GB Ltd were wholly-owned subsidiaries of Pioneer Corporation (Japan).

(2) The Decision relates to a single and continuous infringement of Article 101 of the Treaty on the Functioning of the European Union ('TFEU') and Article 53 of the European Economic Area ('EEA') Agreement. In violation of Article 101 TFEU and Article 53 of the EEA Agreement Pioneer implemented practices in 12 EEA countries aimed at restricting the ability of retailers to determine their resale prices independently and restricting the territories into which they could sell.

2. CASE DESCRIPTION

2.1. Procedure

(3) The case against Pioneer originated from an unannounced inspection on 3 December 2013 at the premises of Pioneer Europe N.V. in Belgium for suspected resale price maintenance ('RPM') with regard to Pioneer's consumer electronics products. Shortly after the inspection, Pioneer indicated its interest to cooperate with the Commission and submitted further evidence regarding the relevant conduct.

(4) On 10 March 2015, the Commission carried out unannounced inspections at the premises of an online retailer in France and of another online retailer in Germany. These retailers sell, inter alia, Pioneer's products.

(5) On 2 February 2017 the Commission opened proceedings with a view to taking a decision under Chapter III of Regulation (EC) No 1/2003.

(6) Subsequently, Pioneer submitted a formal offer to cooperate in view of the adoption of a decision pursuant to Article 7 and Article 23 of Regulation (EC) No 1/2003.

(7) On 7 June 2018, the Commission adopted a Statement of Objections addressed to Pioneer. On 14 June 2018, Pioneer submitted its reply to the Statement of Objections.

(8) The Advisory Committee on Restrictive Practices and Dominant Positions issued a favourable opinion on 10 July 2018.

(9) The Commission adopted the Decision on 24 July 2018.

[1] OJ L 1, 4.1.2003, p. 1.

2.2. **Addressees and duration**

(10) The following undertaking has infringed Article 101 TFEU and Article 53 of the EEA Agreement by participating, during the period indicated below, in anti-competitive practices:

Undertaking	Duration
Pioneer	2 January 2011 – 14 November 2013

2.3. **Summary of the infringement**

(11) The products concerned by the Decision are the consumer home electronic products of Pioneer's Home Division.

(12) During the infringement period, Pioneer developed and implemented a pan-European strategy to encourage, coordinate and facilitate the close monitoring of the resale prices of its Home Division products. In this context, Pioneer took measures to monitor the resale prices of retailers in 12 EEA countries and to request and obtain the agreement of retailers to increase resale prices. This was achieved by putting commercial pressure on lower-pricing retailers and, in some cases, by taking retaliatory measures against non-compliant retailers. In addition, Pioneer took measures to restrict, discourage or prevent the parallel trade of Home Division products within the EEA.

(13) Interventions by Pioneer were either prompted by complaints from retailers regarding their competitors' resale prices, or initiated proactively by Pioneer. The increase in resale prices and the prevention of cross-border online sales to other EEA countries was achieved via serial number tracking that allowed Pioneer to identify the lower-pricing retailers/parallel traders.

(14) While Pioneer engaged the most frequently in RPM in France, Germany, Belgium and the Netherlands, Pioneer's general approach to resale prices was similar in the other affected EEA countries (Denmark, Finland, Italy, Portugal, Spain, Sweden, the United Kingdom, and Norway).

(15) By closely monitoring the resale prices of its retailers, intervening with the lowest pricing retailers to get their prices increased and by preventing cross-border online sales, Pioneer sought to avoid or slow down online price erosion across its entire (online) retail network.

2.4. **Remedies**

(16) The Decision applies the 2006 Guidelines on Fines [1].

2.4.1. *Basic amount of the fine*

(17) In setting the fines, the Commission took into account the value of sales in 2012, which is the last full business year of the participation of Pioneer in the infringement.

(18) The Commission took into account the fact that RPM and parallel trade restrictions, by their very nature, restrict competition within the meaning of Article 101(1) TFEU and Article 53 of the EEA Agreement. The Commission also took into account that vertical agreements and concerted practices are, by their nature, often less damaging to competition than horizontal agreements. Taking account of these factors and in light of the specific circumstances of the case the proportion of the values of sales was set at 8 %.

(19) The Commission took into account the duration of the single and continuous infringement, as mentioned above.

2.4.2. *Adjustments to the basic amount*

(20) There are no aggravating or mitigating circumstances in this case.

[1] OJ C 210, 1.9.2006, p. 2.

2.4.3. *Application of the 10 % turnover limit*

(21) The calculated fine does not exceed 10 % of Pioneer's worldwide turnover.

2.4.4. *Reduction of the fine in view of cooperation*

(22) The Commission concludes that, in order to reflect that Pioneer very effectively cooperated with the Commission beyond its legal obligation to do so, the fine that would otherwise have been imposed should, pursuant to point 37 of the Guidelines on Fines, be reduced by 50 %.

3. **CONCLUSION**

(23) In light of the above, the final amount of the fine imposed on Pioneer pursuant to Article 23(2)(a) of Regulation (EC) No 1/2003 for the single and continuous infringement is EUR 10 173 000.

EUROPEAN DATA PROTECTION SUPERVISOR

Summary of the Opinion of the European Data Protection Supervisoron the Proposal for a Regulation strengthening the security of identity cards of Union citizens and other documents

(The full text of this Opinion can be found in English, French and German on the EDPS website www.edps.europa.eu)

(2018/C 338/12)

This Opinion outlines the position of the EDPS on the Proposal for a Regulation of the European Parliament and of the Council on strengthening the security of identity cards of Union citizens and of residence documents issued to Union citizens and their family members exercising their right of free movement.

In this context, the EDPS observes that the Commission has clearly chosen to prioritise the free movement aspects of the Proposal and to treat the security-related objective as corollary. The EDPS remarks that this might have an impact on the analysis of necessity and proportionality of the elements of the Proposal.

The EDPS supports the objective of the European Commission to enhance the security standards applicable to identity cards and residence documents, thus contributing to security of the Union as a whole. At the same time, the EDPS considers that the Proposal does not sufficiently justify the need to process two types of biometric data (facial image and fingerprints) in this context, while the stated purposes could be achieved by a less intrusive approach.

Under the EU legal framework, as well as within the framework of Modernised Convention 108, biometric data are considered sensitive data and are subject to special protection. The EDPS stresses that both facial images and fingerprints that would be processed pursuant to the Proposal would clearly fall within this sensitive data category.

Furthermore, the EDPS considers that the Proposal would have a wide-ranging impact on up to 370 million EU citizens, potentially subjecting 85 % of EU population to mandatory fingerprinting requirement. This wide scope, combined with the very sensitive data processed (facial images in combination with fingerprints) calls for close scrutiny according to a strict necessity test.

In addition, the EDPS acknowledges that, given the differences between identity cards and passports, the introduction of security features that may be considered appropriate for passports to identity cards cannot be done automatically, but requires a reflection and a thorough analysis.

Moreover, the EDPS wishes to stress that Article 35(10) of the General Data Protection Regulation (hereinafter 'GDPR') ([1]) would be applicable to the processing at hand. In this context, the EDPS observes that the Impact Assessment accompanying the Proposal does not appear to support the policy option chosen by the Commission, i.e. the mandatory inclusion of both facial images and (two) fingerprints in ID cards (and residence documents). Consequently, the Impact Assessment accompanying the Proposal cannot be considered as sufficient for the purposes of compliance with Article 35(10) GDPR. Therefore, the EDPS recommends to reassess the necessity and the proportionality of the processing of biometric data (facial image in combination with fingerprints) in this context.

Furthermore, the Proposal should explicitly provide for safeguards against Member States establishing national dactyloscopic databases in the context of implementing the Proposal. A provision should be added to the Proposal stating explicitly that the biometric data processed in its context must be deleted immediately after their inclusion on the chip and may not be further processed for purposes other than those explicitly set out in the Proposal.

([1]) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

The EDPS understands that using biometric data might be considered as a legitimate anti-fraud measure, but the Proposal does not justify the need to store two types of biometric data for the purposes foreseen in it. One option to consider could be to limit the biometrics used to one (e.g. facial image only).

Moreover, the EDPS would like to underline that it understands that storing fingerprint images enhances interoperability, but at the same time it increases the amount of biometric data processed and the risk of impersonation in case of a personal data breach. Thus, the EDPS recommends to limit the fingerprint data stored on the documents chip to minutiae or patterns, a subset of the characteristics extracted from the fingerprint image.

Finally, taking into account the wide range and potential impact of the Proposal outlined above, the EDPS recommends setting the age limit for collecting children's fingerprints under the Proposal at 14 years, in line with other instruments of EU law.

1. INTRODUCTION AND BACKGROUND

1. On 17 April 2018, the European Commission (hereinafter 'the Commission') issued the Proposal for a Regulation of the European Parliament and of the Council on strengthening the security of identity cards of Union citizens and of residence documents issued to Union citizens and their family members exercising their right of free movement ([1]) that aims to improve the security features of EU citizens' identity cards and non-EU family members' residence cards (hereinafter 'the Proposal').

2. This proposal for a Regulation is part of the Action Plan of December 2016 'to strengthen the European response to travel document fraud' (hereinafter 'the Action Plan of December 2016') ([2]), in which the Commission identified actions to address the issue of document security, including identity cards and residence documents, in the context of recent terrorist attacks in Europe.

3. ID cards play an important role to secure the identification of a person for administrative and commercial purposes, which has been underlined by the Commission in its Communication adopted on 14 September 2016 'Enhancing security in a world of mobility: improved information exchange in the fight against terrorism and stronger external borders' ([3]). The need to improve the security of these documents was also highlighted in the EU Citizenship Report 2017.

4. Part of the EDPS` mission is to advise the Commission services in the drafting of new legislative proposals with data protection implications.

5. The EDPS welcomes that he had already been consulted informally by the European Commission on the draft Proposal and was given the opportunity to provide input on data protection aspects.

7. CONCLUSIONS

The EDPS observes that the Commission has clearly chosen to prioritise the free movement aspects of the Proposal and to treat the security-related objective as corollary. The EDPS remarks that this might have an impact on the analysis of necessity and proportionality of the elements of the Proposal.

The EDPS supports the objective of the European Commission to enhance the security standards applicable to identity cards and residence documents, thus contributing to security of the Union as a whole. At the same time, the EDPS considers that the Proposal does not sufficiently justify the need to process two types of biometric data (facial image and fingerprints) in this context, while the stated purposes could be achieved by a less intrusive approach.

Under the EU legal framework, as well as within the framework of Modernised Convention 108, biometric data are considered sensitive data and are subject to special protection. The EDPS stresses that both facial images and fingerprints that would be processed pursuant to the Proposal would clearly fall within this sensitive data category.

([1]) Proposal for a Regulation of the European Parliament and of the Council of 17 of April 2018 on strengthening the security of identity cards of Union citizens and of residence documents issued to Union citizens and their family members exercising their right of free movement, COM(2018) 212 final, 2018/0104 (COD).

([2]) Communication from the Commission to the European Parliament and the Council of 8 of December 2016: Action plan to strengthen the European response to travel document fraud, COM(2016) 790 final.

([3]) Communication from the Commission to the European Parliament, the European Council and the Council enhancing security in a world of mobility: improved information exchange in the fight against terrorism and stronger external borders, COM(2016) 602 final.

Furthermore, the EDPS considers that the Proposal would have a wide-ranging impact on up to 370 million EU citizens, potentially subjecting 85 % of EU population to mandatory fingerprinting requirement. This wide scope, combined with the very sensitive data processed (facial images in combination with fingerprints) calls for close scrutiny according to a strict necessity test.

In addition, the EDPS acknowledges that, given the differences between identity cards and passports, the introduction of security features that may be considered appropriate for passports to identity cards cannot be done automatically, but requires a reflection and a thorough analysis.

Moreover, the EDPS wishes to stress that Article 35(10) of the GDPR would be applicable to the processing at hand. In this context, the EDPS observes that the Impact Assessment accompanying the Proposal does not appear to support the policy option chosen by the Commission, i.e. the mandatory inclusion of both facial images and (two) fingerprints in ID cards (and residence documents). Consequently, the Impact Assessment accompanying the Proposal cannot be considered as sufficient for the purposes of compliance with Article 35(10) GDPR. Therefore, the EDPS recommends to reassess the necessity and the proportionality of the processing of biometric data (facial image in combination with fingerprints) in this context.

Furthermore, the Proposal should explicitly provide for safeguards against Member States establishing national dactyloscopic databases in the context of implementing the Proposal. A provision should be added to the Proposal stating explicitly that the biometric data processed in its context must be deleted immediately after their inclusion on the chip and may not be further processed for purposes other than those explicitly set out in the Proposal.

The EDPS understands that using biometric data might be considered as a legitimate anti-fraud measure, but the Proposal does not justify the need to store two types of biometric data for the purposes foreseen in it. One option to consider could be to limit the biometrics used to one (e.g. facial image only).

Moreover, the EDPS would like to underline that it understands that storing fingerprint images enhances interoperability, but at the same time it increases the amount of biometric data processed and the risk of impersonation in case of a personal data breach. Thus, the EDPS recommends to limit the fingerprint data stored on the documents chip to minutiae or patterns, a subset of the characteristics extracted from the fingerprint image.

Finally, taking into account the wide range and potential impact of the Proposal outlined above, the EDPS recommends setting the age limit for collecting children's fingerprints under the Proposal at 14 years, in line with other instruments of EU law.

Done at Brussels, 10 August 2018.

Giovanni BUTTARELLI

European Data Protection Supervisor

V

(Announcements)

PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION POLICY

EUROPEAN COMMISSION

Prior notification of a concentration

(Case M.8994 — Microsoft/GitHub)

(Text with EEA relevance)

(2018/C 338/13)

1. On 14 September 2018, the Commission received 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]).

This notification concerns the following undertakings:

— Microsoft Corporation (United States),

— GitHub Inc. (United States).

Microsoft Corporation acquires within the meaning of Article 3(1)(b) of the Merger Regulation sole control of the whole of GitHub Inc.. The concentration is accomplished by way of purchase of shares.

2. The business activities of the undertakings concerned are:

— for Microsoft Corporation: design, development and supply of computer software(including various software development and operations ('DevOps') tools), hardware devices and related services, cloud-based solutions, online advertising, recruiting and professional social network services,

— for GitHub Inc.: supply of DevOps tools and in particular the popular version control software, for use online (as a service) and on-premises, and job listing services.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the Merger Regulation. However, the final decision on this point is reserved.

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. The following reference should always be specified:

M.8994 — Microsoft/GitHub

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

Observations can be sent to the Commission by email, by fax, or by post. Please use the contact details below:

Email: COMP-MERGER-REGISTRY@ec.europa.eu

Fax +32 22964301

Postal address:

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

Prior notification of a concentration

(Case M.8785 — The Walt Disney Company/Twenty-First Century Fox)

(Text with EEA relevance)

(2018/C 338/14)

1. On 14 September 2018, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ([1]).

This notification concerns the following undertakings:

— The Walt Disney Company ('TWDC', United States),

— Twenty-First Century Fox, Inc. ('Fox', United States).

TWDC acquires within the meaning of Article 3(1)(b) of the Merger Regulation control of parts of Fox.

The concentration is accomplished by way of purchase of shares.

2. The business activities of the undertakings concerned are:

— TWDC is primarily active in the theatrical distribution of films, the supply/licensing of audiovisual content, the operation and wholesale supply of TV channels, consumer products, books and magazines, the provision of live entertainment, and the licensing of music. It also owns and operates a theme park, Disneyland Paris, provides cruises through the Disney Cruise Line, and offers travel packages;

— Fox is primarily active in the theatrical distribution of films, the supply/licensing of audiovisual content, and the operation and wholesale supply of TV channels.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the Merger Regulation. However, the final decision on this point is reserved.

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. The following reference should always be specified:

M.8785 — The Walt Disney Company/Twenty-First Century Fox

Observations can be sent to the Commission by email, by fax, or by post. Please use the contact details below:

Email: COMP-MERGER-REGISTRY@ec.europa.eu

Fax +32 22964301

Postal address:

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

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

Prior notification of a concentration

(Case M.9102 — Carlyle/Investindustrial/B&B Italia/Louis Poulsen/Flos)

Candidate case for simplified procedure

(Text with EEA relevance)

(2018/C 338/15)

1. On 14 September 2018, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ([1]).

This notification concerns the following undertakings:

— CEP IV Daisy S.à r.l., controlled by The Carlyle Group (together 'Carlyle', United States),

— Investindustrial Vehicle, controlled by the Investindustrial Group (together 'Investindustrial', United Kingdom),

— B&B Italia SpA. ('B&B Italia', Italy),

— Louis Poulsen A/S ('Louis Poulse', Denmark),

— Flos SpA. ('Flos', Italy).

Carlyle and Investindustrial acquire within the meaning of Article 3(1)(b) and Article 3(4) of the Merger Regulation joint control of the whole of B&B Italia, Flos and Louis Poulsen. The concentration is accomplished by way of purchase of shares.

2. The business activities of the undertakings concerned are:

— for Carlyle: as a global alternative asset manager, managing funds that invest globally in buyout and growth capital, real estate, infrastructure and energy, structured credit, hedge funds, middle market debt and private equity,

— for Investindustrial: as a European group of investment, holding and financial advisory companies, investing in medium-sized companies active in sectors such as industrial manufacturing, retail, leisure and business services,

— for B&B Italia: the manufacture and distribution of designer furniture focusing on indoor and outdoor furniture for residential applications, including furniture for living rooms, bedrooms, kitchens, as well as light fixtures for indoor use,

— for Louis Poulsen: the manufacture and distribution of designer lighting solutions, including indoor and outdoor lighting products for consumer and professional use,

— for Flos: the manufacture and distribution of designer lighting solutions, including indoor and outdoor lighting products for consumer and professional use.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the 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 Council Regulation (EC) No 139/2004 ([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. The following reference should always be specified:

M.9102 — Carlyle/Investindustrial/B&B Italia/Louis Poulsen/Flos

([1]) OJ L 24, 29.1.2004, p. 1 (the 'Merger Regulation').
([2]) OJ C 366, 14.12.2013, p. 5.

Observations can be sent to the Commission by email, by fax, or by post. Please use the contact details below:

Email: COMP-MERGER-REGISTRY@ec.europa.eu

Fax +32 22964301

Postal address:

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

ISSN 1977-091X (electronic edition)
ISSN 1725-2423 (paper edition)

Publications Office of the European Union
2985 Luxembourg
LUXEMBOURG

EN