

COMMISSION IMPLEMENTING REGULATION (EU) 2023/914
of 20 April 2023
implementing Council Regulation (EC) No 139/2004 on the control of concentrations between
undertakings and repealing Commission Regulation (EC) No 802/2004

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Article 57(2), point (a) of the Agreement on the European Economic Area in conjunction with Article 1 of Protocol 21 to that Agreement,

Having regard to Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings, ⁽¹⁾ and in particular Article 23(1) thereof,

After consulting the Advisory Committee,

Whereas:

- (1) Commission Regulation (EC) No 802/2004 of 7 April 2004 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings ⁽²⁾ has been amended several times. Since further changes now need to be made, Regulation (EC) No 802/2004 should be repealed and replaced, in the interest of clarity.
- (2) Regulation (EC) No 139/2004 is based on the principle of compulsory notification of concentrations before they are put into effect. Notification has important legal consequences which are favourable to the parties to the proposed concentration. However, failure to comply with the obligation to notify renders the parties liable to fines and may also entail civil law disadvantages for them. It is therefore necessary in the interests of legal certainty to define precisely the subject matter and content of the information to be provided in the notification.
- (3) It is for the notifying parties to make a full and honest disclosure to the Commission of the facts and circumstances which are relevant for taking a decision on the notified concentration.
- (4) Regulation (EC) No 139/2004 also allows the undertakings concerned to request, in a reasoned submission, prior to notification, that a concentration fulfilling the requirements of that Regulation be referred to the Commission by one or more Member States, or referred by the Commission to one or more Member States, as the case may be. It is important to provide the Commission and the competent authorities of the Member States concerned with sufficient information, in order to enable them to assess, within a short period of time, whether or not a referral ought to be made. To that end, the reasoned submission requesting the referral should contain certain specific information.
- (5) In order to simplify and expedite examination of notifications, of reasoned submissions, and of the information regarding commitments, standardised forms should be used. Those forms are set out in the Annexes to this Regulation. The format of the Annexes to this Regulation may change and the corresponding forms may be replaced by electronic forms containing the same information requirements.

⁽¹⁾ OJ L 24, 29.1.2004, p. 1.

⁽²⁾ OJ L 133, 30.4.2004, p. 1.

- (6) Since notification sets in motion legal time-limits laid down in Regulation (EC) No 139/2004, the conditions governing such time-limits and the time when they become effective should also be determined.
- (7) In the interest of legal certainty, rules should be laid down for calculating the time-limits provided for in Regulation (EC) No 139/2004. In particular, the beginning and end of time periods and the circumstances suspending the running of such periods should be determined, with due regard to the requirements resulting from the exceptionally tight legal timeframe available for the proceedings.
- (8) The provisions relating to the Commission's proceedings under Regulation (EC) No 139/2004 should be framed in such a way as to safeguard fully the right to be heard and the rights of defence. For these purposes, the Commission should distinguish between the parties who notify the concentration, other parties involved in the proposed concentration, third parties and parties regarding whom the Commission intends to take a decision imposing a fine or periodic penalty payments.
- (9) The Commission should give the notifying parties and other parties involved in the proposed concentration, if they so request, an opportunity to discuss the intended concentration informally and in strict confidence, before notification. In addition, the Commission should maintain close contact with those parties after notification, to the extent necessary to discuss with them any practical or legal problems which it discovers on a first examination of the case, with a view, if possible, to resolving such problems by mutual agreement.
- (10) In accordance with the principle of respect for the rights of defence, the notifying parties should be given the opportunity to submit their comments on all the objections which the Commission proposes to take into account in its decisions. The other parties involved in the proposed concentration should also be informed of the Commission's objections and should be granted the opportunity to express their views.
- (11) Third parties demonstrating a sufficient interest should also be given the opportunity to express their views, if they make a written application to that effect.
- (12) The various persons entitled to submit comments should do so in writing, both in their own interests and in the interests of sound administration, without prejudice to their right to request an oral hearing, where appropriate, to supplement the written procedure. In urgent cases, however, the Commission should be able to proceed immediately to oral hearings of the notifying parties, of other parties involved or of third parties.
- (13) It is necessary to lay down rules on the rights of persons who are to be heard, to what extent they should be granted access to the Commission's file and on what conditions they may be represented or assisted.
- (14) When granting access to the file, the Commission should ensure the protection of business secrets and other confidential information. The Commission should be able to ask undertakings that have submitted documents or statements to identify confidential information.
- (15) In order to enable the Commission to carry out a proper assessment of commitments offered by the notifying parties with a view to rendering a concentration compatible with the internal market, and to ensure due consultation with other parties involved, with third parties and with the authorities of the Member States as provided for in Regulation (EC) No 139/2004, the procedure and time-limits for submitting commitments should be laid down.
- (16) Transmission of documents to and from the Commission should in principle take place through digital means, considering developments in information and communication technology and the environmental impact of such transmissions. This applies in particular to notifications, reasoned submissions, comments in response to objections that the Commission addresses to notifying parties, as well as commitments offered pursuant to Article 6(2) or Article 8(2) of Regulation (EC) No 139/2004,

HAS ADOPTED THIS REGULATION:

CHAPTER I

SCOPE

Article 1

This Regulation shall apply to the control of concentrations conducted pursuant to Regulation (EC) No 139/2004.

CHAPTER II

NOTIFICATIONS AND OTHER SUBMISSIONS

Article 2

Persons entitled to submit notifications

1. Notifications shall be submitted by the persons or undertakings referred to in Article 4(2) of Regulation (EC) No 139/2004.
2. Where notifications are signed by authorised external representatives of persons or of undertakings, such representatives shall produce written proof that they are authorised to act.

Article 3

Submission of notifications

1. Notifications shall be submitted using the Form CO as set out in Annex I. Under the conditions set out in Annex II, notifications may be submitted using a Short Form CO as set out in that Annex. Joint notifications shall be submitted on a single form.
2. The forms referred to in paragraph 1 and all relevant supporting documents shall be submitted to the Commission in accordance with Article 22 and the instructions published by the Commission in the *Official Journal of the European Union*.
3. Notifications shall be drafted in one of the official languages of the Union. For the notifying parties, this language shall also be the language of the proceeding, as well as that of any subsequent proceedings relating to the same concentration. Supporting documents shall be submitted in their original language. Where the original language of a document is not one of the official languages of the Union, a translation into the language of the proceedings shall be attached.
4. Where notifications are made pursuant to Article 57 of the Agreement on the European Economic Area, they may also be submitted in one of the official languages of the EFTA States or the working language of the EFTA Surveillance Authority. If the language chosen for the notifications is not an official language of the Union, the notifying parties shall simultaneously supplement all documentation with a translation into an official language of the Union. The language which is chosen for the translation shall determine the language used by the Union as the language of the proceedings for the notifying parties.

Article 4

Information and documents to be provided

1. Notifications shall contain the information, including documents, required in the applicable forms set out in Annexes I and II. The information shall be correct and complete.

2. The Commission may, upon written request by the notifying parties, dispense with the obligation to provide any particular information in the notification, including documents, or with any other requirement specified in Annexes I and II where the Commission considers that compliance with those obligations or requirements is not necessary for the examination of the case.
3. The Commission shall without delay acknowledge in writing to the notifying parties or their representatives receipt of the notification and of any reply to a letter sent by the Commission pursuant to Article 5(2) and (3).

Article 5

Effective date of notification

1. Subject to paragraphs 2, 3 and 4, notifications shall become effective on the date on which they are received by the Commission.
2. Where the information, including documents, contained in the notification is incomplete in any material respect, the Commission shall inform the notifying parties or their representatives in writing without delay. In such cases, the notification shall become effective on the date on which the complete information is received by the Commission.
3. Material changes in the facts contained in the notification coming to light subsequent to the notification which the notifying parties know or ought to know, or any new information coming to light subsequent to the notification which the parties know or ought to know and which would have had to be notified if known at the time of notification, shall be communicated to the Commission without delay. In such cases, when these material changes or new information could have a significant effect on the appraisal of the concentration, the Commission may consider the notification as becoming effective on the date on which it receives the relevant information. The Commission shall inform the notifying parties or their representatives of this in writing and without delay.
4. For the purposes of this Article, incorrect or misleading information shall be considered to be incomplete information, without prejudice to Article 14(1) of Regulation (EC) No 139/2004.
5. Where the Commission publishes the fact of the notification pursuant to Article 4(3) of Regulation (EC) No 139/2004, it shall specify the date upon which the notification has been received. Where, further to the application of paragraphs 2, 3 and 4 of this Article, the effective date of notification is later than the date specified in that publication, the Commission shall issue a further publication in which it shall state the later date.

Article 6

Specific provisions relating to reasoned submissions, supplements and certifications

1. Reasoned submissions within the meaning of Article 4(4) and (5) of Regulation (EC) No 139/2004 shall contain the information, including documents, required in Annex III to this Regulation. The information submitted shall be correct and complete.
2. Article 2, Article 3(1), third sentence, Article 3(2), (3) and (4), Article 4, Article 5(1) to (4) and Article 22 of this Regulation shall apply *mutatis mutandis* to reasoned submissions within the meaning of Article 4(4) and (5) of Regulation (EC) No 139/2004.
3. Article 2, Article 3(1), third sentence, Article 3(2), (3) and (4), Article 4, Article 5(1) to (4) and Article 22 of this Regulation shall apply *mutatis mutandis* to supplements to notifications and certifications within the meaning of Article 10(5) of Regulation (EC) No 139/2004.

CHAPTER III

TIME-LIMITS

*Article 7***Beginning of time periods**

Time periods shall begin on the working day, as defined in Article 24 of this Regulation, following the event to which the relevant provision of Regulation (EC) No 139/2004 refers.

*Article 8***Expiry of time periods**

1. A time period calculated in working days shall expire at the end of its last working day.
2. A time period set by the Commission in terms of a calendar date shall expire at the end of that day.

*Article 9***Suspension of time limit**

1. The time limits referred to in Article 9(4) and Article 10(1) and (3) of Regulation (EC) No 139/2004 shall be suspended where the Commission has to take a decision pursuant to Article 11(3) or Article 13(4) of that Regulation, on any of the following grounds:
 - (a) information which the Commission has requested pursuant to Article 11(2) of Regulation (EC) No 139/2004 from one of the notifying parties or any other involved party, as defined in Article 11 of this Regulation, is not provided or not provided in full within the time limit fixed by the Commission;
 - (b) information which the Commission has requested pursuant to Article 11(2) of Regulation (EC) No 139/2004 from a third party is not provided or not provided in full within the time limit fixed by the Commission owing to circumstances for which one of the notifying parties or any other involved party, as defined in Article 11 of this Regulation, is responsible;
 - (c) one of the notifying parties or any other involved party, as defined in Article 11 of this Regulation, has refused to submit to an inspection deemed necessary by the Commission on the basis of Article 13(1) of Regulation (EC) No 139/2004 or to cooperate in the carrying out of such an inspection in accordance with Article 13(2) of that Regulation;
 - (d) the notifying parties have failed to inform the Commission of material changes in the facts contained in the notification, or of any new information of the kind referred to in Article 5(3) of this Regulation.
2. The time limits referred to in Article 9(4), Article 10(1) and (3) of Regulation (EC) No 139/2004 shall be suspended where the Commission has to take a decision pursuant to Article 11(3) of that Regulation, without proceeding first by way of simple request for information, owing to circumstances for which one of the undertakings involved in the concentration is responsible.
3. The time limits referred to in Article 9(4), Article 10(1) and (3) of Regulation (EC) No 139/2004 shall be suspended:
 - (a) in the cases referred to in paragraph 1, points (a) and (b), for the period between the expiry of the time limit set in the simple request for information, and the receipt of the complete and correct information required by decision or the moment when the Commission informs the notifying parties that, in light of the results of its ongoing investigation or market developments, the information requested is no longer necessary;

- (b) in the cases referred to in paragraph 1, point (c), for the period between the unsuccessful attempt to carry out the inspection and the completion of the inspection ordered by decision or the moment when the Commission informs the notifying parties that, in light of the results of its ongoing investigation or market developments, the inspection ordered is no longer necessary;
 - (c) in the cases referred to in paragraph 1, point (d), for the period between the occurrence of the change in the facts referred to therein and the receipt of the complete and correct information;
 - (d) in the cases referred to in paragraph 2 for the period between the expiry of the time limit set in the decision and the receipt of the complete and correct information required by decision or the moment when the Commission informs the notifying parties that, in light of the results of its ongoing investigation or market developments, the information requested is no longer necessary.
4. The suspension of the time limit shall begin on the working day following the day on which the event causing the suspension occurred. It shall expire at the end of the day on which the reason for suspension is removed. Where such a day is not a working day, the suspension of the time-limit shall expire at the end of the following working day.
5. The Commission shall process within a reasonable time period all the data it has received in the framework of its investigation that could allow it to deem that information requested or an inspection ordered is no longer necessary, within the meaning of paragraph 3, points (a), (b), and (d).

Article 10

Compliance with time limits

1. The time limits referred to in Article 4(4), fourth subparagraph, Article 9(4), Article 10(1) and (3), and Article 22(3) of Regulation (EC) No 139/2004 shall be met where the Commission has taken the relevant decision before the end of the period.
2. The time limits referred to in Article 4(4), second subparagraph, Article 4(5), third subparagraph, Article 9(2), Article 22(1), second subparagraph, and 22(2), second subparagraph, of Regulation (EC) No 139/2004 shall be met by a Member State concerned where that Member State, before the end of the period, informs the Commission in writing or makes or joins the request in writing, as the case may be.
3. The time limit referred to in Article 9(6) of Regulation (EC) No 139/2004 shall be met where the competent authority of a Member State concerned informs the undertakings concerned in the manner set out in that provision before the end of the period.

CHAPTER IV

EXERCISE OF THE RIGHT TO BE HEARD AND HEARINGS

Article 11

Parties to be heard

For the purposes of the right to be heard pursuant to Article 18 of Regulation (EC) No 139/2004, the following parties are distinguished:

- (a) notifying parties, that is, persons or undertakings submitting a notification pursuant to Article 4(2) of Regulation (EC) No 139/2004;
- (b) other involved parties, that is, parties to the proposed concentration other than the notifying parties, such as the seller and the undertaking which is the target of the concentration;

- (c) third persons, that is natural or legal persons, including customers, suppliers and competitors, provided they demonstrate a sufficient interest within the meaning of Article 18(4), second sentence, of Regulation (EC) No 139/2004, which is the case in particular:
- i) for members of the administrative or management bodies of the undertakings concerned or the recognised representatives of their employees;
 - ii) for consumer associations, where the proposed concentration concerns products or services used by final consumers.
- (d) parties regarding whom the Commission intends to take a decision pursuant to Article 14 or Article 15 of Regulation (EC) No 139/2004.

Article 12

Decisions on the suspension of concentrations

1. Where the Commission intends to take a decision pursuant to Article 7(3) of Regulation (EC) No 139/2004 which adversely affects one or more of the parties, it shall inform the notifying parties and other involved parties in writing of its objections and shall set a time limit within which they may make known their views in writing.
2. Where the Commission, pursuant to Article 18(2) of Regulation (EC) No 139/2004, has taken a decision referred to in paragraph 1 of this Article provisionally without having given the notifying parties and other involved parties the opportunity to make known their views, it shall without delay send them the text of the provisional decision and shall set a time limit within which they may make known their views in writing.

Once the notifying parties and other involved parties have made known their views, the Commission shall take a final decision repealing, amending or confirming the provisional decision. Where notifying parties and other involved parties have not made known their views in writing within the time limit set, the Commission's provisional decision shall become final with the expiry of that period.

Article 13

Decisions on the substance of the case

1. Where the Commission intends to take a decision pursuant to Article 6(3) or Article 8(2) to (6) of Regulation (EC) No 139/2004, it shall, before consulting the Advisory Committee, hear the parties pursuant to Article 18(1) and (3) of that Regulation.

Article 12(2) of this Regulation shall apply *mutatis mutandis* where, in application of Article 18(2) of Regulation (EC) No 139/2004, the Commission has taken a decision pursuant to Article 8(5) of that Regulation provisionally.

2. The Commission shall address its objections in writing to the notifying parties in a statement of objections. Following the issuance of the statement of objections, the Commission may address one or more supplementary statement(s) of objections to the notifying parties, if the Commission wishes to raise new objections or modify the intrinsic nature of the objections that were previously raised.

The Commission shall, when giving notice of objections, set a time limit within which the notifying parties may inform the Commission of their comments in writing.

The Commission shall inform other involved parties in writing of the objections referred to in the first subparagraph and set a time limit within which those parties may inform the Commission of their comments in writing.

The Commission shall not be obliged to take into account comments received after the expiry of a time limit which it has set.

3. In their written comments, parties to whom the objections have been addressed or who have been informed of those objections may set out all relevant facts known to them, and shall attach any relevant documents as proof of the facts set out. They may also propose that the Commission hear persons who may corroborate those facts. They shall submit their comments to the Commission in accordance with Article 22 and the instructions published by the Commission in the *Official Journal of the European Union*. The Commission shall forward copies of such written comments without delay to the competent authorities of the Member States.

4. Following the issuance of a statement of objections, the Commission may address a letter of facts to the notifying parties, informing them of additional or new facts or evidence that the Commission wishes to use to corroborate objections already raised.

When sending a letter of facts, the Commission shall set a time limit within which the notifying parties may inform the Commission of their comments in writing.

5. Where the Commission intends to take a decision pursuant to Article 14 or Article 15 of Regulation (EC) No 139/2004, it shall, before consulting the Advisory Committee, hear the parties regarding whom the Commission intends to take such a decision, pursuant to Article 18(1) and (3) of that Regulation.

The procedure provided for in paragraph 2, first and second subparagraphs, and paragraphs 3 and 4 shall apply, *mutatis mutandis*.

Article 14

Oral hearings

1. Where the Commission intends to take a decision pursuant to Article 6(3) or Article 8(2) to (6) of Regulation (EC) No 139/2004, it shall afford the notifying parties who have so requested in their written comments the opportunity to develop their arguments at an oral hearing. It may also, at other stages in the proceedings, afford the notifying parties the opportunity of expressing their views orally.

2. Where the Commission intends to take a decision pursuant to Article 6(3) or Article 8(2) to (6) of Regulation (EC) No 139/2004, it shall also afford other involved parties who have so requested in their written comments the opportunity to develop their arguments in an oral hearing. It may also, at other stages in the proceedings, afford other involved parties the opportunity of expressing their views orally.

3. Where the Commission intends to take a decision pursuant to Article 14 or Article 15 of Regulation (EC) No 139/2004, it shall afford parties on whom it proposes to impose a fine or periodic penalty payment the opportunity to develop their arguments in an oral hearing, if so requested in their written comments. It may also, at other stages in the proceedings, afford such parties the opportunity of expressing their views orally.

Article 15

Conduct of oral hearings

1. Oral hearings shall be conducted by the Hearing Officer in full independence.

2. The Commission shall invite the persons to be heard to attend the oral hearing on such date as it shall determine.

3. The Commission shall invite the competent authorities of the Member States to take part in any oral hearing.

4. Persons invited to attend shall either appear in person or be represented by legal representatives or by representatives authorised by their constitution as appropriate. Undertakings and associations of undertakings may also be represented by a duly authorised agent appointed from among their permanent staff.

5. Persons heard by the Commission may be assisted by their lawyers or other qualified and duly authorised persons admitted by the Hearing Officer.

6. Oral hearings shall not be public. Each person may be heard separately or in the presence of other persons invited to attend, having regard to the legitimate interest of the undertakings in the protection of their business secrets and other confidential information.
7. The Hearing Officer may allow all parties within the meaning of Article 11, the Commission services and the competent authorities of the Member States to ask questions during the oral hearing.
8. The Hearing Officer may hold a preparatory meeting with the parties and the Commission services, so as to facilitate the efficient organisation of the oral hearing.
9. The statements made by each person heard shall be recorded. Upon request, the recording of the oral hearing shall be made available to the persons who attended that hearing. Regard shall be had to the legitimate interest of the undertakings in the protection of their business secrets and other confidential information.

Article 16

Hearing of third persons

1. If third persons apply to be heard, the Commission shall inform them in writing of the nature and subject matter of the proceedings and shall set a time limit within which they may make known their views.
2. Where a statement of objections or a supplementary statement of objections has been issued, the Commission may send to third persons a non-confidential version of that statement or inform them of the nature and subject matter of the proceedings by other appropriate means. For this purpose, the notifying parties shall identify any information which they consider confidential in the objections, pursuant to Article 18(3), second and third subparagraphs, within five working days from the receipt of the statement. The Commission shall provide the non-confidential version of the objections to third persons only to be used for the purposes of the relevant proceedings pursuant to Regulation (EC) No 139/2004. Third persons shall accept that use restriction prior to receipt of the non-confidential version of the objections.

Where a statement of objections has not been issued, the Commission shall be under no obligation to provide third persons referred to in paragraph 1 with any information beyond the nature and the subject matter of the proceedings.

3. The third persons referred to in paragraph 1 shall make known their views in writing within the time limit set. The Commission may, where appropriate, afford such third persons who have so requested in their written comments the opportunity to participate in a hearing. It may also in other cases afford such third persons the opportunity of expressing their views orally.
4. The Commission may invite any other natural or legal person to express its views, in writing as well as orally, including at an oral hearing.

CHAPTER V

ACCESS TO THE FILE AND TREATMENT OF CONFIDENTIAL INFORMATION

Article 17

Access to the file and use of documents

1. If so requested, the Commission shall grant access to the file to the parties to whom it has addressed a statement of objections, for the purpose of enabling them to exercise their rights of defence. Access shall be granted after the Commission gives notice of the statement of objections to the notifying parties.

2. The Commission shall, upon request, also give the other involved parties who have been informed of the objections access to the file in so far as this is necessary for the purposes of preparing their comments.
3. The right of access to the file shall not extend to:
 - (a) confidential information;
 - (b) internal documents of the Commission;
 - (c) internal documents of competent authorities of Member States;
 - (d) correspondence between the Commission and the competent authorities of Member States;
 - (e) correspondence between the competent authorities of Member States; and
 - (f) correspondence between the Commission and other competition authorities.
4. Documents obtained through access to the file pursuant to this Article may only be used for the purposes of the relevant proceedings pursuant to Regulation (EC) No 139/2004.

Article 18

Treatment of confidential information

1. Information, including documents, shall not be communicated or made accessible by the Commission in so far as:
 - (a) it contains business secrets or other confidential information; and
 - (b) the disclosure of the information is not considered necessary by the Commission for the purpose of the proceedings.
2. Persons, undertakings, or associations of undertakings who make known their views or comments pursuant to Articles 12, 13 and 16 of this Regulation, or supply information pursuant to Article 11 of Regulation (EC) No 139/2004, or subsequently submit further information to the Commission in the course of the same proceedings, shall clearly identify any material which they consider to be confidential, giving reasons, and provide a separate non-confidential version by the date set by the Commission.
3. Without prejudice to paragraph 2, the Commission may require persons referred to in Article 3 of Regulation (EC) No 139/2004, undertakings and associations of undertakings in all cases where they produce or have produced documents or statements pursuant to Regulation (EC) No 139/2004 to identify the documents or parts of documents which they consider to contain business secrets or other confidential information belonging to them and to identify the undertakings with regard to which such documents are to be considered confidential.

The Commission may also require persons referred to in Article 3 of Regulation (EC) No 139/2004, undertakings or associations of undertakings to identify any part of a statement of objections, case summary or a decision adopted by the Commission which in their view contains business secrets.

Where business secrets or other confidential information are identified, the persons, undertakings and associations of undertakings shall give reasons and provide a separate non-confidential version by the date set by the Commission.

4. If persons, undertakings or associations of undertakings fail to comply with paragraphs 2 or 3, the Commission may assume that the documents or statements concerned do not contain confidential information.

CHAPTER VI

COMMITMENTS OFFERED BY THE UNDERTAKINGS CONCERNED*Article 19***Time limits for submission of commitments**

1. Commitments offered by the undertakings concerned pursuant to Article 6(2) of Regulation (EC) No 139/2004 shall be submitted to the Commission within 20 working days from the date of receipt of the notification.
2. Commitments offered by the undertakings concerned pursuant to Article 8(2) of Regulation (EC) No 139/2004 shall be submitted to the Commission within 65 working days from the date on which proceedings were initiated.

Where the undertakings concerned first offer commitments within less than 55 working days from the date on which proceedings were initiated but submit a modified version of the commitments 55 or more working days from that date, the modified commitments shall be deemed to be new commitments for the purpose of applying Article 10(3), second sentence, of Regulation (EC) No 139/2004.

Where pursuant to Article 10(3), second subparagraph, of Regulation (EC) No 139/2004 the period for the adoption of a decision pursuant to Article 8(1) to (3) is extended, the period of 65 working days for the submission of commitments shall automatically be extended by the same number of working days.

In exceptional circumstances, the Commission may accept to consider commitments offered after the expiry of the relevant time limit for their submission as prescribed in this Article. In deciding whether to accept to consider commitments offered in such circumstances, the Commission shall have particular regard to the need to comply with the requirements of Article 19(5) of Regulation (EC) No 139/2004.

3. Articles 7, 8 and 9 shall apply *mutatis mutandis*.

*Article 20***Procedure for the submission of commitments**

1. The commitments offered by the undertakings concerned pursuant to Article 6(2) or Article 8(2) of Regulation (EC) No 139/2004 shall be submitted to the Commission in accordance with Article 22 and the instructions published by the Commission in the *Official Journal of the European Union*. The Commission shall forward such commitments without delay to the competent authorities of the Member States.
2. In addition to the requirements set out in paragraph 1, the undertakings concerned shall, at the same time as offering commitments pursuant to Article 6(2) or Article 8(2) of Regulation (EC) No 139/2004, submit the information required by the Form RM as set out in Annex IV to this Regulation in accordance with Article 22 and the instructions published by the Commission in the *Official Journal of the European Union*. The information submitted shall be correct and complete.

Article 4 shall apply *mutatis mutandis* to the Form RM accompanying the commitments offered pursuant to Article 6(2) or Article 8(2) of Regulation (EC) No 139/2004.

3. When offering commitments pursuant to Article 6(2) or Article 8(2) of Regulation (EC) No 139/2004, the undertakings concerned shall at the same time clearly identify any information which they consider to be confidential, giving reasons, and shall provide a separate non-confidential version.
4. Commitments offered pursuant to Article 6(2) or Article 8(2) of Regulation (EC) No 139/2004 shall be signed by the notifying parties, as well as by any other involved parties on whom the commitments impose obligations.

5. A non-confidential version of the commitments shall be published on the website of the Commission's Directorate General for Competition without delay following the adoption of a decision pursuant to Article 6(2) or Article 8(2) of Regulation (EC) No 139/2004. To that effect, the notifying parties shall provide to the Commission a non-confidential version of the commitments within five working days from the adoption of the decision pursuant to Article 6(2) or Article 8(2) of Regulation (EC) No 139/2004.

Article 21

Trustees

1. The commitments offered by the undertakings concerned pursuant to Article 6(2) or Article 8(2) of Regulation (EC) No 139/2004 may include, at the own expense of the undertakings concerned, the appointment of one or more independent trustees to assist the Commission in overseeing the parties' compliance with the commitments or to implement the commitments. The trustees may be appointed by the parties, after the Commission's approval, or by the Commission. The trustees shall carry out their tasks under the supervision of the Commission.

2. The Commission may attach to its decision pursuant to Article 6(2) or 8(2) of Regulation (EC) No 139/2004 conditions or obligations related to the trustees referred to in paragraph 1.

CHAPTER VII

MISCELLANEOUS PROVISIONS

Article 22

Transmission and signature of documents

1. Transmission of documents to and from the Commission shall take place through digital means, save where the Commission exceptionally allows that other means identified in paragraph (6) and (7) may be used.

2. Where a signature is required, documents submitted through digital means must be signed using at least one Qualified Electronic Signature (QES) complying with the requirements set out in Regulation (EU) No 910/2014 (the "eIDAS Regulation")⁽³⁾ and its future amendments.

3. Detailed technical specifications regarding the means of transmission and signature shall be published in the *Official Journal of the European Union* and shall be made available on the website of the Commission's Directorate General for Competition.

4. With the exception of the forms included in Annexes I, II, and III, all documents transmitted electronically to the Commission on a working day shall be deemed to have been received on the day they were sent, provided that an automated acknowledgement of receipt shows in its timestamp that they were received that day. The forms included in Annexes I, II, and III transmitted electronically to the Commission on a working day shall be deemed to have been received on the day they were sent, provided that an automated acknowledgement of receipt shows in its timestamp that they were received that day before or during the opening hours indicated on DG Competition's website. The forms included in Annexes I, II, and III transmitted electronically to the Commission on a working day after the opening hours indicated on DG Competition's website shall be deemed to have been received on the next working day. All documents transmitted electronically to the Commission outside a working day shall be deemed to have been received on the next working day.

⁽³⁾ Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

5. Documents transmitted electronically to the Commission shall not be deemed to be received if the documents or parts thereof :

- (a) are unusable (corrupted);
- (b) contain viruses, malware or other threats;
- (c) contain electronic signatures the validity of which cannot be verified by the Commission.

In those cases, the Commission shall inform the sender without delay.

6. Documents transmitted to the Commission by registered post shall be deemed to have been received on the day of their arrival at the address published in the *Official Journal of the European Union*. This address shall be also indicated on the website of the Commission's Directorate General for Competition.

7. Documents transmitted to the Commission by means of hand delivery shall be deemed to have been received on the day of their arrival at the address published in the *Official Journal of the European Union*, as long as this is confirmed in an acknowledgment of receipt by the Commission. This address shall be also indicated on the website of the Commission's Directorate General for Competition.

Article 23

Setting of time limits

1. In setting the time limits referred to in Article 12(1) and (2), Article 13(2) and Article 16(1), the Commission shall have regard to the urgency of the case and the time required for the notifying parties, the other involved parties, or the third persons to prepare their views or comments. The Commission shall also take account of public holidays in the country where the notifying parties, the other involved parties, or the third persons are located.
2. Time limits shall be set in terms of a precise calendar date.

Article 24

Working days

The expression "working days" in Regulation (EC) No 139/2004 and in this Regulation means all days other than Saturdays, Sundays, and Commission holidays as published in the *Official Journal of the European Union* before the beginning of each year.

Article 25

Repeal and transitional provisions

1. Without prejudice to paragraph 2, Regulation (EC) No 802/2004 is repealed with effect from 1 September 2023.

References to the repealed Regulation shall be construed as references to this Regulation.

2. Regulation (EC) No 802/2004 shall continue to apply to any concentration falling within the scope of Regulation (EC) 139/2004 and notified on or before 31 August 2023.

Article 26

Entry into force

This Regulation shall enter into force on 1 September 2023.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 20 April 2023.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

**FORM RELATING TO THE NOTIFICATION OF A CONCENTRATION PURSUANT TO COUNCIL REGULATION
(EC) No 139/2004****(FORM CO)**

INTRODUCTION

A. The purpose of the Form CO

- (1) This Form CO specifies the information that must be provided by notifying parties when submitting a notification to the European Commission of a proposed merger, acquisition or other concentration. The merger control system of the European Union is laid down in Council Regulation (EC) No 139/2004 ⁽¹⁾ and in Commission Implementing Regulation (EU) 2023/914 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (the “Implementing Regulation”) ⁽²⁾, to which this Form CO is annexed. Your attention is drawn to the corresponding provisions of the Agreement on the European Economic Area ⁽³⁾ (‘EEA Agreement’).

B. Pre-notification contacts and waiver requests**1. Types of information requested by the Form CO**

- (2) The Form CO requires the following information:
- (a) basic information which is in principle necessary for the assessment of all concentrations (Sections 1-10);
 - (b) information on efficiencies (Section 11);
 - (c) information to be provided in cases involving joint ventures (Section 12).
- (3) The information requested in Sections 1-10 must in principle be provided in all cases and is therefore a requirement for a complete notification. Section 11 requires information on efficiencies of the notified transaction which the notifying parties may submit if they wish the Commission to consider from the outset any efficiency claims. Section 12 must be provided in all cases involving joint ventures; in these cases, that information is a requirement for a complete notification.

2. Information that is not reasonably available

- (4) In exceptional circumstances, specific pieces of information required by this Form CO may not be reasonably available to the notifying parties in part or in whole (e.g., because information on a target company is not available in case of a contested bid). In this case, the notifying parties may request the Commission to dispense with the obligation to provide the relevant information or with any other requirement in the Form CO related to that information. The request should be submitted in accordance with the instructions in section B.4.

⁽¹⁾ Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the ‘Merger Regulation’) (OJ L 24, 29.1.2004, p. 1).

⁽²⁾ See p. 22 of this Official Journal.

⁽³⁾ See in particular Article 57 of the Agreement on the European Economic Area (‘EEA Agreement’), point 1 of Annex XIV to the EEA Agreement, Protocols 21 and 24 to the EEA Agreement (all available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A21994A0103%2801%29>), as well as Protocol 4 to the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice (‘Surveillance and Court Agreement’), available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ%3AJOL_1994_344_R_0001_003. Any reference to EFTA States must be understood to mean those EFTA States which are Contracting Parties to the EEA Agreement. As of 1 May 2004, these States are Iceland, Liechtenstein and Norway.

3. Information that is not necessary for the Commission's examination of the case

- (5) Pursuant to Article 4(2) of the Implementing Regulation, the Commission may dispense with the obligation to provide any particular information in the Form CO, including documents, or with any other requirements where the Commission considers compliance with those obligations or requirements is not necessary for the examination of the case.
- (6) Although necessary for the Commission's examination of certain cases, in other cases Article 4(2) of the Implementing Regulation would apply in particular to information referred to in sections 3.4, 3.5, 3.6, 3.7, 5.5 and 5.6 and Section 10 of this Form CO.
- (7) In such circumstances, the notifying parties may request the Commission to dispense with the obligation to provide the relevant information or with any other requirement in the Form CO related to this information. This request should be submitted in accordance with the instructions laid down in section B.4.

4. Pre-notification contacts and waiver requests

- (8) Notifying parties are invited to engage in pre-notification discussions in all normal cases on the basis of a draft Form CO. The possibility to engage in pre-notification contacts is a service offered by the Commission to notifying parties on a voluntary basis in order to prepare the formal merger review proceedings. As such, while not mandatory, pre-notification contacts are extremely valuable to both the notifying parties and the Commission in determining, among other things, the precise amount of information required in a Form CO and, in the majority of cases, will result in a significant reduction of the information required.
- (9) In the course of pre-notification contacts, notifying parties may submit requests for waivers. The Commission will consider waiver requests provided that one of the following conditions is fulfilled:
 - (a) the notifying parties give adequate reasons why the relevant information is not reasonably available and provide best estimates for the missing data, identifying the sources for these estimates. Where possible, the notifying parties must indicate where any of the requested information that is unavailable could be obtained by the Commission or the relevant Member State(s) and EFTA State(s);
 - (b) the notifying parties give adequate reasons why the relevant information is not necessary for the examination of the case.
- (10) Waiver requests should be made in the draft Form CO itself (at the beginning of the relevant Section or sub-Section). The Commission's Directorate-General for Competition ('DG Competition') will deal with waiver requests in the context of the review of the draft Form CO. DG Competition will normally require five working days before responding to a waiver request.
- (11) For the avoidance of doubt, the fact that the Commission may have accepted that any particular information requested by this Form CO may be omitted from a notification made using the Form CO does not in any way prevent the Commission from requesting that information at any time during the proceedings, in particular through a request for information pursuant to Article 11 of the Merger Regulation.
- (12) The notifying parties are referred to the 'Best Practices on the conduct of EC merger control proceedings' as published on DG Competition's website and updated from time to time, which provide guidance on pre-notification contacts and the preparation of notifications.

C. The requirement for a correct and complete notification

- (13) As explained in section B.1., the information requested in Sections 1-10 must in principle be provided in all normal cases ⁽⁴⁾ and is therefore a requirement for a complete notification. All the required information must be supplied in the appropriate section of the Form CO and it must be correct and complete.
- (14) In particular you should note that:
- (a) in accordance with Article 10(1) of the Merger Regulation and Article 5(2) and (4) of the Implementing Regulation, the time limits laid down in the Merger Regulation with regard to the notification will not start until all the information that has to be supplied with the notification has been received by the Commission. This is to ensure that the Commission is able to assess the notified concentration within the strict time limits laid down in the Merger Regulation;
 - (b) the notifying party or parties must verify, in the course of preparing their notification, that contact names and numbers, and in particular e-mail addresses, provided to the Commission are accurate, relevant and up-to-date;
 - (c) in accordance with Article 5(4) of the Implementing Regulation, incorrect or misleading information in the notification will be considered to be incomplete information;
 - (d) requested contact details must be provided in the format prescribed by DG Competition on its website ⁽⁵⁾. For a proper investigatory process, it is essential that the contact details are accurate. To this end, please ensure that the email addresses provided are personalised and attributed to specific contact persons and that they are not general company mailboxes (e.g., info@, hello@). The Commission may declare the notification incomplete on the basis of inappropriate contact details;
 - (e) under Article 14(1), point (a), of the Merger Regulation, notifying parties who, either intentionally or negligently, supply incorrect or misleading information, may be liable to fines of up to 1 % of the aggregate turnover of the undertaking concerned. In addition, pursuant to Article 6(3), point (a), and Article 8(6), point (a), of the Merger Regulation the Commission may revoke its decision on the compatibility of a notified concentration where it is based on incorrect information for which one of the parties to the concentration is responsible.

D. How to notify

- (15) The information requested by this Form CO is to be set out using the provided sections of the Form CO and paragraph numbers, contained therein, signing a declaration as provided in Section 13, and annexing supporting documentation. Where information required by one section partly (or wholly) overlaps with information required by another section, this same information should not be submitted twice though accurate cross-referencing should be used.
- (16) The Form CO must be signed by persons authorised by law to act on behalf of each notifying party or by one or more authorised external representatives of the notifying party or parties. The corresponding power of attorney must be attached to the Form CO. ⁽⁶⁾ Technical specifications and instructions regarding notifications (including signatures) can be found in the *Official Journal of the European Union*.
- (17) In completing Sections 6, 8, 9 and 10 of this Form CO, the notifying parties are invited to consider whether, for purposes of clarity, those sections are best presented in numerical order, or whether they can be grouped together for each individual affected market (or group of affected markets).
- (18) For the sake of clarity, certain information may be put in annexes. However, it is essential that all key substantive pieces of information, and in particular market share information for the parties and their largest competitors, are presented in the body of Form CO. Annexes to this Form CO must only be used to supplement the information supplied in the Form CO itself.

⁽⁴⁾ And Section 12 in cases involving joint ventures.

⁽⁵⁾ Please see https://ec.europa.eu/competition-policy/mergers/practical-information_en.

⁽⁶⁾ See power of attorney template at https://ec.europa.eu/competition/mergers/legislation/power_of_attorney_template_en.docx.

- (19) Supporting documents are to be submitted in their original language; where this is not an official language of the Union, they must be translated into the language of the proceeding (Article 3(4) of the Implementing Regulation).
- (20) Supporting documents may be copies of the originals. In this case, the notifying party must confirm that they are true and complete.

E. Confidentiality and Personal Data

- (21) Article 339 of the Treaty on the Functioning of the European Union and Article 17(2) of the Merger Regulation as well as the corresponding provisions of the EEA Agreement ⁽⁷⁾ require the Commission, the Member States, the EFTA Surveillance Authority and the EFTA States, their officials and other servants not to disclose information they have acquired through the application of the Regulation of the kind covered by the obligation of professional secrecy. The same principle must also apply to protect confidentiality between notifying parties.
- (22) If you believe that your interests would be harmed if any of the information you are asked to supply were to be published or otherwise disclosed to other parties, you should submit this information separately with each page clearly marked 'Business Secrets'. You should also give reasons why this information should not be disclosed or published.
- (23) In the case of mergers or joint acquisitions, or in other cases where the notification is completed by more than one of the parties, business secrets may be submitted under separate cover, and referred to in the notification as an annex. In order for a notification to be considered complete, all such annexes must be included in the notification.
- (24) Any personal data submitted in this Form CO will be processed in compliance with Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC. ⁽⁸⁾

F. Definitions and instructions for the purposes of this Form CO

- (25) For the purposes of this Annex, the following definitions apply:
- (a) 'Party/parties to the concentration' or 'party/parties': These terms relate to both the acquiring party/parties and the acquired party/parties, or the merging parties, including all undertakings in which a controlling interest is being acquired or which is the subject of a public bid. Unless otherwise specified, the terms 'notifying party/parties' and 'party/parties to the concentration' include all the undertakings which belong to the same groups as those parties.
- (b) 'Relevant product market': A relevant product market comprising all those products or services, or both, which are regarded as interchangeable or substitutable by the consumer, by reason of the products' or services' characteristics, their prices and their intended use. A relevant product market may in some cases be composed of a number of individual products or services, or both, which present largely identical physical or technical characteristics and are interchangeable. Factors relevant to the assessment of the relevant product market include the analysis of why the products or services in these markets are included and why others are excluded by using this definition, and having regard to, for example, substitutability of products and services, prices, cross-price elasticity of demand or other relevant factors (such as supply-side substitutability in appropriate cases).

⁽⁷⁾ See, in particular, Article 122 of the EEA Agreement, Article 9 of Protocol 24 to the EEA Agreement and Article 17(2) of Chapter XIII of Protocol 4 to the Surveillance and Court Agreement.

⁽⁸⁾ OJ L 295, 21.11.2018, p. 39. See also a privacy statement relating to Merger investigations at https://ec.europa.eu/competition-policy/index/privacy-policy-competition-investigations_en.

- (c) 'Relevant geographic market': The relevant geographic market comprising the area in which the undertakings concerned are involved in the supply and demand of relevant products or services, in which the conditions of competition are sufficiently homogeneous and which can be distinguished from neighbouring geographic areas because, in particular, conditions of competition are appreciably different in those areas. Factors relevant to the assessment of the relevant geographic market include, inter alia, the nature and characteristics of the products or services concerned, the existence of entry barriers, consumer preferences, appreciable differences in the undertakings' market shares between neighbouring geographic areas or substantial price differences.
 - (d) 'Horizontal overlap': A concentration gives rise to horizontal overlaps when the parties to the concentration are engaged in business activities in the same relevant product and geographic market(s) (including the development of pipeline products ⁽⁹⁾). ⁽¹⁰⁾
 - (e) 'Non-horizontal relationship': A concentration gives rise to non-horizontal relationship when the activities of the parties to the concentration are in a relationship that is not a horizontal overlap.
 - (f) 'Vertical relationship': A concentration gives rise to vertical relationships when one or more of the parties to the concentration are engaged in business activities in a product market which is upstream or downstream from a product market in which any other party to the concentration is engaged (including the development of pipeline products). ⁽¹¹⁾
 - (g) 'Affected markets': Affected markets are all relevant product and geographic markets, as well as plausible alternative relevant product and geographic markets, where the parties' activities overlap horizontally or are vertically related and which do not meet the conditions for review under point 5 of the Notice on Simplified Procedure ⁽¹²⁾ and do not benefit from the flexibility clauses of point 8 of the Notice on Simplified Procedure.
- (26) The financial data requested in Section 4 must be provided in euro at the average exchange rates prevailing for the years or other periods in question.

G. Description of quantitative economic data collected by the undertakings concerned

- (27) The information requested in sections 5.5 and 5.6 of this Form must be supplied for the Form CO to be considered complete.
- (28) For further guidance, the parties to the concentration may refer to DG Competition's 'Best Practices for the submission of economic evidence and data collection in cases concerning the application of Articles 101 and 102 TFEU and in merger cases' as published on DG Competition's website and updated from time to time.

H. International cooperation between the Commission and other competition authorities

- (29) The Commission encourages the parties to the concentration to facilitate international cooperation between the Commission and other competition authorities reviewing the same concentration. In the Commission's experience, good cooperation between the Commission and competition authorities in jurisdictions outside the EEA entails substantial benefits for the undertakings concerned.

⁽⁹⁾ Pipeline products are products likely to be brought to market in the short or medium term. "Pipeline products" also covers services.

⁽¹⁰⁾ Horizontal overlaps involving pipeline products include overlaps between pipeline products and overlaps between one or more marketed product(s) and one or more pipeline product(s).

⁽¹¹⁾ Vertical relationships involving pipeline products include relationships between pipeline products and relationships between one or more marketed product(s) and one or more pipeline product(s).

⁽¹²⁾ Commission Notice on a simplified treatment of certain concentrations under Council Regulation (EC) No 139/2004 (OJ C 160, 5.5.2023, p. 1) (the 'Notice on Simplified Procedure').

- (30) Furthermore, the Commission encourages the parties to the concentration to submit confidentiality waivers that would enable the Commission to share information with other competition authorities outside the EEA reviewing the same concentration. Each waiver facilitates joint discussion and analysis of a concentration as it allows the Commission to share relevant information with another competition authority reviewing the same concentration, including confidential business information obtained from the parties to the concentration. To this end, the Commission encourages the parties to the concentration to use the Commission's model waiver, which is published on DG Competition's website and updated from time to time.

SECTION 1

DESCRIPTION OF THE CONCENTRATION

- 1.1. Provide an executive summary of the concentration, specifying the parties to the concentration, the nature of the concentration (for example, merger, acquisition, or joint venture), the areas of activity of the parties to the concentration, the markets on which the concentration will have an impact (including the main affected markets ⁽¹³⁾), and the strategic and economic rationale for the concentration.
- 1.2. Provide a non-confidential summary (up to 500 words) of the information provided under Section 1.1, including: the way by which the concentration is accomplished (for example, by way of purchase of shares, public bid, contract etc.); the articles of the Merger Regulation pursuant to which the transaction qualifies as a concentration; the undertakings concerned. For each of the undertakings concerned provide: Full name, country of incorporation, ultimately controlling entity, short description of activities and geographic areas of activity. For newly created JVs provide intended activities and geographic areas of activity. It is intended that this summary will be published on DG Competition's website upon notification. The summary must be drafted so that it contains no confidential information or business secrets.

Example (please delete for notification)

This notification concerns the following undertakings:

[Full name of Company A] ([Short name of company A], [Country of origin of Company A]), controlled by [Company X]

[Full name of Company B] ([Short name of company B], [Country of origin of Company B]), controlled by [Company Y]

[Company A] acquires within the meaning of Article 3(1), point (b) of the Merger Regulation sole control of (the whole/part) of [Company B] OR

[Company A] enters into a full merger within the meaning of Article 3(1), point (a) of the Merger Regulation with [Company B] OR

[Company A] and [Company B] acquire within the meaning of Article 3(1), point (b) and Article 3(4) of the Merger Regulation joint control of [Company C].

The concentration is accomplished by [Means of implementing the concentration, e.g. way of purchase of shares/assets, etc].

The business activities of the undertakings concerned are:

- a. *for [Company A]: [Brief description of activity, e.g., diversified chemicals with primary activities in agricultural sciences, performance plastics and chemicals, and hydrocarbon and energy products and services].*
- b. *for [Company B]: [Brief description of activity, e.g., silicone-based technology and innovation with primary activities in development and production of polymers and other materials based on silicone chemistry].*

⁽¹³⁾ See Section 6 for more information on how to identify affected markets.

SECTION 2

INFORMATION ABOUT THE PARTIES2.1. Information about the parties to the concentration ⁽¹⁴⁾

For each of the parties to the concentration provide:

- 2.1.1. the name of the undertaking;
- 2.1.2. whether the undertaking is a notifying party or not;
- 2.1.3. the name, address, telephone number and e-mail address of, and position held by, the appropriate contact person; the address given must be an address for service to which documents and, in particular, Commission decisions and other procedural documents may be notified, and the contact person given must be deemed to be authorised to accept service;
- 2.1.4. if one or more authorised external representatives of the undertaking are appointed, the representative or representatives to which documents and, in particular, Commission decisions and other procedural documents may be notified:
 - 2.1.4.1. the name, address, telephone number and e-mail address of, and position held by, each representative; and
 - 2.1.4.2. the original power of attorney (for the notifying party or parties).

2.2. Nature of the parties' business

For each of the parties to the concentration, describe the nature of the undertaking's business.

SECTION 3

DETAILS OF THE CONCENTRATION, OWNERSHIP AND CONTROL ⁽¹⁵⁾

The information sought in this section may be illustrated by the use of organisation charts or diagrams to show the structure of ownership and control of the parties to the concentration before and after completion of the concentration.

- 3.1. Describe the nature of the concentration being notified by reference to the relevant criteria of the Merger Regulation and the Commission Consolidated Jurisdictional Notice ⁽¹⁶⁾:
 - 3.1.1. Identify the undertakings or persons solely or jointly controlling each of the parties to the concentration, directly or indirectly, and describe the structure of ownership and control of each of them before the completion of the concentration.
 - 3.1.2. Explain whether the proposed concentration is one of the following:
 - (a) a full merger;
 - (b) an acquisition of sole or joint control;
 - (c) a contract or other means of conferring direct or indirect control within the meaning of Article 3(2) of the Merger Regulation;
 - (d) the acquisition of joint control in a full-function joint venture within the meaning of Article 3(4) of the Merger Regulation, and, if so, the reasons why the joint venture is considered to be full-function ⁽¹⁷⁾.

⁽¹⁴⁾ This includes the target company in the case of a contested bid, in which case the details should be completed as far as is possible.

⁽¹⁵⁾ See Article 3(3) to (5) and Article 5(4) of the Merger Regulation.

⁽¹⁶⁾ See Commission Consolidated Jurisdictional Notice under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings, (OJ C 95, 16.4.2008, p. 1), available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52008XC0416%2808%29> ("Commission Consolidated Jurisdictional Notice").

⁽¹⁷⁾ See Section B IV of the Consolidated Jurisdictional Notice.

- 3.1.3. Explain how the concentration will be implemented (for example by conclusion of an agreement, by the launch of a public bid, etc.).
- 3.1.4. By reference to Article 4(1) of the Merger Regulation explain which of the following have taken place at the time of notification
 - (a) an agreement has been concluded;
 - (b) a controlling interest has been acquired;
 - (c) a public bid or the intention to launch a public bid has been announced;
 - (d) the parties to the concentration have demonstrated a good faith intention to conclude an agreement.
- 3.1.5. Indicate the expected date of any major events designed to bring about the completion of the concentration;
- 3.1.6. Explain the structure of ownership and control of each of the parties to the concentration after the completion of the concentration.
- 3.2. Describe the economic rationale of the concentration.
- 3.3. State the value of the transaction (the purchase price or the value of all the assets involved, as the case may be; specify whether this is in the form of equity, cash, or other assets).
- 3.4. Describe any financial or other support received from public authorities by any of the parties to the concentration and the nature and amount of that support. In this context:
 - 3.4.1. indicate whether any of the parties to the concentration has been the beneficiary of aid that is or has been subject to Union State aid proceedings.
 - 3.4.2. indicate if you have filed or intend to file a notification under Article 20 of Regulation (EU) 2022/2560 of the European Parliament and of the Council of 14 December 2022 on foreign subsidies distorting the internal market (OJ L 330, 23.12.2022 , p. 1-45).
- 3.5. Provide a list of all the jurisdictions outside the EEA where the concentration has been or will be notified (before or after the completion of the concentration) and/or is under investigation under merger control rules. For each jurisdiction, indicate the (actual or expected) date of notification and, where applicable, identify the stage of the investigation.
- 3.6. For the parties to the concentration, provide a list of all other undertakings which are active in affected markets and in which the undertakings, or persons, of the group hold individually or collectively 10 % or more of the voting rights, issued share capital or other securities, identifying the holder and stating the percentage held.
- 3.7. Describe whether one or more competitors of the parties hold a significant non-controlling shareholding (i.e. above 10%) in any of the parties to the concentration. Indicate the percentage and the rights attached to the shareholding. Provide details of acquisitions made during the last three years by the groups identified in Section 2.1 of undertakings active in affected markets.

SECTION 4

TURNOVER

For each of the parties to the concentration provide the following data for the last financial year ⁽¹⁸⁾:

- 4.1 . worldwide turnover;

⁽¹⁸⁾ On the calculation of turnover see Commission Consolidated Jurisdictional Notice.

- 4.2. EU-wide turnover;
- 4.3. EEA-wide turnover (EU and EFTA);
- 4.4. turnover in each Member State (indicate the Member State, if any, in which more than two-thirds of EU-wide turnover is achieved);
- 4.5. EFTA-wide turnover;
- 4.6. turnover in each EFTA State (indicate the EFTA State, if any, in which more than two-thirds of EFTA-wide turnover is achieved; also indicate whether the combined turnover of the undertakings concerned in the territory of the EFTA States equals 25 % or more of their total turnover in the EEA territory).

Turnover data must be provided by filling in the Commission's template table available on DG Competition's website.

SECTION 5

SUPPORTING DOCUMENTATION AND DATA

The notifying parties must provide the following:

- 5.1. copies of the final or most recent versions of all documents bringing about the concentration, whether by agreement between the parties to the concentration, acquisition of a controlling interest or a public bid;
- 5.2. in case of a public bid, a copy of the offer document. If the offer document is unavailable at the time of notification, a copy of the most recent document demonstrating the intention to launch a public bid must be provided, and a copy of the offer document must be submitted as soon as possible and not later than when it is posted to shareholders;
- 5.3. an indication of the webpage, if any, at which the most recent annual reports and accounts of the parties to the concentration are available, or if no such webpage exists, copies of the most recent annual reports and accounts of the parties to the concentration;
- 5.4. copies of the following documents prepared by or for or received by any member(s) of the board of management, the board of directors, or the supervisory board, depending on the corporate governance structure, or the other person(s) exercising similar functions (or to whom such functions have been delegated or entrusted), or the shareholders' meeting:
 - (a) minutes of the meetings of the board of management, of the board of directors, of the supervisory board and/or of the shareholders' meeting at which the transaction has been discussed, or excerpts of those minutes relating to the discussion of the transaction;
 - (b) analyses, reports, studies, surveys, presentations and any comparable documents for the purpose of assessing or analysing the concentration with respect to its rationale (including documents where the transaction is discussed in relation to potential alternative acquisitions), market shares, competitive conditions, competitors (actual and potential), potential for sales growth or expansion into other product or geographic markets, and/or general market conditions;
 - (c) analyses, reports, studies, surveys and any comparable documents from the last two years for the purpose of assessing any of the affected markets ⁽¹⁹⁾ with respect to market shares, competitive conditions, competitors (actual and potential) and/or potential for sales growth or expansion into other product or geographic markets.

Provide a list of the documents mentioned in this section 5.4, indicating for each document the date of preparation and the name and title of the addressee(s).

⁽¹⁹⁾ See Section 6 for more information on how to identify affected markets.

- 5.5. data that each of the parties to the concentration collects and stores in the ordinary course of its business operations and which could be useful for a quantitative economic analysis. The data description should include, in particular, information about:
 - (a) the type of such data (information on sales or bids, profit margins, procurement process details, etc.);
 - (b) the level of disaggregation (per country, per product, per customer, per contract, etc.);
 - (c) the time period for which the data are available and the format;
 - (d) the source of the data (for example, Customer Relationship Management (CRM) software, or dataset purchased from external providers, etc.).
- 5.6. a description of the usage in the normal course of business of the data provided in section 5.5. In particular, describe if relevant, the internal datasets produced based on the above data, as well as the type of internal reporting products and analysis, such as business strategy, marketing plans, investment plans, market intelligence and competitors' monitoring (e.g., comparison between the products/services and pipeline products of one party to the concentration and those of its main competitors or between those of the parties to the concentration; competitors' strategy and positioning; or SWOT ⁽²⁰⁾ analyses).

SECTION 6

MARKET DEFINITIONS

The relevant product and geographic markets serve to identify the scope within which the market power of the new entity resulting from the concentration must be assessed ⁽²¹⁾. When presenting relevant product and geographic markets, the notifying parties must submit, in addition to any product and geographic market definitions they consider relevant, all plausible alternative product and geographic market definitions. Plausible alternative product and geographic market definitions can be identified on the basis of previous Commission decisions and judgments of the Union Courts and (in particular where there are no Commission or Court precedents) by reference to industry reports, market studies and the notifying parties' internal documents.

- 6.1. Please discuss all plausible relevant market definitions where the proposed concentration could give rise to affected markets. Please explain how the notifying parties consider that the relevant product and geographic markets should be defined.
- 6.2. Taking into account all the plausible relevant market definitions discussed, please identify each affected market ⁽²²⁾ and provide summary information on the activities of the parties to the concentration in each plausible relevant market. Please add to the tables as many rows as required to cover all the plausible markets that you consider:

| Summary of Affected Markets Horizontal Overlaps | | |
|--|------------------------------|---|
| Product market definition | Geographic market definition | Combined market share [Identify year] [Identify metric] |
| | | |
| | | |

⁽²⁰⁾ SWOT refers to 'Strengths, Weaknesses, Opportunities and Threats' analysis. Any other method to depict the competitive landscape of a given product/innovation area falls under the requested data as well.

⁽²¹⁾ See Commission Notice on the definition of the relevant market for the purposes of Community competition law, (OJ C 372, 9.12.1997, p. 5).

⁽²²⁾ During pre-notification contacts, notifying parties shall disclose information relating to all potentially affected markets even if they ultimately consider that these markets are not affected, and notwithstanding that the notifying parties may take a particular view in relation to the issue of market definition.

| Summary of Affected Markets Vertical Relationships | | | | | |
|---|------------------------------|---|---------------------------|------------------------------|---|
| Upstream market | | | Downstream market | | |
| Product market definition | Geographic market definition | Combined market share [Identify year][Identify metric] | Product market definition | Geographic market definition | Combined market share [Identify year] [Identify metric] |
| | | | | | |
| | | | | | |

6.3. Describe the product and geographic scope of all plausible alternative market definitions (where such markets include the whole or a part of the EEA) other than the affected markets identified in Section 6.2., in which the notified concentration may have a significant impact, for example, where:

- (a) any of the parties to the concentration has a market share larger than 25 % and any other party to the concentration is a potential competitor in that market. A party may be considered a potential competitor, in particular, where it has plans to enter a market, or has developed or pursued such plans in the past three years;
- (b) any of the parties to the concentration is present in a product market, which is a neighbouring market closely related to a product market in which any other party to the concentration is engaged, and the individual or combined market shares of the parties in any one of these markets is 30% or more. Product markets are closely related neighbouring markets when the products are complementary to each other ⁽²³⁾ or when they belong to a range of products that is generally purchased by the same set of customers for the same end use ⁽²⁴⁾.

In order to enable the Commission to consider, from the outset, the competitive impact of the proposed concentration in the markets identified under Section 6, notifying parties are invited to submit the information under Sections 8 to 10 of this Form CO also in relation to those markets.

SECTION 7

INFORMATION ON MARKETS FALLING UNDER POINT 8 OF THE NOTICE ON SIMPLIFIED PROCEDURE

For markets falling under point 8 of the Notice on Simplified Procedure, in principle only section 7 needs to be filled in. However, where any of the circumstances listed in Section II.C of the Notice on Simplified Procedure are present, the flexibility clause will normally not be applied ⁽²⁵⁾. In this case, Sections 6, 8, 9 and 10 of this Form should be completed.

7.1. For each market falling under point 8 of the Notice on Simplified Procedure, tick the relevant boxes below. ⁽²⁶⁾

- | | |
|--------------------------|--|
| <input type="checkbox"/> | Under all plausible market definitions, (i) the parties' combined market share is 20% or higher but remains below 25% on any relevant market where the parties' activities overlap and (ii) none of the special circumstances described in section II.C of the Notice on Simplified Procedure are present. |
|--------------------------|--|

⁽²³⁾ Products (or services) are complementary when, for example, the use (or consumption) of one product essentially implies the use (or consumption) of the other product, such as for staple machines and staples, and printers and printer cartridges.

⁽²⁴⁾ Examples of products belonging to such a range would be whisky and gin sold to bars and restaurants, and different materials for packaging a certain category of goods sold to producers of such goods.

⁽²⁵⁾ Notice on Simplified Procedure, point 11.

⁽²⁶⁾ Please complete only one table for all markets falling under point 8 of the Notice on Simplified Procedure, ticking (all) the relevant boxes.

| |
|--|
| <input type="checkbox"/> Under all plausible market definitions, the parties' combined market share is 20% or higher but remains below 25% on any relevant market where the parties' activities overlap, and although one or several of the special circumstances described in section II.C of the Notice on Simplified Procedure are present, the case does not raise any competition concerns for the reasons explained in sub-Section 7.4. |
| <input type="checkbox"/> None of the circumstances described in section II.C of the Notice on Simplified Procedure are present and the individual and combined market shares of all the parties to the concentration that are engaged in business activities in a market which is upstream or downstream from a market in which any other party to the concentration is engaged (vertical relationships) meet at least one of the following conditions: <ul style="list-style-type: none"> <input type="checkbox"/> are 30% or higher but remain below 35 % in the upstream and downstream markets, <input type="checkbox"/> are lower than 50 % in one market while the individual and combined market shares of all the parties to the concentration in all the other vertically related markets are lower than 10%. |
| <input type="checkbox"/> One or several of the circumstances described in section II.C of the Notice on Simplified Procedure are present, the case does not raise any competition concerns for the reasons explained in Section 7.4 and the individual and combined market shares of all the parties to the concentration that are engaged in vertical relationships meet at least one of the following conditions: <ul style="list-style-type: none"> <input type="checkbox"/> are 30% or higher but remain below 35 % in the upstream and downstream markets, <input type="checkbox"/> are lower than 50 % in one market while the individual and combined market shares of all the parties to the concentration in all the other vertically related markets are lower than 10%. |

- 7.2. Complete the table below if the concentration leads to horizontal overlaps that fall under point 8 of the Notice on Simplified Procedure. You should replicate the table as many times as required to cover all the plausible markets that you considered:

| Horizontal overlaps – Market shares | | | | | | | | | |
|--|-------------------------------------|--|-------------------------|-------------------------|-------------|-------------|-------------|-------------|-------------|
| Precedents (please include a reference to relevant paragraphs) | Plausible product market considered | Plausible geographic market considered | Supplier | Year X -2 | | Year X -1 | | Year X | |
| | | | | Value | Volume | Value | Volume | Value | Volume |
| | | | Undertaking concerned 1 | % | % | % | % | % | % |
| | | | Undertaking concerned 2 | % | % | % | % | % | % |
| | | | Undertaking concerned 3 | % | % | % | % | % | % |
| | | | Combined | % | % | % | % | % | % |
| | | | Competitor 1 | Do not complete. | | | | % | % |
| | | | Competitor 2 | | | | | % | % |
| | | | Competitor 3 | | | | | % | % |
| | | | Others | | | | | % | % |
| | | | Total | 100% | 100% | 100% | 100% | 100% | 100% |
| | | | Market size | EUR | | EUR | | EUR | |

Describe the activities of the parties in this market:

Provide further details here (in particular if there are no precedents, you should provide the parties' views on product/geographic market definition):

Metrics, sources and methodology followed for market share calculation. If value and volume are not the most common metrics for market share calculation in the relevant markets, you should provide market shares based on alternative metrics and explain.

Provide the contact details of Competitor 1, Competitor 2, and Competitor 3 in the prescribed format.

- 7.3. Complete the table below if the concentration leads to vertical relationships that fall under point 8 of the Notice on Simplified Procedure. You should replicate the table as many times as required to cover all the plausible markets that you considered: ⁽²⁷⁾

⁽²⁷⁾ For example, if regarding the vertical relationship between upstream market U and downstream market D, you considered the plausible upstream market definitions U1 and U2, you should include two tables: one including information on U1 and D and one including information on U2 and D.

Vertical relationships – Market shares

UPSTREAM

| Precedents (include a reference to relevant paragraphs) | Plausible product market considered | Plausible geographic market considered | Supplier | Year X -2 | | Year X -1 | | Year X | |
|--|-------------------------------------|--|-------------------------|-------------------------|--------|-----------|--------|--------|--------|
| | | | | Value | Volume | Value | Volume | Value | Volume |
| | | | Undertaking concerned 1 | % | % | % | % | % | % |
| | | | Undertaking concerned 2 | % | % | % | % | % | % |
| | | | Undertaking concerned 3 | % | % | % | % | % | % |
| | | | Combined | % | % | % | % | % | % |
| | | | Competitor 1 | Do not complete. | | | | % | % |
| | | | Competitor 2 | | | | | % | % |
| | | | Competitor 3 | | | | | % | % |
| | | | Others | | | | | % | % |
| | | | Total | 100% | 100% | 100% | 100% | 100% | 100% |
| | | | Market size | EUR | | EUR | | EUR | |

Describe the activities of the parties in this market:

Provide further details here (in particular if there are no precedents, you should provide the parties' views on product/geographic market definition):

Metrics, sources and methodology followed for market share calculation. If value and volume are not the most common metrics for market share calculation in the relevant markets, you should provide market shares based on alternative metrics and explain.

Provide the contact details of Competitor 1, Competitor 2, and Competitor 3 in the prescribed format.

| DOWNSTREAM | | | | | | | | | |
|---|---|---|-------------------------|-------------------------|--------|-----------|--------|--------|--------|
| Precedents (include a reference to relevant paragraphs) | Plausible product market considered | Plausible geographic market considered | Supplier | Year X -2 | | Year X -1 | | Year X | |
| | | | | Value | Volume | Value | Volume | Value | Volume |
| | | | Undertaking concerned 1 | % | % | % | % | % | % |
| | | | Undertaking concerned 2 | % | % | % | % | % | % |
| | | | Undertaking concerned 3 | % | % | % | % | % | % |
| | | | Combined | % | % | % | % | % | % |
| | | | Competitor 1 | Do not complete. | | | | % | % |
| | | | Competitor 2 | | | | | % | % |
| | | | Competitor 3 | | | | | % | % |
| | | | Others | | | | | % | % |
| | | | Total | | | | | 100% | 100% |
| | | | Market size | EUR | | EUR | | EUR | |

Describe the activities of the parties in this market:

Provide further details here (in particular if there are no precedents, you should provide the parties' views on product/geographic market definition):

Metrics, sources and methodology followed for market share calculation. If value and volume are not the most common metrics for market share calculation in the relevant markets, you should provide market shares based on alternative metrics and explain.

Provide the contact details of Competitor 1, Competitor 2, and Competitor 3 in the prescribed format.

7.4. Safeguards and exclusions.

Please complete this information regarding the markets identified in Sections 7.2 and 7.3 ⁽²⁸⁾.

| | |
|---|---|
| Any of the parties to the concentration has significant non-controlling shareholdings (i.e. above 10%) or cross-directorships in companies active in the same markets as any of the other parties or in vertically related markets (e.g. the acquiring company has a non-controlling minority shareholding or common directors in a company active in the same market as the target company). | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| One or more of the parties' competitors have a significant non-controlling shareholding (i.e. above 10%) in any of the undertakings concerned. If yes: Indicate the shareholding%: Indicate the rights attached to the shareholding: | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| The parties are active in closely related neighbouring markets and any of the parties individually holds a market share of 30% or more in any of these markets under any plausible market definition. | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| There remain fewer than three competitors with market shares above 5% in any of the markets giving rise to horizontal overlaps or vertical relationships under any plausible market definition. | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| The relevant market share thresholds are exceeded in terms of capacity under any plausible market definition ⁽²⁹⁾ . | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| The parties (or one of them) are recent entrants in the overlapping markets (i.e. entered the market in the last three years). | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| The parties are important innovators in the overlapping markets. | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| The parties have brought to the market an important pipeline product within the last 5 years. | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| The concentration gives rise to pipeline-to-pipeline or pipeline-to-marketed product overlaps | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| One of the parties has plans to expand in product markets and/or geographic markets in which another party to the concentration is active or which are in a vertical relation with markets in which another party to the concentration is active. Explain the products or services concerned by such plans and their timing: <i>[open text]</i> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| In production chains with more than two levels, individual or combined market shares of the parties are 30% or higher in any of the levels of the value chain (in terms of value, volume or capacity). | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| If you answered "yes" to any of the questions above, explain why in your view the market concerned does not give rise to competition concerns and provide all relevant details: <i>[open text]</i> | |

⁽²⁸⁾ Complete only one table for all markets falling under point 8 of the Notice on Simplified Procedure for which none of the safeguards/exclusions apply (i.e., the answer to all questions in Section 7.4 is "No"). For each market falling under point 8 of the Notice on Simplified Procedure for which the answer to at least one question is "Yes", you should provide a separate table.

⁽²⁹⁾ If this metric is not relevant for the markets where the concentration gives rise to a horizontal overlap or a vertical relationship between the parties' activities, please indicate "No".

SECTION 8

MARKET INFORMATION

- 8.1. With regard to each affected market, provide the following information for each of the last three years:
- 8.1.1. for each of the parties to the concentration, the nature of the undertaking's business, the main subsidiaries active and/or brands, product names and/or trademarks used in each of these markets;
 - 8.1.2. an estimate of the total size of the market in terms of sales value (in euro) and volume (units) ⁽³⁰⁾. You should indicate the basis and sources for the calculations and provide documents where available to confirm those calculations;
 - 8.1.3. for each of the parties to the concentration, the sales in value and volume, as well as an estimate of the market shares;
 - 8.1.4. an estimate of the market share in value (and where appropriate, volume) of all competitors (including importers) having at least 5 % of the relevant market under consideration. You should identify the sources used to calculate those market shares and provide documents where available to confirm the calculation;
 - 8.1.5. an estimate of the total capacity in the relevant markets. You should indicate what proportion of this capacity has been accounted for over the last three years by each of the parties to the concentration, and what their respective rates of capacity utilisation have been. If applicable, you should identify the location and capacity of the manufacturing facilities of each of the parties to the concentration in affected markets;
 - 8.1.6. information on pipeline products of the parties and their competitors (including the stage of their development, an estimate of the projected sales and market shares of the parties to the concentration over the next three to five years).

Information on horizontal overlaps and vertical relationships involving pipeline products

- 8.2. With regard to each plausible relevant product and geographic market definition, where there is a horizontal overlap or a vertical relationship involving (i) one or more marketed products of one or several of the party(ies) to the concentration and one or more pipeline products of other parties to the concentration ⁽³¹⁾ or (ii) pipeline products of the parties to the concentration, you should provide the information included in the tables below:

⁽³⁰⁾ The value and volume of a market must reflect output less exports plus imports for the geographic areas under consideration.

⁽³¹⁾ This section does not need to be completed if you have disclosed this information in section 8.1.6 with regard to the same pipeline products.

Horizontal overlaps involving pipeline products

| Precedents (include a reference to relevant paragraphs) | Plausible product market considered | Plausible geographic market considered | Supplier | Year X -2 ⁽³²⁾ | | Year X -1 | | Year X | | Pipeline products ⁽³³⁾ (Provide name) |
|---|---|---|-------------------------|---------------------------|--------|-----------|--------|--------|--------|--|
| | | | | Value | Volume | Value | Volume | Value | Volume | |
| | | | Undertaking concerned 1 | % | % | % | % | % | % | |
| | | | Undertaking concerned 2 | % | % | % | % | % | % | |
| | | | Undertaking concerned 3 | % | % | % | % | % | % | |
| | | | Combined | % | % | % | % | % | % | |
| | | | Competitor 1 | % | % | % | % | % | % | |
| | | | Competitor 2 | % | % | % | % | % | % | |
| | | | Competitor 3 | % | % | % | % | % | % | |
| | | | Others | % | % | % | % | % | % | |
| | | | Total | 100% | 100% | 100% | 100% | 100% | 100% | Do not complete. |
| | | | Market size | EUR | | EUR | | EUR | | |

Describe the activities of the parties in this market:

Provide further details here (in particular if there are no precedents, you should provide the parties' views on product/geographic market definition):

Metrics, sources and methodology followed for market share calculation. If value and volume are not the most common metrics for market share calculation in the relevant markets, you should provide market shares based on alternative metrics and explain.

Provide information on pipeline products of the parties and their competitors (including the stage of their development, an estimate of the projected sales and market shares of the parties to the concentration over the next three to five years).

Provide the contact details of Competitor 1, Competitor 2, and Competitor 3 in the prescribed format.

⁽³²⁾ Provide market shares if one or more of the parties have marketed products.

⁽³³⁾ Provide market shares for competitors with marketed products. If there are no marketed products, please provide at least three competitors developing competing products.

Vertical Relationships Involving Pipeline Products

UPSTREAM

| Precedents (please include a reference to relevant paragraphs) | Plausible product market considered | Plausible geographic market considered | Supplier | Year X -2 ⁽³⁴⁾ | | Year X -1 | | Year X | | Pipeline Products (Provide Name) ⁽³⁵⁾ |
|--|---|---|-------------------------|---------------------------|--------|-----------|--------|--------|--------|---|
| | | | | Value | Volume | Value | Volume | Value | Volume | |
| | | | Undertaking concerned 1 | % | % | % | % | % | % | |
| | | | Undertaking concerned 2 | % | % | % | % | % | % | |
| | | | Undertaking concerned 3 | % | % | % | % | % | % | |
| | | | Combined | % | % | % | % | % | % | |
| | | | Competitor 1 | % | % | % | % | % | % | |
| | | | Competitor 2 | % | % | % | % | % | % | |
| | | | Competitor 3 | % | % | % | % | % | % | |
| | | | Others | % | % | % | % | % | % | |
| | | | Total | 100% | 100% | 100% | 100% | 100% | 100% | Do not complete. |
| | | | Market size | EUR | | EUR | | EUR | | |

Describe the activities of the parties in this market:

Provide further details here (in particular if there are no precedents, you should provide the parties' views on product/geographic market definition):

Metrics, sources and methodology followed for market share calculation. If value and volume are not the most common metrics for market share calculation in the relevant markets, you should provide market shares based on alternative metrics and explain.

Please provide information on pipeline products of the parties and their competitors (including the stage of their development, an estimate of the projected sales and market shares of the parties to the concentration over the next three to five years).

Provide the contact details of Competitor 1, Competitor 2, and Competitor 3 in the prescribed format.

⁽³⁴⁾ Provide market shares if one or more of the parties have marketed products.

⁽³⁵⁾ Provide market shares for competitors with marketed products. If there are no marketed products, please list at least three competitors developing competing products.

| DOWNSTREAM | | | | | | | | | | |
|--|--|---|-------------------------|---------------------------|--------|-----------|--------|--------|--------|---|
| Precedents (please include a reference to relevant paragraphs) | Plausible product market considered) | Plausible geographic market considered | Supplier | Year X -2 ⁽³⁶⁾ | | Year X -1 | | Year X | | Pipeline Products (Provide Name) ⁽³⁷⁾ |
| | | | | Value | Volume | Value | Volume | Value | Volume | |
| | | | Undertaking concerned 1 | % | % | % | % | % | % | |
| | | | Undertaking concerned 2 | % | % | % | % | % | % | |
| | | | Undertaking concerned 3 | % | % | % | % | % | % | |
| | | | Combined | % | % | % | % | % | % | |
| | | | Competitor 1 | % | % | % | % | % | % | |
| | | | Competitor 2 | % | % | % | % | % | % | |
| | | | Competitor 3 | % | % | % | % | % | % | |
| | | | Others | % | % | % | % | % | % | |
| | | | Total | 100% | 100% | 100% | 100% | 100% | 100% | Do not complete. |
| | | | Market size | EUR | | EUR | | EUR | | |

Describe the activities of the parties in this market:

Provide further details here (in particular if there are no precedents, you should provide the parties' views on product/geographic market definition):

Metrics, sources and methodology followed for market share calculation. If value and volume are not the most common metrics for market share calculation in the relevant markets, you should provide market shares based on alternative metrics and explain.

Provide information on pipeline products of the parties and their competitors (including the stage of their development, an estimate of the projected sales and market shares of the parties to the concentration over the next three to five years).

Provide the contact details of Competitor 1, Competitor 2, and Competitor 3 in the prescribed format.

⁽³⁶⁾ Provide market shares if one or more of the parties have marketed products.

⁽³⁷⁾ Provide market shares for competitors with marketed products. If there are no marketed products, please list at least three competitors developing competing products.

SECTION 9

STRUCTURE OF SUPPLY

- 9.1. Provide a brief explanation of the structure of supply in each of the affected markets. Specify in particular:
- (a) how these markets function;
 - (b) the manner in which the parties to the concentration and their largest competitors produce and sell the products and/or services (for example, whether parties to the concentration and their largest competitors manufacture and sell locally);
 - (c) the manner in which the parties to the concentration price the products and/or services;
 - (d) the nature and extent of vertical integration of each of the parties to the concentration compared with their largest competitors.

Structure of demand

- 9.2. Provide a brief explanation of the structure of demand in each affected market, specifying, in particular:
- (a) the phases of the markets in terms of, for example, take-off, expansion, maturity and decline, and a forecast of the growth rate of demand;
 - (b) the importance of customer preferences, for example in terms of brand loyalty, the provision of pre- and after-sales services, the provision of a full range of products, or network effects;
 - (c) the role of switching costs (in terms of time and expense) for customers when changing from one supplier to another for both the following:
 - (i) existing products;
 - (ii) new products replacing existing products (including the normal time horizon of customer contracts);
 - (d) the degree of concentration or dispersion of customers;
 - (e) the way customers purchase the products or services in question, in particular whether they use procurement techniques such as requests for proposal and bidding procedures.

SECTION 10

PRODUCT DIFFERENTIATION AND CLOSENESS OF COMPETITION

- 10.1. Provide a brief explanation of the degree of product differentiation in each affected market, specifying, in particular:
- (a) the role and importance of product differentiation in terms of quality ('vertical differentiation') and other product characteristics ('horizontal' and 'spatial differentiation');
 - (b) any segmentation of customers into different groups with a description of the 'typical customer' for each group;
 - (c) for horizontal overlaps, the rivalry between the parties to the concentration in general, as well as the closeness of substitution between the products of the parties to the concentration, including for each of the customer groups and 'typical customers' identified in response to the question in point (b).

Distribution systems and service networks

- 10.2. Provide a brief description of:
- (a) the distribution systems prevailing in the market and their importance, and to what extent distribution is performed by third parties and/or undertakings belonging to the same group as the parties, as well as the importance of exclusive distribution contracts and other types of long-term contracts;
 - (b) the service networks (for example, maintenance and repair) prevailing and their importance in these markets. To what extent are such services performed by third parties and/or undertakings belonging to the same group as the parties?

Market entry and exit

- 10.3. Over the last five years, indicate whether there has been any significant entry into any affected market. If this is the case, identify such entrants and provide an estimate of the current market share of each such entrant.
- 10.4. Indicate whether in your view there are undertakings (including those at present operating only outside the EU or the EEA) that are likely to enter any affected market. If so, explain why such entry is likely and provide an estimate of the time within which such entry is likely to occur.
- 10.5. Provide a brief description of the main factors influencing entry into each of the affected markets, examining entry from both a geographical and product viewpoint. In doing so, you should take account of the following where appropriate:
- (a) the total costs of entry (R & D, production, establishing distribution systems, promotion, advertising, servicing, and so forth) on a scale equivalent to a significant viable competitor, indicating the market share of such a competitor;
 - (b) any legal or regulatory barriers to entry, such as government authorisation or standard setting in any form;
 - (c) any barriers to access to customers, such as those resulting from product certification procedures, or the importance of reputation and a proven track record;
 - (d) any need and possibility to obtain access to patents, know-how and other intellectual property rights in these markets;
 - (e) the extent to which each of the parties to the concentration are holders, licensees or licensors of patents, know-how and other rights in the relevant markets;
 - (f) the importance of economies of scale and scope and of network effects for the production or distribution of products and/or services in the affected markets;
 - (g) access to sources of supply, such as availability of raw materials and necessary infrastructure.
- 10.6. Explain whether any of the parties to the concentration, or any of the competitors, have pipeline products ⁽³⁸⁾, or plans to expand production or sales capacity in any of the affected markets. If so, provide an estimate of the projected sales and market shares of the parties to the concentration over the next three to five years.
- 10.7. Indicate whether there has been any exit from any affected market over the last five years. If so, identify the firm having exited the market and provide an estimate of its market share in the year prior to the exit.

⁽³⁸⁾ With reference to your reply to Sections 8.1.6 and 8.2 above.

Research and development

- 10.8. Give an account for the affected markets of the importance of research and development in firms' ability to compete in the long term. Explain the nature of the research and development in affected markets carried out by the parties to the concentration. In so doing, you should take account of the following, where appropriate:
- (a) trends and intensities of research and development in those markets and for the parties to the concentration. Research and development intensity can be illustrated by research and development expenditure; number of employees dedicated to research and development (in terms of full time employees equivalents); number and importance of research and development facilities; or number of patents filed during the last three years;
 - (b) the course of technological development for those markets over an appropriate time period (including the frequency of introduction of new products and/or services, developments in products and/or services, production processes, distribution systems);
 - (c) the research planning and priorities that the parties to the concentration have over the next three years.

Contact details

- 10.9. Provide the name, address, telephone number, and e-mail address of the head of the legal department (or other person exercising similar functions; and in cases where there is no such person, the chief executive) for ⁽³⁹⁾:
- (a) the competitors identified under section 8.1.4;
 - (b) each of the parties' top ten customers in each of the affected markets;
 - (c) the recent entrants identified under section 10.3; and
 - (d) the potential entrants identified under section 10.4.

Contact details must be provided using the Commission's template available on DG Competition's website.

- 10.10. Provide the name, address, telephone number, and e-mail address of one or more representatives of the main trade unions and/or worker associations that exist in the parties to the concentration. Contact details must be provided using the Commission's template available on DG Competition's website.

SECTION 11

EFFICIENCIES

Should you wish the Commission specifically to consider from the outset ⁽⁴⁰⁾ whether efficiency gains generated by the concentration are likely to enhance the ability and incentive of the new entity to act pro-competitively for the benefit of consumers, provide a description of, and supporting documents relating to, each efficiency (including cost savings, new product introductions, and service or product improvements) that the parties anticipate will result from the proposed concentration relating to any relevant product ⁽⁴¹⁾.

⁽³⁹⁾ The Commission may at any time, including for a complete notification of a concentration based on this Form CO, request a higher number of contact details for each of the categories of market participants identified in this Form CO and request contact details for other categories of market participants, for example suppliers.

⁽⁴⁰⁾ Not providing the requested information on efficiencies at the notification stage does not preclude providing the information at a later stage. However, the earlier the information is provided, the better the Commission can verify the efficiency claims.

⁽⁴¹⁾ For further guidance on the assessment of efficiencies, see the Commission's Guidelines on the assessment of horizontal mergers under the Council Regulation on the control of concentrations between undertakings, (O) C 31, 5.2.2004, p. 5), available at <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A52004XC0205%2802%29>.

For each claimed efficiency, provide the following information:

- (a) a detailed explanation of how the proposed concentration would allow the new entity to achieve the efficiency. Specify the steps that the parties anticipate taking to achieve the efficiency, the risks involved in achieving the efficiency, and the time and costs required to achieve it;
- (b) where reasonably possible, a quantification of the efficiency and a detailed explanation of how the quantification was calculated. Where relevant, also provide an estimate of the significance of efficiencies related to new product introductions or quality improvements. For efficiencies that involve cost savings, state separately the one-time fixed cost savings, recurring fixed cost savings, and variable cost savings (in EUR per unit and EUR per year);
- (c) the extent to which customers are likely to benefit from the efficiency and a detailed explanation of how this conclusion is arrived at;
- (d) the reason why the party or parties could not achieve the efficiency to a similar extent by means other than through the concentration proposed, and in a manner that is not likely to raise competition concerns.

SECTION 12

COOPERATIVE EFFECTS OF A JOINT VENTURE

In the case of a joint venture, for the purpose of Article 2(4) of the Merger Regulation, answer the following questions:

- (a) Do two or more parents retain to a significant extent activities in the same market as the joint venture or in a market which is upstream or downstream from that of the joint venture or in a neighbouring market closely related to this market?

If the answer is affirmative, indicate for each of the markets referred to here:

- i) The turnover of each parent company in the preceding financial year;
 - ii) the economic significance of the activities of the joint venture in relation to this turnover;
 - iii) the market share of each parent.
- (b) If the answer to point (a) is affirmative and in your view the creation of the joint venture does not lead to coordination between independent undertakings that restricts competition within the meaning of Article 101(1) TFEU, and, where applicable, the corresponding provisions of the EEA Agreement ⁽⁴²⁾, give your reasons.
 - (c) Without prejudice to the answers to points (a) and (b) and in order to ensure that a complete assessment of the case can be made by the Commission, if you consider that the conditions of Article 101(3) TFEU and, where applicable, the corresponding provisions of the EEA Agreement ⁽⁴³⁾ apply, explain why this is the case. Under Article 101(3) TFEU, the provisions of Article 101(1) TFEU may be declared inapplicable if the operation:
 - i) contributes to improving the production or distribution of goods, or to promoting technical or economic progress;
 - ii) allows consumers a fair share of the resulting benefit;
 - iii) does not impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives; and
 - iv) does not afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

⁽⁴²⁾ See Article 53(1) of the EEA Agreement.

⁽⁴³⁾ See Article 53(3) of the EEA Agreement.

SECTION 13

DECLARATION

The notification must conclude with the following declaration which is to be signed by or on behalf of all the notifying parties:

'The notifying party or parties declare that, to the best of their knowledge and belief, the information given in this notification is true, correct, and complete, that true and complete copies of documents required by Form CO have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere. They are aware of the provisions of Article 14(1), point (a) of the Merger Regulation.'

For digitally signed forms, the following fields are for information purposes only. They should correspond to the metadata of the corresponding electronic signature(s).

Date:

| | |
|--------------------------|-----------------------------|
| [signatory 1] | [signatory 2 if applicable] |
| Name: | Name: |
| Organisation: | Organisation: |
| Position: | Position: |
| Address: | Address: |
| Phone number: | Phone number: |
| E-mail: | E-mail: |
| ["e-signed" / signature] | ["e-signed" / signature] |

ANNEX II

**SHORT FORM CO FOR THE NOTIFICATION OF A CONCENTRATION PURSUANT TO REGULATION (EC)
No 139/2004****(SHORT FORM CO)****1. Introduction**

- (1) The Short Form CO specifies the information that must be provided by the notifying parties when submitting a notification to the European Commission of certain proposed concentrations that are eligible for review under the simplified procedure.
- (2) In completing this Short Form CO, your attention is drawn to Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings ⁽¹⁾ (the 'Merger Regulation') and Commission Implementing Regulation (EU) 2023/914 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (the "Implementing Regulation"), ⁽²⁾ to which this Short Form CO is annexed. Your attention is also drawn to the Commission's Notice on Simplified Procedure for treatment of certain concentrations. ⁽³⁾
- (3) As a general rule, the Short Form CO may be used for the purpose of notifying concentrations where one of the following conditions are met:
 - (a) two or more undertakings acquire joint control of a joint venture, provided that the joint venture has no current turnover within the territory of the European Economic Area (EEA) ⁽⁴⁾, and the undertakings concerned have not planned to transfer any assets within the EEA to the joint venture at the time of notification; ⁽⁵⁾
 - (b) two or more undertakings acquire joint control of a joint venture, provided that the joint venture has negligible activities in the EEA. This refers to concentrations where all of the following conditions are fulfilled: ⁽⁶⁾
 - i) the annual current turnover of the joint venture and/or the turnover of the contributed activities as well as the expected annual turnover is less than EUR 100 million in the EEA;
 - ii) the total value of asset transfers to the joint venture in the EEA planned at the time of notification is less than EUR 100 million;
 - (c) two or more undertakings merge, or one or more undertakings acquire sole or joint control of another undertaking, provided that none of the parties to the concentration are engaged in business activities in the same product and geographic market, or in a relevant product market which is upstream or downstream from a product market in which any other party to the concentration is engaged; ⁽⁷⁾
 - (d) two or more undertakings merge or one or more undertakings acquire sole or joint control of another undertaking and the conditions set out below are fulfilled under all plausible market definitions: ⁽⁸⁾
 - i) the combined market share of all the parties to the concentration that are engaged in business activities in the same product and geographic market (horizontal overlap) meets at least one of the following conditions:
 - (aa) it is lower than 20 %;

⁽¹⁾ Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the 'Merger Regulation') (OJ L 24, 29.1.2004, p. 1).

⁽²⁾ See page 22 of this Official Journal.

⁽³⁾ Commission Notice on a simplified treatment of certain concentrations under Council Regulation (EC) No 139/2004 (OJ C 160, 5.5.2023, p. 1) (the 'Notice on Simplified Procedure').

⁽⁴⁾ The term "current turnover" refers to turnover generated by the joint venture at the time of notification. The turnover of the joint venture can be determined according to the most recent audited accounts of the parent companies, or the joint venture itself, depending on the availability of separate accounts for the resources combined in the joint venture.

⁽⁵⁾ Notice on Simplified Procedure, point 5(a).

⁽⁶⁾ Notice on Simplified Procedure, point 5(b).

⁽⁷⁾ See Notice on Simplified Procedure, point 5(c).

⁽⁸⁾ See Notice on Simplified Procedure, point 5(d).

- (bb) it is lower than 50 % and the increment (delta) of the Herfindahl-Hirschman Index ('HHI') resulting from the concentration on this market is below 150;
 - ii) the individual and/or combined market shares of all the parties to the concentration that are engaged in business activities in a product market which is upstream or downstream from a product market in which any other party to the concentration is engaged (vertical relationship) meet at least one of the following conditions:
 - (aa) they are lower than 30 % on the upstream and the downstream markets;
 - (bb) they are lower than 30 % on the upstream market and parties to the concentration active in the downstream market hold a purchasing share of less than 30 % regarding upstream inputs;
 - (cc) they are lower than 50 % on both the upstream and downstream markets, the increment (delta) of the Herfindahl-Hirschman Index (HHI) resulting from the concentration is below 150 on both the upstream and downstream markets, and the smaller undertaking in terms of market share is the same in the upstream and downstream markets;
 - (e) a party is to acquire sole control of an undertaking over which it already has joint control. ⁽⁹⁾
- (4) In addition, at the request of the notifying parties, the Commission may review under the simplified procedure and on the basis of a Short Form CO concentrations whereby two or more undertakings merge, or one or more undertakings acquire sole or joint control of another undertaking, provided that both the conditions set out below are fulfilled under all plausible market definitions ⁽¹⁰⁾:
- (a) the combined market share of all the parties to the concentration whose activities give rise to a horizontal overlap remains below 25 %;
 - (b) the individual and combined market shares of all the parties to the concentration that are engaged in a vertical relationship meet at least one of the following conditions:
 - i) they are lower than 35 % in the upstream and downstream markets;
 - ii) they are lower than 50 % in one market while the individual and combined market shares of all the parties to the concentration in all the other vertically related markets are less than 10 %.
- (5) In addition, at the request of the notifying parties, the Commission may review under the simplified procedure and on the basis of a Short Form CO concentrations whereby two or more undertakings acquire joint control of a joint venture, provided that: ⁽¹¹⁾
- (a) the annual current turnover of the joint venture, and/or the turnover of the contributed activities is less than EUR 150 million in the EEA; and
 - (b) the total value of asset transfers to the joint venture in the EEA planned at the time of notification is less than EUR 150 million.
- (6) The Commission may always require a Form CO where it appears that the conditions for using the Short Form CO are not met, or, exceptionally where they are met, but the Commission determines, nonetheless, that a notification under Form CO is necessary for an adequate investigation of possible competition concerns.

⁽⁹⁾ See Notice on Simplified Procedure, point 5(e).

⁽¹⁰⁾ See Notice on Simplified Procedure, point 8.

⁽¹¹⁾ See Notice on Simplified Procedure, point 9.

2. How to complete and submit the Short Form CO

- (7) In the case of a merger within the meaning of Article 3(1), point (a), of the Merger Regulation or an acquisition of joint control within the meaning of Article 3(1), point (b), of the Merger Regulation, the Short Form CO must be completed jointly by the parties to the merger or by those acquiring joint control. In the case of an acquisition of sole control within the meaning of Article 3(1), point (b), of the Merger Regulation, the Short Form CO must be completed by the acquirer. In the case of a public bid to acquire an undertaking, the Short Form CO must be completed by the bidder.
- (8) Different sections of the Short Form CO must be completed, depending on characteristics of the concentration and the reasons why the concentration qualifies for simplified treatment: ⁽¹²⁾
- (a) Sections 1, 2, 3, 4, 5, 6, 7, 13, 14, 15, and 16 must be completed in all cases;
 - (b) Section 8 must be completed if the concentration gives rise to horizontal overlaps between the parties' activities;
 - (c) Sections 9 and/or 10 must be completed if the concentration gives rise to vertical relationships between the parties' activities;
 - (d) Section 11 must be completed in all cases, except for concentrations falling under point 5(a) or 5(c) of the Notice on Simplified Procedure;
 - (e) Section 12 must be completed in the case of a joint venture.
- (9) Before formally submitting a notification under the simplified procedure, and regardless of the simplified category in which the concentration falls, the notifying parties must submit in all cases a case team allocation request. The request must indicate the type of transaction, the category of simplified case under which it falls and the expected date of notification. ⁽¹³⁾ The notifying parties are invited to notify certain categories of simplified cases directly with no or very short pre-notification contacts. ⁽¹⁴⁾ In those cases, the case team allocation request must be submitted at least one week before their expected date of notification. In cases giving rise to horizontal overlaps or non-horizontal relationships between the activities of the parties to the concentration, pre-notification contacts should be initiated by submitting the case team allocation request at least two weeks before the expected date of notification.
- (10) Any personal data submitted in the Short Form CO will be processed in compliance with Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC. ⁽¹⁵⁾
- (11) The Short Form CO must be signed by persons authorised by law to act on behalf of each notifying party or by one or more authorised external representatives of the notifying party or parties. The corresponding power of attorney documents must be attached to the Short Form CO. ⁽¹⁶⁾ The technical specifications and instructions for signatures will be published from time to time in the *Official Journal of the European Union*.

⁽¹²⁾ See Notice on Simplified Procedure, point 9.

⁽¹³⁾ The case team allocation request can be found at: https://ec.europa.eu/competition-policy/mergers/practical-information_en.

⁽¹⁴⁾ In particular, transactions falling under point 5(a) and 5(c) of the Notice on Simplified Procedure (see Notice on Simplified Procedure, point 27).

⁽¹⁵⁾ OJ L 295, 21.11.2018, p. 39EUR-Lex - 32018R1725 - EN - EUR-Lex (europa.eu).

⁽¹⁶⁾ See power of attorney document template at https://ec.europa.eu/competition/mergers/legislation/power_of_attorney_template_en.docx.

3. Definitions for the purposes of this Short Form CO

(12) For the purposes of this Short Form, the following definitions apply:

- (a) 'Party/parties to the concentration' or 'party/parties: both the acquiring party/parties and the acquired party/parties, or the merging parties, including all undertakings in which a controlling interest is being acquired or which is the subject of a public bid. Unless otherwise specified, the terms 'notifying party/parties' and 'party/parties to the concentration' include all the undertakings which belong to the same groups as those parties.
- (b) 'Year': calendar year, unless otherwise stated. All information requested in the Short Form CO must, unless otherwise specified, relate to the year preceding that of the notification.

4. Requirement for a correct and complete notification

(13) All information required by the Short Form CO must be correct and complete. The information required must be supplied in the appropriate Section of the Short Form CO. Each party completing the notification is responsible for the accuracy of the information it provides. In particular, you should note that:

- (a) Under Article 10(1) of the Merger Regulation and Article 5(2) and (4) of the Implementing Regulation, the time limits laid down in the Merger Regulation with regard to the notification will not start until all the information that must be supplied with the notification has been received by the Commission. This requirement ensures that the Commission is able to assess the notified concentration within the strict time limits provided by the Merger Regulation. If a notification is incomplete, the Commission will inform the notifying parties or their representatives in writing and without delay.
- (b) The notifying party/parties must check, when preparing their notification, that contact names, numbers and in particular email addresses, sent to the Commission are accurate, relevant and up-to-date.
- (c) In accordance with Article 5(4) of the Implementing Regulation, incorrect or misleading information in the notification will be considered to be incomplete information.
- (d) Requested contact details must be provided in the format prescribed by the Directorate-General for Competition ('DG Competition') on its website. ⁽¹⁷⁾ For a proper investigatory process, it is essential that the contact details are accurate. To this end, you must ensure that the email addresses provided are personalised and attributed to specific contact persons and that they are not general company mailboxes (e.g., info@, hello@). The Commission may declare the notification incomplete based on inappropriate contact details.
- (e) Under Article 14(1), point (a) of the Merger Regulation, notifying parties who, either intentionally or negligently, supply incorrect or misleading information, may be liable to fines of up to 1% of the aggregate turnover of the undertaking concerned. In addition, under Article 6(3), point (a), and Article 8(6), point (a), of the Merger Regulation, the Commission may revoke its decision on the compatibility of a concentration when that decision is based on incorrect information for which one of the parties to the concentration is responsible.
- (f) You can write to the Commission asking it to accept the notification as complete despite the failure to provide information required by the Short Form CO, if the information is not reasonably available to you in part or in whole (for example because information on a target was unavailable during a contested bid). The Commission will consider such a request, if you give reasons why the information was unavailable, and provide your best estimates for the missing data together with the sources for those estimates. Where possible, you should indicate where the Commission could obtain the requested information that is unavailable to you.

⁽¹⁷⁾ See https://ec.europa.eu/competition-policy/mergers/practical-information_en.

- (g) Under Article 4(2) of the Implementing Regulation, the Commission may dispense with the obligation to provide any particular information in the notification where the Commission considers that compliance with those obligations or requirements is not necessary for the examination of the case. Therefore, you may, in pre-notification, submit a written request asking the Commission to waive your obligation to provide certain information that you consider unnecessary for the Commission to examine the case. Such waiver requests should be sent at the same time as the draft Short Form CO in pre-notification. Waiver requests should be made in a separate email addressed to the responsible case team. The Commission will consider waiver requests as long as they sufficiently justify why the information in question is not necessary to examine the case. In accordance with DG Competition's 'Best Practices on the conduct of EC merger control proceedings', DG Competition would normally require five working days before responding to waiver requests. For the avoidance of doubt, you should note that just because the Commission may have accepted that certain information requested by Short Form CO was not necessary to complete the notification of a concentration, does not prevent the Commission from requesting that information at any time (before or after the notification), for example through a request for information under Article 11 of the Merger Regulation.

5. Reversion to the normal procedure and notification under Form CO

- (14) In assessing whether a concentration can be notified under the simplified procedure using the Short Form CO, the Commission will ensure that all relevant circumstances are sufficiently clearly established. In this respect, the responsibility to provide correct and complete information rests with the notifying parties.
- (15) If, after the concentration has been notified, the Commission considers that the case is not appropriate for notification under the simplified procedure, the Commission may require full, or where appropriate, partial, notification under the Form CO. This may be the case any of the following circumstances:
- (a) it appears that the conditions for using the Short Form CO are not met;
 - (b) despite the conditions for using the Short Form CO being met, a full or partial notification under the Form CO is needed for an appropriate investigation of possible competition concerns or to establish that the transaction is a concentration within the meaning of Article 3 of the Merger Regulation;
 - (c) the Short Form CO contains incorrect or misleading information;
 - (d) a Member State or an EFTA State expresses substantiated competition concerns about the notified concentration within 15 working days of receipt of the copy of the Short Form CO;
 - (e) a third party expresses substantiated competition concerns within the time limit laid down by the Commission for third-party comments.
- (16) In such cases, the notification may be treated as being incomplete in a material respect within the meaning of Article 5(2) of Implementing Regulation. The Commission will inform the notifying parties or their representatives of this in writing and without delay. The notification will only become effective on the date that all information required is received.

6. Confidentiality

- (17) Article 339 of the Treaty on the Functioning of the European Union and Article 17(2) of the Merger Regulation as well as the corresponding provisions of the EEA Agreement require the Commission, the Member States, the EFTA Surveillance Authority and the EFTA States, their officials and other servants not to disclose information they have acquired through the application of that Regulation of the kind covered by the obligation of professional secrecy. The same principle must also apply to protect confidentiality between notifying parties.

- (18) If you believe that your interests would be harmed if any of the information you are asked to supply were to be published or otherwise disclosed to other parties, you should submit this information separately with each page clearly marked 'Business Secrets'. You should also give reasons why this information should not be disclosed or published.
- (19) In the case of mergers or joint acquisitions, or in other cases where the notification is completed by more than one of the parties, business secrets may be submitted under separate cover, and referred to in the notification as an annex. All such annexes must be attached to the notification so that it can be considered complete.

SECTION 1

GENERAL CASE INFORMATION

| | | |
|--|----------------------|------------------|
| (*)Case number: M. | (*)Case name: | Language: |
| (*) to be completed with information provided by the Merger Registry | | |

Unless otherwise specified, references to Articles in the tables below should be read as references to the Articles of the Merger Regulation.

| Notification under simplified treatment: yes | Merger Regulation |
|---|---|
| Jurisdiction: <input type="checkbox"/> Article 1(2) <input type="checkbox"/> Article 1(3) <input type="checkbox"/> Article 4(5) <input type="checkbox"/> Article 22 | Notification basis: <input type="checkbox"/> Article 4(1) <input type="checkbox"/> Article 4(4) <input type="checkbox"/> Article 4(5) <input type="checkbox"/> Article 22 |
| Concentration : <input type="checkbox"/> Merger [Article 3(1), point (a)] ⁽¹⁸⁾ <input type="checkbox"/> Acquisition of sole control [Article 3(1), point (b)] <input type="checkbox"/> Acquisition of joint control [Article 3(1), point (b)] ⁽¹⁹⁾ <input type="checkbox"/> Acquisition of joint control of a greenfield joint venture [Article 3(4)] ⁽²⁰⁾ <input type="checkbox"/> Acquisition of joint control in any other scenario (i.e. at least one previously controlling shareholder remaining) [Article 3(1), point (b) and 3(4)] ⁽²¹⁾ | Category of case in accordance with the Notice on Simplified Procedure: <input type="checkbox"/> Point 5(a) of the Notice on Simplified Procedure <input type="checkbox"/> Point 5(e) of the Notice on Simplified Procedure <input type="checkbox"/> Point 5(b) of the Notice on Simplified Procedure <input type="checkbox"/> Point 5(c) of the Notice on Simplified Procedure <input type="checkbox"/> Point 8 of the Notice on Simplified Procedure <input type="checkbox"/> Point 5(d) of the Notice on Simplified Procedure <input type="checkbox"/> Point 9 of the Notice on Simplified Procedure |

⁽¹⁸⁾ A merger occurs when two or more independent undertakings amalgamate into a new undertaking and cease to exist as separate legal entities. See points 9 and 10 of the Commission Consolidated Jurisdictional Notice under Regulation (EC) No 139/2004 on the control of concentrations between undertakings ("Commission Consolidated Jurisdictional Notice") (OJ C 95, 16.04.2008, p. 1), available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52008XC0416%2808%29> for further information and guidance on jurisdictional aspects.

⁽¹⁹⁾ This scenario refers to acquisitions of joint control over target companies which were not previously controlled by any of the parties acquiring joint control (i.e. acquisition of control over an undertaking from an unrelated third party). See in particular Commission Consolidated Jurisdictional Notice, point 91.

⁽²⁰⁾ This category refers to the creation of a greenfield joint venture to which the parent companies do not transfer an existing economic activity (i.e. a subsidiary or business with a market presence) or transfer only assets which do not constitute a business in themselves.

⁽²¹⁾ These cases include, among other things, (i) the creation of new full-function joint ventures when one or more parent companies transfer an existing business or economic activity and (ii) the entry or replacement of controlling shareholders of a joint venture. See in particular Commission Consolidated Jurisdictional Notice, point 92.

| | |
|---|---|
| Notification linked to a previous case (linked operation/parallel transaction/case aborted or withdrawn)? YES <input type="checkbox"/> NO <input type="checkbox"/> If yes, provide case number: | Notification linked with a consultation on the same concentration? YES <input type="checkbox"/> NO <input type="checkbox"/> If yes, provide consultation number: |
| Means of implementing the concentration: <input type="checkbox"/> Public bid announced on [DATE]. <input type="checkbox"/> Purchase of shares <input type="checkbox"/> Purchase of assets <input type="checkbox"/> Purchase of securities <input type="checkbox"/> Management contract or any other contractual means <input type="checkbox"/> Purchase of shares in a newly created undertaking constituting a joint venture | Value of the concentration in EUR: |
| Seat of the companies involved in the concentration: <input type="checkbox"/> Within the same Member State <input type="checkbox"/> Within the same third country <input type="checkbox"/> In different Member States <input type="checkbox"/> In different third countries | |

SECTION 2

COMPANIES INVOLVED IN THE CONCENTRATION AND THEIR TURNOVER

| Undertakings concerned ⁽²⁾ | Category ⁽³⁾ | Controlled by | Brief description of the business activities of the undertaking concerned |
|---------------------------------------|-------------------------|---------------|---|
| | | | |
| | | | |
| | | | |
| | | | |

You should provide a chart of the structure of ownership and control of each of the undertakings concerned before and after the completion of the concentration:

⁽²⁾ For a definition of undertakings concerned, please see Commission Consolidated Jurisdictional Notice, points 129-153.

⁽³⁾ NP (Notifying Party) or Other.

| Undertakings concerned | Country of origin | Role ⁽²⁴⁾ | Turnover (in million EUR) ⁽²⁵⁾ | | Year of turnover ⁽²⁶⁾ |
|---|-------------------|----------------------|---|---------|----------------------------------|
| | | | World-wide | EU-wide | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| Combined turnover of all undertakings concerned | | | | | |

- Each of the undertakings concerned does not achieve more than two-thirds of its aggregate Union-wide turnover within one and the same Member State.

If the merger is notified on the basis of Article 1(3) of the Merger Regulation, you should also fill in the following table. You should include information on all the Member States that fulfil the criteria laid down in Article 1(3), points (b) and (c) and add rows to the table, if needed:

| Name of relevant Member State for the purposes of Article 1(3) point (b) and (c) of the Merger Regulation | Combined turnover of all undertakings concerned in this Member State (in million EUR) | Name of relevant undertakings concerned for the purposes of Article 1(3), point (c) of the Merger Regulation | Turnover of the undertaking concerned in this Member State (in EUR million) |
|---|---|--|---|
| | | | |
| | | | |
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| | | | |
| | | | |
| | | | |

- Each of the undertakings concerned does not achieve more than two-thirds of its aggregate Union-wide turnover within one and the same Member State.

⁽²⁴⁾ A = Acquirer in the case of acquisition of sole or joint control (if more than one, define A1, A2, etc.).

T = Target in the case of acquisition of sole control (if more than one, define T1, T2, etc.).

JV = Joint venture in the case of acquisition of joint control (if more than one, define JV1, JV2, etc.).

MP = Merging Party in the case of a merger (if more than one, define MP1, MP2, etc.).

⁽²⁵⁾ The turnover information must be provided in euro at the average exchange rates prevailing for the years or other periods in question.

⁽²⁶⁾ If the fiscal year does not fall together with the calendar year, indicate the end of the fiscal year in full date format (dd/mm/yyyy).

| | |
|---|--|
| Turnover in the territory of EFTA States ⁽²⁷⁾ | |
| The combined turnover of the undertakings concerned in the territory of the EFTA States equals 25% or more of their total turnover in the territory of the European Economic Area (EEA). | YES <input type="checkbox"/> NO <input type="checkbox"/> |
| Each of at least two of the undertakings concerned has a turnover exceeding EUR 250 million in the territory of the EFTA States. | YES <input type="checkbox"/> NO <input type="checkbox"/> |
| The proposed concentration could be a candidate for referral to an EFTA State because it gives rise to affected market(s), within the territory of any of the EFTA States that presents all the characteristics of a distinct market. | YES <input type="checkbox"/> NO <input type="checkbox"/> |

SECTION 3

NAME OF THE PRODUCT(S) CONCERNED ⁽²⁸⁾ ACCORDING TO NACE ⁽²⁹⁾

| Name of product(s) | NACE |
|--------------------|------|
| | |
| | |
| | |
| | |
| | |
| | |

SECTION 4

SUMMARY DESCRIPTION OF THE CONCENTRATION

Provide a non-confidential summary (up to 250 words) of the information provided under Section 1.1, including: the way by which the concentration is accomplished (for example, by way of purchase of shares, public bid, contract etc.); the articles of the Merger Regulation pursuant to which the transaction qualifies as a concentration; the undertakings concerned. For each of the undertakings concerned provide: Full name, country of incorporation, ultimately controlling entity, short description of activities and geographic areas of activity. For newly created JVs provide intended activities and geographic areas of activity. It is intended that this summary will be published on DG Competition’s website upon notification. The summary must be drafted so that it contains no confidential information or business secrets.)

⁽²⁷⁾ The EFTA States include Iceland, Liechtenstein and Norway.

⁽²⁸⁾ You should include only the NACE codes of the products that lead to any horizontal overlaps and/or non-horizontal relationships. For cases without horizontal overlaps or non-horizontal relationships, you should include the NACE codes of the main products of the target.

⁽²⁹⁾ Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains, (OJ L 393, 30.12.2006, p. 1), available at EUR-Lex - 32006R1893 - EN - EUR-Lex (europa.eu).

Example (please delete for notification)

This notification concerns the following undertakings:

[Full name of Company A] ([Short name of company A], [Country of origin of Company A], controlled by [Company X]

[Full name of Company B] ([Short name of company B], [Country of origin of Company B], controlled by [Company Y]

[Company A] acquires, within the meaning of Article 3(1), point (b) of the Merger Regulation sole control of (the whole/part) of [Company B] OR

[Company A] enters into a full merger within the meaning of Article 3(1), point (a) of the Merger Regulation, with [Company B] OR

[Company A] and [Company B] acquire, within the meaning of Article 3(1), point (b) and Article 3(4) of the Merger Regulation, joint control of [Company C].

The concentration is accomplished by [Means of implementing the concentration, e.g. way of purchase of shares/assets, etc.].

The business activities of the undertakings concerned are:

- a. for [Company A]: [Brief description of activity, e.g., diversified chemicals with primary activities in agricultural sciences, performance plastics and chemicals, and hydrocarbon and energy products and services].
- b. for [Company B]: [Brief description of activity, e.g., silicone-based technology and innovation with primary activities in development and production of polymers and other materials based on silicone chemistry].

SECTION 5

RATIONALE OF THE CONCENTRATION AND TIMING

| | |
|--|--|
| <p>5.1. Rationale of the concentration</p> <p>You should provide a summary description of rationale for the proposed concentration.</p> | |
| <p>5.2. Timing</p> <p>You should provide a summary description of the timing of the proposed concentration (including a legally binding date for closing, if applicable).</p> | |

5.3. **Complement your answer with any additional information you wish to submit to the Commission.**

SECTION 6

JURISDICTION ⁽³⁰⁾**6.1. Brief description of the concentration and change of control (up to 250 words)**

Example 1 (please delete for notification)

Pursuant to a share sale and purchase agreement signed on X.X.XX, [Company A] will acquire shares representing 75% of the total voting rights of [Company B]. The remaining 25% of [Company B] voting rights will be held by [the Minority Shareholder M]. As decisions in relation to [Company B]’s commercial strategy will be adopted by simple majority, [Company A] holding a majority of shares and votes will exercise decisive influence over [Company B]. [Company B] will therefore be solely controlled by [Company A].

Example 2 (please delete for notification)

Pursuant to a share sale and purchase agreement signed on X.X.XX, [Company A] will acquire shares representing 40% of the total voting rights of [Company B]. The remaining 60% of [Company B]’s voting rights will be held by [Company C]. The board will be composed of seven members, and [Company A] will appoint three of them. [Company A] will have veto rights on the appointment of senior management, the budget, and the business plan. [Company B] will therefore be jointly controlled by [Company A] and [Company C].

6.2. Acquisition of control **Acquisition of sole control**

The acquirer acquires sole control over the target(s) within the meaning of Article 3(2) of the Merger Regulation. You should specify the means of the acquisition of sole control by ticking the relevant boxes:

| | |
|--------------------------|---|
| <input type="checkbox"/> | [Undertaking 1] acquires positive sole control, i.e. majority of the voting rights over the target(s) (de jure sole control) |
| <input type="checkbox"/> | [Undertaking 1] acquires negative sole control over the target(s), i.e. the possibility to exercise sole veto rights on strategic decisions (de jure sole control). You should explain what those strategic decisions are: |
| <input type="checkbox"/> | [Undertaking 1] acquires de facto sole control over the target(s) with its [you should indicate exact shareholding and voting rights] % as it is highly likely to achieve a majority at (the target’s) shareholders’ meetings. You should also indicate if any of the following elements are present in the concentration: |
| <input type="checkbox"/> | The voting patterns of the shareholder meetings of the target(s) in the past five years are the following: [you should provide information on the attendance rate at these meetings for each year]. With its shareholding, [Undertaking 1] would have had a majority at the shareholder meetings of years [you should indicate which meetings]. |
| <input type="checkbox"/> | The remaining shares are widely dispersed. |
| <input type="checkbox"/> | Other important shareholders have structural, economic or family links with [Undertaking 1]. You should explain those links: [...]. |
| <input type="checkbox"/> | Other shareholders have purely financial interest in (the target). |

⁽³⁰⁾ You should refer to the Commission Consolidated Jurisdictional Notice.

Acquisition of joint control

| <input type="checkbox"/> [Undertaking 1], [Undertaking 2] and [Undertaking 3] (add others as necessary) acquire joint control over the target(s) within the meaning of Article 3(2) of the Merger Regulation through equality in voting rights or appointment to decision-making bodies or veto rights (points 64-73 of the Commission Consolidated Jurisdictional Notice). | | | |
|---|--|--|--|
| | Acquirers | | |
| | Undertaking 1 | Undertaking 2 | Undertaking 3 |
| Share-holding in the joint venture (%) | | | |
| Voting rights (%) | | | |
| Number of representatives appointed in target's decision-making body ⁽³¹⁾ / total number of members of decision-making body | | | |
| Management body representative has casting vote (yes/no) | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Veto rights on appointment of senior management (yes/no) | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Veto rights on adoption of business plan (yes/no) | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| | If Yes, please provide a copy of the most recent business plan(s) of the target. | | |
| Veto rights on adoption of budget (yes/no) | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Veto rights on investment | <input type="checkbox"/> Yes <input type="checkbox"/> No Indicate in the cell below the level of investments and their frequency in the specific sector. | <input type="checkbox"/> Yes <input type="checkbox"/> No Indicate in the cell below the level of investments and their frequency in the specific sector. | <input type="checkbox"/> Yes <input type="checkbox"/> No Indicate in the cell below the level of investments and their frequency in the specific sector. |
| | | | |
| Other market-specific rights | <input type="checkbox"/> Yes <input type="checkbox"/> No Indicate in the cell below which veto rights. | <input type="checkbox"/> Yes <input type="checkbox"/> No Indicate in the cell below which veto rights. | <input type="checkbox"/> Yes <input type="checkbox"/> No Indicate in the cell below which veto rights. |
| | | | |

⁽³¹⁾ You should complete taking into account the decision-making body that takes strategic decisions of the nature described in Commission Consolidated Jurisdictional Notice, Sections 3.1 and 3.2.

- | |
|---|
| <ul style="list-style-type: none"> <input type="checkbox"/> [Undertaking 1], [Undertaking 2] and [Undertaking 3] (add others as necessary) acquire joint control over the target(s) within the meaning of Article 3(2) of the Merger Regulation by other means (see points 74-80 of the Commission Consolidated Jurisdictional Notice), in particular: <ul style="list-style-type: none"> <input type="checkbox"/> [Undertaking 1], [Undertaking 2] and [Undertaking 3] (add others as necessary) acquire joint control over the target(s) by means of a pooling agreement, a holding company or any other legal mean. <input type="checkbox"/> [Undertaking 1], [Undertaking 2] and [Undertaking 3] (add others as necessary) acquire de facto joint control over the target(s) on the basis of a strong commonality of interests. You should explain such commonality of interests: [...] |
|---|

6.3. Full-functionality (to be filled in only if the concentration falls under Article 3(4) or 3(1), point (b) in combination with 3(4) of the Merger Regulation)

- | |
|--|
| <ul style="list-style-type: none"> <input type="checkbox"/> The joint venture is full function within the meaning of Article 3(4) of the Merger Regulation because the joint venture performs on a lasting basis all the functions of an autonomous economic entity). More specifically: <ul style="list-style-type: none"> <input type="checkbox"/> The joint venture will have sufficient resources to operate independently on the market, notably a dedicated management, sufficient financial resources, staff, and assets. <input type="checkbox"/> The joint venture will have its own access to or presence on the market independent from its parent companies. |
| <ul style="list-style-type: none"> <input type="checkbox"/> The joint venture will achieve more than 50% of its sales to third parties on a lasting basis (i.e., beyond an initial period of three years). <p>OR</p> <ul style="list-style-type: none"> <input type="checkbox"/> The joint venture is intended to make more than 50% of its sales to the parent companies beyond an initial period, but these will be made based on market conditions, including on the same terms and conditions as sales to third parties. |
| <ul style="list-style-type: none"> <input type="checkbox"/> The joint venture is intended to operate on a lasting basis as it is not set up for a short limited duration and the duration of its activities will be [indicate the duration]. <input type="checkbox"/> There are no third party or external decisions pending that are of essential core importance for the launch of the joint venture's business operations. |
| <ul style="list-style-type: none"> <input type="checkbox"/> Other: [explain] |

6.4. Complement your answer with any additional information you wish to submit to the Commission.

| |
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| |
|--|

SECTION 7

CATEGORY OF SIMPLIFIED TREATMENT (BY REFERENCE TO THE RELEVANT POINTS IN THE NOTICE ON SIMPLIFIED PROCEDURE)

(a) Point 5(a) of the Notice on Simplified Procedure

- | |
|--|
| <ul style="list-style-type: none"> <input type="checkbox"/> The joint venture is not active within the territory of the European Economic Area (EEA): <ul style="list-style-type: none"> <input type="checkbox"/> The joint venture has no current (i.e. at the time of notification) or expected (over the next three years following notification) turnover within the EEA. |
|--|

- | |
|---|
| <input type="checkbox"/> The parent companies of the joint venture have not planned any asset transfers to the joint venture within the EEA at the time of notification ⁽³²⁾ . |
|---|

| |
|--|
| If the concentration fulfils the criteria in point 5(a) of the Notice on Simplified Procedure, Sections 8, 9 and 11 below do not need to be completed. |
|--|

AND/OR

(b) **Point 5(b) of the Notice on Simplified Procedure**

- | |
|--|
| <input type="checkbox"/> The joint venture has negligible current or expected activities within the EEA: |
|--|

- | |
|--|
| <input type="checkbox"/> The annual current turnover of the joint venture and/or the turnover of the contributed activities ⁽³³⁾ at the time of notification as well as the annual turnover expected over the three years following notification is less than EUR 100 million within the EEA. |
|--|

- | |
|---|
| <input type="checkbox"/> The total value of the asset transfers to the joint venture planned at the time of notification ⁽³⁴⁾ is less than EUR 100 million within the EEA. |
|---|

AND/OR

(c) **Point 5(c) of the Notice on Simplified Procedure** ⁽³⁵⁾

- | |
|---|
| <input type="checkbox"/> None of the parties to the concentration are active in the same product and geographic market. |
|---|

- | |
|---|
| <input type="checkbox"/> None of the parties to the concentration are active in markets upstream or downstream of each other. |
|---|

| |
|--|
| If the concentration fulfils the criteria of point 5(c) of the Notice on Simplified Procedure, Sections 8, 9 and 11 below do not need to be completed. |
|--|

AND/OR

(d) **Point 5(d) of the Notice on Simplified Procedure**

- | |
|--|
| <input type="checkbox"/> Two or more undertakings merge, or one or more undertakings acquire sole or joint control of another undertaking and the conditions set out in points 5(d)(i) and 5(d)(ii) of the Notice on Simplified Procedure are fulfilled under all plausible market definitions ⁽³⁶⁾ . |
|--|

⁽³²⁾ Any asset planned to be transferred to the joint venture at the time of notification should be considered, regardless of the date in which these assets will actually be transferred to the joint venture.

⁽³³⁾ The expression 'and/or' refers to the variety of situations covered. These include:

- in the case of a joint acquisition of a target company, the turnover to be taken into account is the turnover of this target (the joint venture);
- in the case of the creation of a joint venture to which the parent companies contribute their activities, the turnover to be taken into account is that of the contributed activities;
- in the case of entry of a new controlling party into an existing joint venture, the turnover of the joint venture and the turnover of the activities contributed by the new parent company (if any) must be taken into account.

⁽³⁴⁾ Any asset planned to be transferred to the joint venture at the time of notification should be considered, regardless of the date in which these assets will actually be transferred to the joint venture.

⁽³⁵⁾ The two boxes need to be ticked for this category to apply.

⁽³⁶⁾ The thresholds for horizontal overlaps and vertical relationships apply to any plausible alternative product and geographic market definition that may have to be considered in a given case. It is important that the underlying market definitions set out in the notification are precise enough to justify the assessment that these thresholds are not met, and that all plausible alternative market definitions that may have to be considered are mentioned (including geographic markets narrower than national).

- | |
|--|
| <input type="checkbox"/> The combined market shares of all the parties to the concentration that are engaged in business activities in the same product and geographic market (horizontal overlaps) meet at least one of the following conditions: <ul style="list-style-type: none"> <input type="checkbox"/> are lower than 20%; <input type="checkbox"/> are lower than 50% and the increment (delta) of the Herfindahl-Hirschman Index (HHI) resulting from the concentration on these markets is below 150 ⁽³⁷⁾. |
| <input type="checkbox"/> The individual and combined market shares of all the parties to the concentration that are engaged in business activities in a product market which is upstream or downstream from a product market in which any other party to the concentration is engaged (vertical relationships) meet at least one of the following conditions: <ul style="list-style-type: none"> <input type="checkbox"/> are lower than 30% upstream and downstream; <input type="checkbox"/> are lower than 30% in the upstream market and the purchasing share of the downstream entity of the upstream input is lower than 30%; <input type="checkbox"/> are lower than 50% on both the upstream and downstream markets, the increment (delta) of the HHI resulting from the concentration is below 150 on both the upstream and downstream markets and the smaller undertaking in terms of market shares is the same in the upstream and downstream markets ⁽³⁸⁾. |

AND/OR

(e) **Point 5(e) of the Notice on Simplified Procedure**

- | |
|---|
| <input type="checkbox"/> The notifying party acquires sole control of an undertaking over which it already has joint control. |
|---|

AND/OR

(f) **Point 8 of the Notice on Simplified Procedure (flexibility cause)**

- | |
|---|
| <input type="checkbox"/> Under all plausible market definitions, (i) the parties' combined market shares remain below 25% on any relevant market where the parties' activities overlap and (ii) none of the special circumstances described in section II.C of the Notice on Simplified Procedure are present. |
| <input type="checkbox"/> Under all plausible market definitions, the parties' combined market shares remain below 25% on any relevant market where the parties' activities overlap, and although one or several of the special circumstances described in section II.C of the Notice on Simplified Procedure are present, the case does not raise any competition concerns for the reasons explained in Section 11. |

⁽³⁷⁾ The HHI is calculated by summing the squares of the individual market shares of all the firms in the market: see Commission Guidelines on the assessment of horizontal mergers under the Council Regulation on the control of concentrations between undertakings (OJ C 31, 5.2.2004, p. 5, point 16), available at <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A52004XC0205%2802%29>. However, in order to calculate the HHI delta resulting from the concentration, it is sufficient to subtract from the square of the sum of the market shares of the parties to the concentration (in other words, the square of the merged entity's market share post-concentration) the sum of the squares of the parties' individual market shares (since the market shares of all other competitors in the market remain unchanged and thus do not influence the result of the equation).

⁽³⁸⁾ This category aims to capture small increments to a pre-existing vertical integration. For example, Company A, active in an upstream and a downstream market (with a share of 45 % in each) acquires Company B active in the same upstream and downstream markets (with a share of 0.5 % in each). This category does not capture situations in which the bulk of the vertical integration results from the transaction, even if the combined market shares are below 50 % and the HHI delta is below 150. For example, this category does not capture the following situation: Company A, active upstream with a market share of 45 % and downstream with a market share of 0.5 % acquires company B active upstream with a market share of 0.5% and downstream with a market share of 45 %.

- | |
|--|
| <input type="checkbox"/> None of the circumstances described in section II.C on Simplified Procedure are present and the individual and combined market shares of all the parties to the concentration that are engaged in business activities in a market which is upstream or downstream from a market in which any other party to the concentration is engaged (vertical relationships) meet at least one of the following conditions: <ul style="list-style-type: none"> <input type="checkbox"/> are lower than 35% in the upstream and downstream markets; <input type="checkbox"/> are lower than 50% in one market while the individual and combined market shares of all the parties to the concentration in all the other vertically related markets are lower than 10%. |
| <input type="checkbox"/> One or several of the circumstances described in section II.C of the Notice on Simplified Procedure are present, the case does not raise any competition concerns for the reasons explained in Section 11 and the individual and combined market shares of all the parties to the concentration that are engaged in vertical relationships meet at least one of the following conditions: <ul style="list-style-type: none"> <input type="checkbox"/> are lower than 35% in the upstream and downstream markets; <input type="checkbox"/> are lower than 50% in one market while the individual and combined market shares of all the parties to the concentration in all the other vertically related markets are lower than 10%. |

AND/OR

(g) **Point 9 of the Notice on Simplified Procedure (flexibility cause)**

- | |
|---|
| <input type="checkbox"/> The annual current turnover of the joint venture and/or the turnover of the contributed activities ⁽³⁹⁾ at the time of notification is more than EUR 100 million, but less than EUR 150 million within the EEA. |
| <input type="checkbox"/> The total value of asset transfers to the joint venture planned at the time of notification is more than EUR 100 million, but less than EUR 150 million within the EEA. ⁽⁴⁰⁾ |
| <input type="checkbox"/> If the joint venture is active in the EEA and the concentration gives rise to horizontal overlaps and/or vertical relationships, you should complete respectively Section 8 and/or 9. |

Complement your answer with any additional information you wish to submit to the Commission.

| |
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| |
|--|

SECTION 8

HORIZONTAL OVERLAPS

8.1. You should complete the table below if the concentration leads to horizontal overlaps, including overlaps between (i) pipeline products ⁽⁴¹⁾ and marketed products or (ii) pipeline products (i.e. pipeline to pipeline overlaps). ⁽⁴²⁾ You should replicate the table as many times as required to cover all the plausible markets that you considered:

⁽³⁹⁾ See Footnote 31.

⁽⁴⁰⁾ See Footnote 32.

⁽⁴¹⁾ Pipeline products are products likely to be brought to market in the short or medium term. "Pipeline products" also covers services.

⁽⁴²⁾ In case of horizontal overlaps involving pipeline products, you should provide shares for the marketed products that compete in the plausible relevant market.

Horizontal overlaps – market shares and pipeline products

| Precedents (include a reference to the relevant paragraphs) | Plausible product market considered | Plausible geographic market considered | Supplier | Year X -2 | | Year X -1 | | Year X | | Pipeline products ⁽⁴³⁾ (Name) |
|---|---|---|-------------------------|------------------------|--------|-----------|--------|--------|--------|--|
| | | | | Value | Volume | Value | Volume | Value | Volume | |
| | | | Undertaking concerned 1 | % | % | % | % | % | % | |
| | | | Undertaking concerned 2 | % | % | % | % | % | % | |
| | | | Undertaking concerned 3 | % | % | % | % | % | % | |
| | | | Combined | % | % | % | % | % | % | |
| | | | Competitor 1 | Do not complete | | | | % | % | |
| | | | Competitor 2 | | | | | % | % | |
| | | | Competitor 3 | | | | | % | % | |
| | | | Others | | | | | % | % | |
| | | | Total | 100% | 100% | 100% | 100% | 100% | 100% | Do not complete. |
| | | | Market size | EUR | | EUR | | EUR | | |

Describe the parties' activities in this market:

Provide further details here (in particular if there are no precedents, you should provide the parties' views on product/geographic market definition):

Metrics, sources and methodology followed for market share calculation. If value and volume are not the most common metrics for market share calculation in the relevant markets, you should provide market shares based on alternative metrics and explain:

If the case falls under point 5(d) (i) (bb) of the Notice on Simplified Procedure, you should provide delta HHI:

Provide information on the parties' pipeline products and their competitors (including the stage of their development):

Provide the contact details of Competitor 1, Competitor 2, and Competitor 3 in the prescribed format:

⁽⁴³⁾ You should provide market shares for the parties and/or the competitors who offer marketed products. If there are no marketed products, you should identify at least three competitors developing rival pipeline products.

8.2. **Complement your answer with any additional information you wish to submit to the Commission.**

| |
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| |
|--|

SECTION 9

VERTICAL RELATIONSHIPS

9.1. **You should complete the table below if the concentration leads to vertical relationships, ⁽⁴⁴⁾ including between (i) pipeline products and marketed products or (ii) pipeline products (i.e. pipeline to pipeline vertical relations). You should replicate the table as many times as required to cover all the plausible markets that you considered: ⁽⁴⁵⁾**

⁽⁴⁴⁾ Excluding vertical relationships falling under point 5(d)(ii)(bb) of the Notice on Simplified Procedure. For these vertical relationships, you should complete Section 10 below.

⁽⁴⁵⁾ For example, if regarding the vertical relationship between upstream market U and downstream market D, you considered the plausible upstream market definitions U1 and U2, you should include two tables: (i) information on U1 and D, and (ii) information on U2 and D.

Vertical relationships – market shares and pipeline products

UPSTREAM

| Precedents (include a reference to the relevant paragraphs) | Plausible product market considered | Plausible geographic market considered | Supplier | Year X -2 | | Year X -1 | | Year X | | Pipeline products (Name) ⁽⁴⁶⁾ |
|---|---|---|-------------------------|-------------------------|--------|-----------|--------|--------|--------|--|
| | | | | Value | Volume | Value | Volume | Value | Volume | |
| | | | Undertaking concerned 1 | % | % | % | % | % | % | |
| | | | Undertaking concerned 2 | % | % | % | % | % | % | |
| | | | Undertaking concerned 3 | % | % | % | % | % | % | |
| | | | Combined | % | % | % | % | % | % | |
| | | | Competitor 1 | Do not complete. | | | | % | % | |
| | | | Competitor 2 | | | | | % | % | |
| | | | Competitor 3 | | | | | % | % | |
| | | | Others | | | | | % | % | |
| | | | Total | 100% | 100% | 100% | 100% | 100% | 100% | Do not complete. |
| | | | Market size | EUR | | EUR | | EUR | | |

Describe the parties' activities in this market:

Provide further details here (in particular if there are no precedents, you should provide the parties' views on product/geographic market definition):

Metrics, sources and methodology followed for market share calculation. If value and volume are not the most common metrics for market share calculation in the relevant markets, you should provide market shares based on alternative metrics and explain:

If the case falls under point 5(d)(ii)(cc) of the Notice on Simplified Procedure, you should provide delta HHI (value and volume for three years):

Provide information on the parties' pipeline products and their competitors (including the stage of their development):

Provide the contact details of Competitor 1, Competitor 2, and Competitor 3 in the prescribed format:

⁽⁴⁶⁾ You should provide market shares for the parties and/or the competitors who offer marketed products. If there are no marketed products, you should identify at least three competitors developing rival pipeline products.

| DOWNSTREAM | | | | | | | | | | |
|---|--|---|-------------------------|-------------------------|--------|-----------|--------|--------|--------|--|
| Precedents (include a reference to relevant paragraphs) | Plausible product market considered) | Plausible geographic market considered | Supplier | Year X -2 | | Year X -1 | | Year X | | Pipeline products (Name) ⁽⁴⁷⁾ |
| | | | | Value | Volume | Value | Volume | Value | Volume | |
| | | | Undertaking concerned 1 | % | % | % | % | % | % | |
| | | | Undertaking concerned 2 | % | % | % | % | % | % | |
| | | | Undertaking concerned 3 | % | % | % | % | % | % | |
| | | | Combined | % | % | % | % | % | % | |
| | | | Competitor 1 | Do not complete. | | | | % | % | |
| | | | Competitor 2 | | | | | % | % | |
| | | | Competitor 3 | | | | | % | % | |
| | | | Others | | | | | % | % | |
| | | | Total | 100% | 100% | 100% | 100% | 100% | 100% | Do not complete. |
| | | | Size of the market | EUR | | EUR | | EUR | | |

Describe the parties activities in this market:

Provide further details here (in particular if there are no precedents, you should provide the parties' views on product/geographic market definition):

Metrics, sources and methodology followed for market share calculation. If value and volume are not the most common metrics for market share calculation in the relevant markets, you should provide market shares based on alternative metrics and explain:

If the case falls under point 5(d)(ii)(cc) of the Notice on Simplified Procedure, you should provide delta HHI (value and volume for three years):

Provide information on the parties' pipeline products and their competitors (including the stage of their development):

Provide contact details of Competitor 1, Competitor 2, and Competitor 3 in the prescribed format:

⁽⁴⁷⁾ You should provide market shares for the parties and/or the competitors who offer marketed products. If there are no marketed products, you should identify at least three competitors developing rival pipeline products.

9.2. **Complement your answer with any additional information you wish to submit to the Commission.**

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| |
|--|

SECTION 10

VERTICAL RELATIONSHIPS FALLING UNDER POINT 5(D)(II)(BB) OF THE NOTICE ON SIMPLIFIED PROCEDURE

10.1. **You should complete the tables below if the concentration leads to vertical relationships falling under point 5(d)(ii)(bb) of the Notice on Simplified Procedure, including between (i) pipeline products and marketed products or (ii) pipeline products (i.e. pipeline to pipeline vertical relations). You should replicate the table as many times as required to cover all the plausible markets that you consider ⁽⁴⁸⁾:**

⁽⁴⁸⁾ For example, if regarding the vertical relationship between upstream market U and downstream market D, you considered the plausible upstream market definitions U1 and U2, you should include two tables: (i) information on U1 and D, and (ii) information on U2 and D.

Vertical relationships under point 5(d)(ii)(bb) of the Notice on Simplified Procedure– market shares and pipeline products

UPSTREAM

| Precedents (include a reference to relevant paragraphs) | Plausible product market considered | Plausible geographic market considered | Supply of products in upstream markets (Market shares) | | | | | | | | Purchasing of products in upstream markets (Purchasing shares) | | | | | | |
|---|--|---|---|------------------------|--------|-----------|--------|--------|--------|--|---|------------------------|-----------|--------|--------|--------|--|
| | | | Entity | Year X -2 | | Year X -1 | | Year X | | Pipeline products (Name) ⁽⁴⁹⁾ | Year X -2 | | Year X -1 | | Year X | | |
| | | | | Value | Volume | Value | Volume | Value | Volume | | Value | Volume | Value | Volume | Value | Volume | |
| | | | Undertaking concerned 1 | % | % | % | % | % | % | | | | | | | | |
| | | | Undertaking concerned 2 | % | % | % | % | % | % | | | | | | | | |
| | | | Undertaking concerned 3 | % | % | % | % | % | % | | | | | | | | |
| | | | Combined | % | % | % | % | % | % | | | | | | | | |
| | | | Competitor 1 | Do not complete | | | | | | % | % | Do not complete | | | | | |
| | | | Competitor 2 | | | | | | | % | % | | | | | | |
| | | | Competitor 3 | | | | | | | % | % | | | | | | |
| | | | Others | | | | | | | % | % | | | | | | |
| | | | Total | 100% | 100% | 100% | 100% | 100% | 100% | Do not complete | Do not complete | | | | | | |
| | | | Market size | EUR | | EUR | | EUR | | | Do not complete | | | | | | |

⁽⁴⁹⁾ You should provide market shares for the parties and/or the competitors who offer marketed products. If there are no marketed products, you should identify at least three competitors developing rival pipeline products.

Describe the parties' activities in this market:

Provide further details here (in particular if there are no precedents, please provide the parties' views on product/geographic market definition):

Metrics, sources and methodology followed for market share calculation. If value and volume are not the most common metrics for market share calculation in the relevant markets, you should provide market shares based on alternative metrics and explain:

Provide information on the parties' pipeline products and their competitors (including the stage of their development):

Explain whether one or more of the undertakings concerned purchased the upstream input product from one or more other undertakings concerned in Year X; Year X-1; or Year X-2, indicating the percentage of those purchases for the total purchases of the undertaking concerned:

Provide contact details of Competitor 1, Competitor 2, and Competitor 3 in the prescribed format:

| DOWNSTREAM | | | | | | | | | | |
|---|---|---|-------------------------|-------------------------|--------|-----------|--------|--------|--------|--|
| Precedents (include a reference to relevant paragraphs) | Plausible product market considered | Plausible geographic market considered | Supplier | Year X -2 | | Year X -1 | | Year X | | Pipeline products (Name) ⁽⁵⁰⁾ |
| | | | | Value | Volume | Value | Volume | Value | Volume | |
| | | | Undertaking concerned 1 | % | % | % | % | % | % | |
| | | | Undertaking concerned 2 | % | % | % | % | % | % | |
| | | | Undertaking concerned 3 | % | % | % | % | % | % | |
| | | | Combined | % | % | % | % | % | % | |
| | | | Competitor 1 | Do not complete. | | | | % | % | |
| | | | Competitor 2 | | | | | % | % | |
| | | | Competitor 3 | | | | | % | % | |
| | | | Others | | | | | % | % | |
| | | | Total | 100% | 100% | 100% | 100% | 100% | 100% | Do not complete. |
| | | | Size of the market | EUR | | EUR | | EUR | | Do not complete. |

⁽⁵⁰⁾ You should provide market shares for the parties and/or the competitors who offer marketed products. If there are no marketed products, you should identify at least three competitors developing rival pipeline products.

Describe the parties' activities in this market:

Provide further details here (in particular if there are no precedents, you should provide the parties' views on product/geographic market definition):

Metrics, sources and methodology followed for market share calculation. If value and volume are not the most common metrics for market share calculation in the relevant markets, you should provide market shares based on alternative metrics and explain:

Provide information on parties' pipeline products and their competitors, including the stage of their development:

Provide contact details of Competitor 1, Competitor 2, and Competitor 3 in the prescribed format:

Estimate what percentage of total demand for the upstream input is represented by the downstream market in Year X, X-1, and X-2. You should also identify the different industries, sectors, and end-applications where the upstream input can be used other than the downstream market, including the percentage of total demand for the upstream product of each industry, sector and/or end-application. If this information is not available for all the market, you should indicate the proportion of sales made by the party active in the upstream market to its 10 main customers (including the other parties, if applicable):

10.2. Complement your answer with any additional information you wish to submit to the Commission.

SECTION 11

SAFEGUARDS AND EXCLUSIONS ⁽⁵¹⁾

| | |
|--|---|
| Any of the parties to the concentration has significant non-controlling shareholdings (i.e. above 10%) or cross-directorships in companies active in the same markets as any of the other parties or in vertically related markets (e.g. the acquiring undertaking has a non-controlling minority shareholding or common directors in an undertaking active in the same market as the target). | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| One or more of the parties' competitors have a significant non-controlling shareholding (i.e. above 10%) in any of the undertakings concerned. If yes: indicate the shareholding %: indicate the rights attached to the shareholding: | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| The parties are active in closely neighbouring markets and any of the Parties individually holds a market share of 30% or more in any of these markets under any plausible market definition | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| There will remain fewer than three competitors with market shares above 5% in any of the markets giving raise to horizontal overlaps or vertical relationships under any plausible market definition. | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| The relevant market share thresholds are exceeded in terms of capacity under any plausible market definition ⁽⁵²⁾ . | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| The parties (or one of them) are recent entrants in the overlapping markets (i.e. entered the market in the last three years) | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| The parties are important innovators in the overlapping markets. | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| The parties have brought to the market an important pipeline product within the last 5 years. | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| The concentration gives raise to pipeline-to-pipeline or pipeline-to-marketed product overlaps. | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| One of the parties has plans to expand in product markets and/or geographic markets in which the other party is active or which are in a vertical relation with products in which the other party is active. Explain the products or services concerned by such plans and their timing: [open text] . | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| In production chains with more than two levels, individual or combined market shares of the parties are 30% or higher in any of the levels of the value chain (in terms of value, volume or capacity). | <input type="checkbox"/> Yes <input type="checkbox"/> No |

⁽⁵¹⁾ Complete only one table for all markets falling under any of the categories of the Notice on Simplified Procedure for which none of the safeguards/exclusions apply (i.e., the answer to all questions in Section 11 is "No"). For each market falling under any of the categories of the Notice on Simplified Procedure for which the answer to at least one question is "Yes", you should provide a separate table.

⁽⁵²⁾ If this metric is relevant for the markets where the concentration gives rise to a horizontal overlap or a vertical relationship between the parties' activities.

| | |
|---|---|
| The annual turnover of the joint venture is expected to significantly surpass EUR 100 million in the EEA within the following 3 years. | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| The annual turnover of the joint venture is expected to significantly surpass EUR 150 million in the EEA within the following 3 years. If the annual turnover of the joint venture is expected to surpass EUR 100 million in the EEA within the following 3 years, please provide the expected turnover for the next 3 years: [open text] . | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| If you answered “yes” to any of the questions above, explain why you think that the case should be treated under the Simplified Procedure Notice and provide all relevant details: [open text] . | |

SECTION 12

COOPERATIVE EFFECTS OF A JOINT VENTURE

| | | | | |
|--|--------|----------|------------------------------|-----------------------------|
| 12.1. Do two or more parents retain activities in the same market as the joint venture or in a market that is upstream or downstream from that of the joint venture or in a neighbouring market closely related to this market? | | | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Parent | Market | Turnover | Market share | |
| Joint venture | Market | Turnover | Market share | |

12.2. **Explain if the criteria laid down in Articles 101(1) and 101(3) of the Treaty on the Functioning of the European Union and, where applicable the corresponding provisions of the EEA Agreement, are met in this case.**

12.3. **Complement your answer with any additional information you wish to submit to the Commission.**

SECTION 13

CONTACT DETAILS

| | |
|--|--|
| Notifying party | Notifying party 2 (if applicable) |
| Name | Name |
| Address | Address |
| Phone number | Phone number |
| Email | Email |
| Website | Website |
| Target | Phone number |
| Name | Email |
| Address | Website |
| Authorised representative of notifying party | Authorised representative of notifying party 2 |
| Name | Name |
| Organisation | Organisation |
| Address | Address |

| | |
|--------------|--------------|
| Phone number | Phone number |
| Email | Email |

SECTION 14

ANNEXES

| | |
|--|---|
| <input type="checkbox"/> Documents bringing about the concentration | Provisions establishing change in control: |
| | Provisions establishing full functionality: |
| <input type="checkbox"/> Original power of attorney document(s) (from the notifying party or parties) | |
| <input type="checkbox"/> Turnover data – EEA breakdown | |
| <input type="checkbox"/> Market shares methodology | |
| <input type="checkbox"/> Only in cases where the concentration gives rise to one or more horizontal overlaps and/or vertical links in the EEA, you should provide: | |
| — Copies of all presentations prepared by or for or received by any members of the board of management, or the board of directors, or the supervisory board, in the light of the corporate governance structure, or the other person(s) exercising similar functions (or to whom such functions have been delegated or entrusted), or the shareholders' meeting to analyse the notified concentration. | |
| — An indication of the internet address, if any, where the most recent annual reports and accounts of all the parties to the concentration are available, or if no such internet address exists, copies of the most recent annual reports and accounts of the parties to the concentration. | |
| <input type="checkbox"/> Other Annexes | Describe |

SECTION 15

OTHER NOTIFICATIONS

15.1. Is the concentration notifiable in other jurisdictions?

- Yes
 No

If yes, list them here:

15.2. Indicate if you have filed or intend to file a notification under Article 20 of Regulation (EU) 2022/2560 of the European Parliament and of the Council of 14 December 2022 on foreign subsidies distorting the internal market (OJ L 330, 23.12.2022 , p. 1-45).

SECTION 16

DECLARATION

- The notifying party or parties declare that, to the best of their knowledge and belief, the information included in this form is true, correct, and complete, that true and complete copies of relevant documents have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.
- The notifying party or parties are aware of Article 14(1), point (a), Merger Regulation.

For digitally signed forms, the following fields are for information only. They should correspond to the metadata of the corresponding electronic signature(s).

Date:

| | |
|--------------------------|------------------------------|
| [signatory 1] | [signatory 2, if applicable] |
| Name: | Name: |
| Organisation: | Organisation: |
| Position: | Position: |
| Address: | Address: |
| Phone number: | Phone number: |
| Email: | Email: |
| ['e-signed' / signature] | ['e-signed' / signature] |

ANNEX III

FORM RELATING TO REASONED SUBMISSIONS PURSUANT TO ARTICLES 4(4) AND 4(5) OF COUNCIL REGULATION (EC) No 139/2004**(FORM RS)**

INTRODUCTION

A. The purpose of the Form RS

- (1) This Form RS specifies the information that must be provided when making a reasoned submission for a pre-notification referral under Article 4(4) or (5) of Regulation (EC) No 139/2004 ⁽¹⁾ (“Merger Regulation”). The merger control system of the European Union is laid down in the Merger Regulation and in Commission Implementing Regulation (EU) 2023/914 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (the “Implementing Regulation”) ⁽²⁾ to which this Form RS is annexed. Your attention is drawn to the corresponding provisions of the Agreement on the European Economic Area ⁽³⁾ (“EEA Agreement”).

B. Contacts prior to submission of the Form RS and waiver requests

- (2) The information requested in this Form RS must in principle be provided in all cases and is therefore a requirement for a complete pre-notification referral request.

1. Information that is not reasonably available

- (3) In exceptional circumstances, specific elements required by this Form RS may not be reasonably available to the submitting parties in part or in whole (e.g., because information on a target company is not available in case of a contested bid). In that case, the submitting parties may request the Commission to dispense with the obligation to provide the relevant information or with any other requirement in the Form RS related to this information. This request should be submitted in accordance with the instructions set out in point B.3.

2. Information that is not necessary for the Commission’s examination of the case

- (4) Pursuant to Articles 4(2) and 6(2) of the Implementing Regulation, the Commission may dispense with the obligation to provide any particular information in the Form RS, including documents, or with any other requirements, where the Commission considers compliance with those obligations or requirements is not necessary for the examination of the case. In that case, the submitting parties may request the Commission to dispense with the obligation to provide the relevant information or with any other requirement in the Form RS related to this information. This request should be submitted in accordance with the instructions set out in point B.3.

3. Prior contacts and waiver requests

- (5) Parties that are entitled to submit a Form RS are invited to engage in contacts with the Commission prior to the submission. Parties should engage in such contacts on the basis of a draft Form RS. The possibility to engage in prior contacts is a service offered by the Commission to submitting parties on a voluntary basis in order to prepare

⁽¹⁾ Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the “Merger Regulation”) (OJ L 24, 29.1.2004, p. 1).

⁽²⁾ OJ L 119, 5.5.2023, p. 22.

⁽³⁾ See in particular Article 57 of the EEA Agreement, point 1 of Annex XIV to the EEA Agreement, Protocols 21 and 24 to the EEA Agreement (all available at EUR-Lex - 21994A0103(74) - EN - EUR-Lex (europa.eu)) , as well as Protocol 4 to the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice (hereinafter ‘Surveillance and Court Agreement’), available at EUR-Lex - JOL_1994_344_R_0001_003 - EN - EUR-Lex (europa.eu) . Any reference to EFTA States must be understood to mean those EFTA States which are Contracting Parties to the EEA Agreement. As of 1 May 2004, those States are Iceland, Liechtenstein and Norway.

the formal submission of this Form RS. As such, while not mandatory, prior contacts are extremely valuable to both the submitting parties and the Commission in determining, among other things, the precise amount of information required in a Form RS and, in the majority of cases, will result in a significant reduction of the information required.

- (6) In the course of prior contacts, submitting parties may make requests for waivers. The Commission will consider waiver requests provided one of the following conditions is fulfilled:
 - (a) the submitting parties give adequate reasons why the relevant information is not reasonably available and provide best estimates for the missing data, identifying the sources for those estimates. Where possible, the submitting parties must indicate where any of the requested information that is unavailable could be obtained by the Commission or the relevant Member State(s) and EFTA State(s);
 - (b) the submitting parties give adequate reasons why the relevant information is not necessary for the examination of the Form RS.
- (7) Waiver requests should be submitted at the same time as the draft Form RS. Waiver requests should be made in the text of the draft Form RS itself (at the beginning of the relevant section or sub-section). The Commission will deal with waiver requests in the context of the review of the draft Form RS. The Commission will normally require five working days before responding to a waiver request. Where a waiver request is submitted with the justification that information is not necessary for the examination of the Form RS, the Commission may consult with the relevant Member State(s) or EFTA State authority(-ies) before deciding to accept the request.
- (8) For the avoidance of doubt, the fact that the Commission may have accepted that any particular information requested by this Form RS is not necessary for the examination of the pre-notification referral request does not in any way prevent the Commission from requesting that information at any time during the proceedings, in particular through a request for information pursuant to Article 11 of the Merger Regulation.
- (9) The submitting parties may refer to the 'Best Practices on the conduct of EC merger control proceedings' of the Commission's Directorate-General for Competition ('DG Competition') as published on DG Competition's website and updated from time to time, which provide guidance on pre-notification contacts and the preparation of pre-notification referral requests.

C. The requirement for correct and complete reasoned submission

- (10) The information requested in this Form RS must in principle be provided in all cases and is therefore a requirement for a complete pre-notification referral request. All information must be supplied in the appropriate section of this Form RS and it must be correct and complete.
- (11) In particular you should note that:
 - (a) in accordance with Article 4(4) and (5) of the Merger Regulation and Article 5(2) and (4), and Article 6(2) of the Implementing Regulation, the time-limits laid down in the Merger Regulation with regard to the Form RS will not start until all the information that has to be supplied with the submission has been received by the Commission. This is to ensure that the Commission is able to assess the pre-notification referral request within the strict time-limits laid down in the Merger Regulation.
 - (b) in accordance with Article 4(4) of the Merger Regulation, the decision whether or not to refer a case in whole or in part to a Member State or an EFTA State will normally be taken on the basis of the information contained in the Form RS, without further investigation efforts being undertaken by the Commission. In accordance with Article 4(5) of the Merger Regulation, the position of a Member State or an EFTA State regarding the referral of a case to the Commission will normally be taken on the basis of the information contained in the Form RS, without further investigation efforts being undertaken by the authorities involved;

- (c) the submitting parties must therefore verify, in the course of preparing their reasoned submission, that all information and arguments relied upon are sufficiently supported by independent sources;
- (d) in accordance with Articles 5(4) and 6(2) of the Implementing Regulation, incorrect or misleading information in the reasoned submission will be considered to be incomplete information;
- (e) under Article 14(1), point (a), of the Merger Regulation, parties making a reasoned submission who, either intentionally or negligently, provide incorrect or misleading information, may be liable to fines of up to 1% of the aggregate turnover of the undertaking concerned ⁽⁴⁾.

D. How to make a reasoned submission

- (12) The reasoned submission must be completed in one of the official languages of the Union. This language will thereafter be the language of the proceedings for all submitting parties.
- (13) In order to facilitate the treatment of the Form RS by Member State authorities and EFTA State authorities, submitting parties are strongly encouraged to provide the Commission with a translation of their reasoned submission in a language or languages which will be understood by all addressees of the information. As regards requests for referral to (a) Member State(s) or (an) EFTA State(s), the submitting parties are strongly encouraged to include a copy of the request in the language(s) of the Member State(s) and EFTA State(s) to which referral is being requested.
- (14) The information requested by this Form RS is to be set out using the sections and paragraph numbers signing a declaration as provided in Section 6, and annexing supporting documentation. Where information required by one section partly (or wholly) overlaps with information required by another section, this same information should not be submitted twice though accurate cross-referencing should be used.
- (15) The Form RS must be signed by persons authorised by law to act on behalf of each of the submitting party or parties or by one or more authorised external representatives of the submitting party or parties. Technical specifications and instructions regarding reasoned submissions (including signatures) can be found in the *Official Journal of the European Union*.
- (16) For the sake of clarity, certain information may be put in annexes. However, it is essential that all key substantive pieces of information are presented in the body of the Form RS. Annexes to this Form RS must only be used to supplement the information supplied in the Form RS itself.
- (17) Supporting documents are to be submitted in their original language; where this is not an official language of the Union, they must be translated into the language of the proceeding (Articles 3(4) and 6(2) of the Implementing Regulation).
- (18) Supporting documents may be copies of the originals. In this case, the submitting party must confirm that they are true and complete.

⁽⁴⁾ In case submitting parties provide incorrect or misleading information in the Form RS, the Commission can also take the courses of action described in Commission Notice on case referral in respect of concentrations ('Referral Notice') (OJ C 56, 5.3.2005, p. 2), point 60, available at EUR-Lex - 52005XC0305(01) - EN - EUR-Lex (europa.eu).

E. Confidentiality and Personal Data

- (19) Article 339 of the Treaty on the Functioning of the European Union and Article 17(2) of the Merger Regulation as well as the corresponding provisions of the EEA Agreement ⁽⁵⁾ require the Commission, the Member States, the EFTA Surveillance Authority and the EFTA States, their officials and other servants not to disclose information they have acquired through the application of that Regulation of the kind covered by the obligation of professional secrecy. The same principle must also apply to protect confidentiality between submitting parties.
- (20) If you believe that your interests would be harmed if any of the information supplied were to be published or otherwise disclosed to other parties, you should submit this information separately with each page clearly marked 'Business Secrets'. You should also give reasons why this information should not be disclosed or published.
- (21) In the case of mergers or joint acquisitions, or in other cases where the reasoned submission is completed by more than one of the parties, business secrets may be submitted in separate annexes, and referred to in the submission as an annex. In order for the submission to be considered complete, all such annexes must be included in the reasoned submission.
- (22) Any personal data submitted in this Form RS will be processed in compliance with Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC. ⁽⁶⁾

F. Definitions and instructions for the purposes of this Form RS

- (23) For the purposes of this Form, the following definitions apply:
- (a) 'Party/parties to the concentration' or 'party/parties': These terms relate to both the acquiring party/parties and the acquired party/parties, or the merging parties, including all undertakings in which a controlling interest is being acquired or which is the subject of a public bid. Unless otherwise specified, the terms 'notifying party/parties' and 'party/parties to the concentration' include all the undertakings which belong to the same groups as those parties.
- (b) 'Relevant product market': A relevant product market comprising all those products or services, or both, which are regarded as interchangeable or substitutable by the consumer, by reason of the products' or services' characteristics, their prices and their intended use. A relevant product market may in some cases be composed of a number of individual products or services, or both, which present largely identical physical or technical characteristics and are interchangeable. Factors relevant to the assessment of the relevant product market include the analysis of why the products or services in these markets are included and why others are excluded by using this definition, and having regard to, for example, substitutability of products and services, prices, cross-price elasticity of demand or other relevant factors (such as supply-side substitutability in appropriate cases).
- (c) 'Relevant geographic market': The relevant geographic market comprising the area in which the undertakings concerned are involved in the supply and demand of relevant products or services, in which the conditions of competition are sufficiently homogeneous and which can be distinguished from neighbouring geographic areas because, in particular, conditions of competition are appreciably different in those areas. Factors relevant to the assessment of the relevant geographic market include, inter alia, the nature and characteristics of the products or services concerned, the existence of entry barriers, consumer preferences, appreciable differences in the undertakings' market shares between neighbouring geographic areas or substantial price differences.

⁽⁵⁾ See, in particular, Article 122 of the EEA Agreement, Article 9 of Protocol 24 to the EEA Agreement and Article 17(2) of Chapter XIII of Protocol 4 to the Surveillance and Court Agreement.

⁽⁶⁾ OJ L 295, 21.11.2018, p. 39. See also a privacy statement relating to Merger investigations at https://ec.europa.eu/competition-policy/index/privacy-policy-competition-investigations_en.

- (d) 'Horizontal overlap': A concentration gives rise to horizontal overlaps when the parties to the concentration are engaged in business activities in the same relevant product and geographic market(s) (including the development of pipeline products ⁽⁷⁾). ⁽⁸⁾
 - (e) 'Non-horizontal relationship': A concentration gives rise to non-horizontal relationship when the activities of the parties to the concentration are in a relationship that is not a horizontal overlap.
 - (f) 'Vertical relationship': A concentration gives rise to vertical relationships when one or more of the parties to the concentration are engaged in business activities in a product market which is upstream or downstream from a product market in which any other party to the concentration is engaged (including the development of pipeline products). ⁽⁹⁾
 - (g) 'Affected markets': Affected markets are all relevant product and geographic markets, as well as plausible alternative relevant product and geographic markets where the parties' activities overlap horizontally or are vertically related and which do not meet the conditions for review under point 5 of the Notice on Simplified Procedure ⁽¹⁰⁾ and do not benefit from the flexibility clauses of point 8 of the Notice on Simplified Procedure.
 - (h) 'Year' means calendar year, unless otherwise stated. All information requested in this Form RS relates, unless otherwise specified, to the year preceding that of the reasoned submission.
- (24) The financial data requested in this Form RS must be provided in euro at the average exchange rates prevailing for the years or other periods in question.

G. International cooperation between the Commission and other competition authorities

- (25) The Commission encourages the parties to the concentration to facilitate the international cooperation between the Commission and other competition authorities reviewing the same concentration. In the Commission's experience, good cooperation between the Commission and competition authorities in jurisdictions outside the EEA entails substantial benefits for the undertakings concerned. To that end, the Commission encourages submitting parties to submit together with this Form RS a list of those jurisdictions outside the EEA where the concentration is subject to regulatory clearance under merger control rules before or after its completion.
- (26) Furthermore, the Commission encourages the parties to the concentration to submit waivers of confidentiality that would enable the Commission to share information with other competition authorities outside the EEA reviewing the same concentration. Each waiver facilitates joint discussion and analysis of a concentration as it allows the Commission to share relevant information with another competition authority reviewing the same concentration, including confidential business information obtained from the parties to the concentration. To that end, the Commission encourages the parties to the concentration to use the Commission's model waiver, which is published on DG Competition's website and updated from time to time.

SECTION 1

1.1. Background information

- 1.1.1. Provide an executive summary of the concentration, specifying the parties to the concentration, the nature of the concentration (for example, merger, acquisition, or joint venture), the areas of activity of the parties to the concentration, the markets on which the concentration will have an impact (including the main affected markets), and the strategic and economic rationale for the concentration.

⁽⁷⁾ Pipeline products are products likely to be brought to market in the short or medium term. "Pipeline products" also covers services.

⁽⁸⁾ Horizontal overlaps involving pipeline products include overlaps between pipeline products and overlaps between one or more marketed product(s) and one or more pipeline product(s).

⁽⁹⁾ Vertical relationships involving pipeline products include relationships between pipeline products and relationships between one or more marketed product(s) and one or more pipeline product(s).

⁽¹⁰⁾ Commission Notice on a simplified treatment of certain concentrations under Council Regulation (EC) No 139/2004 (OJ C 160, 5.5.2023, p. 1) (the 'Notice on Simplified Procedure').

1.1.2. Indicate whether the reasoned submission is made under Article 4(4) or (5) of the Merger Regulation, pursuant to the corresponding provisions of the EEA Agreement, or both.

1.2. Information on submitting party (or parties) and other parties to the concentration ⁽¹¹⁾

For each party making the reasoned submission as well as for each other party to the concentration, you should provide:

1.2.1. the name of the undertaking;

1.2.2. the name, address, telephone number and e-mail address of, and position held by, the appropriate contact person; the address given must be an address for service to which documents and, in particular, Commission decisions and other procedural documents may be notified, and the contact person given shall be deemed to be authorised to accept service;

1.2.3. if one or more authorised external representatives of the undertaking are appointed, to which documents and, in particular, Commission decisions and other procedural documents may be notified:

1.2.3.1. the name, address, telephone number and e-mail address of, and position held by, each representative; and

1.2.3.2. the original power of attorney document(s) (for the notifying party or parties). ⁽¹²⁾

SECTION 2

GENERAL BACKGROUND AND DETAILS OF THE CONCENTRATION

The information sought in this section may be illustrated by the use of organization charts or diagrams to show the structure of ownership and control of the parties to the concentration before and after completion of the concentration.

2.1. Describe the nature of the concentration being notified by reference to the relevant criteria of the Merger Regulation and the Commission Consolidated Jurisdictional Notice ⁽¹³⁾:

2.1.1. identify the undertakings or persons solely or jointly controlling each of the undertakings concerned, directly or indirectly, and describe the structure of ownership and control of each of the undertakings concerned before the completion of the concentration;

2.1.2. explain whether the proposed concentration is one of the following:

(a) a full merger;

(b) an acquisition of sole or joint control;

(c) a contract or other means of conferring direct or indirect control within the meaning of Article 3(2) of the Merger Regulation;

(d) the acquisition of joint control in a full-function joint venture within the meaning of Article 3(4) of the Merger Regulation, and if so, the reasons why the joint venture is considered to be full-function ⁽¹⁴⁾;

2.1.3. explain how the concentration will be implemented (for example by the conclusion of an agreement, by the launch of a public bid, etc.);

2.1.4. by reference to Article 4(1) of the Merger Regulation explain whether at the time of notification, any of the following has occurred:

(a) an agreement has been concluded;

⁽¹¹⁾ This includes the target company in the case of a contested bid, in which case the details should be completed as far as is possible.

⁽¹²⁾ See power of attorney document template at https://ec.europa.eu/competition/mergers/legislation/power_of_attorney_template_en.docx.

⁽¹³⁾ Commission Consolidated Jurisdictional Notice under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings ("Commission Consolidated Jurisdictional Notice"), (OJ C 95, 16.4.2008, p. 1), available at EUR-Lex - 52008XC0416(08) - EN - EUR-Lex (europa.eu).

⁽¹⁴⁾ See Section B IV of the Commission Consolidated Jurisdictional Notice.

- (b) a controlling interest has been acquired;
- (c) a public bid or the intention to launch a public bid has been announced;
- (d) the undertakings concerned have demonstrated a good faith intention to conclude an agreement;

2.1.5. indicate the expected date of any major events designed to bring about the completion of the concentration;

2.1.6. explain the structure of ownership and control of each of the undertakings concerned after the completion of the concentration.

2.2. Describe the economic rationale of the concentration.

2.3. State the value of the concentration [the purchase price (or the value of all the assets involved as the case may be); specify whether this is in the form of equity, cash, or other assets].

2.4. Provide sufficient financial or other data to show whether the concentration meets or does not meet the jurisdictional thresholds set out in Article 1 of the Merger Regulation by submitting the following information for each of the undertakings concerned by the concentration for the last financial year ⁽¹⁵⁾:

2.4.1. worldwide turnover;

2.4.2. –EU-wide turnover;

2.4.3. EEA-wide turnover (EU and EFTA);

2.4.4. turnover in each Member State (indicate the Member State, if any, in which more than two-thirds of EU-wide turnover is achieved);

2.4.5. EFTA-wide turnover;

2.4.6. turnover in each EFTA State (indicate the EFTA State, if any, in which more than two-thirds of EFTA-wide turnover is achieved; also indicate whether the combined turnover of the undertakings concerned in the territory of the EFTA States equals 25 % or more of their total turnover in the EEA territory).

Turnover data must be provided by filling in the Commission's template table available on DG Competition's website.

SECTION 3

MARKET DEFINITIONS

The relevant product and geographic markets serve to identify the scope within which the market power of the new entity resulting from the concentration must be assessed ⁽¹⁶⁾. When presenting relevant product and geographic markets, the submitting parties must submit, in addition to any product and geographic market definitions they consider relevant, all plausible alternative product and geographic market definitions. Plausible alternative product and geographic market definitions can be identified on the basis of previous Commission decisions and judgments of the Union Courts and (in particular where there are no Commission or Court precedents) by reference to industry reports, market studies and the submitting parties' internal documents.

3.1. Please discuss all plausible relevant market definitions where the proposed concentration could give rise to affected markets. Please explain how the submitting parties consider that the relevant product and geographic markets should be defined.

⁽¹⁵⁾ On the concepts of 'undertaking concerned' and the calculation of turnover, see Commission Consolidated Jurisdictional Notice.

⁽¹⁶⁾ See Commission Notice on the definition of the relevant market for the purposes of Community competition law, (OJ C 372, 9.12.1997, p. 5).

- 3.2. Taking into account all the plausible relevant market definitions discussed, you should identify each affected market ⁽¹⁷⁾ and provide summary information on the activities of the parties to the concentration in each plausible relevant market. Please add to the tables as many rows as required to cover all the plausible markets that you consider:

| Summary of Affected Markets Horizontal Overlaps | | |
|--|------------------------------|---|
| Product market definition | Geographic market definition | Combined market share [Identify year] [Identify metric] |
| | | |
| | | |

| Summary of Affected Markets Vertical Relationships | | | | | |
|---|------------------------------|---|---------------------------|------------------------------|---|
| Upstream | | | Downstream | | |
| Product market definition | Geographic market definition | Combined market share [Identify year] [Identify metric] | Product market definition | Geographic market definition | Combined market share [Identify year] [Identify metric] |
| | | | | | |
| | | | | | |

SECTION 4

INFORMATION ON AFFECTED MARKETS

With regard to each affected market, you should provide all the following information for the last year:

- 4.1. for each of the parties to the concentration, the nature of the undertaking's business, the main subsidiaries active, brands, product names, and trademarks, , used in each of those markets;
- 4.2. an estimate of the total size of the market in terms of sales value (in euro) and volume (units) ⁽¹⁸⁾. You should indicate the basis and sources for the calculations and provide documents where available to confirm those calculations;
- 4.3. for each of the parties to the concentration, the sales in value and volume, as well as an estimate of the market shares;
- 4.4. an estimate of the market share in value (and where appropriate volume) of the three largest competitors (indicating the basis for the estimates);
- 4.5. if the concentration is a joint venture, indicate whether two or more parents retain to a significant extent activities in the same market as the joint venture or in a market which is downstream or upstream from that of the joint venture ⁽¹⁹⁾.

⁽¹⁷⁾ During pre-notification contacts, submitting parties shall disclose information relating to all potentially affected markets even if they ultimately consider that these markets are not affected and notwithstanding that the submitting parties may take a particular view in relation to the issue of market definition.

⁽¹⁸⁾ The value and volume of a market must reflect output less exports plus imports for the geographic areas under consideration.

⁽¹⁹⁾ For market definitions refer to Section 3.

SECTION 5

DETAILS OF THE REFERRAL REQUEST AND REASONS WHY THE CASE SHOULD BE REFERRED

- 5.1. With regard to referrals made pursuant to Article 4(4) of the Merger Regulation and referrals made pursuant to the relevant provisions of the EEA Agreement:
- 5.1.1. identify the Member State(s) and EFTA State(s) which should in your view examine the concentration in accordance with Article 4(4) of the Merger Regulation indicating whether or not you have made informal contact with this Member State(s) and EFTA State(s);
- 5.1.2. specify whether you are requesting referral of the whole or part of the case. If you are requesting referral of part of the case, specify clearly the part or parts of the case for which you request the referral. If you are requesting referral of the whole of the case, you must confirm that there are no affected markets outside the territory of the Member State(s) and EFTA State(s) to which you request the referral to be made;
- 5.1.3. if the proposed concentration does not give rise to affected markets within the meaning of this Form RS, please explain ⁽²⁰⁾:
- (a) in which market(s) the concentration could significantly affect competition within a Member State and how;
- (b) why each of the markets identified in response to the question set out in point (a) presents all the characteristics of a distinct market.
- 5.1.4. In the event a Member State and/or EFTA State becomes competent to review the whole or part of the case following a referral pursuant to Article 4(4) of the Merger Regulation, do you consent to the information contained in this Form RS being relied upon by the Member State(s) and/or EFTA State(s) in question for the purpose of its/their national proceedings regarding (part of) this case? Please reply only with a “Yes” or a “No”.
- 5.2. With regard to referrals made pursuant to Article 4(5) of the Merger Regulation and referrals made pursuant to the relevant provisions of the EEA Agreement:
- 5.2.1. for each Member State and EFTA State, specify whether the concentration is capable of being reviewed under its national competition law. This information must be provided by completing the Commission’s template table available on DG Competition’s website. For each Member State and EFTA State, you must indicate “Yes” (if the concentration is capable of being reviewed under national competition law) or “No” (if it is not);
- 5.2.2. for each Member State and EFTA State where you completed “Yes” in the table referred to in point 5.2.1, provide sufficient financial or other data to show that the concentration meets the relevant jurisdictional criteria under the applicable national law;
- 5.2.3. explain why the case should be examined by the Commission if ⁽²¹⁾:
- (a) the proposed concentration gives rise to affected markets (within the meaning of this Form RS) that are national in scope in less than three Member States;
- (b) the proposed concentration does not give rise to affected markets (within the meaning of this Form RS).

SECTION 6

DECLARATION

The reasoned submission must conclude with the following declaration which is to be signed by or on behalf of all the submitting parties:

‘The submitting party or parties declare that, following careful verification, the information given in this reasoned submission is to the best of their knowledge and belief true, correct, and complete, that true and complete copies of documents required by Form RS have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere. They are aware of the provisions of Article 14(1), point (a), of the Merger Regulation .’

⁽²⁰⁾ For guiding principles of case referrals, see Referral Notice, point 17 and fn. 21.

⁽²¹⁾ For guiding principles of case referrals, see Referral Notice, point 28.

For digitally signed forms, the following fields are for information purposes only. They should correspond to the metadata of the corresponding electronic signature(s).

Date:

| | |
|--|--|
| [signatory 1] Name: Organisation: Position: Address: Phone number: E-mail: ["e-signed" / signature] | [signatory 2 if applicable] Name: Organisation: Position: Address: Phone number: E-mail: ["e-signed" / signature] |
|--|--|

ANNEX IV

**FORM RELATING TO THE INFORMATION CONCERNING COMMITMENTS SUBMITTED PURSUANT TO
ARTICLE 6(2) AND ARTICLE 8(2) OF COUNCIL REGULATION (EC) No 139/2004****(FORM RM)**

INTRODUCTION

- (1) This form specifies the information and documents to be submitted by the undertakings concerned when offering commitments pursuant to Article 6(2) or Article 8(2) of Regulation (EC) No 139/2004. ⁽¹⁾ The information requested is necessary to allow the Commission to examine whether the commitments are capable of rendering the concentration compatible with the internal market by preventing a significant impediment to effective competition. The level of information required will vary depending on the type and structure of the remedy proposed. For example, carve-out remedies will typically require more detailed information than divestitures of stand-alone businesses.
- (2) The information requested in the Form RM must be supplied in the appropriate section of the Form RM and must be correct and complete.
- (3) In accordance with Articles 5(4) and 6(2) of the Commission Implementing Regulation (EU) 2023/914 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (the “Implementing Regulation”), ⁽²⁾ incorrect or misleading information in the Form RM will be considered to be incomplete information.
- (4) Under Article 14(1), point (a), of the Merger Regulation, parties making a submission who, either intentionally or negligently, provide incorrect or misleading information, may be liable to fines of up to 1% of the aggregate turnover of the undertaking concerned.
- (5) Pursuant to Article 6(3), point (a), and Article 8(6), point (a), of the Merger Regulation the Commission may revoke its decision on the compatibility of a notified concentration where it is based on incorrect information for which one of the parties to the concentration is responsible.
- (6) Pursuant to Articles 4(2) and 20(2) of the Implementing Regulation the Commission may dispense with the obligation to provide any particular information in the Form RM, including documents, or with any other requirements where the Commission considers compliance with those obligations or requirements is not necessary for the examination of the case. In that case, the submitting parties may request the Commission to dispense with the obligation to provide the relevant information or with any other requirement in the Form RM related to this information. The Commission is available to discuss such requests with the parties upfront.

Any personal data submitted in this Form RM will be processed in compliance with Regulation (EU) 2018/1725 of the European Parliament and of the Council. ⁽³⁾

The Form RM must be signed by persons authorised by law to act on behalf of each notifying party and/or on behalf of any other party signing the commitments or by one or more authorised external representatives of the notifying party or parties and/or any other party signing the commitments. Technical specifications and instructions regarding signatures can be found in the *Official Journal of the European Union*.

⁽¹⁾ Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the “Merger Regulation”) (OJ L 24, 29.1.2004, p. 1), available at EUR-Lex - 32004R0139 - EN - EUR-Lex (europa.eu).

⁽²⁾ See page 22 of this Official Journal.

⁽³⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39), available at EUR-Lex - 32018R1725 - EN - EUR-Lex (europa.eu). See also a privacy statement relating to Merger investigations at https://ec.europa.eu/competition-policy/index/privacy-policy-competition-investigations_en.

SECTION 1

SUMMARY OF THE COMMITMENTS

1. Provide a non-confidential summary of the nature and scope of the commitments offered. The Commission may use this summary for the market test with third parties of the commitments offered.

SECTION 2

SUITABILITY TO REMOVE COMPETITION CONCERNS

2. Provide information showing the suitability of the commitments offered to remove the significant impediment of effective competition identified by the Commission.

SECTION 3

DEVIATION FROM MODEL TEXTS

3. Provide an annex identifying any deviations of the commitments offered from the up-to-date model commitments text as published in DG COMP website.

SECTION 4

INFORMATION ON A BUSINESS TO BE DIVESTED

4. Where the commitments offered consist in the divestiture of a business, provide the following information and documents.

General information on the business to be divested

The following information should be provided regarding all aspects of the current (i.e., pre-divestment) operation of the business to be divested and any changes already planned for the future.

- 4.1. Describe the legal structure of the business to be divested and provide the organigram of the company explaining where the business to be divested is integrated. Describe the entities belonging to the business to be divested, specifying their registered place of business and place of management, the general organisational structure and any other relevant information relating to the administrative structure of the business to be divested. If the business to be divested consists in a carve-out, all this information should also be provided for the entire business from which the business to be divested would be carved out.
- 4.2. State whether there are and describe any legal obstacles for the transfer of the business to be divested or the assets, including third party rights and administrative approvals required.
- 4.3. Describe the entire value chain of the products produced or services provided by the business to be divested, including the location of the relevant facilities. List and describe the products manufactured or services provided, in particular their technical and other characteristics, the brands involved, the turnover generated with each of those products or services, and any innovations or research and development activities or pipeline products or new products ready for launch and services planned. If the business to be divested consists in a carve-out, all this information should also be provided for the entire business from which the business to be divested would be carved out.
- 4.4. Describe the level at which the essential functions of the business to be divested (for example, research and development, production, marketing and sales, logistics, relations with customers, relations with suppliers, IT systems) are operated if they are not carried out on the level of the business to be divested. The description should contain the role performed by those other levels, the relations with the business to be divested and the resources (such as personnel, assets, financial resources) involved in the function.

- 4.5. Describe in detail the links between the business to be divested and other entities controlled by any of parties to the concentration (irrespective of the direction of the link), such as:
- (a) supply, production, distribution, service, research and development or other contracts;
 - (b) shared tangible or intangible assets;
 - (c) shared or seconded personnel;
 - (d) shared IT systems or other systems;
 - (e) shared customers.
- 4.6. Describe in general terms all relevant tangible and intangible assets used or owned by the business to be divested, including, in any case, IP rights and brands. If the business to be divested consists in a carve-out, all this information should also be provided for the entire business from which the business to be divested would be carved out.
- 4.7. Submit an organisational chart identifying the number of personnel currently working in each of the functions of the business to be divested and a list of those employees who are indispensable for the operation of the business to be divested, describing their functions. If the business to be divested consists in a carve-out, all this information should also be provided for the entire business from which the business to be divested would be carved out.
- 4.8. Describe the customers of the business to be divested, including a list of customers, a description of the corresponding records available, and provide the total turnover generated by the business to be divested with each of these customers (in EUR and as percentage of the total turnover of business to be divested). If the business to be divested consists in a carve-out, all this information should also be provided on the entire business from which the business to be divested would be carved out.
- 4.9. Provide all relevant financial data for the business to be divested, including the turnover and the EBITDA achieved in the last three financial years, and the forecast for the next two financial years. If available, provide the current business or strategic plan for the business to be divested, including any forecasts that may be available. If the business to be divested consists in a carve-out, all the information should also be provided for the entire business from which the business to be divested would be carved out.
- 4.10. Identify and describe any changes that have occurred in the last two years, in the organisation of the business to be divested or in the links with other undertakings controlled by the parties. If the business to be divested consists in a carve-out, all the information should also be provided for the entire business from which the business to be divested would be carved out.
- 4.11. Identify and describe any changes, planned for the next two years, in the organisation of the business to be divested or in the links with other undertakings controlled by the parties. If the business to be divested consists in a carve-out, all this information should also be provided for the entire business from which the business to be divested would be carved out.

Information on the business to be divested as described in the commitments offered and comparison with the business to be divested as currently operated

- 4.12. Taking into account your replies to questions 4.1-4.11 above, please set out all the differences between (i) the business to be divested as described in the commitments offered and (ii) the business to be divested as it is currently operated. In case there are any tangible or intangible assets, personnel, facilities, contracts, products, research and development, pipeline products, shared services etc. which are currently produced, used or relied on in any way by the business to be divested but which are not included in the commitments, please provide an exhaustive list.

Acquisition by a suitable purchaser

- 4.13. Explain the reasons why, in your view, the business to be divested is likely to be acquired by a suitable purchaser in the time-frame proposed in the commitments offered.

SECTION 5

DECLARATION

The Form RM must conclude with the following declaration which is to be signed by or on behalf of the notifying parties and any other parties signing the commitments:

'The notifying parties and any other parties signing the commitments declare that, to the best of their knowledge and belief, the information given in this notification is true, correct, and complete, that true and complete copies of documents required by Form RM have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere. They are aware of the provisions of Article 14(1), point (a) of the Merger Regulation.'

For digitally signed forms, the following fields are for information purposes only. They should correspond to the metadata of the corresponding electronic signature(s).

Date:

| | |
|--------------------------|-----------------------------|
| [signatory 1] | [signatory 2 if applicable] |
| Name: | Name: |
| Organisation: | Organisation: |
| Position: | Position: |
| Address: | Address: |
| Phone number: | Phone number: |
| E-mail: | E-mail: |
| ["e-signed" / signature] | ["e-signed" / signature] |