C/2024/2890

25.4.2024

Final Report of the Hearing Officer [1]

Case M.9569 - EssilorLuxottica/GrandVision

(Text with EEA relevance)

(C/2024/2890)

1. On 23 December 2019, the Commission received a notification of a proposed concentration by which EssilorLuxottica S.A. ('EssilorLuxottica') would acquire, within the meaning of Article 3(1)(b) of Council Regulation (EC) No 139/2004 [2] (the 'Merger Regulation'), sole control of GrandVision N.V. ('GrandVision') (the 'Proposed Transaction'). For the purpose of this report, EssilorLuxottica and GrandVision are together referred to as the 'Parties'.

2. On 6 February 2020, the Commission adopted a decision to initiate proceedings pursuant to Article 6(1)(c) of the Merger Regulation. On 16 February 2020, EssilorLuxottica submitted written observations on the Article 6(1)(c) decision.

3. On 25 February 2020, following a request by the Parties, the deadline set out under Article 10(3) of the Merger Regulation was extended by ten working days pursuant to Article 10(3), second paragraph of the Merger Regulation. On 16 March 2020 and on 15 April 2020, the Commission adopted two decisions pursuant to Articles 11(3) and 10(4) of the Merger Regulation requiring the Parties to supply information that had been the object of a previous simple request for information and suspending the time limit referred to in Article 10(3) of the Merger Regulation. The suspensions ended on 18 March 2020 and 30 April 2020 respectively.

4. On 5 June 2020, the Commission adopted a statement of objections (the 'SO'). The SO was formally notified to EssilorLuxottica on 5 June 2020 and EssilorLuxottica was granted access to the Commission's file on the same day [3].

5. On 11 June 2020, EssilorLuxottica requested DG Competition for an extension of one working day to submit its observations on the SO, i.e. until Monday, 22 June 2020. Although no formal extension was granted, DG Competition agreed with EssilorLuxottica that it could submit its observations on the SO on Saturday, 20 June 2020 by electronic means and a signed copy at the Merger Registry on Monday, 22 June 2020. EssilorLuxottica submitted its written reply to the SO, within the time-frame agreed with DG Competition. In its observations to the SO, EssilorLuxottica requested a formal oral hearing.

6. The formal oral hearing took place on 26 June 2020.

7. Further access to the file was given on 5 June 2020, 8 July 2020, 18 February 2021, 19 February 2021 and 3 March 2021, as regards documents that were added to the file following the adoption of the SO. I have not received any complaint or request from the Parties regarding access to the file.

8. Between 27 April and 16 June 2020, I admitted four undertakings (competitors and/or customers of the Parties) as interested third persons in this case. All interested third persons were provided with a non-confidential version of the SO and given a time limit within which to submit their observations.

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

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

[3] On 10 June 2020, GrandVision confirmed to the Directorate-General for Competition ('DG Competition') that it did not require a non-confidential version of the SO separately.

9. On 7 July 2020, the Commission adopted a decision extending the procedure by five working days pursuant to Article 10(3), second subparagraph, third sentence, of the Merger Regulation.

10. On 8 July 2020, the Commission addressed a letter of facts to EssilorLuxottica. On 15 July 2020, EssilorLuxottica submitted its reply to this letter of facts.

11. On 15 July 2020, the Commission adopted a decision extending the procedure by five working days pursuant to Article 10(3), second subparagraph, third sentence, of the Merger Regulation.

12. On 17 July 2020, the Commission addressed a request for information to EssilorLuxottica pursuant to Article 11(2) of the Merger Regulation with a deadline of 20 July 2020. Following the expiration of this deadline, EssilorLuxottica indicated that additional time would be necessary to provide the requested information. Given the importance of the information in question to the Commission's assessment of the concentration, on 22 July 2020, the Commission adopted a decision pursuant to Article 11(3) and 10(4) of the Merger Regulation, suspending the time limit referred to in Article 10(3) of the Merger Regulation, with effect on the same day. This suspension of the time limit ended on 8 February 2021. On that date, EssilorLuxottica also offered commitments pursuant to Article 8(2) of the Merger Regulation in order to address the competition concerns identified by the Commission.

13. Following a market test of the initial commitments offered and feedback from DG Competition, EssilorLuxottica submitted revised commitments on 22 February 2021, that were again market tested by DG Competition. Following further feedback from DG Competition, EssilorLuxottica offered a final set of commitments on 1 March 2021 (the 'Final Commitments').

14. The draft decision finds that, subject to compliance with the conditions and obligations set out in the Final Commitments, the Proposed Transaction is compatible with the internal market and the EEA Agreement.

15. I have reviewed the draft decision pursuant to Article 16(1) of Decision 2011/695/EU and I conclude that it deals only with objections in respect of which the Parties have been afforded the opportunity of making their views known.

16. In view of the above, I consider that the effective exercise of procedural rights has been respected during the present proceedings.

Brussels, 22 March 2021.

Dorothe DALHEIMER