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PUBLIC VERSION

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus […]. Where possible the information omitted has been replaced by ranges of figures or a general description.

GTCR LLC
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United States

Subject: **Case M.12186 – GTCR / ZENTIVA**
Commission decision pursuant to Article 6(1)(b) of Council Regulation No 139/2004 ([1]) and Article 57 of the Agreement on the European Economic Area ([2])

Dear Sir or Madam,

(1) On 20 February 2026, the European Commission received notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which GTCR LLC ('GTCR' or the 'Notifying Party', United States) will acquire sole control over Zentiva Group ('Zentiva' or the 'Target', Czechia) within the meaning of article 3(1)(b) of the Merger Regulation (the 'Transaction'). ([3]) Together, GTCR and Zentiva are referred to as the 'Parties'.

([1]) OJ L 24, 29.1.2004, p. 1 (the 'Merger Regulation'). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ('TFEU') has introduced certain changes, such as the replacement of 'Community' by 'Union' and 'common market' by 'internal market'. The terminology of the TFEU will be used throughout this decision.
([2]) OJ L 1, 3.1.1994, p. 3 (the 'EEA Agreement').
([3]) OJ C, C/2026/1290, 2.3.2026.

1. THE PARTIES

(2) GTCR is a private equity firm headquartered in the United States. It invests in growth companies in the Financial Services & Technology, Healthcare, Technology, Media & Telecommunications and Business Services industries. GTCR's portfolio includes Curia Global, Inc ('Curia'), a US-based contract development and manufacturing organization ('CDMO'). ([4])

(3) Zentiva is a European pharmaceutical company headquartered in Czechia. Zentiva develops, manufactures and commercialises various pharmaceutical products.

2. THE CONCENTRATION

(4) Pursuant to a sale and purchase agreement signed by the Parties on 11 September 2025, GTCR will own approximately [90-100]% of the voting shares in the Target and acquire the ability to exercise decisive influence. The remaining [0-5]% are non-controlling shares owned by Zentiva's management, which do not provide any veto rights over strategic decisions. As a result, GTCR will acquire sole control over Zentiva within the meaning of Article 3(1)(b) of the EU Merger Regulation.

3. UNION DIMENSION

(5) The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million ([5]) (GTCR: EUR […] and Zentiva: EUR […]). Each of them has a Union-wide turnover in excess of EUR 250 million (GTCR: EUR […] and Zentiva: EUR […]), but they do not both achieve more than two-thirds of their aggregate Union-wide turnover within one and the same Member State. The notified operation therefore has a Union dimension.

4. INTRODUCTION TO THE PARTIES' ACTIVITIES

(6) Curia is a global CDMO active *inter alia* in the manufacture and supply of various active pharmaceutical ingredients ('APIs'). APIs are the biologically active components of finished dose pharmaceuticals ('FDP') ([6]), and are purchased or manufactured by pharmaceutical companies, or by CDMOs that develop or manufacture FDPs for pharmaceutical companies. Curia has manufacturing facilities in France, Germany, Italy, Spain and the United States.

(7) Zentiva is a European pharmaceutical company supplying a range of FDPs in therapeutic areas such as cardiology, anti-inflammatory and pain, urology, central nervous system, anti-infectives, and gastrointestinal and metabolic disorders. Zentiva is also active to a limited extent in the supply of CDMO services for FDPs and has some inhouse API manufacturing capacity. Zentiva operates manufacturing facilities in Czechia, Romania and India.

([4]) GTCR has joint control over Curia together with The Carlyle Group.
([5]) Turnover calculated in accordance with Article 5 of the Merger Regulation.
([6]) FDPs are pharmaceutical products that have undergone all stages of production, including packaging in the final container and labelling.

(8) While the Parties' activities do not give rise to any horizontally affected markets, these result in affected vertical relationships between Curia and Zentiva regarding the manufacture and supply of four APIs (upstream), namely: (i) triamcinolone acetonide micronised sterile ([7]), (ii) minocycline HCL ([8]), (iii) betamethasone disodium phosphate ([9]), and (iv) dorzolamide ([10]), which are used in the manufacturing of the respective FDPs (downstream). ([11])

(9) Further, the Transaction also results in horizontal overlaps and vertical links for a number of other markets relating to CDMO services and the supply of other APIs. ([12]) However, none of these overlaps or links give rise to affected markets within the meaning of recital 25(g) Annex I to Regulation (EU) 2023/914 ([13]), as they meet the conditions for review under point 5. ([14]) Therefore, these links will not be further discussed in this decision.

5. RELEVANT MARKETS

5.1. Upstream – the supply of APIs

(10) In its past decisions, the Commission has considered that APIs form separate markets which are upstream of the markets of the FDPs. The Commission has considered that each individual API might constitute a separate product market, whilst not excluding that certain APIs may be substitutable with each other for all, or for a range of, applications. ([15])

(11) In terms of geographic market, the Commission has previously considered the markets for the supply of APIs to be at least EEA-wide in scope and possibly worldwide, although ultimately leaving the geographic market definition open. ([16])

([7]) Triamcinolone acetonide micronised sterile is a synthetic corticosteroid that reduces inflammation, swelling, heat, redness, and pain. It is used for the production of FDPs that treat various anti-inflammatory applications, such as the relief of joint pain and from conditions such as arthritis.

([8]) Minocycline HCL is an antibiotic used to treat a range of bacterial infections. It is used in branded and generic prescription-only FDPs for treating conditions such as acne, rosacea, and periodontal disease.

([9]) Betamethasone disodium phosphate has potent anti-inflammatory and immunosuppressives effects, and is commonly used to treat arthritis, severe allergies, asthma, and skin conditions.

([10]) Dorzolamide is used in eye drops to treat glaucoma and ocular hypertension.

([11]) Zentiva [details on Zentiva's purchasing strategy] purchase the dorzolamide API nor the betamethasone disodium phosphate API from Curia or any other third-party API supplier. [details on Zentiva's purchasing strategy]. (Form CO, paras 8.43 et seq.). Given that Curia and Zentiva are active on different levels of the supply chain, the Commission will include these links in its competitive assessment.

([12]) Both Curia and, to a limited extent, Zentiva are active in the provision of CDMO services for FDPs. In addition, Zentiva purchases CDMO services for FDPs and APIs as well as other APIs from third party CDMOs such as Curia. None of these horizontal overlaps and vertical links give rise to affected markets.

([13]) 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, OJ L 119, 5.5.2023, p. 22.

([14]) Commission Notice on a simplified treatment for certain concentrations under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings 2023/C 160/01, OJ C 160, 5.5.2023, p. 1.

([15]) See M.9517 – *Mylan/Upjohn*, para. 559; M.7645 – *Mylan/Perrigo*, para. 125; and M.5865 – *Teva/Ratiopharm*, paras. 393-395.

([16]) See M.9517 – *Mylan/Upjohn*, para 563; M.7645 – *Mylan/Perrigo*, para 126; and M.5865 – *Teva/Ratiopharm*, para 396.

(12) The Notifying Party submits that the exact product and geographic market definitions can be left open as the proposed Transaction does not give rise to competition concerns regardless of how the market is defined. ([17])

(13) The Commission's market investigation confirms its previous decisional practice that APIs are generally not substitutable, at least from the perspective of the customers (i.e. companies manufacturing FDPs based on the APIs, including both CDMOs and pharmaceutical companies). The majority of customers responding to the market investigation indicated that each of the four concerned APIs cannot be substituted with other APIs. ([18]) For instance, one customer explained that "[s]*ubstituting the API itself would result in an entirely different product*". ([19]) In terms of the geographic scope of these markets, the market feedback confirms that supply flows across Member States within the EEA, and in some instances even globally. ([20]) For instance, several customers indicated that they currently purchase or consider it feasible to purchase or have in the past purchased, APIs from outside the EEA. ([21])

(14) Therefore, for the purpose of this case, and for the APIs involved in this case, the Commission considers that the supply of each API concerned by the Transaction constitutes a separate relevant product market. Similarly, in view of the fact that the Transaction does not raise serious doubts as to its compatibility with the internal market in relation to the API markets under any plausible geographic market definition, the exact scope of the geographic market (i.e. whether it is EEA wide or worldwide) can be left open for the purpose of the competitive assessment of the Transaction.

(15) Accordingly, the Commission will focus its assessment on the following product and geographic market definitions:

- Triamcinolone acetonide micronised sterile (EEA wide or worldwide);
- Minocycline HCL (EEA wide or worldwide);
- Betamethasone disodium phosphate (EEA wide or worldwide); and
- Dorzolamide (EEA wide or worldwide). ([22])

([17]) Form CO, para. 6.7.
([18]) Replies to the customer questionnaire, questions D.A.1, E.A.1, F.A.1, and G.A.1.
([19]) Replies to the customer questionnaire, question F.A.1.
([20]) Replies to the customer questionnaire, questions D.A.2, E.A.2, F.A.2, and G.A.2, and replies to the competitor questionnaire, questions D.A.1, E.A.1, F.A.1 and G.A.1.
([21]) Replies to the customer questionnaire D.A.3, E.A.2, F.A.2, F.A.3 and G.A.3.
([22]) Form CO footnotes 70-71 confirm that the market shares of Curia and purchasing shares of Zentiva are similar or lower at the global level. In that light, the Commission will only refer to the EEA shares going forward in this decision.

5.2. Downstream – the supply of FDPs

(16) To define relevant product markets regarding FDPs, the Commission typically takes into account the Anatomical Therapeutic Classification ('ATC') of the European Pharmaceutical Marketing Research Association. ([23]) In the context of this classification, the Commission uses ATC3 ([24]) as the starting point for relevant product market definition, since all products in the same ATC3 class have the same therapeutic indication and cannot be substituted by products from other ATC3 classes. ([25]) However, the Commission has also recognised that in some cases it may be appropriate to carry out analyses at the narrower classification level ATC4, ([26]) or possibly at the molecule level (ATC5). ([27])

(17) In terms of geographic market, the Commission has consistently defined the different plausible markets for FDPs as national in scope. ([28])

(18) The Notifying Party did not provide any indications that the Commission should depart from its past approach. While the Notifying Party has provided downstream market shares at ATC5 level, it notes that such markets are artificially narrow. ([29])

(19) The market investigation did not provide any indication that would suggest departing from the Commission's previous practice with respect to the product or geographic market definition for the supply of FDPs that are vertically affected.

(20) In this case, the narrowest plausible downstream FDP markets can be defined at the ATC5 level on a national basis ([30]). However, the exact downstream market definition can be left open because as detailed in Section 6.2 below no competition concerns arise under any potential downstream market definition.

([23]) See for example, M.11486 – *Novo Holdings / Novo Nordisk / Catalent*, para. 86; M.11383 - *Cooper / Viatris*, para. 13; and M.8889 – *Teva / PGT OTC Assets*, para. 17.

([24]) ATC3 level classification is narrower than ATC1 and ATC2 level classifications. At ATC1, drugs are divided into 16 anatomical main groups. At ATC2, drugs are divided at pharmacological or therapeutic groups. At ATC 3, drugs are divided by their specific therapeutic indications.

([25]) See M.9995 – *Permira/Neuraxpharm*, para. 7.

([26]) ATC4 level classification is typically based on mode of action or mode of administration of the drugs.

([27]) See M.10247 – *CVC/Cooper*, para. 7; and M.9995 – *Permira/Neuraxpharm*, para. 7.

([28]) See for example M.9517 – *Mylan/Upjohn,* para. 25; M.9274 – *GlaxoSmithKline / Pfizer Consumer Healthcare Business*, paras. 23-26; M.8889 - *Teva / PGT OTC Assets*, para. 29-31; M.7975 – *Mylan/Meda*, para. 24; M.7746 – *Teva / Allergan Generics*, para. 127-128; M.7813 – *Sanofi / Google / DMI JV*, para. 24; and M.7559 – *Pfizer / Hospira*, para. 30-31.

([29]) Form CO, para. 8.22.

([30]) As identified by the Notifying Party in the Form CO, the national markets for the supply of minocycline HCL FDPs, the supply of triamcinolone acetonide micronized sterile FDPs, the supply of the betamethasone FDPs, and the supply of dorzolamide FDPs.

6. COMPETITIVE ASSESSMENT

6.1. Legal framework – non-horizontal mergers

(21) A merger can entail non-horizontal effects when it involves companies operating at different levels of the same supply chain or in closely related markets. Pursuant to the Commission Guidelines on the assessment of non-horizontal mergers under the Council Regulation on the control of concentrations between undertakings (the 'Non-Horizontal Merger Guidelines'), ([31]) non-horizontal mergers do not entail the loss of direct competition between merging firms in the same relevant market and provide scope for efficiencies. However, there are circumstances in which non-horizontal mergers may significantly impede effective competition. This is in particular the case if they give rise to foreclosure. ([32])

(22) Vertical mergers involve companies operating at different levels of the supply chain, for example, when a manufacturer of a certain product merges with one of its distributors.

(23) In assessing potential vertical effects of a merger, the Commission analyses whether a merger results in foreclosure so that actual or potential rivals' access to supplies or markets is hampered or eliminated as a result of the merger, thereby reducing these companies' ability and/or incentive to compete. Such foreclosure may discourage the entry or expansion of rivals or encourage their exit. Foreclosure thus can be found even if the foreclosed rivals are not forced to exit the market: it is sufficient that the rivals are disadvantaged and consequently led to compete less effectively. As a result of such foreclosure, the merging companies – and, possibly, some of their competitors as well – may be able to profitably increase the price charged to consumers.

(24) The Non-Horizontal Merger Guidelines distinguish between two forms of foreclosure. ([33]) The first is where the merger is likely to raise the costs of downstream rivals by restricting their access to an important input (input foreclosure). The second is where the merger is likely to foreclose upstream rivals by restricting their access to a sufficient customer base (customer foreclosure).

(25) In assessing both types of foreclosure, the Commission applies the ability, incentive, effects framework. This implies the assessment of three cumulative conditions, i.e. whether (1) the merged entity would have the ability to engage in foreclosure, (2) it would have the incentive to do so, and (3) what would be the overall impact on effective competition in the affected markets.

6.2. Market shares

(26) Table 1 below provides the market size of the affected upstream markets for the four concerned APIs, Curia's EEA-wide market shares in the affected upstream markets and Zentiva's EEA-wide purchasing shares of the respective upstream inputs.

([31]) OJ C 265, 18.10.2008, p. 6.
([32]) Non-Horizontal Merger Guidelines, para. 18.
([33]) Non-Horizontal Merger Guidelines, para. 30.

Table 1: Curia's upstream market shares (volume and value) and Zentiva's purchasing shares (volume and value) - EEA

Market	Market size – 2024 (MEUR)	Curia's market share – 2024		Zentiva's purchasing share - 2024	
		Value	Volume	Value	Volume
Triamcinolone Acetonide Micronised Sterile ([34])	16.4	[40-50]%	[60-70]% ([35])	[0-5]%	[0-5]%
Minocycline HCL	4.7	[50-60]%	[50-60]%	< [10-20]%	< [10-20]%
Dorzolamide ([36])	35.7	[40-50]%	[40-50]%	[0-5]%	[0-5]%
Betamethasone disodium phosphate	5.3	[30-40]%	[10-20]% ([37])	[0-5]%	[0-5]%

Source: Form CO and Response to RFI 8.

(27) As explained above (Section 5), the market for the supply of APIs is at least EEA-wide and possibly even global. With purchasing shares well below 30% (see Table 1 above), Zentiva is not an important customer for any of the concerned APIs. ([38]) Therefore, the Commission considers that the merged entity is unlikely to have the ability to engage in customer foreclosure with respect to any of the concerned APIs (i.e. the upstream inputs) in any potential downstream market. This is further supported by the fact that no customer foreclosure concerns were raised during the market investigation. This decision will therefore focus on assessing whether the Transaction gives rise to input foreclosure concerns.

(28) The Commission notes that for the purposes of this decision, it is not necessary to provide Zentiva's downstream market shares. This is because the assessment concerns a strategy in which the merged entity would foreclose access to the four concerned APIs manufactured by Curia, which are supplied and procured at least at EEA-level. To the extent Zentiva's market shares at national level are relevant,

([34]) Also, in the broader market for the API triamcinolone acetonide micronised (comprising both sterile and non-sterile) Curia has market shares above 30% based on volume, namely [50-60]%. Curia's market share in the broader triamcinolone acetonide micronised market based on value is [20-30]% (see footnote 35 below on the difference between the volume and value shares) (Form CO, Table 9). The competitive assessment provided below in Section 6.3.2, is applicable to both the broader market and the narrower market limited to the sterile form.

([35]) The difference between Curia's volume and value shares results from the additional assumptions that were made by the Parties to estimate the value shares. Due to lack of public revenue sales data for the API, the value shares have been estimated based on the value of FDP sales as recorded by IQVIA by Curia's customers. The value shares are therefore a function of the price set by Curia's customers for their FDPs downstream. This price will be incorporating differences in the FDP such as the formulations and strength of API included in the FDP. Because [information on the pricing of Curia's customers], this results in Curia having a lower value share than its volume share. (Form CO, footnote 113).

([36]) The Notifying Party submits that the value of purchases cannot be estimated given that it is the CDMOs that actually purchase the APIs and negotiate the terms and conditions, including price (see footnote 11).

([37]) See footnote 35 above. (Form CO, footnote 153).

([38]) Zentiva [details on Zentiva's purchasing strategy] purchase the dorzolamide API and betamethasone disodium phosphate API (see footnote 11). Therefore, any customer foreclosure concerns in relation to these APIs are implausible.

the Commission will make such reference directly in its assessment under Section 6.3.2.

6.3. Non-horizontal effects - Input foreclosure

6.3.1. Notifying Party's view

(29) According to the Notifying Party, the Transaction does not give rise to a significant impediment of effective competition. In terms of input foreclosure, the Notifying Party submits that the merged entity would not have the ability or incentive to engage in a foreclosure strategy with regards to any of the concerned APIs. The main arguments of the Notifying Party are summarised below. ([39])

(30) *First,* the Notifying Party submits that for each concerned API there are alternative suppliers, with the ability to increase production volumes in the event Curia would decide to stop or reduce supply. Specifically in relation to minocycline HCL, the Notifying Party also notes that it is expected that Chinese suppliers will enter the EEA market in the near term.

(31) *Second,* the Notifying Party submits that the APIs in question are standard commodity products and therefore it is frequent for customers to multi-source and switch between API suppliers.

(32) *Third,* the Notifying Party submits that Curia would have no incentive to stop supplying the APIs in question as (i) due to Zentiva's limited purchasing requirements Curia would lose a significant revenue stream were it to stop supplying to third parties, (ii) a foreclosure strategy would put at risk Curia's reputation and customer relationships concerning not only the affected APIs, but also the other APIs it sells to the concerned customers, (iii) the proportion of volumes that Zentiva could capture downstream following a foreclosure strategy is limited, and (iv) given that GTCR only has joint control of Curia ([40]), it is unable to solely determine decisions regarding the operation of the Curia business.

(33) *Finally*, the Notifying Party submits that while APIs are not substitutable from the FDP manufacturers' perspective, from the end consumers' (i.e. the patients') perspective FDPs based on different APIs can be substitutable. ([41])

6.3.2. Commission's assessment

(34) In the following, the Commission provides its assessment regarding input foreclosure. As several arguments are applicable across the affected vertical relationships, the Commission will provide a consolidated assessment specifying, where applicable, where the assessment differs between the concerned APIs or is specific to one API.

(35) Despite Curia's high market shares in some of the affected upstream markets, the Commission finds that the merged entity would not have the ability to foreclose Zentiva's downstream competitors for the following reasons.

(36) *First*, for each of the concerned API, the majority of customers expressing an opinion in the Commission's market investigation indicated that there are sufficient credible alternatives available. ([42]) This was further supported by the

([39]) Form CO, Sections 1 and 8.
([40]) See above footnote 4.
([41]) Form CO, para. 8.22 and footnotes 108 and 126.
([42]) Replies to the customer questionnaire, questions D.B.2, E.B.2, F.B.2, and G.B.2.

fact that also market participants generally identified several alternative suppliers for each API. ([43]) The alternatives identified by market participants, including both customers of Curia, and the respective competitors of the Parties, include:

- For triamcinolone acetonide micronised sterile: Farmabios and Tapi/Teva.
- For minocycline HCL: Cipan, Union Quimico Farmaceutica (Uquifa) and Zhejiang Medicine Co.
- For betamethasone disodium phosphate: Henan Lihua Pharmaceutical, Hovione and Symbiotec.
- Dorzolamide: FIS - Fabbrica Italiana Sintetici, Indoco Remedies, Neuland Labs, Shoba Life Sciences and Tapi/Teva.

(37) *Second*, the market investigation has shown that, while not necessarily frequent, switching API suppliers is possible. In general, customers estimate that switching would take 6 to 24 months depending on the product and circumstances of the customer. ([44]) Cost of switching generally amounts to one hundred to several hundreds of thousands of euros. ([45]) For example, a customer noted that "*it would not be difficult to switch to other suppliers for their whole needs*", indicating that switching is possible in particular due to the possibility to rely on internal stock pending the supplier switch. ([46])

(38) *Third,* the market investigation results show that the markets for the manufacture and supply of the four concerned APIs are not capacity constrained, with some suppliers indicating they could easily increase production if necessary. For example, a supplier for betamethasone disodium phosphate stated: "*no effective barrier to increase production to meet additional demand*" ([47]); or, suppliers for dorzolamide responded that "*it should be no major issue to increase production by ca 30%*" or that "*this is a product that we manufacture in small amounts and we have ability to expand manufacturing, if needed*". ([48]) The same confirmations were provided by some suppliers for triamcinolone acetonide micronised sterile and minocycline HCL. ([49])

(39) In light of the above, the Commission considers that the merged entity will not have the ability to engage in input foreclosure as for each concerned API there are alternative suppliers to whom downstream rivals could turn, regardless of the particular FDP market for which each API is an input. As set out in Section 6.1 above, since the ability to foreclose is one of three cumulative conditions, there is no need to further examine whether the merged entity would have an incentive to foreclose or whether the Transaction would have an impact on the relevant markets.

(40) However, the Commission will provide, for completeness, the following observations on the likely absence of incentives and impact on all markets for the four APIs.

([43]) Replies to the competitor questionnaire, questions D.B.1, E.B.1, F.B.1, and G.B.1 and replies to the customer questionnaire, questions D.B.2, E.B.2, F.B.2, and G.B.2.
([44]) Replies to the customer questionnaire, question D.B.3., E.B.3., F.B.3., and G.B.3.
([45]) Replies to the customer questionnaire, question D.B.3., E.B.3., F.B.3., and G.B.3.
([46]) For example, replies to the customer questionnaire, question D.B.3. and G.B.3; minutes of a call with a customer, of 15 December 2025 and of 8 January 2026.
([47]) Replies to the competitor questionnaire, question G.B.2.
([48]) Replies to the competitor questionnaire, question E.B.2.
([49]) Replies to the competitor questionnaire, questions D.B.2., and F.B.2.

(41) As regards the merged entity's incentives to engage in input foreclosure, the Commission notes the following regarding all four concerned APIs:

(a) As the merged entity's ability to foreclose does not vary by Member State, and the upstream market is at least EEA-wide (a customer in any given Member State can procure APIs across the EEA or at global level), it would be difficult for Curia to target a foreclosure strategy to a particular Member State in which Zentiva competes with Curia's customers (i.e. the markets Zentiva could possibly expand its sales as a result of input foreclosure) hereby weakening the merged entity's incentive to foreclose. This is notably because, as the Notifying Party submits, customers generally manufacture the relevant FDPs from a single plant and sell across multiple countries in the EEA or export globally. ([50]) For example, Zentiva itself manufactures triamcinolone acetonide within its main [location of Zentiva's manufacturing plants] manufacturing plants in the EEA and procures minocycline HCL [details on Zentiva's purchasing strategy] but sells these products across [number of countries] countries within the EEA. ([51])

(b) The lack of incentives is further supported by the fact that Curia is jointly controlled by GTCR and Carlyle. The Notifying Party confirmed that Carlyle does not have any controlled investments in companies active in the supply of FDPs based on minocycline HCL, triamcinolone acetonide micronised sterile, dorzolamide and betamethasone disodium phosphate. ([52]) As acknowledged by the Non-Horizontal Merger Guidelines, in cases where two companies have joint control over a firm active in the upstream market, and only one of them is active downstream, the company without downstream activities may have little interest in foregoing input sales. In such cases, the incentive to foreclose is smaller than when the upstream company is fully controlled by a company with downstream activities. ([53]) This indicates that it is unlikely that even if there were an ability to foreclose, Curia's other jointly controlling parent would allow Curia to forego revenues generated from sales to Zentiva's downstream competitors given that the other controlling parent of Curia would not recoup such lost revenues.

(42) For triamcinolone acetonide micronised (sterile and non-sterile) specifically, the Commission notes the following in relation to Germany, Poland and Portugal, which are the only EEA countries where Zentiva competes with Curia's customers and where an input foreclosure strategy is more likely to take place if Curia were able to target a specific Member State: ([54])

(a) In Germany, the only triamcinolone acetonide micronised customer of Curia active in the country is [name of Curia customer]. It is unlikely that Curia would have the incentive to foreclose [name of Curia customer] in light of the following. First, Zentiva is unlikely to capture the patients from [name of Curia customer]. This customer purchases triamcinolone

([50]) As acknowledged by the Notifying Party in the Form CO, para. 8.81.
([51]) Form CO, footnote 162.
([52]) Reply to RFI 7, question 2.
([53]) Guidelines on the assessment of non-horizontal mergers under the Council Regulation on the control of concentrations between undertakings (2008/C 265/07), page 8.
([54]) For completeness, for 2025, the Notifying Party indicated that [name of Curia's customer] also made minor purchases of triamcinolone acetonide micronised sterile from Curia [volume & value of order] (Reply to RFI 10, Question 1). Nothing in the market investigation indicates that these volumes cannot be supplied by another API provider.

acetonide micronised non-sterile from Curia ([volume & value of order])), which differs from Zentiva's purchases of triamcinolone acetonide micronised sterile. ([55]) The sterile and non-sterile forms are different in that they are used for products that are prescribed for different indications, and the sterile form can be used in a wider range of formats (e.g. creams or injectables) whereas the non-sterile form is only used in creams. ([56]) Second, relatedly, Zentiva's FDPs sold in Germany are only sold in the injectable format ([57]), which cannot rely on the non-sterile form. In contrast, [name of Curia customer] purchases are used for creams (topical corticosteroids). ([58]) These elements indicate that should the merged entity stop supplying [name of Curia customer] it would lose upstream sales, without having a guarantee – and in effect it being unlikely – that it would cover these losses from increased downstream sales.

(b) The only triamcinolone acetonide micronised customer of Curia active in both Poland and Portugal, is [name of Curia's customer]. It is unlikely that Curia would have the incentive to foreclose [name of Curia's customer]. in light of the following. First, [name of Curia's customer].is an important customer for Curia. Notably, >[50]% of Curia's sales to this customer are generated for other products than triamcinolone acetonide micronised sterile. By engaging in input foreclosure, Curia could risk those revenues as well without the possibility of recouping them downstream. ([59]) Second, Curia has [benefits that Curia provides to a customer] ([60]), further indicating the importance of this customer for Curia's business. Third, Zentiva's market shares in Portugal are below [0-5]% over the period 2022-2024, and in Poland below [10-20]%. ([61]) These elements show that it is unlikely for the merged entity to engage in input foreclosure at the risk of endangering its contractual relationship with this customer, or to be able to recoup its lost sales from [name of Curia's customer] by increasing revenues downstream given Zentiva's limited position in both countries.

(43) For minocycline HCL specifically, [name of Curia's customer] is the only customer of Curia that competes with Zentiva in a same Member State, i.e. Germany. The Commission notes first that [name of Curia's customer] purchases [volume & value of order], of minocycline HCL from Curia. ([62]) Nothing in the market investigation suggests that such volumes could not be supplied by third parties. This means that Zentiva would be unlikely to capture downstream sales from [name of Curia's customer], as [name of Curia's customer] would be able to continue supplying its products with an alternative provider. Second, [name of Curia's customer] is a large pharmaceutical company that purchases other APIs from Curia and could retaliate by stopping or reducing these other purchases. ([63]) This indicates that a foreclosure strategy would unlikely be profitable for the merged entity.

([55]) Reply to RFI 9, question 3.
([56]) Reply to RFI 10, question 2.
([57]) Form CO, Table 7.
([58]) Reply to RFI 10, question 2.
([59]) Form CO, para. 8.83.
([60]) Form CO, para. 8.83.
([61]) Based on the narrowest plausible product market definition i.e. ATC5. Reply to RFI 10, question 4.
([62]) Reply to RFI 9, question 9.
([63]) Form CO, para. 8.42.

(44) In light of the above, the Commission considers it unlikely that the merged entity would have the incentive to foreclose downstream rival's access to any of the four upstream inputs even if it had the ability to do so.

(45) Lastly, a potential input foreclosure strategy is unlikely to have an effect on any potential downstream FDP market involving FDPs based on the four concerned APIs. First, as mentioned above, downstream competitors can switch to alternative suppliers. Second, there are various alternative products that rely on other APIs and can compete with Zentiva's products. For example, Zentiva's corticosteroid product (that relies on triamcinolone acetonide micronised sterile) can be replaced with products based on dexamethasone, prednisolone, hydrocortisone, betamethasone, and methylprednisolone. ([64]) Similarly, alternatives to products relying on minocycline HCL include products based on doxycycline or lymecycline. ([65]) This is also shown in the market share data when looking at the broader market (ATC3 or ATC4). For instance, for FDPs based on triamcinolone acetonide micronised sterile Zentiva's share falls from [40-50]% (ATC5 level) to [5-10]% (ATC3 level), and for FDPs based on minocycline HCL, it falls from [80-90]% (ATC5 level) to [10-20]% (ATC3 level). ([66])

(46) On that basis of these elements, the Commission concludes that the merged entity is unlikely to engage in an input foreclosure strategy as regards any potential downstream FDP market.

7. CONCLUSION

(47) For the above reasons, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation and Article 57 of the EEA Agreement.

For the Commission

(Signed)
Teresa RIBERA
Executive Vice-President

([64]) Form CO, para. 8.23. This list is provided for Germany.
([65]) Form CO, para. 8.28.
([66]) Shares in value, for Germany, in 2024, based on Annex RFI9 Q9 and Annex RFI9 Q3.