EUROPEAN COMMISSION

Brussels, 25.2.2020
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PUBLIC VERSION

To the notifying parties

Subject: **Case M.9768 – OFL / TRENITALIA / ILSA**
Commission decision pursuant to Article 6(1)(b) of Council Regulation (EC) No 139/2004[1] and Article 57 of the Agreement on the European Economic Area[2]

Dear Sir or Madam,

1. On 4 February 2020, the European Commission received notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which the undertakings Trenitalia S.p.A. ("Trenitalia", Italy); owned by Ferrovie dello Stato Italiane S.p.A., and Operador Ferroviario de Levante, S.L. ("OFL", Spain), belonging to the Befemar Group acquire within the meaning of Article 3(1)(b) and 3(4) of the Merger Regulation joint control over the whole of the undertaking Intermodalidad de Levante, S.A. ("ILSA", Spain) by way of purchase of shares.[3]

2. The business activities of the undertakings concerned are:

   – for Trenitalia: an Italian railway company active in long distance and local passenger transport and international passenger transport;

   – for OFL: a Spanish company that is dedicated mainly to the provision of asset management activities and services related to passenger transport. OFL is indirectly controlled by Mr. Carlos Bertomeu, who also indirectly co-controls Air Nostrum, active in passenger air transport;

   – for ILSA: a Spanish company which will be dedicated to the provision of all types of passenger railway transport services in the context of the liberalisation of the railway sector in Spain and in the rest of the European Union.

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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 Publication in the Official Journal of the European Union No C 46, 11.02.2020, p. 13.

Commission européenne, DG COMP MERGER REGISTRY, 1049 Bruxelles, BELGIQUE
Europese Commissie, DG COMP MERGER REGISTRY, 1049 Brussel, BELGIË

Tel: +32 229-91111. Fax: +32 229-64301. E-mail: COMP-MERGER-REGISTRY@ec.europa.eu.

3. After examination of the notification, the European Commission has concluded that the notified operation falls within the scope of the Merger Regulation and of paragraph 5(b) of the Commission Notice on a simplified procedure for treatment of certain concentrations under Council Regulation (EC) No 139/2004.[4]

4. For the reasons set out in the Notice on a simplified procedure, 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)
Olivier GUERSENT
Director-General

4 OJ C 366, 14.12.2013, p. 5.