Opinion of the Advisory Committee on Mergers given at its meeting of 14 March 2017 regarding a draft decision relating to Case M.7932 — Dow/DuPont

Rapporteur: Bulgaria

(2017/C 353/03)

Operation

1. The Advisory Committee (9 Member States) agrees with the Commission that the Transaction constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

Union Dimension

2. The Advisory Committee (9 Member States) agrees with the Commission that the Transaction has a Union dimension pursuant to Article 1(2) of the Merger Regulation.

Product and Geographic Markets

3. The Advisory Committee (9 Member States) agrees with the Commission's definitions of the relevant product markets for crop protection formulated products, namely as to the segmentation of the:

   3.1. Markets for herbicides;

   3.2. Markets for insecticides;

   3.3. Markets for nematicides; and

   3.4. Markets for fungicides.

4. The Advisory Committee (9 Member States) agrees with the Commission's definitions of the following relevant product markets:

   4.1. Markets for the licensing of active ingredients;

   4.2. Markets for seeds;

   4.3. Markets for gene editing;

   4.4. Markets for acid co-polymers;

   4.5. Markets for ionomers;

   4.6. Markets for other material science products; and

   4.7. Markets for specialty products.

5. The Advisory Committee (9 Member States) agrees with the Commission's definition of the scope of innovation competition.

6. The Advisory Committee (9 Member States) agrees with the Commission's definitions of the relevant geographic markets in relation to:

   6.1. Markets for crop protection formulated products;

   6.2. Markets for the licensing of active ingredients;

   6.3. Markets for seeds;

   6.4. Markets for gene editing;

   6.5. Markets for material science products; and

   6.6. Markets specialty products.

7. The Advisory Committee (9 Member States) agrees with the Commission's definition of the geographic scope of innovation competition.

Competitive Assessment

8. The Advisory Committee (9 Member States) agrees with the Commission's assessment that the Transaction would significantly impede effective competition in the markets for:

   8.1. herbicides for cereals, oilseed rape, sunflower, rice and pasture;

   8.2. chewing and sucking (including thrips) insecticides; and

   8.3. fungicides for rice blast.

9. The Advisory Committee (9 Member States) agrees with the Commission's assessment that the Transaction would significantly impede effective competition with respect to innovation competition in crop protection for:

   9.1. overlapping lines of research and early pipeline products between the Parties; and

   9.2. the crop protection industry overall.

10. The Advisory Committee (9 Member States) agrees with the Commission's assessment that the Transaction would significantly impede effective competition in the markets for:

    10.1. acid co-polymers; and

    10.2. ionomers.

11. The Advisory Committee (9 Member States) agrees with the Commission that the final commitments offered by the Parties on 17 February 2017 address the competition concerns identified by the Commission.

12. The Advisory Committee (9 Member States) agrees with the Commission's assessment that the Transaction would not significantly impede effective competition further to the relationship between the Parties' activities in:

    12.1. the markets for pre-emergence cross-spectrum cereal herbicides, post-emergence broadleaf beets herbicides and post-emergence broadleaf corn herbicides;

    12.2. the market for insecticides for oilseed rape;

    12.3. the markets for cereal fungicides, rice sheath blight fungicides, vegetable and flower fungicides and grape/vine fungicides;

    12.4. the markets for nematode control;

    12.5. the markets for the licensing of active ingredients;

    12.6. the markets for seeds;

    12.7. the markets for gene editing;

    12.8. the markets for material science products other than acid co-polymers and ionomers; and

    12.9. the markets for specialty products.

13. The Advisory Committee (9 Member States) agrees with the Commission that, subject to the full compliance with the final commitments offered by the Parties on 17 February 2017, the Transaction would not significantly impede effective competition in the internal market or in a substantial part of it.

Compatibility with Internal Market

14. The Advisory Committee (9 Member States) agrees with the Commission that the Transaction should therefore be declared compatible with the internal market and the functioning of the EEA Agreement in accordance with Article 2(2) and 8(2) of the Merger Regulation and Article 57 of the EEA Agreement.