

Final Report of the Hearing Officer ⁽¹⁾
COMP/M.6214 — Seagate/HDD Business of Samsung
(2012/C 154/05)

On 19 April 2011, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽²⁾ (hereinafter referred to as the 'Merger Regulation') by which Seagate Technology Public Limited Company ('Seagate') acquires within the meaning of Article 3(1)(b) of the Merger Regulation control of the hard disk drive ('HDD') business of Samsung Electronics Co., Ltd ('the Samsung HDD business') by way of purchase of assets.

Upon examination of the notification, the Commission concluded that the operation fell within the scope of the Merger Regulation and raised serious doubts as to its compatibility with the internal market and the Agreement on the European Economic Area. On 30 May 2011, the Commission accordingly initiated proceedings pursuant to Article 6(1)(c) of the Merger Regulation.

The results of the in-depth market investigation did not confirm the serious doubts of the previous phase. The Commission considers that the proposed transaction does not significantly impede effective competition in the relevant markets. The notified concentration is therefore cleared without issuing a Statement of Objections pursuant to Article 8(1) of the Merger Regulation.

I received no request of procedural nature from the parties to the transaction. One third party, however, submitted to me a request for access to the file, after its initial request had been rejected by the team in charge of the case at DG Competition. I rejected such request since third parties do not have the right of access to the file in merger proceedings ⁽³⁾. When they apply to be heard, third parties showing sufficient interest only have the right to be informed by the Commission of the nature and subject matter of the proceedings ⁽⁴⁾. In any event, in the present case, the third party requesting access to the file did not apply to be heard.

In view thereof, I consider that the right to be heard of all participants in this case has been respected.

Brussels, 5 October 2011.

Wouter WILS

⁽¹⁾ Pursuant to Articles 15 and 16 of Commission Decision (2001/462/EC, ECSC) of 23 May 2001 on the terms of reference of hearing officers in certain competition proceedings (OJ L 162, 19.6.2001, p. 21).

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

⁽³⁾ Only the notifying party and the 'other involved parties' (within the meaning of Article 11(b) of Regulation (EC) No 802/2004) have such a right in accordance with Article 17 of Regulation (EC) No 802/2004 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (OJ L 133, 30.4.2004, p. 1) ('Regulation (EC) No 802/2004').

⁽⁴⁾ Article 16(1) of Regulation (EC) No 802/2004.