



OPINION

of the **ADVISORY COMMITTEE on MERGERS**
given at its meeting of **25 September 2013**
regarding a draft decision relating to
Case COMP/M.6796 - AEGEAN / OLYMPIC II

Rapporteur : POLAND

Concentration

1. The Advisory Committee agrees with the Commission that the notified operation constitutes a **concentration** within the meaning of the Council Regulation No 139/2004 (the "Merger Regulation").
2. The Advisory Committee agrees with the Commission that the notified operation is examined under the Merger Regulation pursuant to its Article 22(3).

Market definition

3. The Advisory Committee agrees with the Commission's definitions of the relevant product markets as stated in the draft decision. In particular, concerning the product market definition, does the Advisory Committee agree with the Commission's approach to leave open in this case
 - a) the distinction between time-sensitive and non-time sensitive passengers; and
 - b) the inclusion of ferry services in the relevant market for non-time sensitive passengers and all passengers on the routes of concern (except for the Athens–Mykonos and the Athens–Rhodes routes) specified in the draft Decision.

Competition assessment

4. The Advisory Committee agrees with the Commission that the proposed concentration leads to a significant impediment of effective competition due to the **elimination of actual competition** between Aegean and Olympic Air on the following 5 domestic routes.
 - a) Athens–Chania,
 - b) Athens–Santorini,
 - c) Athens–Mytilini,
 - d) Athens–Kos, and

e) Athens–Corfu.

5. The Advisory Committee agrees with the Commission that the proposed concentration significantly impedes effective competition as a result of the **elimination of a credible potential entrant** on the following 6 routes.

- a) Athens–Alexandroupolis,
- b) Athens–Rhodes,
- c) Athens–Thessaloniki,
- d) Athens–Heraklion,
- e) Athens–Chios,
- f) Athens–Samos.

6. The Advisory Committee agrees with the Commission that the proposed transaction would not significantly impede effective competition as concerns the market for attribution of PSO routes in Greece.

Entry

7. The Advisory Committee agrees with the Commission's conclusion that no post-merger timely and sufficient entry by international and/or domestic carriers establishing a base at Athens airport is likely in the foreseeable future.

Failing firm defense

8. The Advisory Committee agrees with the Commission that the failing firm defense criteria are met in the present case.

Conclusion

9. The Advisory Committee agrees with the Commission that the notified transaction must therefore be declared **compatible** with the internal market and the functioning of the EEA Agreement in accordance with Articles 2(2) and 8(1) of the Merger Regulation and Article 57 of the EEA Agreement.
