

***Case No COMP/M.6163 -
AXA/ PERMIRA/
OPODO/ GO VOYAGES/
EDREAMS***

Only the English text is available and authentic.

**REGULATION (EC) No 139/2004
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION
Date: 30/05/2011

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Brussels, 30.5.2011

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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 Where possible the information omitted has been replaced by ranges of figures or a general description.

PUBLIC VERSION

MERGER PROCEDURE

To the notifying parties:

Dear Sir/Madam,

Subject: Case No COMP/M.6163 - AXA/ PERMIRA/ OPODO/ GO VOYAGES/ EDREAMS
Commission decision pursuant to Article 6(1)(b) of Council Regulation No 139/2004¹

1. On 19 April 2011, the European Commission received a notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which the undertakings AXA Investment Managers Private Equity Europe ('AXA PE', France) belonging to the French AXA group and Permira Holdings Limited ('Permira', Guernsey), acquire within the meaning of Article 3(1)(b) of the Merger Regulation joint control of Opodo Limited ('Opodo', United Kingdom), the GO Voyages group ('GO Voyages', France) and the eDreams group ('eDreams', Spain) by way of purchase of shares².

I. THE PARTIES

2. **AXA PE** is a private equity firm belonging to the French AXA Group, controlling *inter alia* GO Voyages.
3. **Permira** is a private equity firm controlling *inter alia* eDreams.

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 Publication in the Official Journal of the European Union No C 129, 30.04.2011, p.6

4. **Opodo** is an online travel agent ("OTA") which is currently owned by the travel technology company Amadeus IT Group ("Amadeus").³ It operates through websites in Austria, Belgium, Denmark, Finland, France, Germany, Ireland, Italy, Norway, Poland, Portugal, Spain, Sweden, Switzerland and the United Kingdom.
5. **eDreams** is an OTA which mainly operates through websites in France, Germany, Italy, Portugal, Spain, the United Kingdom and also achieves non significant sales outside the EEA.
6. **GO Voyages** is an OTA offering its services mainly in Austria, Belgium, France, Germany, Italy, The Netherlands, Portugal, Spain, the United Kingdom and achieving non significant sales outside the EEA.

II. THE OPERATION AND THE CONCENTRATION

7. The proposed operation consists in the acquisition within the meaning of Article 3(1)(b) of the Merger Regulation by AXA PE and Permira of joint control over Opodo, GO Voyages and eDreams. All three acquisitions described above will happen simultaneously and will be followed by certain intra group transfers in order to integrate Opodo, GO Voyages and eDreams into one single group (the "Integrated Group") under the roof of a holding company.

Joint control

8. AXA PE and Permira will enter into a shareholders' agreement in relation to the Integrated Group which will reflect *inter alia* the following principles:
9. AXA PE and Permira will have equal voting rights in respect of the Integrated Group.⁴ They will have an equal right to appoint and be represented in the management bodies of the various entities of the Integrated Group.⁵ All decisions of the supervisory board of the top-holding company of the Integrated Group will require unanimity of the AXA PE and Permira representatives. Furthermore, each of AXA PE and Permira will hold certain veto rights over strategic decisions such as the approval and modification of the annual budget.
10. Therefore it is concluded that AXA PE and Permira will exercise joint control over Opodo, GO Voyages and eDreams within the meaning of Article 3(1)(b) of the Merger Regulation.

3 Amadeus operates the Amadeus Global Travel Distribution System ("GDS").

4 In particular, at the highest level of the Integrated Group (i.e. at the level of the top-holding company), all decisions of the general meeting of shareholders shall require the unanimous consent of AXA PE and Permira and this despite the fact that AXA PE will indirectly only hold [...] % of the shares and Permira the remaining [...] %.

5 The supervisory board of the top-holding company of the Integrated Group will be composed of an equal number of AXA PE representatives and Permira representatives. The members of the supervisory board as well as the general managers that will manage the company under the supervision of the supervisory board will be appointed unanimously by AXA PE and Permira. The same principles will apply to the composition of the management bodies of the other companies of the Integrated Group (i.e. the Go Voyages, eDreams and Opodo entities).

Single concentration

11. The proposed transaction is composed of several legal transactions corresponding to the acquisition of joint control by AXA PE and Permira over (i) Opodo, (ii) GO Voyages and (iii) eDreams.
12. All three transactions have to be considered as unitary in nature since the economic aim of AXA PE and Permira is to combine each of Opodo, GO Voyages and eDreams into one single integrated group in order to achieve a pan-European reach that could not be obtained by realising only one of the steps of the proposed transaction.
13. Also, the financing structure of the proposed transaction is based on the three-way integration of Opodo with eDreams and GO Voyages. In this respect, the parties explain that the financing structure to acquire Opodo is built on the carrying out of the GO Voyages and eDreams transactions. Conversely, if the Opodo acquisition could not be carried out, any integration of eDreams and GO Voyages would require negotiating a wholly new refinancing package with the banks and Permira and AXA PE agreeing on the structure to implement such a business combination.⁶
14. Furthermore, the share purchase agreement governing the Opodo acquisition and the investment agreement governing mainly the eDreams and GO Voyages acquisitions were negotiated in parallel and are drafted in such way that they are interlinked in the meaning of paragraph 36 et seq. of the Commission Consolidated Jurisdictional Notice.⁷ The eDreams and GO Voyages acquisition are governed by one single agreement, the investment agreement. The acquisition of Opodo, governed by a share purchase agreement, will automatically entail the transfer of both eDreams and GO Voyages and the eDreams and GO Voyages acquisitions are necessary to complete the Opodo acquisition. The share purchase agreement in relation to the Opodo acquisition is only conditional on the Amadeus board approval (obtained on 24 February 2011) and on the obtaining of the necessary competition clearances. Therefore – subject to competition clearance – the Opodo transaction will materialise, and as a result also the eDreams and GO Voyages transactions. In addition, all three transactions will occur simultaneously.
15. Therefore it is concluded that the three transactions stand and fall together and constitute a single concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

III. EU DIMENSION

16. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million⁸ (AXA: EUR 90 124 million; Permira: EUR [...] million, Opodo: EUR [...] million). At least two of the undertakings concerned have a EU-wide turnover in excess of EUR 250 million (AXA: EUR [...] million; Permira: EUR [...] million), and none of the undertakings concerned achieves more than two-thirds of their aggregate EU-

6 By way of example, the credit facilities to be put in place to finance the Opodo acquisition provide as a condition precedent that evidence must be provided that the reorganisation of the GO Voyages group, the eDreams group and the Opodo group has been effected.

7 OJ C95, 16.04.2008, p.1.

8 Turnover calculated in accordance with Article 5 of the Merger Regulation.

wide turnover within one and the same Member State. The notified operation therefore has an EU dimension pursuant to Article 1(2) of the Merger Regulation.

IV. COMPETITIVE ASSESSMENT

17. The proposed transaction concerns the market for the distribution of travel services. Opodo, GO Voyages and eDreams are all predominantly active in the online distribution of leisure flights.

1. Market definition

Product market

18. In previous decisions, the Commission considered that there is a separate market for the distribution of travel services.⁹ The Commission has further subdivided this market on the basis of the customer-type, distinguishing between the distribution of business travel and leisure travel services¹⁰.

19. In its past decisions, the Commission has left open whether the market for the distribution of leisure travel services via brick-and-mortar travel agencies and the market for the distribution of leisure travel services via agencies active online were distinct markets or were part of the same market.¹¹

20. As regards a possible further distinction by type of product the Commission has in past decisions made a distinction between markets for the distribution of package holidays and markets for the distribution of independent holidays (where the consumer purchases the various elements individually).¹² The Commission noted in a recent decision¹³ that based on the available evidence it could not be excluded that the distribution of package holidays would constitute a separate market from the market for the distribution of independent holidays (e.g. flights, hotels, car rental, etc.).

9 Travel agents are retailers distributing various travel services to consumers and business travellers such as flights, car rental and hotel booking.

10 Business travel agency services meet the needs of companies for business travel of management and employees in accordance with corporate travel budgets and plans. Leisure travel agencies provide services to individuals in connection with their non-business vacation and personal travel needs. In several cases the Commission considered different product markets for the distribution of leisure travel services and business travel services. See case COMP/M.2627 Otto Versand/Sabre/Travelocity JV, para 12; case COMP/M.2197 Hilton/Accor/Forte/Travel Services JV, para 14. In both cases the precise market definition was left open.

11 See case COMP/M.1812 Telefonica/Terra/Amadeus, para 10; case COMP/M.2794 Amadeus/GGL/JV, para 10; case COMP/M.4600 TUI/First Choice, para 41 and following and case COMP/M.4601 KarstadtQuelle/MyTravel, para 31 and following. See also case COMP/M.5996 Thomas Cook / Travel Business of Co-operative Group / Travel Business of Midlands Co-operative Society, para 28 where the Commission indicated that online distribution and distribution via bricks-and-mortar travel agencies may constitute separate markets.

12 Case COMP/M.1524 Airtours/First Choice, para 29 and following; case COMP/M.4601 KarstadtQuelle/My Travel, para 30 and following.

13 COMP/M.5996 Thomas Cook / Travel Business of Co-operative Group / Travel Business of Midlands Co-operative Society, para 20.

21. The parties submit that the relevant product market is the leisure travel agency services market and that this market cannot be further segmented according to online and offline activities or by type of product.
22. The parties provide several arguments why in their view Opodo, eDreams and GO Voyages compete on the overall market for leisure travel agency services that includes offline channels (high-street travel agency outlets and offline direct sales by airlines), call centres and online channels (travel agency websites, OTA websites and airlines direct websites). In particular, they argue that customers purchase through any of these sales channels exactly the same end-product and benefit from the same guarantees and protective regulations. Further, they refer to an industry report¹⁴ which shows that a significant number of customers shop both online and offline through high-street travel agencies for booking their leisure trip.
23. The market investigation showed mixed views with regard to the question whether distribution of leisure travel services through traditional high-street travel agencies and through online channels are part of the same market. On the one hand, some respondents argued that high-street travel agents and online travel agents distribute the same products and that from their experience, customers starting their shopping process on an OTA website may end up booking via a high-street agency. On the other hand, respondents that were of the opinion that online distribution may constitute a distinct market indicated that there are differences between the products sold (e.g. for some more complex products like cruises or high value packages more services are needed than for other products like flights only). Furthermore, high-street travel agents and OTAs would have different types of customers. Online customers would not enter a high-street travel agency if they could not find a suitable travel product on a particular website, but rather would look on other OTA websites. It was also indicated that the competitive pressure exerted by high-street travel agencies on online travel agencies is weaker than vice-versa. Given these results of the market investigation, it cannot be excluded that the online distribution of leisure travel services may constitute a separate product market within the overall market of the distribution of leisure travel services. However, for the purpose of the present decision, it can be left open whether the online distribution of leisure travel services constitutes a distinct product market as the proposed transaction would not give rise to competition concerns irrespective of the precise market definition.
24. Within the possible market for the online distribution of leisure travel services the online distribution of leisure flights may constitute a separate market. In this regard, the market investigation also showed mixed views. On the one hand, respondents indicated that the sale of flights has the highest online penetration of all leisure travel products. Furthermore, since flights are a rather standardised and thus simple product, the online flight market is more developed than the online activities for other leisure products. On the other hand, arguing against the existence of a separate market, respondents explained that many customers starting their shopping process online finally book via a high-street agency or a call centre. Furthermore, the fact that OTAs operate call centres to provide offline support and that many high-street travel agents are establishing online sales points would indicate that no separation between online and offline distribution of flights should be made. On this basis, it cannot be excluded that the online distribution of leisure flights may constitute a separate market within the possible overall market for

14 PhoCus Wright's European Travel Report 2010.

the online distribution of leisure travel services. However, for the purpose of the present decision, it can be left open whether the online distribution of leisure flights constitutes a distinct product market as the proposed transaction would not give rise to competition concerns irrespective of the precise market definition.

25. The market investigation broadly confirmed that the online distribution of flights through OTAs and through airline websites are part of the same market. Some respondents to the market investigation pointed to the existence of differences between OTAs and airline websites, in particular, the possibility on OTA websites to compare and to combine flights from different airlines. However, several respondents indicated that OTA websites and airline websites are to be considered as simply different distribution channels offering the same flight products and targeting the same customers. Online customers would look for the best available deals across all channels, including OTA websites, metasearch engines¹⁵ and airline websites.
26. In this regard, the parties indicate that no distinction can be made between sales by OTAs and sales through airline websites. The parties refer to court rulings on cases of unfair competition issues between OTAs and airlines. In these rulings several courts in Member States have accepted that OTAs and airline websites compete.¹⁶ Consumers would also often use OTA websites to search for flights and then book their flight directly at the airline website.
27. Indeed, according to an industry report around 60% of consumers¹⁷ consult search engines when they compare and choose their leisure travel product. Furthermore, search and metasearch engines display OTAs and airline websites indistinguishably. In addition, only 39% of the consumers who use OTA websites to compare leisure travel products, stay on that OTA website to make their booking and 20% of the consumers go to other websites, for example airline websites.¹⁸ Based on these elements it can be concluded that airline websites and OTA websites compete on the same market for the online distribution of flights.
28. By way of conclusion, it follows from the market investigation that the distribution of leisure travel services through online channels might constitute a separate market. Within the possible market for the online distribution of leisure travel services, a possible sub-market for the online distribution of leisure flights might exist. Based on the results of the market investigation, for the purposes of the present case, it can be

15 Specialised search engines (such as Kayak, Easyvoyage, Bing Travel, Skyscanner, Alibabuy, Easyvols) which allow customers to compare specific flight routes across OTAs and airline websites and rank them by price.

16 Ryanair/eDreams, Commercial Court of Barcelona (Juzgado de la Mercantil), 11 February 2009, confirmed by Appellate Court (Audiencia Provincial), 17 December 2009; eDreams/Ryanair, Commercial Court of Barcelona, 22 December 2010; Ryanair/Vivancances, Tribunal de Commerce de Paris, 6 February 2008; Cheaptickets/Ryanair, Court of Appeal Frankfurt, 5 March 2009; Ryanair/Atrapalo, Commercial Court of Barcelona, 20 January 2009.

17 PhoCus Whright's European Consumer Travel report 2010, p.46, explains that 59% of French consumers, 63% of German consumers and 61% of UK consumers consult search engines when they compare and choose their leisure travel product.

18 PhoCus Whright's European Consumer Travel report 2010, p. 59.

concluded that such a market for the online distribution of flights encompasses the distribution of flights both through OTA websites and through airline websites.

Geographic market

29. The geographic market for the distribution of leisure travel services has been considered national in scope in past Commission decisions¹⁹, amongst others due to language barriers.
30. The parties submit that the relevant geographic market for (any potential segment of) this market is national.
31. The market investigation broadly confirmed that the geographic market for the distribution of leisure travel services is to be considered as national. However, in particular with regard to the online distribution of flights some of the respondents were of the opinion that the geographic market could be larger than national.
32. For the purpose of the present decision, the exact geographic market definition can be left open as the proposed transaction would not give rise to competition concerns irrespective of the precise market definition.

2. Competition Assessment

33. Opodo, eDreams and GO Voyages are all three OTAs that offer travel services including flights, train tickets, hotel and other accommodation booking, car rental, package holidays (traditional and independent packages) and other travel related services.
34. With the exception of Opodo's subsidiary Travellink²⁰, the parties do not provide business travel services and are only active as leisure travel agencies. While it cannot be excluded that also business customers book their flight ticket or hotel, for example, through the parties' websites, it is not necessary for the case at hand to further analyse the link between business and leisure travel. Indeed, as Opodo's subsidiary Travellink is only active in Scandinavia where eDreams and GO Voyages do not offer their services, no overlap is created in those countries.
35. The parties' activities have a clear focus on the distribution of leisure flights. Flights represented [80-90]% of Opodo's, [90-100]% of GO Voyages' and [80-90]% of eDreams' total gross bookings in 2010.²¹

19 Case COMP/M.4601 – Karstadtquelle / Mytravel, para 38; case COMP/M.4600 – Tui / First Choice, para. 51; case COMP/M.4234 – Carlson / One Equity Partners / Carlson Wagonlit, para.20. In case COMP/M.5996 – Thomas Cook / Travel Business of Co-operative Group / Travel Business of Midlands Cooperative society, the Commission considered that the possible market for the distribution of holidays via high street travel agencies would not be broader than national in scope.

20 Travellink's revenues in Sweden, Denmark, Norway and Finland amounted in 2010 to EUR [...] million.

21 Hotel bookings represented [0-5]% of Opodo's, [0-5]% of GO Voyages' and [0-5]% of eDreams' total gross bookings in 2010. Car rentals represented [0-5]% of Opodo's, [0-5]% of GO Voyages' and [0-5]% of eDreams' total gross bookings in 2010. The remainder are package holidays and other travel services.

36. Opodo, eDreams and GO Voyages' activities overlap in France, Germany, Italy, Spain and the UK and to a limited extent in Portugal.²²
37. On a possible overall market for the distribution of leisure travel services (i.e. including online agencies and high-street agencies) the parties have in all six Member States where they overlap (France, Germany, Italy, Spain, the UK and Portugal) very low combined market shares (below [0-5]%). Also on possible sub-segments of this market according to product type, i.e. independent holidays (flights, hotel, etc.), package holidays and leisure flights, the parties' market shares would remain low (reaching a maximum of [5-10]% in the distribution of leisure flights in Italy).
38. On a possible market for the online distribution of leisure travel services (i.e. excluding high-street agencies), the parties achieve higher combined market shares. However, the combined market shares remain below [10-20] % in all six Member States.
39. Even on the possible sub-segments of this online market according to product type, i.e. the markets for the online distribution of independent holidays and of package holidays, the combined market share would remain below [5-10]% and [10-20]%, respectively.
40. On a possible market for the online distribution of leisure flights, the combined market shares in Germany, the UK, Spain and Portugal would remain below [10-20]% (with a maximum of [10-20]% in Spain).
41. In France, according to estimates made by the parties²³, the parties' combined market share on the market for the online distribution of leisure flights amounts to [10-20]% (Opodo [5-10]%, GO Voyages [5-10]%, eDreams [0-5]%). Competitors are Air France ([30-40]%), Expedia ([5-10]%), eBookers ([0-5]%) Travelocity/Lastminute ([0-5]%), others including Low-Cost-Carriers ([40-50]%). Since the market investigation shed some doubt about the market data estimated by the parties, the Commission did its own worst-case analysis in which the market size was re-calculated by excluding the online bookings of traditional high street travel agents. The table below shows market shares for France both on the basis of the parties' estimates and the Commission's re-calculation.

22 The activities of the parties in Portugal are marginal (below EUR [...]). Opodo has a portal website in Austria and Belgium which redirect clients respectively to the German and French websites and which represent less than EUR [...] in revenues. The combined market shares in these countries would remain below 15% regardless of the product market definition.

23 It is important to note that no industry study is available that estimates, the total market size for the online distribution of leisure flights. While there is some data for the airlines own websites, the activities of OTAs had to be estimated on the basis of MIDT booking data. MIDT does not distinguish between online booking and bookings via high-street outlets. Thus, the parties made some own calculations for the online bookings of traditional high street travel agents (for example, in France Nouvelle Frontieres or Havas/CWT).

France	Market share (Parties)	Market share (Commission)
Opodo	[5-10]%	[5-10]%
GO Voyages	[5-10]%	[5-10]%
Edreams	[0-5]%	[0-5]%
Combined market share	[10-20]%	[10-20]%
Air France	[30-40]%	[30-40]%
Expedia	[5-10]%	[5-10]%
eBookers	[0-5]%	[0-5]%
Travelocity/Lastminute	[0-5]%	[0-5]%
Others (including Low Cost Carriers)	[40-50]%	[30-40]%
Total market size	100% (EUR [...] billion)	100% (EUR [...] billion)

42. Currently eDreams, which entered the French market in 2009, still has a limited market share. Opodo and GO Voyages have comparable market shares of both less than [10-20]%. In France, the combined market share of the parties would be, according to the Commission's own calculations, in any event less than 25% and the parties will continue to face strong competition from airlines and other OTAs such as Expedia.
43. In Italy, according to estimates made by the parties, the parties' combined market share on the market for the online distribution of leisure flights amounts to [10-20]% (Opodo [0-5]%, GO Voyages [0-5]%, eDreams [10-20]%). Competitors are Alitalia ([10-20]%), Windjet ([10-20]%), Expedia ([10-20]%), Volagratis ([5-10]%), Bluexpress ([5-10]%), Air Italy ([5-10]%), Lastminute ([0-5]%), Meridiana ([0-5]%), others ([10-20]%). As already mentioned above, since the market investigation shed some doubt about the market data estimated by the parties, the Commission did its own worst-case analysis in which the market size was re-calculated by excluding the online bookings of traditional high street travel agents. The table below shows market shares for Italy both on the basis of the parties' estimates and the Commission's re-calculation.

Italy	Market share (Parties)	Market share (Commission)
Opodo	[0-5]%	[0-5]%
GO Voyages	[0-5]%	[0-5]%
Edreams	[10-20]%	[10-20]%
Combined market share	[10-20]%	[10-20]%
Alitalia	[10-20]%	[20-30]%
Windjet	[10-20]%	[10-20]%
Expedia	[10-20]%	[10-20]%
Volagratis	[5-10]%	[5-10]%
Bluexpress	[5-10]%	[5-10]%
Air Italy	[5-10]%	[5-10]%
Lastminute	[0-5]%	[0-5]%
Meridiana	[0-5]%	[0-5]%
Others	[10-20]%	[5-10]%
Total market size	100% (EUR [...] billion)	100% (EUR [...] billion)

44. In Italy, only eDreams is a strong player while Opodo and GO Voyages have a very limited presence in the market. Therefore, the increment of the market shares due to the proposed transaction will be small. In Italy, the combined market share of the parties would be, according to the Commission's own calculations, in any event less than 25% and the parties will continue to face strong competition from airlines and other OTAs such as Expedia.
45. It is important to note that investment costs for entering the market for online distribution of flights are limited. They mainly concern creating a national (language) website and call centre where the national language is spoken, obtaining a booking engine (either off the shelf or via a white label agreement with an existing OTA) and marketing activities. Since all steps including the payment and issuing of tickets can be carried out electronically, no substantial local physical presence is required. Potential entrants include OTAs operating in other countries, OTAs which currently mainly focus on hotels, rail or other services or other online retailers. As an example of a recent successful entry, the parties refer to the entrance of eDreams in the French market in 2009.
46. With regard to the effect of the transaction on airline companies – suppliers of the flights and source of commission revenue for OTAs – some respondents to the market investigation indicate that after the merger the parties would be in a very strong negotiating position and could thus exercise market power towards airline companies resulting in higher commissions. However, it is important to note that (i) the airlines' distribution of flights via OTAs represent only a minor share of their overall distribution and that (ii) from their overall online sales, airlines realise the main share through their own websites. Furthermore, the airlines' ability to increase sales through their own websites and, in particular for large airlines, the fact that they are considered as must-have brands, constitute a counterbalance for any possible market power of OTAs in their negotiations with airlines.
47. Given the relatively limited combined market shares of the parties in France, Germany, Italy, Spain, Portugal and the UK under all market delineations considered, the existence of a number of important competitors in these countries and the fact that market entry is fairly easy, the transaction does not lead to a significant impediment of effective competition.

VI. CONCLUSION

48. 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.

For the Commission
(signed)
Sim KALLAS
Vice-President