



## **OPINION**

### **of the ADVISORY COMMITTEE on MERGERS**

**given at its meeting of 17 September 2007 relating a draft decision relating to**

**Case COMP M.3333 – SONY/BMG**

**Rapporteur : DENMARK**

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1. The members of the Advisory Committee agree with the Commission that the notified operation constitutes a concentration within the meaning of the Merger Regulation (EEC) No 4064/89.
2. The members of the Advisory Committee agree with the Commission that the notified operation has a Community dimension as defined by that Regulation.
3. The majority of the members of the Advisory Committee agrees with the Commission that in the present case the relevant product markets are:
  - a. the market for physical recorded music.
  - b. the market for licensing of recorded music in digital format which might be further subdivided into markets for online and mobile digital music.

A minority of the members of the Advisory Committee disagrees with point 3a.

4. The members of the Advisory Committee agree with the Commission that the market for physical recorded music is national in scope.
5. The members of the Advisory Committee agree with the Commission that the market for recorded music in digital format is national in scope.
6. The members of the Advisory Committee agree with the Commission that the proposed concentration will not lead to the creation of a single dominant position, as a result of which effective competition would be significantly impeded in the Common Market or in a substantial part of it, in any of the EEA countries in the markets for physical recorded music.
7. The members of the Advisory Committee agree with the Commission that the proposed concentration will not lead to the creation of a single dominant position, as a result of which effective competition would be significantly impeded in the Common

Market or in a substantial part of it, in any of the EEA countries in the markets for recorded music in digital format.

8. The members of the Advisory Committee agree with the Commission that the proposed concentration will not lead to the strengthening nor the creation of a collective dominant position, as a result of which effective competition would be significantly impeded in the Common Market or in a substantial part of it, in any of the EEA countries in the markets for physical recorded music.
9. The members of the Advisory Committee agree with the Commission that the proposed concentration will not lead to the strengthening nor the creation of a collective dominant position, as a result of which effective competition would be significantly impeded in the Common Market or in a substantial part of it, in any of the EEA countries in the markets for recorded music in digital format.
10. The members of the Advisory Committee agree with the Commission that the proposed concentration should be declared compatible with the Common Market and with the EEA Agreement.
11. The Advisory Committee is of the opinion that the Commission has taken due account of the findings of the Court of First Instance in the Impala Case.
12. The members of the Advisory Committee recommend the publication of its opinion in the Official Journal of the European Union.

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