



EUROPEAN COMMISSION

Competition DG

Policy and Strategy  
**Strategy and Delivery**

## **OPINION**

**of the ADVISORY COMMITTEE on MERGERS**

**given at its meeting of 16 April 2008**

**regarding a draft decision relating to**

**CASE COMP/M.4956 – STX / Aker Yards**

**Rapporteur : UK**

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1. The Advisory Committee considers that the transaction constitutes a concentration within the meaning of Article 3(1)(b) of the EC Merger Regulation. A minority abstains.
2. The Advisory Committee agrees with the Commission that the notified operation has a Community dimension within the meaning of Articles 1 and 4 of the EC Merger Regulation. A minority abstains.
3. The Advisory Committee agrees that for the purpose of the present case the product market definition should be delineated as follows:
  - it is appropriate to distinguish various types of ships within the overall commercial shipbuilding sector;
  - chemical/oil tankers and product tankers should be considered as two separate markets or as a single product market, whereas this question can be left open in this case;
  - cruise ships and ferries should be considered as two separate product markets or as a single product market, whereas this question can be left open in this case;
  - the Commission should focus its analysis on cruise ships of over 30,000 gt where Aker Yards is active, whereas it is not necessary for the present case to distinguish different markets for different sizes of cruise ships;
  - the question whether ship engine manufacturing should be segmented can be left open in this case.A minority abstains.

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4. The Advisory Committee agrees that for the purpose of the present case the geographic markets for the construction of commercial ships and for the manufacturing of ship engines are world wide.  
A minority abstains.
  5. The Advisory Committee agrees that given the absence of horizontal overlaps the proposed transaction will not have as direct result the strengthening of Aker Yard's position in the construction and supply of cruise ships.  
A minority abstains.
  6. The Advisory Committee agrees that the elimination of STX as a potential competitor in the construction and supply of cruise ships would not have a significant anti-competitive effect.  
A minority abstains.
  7. The Advisory Committee agrees that the financial position of STX is not such as to render the merged entity dominant on the market for construction of cruise ships, regardless of whether the financial instruments mentioned by the complainant constituted past or current subsidies by the South Korean state.  
A minority abstains.
  8. The Advisory Committee agrees that even if evidence existed that the merged entity is likely to receive subsidised production financing in the future as alleged by the complainant it is unlikely to significantly increase the financial strength of the merged entity for the reasons elaborated in the decision.  
A minority abstains.
  9. The Advisory Committee agrees that for cruise ships, buyers are large and sophisticated and are likely to have, in the current market structure, the ability to mitigate any anti-competitive behaviour post merger.  
A minority abstains.
  10. The Advisory Committee agrees that the proposed transaction will not lead to a significant impediment to effective competition for cruise ships and ferries together, and for ferries separately.  
A minority abstains.
  11. The Advisory Committee agrees that the proposed transaction will not lead to a significant impediment to effective competition for product tankers.  
A minority abstains.

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12. The Advisory Committee agrees that the vertical relationships created by the proposed transaction will not lead to a significant impediment to effective competition in the various markets for commercial vessels, and in the cruise ship and ferries markets in particular.  
A minority abstains.
13. The Advisory Committee agrees that the proposed transaction will not lead to a significant impediment to effective competition in shipping services.  
A minority abstains.
14. The Advisory Committee agrees with the Commission that the proposed concentration should be declared compatible with the common market and the functioning of the EEA Agreement.  
A minority abstains

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