



EUROPEAN COMMISSION

The Hearing Officer

**FINAL REPORT OF THE HEARING OFFICER**  
**IN CASE COMP/M.4956 – STX/Aker Yards**

**(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)**

On 16 November 2007, the Commission received a notification of a proposed concentration pursuant to Article 4 of the Merger Regulation, by which STX Corporation ("STX") would acquire *de facto* control of the whole of Aker Yards A.S.A. ("Aker") by way of purchase of shares.

Competition concerns were raised during the first phase of the investigation into the proposed merger, which caused the Commission to decide, on 20 December 2007, to initiate proceedings pursuant to Article 6(1) (c) of the Merger Regulation.

The notifying party did not request access to key documents in accordance with DG Competition's "Best Practices on the conduct of EC merger control proceedings".

Following the in-depth market investigation, the Commission has concluded that the proposed transaction does not significantly impede effective competition in the common market or in a substantial part of it and is therefore compatible with the common market and the EEA Agreement. Accordingly, no Statement of Objections was sent to the notifying party.

No queries or submissions have been made to me by the merging parties in the course of the procedure

*Derogation Decision*

On 5 March 2008, STX requested a derogation from the suspension obligation pursuant to Article 7(3) of the Merger Regulation. On 10 March 2008, STX reiterated the request on the basis of new developments that had taken place since its first request. On 19 March 2008, the Commission granted the requested derogation from the obligations imposed by Article 7(1) of the Merger Regulation, subject to certain conditions.

*Request for access to file by third party*

On 1 April 2008, a third party, Fincantieri-Cantieri Navali S.p.A ("Fincantieri") wrote to the Deputy Director General in DG Competition repeating a request to grant it access to the investigation file. A similar request was sent to me on 9 April 2008 claiming that a refusal was a breach of Fincantieri's right to be heard. By letter of 14 April 2008, the Deputy Director General provided a detailed reasoned response to Fincantieri's letter of 1 April 2008, concluding that, as a third party, Fincantieri was not entitled to access to the investigation file in this case. I also wrote to Fincantieri on 15 April 2008, confirming that

the analysis provided by DG Comp was correct. I also confirmed that, in my view, based on the written submissions to and oral contacts held with the Commission services in the course of the procedure, Fincantieri, as an interested third party, had been properly heard in this case.

The case does not call for any further comments as regards the right to be heard.

Brussels, 22 April 2008

*(signed)*  
Karen WILLIAMS