



EUROPEAN COMMISSION

The Hearing Officer

FINAL REPORT OF THE HEARING OFFICER
IN CASE COMP/M.4980 – ABF/ GBI Business¹

On 22 February 2008, the Commission received a notification of a proposed concentration pursuant to Article 4 and following a referral pursuant to Article 22 of Council Regulation (EC) No 139/2004 ("EC Merger Regulation") by which the undertaking Associated British Foods plc ("ABF", United Kingdom) acquires, within the meaning of Article 3 (1)(b) of the EC Merger Regulation, control over a number of subsidiaries and assets of GBI Holding BV, certain assets and stakes of GB Ingredients BV and DSM Bakery Ingredients BV (together "the GBI Business", the Netherlands) by way of purchase of assets and shares.

In order for the Commission to be able to dismiss any possible serious doubts, ABF submitted a remedy proposal on 26 March 2008.

After examination of the notification and market testing of the remedy proposal, the Commission concluded on 16 April 2008 that the notified operation raised serious doubts as to its compatibility with the common market and the Agreement on the European Economic Area ("EEA Agreement"). The Commission therefore initiated proceedings in accordance with Article 6 (1)(c) of the EC Merger Regulation.

Upon request, ABF was given access to the key documents in the file, in accordance with the Best Practices rules for merger cases, in the form of a selection of non-confidential versions of third parties' replies to the phase-one requests for information; these were provided to the notifying party on 23 April and 30 April 2008.

On 10 July 2008, the Commission sent an Article 11 (3) decision to ABF and subsequently suspended the time limits effective 26 June 2008. This suspension ended on 16 July 2008.

On 10 July 2008, ABF offered a draft alternative remedy with a view to rendering the concentration compatible with the common market and committed to pursue both alternatives in parallel. A new draft and a final version of the commitments were submitted on 15 July and 23 July 2008, respectively.

¹ 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 L162, 19.06.2001, p.21.

The Commission has concluded that the commitments, as submitted on 23 July 2008 would remove the significant impediment to effective competition in the compressed yeast markets in Portugal and Spain. Accordingly, no statement of objections was sent to the notifying party and the concentration is to be declared compatible with the common market and the EEA Agreement pursuant to Article 2 (2) of the Merger Regulation, subject to compliance with the commitments in the annex to the decision.

No queries or submissions have been made to me by the parties or any third party. The case does not call for any particular comments as regards the right to be heard.

Brussels, 15 September 2008

(signed)
Michael ALBERS