



OPINION
of the ADVISORY COMMITTEE on MERGERS

given at its meeting of 11th April 2018

regarding a draft decision relating to

CASE M.7993 – Altice/PT Portugal – Art. 14(2) procedure

Rapporteur: FRANCE

1. The Advisory Committee (13 Member States) agrees with the Commission that the Commission's assessment that the Transaction Agreement concluded between Altice and Oi went beyond what was necessary to preserve the value of the Target's business and gave Altice the possibility to exercise decisive influence over the Target pending notification and the clearance decision of the Commission.
2. The Advisory Committee (13 Member States) agrees with the Commission's assessment that in the instances described in the Decision (i.e. the Post-Paid Campaign, the Porto Canal contract, the selection of a RAN supplier, the Video on Demand contract, the DOG TV contract, the SIRESP shares and the Lactogal contract) Altice went beyond what was necessary to preserve the value of the Target's business and exercised decisive influence over the Target pending notification and/or the clearance decision of the Commission, as appropriate.
3. The Advisory Committee (13 Member States) agrees with the Commission's assessment that the exchanges of commercially sensitive information contributed to Altice's exercise of decisive influence over certain conducts pertaining to the Target pending notification and the clearance decision of the Commission and cannot be justified on the basis of the need to preserve the value of the Target's business.
4. The Advisory Committee (13 Member States) agrees with the Commission's assessment that Altice has at least negligently infringed Article 4(1) of the Merger Regulation (Council Regulation (EC) No 139/2004).
5. The Advisory Committee (13 Member States) agrees with the Commission that Altice has at least negligently infringed Article 7(1) of the Merger Regulation (Council Regulation (EC) No 139/2004).
6. The Advisory Committee (13 Member States) agrees with the Commission that Altice should be fined pursuant to Article 14(2)(a) and Article 14(2)(b) of the Merger Regulation.
