



**Final Report of the Hearing Officer<sup>1</sup>**  
**Qualcomm / NXP**  
**(COMP/M.8306)**

1. On 28 April 2017, the Commission received a notification of a proposed concentration by which Qualcomm Incorporated, through its subsidiary Qualcomm River Holdings B.V. (together "Qualcomm") would acquire within the meaning of Article 3(1)(b) of Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings<sup>2</sup> (the "Merger Regulation") control over the whole of NXP Semiconductors N.V. ("NXP") by way of a purchase of shares (the "Proposed Transaction"). Qualcomm and NXP are designated hereinafter as the "Parties".
2. On 9 June 2017, the Commission adopted a decision initiating proceedings pursuant to Article 6(1)(c) of the Merger Regulation. In that decision, the Commission indicated that the Proposed Transaction falls within the scope of the Merger Regulation and that it raised serious doubts as to its compatibility with the internal market and the EEA Agreement.
3. On 28 June 2017, Qualcomm submitted written comments on the decision initiating proceedings.
4. During the phase II investigation, the Commission sent several requests for information to the Parties pursuant to Article 11(2) of the Merger Regulation. On 28 June 2017 the Commission adopted a decision under Article 11(3) of the Merger Regulation, compelling Qualcomm to supply certain information which the Commission had requested on 14 June 2017 pursuant to Article 11(2) of the Merger Regulation and which Qualcomm had failed to submit within the time limit fixed by the Commission. This decision also suspended the time limit laid down in Article 10(3) of the Merger Regulation until the end of the day the Commission would receive the required information. The deadline suspension ended on 16 August 2017, following Qualcomm's submission to the Commission of the information sought.
5. On 5 September 2017, the Commission adopted a second decision pursuant to Article 11(3) of the Merger Regulation, compelling Qualcomm to supply information which the Commission had requested on 14 June 2017 pursuant to Article 11(2) of the Merger Regulation and which Qualcomm had failed to submit within the time limit fixed by the Commission. This decision also suspended the time limit referred to in Article 10(3) of

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<sup>1</sup> Pursuant to Articles 16 and 17 of Decision 2011/695/EU of the President of the European Commission of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings, OJ L 275, 20.10.2011, p. 29 ("Decision 2011/695/EU").

<sup>2</sup> OJ L 24, 29.1.2004, p. 1.

- the Merger Regulation as of 17 August 2017 until the end of the day the Commission would receive the required information.
6. On 4 October 2017, the Commission adopted a third decision pursuant to Articles 11(3) and 15 of the Merger Regulation, compelling Qualcomm to supply certain information and documents responsive to its information request of 14 June 2017, which had not yet been provided to the Commission and imposing a periodic penalty payment should Qualcomm fail to supply the information requested within the period prescribed. On 17 November 2017, Qualcomm completed its response to the Commission's information request of 14 June 2017 and the suspension of the time limit expired at the end of that day.
  7. Qualcomm submitted a first set of proposed formal commitments on 5 October 2017. The Commission launched the market test of the proposed commitments on 6 October 2017. On the basis of feedback from the Commission's market testing of this package, Qualcomm formally submitted revised commitments on 10 November 2017 (the "Final Commitments"). Qualcomm submitted slightly revised versions of the Final Commitments on 15 November 2017, 12 December 2017 and 18 December 2017.
  8. There were no applications to be heard as an interested third person in the present proceedings.
  9. The Commission did not issue a statement of objections pursuant to Article 13(2) of Commission Regulation (EC) No 802/2004.<sup>3</sup> There was no formal oral hearing in accordance with Article 14 of that regulation.
  10. The draft decision declares the Proposed Transaction compatible with the internal market and the EEA Agreement, subject to certain conditions and obligations that Qualcomm must comply with.
  11. Pursuant to Article 16 of Decision 2011/695/EU, I have examined whether the draft decision deals only with objections in respect of which the parties have been afforded the opportunity of making known their views. I conclude that it does.
  12. Overall, I consider that the effective exercise of procedural rights has been respected during the present proceedings.

Brussels, 10 January 2018

Joos STRAGIER

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<sup>3</sup> Commission Regulation (EC) No 802/2004 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (OJ L 133, 30.4.2004, p.1; corrigendum OJ L 172, 6.5.2004, p. 9)