



## **OPINION**

**of the ADVISORY COMMITTEE on MERGERS**

**given at its meeting of 22 August 2018**

**regarding a draft decision relating to**

**Case M.8788 – Apple/Shazam**

**Rapporteur: SPAIN**

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### **Concentration**

1. The Advisory Committee (8 Member States) agrees with the Commission that the notified transaction constitutes a concentration within the meaning of Article 3(1)(b) of the Council Regulation (EC) No 139/2004 of 20.1.2004 on the control of concentrations between undertakings ("the Merger Regulation")<sup>1</sup>.

### **Market definition**

2. The Advisory Committee (8 Member States) agrees with the conclusions reached by the Commission in the draft Decision in relation to the definition of the relevant product and geographic markets for:
  - a. Software solutions platforms;
  - b. Digital music distribution services;
  - c. Automatic content recognition ("ACR") software solutions, including music recognition applications;
  - d. Licensing of music data;
  - e. Online advertising.

### **Competitive assessment**

3. The Advisory Committee (8 Member States) agrees with the Commission's assessment that the notified concentration would not significantly impede effective competition as a result of horizontal non-coordinated effects in the market for licensing of music data and potential sub-segments thereof at worldwide level, in the European Economic Area ("EEA") and in Austria, France, Italy, Spain, Sweden, Iceland and Norway.
4. The Advisory Committee (8 Member States) agrees with the Commission's assessment that the notified concentration would not significantly impede effective competition as a result of horizontal non-coordinated effects in the market for online advertising and potential sub-segments thereof in Austria, France, Italy, Spain, Sweden, Iceland and Norway.

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

5. The Advisory Committee (8 Member States) agrees with the Commission's assessment that the notified concentration would not significantly impede effective competition as a result of non-horizontal non-coordinated effects in the market for digital music streaming applications in the EEA and in Austria, France, Italy, Spain, Sweden, Iceland and Norway.
6. The Advisory Committee (8 Member States) agrees with the Commission's assessment that the notified concentration would not significantly impede effective competition as a result of non-horizontal non-coordinated effects in the market for ACR software solutions and potential sub-segments thereof at worldwide level and in the EEA.

**Compatibility with the internal market and the Agreement on the European Economic Area**

7. The Advisory Committee (8 Member States) agrees with the Commission that the notified concentration must therefore be declared compatible with the internal market and the Agreement on the European Economic Area<sup>2</sup> in accordance with Article 2(2) and 8(1) of the Merger Regulation and Article 57 of the Agreement on the European Economic Area.

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<sup>2</sup> OJ L 1, 3.1.1994, p.3.