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***Case No COMP/M.6704 -
REWE TOURISTIK
GMBH / FERID NASR /
EXIM HOLDING SA***

Only the English text is available and authentic.

**REGULATION (EC) No 139/2004
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION
Date: 30/11/2012

***In electronic form on the EUR-Lex website under document
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EUROPEAN COMMISSION

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus [...]. Where possible the information omitted has been replaced by ranges of figures or a general description.

Brussels, 30.11.2012
C(2012)9076

PUBLIC VERSION

MERGER PROCEDURE

To the notifying parties:

Dear Sir/Madam,

Subject: Case No COMP/M.6704 - REWE TOURISTIK GMBH / FERID NASR / EXIM HOLDING SA
Commission decision pursuant to Article 6(1)(b) of Council Regulation No 139/2004¹

1. On 24 October 2012, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004² (the "Merger Regulation") by which REWE Touristik Gesellschaft mbH ("REWE Touristik") and Mr Ferid Nasr ("Mr Nasr") acquire within the meaning of article 3(1)(b) of the Merger Regulation direct joint control over the target EXIM HOLDING a.s. ("EXIM") through the purchase of 51% of the shares in EXIM from Mr Nasr by REWE Touristik within the meaning of Art. 3(4) of the Merger Regulation.

I. THE PARTIES AND THE OPERATION

2. **REWE Touristik** is a limited liability company established and incorporated under the laws of Germany with its registered offices in Cologne, Germany. REWE Touristik is

¹ OJ L 24, 29.1.2004, p. 1 ("the Merger Regulation"). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ("TFEU") has introduced certain changes, such as the replacement of "Community" by "Union" and "common market" by "internal market". The terminology of the TFEU will be used throughout this decision.

² OJ L 24, 29.1.2004, p. 1 et seqq.

part of the Travel & Tourism Division of REWE Group and constitutes one of two of REWE Group's core lines of business, the other being retail.

3. **Mr Nasr** is a natural person resident in district [...], Czech Republic. His business activities focus on the tourism sector and are concentrated in EXIM, whose sole shareholder he currently is. In addition, [...].
4. **EXIM** is a joint stock company incorporated under the laws of the Czech Republic with its registered offices in Prague, Czech Republic. EXIM directly holds equity interests in the following companies, all of which are active in the field of touristic tour and travel sales operations which they carry out under the brand names "EXIM TOURS" and "Kartago" in the Czech Republic, Poland, Hungary and Slovakia:
 - EXIM TOURS a.s. (with its registered office in Prague, Czech Republic);
 - EXIM *spółka akcyjna* (with its registered office in Warsaw, Poland);
 - KARTAGO TOURS a.s. (with its registered office in Bratislava, Slovakia); and
 - KARTAGO TOURS *Utazásszervező és Szolgáltató Zártkörűen Működő Részvénytársaság* (with its registered office in Budapest, Hungary).
5. REWE Touristik which is operating in the tourism sector primarily offering both packages tours and further travel products is interested in strengthening its position in Central and Eastern Europe where it has only a small presence. Upon its implementation, the proposed concentration will provide REWE Touristik with a foothold in the Czech Republic, Poland, Hungary and Slovakia and will allow it to develop its business activities in Central and Eastern Europe making use of EXIM's established brand reputation and customer base as well as of Mr Nasr's widespread experience in these markets.
6. The intended transaction amounts to a concentration within the meaning of Article 3(1)(b) of the Merger Regulation, i.e. the acquisition of direct joint control over the target EXIM by REWE Touristik through the purchase of 51% of the shares in EXIM from Mr Nasr, who upon implementation of the contemplated transaction shall retain 49% of the shares in the target.
7. The value of the transaction amounts to EUR [...] (fixed component);³ it will be brought about by the following key agreements:
 - Share Sale and Transfer Agreement regarding the Sale and Transfer of Shares in EXIM of 30 May 2012;
 - Shareholders' Agreement regarding EXIM of 30 May 2012.
8. REWE Touristik and Mr Nasr, by way of the Shareholders' Meeting, will have to take every strategic decision concerning EXIM unanimously because all strategic decisions

³ Another, variable component of the purchasing price is yet to be determined. See Section [...] and Section [...] of the Shareholders' Agreement regarding EXIM.

in the meaning of the Jurisdictional Notice⁴ require [>50] % of the voting rights present at the Shareholders Meeting.⁵ These strategic decisions comprise the approval of the annual budget,⁶ changes in the business plan,⁷ and the approval of investments resulting in any "material expenses, costs, liabilities or obligations"⁸ as well as the appointment of the members of the Board of Directors.⁹ Consequently, following the envisaged concentration, EXIM will be controlled jointly by REWE Touristik and Mr Nasr.

9. EXIM will perform on a lasting basis¹⁰ all the functions of an autonomous economic entity within the meaning of Art. 3(4) of the Merger Regulation. EXIM will have its own management and its own resources to sustain an independent market presence.
10. Based on the above, the notified operation leads to the acquisition of joint control and constitutes a concentration under Article 3(1)(b) of the Merger Regulation.

II. EU DIMENSION

11. The intended transaction does not have a Community dimension within the meaning of Article 1 of the Merger Regulation and could thus be reviewed under the national competition laws of a total of six EU Member States, namely in the Czech Republic, Italy, Hungary, Austria, Poland and in Slovakia.
12. REWE Touristik and Mr Nasr jointly informed the Commission by means of a reasoned submission on 20 September 2012 that the concentration should be examined by the Commission by virtue of Article 4(5) of the Merger Regulation.
13. According to the Notifying Parties, no notification to the competent authorities in the Member States was filed.
14. The Commission transmitted the Notifying Parties' submission to all Member States on 21 September 2012.
15. Given that no Member State expressed its disagreement as regards the request to refer the case to the Commission within of 15 working days of receiving the reasoned submission, the concentration is deemed to have a Community dimension and is to be

⁴ Namely strategic decisions as described in paragraphs 69–71 of the Consolidated Jurisdictional Notice under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings, OJ C95, 16.04.2008, p. 1.

⁵ See Section 8.1 and 8.2 of the Shareholders' Agreement regarding EXIM.

⁶ See Section 8.2 in conjunction with Section 8.1.2 of the Shareholders' Agreement regarding EXIM.

⁷ See Section 9.3 as well as Section 8.2 in combination with Section 8.1.2 of the Shareholders' Agreement regarding EXIM.

⁸ See Section 7.6.6 as well as Section 8.2 in combination with Section 8.1.2 of the Shareholders' Agreement regarding EXIM.

⁹ See Section 8.2 in combination with Section 8.1.18 of the Shareholders' Agreement regarding EXIM.

¹⁰ In the Shareholders' Agreement, the Notifying Parties agreed [...].

notified to the Commission in accordance with Art. 4(1) and (2) of the Merger Regulation.

III. COMPETITIVE ASSESSMENT

A. MARKET DEFINITION

a) Product Market Definition

16. The Notifying Parties hold that the present transaction concerns the following product markets, previously considered by the Commission,¹¹ in the Czech Republic, Slovakia, Poland and Hungary:
- The market for the supply of leisure travel services/products, which may further be subdivided in separate markets for
 - (i) foreign or domestic holidays;¹²
 - (ii) travel to short-haul or long-haul destinations;¹³
 - (iii) possibly – although the Notifying Parties repudiate this further distinction – "package holidays" and "independent holidays".¹⁴
 - The market for the provision of leisure travel agency services, which – although the Notifying Parties repudiate these further distinctions – may further be subdivided in separate markets for
 - (i) Leisure and business travel agency services;¹⁵
 - (ii) "package holidays" and "independent holidays";¹⁶
 - (iii) "brick and mortar" as opposed to online provision of travel agency services.¹⁷

¹¹ See footnotes 12–21.

¹² Commission Decision 2000/276/EC in Case No IV/M.1524 – *Airtours/First Choice*, OJ L 93 of 13.4.2000, p. 2, paragraph 9; Commission Decision of 4 May 2007 Case No COMP/M.4601 – *KarstadtQuelle/MyTravel*, paragraph 24.

¹³ CFI, Case T-342/99 – *Airtours v. Commission*, [2002] ECR II-2585; Commission Decision 2000/276/EC Case No IV/M.1524 – *Airtours/First Choice*, OJ L 93 of 13.4.2000, p. 3, paragraph 13; Commission Decision 2007/C 137/05 in Case No COMP/M.4600 – *TUI/First Choice*, OJ C137 of 21.06.2007, p. 6, paragraph 31; Commission Decision 2010/C 275/02 in Case No COMP/M.5867 – *Thomas Cook/Öger Tours*, OJ C 275 of 12.10.2010, p. 1, paragraph 10.

¹⁴ Commission Decision of 4 May 2007 Case No COMP/M.4601 – *KarstadtQuelle/MyTravel*, paragraph 12 et seq.; Commission Decision 2000/276/EC Case No IV/M.1524 – *Airtours/First Choice*, OJ L 93 of 13.4.2000, p. 2, paragraph 6; Commission Decision 2007/C 137/05 in Case No COMP/M.4600 – *TUI/First Choice*, OJ C137 of 21.06.2007, p. 6, paragraph 22 et seq..

¹⁵ Commission Decision 2001/C 127/07 in Case No COMP/M.2197 – *Hilton/Accor/Forte/Travel Services JV*, OJ C 127, p. 9, paragraph 14; Commission Decision of 4 May 2007 Case No COMP/M.4601 – *KarstadtQuelle/MyTravel*, paragraph 13 et seq..

¹⁶ Commission Decision 2009/C 97/02 in Case No COMP/M.5462 – *Thomas Cook Group/Gold Medal International*, OJ C 97 of 28.04.2009, p.2, paragraph 9; Case No COMP/M.5996 – *Thomas Cook/Travel Business of Midlands Co-operative Society*, paragraph 20.

¹⁷ Commission Decision 2002/C 135/07 in Case No COMP/M.2794 – *Amadeus/GGL/JV*, OJ C 135 of 6.6.2002, p. 9, paragraph 10.

- The market for the purchase of airline seats, which may further be subdivided in separate markets for
 - (i) travel to short-haul/long-haul destinations;¹⁸
 - (ii) charter airline seats as opposed to comprising also scheduled flights¹⁹ – a distinction not supported by the Notifying Parties.
 - The market for the purchase of hotel accommodation.²⁰
 - The market for the purchase of travel related marketing services.²¹
17. Given that the notified transaction leads to (marginally) affected markets only on the markets for the purchase of airline seats, namely short-haul (charter) airline seats from departure airports in the Czech Republic (horizontal overlap), and in the downstream market for the supply of leisure travel services or products, namely package holidays to short-haul destinations in the Czech Republic, only these two markets will be analysed further.
- i) Purchase of Airline Seats*
18. Tour operators purchase airline seats in order to integrate them together with hotel accommodation and possible other services into a package holiday. The definition and exact delineations of the corresponding product market has been examined by the Commission in past cases.
- (i) Short-haul vs. long-haul
19. The Commission has in earlier decisions distinguished airline flights to holiday destinations into short-haul and long-haul flights along the same criteria used in the context of supply of travel products, i.e. flight time and distance to destination.²² The Notifying Parties concur with this delineation as these are the predominant criteria for customers in distinguishing flights and the supply side will have to resort to different types of planes for the airborne transport of travellers to long-haul destinations.
- (ii) Charter flights vs. all airlines, including scheduled flights
20. In 1999, the Commission defined a separate market for the supply of block seats or entire flights by charter-flight operators to tour-operators for the purpose of integrating these seats into package holiday tours – to the exclusion of seats supplied by scheduled

¹⁸ Commission Decision 2000/276/EC in Case No IV/M.1524 – *Airtours/First Choice*, OJ L 93 of 13.4.2000, p. 3, paragraph 13 et seqq., 42; Commission Decision 2001/C 39/07 in Case No COMP/M.2186 - *Preussag/Nouvelles Frontières*, OJ C 39 of 7.2.2001, p. 9, paragraph 7.

¹⁹ Commission Decision 2000/276/EC Case No IV/M.1524 – *Airtours/First Choice*, OJ L 93 of 13.4.2000, p. 6, paragraph 34 et seqq.

²⁰ Commission Decision of 4 May 2007 Case No COMP/M.4601 – *KarstadtQuelle/MyTravel*, paragraph 46; Commission Decision 2007/C 137/05 in Case No COMP/M.4600 – *TUI/First Choice*, OJ C137 of 21.06.2007, p. 6, paragraph 63 et seqq.

²¹ Commission Decision 2006/C 246/21 in Case No COMP/M.4234 – *Carlson/One Equity Partners/Carlson Wagonlit*, OJ C 246 of 13.10.2006, p. 27, paragraph 16.

²² See Case No IV/M.1524 – *Airtours/First Choice*, para. 42; Case No COMP/M.2186 – *Preussag/Nouvelles Frontières*, para. 7.

airlines.²³ The Notifying Parties contest this view. With the market entry and ever growing importance of low cost carriers, scheduled airlines have increasingly been forced to shift focus and adjust prices. This and the increase in the number of airline carriers operating in Europe today at a significantly lower price level than the price level scheduled airlines operated at in 1999, have significantly increased the possibilities for consumers and tour operators alike to freely-choose their providers for airline transportation.

(iii) Conclusion

21. Given that the notified concentration does not lead to competition concerns on any of these possible market definitions for the purchase of airline seats, the exact delineation of this product market can be left open.

ii) Supply of Leisure Travel Products

22. The market for the supply of travel products comprises the provision of accommodation on the one hand and (usually flight) travel on the other hand, possibly combined with further travel services. Despite considering various distinctions within the product market for the supply of leisure travel products in the past, the Commission left the final delineation of the product market open.²⁴

(i) Domestic vs. foreign holidays

23. With prices for domestic holidays being distinctly different from those for holidays abroad and also foreign holidays not being substitutable with domestic holidays with customers expecting a change of climate, culture etc. when travelling abroad, the Notifying Parties support the Commission's practice to hold foreign leisure travel products to be part of a separate product market distinct from domestic holidays.²⁵

(ii) Short-haul vs. long-haul destinations

24. The Commission further distinguishes the supply of foreign leisure travel products – according to the distance of the holiday destination – in "short-haul" and "long-haul" destinations: Holiday destinations involving a flight time substantially exceeding three hours are considered to be "long-haul", while all European destinations (including the Canary Islands as well as holiday resorts in North Africa and the Eastern Mediterranean) belong to the "short-haul" market.²⁶ The Notifying Parties agree with this distinction.

(iii) "Package holidays" vs. "independent holidays"

25. The Commission further distinguished "package holidays" – i.e. a tour operator combining (air) travel to and from the holiday destination, accommodation and possibly other services to a single product then sold to the customer – from so called

²³ See Case No IV/M.1524 – *Airtours/First Choice*, para. 34.

²⁴ See Case No COMP/M.4600 – *TUI/First Choice*, para. 28, 32; Case No COMP/M.5867 – *Thomas Cook/Öger Tours*, para. 13.

²⁵ See Case No IV/M.1524 – *Airtours/First Choice*, para. 9; Case No COMP/M.4601 – *KarstadtQuelle/MyTravel*, para. 24.

²⁶ See Case T-342/99 – *Airtours v. Commission*, [2002] ECR II-2601 et seqq.; Case No IV/M.1524 – *Airtours/First Choice*, para. 13; Case No COMP/M.4600 – *TUI/First Choice*, para. 31; Case No COMP/M.5867 – *Thomas Cook/Öger Tours*, para. 10.

"independent holidays" where customers are equally combining individual travel products, but having a choice of their own with regard to all elements of their holiday such as transport and accommodation.²⁷

26. The Notifying Parties do not endorse the Commission's practice. They hold that both (i) the entry and increasing market presence of low-cost scheduled airlines leading to a convergence of flight prices between charter and scheduled airlines on the one hand and (ii) the widespread use of the internet to compare prices for travel and accommodation worldwide and to get access to travel services online on the other hand, did not only result in an increase in the number of independent holidays in comparison to package holidays, but shows a development in customer demand which justifies to include package and independent holidays alike into one and the same product market.

(iv) Conclusion

27. Given that the notified concentration does not lead to competition concerns on any of these possible market definitions for the supply of leisure travel products, the exact delineation of this product market can be left open.

b) Geographic Market Definition

28. The Notifying Parties postulate that all of the above markets are at least national in size. They explicitly concur with the Commission's prior practice. In line with its previous decisions, the Commission considers the geographic market size of the market for the supply of leisure travel products as national²⁸ and the geographic market size of the market for the purchase of airline seats as national.²⁹

B. COMPETITIVE ASSESSMENT

29. The concentration does not lead to any competition concerns on (i) the market for purchase of airline seats and (ii) the downstream market for supply of leisure travel products taking account of the comparatively modest combined market shares post-transaction, the very small increment at issue and the available competitors on both markets. In the light of telephone interviews and written exchanges with the two largest competitors in the two concerned markets the Commission has confirmed this assessment.

a) Purchase of charter airline seats to short haul destinations departing from airports in the Czech Republic

30. Concerning the purchase of airline seats, there is only an affected market if the purchase of airline seats to short haul destinations is looked at as a separate market.³⁰ According to the

²⁷ See Case No IV/M.1524 – *Airtours/First Choice*, para. 6; Case No COMP/M.4600 – *TUI/First Choice*, para. 22.

²⁸ See Case No IV/M.1524 – *Airtours/First Choice*, para. 43; Case No COMP/M.4601 – *KarstadtQuelle/MyTravel*, para. 28; Case No COMP/M.5867 – *Thomas Cook/Öger Tours*, para. 11.

²⁹ See Case No COMP/M.4601 – *KarstadtQuelle/MyTravel*, para. 44.

³⁰ If the purchase of long-haul charter airline seats from departure airports in the Czech Republic constituted a separate market, no horizontal relationships would occur: Whilst EXIM's market share reaches [10-20]% REWE Tourism does not purchase charter flights in the Czech Republic but wholly relies on long-haul scheduled flights. Therefore the market is not affected. On the wider relevant market for the purchase of all (i.e. scheduled and charter) long-haul flights, the combined market

Parties, in 2011 the total size of the market for shorthaul charter flights amounted to 788,110 units³¹ and a sales volume of EUR [...] million – [...] million.³² REWE Touristik's market share consisted of [0-5]% based on [...] units, or approx. [0-5]% based on a sales value of EUR [...] – while Exim's market share consisted of [20-30]% based on [...] units, or approx. [20-30]% based on a sales value of EUR [...]. The combined market share thus amounted to [20-30]% based on [...] units, or approx. [20-30]% based on a sales value of EUR [...].³³

31. In 2011 the three largest competitors on the market for purchase of short haul charter airline seats had the following market shares: Cedok a.s. [20-30]% based on a sales value of EUR [...], CK Fischer a.s. [10-20]% based on a sales value of EUR [...] and FIRO-Tour a.s. [10-20]% based on a sales value of EUR [...].³⁴

Table 1: Market Shares on the Czech Market for the purchase of short haul charter airline seats in 2011

	Sales Value in EUR	Market Share Based on Sales
EXIM	[...]	[20-30]%
REWE	[...]	[0-5]%
Together	[...]	[20-30]%
Cedok a.s.	~[...]	[20-30]%
CK Fischer	~[...]	[10-20]%
FIRO-Tours	~[...]	[10-20]%
Blue Styles r.o.	~[...]	[5-10]%
Others	~[...]	[5-10]%
Total	~[...]	100%

Source: Notifying Parties

32. Already pre-transaction EXIM is the largest competitor on the market. However, due to the small increment, namely [0-5]%, brought about by REWE Touristik EXIM's moderate position would not change significantly. Moreover, the distance of the merged

share of both parties amounts to [5-10]%, and thus the market is not affected. See Form CO, paragraph 215.

³¹ The calculation of the total size of the market in terms of volume is mainly based on a Eurostat-dataset.

³² See table 7.1(a)(i) of the Form CO of 24 October 2012; according to the Notifying Parties no independent estimation of the total size of the market in terms of sales value is available. The only possibility to calculate/estimate the total size of the market in terms of sales value would be to multiply the total number of purchased units with an average ticket price for a charter flight.

³³ See table 7.2(a)(i) of the Form CO of 24 October 2012 and additional figures provided by the Notifying Parties in the additional submission of 12 November 2012.

³⁴ See table 7.3(a)(i) of the Form CO of 24 October 2012 and additional figures provided by the Notifying Parties in the additional submission of 12 November 2012.

entity to its closest competitor in terms of market share would amount to less than [0-5]%.
 33. With a pre- and post-merger concentration ratio of approximately [...], the market for the purchase of short-haul charter flights in the Czech Republic exhibits a low to moderate concentration.³⁵ The low delta of [<150] brought about by the notified transaction supports the assessment that the transaction hardly increases the level of concentration.

34. In light of telephone interviews and written exchanges with competitors the Commission has confirmed that Cedok is the number two player in the market and Fischer number three based on their respective turnovers. Furthermore, the Commission has confirmed that the Czech travel market is very competitive, as the supply outstrips the demand, and will remain so also after the concentration.³⁶

35. Consequently, the proposed concentration is unlikely to raise serious doubts as to its compatibility the internal market concerning the market for purchase of short haul charter airline seats in the Czech Republic.

b) Downstream market of supply of foreign short-haul package holidays

36. Concerning the supply of leisure travel products, there is only a horizontally affected market if the supply of foreign short-haul package holidays is looked at as a separate market.³⁷ In addition, as the purchase of short-haul airline seats constitutes an important component for any tour operator supplying foreign short-haul travel products or package tours, the two markets are vertically linked and lead to vertically affected markets.

37. According to the Parties, in 2011 the total size of the market for the supply of foreign short-haul package holidays based on sales value was EUR [...], corresponding to [...] units.³⁸ REWE Touristik's market share consisted of [0-5]% based on EUR [...] sales volume and [0-5]% based on a volume of [...] units. EXIM's market share consisted of [5-10]% based on EUR [...] sales volume and [10-20]% based on a volume of [...] units. The combined market share amounted thus to [5-10]% based on a sales volume of EUR [...] and [10-20]% based on a volume of [...] units.³⁹

Table 2: Downstream market of supply of foreign short-haul package holidays (2011)

Sales Value in EUR	Market Share Based on Sales
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³⁵ Pre-merger HHI: [...]; Post-merger HHI: [...]; delta: [<150].

³⁶ Non-confidential minutes of a conference call with Cedok of 7 November 2012; non-confidential reply by Fischer to the Commission's request for information of 7 November 2012.

³⁷ For the market for the supply of leisure travel products to long-haul destination, the Parties estimate their 2011 market shares at [0-5]% and [0-5]% for EXIM and REWE respectively (based on units). For the supply of package holidays to long-haul destinations EXIM has a 2011 market share of [5-10]% and REWE of [0-5]% (based on sales). Therefore, these markets are not affected, and in view of the negligible increment brought about by REWE, not further assessed also from a vertical perspective.

³⁸ See table 7.1(b)(i) of the Form CO of 24 October 2012.

³⁹ See table 7.2(b)(ii) of the Form CO of 24 October 2012.

EXIM	[...]	[5-10]%
REWE	[...]	[0-5]%
Together	[...]	[5-10]%
Cedok a.s.	[...]	[5-10]%
CK Fischer	[...]	[5-10]%
FIRO-Tours	[...]	[5-10]%
Blue Styles r.o.	[...]	[0-5]%
Others	[...]	[60-70]%
Total	[...]	100%.

Source: Notifying Parties

38. In 2011 the three largest competitors on the market for the supply of foreign short-haul package holidays had the following market shares: Cedok a.s. [5-10]% based on a sales value of EUR [...] and [5-10]% based on the volume of [...] units, CK Fischer a.s. [5-10]% based on a sales value of EUR [...] and [5-10]% based on the volume of [...] units and FIRO-Tour a.s. [5-10]% based on a sales value of EUR [...] and [5-10]% based on the volume of [...] units.⁴⁰
39. The small increment of less than [0-5]%, brought about by the transaction would not change EXIM's very moderate position to any material extent. Moreover, the distance of the merged entity to its closest competitor in terms of market share would amount to about [0-5]%.
40. With a pre- and post-merger concentration ratio significantly below [<2000], the HHI calculation shows this market to be competitive and not concentrated.⁴¹ The low delta of [<150] caused by the transaction will not lead to a noticeable increase of concentration in the product market for the supply of short-haul package holidays.
41. The market for the supply of short-haul package holidays is downstream of the market for the purchase of charter airline seats to short-haul destinations departing from airports in the Czech Republic. However, this vertical link which is reinforced by the proposed concentration will not lead to any input foreclosure of competitors. First, the position of EXIM on the upstream market for the purchase of charter airline seats is rather moderate. Second, the change brought about by the concentration is insignificant, given that REWE adds less than [0-5]% to EXIM's market share. Similarly, as the merged entity represents a very modest portion of the customer base for the supply of foreign short-haul package holidays, the proposed transaction is unlikely to give rise to customer foreclosure.
42. For the sake of completeness it might be mentioned that in general EXIM purchases short-haul charter airlines seats for the sole purpose of integrating them in the package tours offered by EXIM. Excess capacities, namely charter airline seats bought according to expected demand, that cannot be sold as part of a package tour, amount only to [5-10]% of the flight capacities purchased by EXIM. Fischer, who according to the

⁴⁰ See table 7.3(a)(ii) of the Form CO of 24 October 2012 and the figures provided by the Notifying Parties in the additional submission of 12 November 2012.

⁴¹ Pre-merger HHI: [<2000]; Post-merger HHI: [<2000]; delta: [<150].

Notifying Parties is EXIM's main independent customer for short-haul charter airline seats purchase in the Czech Republic, confirmed to buy those flight tickets only in rare cases and therefore not to be dependent on EXIM for this input.⁴²

43. In light of telephone interviews and written exchanges with competitors, the Commission has confirmed that Cedok is the number two player in the market and Fischer number three based on their respective turnover, with market shares in the range indicated by the notifying parties. Furthermore, the Commission has confirmed that the Czech travel market is very competitive, as the supply outstrips the demand, which will likely not change as a result of the proposed transaction.⁴³
44. Consequently, the proposed concentration is unlikely to raise serious doubts as to its compatibility the internal market concerning the downstream market of supply of foreign short-haul package holidays.

IV. CONCLUSION

45. For the above reasons, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation.

For the Commission

(signed)

*Joaquín ALMUNIA
Vice-President*

⁴² Non-confidential reply of Fischer to the Commission's request for information of 7 November 2012.

⁴³ Non-confidential minutes of a conference call with Cedok of 7 November 2012; non-confidential reply by Fischer to the Commission's request for information of 7 November 2012.