

***Case No COMP/M.6948 - TELENOR/
GLOBUL/ GERMANOS***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION

Date: 03/07/2013

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EUROPEAN COMMISSION

Brussels, 3.7.2013
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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 Where possible the information omitted has been replaced by ranges of figures or a general description.

PUBLIC VERSION

MERGER PROCEDURE

To the notifying party

Dear Sir/Madam,

**Subject: Case No COMP/M.6948 - Telenor/ Globul/ Germanos
Commission decision pursuant to Article 6(1)(b) of Council Regulation
No 139/2004¹**

- (1) On 30 May 2013, the European Commission received the notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which the undertaking Telenor ASA ("Telenor", Norway or the "Notifying Party") acquires within the meaning of Article 3(1)(b) of the Merger Regulation control of the whole of the undertakings Cosmo Bulgaria Mobile EAD (trading as "Globul", Bulgaria) and Germanos Telecom Bulgaria EAD ("Germanos", Bulgaria), by way of purchase of shares². Globul and Germanos are together referred to as the "Target Companies". Telenor, Globul and Germanos are collectively referred to as the "Parties".

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 Publication in OJ C 163, 8.6.2013, p. 7.

1. THE PARTIES AND THE OPERATION

- (2) **Telenor** provides mobile and fixed telecommunications services in Denmark, Norway and Sweden and mobile telecommunications services in Hungary. Outside the EEA, Telenor operates mobile and fixed telecommunications services in Serbia, and mobile telecommunications networks in Bangladesh, India, Malaysia, Montenegro, Pakistan and Thailand. Telenor is solely controlled by the Norwegian State.
- (3) **Globul** provides mobile telecommunications and related services, such as SMS and multimedia messaging services, in Bulgaria. Globul is the second largest mobile telecommunications operator in Bulgaria. Globul's ultimate parent company is Hellenic Telecommunications Organization S.A. ("OTE"), which is a member of the Deutsche Telekom Group³.
- (4) **Germanos** operates in Bulgaria the retail distribution network of Globul. Germanos' ultimate parent company is also OTE which is a member of the Deutsche Telekom Group.

2. THE CONCENTRATION

- (5) The notified transaction concerns the acquisition of sole control by the Notifying Party of Globul and Germanos through the purchase of shares pursuant to a Share Sale and Purchase Agreement signed on 26 April 2013 between Cosmote Mobile Telecommunications S.A., Germanos Industrial & Commercial Company of Electronic – Telecommunication Material and Supply of Telecommunication Services S.A. and Telenor Mobile Communications AS. As a result of the transaction, the Notifying Party will acquire sole control of Globul and Germanos. The transaction is therefore a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

3. EU DIMENSION

- (6) The undertakings concerned have a combined aggregate worldwide turnover of more than EUR 5 000 million⁴ [Telenor: EUR [...] million and Target Companies: EUR [...] million]. Each of them has an EU-wide turnover in excess of EUR 250 million [Telenor: EUR [...] million and Target Companies: EUR [...] million], but they do not achieve more than two-thirds of their aggregate EU-wide turnover within one and the same Member State.
- (7) The notified transaction therefore has an EU dimension within the meaning of Article 1(3) of the Merger Regulation.

³ See Commission decision of 2 October 2008 in Case COMP/M.5148 – *Deutsche Telekom/OTE*.

⁴ Turnover calculated in accordance with Article 5 of the Merger Regulation and the Commission Consolidated Jurisdictional Notice under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings, (OJ C 95, 16.04.2008, p. 1).

4. RELEVANT MARKETS

4.1. Introduction

- (8) The Notifying Party and the Target Companies have various telecommunications activities. Within the EEA, Telenor is active in the retail provision of fixed and mobile telecommunications services to end customers in Denmark, Norway and Sweden. It is also active in the retail provision of mobile telecommunications services to end customers in Hungary. Similarly, Globul is active in the retail provision of mobile telecommunications services to end customers and in multimedia messaging services in Bulgaria. Germanos is also active in the provision of electronic devices.
- (9) In their respective countries of operation, Telenor and Globul are also active in a number of wholesale activities in the telecommunications sector, most notably wholesale international roaming services and wholesale call termination services on mobile and fixed networks.

4.2. Retail fixed and mobile telecommunications services to end customers

- (10) In previous Commission decisions, the Commission has identified separate markets for the retail provision of mobile telecommunication services to end customers⁵ and the retail provision of fixed voice services⁶.
- (11) For the purpose of the present decision, the precise product market definition for the provision of retail fixed and mobile telecommunications services to end customers can be left open, since the proposed transaction does not raise competition concerns under any alternative market definition.
- (12) In relation to the geographic market, the Commission has found in a number of previous cases⁷ that the markets for the provision of retail fixed and mobile telecommunications services to end customers are national in scope.
- (13) The Notifying Party suggests defining the relevant product markets as national in geographic scope, in line with previous decisions.
- (14) On this basis, the Commission concludes that in the present case the markets for retail fixed and mobile telecommunications services to end consumers are national in scope.

⁵ See for example Commission decisions of 1 March 2010 in Case COMP/M.5650 - *T-Mobile/Orange*, and of 2 October 2008 in Case COMP/M.5148 – *Deutsche Telekom/OTE*.

⁶ See for example Commission decision of 24 October 2005 in Case COMP/M.3920 - *France Telecom/Amena*.

⁷ See for example Commission decisions of 1 March 2010 in Case COMP/M.5650 - *T-Mobile/Orange*, of 2 October 2008 in Case COMP/M.5148 – *Deutsche Telekom/OTE* and of 7 November 2007 in Case COMP/M.4947 - *Vodafone/Tele2 Italy/Tele2 Spain*.

4.3. Wholesale international roaming services

- (15) For a provider of retail mobile services to be able to provide its end customers with telecommunication services outside their home countries, it enters into wholesale roaming agreements with providers of wholesale international roaming on other national markets. A subscriber of a home network is then able to use its mobile phone from any other host operator with whom its home network has concluded a wholesale roaming agreement. Roaming services consist for the visited operator of both originating and terminating calls. The visited operator provides the call origination service, the transit and pays, where required, for call termination. The whole service is charged to the home operator of the roaming subscriber according to their roaming agreement. These wholesale charges for roaming services are regulated within the EU⁸.
- (16) The Commission has previously considered that there could be distinct wholesale markets for international roaming. The Commission has also considered that the relevant geographical scope of the wholesale market for international roaming is national in scope⁹.
- (17) For the purpose of the present decision, the precise product and geographic market definition for the provision of wholesale international roaming services can be left open, since the proposed transaction does not raise competition concerns under any alternative market definition.

4.4. Wholesale call termination services on mobile and fixed networks

- (18) Wholesale call termination is the service provided by network operator B to network operator A in the same country whereby a call originating from operator A's network is delivered to the user in operator B's network. Call termination is a wholesale service provided on the basis of interconnection agreements. Call termination services concern both fixed and mobile networks. The related charges are regulated by national telecommunication regulators.
- (19) With respect to call termination services, the Commission has previously identified relevant markets for the provision of wholesale call termination on fixed and mobile networks¹⁰. The Commission has found that there is no substitute for call termination on individual networks as the operator transmitting the outgoing call can reach the intended recipient only through the operator of the network to which the recipient is

⁸ Regulation (EC) No 717/2007 of the European Parliament and of the Council of 27 June 2007 on roaming on public mobile communications networks within the Community (“the Roaming Regulation”).

⁹ See Commission decisions of 1 March 2010 in Case COMP/M.5650 - *T-Mobile/Orange*, of 7 March 2002 in Case COMP/M.2726 - *KPN/E-PLUS*, of 26 June 2001 in Case COMP/M.2469 - *Vodafone/Airiel*, of 18 December 2000 in Case M. 1863 - *Vodafone/BT/Airtel* and of 20 August 2007 in Case COMP/M.4748 - *T-Mobile/Orange Netherlands*.

¹⁰ See Commission decisions of 1 March 2010 in Case COMP/M.5650 - *T-Mobile/Orange*, of 2 October in Case COMP/M.5148 - *Deutsche Telekom/OTE*, of 27 November 2007 in Case COMP/M.4947 - *Vodafone/Tele2 Italy/Tele2 Spain* and of 20 August 2007 in Case COMP/M.4748-*T-Mobile/Orange Netherlands*.

connected. The Commission has therefore found individual networks, whether fixed or mobile, to constitute separate markets for call termination.

- (20) The Commission has found that markets for call termination in mobile and fixed networks tend to be national since they correspond to the geographic dimension of the network which is typically limited to national borders¹¹. This is primarily due to regulatory barriers as the geographic scope of a network licence is, in principle, limited to areas which do not extend beyond the borders of a Member State.
- (21) For the purpose of the present decision, the precise product and geographic market definition for the provision of wholesale call termination services on mobile and fixed networks can be left open, since the proposed transaction does not raise competition concerns under any alternative market definition.

5. COMPETITIVE ASSESSMENT

5.1. Horizontal assessment

- (22) The activities of the Parties do not overlap in any of the markets for fixed or mobile telecommunications services to end customers. The Parties are not active in the same geographic markets. The Notifying Party does not offer telecommunications services in Bulgaria¹² and equally, the Target Companies do not have any operations outside Bulgaria.
- (23) On this basis, there is no horizontal overlap in the Parties' activities on any relevant market.

5.2. Vertical assessment

- (24) The transaction will give rise to vertically-affected markets (i.e., the product markets which are upstream or downstream of a product market in which any other party to the proposed transaction is engaged, and any of their individual or combined market share is 25% or more) in relation to wholesale international roaming services and to wholesale call termination services on mobile and fixed networks.

5.2.1. Wholesale international roaming services

- (25) The proposed transaction will result in vertical relationships between Telenor and the Target Companies in relation to wholesale international roaming services in Bulgaria as well as in Denmark, Norway, Sweden and Hungary.

5.2.1.1. Wholesale international roaming services in Bulgaria

- (26) The Commission considered whether the transaction may give rise to input foreclosure concerns in relation to wholesale international roaming services in Bulgaria. Following the proposed transaction, Telenor's competitors will continue to

¹¹ Cf. same cases as the previous footnote.

¹² [...] The transaction does not therefore give rise to any horizontal overlap.

have two alternative operators from which to purchase international roaming services in Bulgaria.

- (27) In addition, the merged entity will be bound by the Roaming Regulation. On this basis, the Commission concludes that the merged entity is unlikely to have the ability or the incentive to engage in an input foreclosure strategy in relation to wholesale international roaming in Bulgaria.
- (28) Moreover, roaming charges in Bulgaria account for a very small percentage of the total costs incurred by Telenor and its competitors in Denmark, Norway, Sweden and Hungary. Therefore, even in the event of any changes to roaming costs in Bulgaria introduced by the merged entity following the transaction, these will have no significant impact on the markets in these countries.
- (29) The Commission also considered whether the transaction may give rise to customer foreclosure concerns in relation to wholesale international roaming services in Bulgaria. Telenor accounts for less than [0-5] per cent of roaming traffic in Bulgaria. Moreover, currently Telenor has existing roaming agreements with [...] in Bulgaria. Telenor has stated that [...] ¹³. To ensure quality and the best coverage for its customers, Telenor typically uses at least [...] roaming partners in a country with levels of roaming traffic similar to Bulgaria. On this basis, the Commission concludes that the proposed transaction is unlikely to result in customer foreclosure in relation to wholesale international roaming in Bulgaria.

5.2.1.2. Wholesale international roaming services in Denmark, Norway, Sweden and Hungary

- (30) The Commission considered whether the transaction may give rise to input foreclosure concerns in relation to wholesale international roaming services in Denmark, Norway, Sweden and Hungary. Following the proposed transaction, Globul's competitors will continue to have two alternative operators from which to purchase international roaming services in each of Denmark, Sweden and Hungary. In Norway, Telenor operates one of the two existing mobile networks with nationwide coverage. Telenor argues that it will continue to face strong competition from other operators, such as TeliaSonera, Vodafone and T-Mobile for the sale of international roaming services. In addition, the merged entity will be bound by the Roaming Regulation which imposes a cap on the wholesale prices it may charge. On this basis, the Commission concludes that the merged entity is unlikely to have the ability or the incentive to engage in a foreclosure strategy.
- (31) Roaming charges in Denmark, Norway, Sweden and Hungary account for a very small percentage of the total costs incurred by Globul and its competitors in Bulgaria. Therefore, even in the event of any changes to roaming costs in Denmark, Norway, Sweden and Hungary introduced by the merged entity following the transaction, these will have no significant impact on the markets in these countries.
- (32) The Commission also considered whether the proposed transaction may give rise to customer foreclosure concerns in relation to wholesale international roaming services in Denmark, Norway, Sweden and Hungary. Globul accounts for less than

¹³ Form CO, paragraph 6.8.

[0-5] per cent of roaming traffic in Denmark, Norway, Sweden and Hungary. On this basis, the Commission concludes that proposed transaction is unlikely to result in customer foreclosure in relation to wholesale international roaming in Denmark, Norway, Sweden and Hungary.

5.2.2. *Wholesale call termination services on mobile and fixed networks*

- (33) The markets for fixed and mobile termination are vertically-related to all retail fixed voice and mobile markets. As each party has 100% on its own fixed or mobile call termination market, all markets are technically affected.

5.2.2.1. Mobile call termination in Bulgaria

- (34) In line with previous Commission decisions¹⁴, the Commission considered whether the proposed transaction may give rise to input foreclosure concerns in relation to wholesale mobile call termination services on Globul's network. The Commission took into account the fact that that regulation is already in place in mobile call termination markets. The market for mobile call termination in Bulgaria is regulated by the Communications Regulation Commission. This regulator ensures that access to call termination is granted on reasonable grounds and that rates remain reasonable and non-discriminatory. Thus the merged entity will be restricted in its ability to set prices for call termination. Therefore, it would be technically impossible for the merged entity to price discriminate against Telenor's competitors in Denmark, Norway, Sweden and Hungary for call termination on Globul's network in Bulgaria.
- (35) In addition, a substantial proportion of international calls are made through international carriers, such as iBasis and France Telecom, who act as intermediaries between network operators. Globul cannot determine the exact origin of an international call terminated on its network. Any attempt by the merged entity to discriminate against its competitors could easily be addressed by these companies by re-routing calls through such international carriers.
- (36) Moreover, traffic flows from Denmark, Norway, Sweden and Hungary to Bulgaria are limited and any increase by the merged entity of its termination charges (even if it was possible without the need for regulatory approvals) would have little or no impact on the cost structure of Telenor's competitors in these countries. Nor would the merged entity have the incentive to make such increases due to the small traffic volume concerned.
- (37) On this basis, the Commission concludes that the merged entity will not be in a position to foreclose Telenor's competitors in Denmark, Norway, Sweden and Hungary for access to mobile call termination services on Globul's network in Bulgaria.

¹⁴ See for example Commission decision of 1 March 2010 in Case COMP/M.5650 - *T-Mobile/Orange*.

5.2.2.2. Fixed and mobile call termination in Denmark, Norway, Sweden and Hungary

- (38) In line with previous Commission decisions¹⁵, the Commission considered whether the proposed transaction may give rise to input foreclosure concerns in relation to wholesale fixed and mobile call termination services on Telenor's networks. The Commission took into account the fact that regulation is already in place in the fixed and mobile termination markets. The market for fixed and mobile call termination in Denmark, Norway, Sweden and Hungary is regulated by the Business Authority in Denmark, the Post and Telecommunications Authority in Norway, the Post and Telecom Agency in Sweden and the Communications Authority in Hungary. These regulators ensure that access to call termination is granted on reasonable grounds and that rates remain reasonable and non-discriminatory. Thus the merged entity will be restricted in its ability to set prices for call termination. Therefore, it would be technically impossible for the merged entity to price discriminate against Globul's competitors in Bulgaria for call termination on Telenor's fixed and mobile networks in Denmark, Norway, Sweden and Hungary.
- (39) In addition, a substantial proportion of international calls are made through international carriers, such as iBasis and France Telecom, who act as intermediaries between network operators. Telenor cannot determine the exact origin of an international call terminated on its network. Any attempt therefore by the merged entity to discriminate against its competitors could easily be addressed by these companies by re-routing calls through such international carriers.
- (40) Moreover, traffic flows from Bulgaria to Denmark, Norway, Sweden and Hungary are limited and any increase by the merged entity of its termination charges (even if it was possible without the need for regulatory approvals) would have little or no impact on the cost structure of Globul's competitors in Bulgaria. Nor would the merged entity have the incentive to make such increases due to the small traffic volume concerned.
- (41) On this basis, the Commission considers that the merged entity will not be in a position to foreclose Globul's competitors in Bulgaria for access to call termination services on Telenor's fixed and mobile networks in Denmark, Norway, Sweden and Hungary.

5.3. Conclusion on competitive assessment

- (42) In view of the above, the Commission's assessment is that the proposed transaction does not raise any competition concerns arising from the vertical relationships between the Parties in relation to wholesale international roaming services and to wholesale call termination services on mobile and fixed networks.

¹⁵ See for example Commission decision of 1 March 2010 in Case COMP/M.5650 – *T-Mobile/Orange*.

6. CONCLUSION

- (43) 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*