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EUROPEAN COMMISSION
DG Competition

Case M.7865 - LOV GROUP INVEST / DE AGOSTINI / JV

Only the English text is available and authentic.

REGULATION (EC) No 139/2004
MERGER PROCEDURE

Article 6(1)(b) NON-OPPOSITION
Date: 20/01/2016

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EUROPEAN COMMISSION

Brussels, 20.01.2016
C(2016) 339 final

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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

Dear Sir/Madam,

Subject: **Case M.7865 - Lov Group/ De Agostini/ JV**
Commission decision pursuant to Article 6(1)(b) of Council Regulation No 139/2004[1] and Article 57 of the Agreement on the European Economic Area[2]

(1) On 7 December 2015, the European Commission (the "Commission") received a notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which Lov Group Invest SAS ("Lov Group", France) and De Agostini S.p.A. ("De Agostini", Italy) will acquire within the meaning of Article 3(1)(b) and 3(4) of the Merger Regulation joint control of the whole of a joint venture (the "JV"), by way of contribution of their respective businesses in the production and distribution of audio-visual content, namely Banijay Holding SAS ("Banijay") and Zodiak Media ("Zodiak Media").[3]

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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 1, 3.1.1994, p.3 ("the EEA Agreement").

3 Publication in the Official Journal of the European Union No C413, 12.12.2015, p.14.

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(2) Lov Group and De Agostini are collectively referred to as the "Notifying Parties". Lov Group, De Agostini, Banijay and Zodiak Media are collectively referred to as the "Parties".

1. THE PARTIES

(3) Lov Group is a holding company owned and control by the French individual Stéphane Courbit. Lov Group's activities cover a range of sectors, including TV production, online gaming, crowdfunding, luxury hotels and energy. Lov Group's operations in the production of TV content are carried via its subsidiary Banijay. Banijay creates and produces general entertainment content for TV channel broadcasters in Europe, the United States of America, Australia and New Zealand, and licenses its TV content worldwide. Banijay also operates a celebrity-focused news channel called "Non-Stop People" that is aired in France and Spain.

(4) De Agostini is a family-owned private company with global activities in the publishing, media, gaming and finance sectors. Zodiak Media is De Agostini's subsidiary active in the production and licensing of general entertainment TV content. Zodiak Media is active in 15 countries and produces digital content for all media platforms, including web and mobile. De Agostini also operates four TV channels (the first focuses on documentary/factual entertainment and the other three are oriented towards children's programming) broadcasted in Italy only, and has an interest in the Spanish media group Atresmedia.[4]

2. THE OPERATION

(5) On 5 November 2015 Lov Group and De Agostini signed a Memorandum of Understanding ("MoU") with the purpose of combining their respective businesses in the production and licensing of TV content and constituting the JV. The totality of the formats, all pre-produced content and the intellectual property rights attached to such content currently held by Banijay and Zodiak Media will also be transferred to the JV. Lov Group will also contribute to the JV its share in the participative music[5] label My Major Company Group ("MMC Group") and its Banijay's TV channel "Non-Stop People". De Agostini, by contrast, will retain its TV channels.

(6) Lov Group and De Agostini will have joint control over the JV. Lov Group and De Agostini will hold respectively 50.1% and 49.9% of the shares in the newly created holding company HoldCo, which in turn will control 73.8% of the JV. The remaining 26.2% of the JV will be held by Vivendi as a non-controlling minority shareholder.[6] While Lov Group will hold the majority of the share capital of

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4 De Agostini holds jointly with Spanish publishing and media group Planeta Corporación S.R.L 41.7% of the voting rights in Atresmedia via the investment vehicle Grupo Planeta-De Agostini. For the purposes of this decision, it is not necessary to conclude on whether De Agostini's stake in Atresmedia is such to confer upon De Agostini sole or joint control over the company (see also footnote 33).

5 The MMC Group raises funds for the production of artists' music through web-based donations and those artists who collect sufficient funds from these donations then record their music through the MMC Group.

6 Vivendi will have no rights granting it decisive influence over the activities of the JV. In particular, the veto rights granted to Vivendi do not relate to strategic decisions of the JV and do not go beyond

HoldCo, De Agostini will have a veto right on decisions that are essential for the strategic commercial behaviour of the JV, in particular on any change of the business plan and on significant investments. In addition De Agostini will be involved in the appointment of HoldCo's senior management (the Chief Financial Officer will be appointed by mutual agreement between Lov Group and De Agostini and the Chief Operating Officer will only be appointed if prior approval of De Agostini is obtained). HoldCo's board of directors will be composed of five members, three being appointed by Lov Group and two by De Agostini. With a quorum of at least two members of Lov Group and one member of De Agostini the decisions of the HoldCo's board of directors will be taken by simple majority subject to De Agostini's veto rights. If a decision is vetoed by De Agostini at the level of the HoldCo board, it will not be approved at the level of the JV's board of directors.[7]

(7) The JV will also be a full-functioning joint-venture. It will have a management entirely dedicated to its day-to-day operations as well as sufficient resources including financial, staff and assets in order to conduct its business activities on a lasting basis. It is also intended to operate on the market for an unlimited period of time.

(8) The proposed transaction, therefore, constitutes a concentration within the meaning of Article 3(1)(b) and 3(4) of the Merger Regulation.

3. EU DIMENSION

(9) The undertakings concerned have a combined aggregate world-wide turnover[8] of more than EUR 5 000 million (Lov Group: EUR […] million, De Agostini: EUR […] million). Each of them has an EU-wide turnover in excess of EUR 250 million (Lov Group: EUR […] million, De Agostini: EUR […] million), and they do not achieve more than two-thirds of their aggregate EU-wide turnover within one and the same Member State. The notified operation, therefore, has an EU dimension.

4. RELEVANT MARKETS

(10) The JV will be active in the production and distribution of audio-visual content mainly in the TV sector. In the past,[9] the Commission distinguished four different activities in the value chain for TV and audio-visual content: (i) the production of TV content; (ii) the licensing of broadcasting rights relating to TV content; (iii) the wholesale supply of TV channels; and (iv) the retail supply of TV services to end customers.

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the veto rights normally accorded to minority shareholders to protect their financial interests as investors in the JV.

7 The JV's board of directors will be composed of ten members: five members appointed by Lov Group (including Stéphane Courbit as chairman with a casting vote), three members appointed by De Agostini and two members by Vivendi.

8 Turnover calculated in accordance with Article 5 of the Merger Regulation.

9 Commission decision of 16 September 2014 in Case M.7282 – *Liberty Global/Discovery/All3Media* and Commission decision of 9 October 2014 in Case M.7360 – *21st Century Fox/Apollo/JV*.

(11) The proposed transaction relates mainly to the activities listed under paragraphs (10)(i) and (ii) above as the business activities that the Parties contribute to the JV relate to the production of TV content and to the licensing of broadcasting rights relating to TV content.

4.1. Production of TV content

4.1.1. The Notifying Parties' view

(12) The Notifying Parties submit that on the supply side, TV production companies produce TV content either for internal use on their own TV channels (if they are vertically integrated), or for supply to third party customers. On the demand side, TV channel broadcasters or content aggregators/platform operators can either decide to produce the TV content in-house or source it from a third party TV production company. TV channel broadcasters typically commission the production of tailor-made programmes, made in the local language and with local actors/participants. The production can be based on an original idea or on an international format (e.g. a talent show format).

(13) The Notifying Parties claim that TV production companies face direct and vigorous competition from vertically integrated broadcasters which produce content in-house as the key decision about how to source the content (in-house or externally) lies with broadcasters themselves.

(14) The content produced externally by third party production houses can be tailored to the needs of broadcasters on the basis of original TV formats developed by the TV production company or on formats that it acquires from right holders (called in general "commissioned production"). In some cases TV production companies can be hired by the TV channel broadcasters to deliver the final TV content based on a format owned by a broadcaster (this practice is sometimes referred to as "production-for-hire").

(15) The Notifying Parties submit that no distinction should be made on the basis of the format rights' holder as the services provided by TV production companies to broadcasters, regardless of who is the holder of the format rights, are never limited to mere technical TV production services. The Notifying Parties also claim that TV production companies very rarely would make available on a standalone basis a TV format they own so that the content based on this format could be produced by a broadcaster itself or by another TV production company.

(16) The Notifying Parties do not take a firm view on the geographic scope of the market for production of TV content.

4.1.2. Commission's precedents

(17) In its recent *Liberty Global/Discovery/All3Media* and *21st Century Fox/Apollo/JV* decisions, the Commission investigated in detail the markets for production, licensing and distribution of audio-visual content and distinguished separate markets for the production of TV content on the one hand, and for the licensing of broadcasting rights for TV content on the other hand.

(18) The Commission considered the market for production of TV content to be limited to non-captive TV production excluding the TV content produced by TV channel

broadcasters in-house for direct use in their own TV channels as this content is not offered on the market.[10]

(19) The Commission has previously considered whether a possible segmentation of the TV production market into commissioned production and supply of production services (production-for-hire) is appropriate but ultimately left the question open in this regard.[11]

(20) The Commission also considered that a broad distinction between the production of TV content for each of films, sports and other/general entertainment TV content exists[12].

(21) The Commission investigated other possible delineations of the market for the production of TV content such as a distinction by genre (reality, talk shows, drama, factual entertainment, documentaries, kids' programmes, etc.) or between scripted and non-scripted content with scripted TV content being content produced based on an existing script, story or character, while non-scripted TV content is content not based on a script, for example game shows, reality shows and talent shows, ultimately leaving open the question whether such further segmentation is appropriate.[13]

(22) As regards dividing the market for production of TV content based on exhibition window[14] both in *Liberty Global/Discovery/All3Media* and in *21st Century Fox/Apollo/JV* the Commission concluded that it does not appear necessary to segment the market for the production of general entertainment TV content on the basis of the exhibition window where such content is subsequently broadcast.[15]

(23) In its recent decisional practice the Commission considered the market for production of TV content to be national in scope or broader, comprising a

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10 Commission decision of 16 September 2014 in Case M.7282 – *Liberty Global/Discovery/All3Media*, paragraph 32 and Commission decision of 9 October 2014 in Case M.7360 – *21st Century Fox/Apollo/JV*, paragraph 37.

11 Commission decision of 16 September 2014 in Case M.7282 – *Liberty Global/Discovery/All3Media*, paragraphs 40-41; Commission decision of 9 October 2014 in Case M.7360 – *21st Century Fox/Apollo/JV*, paragraphs 39-40.

12 Commission decision of 16 September 2014 in Case M.7282 – *Liberty Global/Discovery/All3Media*, paragraphs 42 and 44; and Commission decision of 9 October 2014 in Case M.7360 – *21st Century Fox/Apollo/JV*, paragraph 43.

13 Commission decision of 16 September 2014 in Case M.7282 – *Liberty Global/Discovery/All3Media*, paragraphs 44-45 and Commission decision of 9 October 2014 in Case M.7360 – *21st Century Fox/Apollo/JV*, paragraph 44.

14 i.e. subscription Video-on-Demand "SVOD", transactional Video-on-Demand "TVOD", Pay per View "PPV", first pay TV window, second Pay TV window, and Free to Air "FTA".

15 Commission decision of 16 September 2014 in Case M.7282 – *Liberty Global/Discovery/All3Media*, paragraph 48 and Commission decision of 9 October 2014 in Case M.7360 – *21st Century Fox/Apollo/JV*, paragraph 46.

linguistically homogenous area[16] but left the exact scope of the relevant geographic market open.

4.1.3. Results from the market investigation

(24) Respondents to the market investigation indicated that the production of commissioned TV content and the licensing of broadcasting rights for pre-produced content should be considered as separate markets. While some of the TV production companies that responded to the market investigation are active in both the production and the licensing of TV content, the majority of those competitors that currently are active only in the production of commissioned TV programmes consider they would not be able to start licensing pre-produced TV content within a short timeframe and without incurring significant additional costs.[17] Moreover, from the demand-side, half of the customers that responded to the market investigation consider the production of new TV content and the acquisition of broadcasting rights for pre-produced TV content to be complementary.[18]

(25) Respondents to the market investigation also confirm the importance of locally produced content to TV broadcasters, and in particular for the "flagship channels" and for public service broadcasters that may even have an obligation to show a certain amount of locally produced content. A majority of respondents consider content produced in the local language of the country where the channel is broadcasted a "must-have".[19]

(26) As regards a possible segmentation of the market for production of TV content by type of content, a majority of respondents consider that due to the product characteristics, intended use and costs related to the different types of content, namely: (i) films; (ii) sport; and (iii) other/general TV content these types of content are rather complementary to one another.[20]

(27) Concerning other possible alternative delineations of the market for TV production, the results of the market investigation suggest that, from a demand-side perspective, a distinction by genre (reality shows, drama, comedy etc.) might be appropriate as general entertainment TV content of different genres serves different purposes and content of different genres is not substitutable.[21] However, the market investigation did not provide any indication that any of the main suppliers are incapable of producing any type of general entertainment TV content, suggesting that supply-side substitution exists. Indeed, many of the TV production companies produce different types and genres of content, and of those that are only active in one area (either only scripted content, such as drama or comedy, or only non-

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16 Commission decision of 9 October 2014 in Case M.7360 – *21st Century Fox/Apollo/JV*, paragraphs 48-50 and Commission decision of 16 September 2014 in Case M.7282 – *Liberty Global/Discovery/All3Media*, paragraphs 49-51.

17 See replies to Questionnaire Q1 to TV production companies of 7 December 2015, question 7.

18 See replies to Questionnaire Q2 to TV Broadcasters of 7 December 2015, question 5.

19 See replies to Questionnaire Q1 to TV production companies of 7 December 2015, questions 9 and 10.

20 See replies to Questionnaire Q2 to TV Broadcasters of 7 December 2015, question 7.

21 See replies to Questionnaire Q2 to TV Broadcasters of 7 December 2015, question 8.2.

scripted content, such as reality shows or talent shows), a clear majority of respondents said they would be able to expand into the other area within a short timeframe and without incurring significant additional costs.[22]

(28) A possible distinction between scripted and non-scripted content on the one hand, and according to exhibition window on the other hand, has not been supported by respondents to the market investigation. Most customers consider scripted and non-scripted TV content to be interchangeable while the majority of those TV production companies that are currently active in the production of either only scripted or only non-scripted content state they would be able to start producing also non-scripted or scripted content respectively within a short timeframe and without incurring significant additional costs.[23]

(29) Finally, a majority of the respondents to the market investigation, both competitors and customers, state that the geographic scope of the contracts for the production of commissioned TV content is national.[24]

4.1.4. Conclusion

(30) Consistently with its past decisional practice, and in light of the responses to the market investigation, the Commission considers that the production of TV content and the licensing of broadcasting rights for TV content constitute separate relevant product markets.[25] The Commission also considers that a possible segmentation between films, sports and other/general entertainment TV content could be applied to the market for production of TV content.

(31) The question whether the market for production of general entertainment TV content should be further segmented: (i) by genre; (ii) between scripted and non-scripted content; and (iii) between commissioned TV production or TV production-for-hire can, however, be left open as the proposed transaction would not give rise to serious doubts as to its compatibility with the internal market under any alternative delineation of the market.

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22 See replies to Questionnaire Q1 to TV production companies of 7 December 2015, question 8.

23 See replies to Questionnaire Q1 to TV production companies of 7 December 2015, questions 8 and 11, and replies to Questionnaire Q2 to TV Broadcasters of 7 December 2015, question 8.1.

24 See replies to Questionnaire Q1 to TV production companies of 7 December 2015, question 12.1 and Questionnaire Q2 to TV Broadcasters of 7 December 2015, question 9.1.

25 For the sake of clarity, the Commission considers that the production of new TV content and the licensing of broadcasting rights for pre-produced TV content are two complementary activities that are positioned at the same upstream market level for the following reasons: as explained in paragraphs (12) and (36), the demand-side of both TV production and licensing of broadcasting rights for TV content is represented by TV channel broadcasters who seek content to their channels. Likewise, the supply-side of both activities are represented by the TV production companies (see paragraphs (12) and (35)). When broadcasters commission the production of new TV content, they usually clear broadcasting rights at the same time and in the same contract concluded with the TV producer. Both the production of TV content and the licensing of broadcasting rights for TV content, therefore, stand upstream to the downstream markets where TV channel broadcasters offer their channels to TV distributors and end consumers.

(32) As regards the geographic scope of the market for the production of general entertainment TV content, in view of its previous decisions and of the results of the market investigation, the Commission considers it to be national.

4.2. Licensing of broadcasting rights for TV content

(33) In the market for licensing of broadcasting rights for TV content, the TV channel broadcasters acquire broadcasting rights for pre-produced ("off-the-shelf") TV content (e.g. foreign TV series).

4.2.1. The Notifying Parties' view

(34) The Notifying Parties do not take a position on the exact product and geographic delineation of the market for licensing of broadcasting rights for TV content.

4.2.2. *Commission's precedents*

(35) In the recent *21st Century Fox/Apollo/JV* decision,[26] the Commission found that broadcasting rights relating to TV content can be owned either by: (i) the right holder of the TV format; (ii) the production company that produced the TV content; and (iii) the company/broadcaster that commissioned the production of the TV content, or a combination of any of these three. All these categories of right owners constitute the supply-side of the market.

(36) Similar to the TV production market, the demand-side of the market for licensing of broadcasting rights to TV content consists of TV channel broadcasters and content aggregation platforms.

(37) Within the market for licensing of broadcasting rights for TV content, the Commission has previously[27] considered the following segmentation: (i) by type of content into films, sports and other/general entertainment content; and (ii) by exhibition window into SVOD, TVOD, PPV, first Pay TV window, second Pay TV window, and FTA.

(38) Similarly to the market for production of TV content, the Commission previously considered the market for licensing of broadcasting rights to be national in scope or encompassing a broader, linguistically homogenous area.[28]

4.2.3. Results from the market investigation

(39) Regarding a possible distinction between broadcasting rights per type of content, a majority of respondents consider films, sport and general entertainment content as rather complementary because of the difference in the costs related to the

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26 Commission decision in Case M.7360 – *21st Century Fox/Apollo/JV* of 9 October 2014, paragraphs 21 and 22.

27 Commission decision in Case M.7360 – *21st Century Fox/Apollo/JV* of 9 October 2014, paragraphs 43-47 and Commission decision of 16 September 2014 in Case M.7282 – *Liberty Global/Discovery/All3Media*, paragraphs 44-45 and 47-48.

28 Commission decision in Case M.7360 – *21st Century Fox/Apollo/JV* of 9 October 2014, paragraphs 48-50 and Commission decision of 16 September 2014 in Case M.7282 – *Liberty Global/Discovery/All3Media*, paragraphs 49-51.

acquisition of different types of content as well as the intended use of such content.[29]

(40) Concerning a possible segmentation of the market by exhibition window most TV production companies who license broadcasting rights for pre-produced TV content confirm that they negotiate and/or sell such broadcasting rights separately for the different exhibition windows.[30]

(41) Lastly, a majority of respondents (both customers and competitors) consider that the geographic scope of the contracts for licensing and acquisition of broadcasting rights for pre-produced TV content is in general either national or encompassing the Nordic countries.[31]

4.2.4. Conclusion

(42) Consistently with its past decisional practice, and in light of the responses to the market investigation, the Commission considers that the relevant market for the assessment of the proposed transaction is the market for the licensing of broadcasting rights for TV content.

(43) The question whether the market for the licensing of broadcasting rights for TV content should be further segmented by type of content or by exhibition window can be left open as the proposed transaction would not give rise to serious doubts as to its compatibility with the internal market under any possible sub-segmentation of the relevant market.

(44) As regards the geographic scope of the market for licensing of broadcasting rights for TV content, in view of its previous decisions and of the results of the market investigation, the Commission considers it to be either national or encompassing a broader, linguistically homogenous area.

5. COMPETITIVE ASSESSMENT

(45) The proposed transaction gives rise to horizontal overlaps between the activities of Banijay and Zodiak Media in the production of TV content and in the licensing of TV content in several national markets: Belgium, Demark, Finland, France, Italy, Norway, Poland, Spain and Sweden.

(46) Irrespective of any possible segmentation as discussed in paragraphs (19), (21)[32], (22) and (37), the Parties' combined share in 2014 was, however, below 20% in all these national markets, with two exceptions: (i) the market for production of TV

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29 See Questionnaire Q2 to TV Broadcasters of 7 December 2015, question 7.

30 See Questionnaire Q1 to TV production companies of 7 December 2015, question 11.

31 See Questionnaire Q2 to TV Broadcasters of 7 December 2015, question 9.2 and Questionnaire Q1 to TV production companies of 7 December 2015, question 12.2.

32 For the sake of completeness, the Commission notes that in some possible narrow segments, based on the Notifying Parties' best estimates, the combined market shares of the Parties appear to be slightly above 20%: the production of entertainment/music and of non-scripted content in Finland, and the production of Quiz/gameshows and of non-scripted content in Spain. However, given the limited nature of the Parties' activities and the moderate increment brought by the transaction, the Commission considers it not necessary to analyse these markets further.

content (excluding captive supply) in Denmark; and (ii) the market for production of TV content (excluding captive supply) in Norway.[33]

(47) The proposed transaction also gives rise to vertical relationships between the JV's activities in the production and licensing of TV content (upstream), and the JV's and De Agostini's TV channel broadcasting activities in France, Italy and Spain (downstream). However, no vertically affected markets would arise in any of these three Member States. These vertical links are, therefore, not assessed further in this decision.

5.1. Horizontal assessment

(48) On the basis of the data provided by the Notifying Parties, in 2014, the combined share of the Parties in the market for production of general entertainment TV content (excluding captive supply) in Denmark amounted to [30-40]% by revenues. The remaining suppliers with shares by revenues above 5% would be Endemol Shine ([30-40]%), Fremantle Media ([10-20]%), and Eyeworks ([5-10]%). Other competitors with shares below 5% include among others Monday Media, Miso Films and Koncern TV Impact.

(49) In Norway, in 2014 the combined share of the Parties in the market for production of general entertainment TV content (excluding captive supply) amounted to [20-30]% by revenues. The remaining suppliers with shares by revenues above 5% would be Endemol Shine ([20-30]%), Nice Entertainment ([20-30]%) and Eyeworks ([5-10]%). Smaller competitors in Norway include also Feelgood Scene Film and Seefood TV.

5.1.1. The Notifying Parties' view

(50) As regards a possible segmentation by genre and between scripted and non-scripted content, market shares submitted by the Notifying Parties in each of these possible segments do not vary significantly from the market shares in the overall markets for the production of general entertainment TV content (excluding captive supply) in Denmark and Norway. As regards a possible segmentation between commissioned TV production and TV production for hire, the Notifying Parties submit that neither Banijay nor Zodiak Media is present in the TV production for hiring segment as their role in the production of a programme always goes beyond the provision of mere technical support as they are highly involved in the design and conception of the finished programme.

(51) The Notifying Parties further submit that market shares are an inadequate proxy to measure market power in the market for production of general entertainment content in view of the market share variations from one year to the next. According to the Notifying Parties, such variations can be the result of wins and losses of

33 For the sake of completeness, the Commission notes that Atresmedia, of which De Agostini indirectly jointly holds 41.7% of the voting rights (see footnote 4), is present as a TV channel broadcaster in Spain. The JV will also be present as a TV channel broadcaster in Spain with the celebrity news channel "Non-Stop People". This channel, however, has an audience share not exceeding [0-5]% in Spain. Therefore, given the JV's very limited activities, even if De Agostini were to exercise sole or joint control over Atresmedia, the proposed transaction would not give rise to serious doubts resulting from the overlap between the activities of De Agostini and the JV in Spain.

contracts for large productions. For example, between 2013 and 2014, the market shares of Banijay increased in Denmark from [10-20]% to [10-20]% after the launch of two new shows, while in Norway the market share decreased from [10-20]% to [5-10]% after two productions where stopped after one season.

5.1.2. *Results from the market investigation*

(52) Broadcasters that responded to the market investigation confirm that the proportion of TV content they source from each external producer can vary significantly from year to year. They explain that the TV production companies regularly pitch new ideas, that broadcasters also actively approach the TV production companies looking in their search for new attractive content, and that switching is easy.

(53) A majority of the respondents to the market investigation also consider that, pre-merger, Banijay and Zodiak Media are close competitors in the production of TV content in Denmark and Norway, pointing to the fact that both companies produce TV content in the same genres and are both part of international groups.[34]

(54) Moreover, a clear majority of the TV channel broadcasters that responded to the market investigation consider that there will remain sufficient number of alternative suppliers for TV content in both Norway and Denmark after the merger.[35] A clear majority of respondents to the market investigation in both Norway and Denmark also stated that it easy to switch supplier of TV content[36]

(55) As regards market entry, a large majority of respondents stated that it is easy to enter the market as a producer of TV content.[37] The entry that is observed in the market is from creative individuals who leave the large TV production companies in which they used to work and start their own companies. Broadcasters explained that it is the individuals and their creativity that are important, not the company they represent, and that for a new player with no reputation or proven track record, entry is more difficult.

(56) Finally, none of the respondents to the market investigation raised any substantiated concerns about the proposed transaction. None of the responding customers expected the proposed transaction to have any negative effects on their business.[38] A few competitors pointed to the increased horizontal consolidation and the creation of a strong player, but the majority of the competitors said the impact

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34 Commission questionnaire Q1 to TV production companies, question 13, and Commission questionnaire Q2 to TV broadcasters, question 10.

35 Commission questionnaire Q2 to TV broadcasters, question 14, and minutes of calls with TV broadcasters.

36 Commission questionnaire Q1 to TV production companies, question 15, Commission questionnaire Q2 to TV broadcasters, question 12, and minutes of calls with TV broadcasters.

37 Commission questionnaire Q1 to TV production companies, question 17, and minutes of calls with TV broadcasters.

38 Commission questionnaire Q2 to TV broadcasters, question 15, and minutes of calls with TV broadcasters.

of the proposed transaction on the Danish and Norwegian TV market would be neutral.[39]

5.2. Conclusion

(57) In light of the above, in particular the fact that TV channel broadcasters can switch suppliers relatively easily, the Commission considers that the proposed transaction does not give rise to serious doubts as to its computability with the internal market as a result of horizontal anti-competitive effects.

6. CONCLUSION

(58) 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 and Article 57 of the EEA Agreement.

For the Commission
(Signed)
Margrethe VESTAGER
Member of the Commission

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39 Commission questionnaire Q1 to TV production companies, question 18.