EUROPEAN COMMISSION
DG Competition

Case M.8258 - ADVENT INTERNATIONAL / MORPHO

Only the English text is available and authentic.

REGULATION (EC) No 139/2004
MERGER PROCEDURE

Article 6(1)(b) in conjunction with Art 6(2)
Date: 19/04/2017

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EUROPEAN COMMISSION

Brussels, 19.4.2017
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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 Where possible the information omitted has been replaced by ranges of figures or a general description.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

To the notifying party

Subject: **Case M.8258 – ADVENT INTERNATIONAL / MORPHO**
Commission decision pursuant to Article 6(1)(b) in conjunction with Article 6(2) of Council Regulation No 139/2004[1] and Article 57 of the Agreement on the European Economic Area[2]

Dear Sir or Madam,

(1) On 24 February 2017, the European Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 (the "Merger Regulation") by which Advent International Corporation ("Advent International" or "the Notifying Party", USA) acquires within the meaning of Article 3(1)(b) of the Merger Regulation control of the whole of Safran Identity and Security SAS (France) and Morpho USA (USA) (together "Morpho"), by way of purchase of shares ("the Transaction").[3] Advent International and Morpho are designated hereinafter as "the Parties".

1. THE PARTIES

(2) **Advent International** is a private equity firm with holdings in various sectors. In particular, Advent International controls Oberthur Technologies SA

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 C 69, 4.3.2017, p. 10.

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("Oberthur")[4], Istituto Centrale delle Banche Popolari Italiane S.p.A.("ICBPI")[5], and Addiko Bank AG ("Addiko Bank")[6].

(3) **Morpho** is the identity and security solutions business of the Safran group. It develops technologies for a range of markets, and applications for individuals, governments and businesses. It provides solutions and services to manage citizen identities, applications in the area of public security, and connectivity and security solutions, especially smart cards to banks, governments, telecom operators and other commercial service providers.

2. THE CONCENTRATION

(4) On 20 December 2016, the Notifying Party, Safran, as well as its subsidiaries Safran Electronics & Defense and Safran USA which currently control Safran's shares in Safran Identity and Security SAS and Morpho USA, entered into a single sale and purchase agreement, pursuant to which the Notifying Party will acquire 100% of the shares in both Safran Identity and Security SAS and Morpho USA. Following the Transaction, Advent International will acquire sole control over Morpho from the same seller.

(5) The Transaction therefore constitutes a single concentration within the meaning of Articles 3(1)(b) of the Merger Regulation.

3. EU DIMENSION

(6) The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million[7] (Advent International: EUR […]; Safran Identity and Security SAS: EUR […]; Morpho USA: EUR […]). Each of at least two of them has an EU-wide turnover in excess of EUR 250 million (Advent International: EUR […]; Safran Identity and Security SAS: EUR […]; Morpho USA: EUR […]), but they do not achieve more than two-thirds of their aggregate EU-wide turnover within one and the same Member State.

(7) The Transaction therefore has an EU dimension pursuant to Article 1(2) of the Merger Regulation.

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4 **Oberthur** is a digital security provider active in the payment, identity and telecommunication sectors. Oberthur provides (*i*) payment security services and solutions for banks and financial institutions, (*ii*) SIM cards and associated applications or services to mobile network operators ("MNOs"), (*iii*) secured electronic identity documents and related solutions to governments and public agencies and (*iv*) technologies, such as embedded secure elements, Trusted Service Management ("TSM") services and host card emulation, to financial institutions, MNOs, connected device manufacturers and Internet of Things service providers.

5 **ICBPI** is a banking group active in Italy in the issuing of payment cards, merchant acquiring, terminal management, payment services, securities services and regulatory/compliance management services. ICBPI is jointly controlled by Advent International and Bain Capital. See Commission's decision of 16 September 2015 in case M.7711 – *Advent International/Bain Capital/ICBPI*.

6 **Addiko Bank** (formerly known as Hypo Group Alpe Adria) is a company comprising a network of banks active in (*i*) banking business with retail, corporate and public customers and (*ii*) leasing business in South-Eastern Europe, including in Croatia and Slovenia. See Commission's decision of 28 May 2015 in case M.7551 – *Advent/Hypo Group Alpe Adria AG*).

7 Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Consolidated Jurisdictional Notice (OJ C95, 16.4.2008, p. 1).

4. RELEVANT MARKETS

4.1. Product Market

4.1.1. Product Market Definition

(8) The Commission has previously examined the market for secure plastic cards and distinguished smart cards from other types of secure plastic cards (for example magnetic stripe cards). Within smart cards, the Commission made a further distinction between memory chip cards and microprocessor chip cards. Within the microprocessor smart card segment, the Commission made another distinction, namely a distinction according to the application of the card, in particular between the major application segments telecommunication, banking, and government & ID.[8]

4.1.1.1. SIM cards

(9) A SIM card is a removable smart card inserted inside a mobile phone, carrying a unique identification number, storing personal data and preventing operations if removed. SIM cards are mainly sourced by Mobile Network Operators ("MNOs") and Mobile Virtual Network Operators ("MVNOs") for use by their subscribers.

(10) In *Axalto/Gemplus*[9], the Commission considered that the manufacture and supply of SIM cards was distinct from the overall market for secure plastic cards and in particular from payment smart cards.

(11) The Notifying Party agrees with the previous assessment of the Commission. It also submits that there is no need to further segment the market for SIM cards on the basis of the technology used in the chip (for example 2G, 3G, LTE and NFC standards). It further argues that the telecom industry is rapidly evolving and classic SIM cards are increasingly subject to potential competition from new technologies, such as embedded SIM cards (e-SIMs), which are currently being launched on the market and are expected to ultimately replace the demand for classic SIM cards. This development towards e-SIMs will reallocate the industry value chain and subject the classic SIM card manufacturers (such as the Parties) to new strong competitors such as semiconductor manufacturers, chip-set vendors, smartphone manufacturers and mobile operating system ('OS') suppliers.

(12) The market investigation has confirmed the Commission's previous assessment as to SIM cards being distinct from other types of smart cards.[10]

(13) Some respondents to the Commission's market investigation suggested that the SIM card market can be further segmented into (*i*) traditional consumer SIM cards (2G/3G/4G-LTE), (*ii*) NFC (Near-Field Communication) SIM cards, and (*iii*) M2M (machine-to-machine) SIM cards.[11]

(14) However, for the purpose of this decision, the question of whether the SIM card market should be further segmented according to the above can be left open, since

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8 Case M.3998 – *Axalto/Gemplus,* decision of 1 April 2006, paragraphs 11-24.

9 Case M.3998 – *Axalto/Gemplus*, decision of 1 April 2006, paragraph 24.

10 See responses to question 3 and 7 of Q1 – Questionnaire to competitors.

11 See responses to question 12 of Q3 – Questionnaire to customer of SIM cards.

the Transaction does not raise serious doubts as to its compatibility with the internal market under any plausible product market definition.

4.1.1.2. Payment smart cards

(15) Payment smart cards are payment cards with embedded microprocessor chips that store and protect card holder data and provide embedded security features not available with traditional magnetic stripe cards. They are normally sourced by financial institutions for use by their end customers.

(16) In *Axalto/Gemplus*[12], the Commission considered that the manufacture and supply of payment smart cards was distinct from the overall market for secure plastic cards and in particular from SIM cards.

(17) The Notifying Party agrees with the previous assessment of the Commission. It also submits that there is no need to further segment the market for payment smart cards on the basis of the technology used in the chip (for example contact and contactless technologies) arguing that from a demand-side perspective the customer and their requirements are similar by end-use and, on the supply side, manufacturers are typically active across all sub-segments and offer similar products.

(18) The Notifying Party further claims that card personalisation services, namely stamping the card number and name of the card holder on the plastic, loading the electronic data onto the chip, and shipping the card to the card holder, is ancillary to the supply of payment smart cards and does not constitute a distinct product market. The Notifying Party notes that (i) card personalisation services are mainly provided by manufacturers of payment smart cards as part of the overall supply of payment smart cards; and (ii) customers obtain in most instances the personalisation services from the card manufacturer supplying their payment smart cards, instead of procuring this service in-house or via partnerships with local personalisation service providers.

(19) The Notifying Party further argues that the payment industry is rapidly evolving, with payment smart cards increasingly subject to competition from other already existing or emerging payment means, such as mobile payment solutions. These new means are expected to grow significantly in the medium to long term to the detriment of payment smart cards. Traditional payment smart card manufacturers may seek to develop technologies that will allow them to participate in the new market segments (and not be excluded from the value chain), but on these emerging markets the traditional payment smart card manufacturers will face multiple types of competing players, including various IT players, web players, OEMs, start-ups, bank wallet solution providers, and telecom operator solutions.

(20) The market investigation has confirmed the Commission's previous assessment as to payment smart cards being distinct from other types of smart cards.[13] In particular, the majority of respondents see payment smart cards (with chip) and

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12 Case M.3998 – *Axalto/Gemplus*, decision of 1 April 2006, paragraph 24. In a later case the Commission recalled this precedent but ultimately left the product market definition open: see Case M.7711 – *Advent International/Bain Capital/ICBPI*, decision of 16 September 2015, paragraph 19.

13 See responses to question 3 of Q1 – Questionnaire to competitors; responses to question 6 of Q2 – Questionnaire to customers of payment smart cards.

magnetic stripe payment cards (without chip) as non alternative to each other. Magnetic stripe technology is deemed "obsolete"[14] and progressively replaced by chip technology not only for security reasons but also because it is mandatory under the EMV (and the French *Groupement Cartes Bancaires*, "CB") standards.

(21) The results of the market investigation confirmed the Notifying Party's claim that card personalisation services are usually sourced together with the non-personalised payment smart cards from the same supplier, with some exceptions. Notably, with respect to the EEA countries where the Parties' activites overlap, this is only the case[15] for the Netherlands as will be discussed in further detail in paragraph (92) and (121).

(22) According to a majority of customers,[16] the benefits of sourcing non-personalised cards together with personalisation services from the same provider include: easier logistics (a single point of contact, single agreement, and so forth), avoiding the additional costs of transferring card bodies to a different personalisation service provider, better lead times, and avoiding incompatibility issues between the chip software (sourced with the card body) and the personalisation software.

(23) A few customers indicated that they carry out the personalisation process in-house, but – based on the market investigation – such practices appear to be minimal and progressively declining.

(24) Finally, the vast majority of customers[17] also source additional services from their personalisation service supplier, including printing of the cover letter and/or the letter containing the security code (PIN), as well as the delivery of the card and the letter(s) to the final consumers.

(25) For the purpose of this decision, the question of whether the payment smart card market can be further segmented into personalised cards and non-personalised cards can be left open, since the Transaction as modified by the Final Commitments does not raise serious doubts as to its compatibility with the internal market under any plausible product market definition.

4.1.1.3. ID smart cards

(26) ID smart cards consist of a variety of electronic identification documents ('e-ID documents') with embedded chips/smart cards that are issued by governmental authorities or public bodies for identification purposes. e-ID documents ensure a higher level of security and information storage space than traditional paper/plastic ID documents ('legacy ID documents') and include, for example, electronic passports (e-passports), national electronic identity cards (e-ID cards), electronic driving licenses (e-driving licenses), and electronic health insurance cards (e-health cards). There are two main formats for ID documents, namely ID-1 and ID-3[18], the former being the common format for national ID cards, driving

[14] See responses to question 6 of Q2 – Questionnaire to customers of payment smart cards.

[15] [Details on Morpho’s customers and sales in France].

[16] See responses to question 9 of Q2 – Questionnaire to customers of payment smart cards.

[17] See responses to question 10 of Q2 – Questionnaire to customers of payment smart cards.

[18] ISO/IEC 7810:2003 *Identification cards – Physical characteristics*, https://www.iso.org/standard/31432.html.

licenses, health cards and corresponds to the size of payment cards, and the latter format being the format used for e-passport plastic data pages.

(27) In *Axalto/Gemplus*[19], the Commission identified the "government and ID segment" as the third major application segment for microprocessor smart cards, separate from telecommunication and banking, but did not assess that segment further.

(28) The Notifying Party agrees with the previous assessment of the Commission. It also submits that a further segmentation by type of ID document (for example e-passports, e-ID cards, e-driving licenses) is not warranted considering that different types of ID smart cards share common technological features and comprise the same key elements (namely chips, inlays, metal contact plates, and plastic card bodies), and share the same production process and production equipment (except for the paper printing step in the production of e-passports). There are no significant price differences, and ID smart cards are all designed for the same type of clientele, and marketed through similar tendering procedures. On the supply side, manufacturers are either active across the various ID smart card types or could enter any additional segment on short notice and at limited cost. The Notifying Party concludes that the precise scope of the product market can be left open as the Transaction does not give rise to any competitive concerns on any alternative market definition.

(29) Based on the results of the market investigation, the Commission notes that ID smart cards are distinct from other types of smart cards (payment smart cards and SIM cards).[20] The ID smart card market can be further sub-segmented based on the type of ID smart card/document, for example e-passports (a secure paper-based ID document), e-ID cards, e-driving licences, e-health cards (plastic card based ID documents).

(30) The results of the market investigation suggest that from a demand-side perspective ID smart card customers tend to consider that the technological features of different types of ID smart cards (in particular the technological features of the smart components embedded in ID cards) are the same across the various types of ID smart cards; also prices are considered to be similar.[21]

(31) A significant portion of competitors responding to the market investigation consider that switching production from one type of ID smart card/document to another would be possible without significant technical difficulties and/or costs. This is especially true for ISO ID-1 format ID smart cards/documents (for example e-ID card, e-health card, and e-driving licenses). That said, it would seem that switching production to the larger format (ISO ID-3 format) e-passports would be more difficult and require significant investments and time.[22] Furthermore, a number of competitors indicate that customer/country specific

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19 Case M.3998 – *Axalto/Gemplus,* decision of 1 April 2006, paragraph 16.

20 See responses to questions 3 and 4.1 of Q1 – Questionnaire to competitors.

21 See response to question 7 and 8 of Q4 – Questionnaire to customers of ID smart cards.

22 See responses to question 9 of Q1 – Questionnaire to competitors.

technical requirements may also hamper a supplier's ability to produce a certain ID smart card/document.[23]

(32) For the purpose of this decision, the question of whether the ID smart card market can be further segmented according to the type of ID smart card can be left open, since the Transaction does not raise serious doubts as to its compatibility with the internal market under any plausible product market definition.

4.1.1.4. Card issuing (vertical relationship)

(33) The Commission has previously found a separate product market for card issuing, distinct from merchant acquiring and card processing.[24] In addition, the Commission considered a potential sub-segmentation of the market between: (i) debit versus credit/charge card issuing, (ii) universal/hybrid store credit cards versus special purpose credit card issuing, and (iii) personal versus corporate card issuing.[25]

(34) The Notifying Party agrees with the previous assessment of the Commission.

(35) In any event, for the purpose of this decision, the exact product market definition for card issuing can be left open as the Transaction does not raise serious doubts as regards its compatibility with the internal market irrespective of the precise product market definition.

4.2. Geographic Market Definition

4.2.1.1. SIM cards

(36) In *Axalto/Gemplus*[26], the Commission considered that the SIM card market was at least EEA-wide, but ultimately left the question open as the assessment of the transaction would have remained unchanged.

(37) The Notifying Party agrees with the previous assessment of the Commission.

(38) The results of the market investigation indicate that, according to the majority of SIM card customers responding to the market investigation, (*i*) although the sourcing patterns and/or requirement for SIM cards in the EEA still differ compared to the rest of the world, no such differences persist among EEA countries[27], and that (*ii*) neither transport costs nor transport times limit their ability to purchase SIM cards outside the EEA.[28]

(39) It can further be noted that, unlike other types of smart cards, SIM cards do not usually store sensitive user data and can therefore be both manufactured and

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23 See response to question 10 of Q1 – Questionnaire to competitors.

24 Case M.7711 – *ICBPI*, decision of 12 August 2015, paragraph 20; Case M.5384 – *BNP Paribas/Fortis*, decision of 3 December 2008, paragraph 14 and Case M.6164 – *Barclays Bank/Egg credit card assets*, decision of 18 April 2011, paragraph 9.

25 Case M.7078 – *Santander Consumer Finance, El Corte Ingles, Financiera El Corte Inglés*, paragraphs 22 – 23; Case M.5384 – *BNP Paribas /Fortis*, paragraphs 14 and 16-40; Case M.6164 – *Barclays Bank/ Egg credit card assets*, paragraphs 9 – 12.

26 Case M.3998 – *Axalto/Gemplus*, decision of 1 April 2006, paragraph 31.

27 See responses to questions 14 and 15 of Q3 – Questionnaire to customers of SIM cards.

28 See responses to questions 16 and 17 of Q3 – Questionnaire to customers of SIM cards.

personalised (in mass volumes) anywhere in the world.[29] This also explains why the majority of SIM card customers responding to the market investigation rate local presence (sales office and/or personalisation center) relatively low in terms of importance in their choice of suppliers of SIM cards.[30]

(40) On this basis, and in line with its previous decisional practice, the Commission considers that for the purpose of this decision the relevant geographic market for SIM cards is at least EEA-wide.

4.2.1.2. Payment smart cards

(41) In *Axalto/Gemplus*[31], the Commission considered that the geographic scope of the payment smart card market was "*still national*" due to (*i*) a general distinction between countries that have adopted standards providing for the use of chips (together with other security features) and those that have not; (*ii*) the existence of country-based standard specifications (such as those established by CB in France); and (*iii*) the need for a local presence for undertaking personalisation services and data security issues.[32]

(42) The Notifying Party contests the Commission's previous findings and argues that the market is no longer national given (*i*) the EEA-wide, if not worldwide, trend towards technological harmonisation, (*ii*) the organisation of EEA and worldwide tenders, (*iii*) the absence of regulatory restrictions and language barriers, and (*iv*) the fact that the production facilities of the Parties and their competitors serve different regions regardless of their location and the Parties are able to compete across the whole EEA, despite not having a sales office in every EEA country.

(43) The market investigation has provided indications that, especially for personalised payment smart cards, the geographic scope of the market could be narrower than EEA-wide, given the strict delivery requirements which would not make it possible for manufacturers to timely deliver cards to customers located at greater distances in the EEA. However, replies were mixed as to whether the exact scope would be national or regional, encompassing several Member States.

(44) Especially for the provision of personalised payment smart cards, several elements point towards the existence of national markets, including the presence of domestic certification schemes (such as CB in France, SECCOS in Germany or ABI in Italy),[33] the customers' preference for local personalisation sites, the strict delivery times required by most customers, and the cost of secure transfer of personalised payment smart cards.

(45) On the other hand, especially with respect to those EEA countries lacking a domestic scheme, market participants consider that it could be possible to source personalisation services from a different Member State, provided that strict

[29] See G&D's response to question 14 of Q1 – Questionnaire to competitors.

[30] See responses to question 24 of Q3 – Questionnaire to customers of SIM cards.

[31] Case M.3998 – *Axalto/Gemplus*, decision of 1 April 2006, paragraphs 33-34.

[32] The Commission left the geographic market definition open in a later case as no serious doubts were raised by the transaction under any possible market definition: see Case M.7711– *Advent International/Bain Capital/ICBPI*, decision of 16 September 2015, paragraph 28.

[33] With regard to the assessment of the present Transaction, the only affected national market where a local domestic scheme is present would be France (with its CB certification).

delivery times are complied with. The market investigation has provided indications that, especially in Northern and Central European countries, suppliers already carry out the personalisation services in a country different from the one where the final consumers are based.

(46) The market investigation did not provide any indication that the geographic market definition should be national in scope for non-personalised cards, at least for countries which do not have a distinct domestic scheme. The manufacturing of the non-personalised cards is, after all, also carried out outside of the EEA and non-personalised cards are shipped into the EEA and delivered to personalisation sites across the EEA, with the location of such plants not being a relevant factor.

(47) On this basis, the Commission considers that for the purpose of this decision, the exact geographic scope of the market for payment smart cards (and the possible segments for personalised and non-personalised cards) can be left open as the Transaction, as modified by the Final Commitments, does not raise serious doubts as regards its compatibility with the internal market irrespective of the precise geographic market definition. In any event, the Commission will carry out its assessment both at EEA level and at the national level, which is the narrowest possible level.

4.2.1.3. ID smart cards

(48) In *Axalto/Gemplus*[34], the Commission did not assess the geographic scope of the market for "government and ID" cards.

(49) The Notifying Party submits that the relevant geographic market for ID smart cards is at least EEA-wide. It puts forward a number of supporting arguments, including: e-ID documents are governed by global standards accessible on FRAND terms; calls for tenders (although often in the local language) are open to and attract suppliers worldwide; local production plants are not needed and, although the personalisation of ID smart cards must take place locally, setting up a personalisation centre requires limited assets and investments and suppliers can also partner with a local personalisation service provider to meet that condition.

(50) The market investigation has suggested that the geographic scope of the market could be national, rather than EEA wide. There are a number of factors suggesting national markets, such as national customer base with country-specific tenders and product requirements, international standards (to the extent they exist) only setting minimum standards (for example ICAO standards for e-passports), and de facto requirements for local presence through a personalisation site (due to regulatory requirements not to transfer citizen data outside the borders of the country). [35]

(51) However, for the purpose of this decision, the exact geographic market definition can be left open, since the Transaction does not raise serious doubts as to its compatibility with the internal market under any plausible market definition.

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34 Case M.3998 – *Axalto/Gemplus*, decision of 1 April 2006, paragraphs 35.

35 See responses to question 9.2, 12.1 and 13.1 in Q4 – Questionnaire to customers of ID smart cards; responses to questions 26 and 42 of Q1 – Questionnaire to competitors; see non-confidential version of minutes of call with Gemalto of 31 January 2017; see non-confidential version of minutes of call with G&D of 25 January 2017.

4.2.1.4. Card issuing (vertical relationship)

(52) In previous decisions, the Commission considered that the market for card issuing (and any segment therein) is national in scope.[36]

(53) The Notifying Party agrees with the previous assessment of the Commission.

(54) In light of the above, the Commission considers it appropriate to assess the market for card issuing at the national level.

5. COMPETITIVE ASSESSMENT

5.1. Analytical framework

(55) Under Article 2(2) and (3) of the Merger Regulation, the Commission must assess whether a proposed concentration would significantly impede effective competition in the internal market or in a substantial part of it, in particular through the creation or strengthening of a dominant position.

(56) In this respect, a merger may entail horizontal and/or non-horizontal effects. Horizontal effects are those deriving from a concentration where the undertakings concerned are actual or potential competitors of each other in one or more of the relevant markets concerned. Non-horizontal effects are those deriving from a concentration where the undertakings concerned are active in different relevant markets.

(57) As regards, non-horizontal mergers, two broad types of such mergers can be distinguished: vertical mergers and conglomerate mergers.[37] Vertical mergers involve companies operating at different levels of the supply chain.[38] Conglomerate mergers are mergers between firms that are in a relationship which is neither horizontal (as competitors in the same relevant market) nor vertical (as suppliers or customers).[39]

(58) The Commission appraises horizontal effects in accordance with the guidance set out in the relevant notice, that is to say the Horizontal Merger Guidelines.[40] Additionally, the Commission appraises non-horizontal effects in accordance with the guidance set out in the relevant notice, that is to say the Non-Horizontal Merger Guidelines.[41]

(59) In the present case, the Transaction gives rise to horizontally affected markets in the manufacture and supply of smart cards in the banking sector ('payment smart

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[36] Case M.7711 – *ICBPI*, decision of 12 August 2015, paragraph 29; Case M.7078 – *Santander Consumer Finance/El Corte Ingles/Financiera El Corte Inglés*, paragraphs 49-51; Case M.5384 – *BNP Paribas/Fortis*, paragraph 73; Case M.6164 – *Barclays Bank/ Egg credit card assets*, paragraph 17.

[37] Non-Horizontal Merger Guidelines, paragraph 3.

[38] Non-Horizontal Merger Guidelines, paragraph 4.

[39] Non-Horizontal Merger Guidelines, paragraph 5.

[40] Guidelines on the assessment of horizontal mergers under the Council Regulation on the control of concentrations between undertakings ("Horizontal Merger Guidelines"), OJ C 31, 05.02.2004.

[41] Guidelines on the assessment of non-horizontal mergers under the Council Regulation on the control of concentrations between undertakings ("Non-Horizontal Merger Guidelines"), OJ C 265, 18.10.2008.

cards') in the EEA, France, the Netherlands, Czech Republic, Hungary, Slovenia and Spain, telecom sector ('SIM cards') at EEA level, and ID sector ('ID smart cards') at the EEA level in view of the smart card activities of Advent International's portfolio company Oberthur, and those of Morpho, as well as vertically affected markets in relation to the upstream supply of payment smart cards by Morpho and the downstream provision of card issuing services by other portfolio companies of Advent International, namely in Italy by ICBPI and in Slovenia and Croatia by Addiko Bank.

5.2. Horizontal unilateral effects

5.2.1. Introduction

(60) The Horizontal Merger Guidelines distinguish between two main ways in which mergers between actual or potential competitors on the same relevant market may significantly impede effective competition, namely non-coordinated and coordinated effects.[42]

(61) Under the substantive test set out in Article 2(2) and (3) of the Merger Regulation, also mergers that do not lead to the creation or the strengthening of the dominant position of a single firm may be incompatible with the internal market. Indeed, the Merger Regulation recognises that in oligopolistic markets, it is all the more necessary to maintain effective competition. This is in view of the more significant consequences that mergers may have on such markets. For this reason, the Merger Regulation provides that "*under certain circumstances, concentrations involving the elimination of important competitive constraints that the merging parties had exerted upon each other, as well as a reduction of competitive pressure on the remaining competitors, may, even in the absence of a likelihood of coordination between the members of the oligopoly, result in a significant impediment to effective competition*".[43]

(62) The Horizontal Merger Guidelines list a number of factors which may influence whether or not significant horizontal non-coordinated effects are likely to result from a merger, such as the large market shares of the merging firms, the fact that the merging firms are close competitors, the limited possibilities for customers to switch suppliers, or the fact that the merger would eliminate an important competitive force. That list of factors applies equally regardless of whether a merger would create or strengthen a dominant position, or would otherwise significantly impede effective competition due to non-coordinated effects.

[42] In the present case, the Commission has not found evidence that the Transaction would raise serious doubts as regards its compatibility with the internal market with respect to coordinated effects in any of the horizontally affected markets indicated in paragraph (59). During the market investigation, the Commission received no concerns about possible anti-competitive coordinated effects arising from the Transaction.

[43] Merger Regulation, recital 25. Similar wording is also found in paragraph 25 of the Horizontal Merger Guidelines. See also Commission decision of 2 July 2014 in case No M.7018 – *Telefónica Deutschland/E-Plus*, recital 113; Commission decision of 28 May 2014 in case No M.6992 – *Hutchison 3G UK/Telefónica Ireland*, recital 179; Commission decision of 12 December 2012 in case No M.6497 – *Hutchison 3G Austria/Orange Austria*, recital 88.

Furthermore, not all of these factors need to be present to make significant non-coordinated effects likely and it is not an exhaustive list.[44]

(63) Finally, the Horizontal Merger Guidelines describe a number of factors, which could counteract the harmful effects of the merger on competition, including the likelihood of buyer power, entry and efficiencies.

5.2.2. SIM cards

5.2.2.1. Introduction

(64) On the basis of the market share data provided by the Notifying Party, the Transaction gives rise to a potentially affected market for SIM cards in the EEA, where the Parties' combined market share (by volume) in 2015 amounted to [30-40] % (Oberthur: [10-20]%; Morpho: [10-20]%).

(65) A segmentation of the market for SIM cards by card type gives rise to the technically affected markets at EEA-level for (*i*) M2M SIM card market; and (*ii*) 2G/3G/4G-LT SIM cards. In the case of M2M SIM cards, the combined market share of the merged entity would be below 25% for every year since 2013 and therefore the presumption of absence of competition problems pursuant to paragraph 18 of the Horizontal Merger Guidelines would apply.[45] In the case of 2G/3G/4G-LT SIM cards, the merged entity's combined market share in the EEA would not be materially different from those for the SIM card market that includes all types of SIM cards and there are no indications that any aspects of competition would differ in a manner that would warrant a competitive assessment different from that for the overall market for SIM cards. Finally, in the case of NFC SIM cards, no overlap exists between the Parties since Morpho is not active in the production of this type of SIM cards.

5.2.2.2. Notifying Party's view

(66) The Notifying Party submits that the Transaction will not give rise to competition concerns in the EEA-wide market for SIM cards because (*i*) the Parties have a moderate combined market share of [30-40]% that is comparable to the one held by the main competitor, Gemalto ([30-40]%), (*ii*) there are a number of credible competitors left on the market post-Transaction, including Gemalto, Giesecke & Devrient (G&D), Valid, Eastcompeace, Watchdata and ST Incard, (*iii*) the merged entity will face powerful customers with countervailing buyer power that typically implement a multi-sourcing strategy and can easily switch suppliers as there are no exclusivity contracts, negligible switching costs and contracts are typically short-term (lasting for a few months), and (*iv*) SIM cards are highly standardised and commoditised.

5.2.2.3. Commission's assessment

(67) For the reasons set out below, the Transaction does not raise serious doubts as to its compatibility with the internal market with respect to SIM cards, regardless of any possible segmentation.

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44 Horizontal Merger Guidelines, paragraph 26.

45 Horizontal Merger Guidelines, OJ C 31, 05.02.2004, p. 5-18.

(68) At EEA level, (*i*) the Parties do not have particularly large market shares and a number of strong competitors will remain in the market post-Transaction; (*ii*) the Parties are not particularly close competitors; (*iii*) customers can switch suppliers with relative ease; and (*iv*) the merger does not eliminate an important competitive force in the market for SIM cards.

(69) First, the Parties do not have particularly large market shares in the SIM card market and a number of strong competitors will remain in the market post-Transaction. The Parties' and their competitors' market shares are set out in Table 1 below. The combination of Oberthur, currently the second largest actor, and Morpho, currently the fourth largest actor, will lead to the creation of a new market leader surpassing Gemalto that currently holds that position. The merged entity would surpass Gemalto by [0-5]% according to 2015 figures. G&D, currently the third largest supplier, will remain a significant third actor with market shares [10-20]%.

(70) Beside these two main competitors to the merged entity, several viable alternative suppliers exist. Valid, a smart card manufacturer with headquarters in Brazil and a significance presence in Latin America, has entered the EEA market and is considered a viable alternative by European customers. Furthermore, Chinese players such as Eastcompeace and Watchdata have been described by customers as low cost alternatives that are also viable substitutes. [46]

(71) A majority of competitors responding to the market investigation believe that their company is in a position to win tenders/contracts and supply customers of SIM cards equally in all countries in the EEA.[47]

Table 1 – SIM cards – EEA – by volume (units)

Suppilier/Year	2013	2014	2015
Morpho	[10-20]%	[10-20]%	[10-20]%
Oberthur	[10-20]%	[20-30]%	[10-20]%
Combined	**[30-40]%**	**[30-40]%**	**[30-40]%**
Gemalto	[30-40]%	[20-30]%	[30-40]%
G&D	[10-20]%	[10-20]%	[10-20]%
Others	[10-20]%	[10-20]%	[10-20]%

Source: Frost & Sullivan

(72) Second, the Parties are not close competitors to each other. Several respondents to the market investigation confirm the Parties' claim that SIM cards are commodity

46 See responses to question 32 of Q3 – Questionnaire to customers of SIM cards.

47 See responses to question 14 of Q1 – Questionnaire to competitors.

products. Several customers responding to the market investigation are of the opinion that no competitor is more innovative than others due to the nature of SIM cards as standardised products.[48]

(73) Commodity goods are characterised by a low degree of differentiation among different suppliers meaning that products from different suppliers are perfect substitutes to each other, subject to the service level provided. This fact greatly diminishes the chances that some suppliers, and the Parties in particular, are particularly close substitutes to each other.

(74) When asked to indicate the closest competitor to each of the Parties, one customer responding to the market investigation indicates that all competitors are equal to each other, while another customer refers directly to SIM cards as a commodity good for which closeness of competition lacks meaning. Other customers indicate Gemalto, the market leader, as the closest competitor to each of the Parties.[49]

(75) When asked to indicate whether each of the Parties is a particularly innovative competitor in the market for SIM cards, two customers responding to the market investigation are of the opinion that there are no differences among competitors, one of them making an explicit mention of the commodity nature of SIM cards. The rest of the customers responding to the market investigation mostly identified Oberthur as more innovative and Morpho as an actor that sells "more basic" SIM cards.[50]

(76) Third, customers can switch among suppliers with relative ease. The responses to the market investigation are nuanced on this point, with an equal number of customers considering that switching SIM card suppliers is either easy or difficult. However, even the respondents that indicated that switching is difficult consider that only to be an issue with respect to switching to an entirely new supplier whereas it is easy to switch among suppliers with existing contractual relationships.[51] Moreover, the majority of customers responding to the market investigation has in fact switched suppliers at some point in time.[52]

(77) Competitors responding to the market investigation indicate that it is their understanding that SIM card customers use multi-sourcing and rarely depend on a single SIM card provider.[53]

(78) Fourth, the merger does not eliminate an important competitive force on the SIM card market.

(79) Some firms have more of an influence on the competitive process than their market shares or similar measures would suggest. A merger involving such a firm may change the competitive dynamics in a significant, anti-competitive way.[54]

48 See responses to question 14 of Q1 – Questionnaire to competitors.
49 See responses to questions 34 and 35 of Q3 – Questionnaire to customers of SIM cards.
50 See responses to questions 39 and 40 of Q3 – Questionnaire to customers of SIM cards.
51 See responses to question 30 of Q3 – Questionnaire to customers of SIM cards.
52 See responses to question 31 of Q3 – Questionnaire to customers of SIM cards.
53 See responses to question 32 of Q1 – Questionnaire to competitors.
54 Horizontal Merger Guidelines, paragraph 37.

(80) The results of the market investigation mostly suggest that this not to be the case in this Transaction. Morpho is described as a "*follower*" that is "*never the first in SIM innovative products*" and whose "*SIM cards are much more basic than the ones offered by some of its competitors*".[55] The few customers that described Morpho as a particularly innovative competitor in the market for SIM cards did not further substantiate this view.

(81) Oberthur, on the other hand, has been described by some respondents to the market investigation as offering "*state of the art SIM cards*", often leading "*in terms of timing and features*" and as having an "*advanced SIM business unit*".[56] However, the perception of Morpho as a "follower" and not a close competitor to Oberthur suggest that Oberthur's incentives for investing in product development are a response to competition from other competitors, most likely the market leader Gemalto, rather than from Morpho and will therefore not be significantly affected by the Transaction.

(82) Finally, all SIM card customers responding to the market investigation indicated that they expect the impact of the Transaction on the SIM card market to be neutral.[57, 58]

(83) For all these reasons, the Commission takes the view that the Transaction does not raise serious doubts as regards its compatibility with the internal market in relation to the EEA SIM card market, regardless of any possible segmentation.

5.2.3. Payment Smart Cards

5.2.3.1. Introduction

(84) At EEA level, on the basis of market share data provided by the Notifying Party, the Transaction gives rise to a potential affected market for payment smart cards, where the Parties' combined market share (by volume) in 2016 amounted to [30-40]% (Oberthur: [30-40]%; Morpho: [5-10]%).

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55 See responses to question 39 of Q3 – Questionnaire to customers of SIM cards.

56 See responses to question 40 of Q3 – Questionnaire to customers of SIM cards.

57 See responses to questions 41 and 42 of Q3 – Questionnaire to customers of SIM cards.

58 During the market investigation, competing SIM card suppliers G&D and Valid raised concerns about the EEA SIM cards market. G&D submits that due to the volume driven nature of the smart cards business in general and the SIM cards market in particular, which they also describe as a commodity market, the merger of the two companies will lead to significant synergy effects and to cost savings (in purchasing, supply chain, R&D and other overhead cost) and subsequently may result in aggressive pricing in the short term to "buy" market share and potentially pushing out other players. According to G&D, such a potential consolidation of the market will lead to prices being increased midterm and fewer market players would also mean less competition in innovation (see non-confidential version of presentation by G&D sent on 27 February 2017). Valid submits that prices will decrease in the short run, but as competitors are driven out of the market in the long run prices will increase. Valid further indicates that while the reduction of the number of competitors in the short run may add opportunities for Valid, it will be very difficult to compete in the long run, creating a duopoly between the merged entity and Gemalto (see responses by Valid to questions 72, 73, 78 and 79 of Q1 – Questionnaire to competitors). The Commission considers that the claims do not appear substantiated, in particular because the merged entity's ability to increase prices after potentially less efficient competitors have exited the market is conditional on the existence of significant barriers to entry, which according to the majority of respondents to the market investigation do not exist in the EEA SIM cards market (see responses to question 54 of Q1 – Questionnaire to competitors).

(85) At national level, the Parties' activities overlapped in eight EEA countries in 2016, with combined market shares above 20% in six of them, namely the Czech Republic, France, Hungary, Netherlands[59], Slovenia and Spain.[60]

(86) In the following, the Commission's assessment will concern the overall market for payment smart cards (which includes non-personalised and personalised cards), unless otherwise specified. The product market will be assessed both at EEA-level and in each of the countries mentioned in paragraph (85). Since it will be carried out at the narrowest possible geographic segmentation (the national level), the assessment also covers the potential market for payment smart cards in regions of the EEA (that is to say regions comprising several Member States).

5.2.3.2. Notifying Party's view

(87) The Notifying Party submits that the Transaction will not not give rise to competition concerns in the EEA because (*i*) the Parties have a moderate combined market share, (*ii*) the merged entity will face competitive pressure from both actual competitors[61] and potential competitiors[62], (*iii*) the merged entity will face powerful customers with countervailing buyer power[63], and (*iv*) the Parties are not the closest competitors in this market, given the fact that in the last three years their activities only overlap in nine countries out of 31 in the EEA.

(88) The Notifying Party further submits that the Transaction will not give rise to competition concerns at national level in the EEA countries where their activities overlapped. The reasons set out by the Parties are the following:

(89) In the Czech Republic, where the Parties had a combined share of [40-50]% (Oberthur: [20-30]%; Morpho: [20-30]%) in 2015, the Parties would still face considerable competitive pressure from (*i*) competitors already active at local level, namely one strong local player, Austriacard ([30-40]%), and two strong

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59 In the Netherlands, customers generally purchase chips, OS and personalisation services separately. The Parties only overlap in the provision of personalisation services.

60 During the market investigation, the competing market player Exceet raised the concern that the Transaction would reduce the number of players able to sell payment smart cards certified under the local domestic scheme in Germany (SECCOS) from four to three (the merged entity, Gemalto and G&D). Smaller players (such as Exceet, Comcard and SPS) rely on those manufacturers for the supply of a SECCOS-certified operating system ("OS"), since the costs for independent development are too high for smaller players (see minutes of the conference call on 20 March 2017). In this respect, the Commission notes that the claim does not appear substantiated in light of the following reasons: (i) the concern does not relate to credit cards, but only to debit cards (which represent 70% of the overall market); (ii) Oberthur had [details on Oberthur's activities in Germany] (iii) in any event, the merged entity would hold a minor share of the possible market for components of payment smart cards (which would include the sale of chips and OS for credit cards not certified under SECCOS). The share would be around [5-10]%, based on the Parties' estimates; (iv) [details on Oberthur's activities in Germany].

61 The Parties consider Gemalto ([30-40]%) and G&D ([20-30]%) to be very strong global players. In addition there are also several other credible competitors both based in the EEA (Austriacard, ST. Incard, ANY, TAG, Evry, Selp, Exceet, Thames and Megacard), and foreign competitors with activities in Europe (CPI, Kona and FutureCard).

62 The Parties consider potential competitors to be (*i*) likely to enter the EEA market in a timely manner and (*ii*) credible enough to exert an effective constraint on the Parties. Some global players, not yet active in Europe but, according to the Parties, are willing to expand into the EEA market, such as Watchdata, a Chinese player, and the Brazilian Valid.

63 In the banking sector, customers generally have sophisticated procurement teams and regularly launch tender processes (for example every two to five years). Larger customers typically implement multi-sourcing strategies, sourcing their EMV cards from more than 2 suppliers.

EEA-wide players, G&D ([5-10]%) and Gemalto ([5-10]%), as well as potential competition from other EEA and non EEA players and (*ii*) powerful customers (Czech banks) implementing multi-sourcing strategies through large calls for tender and having considerable countervailing buyer power. Moreover, the Czech market segment is rather small, with a limited number of customers. Consequently, the market segment shares of the Parties and their competitors may vary significantly from one year to another depending on the results of the tenders frequently organised by local banks. This is corroborated by the variation of the Parties' sales, and subsequently shares, at national level, over the last three years.

(90) In France, where the Parties had a combined share of [60-70]% (Oberthur: [40-50]%; Morpho: [20-30]%) in 2015, the Parties would still face considerable competitive pressure from competitors already present in France, such as Gemalto ([30-40]%) and G&D ([0-5]%), and other potential competitors. The merged entity will also face powerful customers implementing multi-sourcing strategies through large calls for tender and having considerable countervailing buyer power.[64] Furthermore, the high degree of competition at local level is illustrated by the fact that in France prices have been continuously decreasing for more than ten years.

(91) In Hungary, where the Parties had a combined share of [80-90]% in 2015 (Morpho [5-10]%; Oberthur [70-80]%), the Transaction should not raise competition concerns, despite the high market share, because (*i*) Oberthur's high share is explained by the company winnig the tender for the supply banking cards to [Oberthur's Hungarian customer]. Thus, the share may vary significantly from one year to another depending on the results of [Oberthur's Hungarian customer]; (*ii*) the increment is low, Morpho having only a [5-10]% share at national level and currently supplying [Morpho's Hungarian customers][65]; *(iii)* the Parties would face, post-Transaction, several players which are already active in Hungary (namely Austriacard, Gemalto and ANY) and potential competition from other EEA (such as G&D) and non-EEA players; and *(iv)* the Parties would face powerful customers, which are part of large powerful banking groups purchasing payment smart cards centrally at international level, with multi-sourcing strategies, able to easily switch suppliers.

(92) In the Netherlands, the situation is specific, as in contrast to most EEA countries where personalisation is ancillary to the supply of payment smart cards, the Parties provide personalisation on a separate basis. This business generates for either Party [Parties' turnover in 2016]. The main Dutch banks procure personalisation services via a consortium named Werkgroep Card Inkoop ("WCI") under a single and centralised tendering process. Even though the last WCI tender for the supply of personalisation services has been awarded in 2014 to […]. This contract is about to end (in the second semester of 2017).

(93) In Slovenia, the market share of the local leader, Austriacard ([50-60]%), is more than twice as big as the Parties' combined market share of [20-30]% (Oberthur:

64 The French banks' countervailing buyer power is according to the Notifying Party illustrated by (*i*) the purchasing partnerships between Société Générale and La Banque Postale, as well as the reverse auction process conducted by Société Générale in 2016 and (*ii*) [details on the Parties' sales]..

65 Moreover, [Morpho's Hungarian customer], is a local subsidiary of [Morpho's customer] purchasing its EMV cards centrally at EEA level. Consequently, the Parties believe, that the Transaction would have very limited impact on the local Hungarian EMV card market segment.

[10-20]%; Morpho: [10-20]%) and Gemalto also has a significant share ([10-20]%). Moreover, the Slovenian market is rather small, with a limited number of customers.

(94) In Spain, where the merged entity has a combined market share of [30-40]% (Oberthur: [20-30]%; Morpho: [0-5]%), it would face competition from G&D, which has a [30-40]% market share comparable to the Parties', as well as three other players with significant shares, namely Gemalto, TAG and FutureCard.

5.2.3.3. Commission's assessment

Impact at EEA level

(95) The Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market with regard to the possible EEA-wide market of payment smart cards for the following reasons.

(96) First, as shown in Table 2 below, the merged entity would have a combined market share of [30-40]%, with a modest increment of [5-10]%.[66]

Table 2 – Payment Smart Cards – EEA – by volume (units)

Suppilier/Year	2014	2015	2016[67]
Morpho	[5-10]%	[0-5]%	[5-10]%
Oberthur	[30-40]%	[30-40]%	[30-40]%
Combined	**[30-40]%**	**[30-40]%**	**[30-40]%**
Gemalto	[30-40]%	[30-40]%	NA
G&D	[20-30]%	[20-30]%	NA
Austriacard	[5-10]%	[0-5]%	NA
Others	[0-5]%	[0-5]%	NA

Source: Frost & Sullivan (for 2014 and 2015); Parties' estimate (for 2016)

(97) Second, at EEA level, a number of credible competitors will remain active post-Transaction, including two strong global players Gemalto (having a market share comparable to the merged entity's) and G&D, as well a large number of regional players (such as Austriacard, ANY, and Exceet). In addition, new suppliers are likely to enter the market in the near future, such as Valid which in 2015 acquired two companies active in the EEA in the payment smart card business.

66 See updated market share figures provided by the Notifying Party on 21 March 2017 in reply to the Commission's request for information dated 17 March 2017.

67 The Parties estimated their market shares for 2016 on the basis of (i) their actual sales and (ii) the forecasts of various sources for the total value of the market/segment, depending on the source available (namely ABI, Frost & Sullivan, IHS and internal estimates). Market studies for 2016 were not available yet.

(98) Third, the majority of respondents to the market investigation indicated that the Parties are not close competitors to each other.[68] In the EEA, the Parties' activities overlap only in eight out of 31countries, which indicates that Morpho's business in the EEA (in contrast to Oberthur's) is focused on only a few countries.

(99) Fourth, with the exception of one competing market player,[69] none of the respondents to the market investigation raised concerns with respect to a possible EEA-wide market for payment smart cards.[70]

Impact in France

(100) During the market investigation, the competiting market participant G&D[71] and a French banking customer[72] expressed the concern that the Transaction would reduce competition in the market for payment smart cards in France. In particular, they claimed that:

a. The Transaction would reduce the number of CB-certified players from four to three (the merged entity, Gemalto, and G&D), with the first two (Gemalto and the merged entity) holding a share of more than 40% each and having the significant advantage of a local personalisation facility. According to the banking customer, G&D's minimal share does not allow it to pose a sufficient competitive constraint;

b. Very few French clients accept to be supplied from personalisation centers located outside of France; the majority of the market would therefore only be addressable by two big players (the merged entity and Gemalto); and

c. French banks usually dual-source, which could lead to a bank being dependent to only one source for its payment smart cards.

(101) The Commission considers that the Transaction raises serious doubts as to its compatibility with the internal market with regard to the overall market for

68 See responses to questions 31 and 32 of Q2 – Questionnaire to customers of payment smart cards and to questions 68 and 69 of Q1 – Questionnaire to competitors.

69 In particular, according to competing supplier G&D, the Transaction would have detrimental effects on competition at EEA level since: (i) the merged entity, as a result of synergies, would be able to price more aggressively, thus pushing out its competitors from the market, which – in turn – would result in higher prices in the mid- to long-term; (ii) the merged entity would be able to influence new specifications and definition standards, thus obtaining an advantage over its competitors; (iii) the Transaction would lead to a reduction in the R&D investments, which would slow innovation (see non-confidential version of presentation by G&D sent on 27 February 2017). The Commission notes that the concern under (i) appears to be an efficiency offense in the short term and, in the long term, as discussed above, there would be enough competition in the market; and the concerns under (ii) and (iii) are speculative and unsubstantiated, without any evidence in the file pointing towards the possibility that the Transaction would lead to increased ability to influence standardisation bodies or to less innovation.

70 One banking customer raised the concern that the Transaction would give rise to conglomerate concerns by integrating Oberthur's digital and mobile/cloud based payment solutions and Morpho's biometric solutions, thus creating a monopolist as far as complex payment solutions are concerned (see minutes of the conference call on 25 January 2017). The Commission considers that such concern is unsubstantiated as there is no evidence in the file that such complex payment solutions are likely to be developed and introduced in the market in the near future.

71 See non-confidential version of presentation by G&D sent on 27 February 2017.

72 See minutes of conference call with French bank customer on 25 January 2017.

payment smart cards in France as well as the possible markets for personalised and non-personalised payment smart cards in France for the following reasons.

(a) The merged entity's position

(102) Based on the Parties' estimates and data from market research firm Frost & Sullivan, the merged entity would have a market share of [60-70]% in volume in 2015 (Oberthur: [40-50]%; Morpho: [20-30]%),[73] with the second largest competitor, Gemalto, at [30-40]% and G&D having a much smaller share at [0-5]%. On the basis of the market reconstruction's data,[74] G&D appears to be an even smaller and increasingly weaker player in the overall payment smart card market having a share of [Confidential] % in 2014, dropping to [Confidential]% in 2015, and further to [Confidential] % in 2016. Thus, the combined entity would only face one credible competitor (Gemalto) with a significantly smaller position.

(103) Furthermore, the possible market segment of personalised smart cards appears even more concentrated with only the merged entity and Gemalto being active, with shares of [50-60]%[75] and [40-50]% respectively. Thus, on this possible market the Transaction would bring about a reduction of the number of market players from three to two.

(104) As to the sale of non-personalised cards (essentially sold to banks which perform the personalisation in-house), based on the market reconstruction, the merged entity holds a share of [Confidential]% (Morpho: [Confidential]% and Oberthur: [Confidential]%), with Gemalto and G&D having a share of respectively [Confidential] % and [Confidential] %. The Transaction would thus give rise to a player significantly larger than its competitors, reducing the number of market participants from four to three.

(b) Barriers to entry

(105) The barriers to entry on the French market appear very high in light of the requirements imposed by the local domestic scheme, CB, which is a pre-requisite to be able to operate on the French market.[76]

(106) Undergoing the CB certification process is necessary both for the product and the manufacturing facilities (both for manufacturing non-personalised cards and for the provision of personalisation services).

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[73] In 2016, based on Frost & Sullivan data, the combined entity would have market share of [60-70]% (Oberthur: [30-40]% and Morpho: [20-30]%).

[74] The Commission engaged in an exercise of reconstructing market shares for non-personalised cards, personalised cards and stand-alone personalisation services at world-wide, EEA, and Member State-level. The Commission limited its analysis to operators active in several Member States (namely the Parties, Gemalto, and G&D). Given that they are the only suppliers active in France, the Commission is of the view that the market shares calculated provide a good approximation of their relative positions in the market.

[75] Based on the market reconstruction, Morpho and Oberthur have a share of [Confidential]% and [Confidential]%, respectively.

[76] See responses to question 34 of Q2 – Questionnaire to customers of payment smart cards. A French customer points out that without such certification there is "*no chance to access regional market*". See responses to question 60 of Q1 – Questionnaire to competitors. One of the respondents points out that, in France, "*becuase of additional local certifications required that means even more investment*".

(107) CB product certification concerns security and functional requirements. The CB security requirements cover both hardware (chips) and software (operating system and applications) and are based on the Common Criteria for Information Technology Security Evaluation ("Common Criteria"). Every payment smart card product introduced on the market needs to undergo CB evaluation and the CB certification process (for example whenever a new operating system, a new application or a new chip is introduced) and compliance is continuously assessed during the lifetime of the product (once a year).[77]

(108) The CB product certification process generally spans over several months and can last up to 18 months, including the development phase of the specific software.

(109) Also the manufacturing process and sites are subject to specific CB security certification, including card personalisation sites, and compliance is verified by CB through external auditors. There is however no requirement that facilities should be located in France (G&D's personalisation centre in Barcelona and Oberthur's personalisation centre in Milan are both CB certified). Similarly to product certification, also facilities are routinely audited to check compliance with CB standards.

(110) The length of the site certification process appears to be shorter than the one required for the product and, in any event, well below 18 months.

(111) Currenly only four suppliers are fully certified by CB (the Parties, Gemalto, and G&D), and only three have CB-certified personalisation sites in France (the Parties and Gemalto).

(112) In light of the stringent standards to manufacture a CB-certified product (in particular with respect to the software) and the need to continuously monitor compliance, the CB requirements constitute a significant barrier to entry to the French market. In this respect, manufacturers not active in France submit that they "*cannot defend the costs related to Cartes Bancaires certification*".[78]

(c) Importance of a local CB-certified personalisation site

(113) The market investigation provided strong indications that French customers prefer dealing with suppliers which have a personalisation facility in France, since this allows them to meet the stringent times imposed for the delivery of the cards to the card holders. The requirement for a local personalisation center is often included in tender specifications and contracts.[79] The importance of a local presence for personalisation is confirmed by the fact that G&D, a supplier with a CB-certified personalisation center located outside of France, has failed to acquire a sizeable customer base, despite being a manufacturer of payment smart cards with significant operations in several Member States.

(114) The Transaction would therefore reduce the already limited number of suitable competitors from three to two (namely the merged entity and Gemalto), with

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77 As part of the CB's certification process, payment smart card suppliers are requested to also show proof of compliance with EMV standards, which are separately certified by other parties (Visa or MasterCard).

78 Response of TAG System to question 2 of the Market Test Questionnaire.

79 See non-confidential version of presentation by G&D sent on 27 February 2017.

customers experiencing a situation where there would be "*only 1 alternative to the service provider they are working with*".[80]

(d) Customers' multi-sourcing strategy

(115) Customers prefer to rely on more than one supplier for their payment smart card needs for various reasons, in particular to ensure business continuity and reduce operational risk.[81] The Transaction would further reduce the possibility for customers to find a sufficient number of alternative providers, since the number of viable competitors with a personalisation center in France would be reduced to only two (namely the merged entity and Gemalto).[82]

(e) Switching

(116) While a majority of respondents[83] submits that it would in principle be easy to switch between different suppliers of payment smart cards, there are strong indications that (i) switching might take a significant time (six months or more)[84]; and (ii) clients value existing relationships with their suppliers,[85] and these tend to be long-standing. By way of example, the customer base of CPS Technologies SAS (Morpho's subsidiary in France, "CPS") has not significantly evolved over the years [details on CPS's customers][86]. This further reduces the chances that customers might switch suppliers or that, even after having obtained all CB certifications, new entrants could easily acquire new customers and become a competitive threat to the merged entity and Gemalto.

(117) Finally, as to the Notifying Party's argument that prices for payment smart cards have been falling in France for the last ten years, the Commission considers, first, that there is no evidence in the file that suggests that such reduction is due to strong competition in the French market (but it rather seems a general trend) and, second, that – even if that were to be the case – post-Transaction the reduction of the number of players in an already concentrate market might stop or slow down such downward trend.

(118) On this basis, the Commission therefore concludes that the Transaction eliminates an important player in the market for payment smart cards in France as well as in the possible markets for personalised and non-personalised payment smart cards in France, and thus raises serious doubts as to its compatibility with the internal market.

Impact in the Netherlands

(119) During the market investigation, competiting market participant G&D[87] raised the concern that the Transaction would create a monopoly in the provision of

80 See response to question 21 of the Market Test Questionnaire.

81 See responses to questions 6 and 23 of Q2 – Questionnaire to customers of payment smart cards.

82 For this reason customers would lack countervailing buyer power as they would not be able to credibly threat switching to a different supplier or having an alternative one when selecting their supplier.

83 See responses to question 6 of Q2 – Questionnaire to customers of payment smart cards.

84 See responses to question 26.1 of Q2 – Questionnaire to customers of payment smart cards.

85 See responses to question 21 of Q2 – Questionnaire to customers of payment smart cards.

86 See Parties' memorandum dated 23 February 2017, page 4.

87 See non-confidential version of presentation by G&D sent on 27 February 2017.

personalisation services for the major banking customers in the Netherlands (currently supplied only by the Parties), thereby negatively affecting the conditions of competition.

(120) The Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market with regard to the possible Dutch market of payment smart cards for the following reasons.

(121) First, the market is fragmented and Dutch customers generally purchase chips, OS and personalisation services separately. The Parties only overlap in the provision of personalisation services. The main banks in the Netherlands procure personalisation services via a consortium named *Werkgroep Card Inkoop* ("WCI") under a single and centralised tendering process. WCI regularly launches a single tender for the supply of card personalisation services (to all banks that are members of the consortium). The last WCI tender was awarded in 2014 to […] and will shortly expire, namely in the second half of 2017.[…].[88]

(122) However, the current contract was allocated to […] through a competitive tender where several players participated ([…]).[89] In light of the competitive nature of the tender, market shares are not necessarily a reliable indication of market power.

(123) Moreover, given the upcoming WCI tender […][90].

(124) In any event, the members of the consortium are not obliged to source personalisation services from the suppliers selected through the tender and have some flexibility in choosing among the selected suppliers. Indeed, there are no guaranteed volumes of personalisation services being tendered; and the tender only concerns personalisation services for debit cards (around 70% of the overall payment smart card market), not credit cards.

(125) Second, there are no specific entry barriers to the Dutch market as there is no domestic card scheme and no strict requirement for national presence. The Parties personalise payment smart cards for Dutch customers in the Netherlands, however, customers have indicated that national presence is not strictly required as long as timely delivery can be guaranteed.[91] Given the fact that personalisation is procured separately from the chip and OS, there is no need to be a vertically integrated player to enter the Dutch market, thereby making entry easier, and competitive pressure can also be exerted by personalisation service providers. Multi-Post is one such provider that is currently in the process of becoming MasterCard and VISA certified and would therefore qualify for the provision of

88 In 2016, the Dutch personalisation business generated for the Parties a limited combined turnover of EUR [Details on Parties' turnover and Dutch sales]..

89 See non-confidential minutes of call with de Volksbank N.V. of 24 March 2017.

90 See response by the Notifying Party to the Commission's request for information dated 17 March 2017.

91 See non-confidential minutes of call with ABN AMRO of 23 March 2017 and with de Volksbank N.V. of 24 March 2017.

personalisation services to bank customers in the Netherlands and, in combination with Future Card, is expected to participate to the upcoming WCI tender.[92]

(126) Third, Gemalto and G&D are already active in the provision of non-personalised payment smart cards to Dutch customers and, in case of price increases post-Transaction, could leverage on these existing customer relationships to start providing personalisation services as well.

(127) Fourth, none of the customers responding to the market investigation raised concerns in relation to this national market. Two important Dutch customers indicated that post-Transaction a sufficient number of competitors will remain in the market.[93] The impact of the Transaction on the overall market for payment smart cards as well as on their company was deemed to be either neutral or positive by all Dutch payment card customers responding to the market investigation.

Impact in the Czech Republic

(128) Based on the Parties' estimates and data from market research firm Frost & Sullivan, the merged entity would have a market share of [40-50]% in volume in 2015 (Oberthur: [20-30]%; Morpho: [20-30]%) in the Czech Republic.

(129) The Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market with regard to the possible Czech market of payment smart cards for the following reasons.

(130) First, several strong competitors will continue to constrain the merged entity post-Transaction, in particular Austriacard ([30-40]%), Gemalto ([5-10]%) and G&D ([5-10]%).

(131) Second, there are no specific entry barriers to the Czech market as there is no domestic card scheme and no need for national presence. The main player, Austriacard, has personalisation sites in, among other countries, Austria and Poland but not in the Czech Republic.

(132) Third, none of the respondents to the market investigation raised concerns in relation to this national market.

Impact in Hungary

(133) The Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market with regard to the possible Hungarian market of payment smart cards for the following reasons.

(134) First, based on the Parties' estimates and data from market research firm Frost & Sullivan, the merged entity would have a market share of [80-90]% in volume in 2015, however, the increment brought by the Transaction would be limited (Oberthur: [70-80]%; Morpho: [5-10]%).

92 See non-confidential minutes of call with ABN AMRO of 23 March 2017 and with de Volksbank N.V. of 24 March 2017.

93 See non-confidential minutes of call with ABN AMRO of 23 March 2017 and with de Volksbank B.V. of 24 March 2017.

(135) Based on 2016 market share data submitted by the Notifying Party, the increment brought by the Transaction would be only [5-10]%,[94] representing a limited value of EUR[turnover].[95]

(136) Oberthur has a handful of payment smart card customers in Hungary, the most important of which is [Hungarian bank], which represents a significant portion of Oberthur's sales in Hungary [Details on Oberthur's main Hungarian customer]. The outcome of the tenders organised by [Hungarian bank] have therefore a very significant impact on the market shares and how they develop year-on-year.

(137) As can be seen in Table 3 below, the Parties' market shares have varied significantly from one year to another:

Table 3 – Payment Smart Cards – Hungary – by volume (units)

Suppilier/Year	2013	2014	2015	2016[96]
Morpho	[0-5]%	[5-10]%	[5-10]%	[5-10]%
Oberthur	[60-70]%	[80-90]%	[70-80]%	[70-80]%
Combined	**[60-70]%**	**[80-90]%**	**[80-90]%**	**[80-90]%**

Source: Parties' internal estimate.

(138) Morpho's payment smart card business in Hungary is limited to [Details on Morpho's customers].[97]

(139) <u>Second</u>, several competitors will continue to constrain the merged entity post-Transaction, in particular Austriacard ([5-10]%), Gemalto ([5-10]%)[98] and ANY ([0-5]%), Austriacard being one of the leading players in the region and Gemalto the market leader in the EEA overall.

(140) <u>Third</u>, there are no specific entry barriers to the Hungarian market as there is no domestic card scheme and no need for national presence.[99] The Parties and their

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94 The overlap relates exclusively to Morpho's turnover with two subsidiaries of [Morpho's customers]. These contracts are included in the commitments offered by the Notifying Party. Consequently, there will not be an overlap in Hungary as a result of the Transaction as modified by the Final Commitments.

95 See "Presentation of the Central European payment smart card activities" submitted by the Notifying Party on 23 March 2017.

96 The Parties estimated their market shares for 2016 on the basis of (i) their actual sales and (ii) the forecasts of various sources for the total value of the market/segment, depending on the source available (namely ABI, Frost & Sullivan, IHS and internal estimates). Market studies for 2016 were not available yet.

97 See "Presentation of the Central European payment smart card activities" submitted by the Notifying Party on 23 March 2017; see non-confidential minutes of call with [Morpho's customer] of 24 January 2017.

98 Gemalto has also secured a contract with OTP Bank; see OTP Bank's response to question 4 of Q2 – Questionnaire to customers of payment smart cards.

99 [Oberthur's customer] (the largest customer on the Hungarian market and customer of Oberthur) considers that local presence is very unimportant in selecting a supplier of payment smart cards and the bank personalises its payment smart cards either in-house or through third party service providers (including Oberthur), while [Morpho's customer] (the largest customer of Morpho in Hungary) considers that personalisation does not need to occur inside the country but it is sufficient if it occurs

competitors personalise cards for Hungarian customers in Poland, the Czech Republic and Croatia.

(141) Fourth, none of the respondents to the market investigation raised concerns in relation to this national market. [100]

Impact in Slovenia

(142) The Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market with regard to the possible Slovenian market of payment smart cards for the following reasons.

(143) First, based on the Parties' estimates and data from market research firm Frost & Sullivan, the merged entity would have a limited market share of [20-30]% in volume in 2015 (Oberthur: [10-20]%; Morpho: [10-20]%).

(144) Second, several strong competitors will continue to constrain the merged entity post-Transaction, in particular Austriacard ([50-60]%) and Gemalto ([10-20]%).

(145) Third, there are no specific entry barriers to the Slovenian market as there is no domestic scheme and no need for national presence. The Parties personalise cards for Slovenian customers […].

(146) Fourth, none of the respondents to the market investigation raised concerns in relation to this national market.

Impact in Spain

(147) The Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market with regard to the possible Spanish market of payment smart cards for the following reasons.

(148) First, based on the Parties' estimates and data from market research firm Frost & Sullivan, the merged entity would have a limited market share of [30-40]% in volume in 2015 (Oberthur: [20-30]%; Morpho: [0-5]%) and the increment brought by the Transaction would be very limited. In 2016, Morpho sold [sales volume] payment smart cards in Spain.

(149) Second, several strong competitors will continue to constrain the merged entity post-Transaction, namely G&D ([30-40]%), Gemalto ([10-20]%), TAG ([10-20]%) and FutureCard ([5-10]%).

(150) Third, there are no specific entry barriers to the Spanish market as there is no domestic scheme and no need for national presence. [Details on the Parties' internal sourcing of personalisation services].

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in the "region", that is in the neighbouring countries; see response by [Oberthur's customer] to questions 8 and 21 of Q2 – Questionnaire to customers of payment smart cards; see non-confidential minutes of call with [Morpho's customer] of 24 January 2017.

[100] Including [Hungarian customers]; see [Hungarian customer] responses to questions 41 and 42 of Q2 – Questionnaire to customers of payment smart cards; see non-confidential minutes of call with [Hungarian customer]of 24 January 2017.

(151) Fourth, none of the respondents to the market investigation raised concerns in relation to this national market.

5.2.4. ID smart cards

5.2.4.1. Introduction

(152) On the basis of the market share data provided by the Notifying Party[101], the Transaction gives rise to a potential affected market for overall ID smart cards at EEA level, where the Parties' combined market share (by volume) in 2015 amounted to [20-30]% (Morpho: [10-20]%; Oberthur: [5-10]%).[102][103]

(153) When segmenting the EEA-wide market by type of ID smart card, affected markets would arise with regard to (*i*) e-passports where the Parties' combined market share in 2015 was [20-30]% (Morpho: [10-20]%; Oberthur [5-10]%)[104]; and (ii) e-health cards where the combined market share in 2015 was [20-30]% (Morpho: [10-20]%; Oberthur [10-20]%).[105] [106]

(154) As explained in paragraph (50), there are indications that rather than EEA–wide, the markets for ID smart cards would be national in scope. At national level, the Parties' activities in ID smart cards do not overlap.[107] Irrespective, the Parties appear to compete against each other in tenders in various EEA countries. The ID smart card market shows the characteristics of a bidding market with a 'winner-takes-all' outcome in most tenders. It results that the absence of turnover by a particular supplier in a particular country does not preclude it from exercising competitive pressure on the incumbent at the moment of the next tender.

(155) The competitive landscape and the procurement of various types of ID smart cards do not seem to differ significantly in the various national markets open to competition, namely countries in which a national printer does not hold a legal monopoly for the issuance of ID smart cards.[108] Consequently, the competitive

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101 The market share figures include both ID smart card finished products as well as ID smart card components.

102 Source: Frost & Sullivan.

103 Therefore, the presumption of absence of competition problems pursuant to paragraph 18 of the Horizontal Merger Guidelines would apply.

104 Source: Frost & Sullivan / Internal estimate by Notifying Party; According to IHS figures the combined market share would be [10-20]% (Morpho: [10-20]%; Oberthur: [5-10]%).

105 This is a conservative internal estimate by the Parties. According to the Notifying Party, and in view of their knowledge of their actual sales [Details on the Parties' geographic footprint] market share figures which rely on data from Frost & Sullivan and IHS underestimate the size of the market in the EEA, and overestimate the Parties' market shares, namely the combined share of [50-60]% (Morpho: [20-30]%; Oberthur: [20-30]%) based on figures from Frost & Sullivan, and [40-50]% (Morpho: [20-30]%; Oberthur: [20-30]%) based on figures by IHS.

106 For e-driving licenses, the Parties' combined market share in 2015 at EEA-level was [20-30]% (Morpho: [0-5]%; Oberthur [20-30]%) according to Frost & Sullivan and [30-40]% (Morpho: [0-5]%; Oberthur [30-40]%) according to HIS..However, the increment is [0-5]% and [Details on Oberthur's sales].

107 [Details on Parties' sales at national level]

108 See responses to question 19.1 of Q4 – Questionnaire to customers of ID smart cards; see responses to questions 23.1 and 26 of Q1 – Questionnaire to competitors.

assessment will be done for ID smart cards as a whole, at EEA level, in the absence of overlaps at national level.[109]

5.2.4.2. Notifying Party's view

(156) The Notifying Party submits that the Transaction will not give rise to competition concerns irrespective of the exact market definition, neither at global, EEA nor at national level.

(157) As a preliminary argument, the Notifying Party contends that the ID sector shows all the characteristics of a bidding market where the number of credible competitors is more relevant than market shares to assess market power. It is explained that (*i*) the increment brought about by the Transaction is limited ([5-10]%); (*ii*) there are a number of credible competitors left on the market post Transaction, including Gemalto, the market leader with the largest and growing market share ([40-50]%)[110] and G&D, but also other international and regional/national players, as well as niche market players especially for

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[109] A number of EEA countries have a state-owned national printing house with a legal monopoly for the issuing of governmental ID smart cards. Such a legal monopoly exists in France, Germany, Spain, Portugal, Poland, Croatia, the Czech Republic, Bulgaria, and Slovenia. There, depending on the scope of the monopoly, the market open to competition is limited to ID smart card components. On a hypothetical market for ID smart card components, on the basis of market share data provided by the Notifying Party, the Transaction gives rise to a potentially affected market only at national level in France, where the Parties' estimate for combined market share (by volume) in 2016 amounted to [40-50]%, with Gemalto holding the remaining [50-60]%. As a bidding market, the high market share figures are, however, unlikely to give a reliable indication of market power. The French market is limited to one customer, namely Imprimerie Nationale, with a legal monopoly to issue governmental ID documents (including e-passports, e-ID cards, and e-driving licenses) (see French Statute No 93-1419 of 31 December 1993 concerning the Imprimerie Nationale). Imprimerie Nationale sources ID smart card components, in particular modules and inlays, and has three suppliers, namely the Parties and Gemalto.

The Transaction will not raise serious doubts as regards its compatibility with the internal market in relation to the hypothetical market for ID smart card components in France considering that (i) a number of competitors will remain on the market post-Transaction; (ii) switching suppliers remains possible; and (iii) the single customer holds considerable buyer power. The Transaction will remove one of the three suppliers; while contracts have been re-tendered regularly, both Parties have repeatedly been awarded a (varying) share of the volumes souced by Imprimerie Nationale. Other component suppliers will, however, continue to place a competitive constraint on the merged entity post-Transaction, including vertically integrated players such as Gemalto and G&D, but also chip manufacturers and third party operating system providers. Although Imprimerie Nationale has relied for years on the Parties for the supply of components, Imprimerie Nationale has simultaneously increased its in-house supply of components (inlays) through its acquisition in 2014 of the company *Smart Packaging Solutions* (SPS) (see http://www.fonds-fcde.fr/upload/Cession_SPS_GB_version.pdf); [Details on Morpho's sales] Switching suppliers remains possible, and Imprimerie Nationale is able and willing to do so, as shown by its practice to annually re-tender/re-assess the supply of components and, on that basis, to redistribure the volumes sourced between its suppliers. As a way to hold on to its multi-sourcing strategy, Imprimerie Nationale has indicated its readiness to consider opening up its tenders to new suppliers, for example integrated players such as G&D, or to source smart card chips and operating systems separately from chip makers (for example NXP, STMicroelectronics, Infineon) and third party OS developers. As the only customer, Imprimerie Nationale holds significant buyer power. It remains free to, for example, define its sourcing strategy and its tender requirements. In the market investigation, Imprimerie Nationale has indicated a neutral stance to the Transaction. (See non-confidential minutes of call with Imprimerie Nationale of 2 February 2017; see bidding data submitted by the Parties).

[110] The Notifying Party argues that according to forecasts for 2017 by Frost & Sullivan, the share of Gemalto will increase by [0-5] percentage points, while the combined share of the merged entity will [evolution of the merged entity's share]..

components of e-ID cards[111]; (*iii*) suppliers will continue to face powerful customers with considerable buyer power[112]; (*iv*) some customers (for example *SOGEI* in Italy for Italian e-health cards) employ multi-sourcing strategies to allow for additional price competition between suppliers; (*v*) the switching costs are low relative to the contract value for customers; and finally (*vi*) the Parties are not the closest of competitors[113].

(158) With regard to the e-health card segment, the Notifying Party considers that the Transaction would not raise competition concerns at EEA level considering that (*i*) the market is a bidding market where market shares are not a meaningful measure for market power; (*ii*) there are a number of credible competitors left on the market post Transaction; (iii) no barriers to entry exist between the various types of ID smart cards; and (iv) customers are powerful with considerable countervailing buyer power, thus limiting suppliers' ability and incentive to raise prices.

5.2.4.3. Commission's assessment

(159) For the reasons set out below, the Transaction does not raise serious doubts as to its compatibility with the internal market with respect to ID smart cards, regardless of whether markets are EEA-wide or national, and irrespective of any possible segmentation based on ID smart card type.

(160) At EEA level, (*i*) the addition of market share is limited and a number of strong competitors will remain in the market; (*ii*) the Parties are not close competitors; (*iii*) it remains possible for customers to switch suppliers; (*iv*) the Transaction does not eliminate an important competitive force; and (*v*) customers hold considerable buyer power.

(161) First, the addition of market share brought by the Transaction is limited and a number of strong competitors will remain in the market post-Transaction.

(162) Considering the bidding and winner-take-all character of the market (with often a single governmental customer accounting for the totality of demand of a specific type of ID smart card), market share figures, especially at national level, are unlikely to give reliable indications as to how competition will unfold when a new tender comes up. Winning a particular tender may give a supplier 100%

111 The Notifying Party explains that these niche players compete by supplying chips, operating systems, inlays/antennas, paper printing services, document manufacturing, and/or personalisation services. In addition, a number of players compete with the Parties by integrating partners vertically to compete for turnkey projects, acting as prime contractors and managing the projects. In total, the Notifying Party claims that 25 different operators have recently won one or more tenders (for one or more types of ID smart cards) for the supply of ID smart cards/documents in the EEA.

112 The Notifying Party argues that at national level there are usually very few governmental entities purchasing ID smart cards or components of ID smart cards, and in many countries these are national printing houses with a legal monopoly to issue ID smart cards/documents.

113 The Notifying Party argues that in the ID sector, the Parties differ from each other in particular in terms of integration; while Oberthur is mainly a smart card oriented player with a focus on manufacturing and issuing e-ID documents, Morpho provides a range of solutions covering the entire process of setting up and maintaining an identity system from design to implementation, not only supplying ID smart cards, but also equipment (for example biometric hardware, data storage infrastructure) and services (for example equipment maintenance and management of citizen enrolment processes).

market share for the duration of the contract, but that share may fall to zero in the following tender for the subsequent contract period.

(163) Market share figures at EEA level reveal, however, the existence of a number of successful players active in the EEA market for ID smart cards. The Parties' and their competitors' market share figures are set out in Table 4 and Table 5 below[114]. Based on 2015 figures by Frost & Sullivan, the Parties will have a limited combined market share of [20-30]% post-Transaction (Oberthur: [5-10]%; Morpho: [10-20]%). Gemalto will remain the market leader with [40-50]% market share and G&D will have [10-20]% market share.

Table 4 – ID smart cards – EEA – by volume (units)

Suppilier/Year	2013	2014	2015
Morpho	[20-30]%	[20-30]%	[10-20]%
Oberthur	[5-10]%	[5-10]%	[5-10]%
Combined	**[20-30]%**	**[30-40]%**	**[20-30]%**
Gemalto	[40-50]%	[40-50]%	[40-50]%
G&D	[10-20]%	[10-20]%	[10-20]%
Delarue	[0-5]%	[0-5]%	[0-5]%
PWPW	[0-5]%	[0-5]%	[0-5]%
Others[115]	[10-20]%	[10-20]%	[5-10]%

Source: Frost & Sullivan

(164) The Notifying Party considers that the figures by Frost & Sullivan in paragraph (163) underestimate the market share of the smaller players and provides, hence, its own estimates for market shares:

114 The market share figures include both ID smart card finished products as well as ID smart card components. The Notifying Party estimates, based on figures from Frost & Sullivan on the total number of ID smart card units (namely 89.8 million) shipped throughout the EEA in 2016, that approximately 30% (namely 27 million units) were ID smart card components.

115 The Notifying Party argues that the share of 'others' is likely to be underestimated in view of the large number of smaller players for which it is difficult to have exhaustive data.

Table 5 – ID smart cards – EEA – by volume (units)

Suppilier/Year	2015
Morpho	[10-20]%
Oberthur	[5-10]%
Combined	**[20-30]%**
Gemalto	[20-30]%
G&D	[20-30]%
Delarue	[5-10]%
HID	[5-10]%
Others	[10-20]%

Source: internal estimate by the Notifying Party

(165) Of the Parties to the Transaction, Morpho is the stronger player in the ID smart card market with an EEA market share of [10-20]% in 2015 (down from [20-30]% in 2013 and [20-30]% in 2014); Oberthur holds a market share of [5-10]% (stable between [5-10]% in the period 2013-2015). Based on 2015 figures the combined market share of the Parties would fall, at EEA level, under the 25% presumption threshold in point 18 of the Horizontal Merger Guidelines. Market shares would also be below, or close to the 25% threshold, if a segmentation based on ID smart card type is made. For ID smart cards as a whole, the increment from the Transaction would be limited (plus [5-10]%), with the merged entity remaining number two on the market (with [20-30]% market share), behind Gemalto (market leader with a share of [40-50]%) and ahead of G&D (third largest on the market with a share of [10-20]%).

(166) A number of strong competitors will also remain in the market post-Transaction. In addition to the global players Gemalto and G&D (through Veridos, a joint venture with Bundesdruckerei, the German national printing house) which, similarly to the merged entity, have capabilities to offer a full turnkey solution to customers, there are smaller market players that will continue to place a competitive constraint on the merged entity post-Transaction. Such smaller players at regional or national level include companies such as *Delarue* which currently supplies e-passports in the UK and Malta[116], DLRS Group (an integrator) together with HID Global[117] that supply e-passports in Ireland, Austriacard that supplies e-health cards and other types of ID smart cards/documents in Austria and the UK[118], Selp[119], EVRY[120], (former) national

[116] See http://www.delarue.com/markets-and-solutions/citizen-identity/international-identity-and-border-control.

[117] See https://www.hidglobal.com/press-releases/ireland-rolls-out-newly-designed-secure-electronic-passport, 22.10.2013; see response by HID Global to questions 1 and 2 of Q1 – Questionnaire to competitors.

[118] See non-confidential minutes with Austriacard dated 19 January 2017; Austriacard's response to question 2 of Q1 – Questionnaire to competitors.

[119] See response by Selp to question 2 of Q1 – Questionnaire to competitors.

printing houses participating in tenders outside their home country, for example *Imprimerie Nationale*, *PWPW* of Poland, *OeSD* of Austria, and former national printers competing for contracts in their home countries (for example *OeSD* in Austria).[121]

(167) The market investigation confirms that a majority of responding competitors consider themselves able to win tenders/contracts and supply customers equally in all countries in the EEA, with the exception of countries where a state-owned national printing house has a legal monopoly to issue ID smart cards/documents (for example *Imprimerie Nationale* in France, *Bundesdruckerei* in Germany) or *de facto* still dominate the market (for example *OeSD* in Austria).[122] The market investigation also suggests that neither transport time or transport costs are perceived by competitors to limit their ability to supply ID smart cards/documents across the EEA.[123]

(168) A competitor has put forward concerns that the Transaction will allow the creation of a second dominant company on the market (in addition to Gemalto), and result in increased entry barriers for smaller/weaker players, the ability of the merged entity to initially push prices down in an aggressive bid to secure long-term supply contracts for ID smart cards with governmental customers, with the effect of pushing smaller/weaker players out of the market, and thus limiting competition and raising prices in the medium-to-long term.[124]

(169) A majority of customers responding to the market investigation, however, consider that there will be a sufficient number of suppliers left on the market post-Transaction[125], prices will remain the same[126], and the intensity of competition will remain the same or increase post-Transaction[127]. Likewise, a majority of responding competitors expect that prices will either remain the same or decrease post-Transaction, and only a minority foresee a change to the intentity of competition on the market.[128]

(170) Second, the Parties are not close competitors. The market shares presented in Tables 4 and 5 reflect the divergent profiles of the two smart card suppliers, with Morpho being a stronger player in the ID smart card market than Oberthur.

(171) The results of the market investigation confirm that Morpho and Oberthur are not close competitors. Respondents to the market investigation consider most frequently Gemalto as the closest competitor, with a majority of customer respondents not listing Oberthur as one of Morpho's closest competitors. As a

120 See response by EVRY to question 2 of Q1 – Questionnaire to competitors.

121 See non-confidential minutes of call with Gemalto of 31 January 2017; see non-confidential call with G&D of 25 January 2017; see response by OeSD to questions 1, 2, 24 of Q1 – Questionnaire to competitors; see announcement of) april 2016 concerning OeSD winning the contract for the supply of EU laissez-passer travel documents: https://www.staatsdruckerei.at/en/news-en/oesd-is-general-contractor-for-eu-laissez-passer-for-9-years/.

122 See responses to question 24 of Q1- Questionnaire to competitors.

123 See responses to questions 25 and 26 of Q1 – Questionnaire to competitors.

124 See non-confidential version of presentation sent by G&D/Veridos on 27 February 2017.

125 See responses to questions 20 and 30 of Q4 – Questionnaire to customers of ID smart cards.

126 See responses to question 41 of Q4 – Questionnaire to customers of ID smart cards.

127 See responses to question 42 of Q4 – Questionnaire to customers of ID smart cards.

128 See responses to questions 76 and 77 of Q1 – Questionnaire to competitors.

general rule, market participants tend to consider Morpho as a closer competitor to Oberthur than the other way around.[129]

(172) The bidding data submitted by the Notifying Party, despite its shortcomings in quality and completeness[130], seems to confirm that the Parties are not each others' closest competitors, with the exception of the Parties home country of France. The bidding data also suggests a somewhat different geographic and product focus between the Parties.[131] Of the […] tenders covered by the bidding data[132], the Parties both participated in only […] tenders.[133] Morpho participated in another […] tenders in which Oberthur did not participate, whereas Oberthur participated in […] tenders to which Morpho did not participate. Of the […] tenders in which both Parties participated, […] tenders (out of which […] tenders for finished ID smart card products) were in France […].[134] Of the […] tenders in which both Parties participated, Morpho won in […] instances[135], Oberthur won in […] instances[136], and both Parties were awarded contracts in […] instances[137].

(173) Given the different profiles of the two Parties, the perceptions of other market participants and the analysis of the bidding data, the Commission considers that the Parties are not close competitors on the market for ID smart cards overall.

(174) <u>Third</u>, it remains possible for customers to switch suppliers. Customers responding to the market investigation generally do not consider it easy to switch ID smart card supplier although there do not appear to be barriers that would prevent switching from taking place. Examples of switching include the 2015 tender for e-passports/e-ID cards in Finland, where the incumbent supplier for e-passports, namely a joint venture between the Parties, lost to Gemalto. Similarly, in 2009, Delarue won the 10-year contract for the supply of e-passports in the UK beating the incumbent supplier *3M*.[138] Despite the difficulties perceived by customers in switching suppliers, EU public procurement rules are often the basis of tenders, thus ensuring a level playing field for suppliers and the possibility (and obligation) to switch depending on the outcome of that tendering process.[139]

(175) <u>Fourth</u>, the Transaction does not eliminate an important competitive force. Customers responding to the market investigation generally consider Oberthur as less aggressive and innovative than Morpho on the market for ID smart cards. None of the respondents considered Oberthur as particularly aggressive as a competitor in terms of for example price and other commercial conditions, and

[129] See responses to questions 70 and 71 of Q1 – Questionnaire to competitors; see responses to questions 33 and 34 of Q4 – Questionnaire to customers of ID smart cards; see non-confidential minutes of call with G&D of 25 January 2017.

[130] [Details on the Parties' internal datasets]

[131] [Details on the Parties' internal datasets].

[132] The bidding data covers both tenders for finished products and tenders for ID smart card components.

[133] [Details on the Parties' bids].

[134] [Details on the Parties' bids]

[135] [Details on the Parties' bids].

[136] [Details on the Parties' bids].

[137] [Details on the Parties' bids].

[138] See responses to questions 28, 29 and 40 of Q4 – Questionnaire to customers of ID smart cards.

[139] See responses to question 28 of Q4 – Questionnaire to customers of ID smart cards.

one respondent indicated that Oberthur had not been very active in the ID smart card field in the recent past.[140]

(176) Fifth, customers of ID smart cards hold considerable buyer power. They are governments or other public bodies and the practice to tender and award high value contracts with long duration to single suppliers places significant countervailing buyer power in their hands and limits the ability and incentive of suppliers to raise prices.[141] An example of such buyer power and downward pressure on prices are how tender requirements are defined, for example in the most recent (2015) tender for e-passports and e-ID cards in Finland, a minimum quality criteria existed alongside a list of additional features which, if offered by the tender participant without an increase in price, would result in extra evaluation points.[142]

(177) Furthermore, and apart from international standards that for example exist for e-passports (in particular ICAO Doc 9303 – *Machine Readable Travel Documents*) and must be followed, customers of ID smart cards are able to tailor technical tender requirements with a significant degree of freedom for ID smart cards/documents[143], thus strengthening their buyer power.

(178) Finally, most respondents to the market investigation are neutral (or positive) when asked about the impact of the Transaction on their organisation/company.[144]

(179) For all these reasons, the Commission takes the view that the Transaction does not raise serious doubts as regards its compatibility with the internal market in relation to the ID smart card market, regardless of any possible segmentation.

5.3. Vertical non-coordinated effects: foreclosure

5.3.1. Introduction

(180) The Transaction gives rise to vertically affected markets between the plausible EEA-wide payment smart card market (upstream, where Morpho and Oberthur are active) and certain national card issuing markets (downstream, where ICBPI and Addiko Bank are active in Italy, Croatia and Slovenia).[145]

(181) Upstream, on the EEA-wide market for payment smart cards, Morpho and Oberthur have a combined market share of [30-40]% (see Table 2 above).

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140 See responses to questions 36-39 of Q4 – Questionnaire to customers of ID smart cards.

141 See responses to questions 45.1, 46 of Q1 – Questionnaire to competitors; see responses to questions 4 and 6 of Q4 – Questionnaire to customers of ID smart cards.

142 See non-confidential minutes of call with the Finnish National Police Board of 24 January 2017.

143 See responses to question 23 of Q1 – Questionnaire to competititors; see G&D/Veridos' reply to question 10.1 of Q1 – Questionnaire to competitors.

144 See responses to question 40 of Q4 – Questionnaire to customers of ID smart cards; see responses to question 78 of Q1 – Questionnaire to competitors.

145 In the event that Croatia, Slovenia and/or Italy were assumed to constitute distinct national markets for the upstream supply of payment smart cards, a question that for the purpose of this decision can be left open, no vertically affected markets would arise since the Parties would not hold a combined market share above 30% in any of those markets.

(182) Downstream, on the overall market for card issuing, ICBPI has a market share of [10-20]% in Italy and Addiko Bank has a market share of [0-5]% in Croatia and [0-5]% in Slovenia (2015 figures based on Parties' estimates).

(183) The Commission assessed whether, post-Transaction, the merged entity would have the ability and incentive to *(i)* engage in input foreclosure through a deterioration of the conditions of supply of payment smart cards to ICBPI's and Addiko Bank's downstream competitors in the card issuing market and/or *(ii)* engage in customer foreclosure by restricting the access to a sufficient customer base in the (downstream) card issuing market to Mopho's competitors' in the (upstream) payment smart card market.

5.3.2. Input foreclosure

5.3.2.1. Notifying Party's view

(184) The Notifying Party submits that the merged entity would not have the ability or the incentive to engage in input foreclosure either with respect to the vertical link to ICBPI (Italy) or with respect to the vertical link to Addiko Bank (Croatia and Slovenia).

(185) With respect to the potential vertical relationship with ICBPI, the Notifying Party submits that post-Transaction the merged entity will not have the ability or incentive to engage in input foreclosure given that (*i*) it will face other significant suppliers in the upstream EEA-wide market for payment smart cards (including notably Gemalto, G&D and ST Incard), which could all supply ICBPI's competitors on the downstream Italian card issuing markets, and (*ii*) customers purchasing smart cards are powerful customers, able to easily switch suppliers and which can typically engage in multi-sourcing, with no exclusive or long-term contracts.

(186) As regards the vertical relationship with Addiko Bank, the Notifying Party submits that post-Transaction the merged entity will not have the ability or incentive to engage in input foreclosure due to the fact that the merged entity will not enjoy significant market power in the upstream market of payment smart cards.

5.3.2.2. Commission's assessment

(187) The merged entity would only have the ability to foreclose downstream competitors if, by reducing access to is own upstream producs or sevices, it could negatively affect the overall availability of inputs for the downstream market in terms of price or quality. This may be the case where the remaining upstream suppliers are less efficient, offer less preferred alternatives, or lack the ability to expand output in response to the supply restriction, for example because they face capacity contstraint or, more generally, face decreasing returns to scale.

(188) On the upstream EEA-wide market for payment smart cards, as discussed in Section 5.2.3.3, the merged entity would have a combined market share of [30-40]%, with a modest increment of [5-10]% based on 2016 data and faces competition from other significant suppliers (in particular, Gemalto, G&D, Austriacard and ST Incard) that could all supply ICBPI's and Addiko's

competitors on the downstream markets; therefore, any attempt of the merged entity to engage in an input foreclosure strategy would be unprofitable.

(189) Importantly, the vertical links between the Notifying Party's activities in the upstream EEA market of manufacture and supply of payment smart cards and the downstream markets of card issuing in Italy, Croatia and Slovenia were first created in 2015 when Advent International acquired control of ICBPI[146] and Addiko Bank.[147] The Notifying Party's ability and incentives to engage in input foreclosure were assessed and dismissed in both cases. The increment in the Notifying Party's market power in the upstream EEA market of manufacture and supply of payment smart cards brought about by the current Transaction is just [5-10]% based on 2016 data and is not likely to materially change the Commission's recent assessment.

(190) As a result, it is unlikely that the merged entity would have the ability or the incentive to engage in an input foreclosure strategy.

5.3.3. Customer foreclosure

5.3.3.1. Notifying Party's view

(191) The Notifying Party submits that post-Transaction the merged entity will not have the abiliy or incentive to engage in customer foreclosure in Italy since (*i*) ICBPI has a limited market share in Italy ([10-20]% by volume and [20-30]% by value) and as such it is not an important customer of payment smart cards in Italy, (*ii*) upstream payment smart card suppliers compete in markets that are wider than national but can also sell their products in card markets other than the payment card market, and (*iii*) Italy represents only a small portion of payment smart card sales in the relevant market, which is at least EEA-wide.

(192) Similarly, the Notifying Party submits that post-Transaction the merged entity will not have the ability or incentive to engage in customer foreclosure in Croatia and/or Slovenia since Addiko Bank has very low market shares in Croatia ([0-5]%) and Slovenia ([0-5]%) and as such it is not an important customer of payment smart cards in these two countries.

(193) Last, the Notifying Party highlights the fact that Addiko Bank is already exclusively controlled by Advent International which means that the Notifying Party is vertically integrated already prior to the Transaction.

5.3.3.2. Commission's assessment

(194) When considering whether the merged entity would have the ability to foreclose access to downstream markets, the Commission examines whether there are sufficient economic alternatives in the downstream market for the upstream rivals (actual or potential) to sell their output. For customer foreclosure to be a concern, it must be the case that the vertical merger involves a company which is an important customer with a significant degree of market power in the downstream market. If, on the contrary, there is a sufficient large customer base, at present or

146 See Commission's decision of 16 September 2015 in case M.7711 – *Advent International/Bain Capital/ICBPI*.

147 See Commission's decision of 28 May 2015 in case M.7551 – *Advent/Hypo Group Alpe Adria AG*).

in the future, that is likely to turn to independent suppliers, the Commission is unlikely to raise competition concerns on that ground.[148]

(195) In the present case the Commission notes that the Transaction does not involve the acquisition of any downstream market participants but rather the Notifying Party was already vertically integrated prior to the Transaction. The acquisition of Morpho would, post-Transaction, expand the presence of the Notifying Party in the upstream market but would not affect its presence in the downstream market. Under these circumstances it is unlikely that, post-Transaction, the ability and incentive of the merged entity to engage in customer foreclosure would be materially different from the Notifying Party's ability and incentives today.

(196) In any event, even if ICBPI in Italy and Addiko Bank in Slovenia and/or Croatia were to purchase from the merged entity their entire demand of payment cards, upstream competitors would still have access to all downstream competitors of these banks in the respective country as well as to payment smart cards customers in the rest of the EEA and therefore to a sufficient customer base.

(197) More specifically, in Croatia, Addiko Bank's competitors represent [90-100]% of the Croatian card issuing market that will still be open to upstream competitors of the merged entity and Addiko Bank's competitors in Slovenia represent [90-100]% of the Slovenian card issuing market that will remain open to upstream competitors of the merged entity.

(198) In Italy, ICBPI's market position is only [20-30]% of the value of the Italian card issuing market. Therefore, [70-80]% of the Italian card issuing market will remain open to upstream competitors post-Transaction.

(199) As a result, it is unlikely that the merged entity would have the ability or the incentive to engage in a customer foreclosure strategy.

5.3.4. Conclusion

(200) In light of the above, the Commission concludes that the Transaction does not give rise to serious doubts as to its compatibility with the internal market in relation to the vertical link between the manufacturing and supply of payment smart cards (upstream) and card issuing (downstream).

6. COMMITMENTS

6.1. Introduction

(201) In order to remove the serious doubts arising from the Transaction described in Section 5.2.3.3 in relation to the overall market for payment smart cards in France as well as in the possible markets for personalised and non-presonalised payment smart cards in France, on 24 March 2017 the Notifying Party submitted commitments pursuant to Article 6(2) of the Merger Regulation (the "Initial Commitments").

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148 Non-Horizontal Merger Guidelines, paragraph 61.

(202) The Commission launched a market test of the Initial Commitments on 27 March 2017, seeking responses from certification bodies, customers (namely financial institutions located in France and outside France) as well as actual and potential competitiors of the Parties in the French payment smart card market. The Commission informed the Notifying Party of the results of the market test on 31 March 2017 and on 4 April 2017. Following the feedback received from market participants in the market test, the Notifying Party submitted a revised set of commitments on 11 April 2017 (the "Final Commitments").

(203) The Final Commitments are annexed to this decision and form an integral part thereof.

6.2. Initial Commitments

6.2.1. Description of the Inital Commitments

(204) The Inital Commitments consist of the divestment to a purchaser of all shares of Morpho's French subsidiary CPS (hereinafter also referred to as the "Divestment Business"), which owns and operates a personalisation centre located in Craponne, France. The Divestment Business is dedicated mainly to the provision of personalisation services for payment smart cards (including other related services such as packaging and delivery) to customers located in France as well as certain customers located outside of France.[149]

(205) The Divestment Business comprises all assets and staff which contribute to the operations of CPS, including:

a) all tangible and intangible assets, including all necessary equipment for carrying out personalisation and related services and intellectual property rights;

b) all licenses, permits, authorisations and certifications of CPS, including site certifications under CB, Visa, and MasterCard;

c) all contracts, agreements, leases, commitments and customer orders of CPS [Details on CPS' customers and commercial agreements]. To the extent that customer contracts contain change of control clauses, the Notifying Party endeavours its best efforts to obtain, and submit at the purchaser approval stage, written confirmation that these customers do not object to the change of control;

d) all customer, credit and other records of CPS; and

e) all staff currently employed by CPS, including key personnel (the CEO, CFO and COO of CPS).

(206) Moreover, the Divestment Business includes the benefit, for a transitional period of up to 18 months after closing of the sale of CPS and [interim supply terms and conditions], of all current arrangements under which Morpho supplies products ([description of the products at stake]) to the Divestment Business, unless otherwise agreed with the purchaser.

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[149] CPS also provides personalisation services for transport cards [Details on CPS' customers and sales].

(207) Finally, at the option of the purchaser, the Divestment Business also includes the benefit of:

a) for a transitional period of up to 18 months after closing of the sale of CPS and [interim supply terms and conditions], all current arrangements under which Advent International and its subsidiaries supply to [description of the services at stake];

b) all product and services required to ensure that the purchaser will be able to honour its contractual obligations with subsidiaries of French customers located in Hungary ([Hungarian customers]) until the expiration of the current local contracts.

(208) The Notifying Party also committed to adopt strict firewall procedures to ensure that any competitively sensitive information related to, or arising from the supply arrangements described in paragraphs (206) and (207) (for example product roadmaps) will not be shared with, or passed on to, anyone outside Advent International and/or its subsidiaries providing the products and services at stake.

(209) In addition, the Initial Commitments provide that the purchaser of the Divestment Busines shall be an industrial player holding all the site and product certifications necessary to operate as a payment smart card supplier in France (other than those certifications included in the Divestment Business) or which will achieve all such certifications by the end of the transitional supply arrangements.

(210) Finally, the Initial Commitments contain related commitments, including those regarding the separation of the Divestment Business from their retained businesses, the preservation of the viability, marketability and competitiveness of the Divestment Business, including the appointment of a monitoring trustee and, if necessary, a divestiture trustee.

6.2.2. Results of the market test

(211) The results of the market test were generally positive and several players expressed interest in acquiring the Divestment Business.

(212) More in detail, as regards French banking customers[150], while they were not able to express an informed opinion about the technical aspects of the Initial Commitments, and in particular on the content of the Divestment Business, they did not raise any issue as regards the suitability of the Initial Commitments to solve the identified competition concerns.[151] French banking customers provided mixed views as regards the need for the purchaser to already hold CB product certification or to be a manufacturer of blank cards.[152] Indications were nonetheless provided as regards the characteristics that the purchaser should possess for French customers to consider being supplied by the Divestment Business. According to French banking customers (including current customers of CPS), the purchaser should have the ability to maintain the certifications, the same level of services and price of CPS today, have the scale to serve all the

[150] Customers located outside of France did not submit any informative replies.
[151] See responses to question 21 of Market Test Questionnaire.
[152] See responses to questions 12 and 13 of Market Test Questionnaire.

banks belonging to the group of the respondent, as well as have innovation capabilities.[153]

(213) As regards actual and potential competitors, informative responses were provided only by players currently active in France (holding all necessary certifications) and, to a limited extent, by Valid (a Brazilian player that has entered the EEA in particular for SIM cards) and Austriacard (a leading supplier in Central and Eastern Europe).[154]

(214) Competitors did not raise any issue as regards the scope of the Divestment Business. The majority stated that the Divestment Business includes all necessary tangible and intangible assets for a purchaser to operate and effectively compete on the French market for payment smart cards.[155] Nontheless, the majority of competitors also indicated that, for the Divestment Business to be run efficiently as a viable and competitive force for the provision of payment smart cards in France, the purchaser should already hold CB product certification or in any event achieve it within the transitional period.[156] Likewise, a majority of competitors indicated that the purchaser should already be a manufacturer of non-personalised smart cards.[157]

(215) As regards the risks associated with the transfer of customer contracts, the views of competitors were mixed.[158] Importantly, G&D stated that there are risks related to the existence of change of control clauses in the contracts as well as with their remaining duration.[159]

(216) As regards the transfer of CPS' certifications, the majority of competitors did not raise any issues.[160] Importantly, with respect to CB certifications, the view expressed by the majority of competitors is in line with the information provided by the certification body. Based on the certification body's previous experience on "*a similar operational situation in the past with the merger of Gemplus and*

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153 See responses to questions 14 and 15 of Market Test Questionnaire.

154 Neither of these two players hold a CB certification and Austriacard indicated that it has not yet applied for such certification; see responses to question 2 of Market Test Questionnaire.

155 See responses to question 4 of Market Test Questionnaire.

156 See responses to question 12 of Market Test Questionnaire.

157 See responses to question 13 of Market Test Questionnaire.

158 See responses to question 7 of Market Test Questionnaire. Due to confidentiality reasons, respondents to the market test did not have access to the details of CPS' customer contracts. The majority of competitiors did not raise any specific risk relating to the transfer of contracts with France based customers which cover also the sale of payment smart cards to their subsidiaries/branches located outside of France, see responses to question 8 of Market Test Questionnaire.

159 See G&D's response to question 7 of Market Test Questionnaire. According to G&D, the latter risk could be mitigated by the Notifying Party by committing to "*a non-compete clause for the customers of CPS for a period of 3 years after the expiration of the existing contracts of CPS as ancillary restraint.*" While the Commission considers that possible risks concerning the viability of the Divestment Business exist under the Inial Commitments (see Section 6.2.3.2), such a non-compete clause would in this case not only be disproportionate as to its duration (considering that three years would far exceed the general duration of contracts, and thus cover the contracts' subsequent renewal period), but also not justified since customers are generally long-standing ones and, given that CPS would be divested in its entirety and considering the improvements of the Final Commitments, there is sufficient comfort to exclude the need for a non-compete clause. Indeed, during the market investigation current customers of CPS did not indicate any objection in principle to continuining their relationship with CPS post-divestment, subject to the purchaser fullfulling certain criteria

160 See responses to question 11 of Market Test Questionnaire.

Axalto which didn't lead to difficulties in the implementation of the transfer", it considered that "*there is a sufficient degree of certainty that a purchaser would continue to obtain certifications for the CPS personalisation process*".[161]

(217) As regards the transitional arrangement foreseen in the Initial Commitments, competitiors raised no issue as regards its sufficiency to ensure the viability and competitiveness of the Divestment Business in the short term.[162]

(218) As regards the suitability of the Initial Commitments to ensure that post-Transaction there would remain sufficient competition in France in the provision of payment smart cards, the majority of competitors did not raise any issue and only G&D indicated that such suitability would depend on the identity of the purchaser. According to G&D, *"[in] the hands of a credible player from the same industry who has the financial resources, proven expertise and incentive to maintain and develop CPS as a viable and active competitive force in France the [Initial] Commitments appear to ensure that post-transaction there would remain sufficient competition in France in the provision of payment smart cards*."[163]

(219) Finally, three players indicated their interest in acquiring the Divestment Business: G&D, Austriacard and Exceet Card (a supplier of payment smart cards in Germany). Moreover, annexed to the Form RM, the Notyifying Pary provided letters of intent related to the acquisition of CPS signed by [details on market players interested in acquiring CPS].

6.2.3. Commission's assessment of the Initial Commitments

6.2.3.1. Scope of the Divestment Business

(220) The Commission considers that the scope of the Divestment Business is not sufficiently comprehensive.

(221) The Divestment Business comprises all assets and staff that today contribute to the operations of CPS, which will be divested as a going concern. In 2016, the revenues associated with the Divestment Business amounted to [turnover].[164] Notably, the Divestment Business will include all outstanding customer contracts of CPS and importantly all customers of personalised smart cards. In this regard, the Commission notes that CPS provides 100% of Morpho's personalised payment smart card and related services in France. The Commission notes that the Divestment Business's activities accounted for [share in Morpho's French payment smart card business]% of Morpho's 2016 total payment smart card business by revenues in France.

(222) Nonetheless, the Commission notes that the Divestment Business does not include any asset that could enable the purchaser to compete also with respect to

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161 See CB's response to question 4 of the Commission's request for information dated 29 March 2017. Likewise, [CONFIDENTIAL], see response to question 4 of the Commission's request for information dated 29 March 2017.

162 See responses to questions 9 and 10 of Market Test Questionnaire.

163 See responses to question 21 of Market Test Questionnaire; see also G&D's response to question 22 of Market Test Questionnaire.

164 This includes all sales and it is not limited to the sale of personalised payment smart cards. [Details on CPS's revenues].

those French customers which only purchase blank payment cards. In this respect, the Commission notes that the sale of blank payment cards accounted for [share in Morpho's French payment smart card business]% of Morpho's 2016 total payment smart card business by revenues in France.

(223) As regards the transitional arrangements, the Commission considers that their scope is not sufficient, although their duration appears to be for a sufficient period of time to enable the purchaser to integrate the Divestment Business within its organisation and to ensure continuity in the supply of products and services needed by CPS to perform its business activities pending such integration.

(224) First, the Divestment Business will include a transitional agreement with [legal entity at stake] for the supply [interim supply terms and conditions] of non-personalised smart cards certified by CB for a period up to 18 months. In this regards the Commission notes that the non-personalised smart cards are the most important input that the Divestment Business needs for its operations. The provision of this input [interim supply terms and conditions] reduces the possibility of partial input foreclosure by the merged entity to the detriment of the purchaser.[165] Likewise, the duration of the agreement seems to be sufficient as it corresponds to the maximum estimated time for the purchaser to develop a product and get a CB product certification.[166] The transitional period may however be shorter, should the purchaser already have the product and the relevant certification, develop the product and obtain the certification in less than 18 months or otherwise secure the input for the manufacturing of non-personalised smart cards certified by CB. Nonetheless, the Commission notes that the transitional agreement with [legal entity at stake] does not include the provision of Visa and MasterCard certified non-personalised smart cards. Such supply may however still be needed by the Divestment Business in the short term to avoid any disruptions in the activities of the Divestment Business while switching supplier.

(225) Second, the Commission notes that the Divestment Business includes transitional arrangements for the provision of central IT services limited to a generic enterprise resource planning system, whiles it does not cover software and IT solutions specifically needed for the Divestment Business' payment smart card personalisation business.

(226) Third, the Commission notes that the Divestment Business includes contracts for the supply of personalised payment smart cards to banks located outside of France, and which are not limited to customers in Hungary, [Details on CPS' customers]. It appears insufficient, therefore, to limit the transitional services to

[165] The results of the market investigation and of the market test have not revealed any time sensitivity in the delivery of the blank payment smart cards. Moreover, the blank payment smart cards that the merged entity will deliver to the purchaser will have to be CB certified, that is compliant with the security and functional requirements of CB. Therefore the Commission considers that the risk of partial input foreclosure practices by the merged entity to the detriment of the purchaser, other than those based on rasing the purchaser costs, are negligible. In tis regard, see also pargarph (254).

[166] See paragraph (108) above.

the products and services necessary for the the purchaser to honour CPS' obligations in relation to Morpho's [Hungarian customers].[167]

6.2.3.2. Viability of the Divestment Business

(227) Regardless of the insufficiency of the scope of the Divestment Business, the Commission considers that there is legal uncertainity as regards the viability of the Divestment Business[Details on CPS's commercial agreements].[168]

(228) First, [details on CPS's contracts and revenue projections].[169]

(229) Second, the contract with the [Details on CPS's revenues and customers], will expire in July 2018, that is just over a year after the legal deadline for the adoption of this decision.

(230) Third, a change of control clause is foreseen in [Details on CPS's revenues and customers]. The Commission notes that the Notifying Party does not anticipate any issues with respect to the change of control clauses, considering that [Details on CPS's customers and commercial agreements] were already customers of CPS before it was acquired by Morpho in 2012 and change of control clauses did not affect their relationship with CPS at that time. Likewise, the Commission notes that in the market test current customers of CPS did not indicate any objection in principle to continuining their relationship with CPS post-divestment, subject to the purchaser fullfulling certain criteria.[170]

(231) In light of the above, the Commission considers the existence of uncertainties as regards the effective transfer of a significant part of the value of the Divestment Business. Therefore, unless the divestment is quickly closed, there is a risk of degradation of the Divestment Business in the period until its transfer to the purchaser will be completed.

6.2.3.3. Effectiveness of the Initial Commitments

(232) The Commission considers that the Initial Commitments would not have the ability to effectively and entirely remove the serious doubts raised by the Transaction.

(233) Those serious doubts relate not only to the possible French market for the supply of personalised payment smart cards, but also to an overall national French market for the provision of payment smart cards and the possible market for the supply of blank payment smart cards.

(234) The Commission notes that the Initial Commitments would not be suitable to solve the competition concerns in the overall market or in the blank card market. Indeed, as mentioned at paragraph (218), the Divestment Business does not

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167 The ability of the purchaser to serve all banks belonging to a customer group was indicated as important characteristic that the purchaser should have by respondents to the market test (see paragraph (212)). In this respect, the limitation of the transitional arrangement to product and services needed to serve only Hungarian subsidiaries of CPS' customers would hinder such ability during the transitional period, while CPS is being integrated in the purchaser's organisation.

168 [Details on CPS's commercial agreements].

169 [Details on CPS's revenues, customers, and commercial arrangements]...

170 See paragraph (212) above. [CONFIDENTIAL]

include any asset which would enable the purchaser to compete for customers that only purchase blank payment smart cards.

(235) The Commission also considers that the Initial Commitments would not be suitable to solve the competition concerns in the personalised payment smart card market. In this regards the Commission notes that the sale of the Divestment Business would completely remove the overlap between the Parties' personalised payment smart card businesses, as CPS performs 100% of Morpho's personalised payment smart card and related services business in France. With respect to the personalised payment smart card market, the competition concerns identified in Section 5.2.3.3 are linked to the reduction from three to two of the number of suppliers of payment smart cards with a certified personalisation site located in France and the elimination of the particular competitive constraint that a player with a local personalisation site can exert in France. The Commission notes that the Divestment Business includes all authorisations and certifications of CPS. Nonetheless, the ability of the Initial Commitments to remove the serious doubts raised with respect to the personalised payment smart card card market in France is affected by the scope of the transitional services and the viability of the Divestment Business discussed respectively in Sections 6.2.3.1 and 6.2.3.2 above.

6.2.3.4. Attractiveness of the Divestment Business

(236) The Notifying Party has provided letters of intent signed by [number and identity of the operator at stake] and it has indicated that several other suitable purchasers would be interested in the Divestment Business.

(237) As mentioned at paragraph (219), during the market test, [market player] indicated a generic interest in acquiring the Divestment Business.

(238) Although it may be considered an indication of sufficient attractiveness of the Divestment Business that four market players, in a niche/specialised industry that overall features few players, have already manifested some interest, this cannot offset the Initial Commitment's shortcomings with regard to the scope and viability of the Divestment Business and the effectiveness of the Initial Commitments.

6.2.3.5. Conclusion

(239) In light of the above, the Commission considers that the Initial Commitments would not be suitable to remove the serious doubts raised by the Transaction in a clear-cut manner.

6.3. Final Commitments

6.3.1. Description of the Final Commitments

(240) The Final Commitments consist of a revised version of the Initial Commitments. The modifications included in the Final Commitments with respect to the Initial Commitments are the following:

a) The Divestment Business includes Morpho's CB-certified operating system ("OS"), provided that the purchaser does not already have a CB-certified OS. Advent International will retain joint ownership of the OS source code, documentation and tools;

b) A non-exclusive license to make, use and sell payment smart cards embedding the OS will be offered for a transitional period of 12 months, its price being included in the purchase price of the Divestment Business. [Details interim license terms and conditions];

c) The scope of the transitional agreements for the supply of non-personalised CB-certified cards has been extended to cover also non-personalised cards certified under VISA and MasterCard as well as any other non-personalised cards currently supplied to CPS;

d) The scope of transitional agreements for the supply of products and services to enable the purchaser to honour its contractual obligations has been extended to all non-French banking customers (including, but not limited to,[Hungarian customers]). Moreover, such obligation to supply covers not only [legal entity at stake], but any other legal entity of Morpho and its subsidiaries;

e) IT/software solutions needed for CPS's payment card personalisation business will either be included in the Divestment Business or covered by the transitional agreements;

f) The purchaser criteria have been modified to cover manufacturers of non-personalised payment smart cards only that either hold the required certifications to operate as a payment smart card supplier in France or show at the purchaser approval stage to have sufficiently concrete plans to undertake all necessary steps to achieve all the site certifications necessary to supply payment smart cards in France by the end of the interim supply arrangements;

g) The Transaction cannot be closed before Advent International or the Monitoring Trustee have entered into either a final binding sale and purchase agreement for the sale of the Divestment Business, or received a binding offer letter signed by a potential purchaser (including a draft share purchase agreement and any transitional agreements, if applicable, in agreed form by the potential purchaser) granting Advent International an irrevocable option to sell the Divestment Business.

6.3.2. Commission's assessment of the Final Commitments

(241) The Commission notes that the Final Commitments corresponds in large part to the Initial Commitments, with the modifications described in Section 6.3.1 which constitute improvements aiming at addressing the issues as regards the scope, the viability and the effectiveness of the Divestment Business under the Initial Commitments.

6.3.2.1. Scope of the revised Divestment Business

(242) The Commission considers that the scope of the Divestment Business, as revised in the Final Commitments, is sufficiently comprehensive as it includes all the assets necessary for its viability and competitiveness. Indeed, all the issues related to the scope of the Divestment Business have been addressed.

(243) First, the Divestment Business includes Morpho's OS, unless the purchaser already holds a CB-certified OS. This allows the purchaser to sell non-

personalised payment smart cards in France,[171] thus replicating the competitive constraint exercised by CPS that would be lost with the Transaction.[172]

(244) The Commission considers that it is proportionate and justified that the Parties retain joint-ownership of Morpho’s OS, […].[173]

(245) Second, since the transfer of the OS is subject to regulatory approvals, the Final Commitments include also a non-exclusive license to make, use and sell payment smart cards embedding Morpho's OS for a period [Interim license terms and conditions]. The Commission considers that such transitional agreements are necessary for the purchaser to be active in the market as soon as the Divestment Business is divested, without experiencing any disruption, and sufficient to allow the purchaser to either obtain the regulatory approvals needed for the transfer of the OS or develop its own OS and obtain a CB-certification for such OS.

(246) Third, the scope of the transitional arrangements has been sufficiently enlarged in the Final Commitments so as to avoid any disruption or issue in the supply of products to final customers during the time needed by the purchaser to adjust its own systems and production lines. In particular, the Final Commitments cover also (i) the provisional supply of non-personalised payment smart cards certified under Visa and MasterCard (as well as any other non-personalised cards currently supplied to CPS); (ii) services and products allowing the purchaser to honour CPS's contractual obligations vis-à-vis all non-French customers;[174] and (iii) IT/software solutions needed for CPS’s payment smart card personalisation business (unless they are already included in the Divestment Business).

6.3.2.2. Viability of the revised Divestment Business

(247) The Commission considers that the Final Commitments remove the issues of viability identified with respect to the Divestment Business under the Initial Commitments.

(248) Indeed, while the legal uncertainty as regards the transfer of customer contracts including change of control clauses has not been removed, no specific concern has been raised by customers during the market investigation and the Final Commitments have been made subject to the requirement that the Parties do not implement the Transaction before a sale and purchase agreement concerning the Divestment Business has been entered into or they have received a binding offer letter signed by a potential purchaser granting Advent International an irrevocable option to sell the Divestment Business. This requirement should ensure that the Parties have the incentive to quickly transfer the Divestment Business to the purchaser, thereby minimising the risk of degradation of the Divestment Business.

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[171] The Commission considers that the limitation to the sale in France is justified in light of the fact that serious doubts were raised only with respect to such territorial scope and that, in any event, CB-certified products are only sold in France.

[172] The exclusion of customer contracts for the supply of blank cards appears to be justified. Indeed, the Commission notes that Morpho's sales of non-personalised cards related [Details on Morpho's customers and sales of non-personalised cards].

[173] See Form RM, footnote 17.

[174] Moreover, the Final Commitments extend such obligation to all subsidiaries of the Morpho group should be obliged to provide such services and products, therefore making sure that no service or product currently supplied is excluded from the scope of the Final Commitments.

(249) Finally, the viability of the Divestment Business is not affected by the absence of contracts for blank non-personalised cards, because [CONFIDENTIAL] currently provides them [details on Morpho's commercial arrangements] and will keep being in a position to potentially supply such customers based on the transitional agreements (or based on its own CB-certified payment smart cards, should it have the required certifications).

6.3.2.3. Effectiveness of the revised Divestment Business

(250) As all issues with respect to the viability of the Divestment Business have been removed by the Final Commitments, the Commission considers that the Final Commitments have the ability to effectively remove the serious doubts raised by the Transaction in a clear-cut manner.

(251) In particular, the inclusion of the OS within the scope of the Divestment Business effectively solves the competitive concerns identified by the Commission with respect to the overall market for payment smart cards as well as to the possible market for blank non-personalised cards in France. By being in a position to sell CB-certified payment smart cards embedding the OS, the purchaser will replicate the competitive constraint exercised by Morpho prior to the Transaction.

(252) Furthermore, the Final Commitments address all concerns with regard to viability and scope of the Initial Commitments, thereby effectively dispelling the Commission's serious doubts with respect to the possible market for personalised payment smart cards in France.

(253) Moreover, the Final Commitments further specify the purchaser criteria, by identifying the purchaser as a "*a manufacturer of non-personalised payment smart cards either (i) holding all the site and product certifications necessary to operate as a payment smart card supplier in France (other than those certifications included in the Divestment Business) or (ii) which will show at the Purchaser approval stage that it has sufficiently concrete plans to undertake all necessary steps to achieve all the site certifications necessary to supply payment smart cards in France [...] by the end of the interim supply arrangements*". Therefore, under the Final Commitments, only (i) players who are vertically integrated in the manufacturing of non-personalised payment smart cards and (ii) which already hold all certifications needed to operate in France, or which show already at the purchaser approval stage that they have sufficiently concrete plans to achieve site certifications, would qualify as a suitable purchaser. The Commission considers that, by reproducing Morpho's characteristics, these reinforced purchaser criteria are sufficient to ensure that the purchaser will be able to effectively replicate the constraint today exerted by Morpho on the French payment smart card market and therefore that the Final Commitments will be effective.

(254) Finally, the Commission considers that the effectiveness of the Final Commitments will not be undermined by the existence of a transitional agreement of 18 months from closing of the sale of the Divestment Business for the supply of the key input for the operations of CPS, namely non-personalised payment smart cards. Indeed, as explained at paragraph (224), the Initial Commitments foresee that all transitional products will be provided [interim supply terms and conditions]. This will put the purchaser on equal footing with the merged entity. Moreover, while the Initial Commitments do not specify any delivery time or other conditions for the provision of non-personalised smart cards, the

Commission considers that this would not affect the competitiveness of the Divestment Business because non-personalised payment smart cards are purchased in bulk and kept in stock, thus removing any time sensitivity issue for the delivery of this input. Finally, as mentioned at paragraph (220) the duration of the transitional period will depend on the purchaser and may be shorter than 18 months.[175]

(255) In this regard, the Commission notes that the competition concerns raised by the Transaction are linked to the reduction from 3 to 2 of the number of suppliers of payment smart cards with a certified personalisation site located in France, and the elimination of the particular competitive constraint that a player with a local personalisation site can exert in France. Moreover, the Divestment Business includes all authorisations and certifications of CPS, and importantly the site certifications under CB, Visa, and MasterCard so that post-Transaction the purchaser will be able to replicate the competitive constraint exerted by each of the Parties as a result of its local presence. As mentioned in paragraph (216), the market test revealed no issues with regard to the transfer of such certifications.

6.3.2.4. Attractiveness of the revised Divestment Business

(256) The Commission notes that there are no indications that the enlarged scope of the Divestement Business, as modified by the Final Commitments, would be less attractive to potential purchasers, including those that have already shown their interest in writing.

6.3.2.5. Conclusion

(257) In light of the above, the Commission considers that the Final Commitments are capable of removing the serious doubts raised by the Transaction in a clear-cut manner.

6.4. Conclusion

(258) For the reasons outlined above, the Final Commitments entered into by the Notifying Party are sufficient to eliminate the serious doubts as to the compatibility of the Transaction with the internal market.

(259) Under the first sentence of the second subparagraph of Article 6(2) of the Merger Regulation, the Commission may attach to its Decision conditions and obligations intended to ensure that the undertakings concerned comply with the commitments they have entered into vis-à-vis the Commission with a view to rendering a notified concentration compatible with the internal market.

(260) The achievement of the measure that gives rise to the structural change of the market is a condition, whereas the implementing steps which are necessary to achieve this result are generally obligations on the Notifying Party. Where a condition is not fulfilled, the Commission's decision declaring the concentration compatible with the internal market no longer stands. Where the undertakings

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175 Considering the market players which have expressed an interest in the Divestment Business (see Section 6.2.3.4), [Details on the market players which have expressed an interest in the Divestment Business]. Therefore, for these players it is expected that the transitional period would last potentially up to 18 months as provided in the Initial Commitments.

concerned commit a breach of an obligation, the Commission may revoke the clearance decision in accordance with Article 8(6) of the Merger Regulation. The undertakings concerned may also be subject to fines and periodic penalty payments under Articles 14(2) and 15(1) of the Merger Regulation.

(261) The commitments in paragraphs 2, 3 and 4 (a) and (b) of the Final Commitments constitute conditions attached to this decision, as only through full compliance therewith can the structural changes in the relevant markets be achieved. The other commitments set out in the Final Commitments constitute obligations, as they concern the implementing steps which are necessary to achieve the modifications sought in a manner compatible with the internal market.

7. CONCLUSION

(262) For the above reasons, the Commission has decided not to oppose the Transaction as modified by the Final Commitments and to declare it compatible with the internal market and with the functioning of the EEA Agreement, subject to full compliance with the conditions in paragraphs 2, 3 and 4 (a) and (b) of the Final Commitments annexed to this decision and with the obligations contained in the other paragraphs of the Final Commitments. This decision is adopted in application of Article 6(1)(b) in conjunction with Article 6(2) of the Merger Regulation and Article 57 of the EEA Agreement.

For the Commission

(Signed)

Margrethe VESTAGER
Member of the Commission

CASE COMP M.8258 – Advent International / Morpho

COMMITMENTS OFFERED BY ADVENT INTERNATIONAL

TO THE EUROPEAN COMMISSION

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11 April 2017

By hand and by email: COMP-MERGER-REGISTRY@ec.europa.eu

EUROPEAN COMMISSION

Directorate General for Competition

Place Madou 1 / Madou Plein 1

1210 Saint-Josse-ten-Noode

Brussels

CASE COMP M.8258 – Advent International / Morpho

Object: ***Commitments offered by Advent International to the European Commission in relation to Morpho's payment smart cards activities***

Pursuant to Article 6(2) of Council Regulation (EC) No 139/2004 (the "***Merger Regulation***"), Advent International Corporation ("***Advent International***" or the "***Notifying Party***") hereby enters into the following commitments (the "***Commitments***") vis-à-vis the European Commission (the "***Commission***") with a view to rendering the acquisition of sole control of Morpho USA Inc. and Safran Identity & Security SAS (together, "***Morpho***") (the "***Concentration***") compatible with the internal market and the functioning of the EEA Agreement in virtue of its decision pursuant to Article 6 (1) b of the Merger Regulation (the "***Decision***").

This text shall be interpreted in light of the Decision, in the general framework of European Union law, in particular in light of the Merger Regulation, and by reference to the Commission Notice on remedies acceptable under Council Regulation (EC) No 139/2004 and under Commission Regulation (EC) No 802/2004 (the "***Remedies Notice***").

The Commitments shall take effect upon the date of adoption of the Decision.

Section A. Definitions

1. For the purpose of the Commitments, the following terms shall have the following meaning:

Affiliated Undertakings: undertakings controlled by the Parties and/or by the ultimate parents of the Parties, whereby the notion of control shall be interpreted pursuant to Article 3 of the Merger Regulation and in light of the Commission Consolidated Jurisdictional Notice under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (the "***Consolidated Jurisdictional Notice***").

Agreement: either (*i*) a final binding sale and purchase agreement for the sale of the Divestment Business, or (*ii*) a binding offer letter signed by a potential purchaser (including a draft share purchase agreement and any transitional agreements, if applicable, in agreed form by the potential purchaser) granting Advent International or any of its Affiliated Undertakings an irrevocable option to sell the Divestment Business.

Assets: the assets that contribute to the current operation or are necessary to ensure the viability and competitiveness of the Divestment Business as indicated in Section B, paragraphs 6 and 7 and described more in detail in the Schedule.

CB: "Groupement des cartes bancaires (CB)", an economic interest grouping governed by French law, created in 1984 by the main French banking institutions in order to achieve the interoperability of the "French Payment Scheme", *i.e.* the system for payment and withdrawal in France by smart payment cards issued by the banks members of the grouping.

CB-certified: product or site certifications granted by CB and necessary to supply payment smart cards to be used in the French Payment Scheme.

Closing: the transfer of the legal title to the Divestment Business to the Purchaser.

Closing Period: the period of 3 months from the approval of the Purchaser and the terms of the Agreement by the Commission. Should CPS's Health and Safety Council be informed and consulted about the Divestment, or should the Operating System be included in the scope of the Divestment Business, the Closing Period shall be extended by one extra month.

Confidential Information: any business secrets, know-how, commercial information, or any other information of a proprietary nature that is not in the public domain.

Conflict of Interest: any conflict of interest that impairs the Trustee's objectivity and independence in discharging its duties under the Commitments.

CPS: CPS Technologies SAS, a company incorporated under the laws of France and described more in detail in the Schedule, with its registered office at Rue des Aqueducs, 69290 Craponne (France) and registered with the Companies Register of Lyon under number 385 395 926.

Divestment Business: (i) CPS as defined here and (ii) the Operating System as defined here, provided that the Purchaser does not already have a CB-certified operating system.

Divestiture Trustee: one or more natural or legal person(s) who is/are approved by the Commission and appointed by Advent International and who has/have received from Advent International the exclusive Trustee Mandate to sell the Divestment Business to a Purchaser at no minimum price.

Effective Date: the date of adoption of the Decision.

First Divestiture Period: the period of 6 months from the Effective Date.

Hold Separate Manager: the person appointed by Advent International for the Divestment Business to manage the day-to-day business under the supervision of the Monitoring Trustee.

Key Personnel: all personnel necessary to maintain the viability and competitiveness of CPS, as listed in the Schedule, including the Hold Separate Manager.

Monitoring Trustee: one or more natural or legal person(s) who is/are approved by the Commission and appointed by Advent International, and who has/have the duty to monitor Advent International's compliance with the conditions and obligations attached to the Decision.

Operating System: Morpho's CB-certified operating system.

Parties: Advent International and the undertaking that is the target of the concentration.

Personnel: all staff currently employed by CPS, including staff seconded to CPS, shared personnel as well as the additional personnel listed in the Schedule.

Purchaser: the entity approved by the Commission as acquirer of the Divestment Business in accordance with the criteria set out in Section D.

Purchaser Criteria: the criteria laid down in paragraph 20 of these Commitments that the Purchaser must fulfil in order to be approved by the Commission.

Schedule: the schedule to these Commitments describing more in detail the Divestment Business.

Trustee(s): the Monitoring Trustee and/or the Divestiture Trustee as the case may be.

Trustee Divestiture Period: the period of 3 months from the end of the First Divestiture Period.

Section B. The commitment to divest and the Divestment Business

Commitment to divest

2. In order to maintain effective competition, Advent International commits to divest, or procure the divestiture of the Divestment Business by the end of the Trustee Divestiture Period as a going concern to a purchaser and on terms of sale approved by the Commission in accordance with the procedure described in paragraph 21 of these Commitments. To carry out the divestiture, Advent International commits to find a purchaser and to enter into the Agreement within the First Divestiture Period. If Advent International has not entered into the Agreement at the end of the First Divestiture Period, Advent International shall grant the Divestiture Trustee an exclusive mandate to sell the Divestment Business in accordance with the procedure described in paragraph 33 in the Trustee Divestiture Period.

3. The proposed concentration shall not be implemented before Advent International or the Divestiture Trustee has entered into the Agreement and the Commission has approved the Purchaser and the terms of sale of the Agreement pursuant to paragraph 21.

4. Advent International shall be deemed to have complied with this commitment if :

    (a) by the end of the Trustee Divestiture Period, Advent International or the Divestiture Trustee has entered into the Agreement and the Commission approves the proposed purchaser and the terms of sale as being consistent with the Commitments in accordance with the procedure described in paragraph 21;

    (b) the Closing of the sale of the Divestment Business to the Purchaser takes place within the Closing Period; and

    (c) if applicable, all transitional arrangements and agreements foreseen in paragraphs 8, 9, and 10 have been complied with.

5. In order to maintain the structural effect of the Commitments, the Notifying Party shall, for a period of 10 years after Closing, not acquire, whether directly or indirectly, the possibility of exercising influence (as defined in paragraph 43 of the Remedies Notice, footnote 3) over the whole or part of the Divestment Business, unless, following the submission of a reasoned request from the Notifying Party showing good cause and accompanied by a report from the Monitoring Trustee (as provided in paragraph 47 of these Commitments), the Commission finds that the structure of the market has changed to such an extent that the absence of influence over the Divestment Business is no longer necessary to render the proposed concentration compatible with the internal market.

<u>Structure and definition of the Divestment Business</u>

6. The Divestment Business consists of:

(i) CPS, the subsidiary of Morpho located in France that sells, among other things, personalised payment smart cards to French banks and performs 100% of Morpho's payment smart card personalisation services in France including other related services such as packaging and delivery. The legal and functional structure of CPS as operated to date is described in the Schedule; and

(ii) the Operating System, provided that the Purchaser does not already have a CB-certified operating system. As a result, the ownership of the Operating System's source code, documentation and tools will be transferred to the Purchaser, so as to enable it to maintain the CB-certification of the Operating System, it being specified that Advent International and its Affiliated Undertakings will retain joint-ownership of the above-mentioned Operating System's source code, documentation and tools. The above transfer of ownership, which is subject to regulatory approvals, will authorise the Purchaser to make, use and upgrade CB-certified payment smart card products embedding the Operating System, and to sell or distribute the said products in France only, independently from Advent International or its Affiliated Undertakings.

[Confidential]

If the Purchaser already has a CB-certified operating system, the Operating System will not be part of the Divestment Business.

Moreover, upon request by the Purchaser, the Operating System could be carved out from the Divestment Business, if this does not affect the viability and competitiveness of the Divestment Business after the sale, taking account of the proposed purchaser.

7. The Divestment Business, described in more detail in the Schedule, includes all assets and staff that contribute to the current operation or are necessary to ensure the viability and competitiveness of the Divestment Business, in particular:

(a) all tangible and intangible assets (including intellectual property rights and the ownership of the Operating System's source code, documentation, and tools, if applicable);

(b) all licences, permits and authorisations issued by any governmental organisation for the benefit of the Divestment Business;

(c) all contracts, leases, commitments and customer orders of CPS; all customer, credit and other records of CPS; and

(d) the Personnel, [Confidential].

8. In addition, the Divestment Business includes the benefit, for a transitional period of up to 18 months after Closing and [Confidential], of all current arrangements under which Advent International and its Affiliated Undertakings supply products to the Divestment Business, as detailed in the Schedule, unless otherwise agreed with the Purchaser.

9. Furthermore, in all cases, the Divestment Business includes the benefit, for a transitional period of up to 12 months after Closing, of a non-exclusive license to make, use and sell, in France, payment smart card products embedding the Operating System (including upgrades). The price of the above interim license agreement will be included in the purchase price of CPS. [Confidential].

10. At the option of the Purchaser, the Divestment Business would also include:

(a) the benefit, for a transitional period of up to 18 months after Closing and [Confidential], of all current arrangements under which Advent International and its Affiliated Undertakings supply services to the Divestment Business, as detailed in the Schedule; and/or

(b) the benefit of a transitional agreement with any legal entity of Morpho, and its subsidiaries, for the supply of all product [Confidential] and services [Confidential] required to ensure that CPS will be able to honour its contractual obligations with foreign banking customers, including [Confidential], under the current framework agreements concluded by CPS with the corresponding French banking customers, this optional interim supply agreement being valid until the expiration of the current local application contracts entered into with the foreign banking customers at stake.

Strict firewall procedures will be adopted so as to ensure that any competitively sensitive information related to, or arising from the supply arrangements provided in paragraphs 8, 9, and 10 (for example, product roadmaps) will not be shared with, or passed on to, anyone outside Advent International and/or the Affiliated Undertakings providing the products and services at stake.

Section C. Related commitments

<u>Preservation of viability, marketability and competitiveness</u>

11. From the Effective Date until Closing, the Notifying Party shall preserve or procure the preservation of the economic viability, marketability and competitiveness of the Divestment Business, in accordance with good business practice, and shall minimise as far as possible any risk of loss of competitive potential of the Divestment Business.

In particular, Advent International undertakes:

(a) not to carry out any action that might have a significant adverse impact on the value, management or competitiveness of the Divestment Business or that might alter the nature and scope of activity, or the industrial or commercial strategy or the investment policy of the Divestment Business;

(b) to make available, or procure to make available, sufficient resources for the development of the Divestment Business, on the basis and continuation of the existing business plans;

(c) to take all reasonable steps, or procure that all reasonable steps are being taken, including appropriate incentive schemes (based on industry practice), to encourage all Key Personnel to remain with CPS, and not to solicit or move any Personnel to Advent International's or its Affiliated Undertakings' remaining business. Where, nevertheless, individual members of the Key Personnel exceptionally leave CPS, Advent International shall provide a reasoned proposal to replace the person or persons concerned to the Commission and the Monitoring Trustee. Advent International must be able to demonstrate to the Commission that the replacement is well suited to carry out the functions exercised by those individual members of the Key Personnel. The replacement shall take place under the supervision of the Monitoring Trustee, who shall report to the Commission.

Hold-separate obligations

12. The Notifying Party commits, from the Effective Date until Closing, to procure that CPS is kept separate from the business(es) that the Notifying Party will be retaining and, after closing of the notified transaction to keep CPS separate from the business that the Notifying Party is retaining and to ensure that unless explicitly permitted under these Commitments: (i) management and staff of the business retained by Advent International and its Affiliated Undertakings have no involvement in CPS; (ii) the Key Personnel and Personnel of CPS have no involvement in any business retained by Advent International and its Affiliated Undertakings and do not report to any individual outside CPS.

13. Until Closing, Advent International shall assist the Monitoring Trustee in ensuring that the Divestment Business is managed as a distinct and saleable entity separate from the business(es) which Advent International and its Affiliated Undertakings is retaining. Immediately after the adoption of the Decision, Advent International shall appoint a Hold Separate Manager. The Hold Separate Manager, who shall be part of the Key Personnel, shall manage the Divestment Business independently and in the best interest of the business with a view to ensuring its continued economic viability, marketability and competitiveness and its independence from the businesses retained by Advent International and its Affiliated Undertakings. The Hold Separate Manager shall closely cooperate with and report to the Monitoring Trustee and, if applicable, the Divestiture Trustee. Any replacement of the Hold Separate Manager shall be subject to the procedure laid down in paragraph 11(c) of these Commitments. The Commission may, after having heard Advent International, require Advent International to replace the Hold Separate Manager.

14. To ensure that the Divestment Business is held and managed as a separate entity the Monitoring Trustee shall exercise Advent International's and/or its Affiliated Undertaking's rights as shareholder in the legal entity or entities that constitute the Divestment Business (except for its rights in respect of dividends that are due before Closing), with the aim of acting in the best interest of the business, which shall be determined on a stand-alone basis, as an independent financial investor, and with a view to fulfilling Advent International's and/or its Affiliated Undertaking's obligations under the Commitments. Furthermore, the Monitoring Trustee shall have the power to replace members of the supervisory board or non-executive directors of the board of directors, who have been appointed on behalf of Advent International and/or its Affiliated Undertaking. Upon request of the Monitoring Trustee, Advent International and/or its

Affiliated Undertaking shall resign as a member of the boards or shall cause such members of the boards to resign.

Ring-fencing

15. Advent International shall implement, or procure to implement, all necessary measures to ensure that it and its Affiliated Undertakings do not, after the Effective Date, obtain any Confidential Information relating to CPS and that any such Confidential Information obtained by Advent International, or by its Affiliated Undertakings, before the Effective Date will be eliminated and not be used by Advent International and/or by its Affiliated Undertakings. This includes measures vis-à-vis Advent International's and/or its Affiliated Undertakings' appointees on the supervisory board and/or board of directors of CPS. In particular, the participation of CPS in any central information technology network shall be severed to the extent possible, without compromising the viability of the Divestment Business. Advent International and its Affiliated Undertakings may obtain or keep information relating to CPS which is reasonably necessary for the divestiture of the Divestment Business or the disclosure of which to Advent International is required by law.

Non-solicitation clause

16. The Parties undertake, subject to customary limitations, not to solicit, and to procure that Affiliated Undertakings do not solicit, the Key Personnel transferred with CPS for a period of [Confidential] after Closing.

Due diligence

17. In order to enable potential purchasers to carry out a reasonable due diligence of the Divestment Business, Advent International shall, subject to customary confidentiality assurances and dependent on the stage of the divestiture process:

(a) provide to potential purchasers sufficient information as regards the Divestment Business;

(b) provide to potential purchasers sufficient information relating to the Personnel and allow them reasonable access to the Personnel.

Reporting

18. Advent International shall submit written reports in English on potential purchasers of the Divestment Business and developments in the negotiations with such potential purchasers to the Commission and the Monitoring Trustee no later than 10 days after the end of every month following the Effective Date (or otherwise at the Commission's request). Advent International shall submit a list of all potential purchasers having expressed interest in acquiring the Divestment Business to the Commission at each and every stage of the divestiture process, as well as a copy of all the offers made by potential purchasers within five days of their receipt.

19. Advent International shall inform the Commission and the Monitoring Trustee on the preparation of the data room documentation and the due diligence procedure and shall submit a copy of any information memorandum to the Commission and the Monitoring Trustee before sending the memorandum out to potential purchasers.

Section D. The Purchaser

20. In order to be approved by the Commission, the Purchaser must fulfil the following criteria:

(a) The Purchaser shall be independent of and unconnected to the Notifying Party and its Affiliated Undertakings (this being assessed having regard to the situation following the divestiture).

(b) The Purchaser shall have the financial resources, proven expertise and incentive to maintain and develop the Divestment Business as a viable and active competitive force in competition with the Parties and other competitors;

(c) The Purchaser shall be a manufacturer of non-personalised payment smart cards either (i) holding all the site and product certifications necessary to operate as a payment smart card supplier in France (other than those certifications included in the Divestment Business) or (ii) which will show at the Purchaser approval stage that it has sufficiently concrete plans to undertake all necessary steps to achieve all the site certifications necessary to supply payment smart cards in France (all such steps consisting in the implementation of the compliance upgrades required by CB, audit of the site, procurement of a letter of support from one member of CB, and submission of the Approval File to CB) by the end of the interim supply arrangements provided in paragraph 8;

(d) The acquisition of the Divestment Business by the Purchaser must neither be likely to create, in light of the information available to the Commission, *prima facie* competition concerns nor give rise to a risk that the implementation of the Commitments will be delayed. In particular, the Purchaser must reasonably be expected to obtain all necessary approvals from the relevant regulatory authorities for the acquisition of the Divestment Business.

21. The Agreement (as well as ancillary agreements) relating to the divestment of the Divestment Business shall be conditional on the Commission's approval. When Advent International has reached an agreement with a purchaser, it shall submit a fully documented and reasoned proposal, including a copy of the final agreement(s), within one week to the Commission and the Monitoring Trustee. Advent International must be able to demonstrate to the Commission that the purchaser fulfils the Purchaser Criteria and that the Divestment Business is being sold in a manner consistent with the Commission's Decision and the Commitments. For the approval, the Commission shall verify that the purchaser fulfils the Purchaser Criteria and that the Divestment Business is being sold in a manner consistent with the Commitments including their objective to bring about a lasting structural change in the market. The Commission may approve the sale of the Divestment Business without one or more Assets or parts of the Personnel, or by substituting one or more Assets or parts of the Personnel with one or more different assets or different personnel, if this does not affect the viability and competitiveness of the Divestment Business after the sale, taking account of the proposed purchaser.

Section E. Trustee

I. Appointment procedure

22. Advent International shall appoint a Monitoring Trustee to carry out the functions specified in these Commitments for a Monitoring Trustee. The Notifying Party commits not to close the Concentration before the appointment of a Monitoring Trustee.

23. If Advent International has not entered into the Agreement regarding the Divestment

Business one month before the end of the First Divestiture Period or if the Commission has rejected a purchaser proposed by Advent International at that time or thereafter, Advent International shall appoint a Divestiture Trustee. The appointment of the Divestiture Trustee shall take effect upon the commencement of the Trustee Divestiture Period.

24. The Trustee shall:

i. at the time of appointment, be independent of the Notifying Party and its Affiliated Undertakings;

ii. possess the necessary qualifications to carry out its mandate, for example have sufficient relevant experience as an investment banker or consultant or auditor; and

iii. neither have nor become exposed to a Conflict of Interest.

25. The Trustee shall be remunerated by the Notifying Party in a way that does not impede the independent and effective fulfilment of its mandate. In particular, where the remuneration package of a Divestiture Trustee includes a success premium linked to the final sale value of the Divestment Business, such success premium may only be earned if the divestiture takes place within the Trustee Divestiture Period.

Proposal by Advent International

26. No later than two weeks after the Effective Date, Advent International shall submit the name or names of one or more natural or legal persons whom Advent International proposes to appoint as the Monitoring Trustee to the Commission for approval. No later than one month before the end of the First Divestiture Period or on request by the Commission, Advent International shall submit a list of one or more persons whom Advent International proposes to appoint as Divestiture Trustee to the Commission for approval. The proposal shall contain sufficient information for the Commission to verify that the person or persons proposed as Trustee fulfil the requirements set out in paragraph 24 and shall include:

(a) the full terms of the proposed mandate, which shall include all provisions necessary to enable the Trustee to fulfil its duties under these Commitments;

(b) the outline of a work plan which describes how the Trustee intends to carry out its assigned tasks;

(c) an indication whether the proposed Trustee is to act as both Monitoring Trustee and Divestiture Trustee or whether different trustees are proposed for the two functions.

Approval or rejection by the Commission

27. The Commission shall have the discretion to approve or reject the proposed Trustee(s) and to approve the proposed mandate subject to any modifications it deems necessary for the Trustee to fulfil its obligations. If only one name is approved, Advent International shall appoint or cause to be appointed the person or persons concerned as Trustee, in accordance with the mandate approved by the Commission. If more than one name is approved, Advent International shall be free to choose the Trustee to be appointed from among the names approved. The Trustee shall be appointed within one week of the Commission's approval, in accordance with the mandate approved by the Commission.

New proposal by Advent International

28. If all the proposed Trustees are rejected, Advent International shall submit the names of at least two more natural or legal persons within one week of being informed of the rejection, in accordance with paragraphs 22 and 27 of these Commitments.

Trustee nominated by the Commission

29. If all further proposed Trustees are rejected by the Commission, the Commission shall nominate a Trustee, whom Advent International shall appoint, or cause to be appointed, in accordance with a trustee mandate approved by the Commission.

II. <u>Functions of the Trustee</u>

30. The Trustee shall assume its specified duties and obligations in order to ensure compliance with the Commitments. The Commission may, on its own initiative or at the request of the Trustee or Advent International, give any orders or instructions to the Trustee in order to ensure compliance with the conditions and obligations attached to the Decision.

Duties and obligations of the Monitoring Trustee

31. The Monitoring Trustee shall:

(i) propose in its first report to the Commission a detailed work plan describing how it intends to monitor compliance with the obligations and conditions attached to the Decision.

(ii) oversee, in close co-operation with the Hold Separate Manager, the on-going management of the Divestment Business with a view to ensuring its continued economic viability, marketability and competitiveness and monitor compliance by Advent International with the conditions and obligations attached to the Decision. To that end the Monitoring Trustee shall:

(a) monitor the preservation of the economic viability, marketability and competitiveness of the Divestment Business, and the keeping separate of CPS from the business retained by the Parties, in accordance with paragraphs 11 and 12 of these Commitments;

(b) supervise the management of the Divestment Business as a distinct and saleable entity, in accordance with paragraph 13 of these Commitments;

(c) with respect to Confidential Information:

– determine all necessary measures to ensure that Advent International does not after the Effective Date obtain any Confidential Information relating to CPS,

– in particular strive for the severing of CPS's participation in a central information technology network to the extent possible, without compromising the viability of the Divestment Business,

- make sure that any Confidential Information relating to CPS obtained by Advent International before the Effective Date is eliminated and will not be used by Advent International and

- decide whether such information may be disclosed to or kept by Advent International as the disclosure is reasonably necessary to allow Advent International to carry out the divestiture or as the disclosure is required by law;

(d) monitor the splitting of assets and the allocation of Personnel between the CPS and Advent International or Affiliated Undertakings;

(iii) propose to Advent International such measures as the Monitoring Trustee considers necessary to ensure Advent International's compliance with the conditions and obligations attached to the Decision, in particular the maintenance of the full economic viability, marketability or competitiveness of the Divestment Business, the holding separate of CPS and the non-disclosure of competitively sensitive information;

(iv) review and assess potential purchasers as well as the progress of the divestiture process and verify that, dependent on the stage of the divestiture process:

(a) potential purchasers receive sufficient and correct information relating to the Divestment Business and the Personnel in particular by reviewing, if available, the data room documentation, the information memorandum and the due diligence process, and

(b) potential purchasers are granted reasonable access to the Personnel;

(v) act as a contact point for any requests by third parties, in particular potential purchasers, in relation to the Commitments;

(vi) provide to the Commission, sending Advent International a non-confidential copy at the same time, a written report within 15 days after the end of every month that shall cover the operation and management of the Divestment Business as well as the splitting of assets and the allocation of Personnel so that the Commission can assess whether the business is held in a manner consistent with the Commitments and the progress of the divestiture process as well as potential purchasers;

(vii) promptly report in writing to the Commission, sending Advent International a non-confidential copy at the same time, if it concludes on reasonable grounds that Advent International is failing to comply with these Commitments;

(viii) within one week after receipt of the documented proposal referred to in paragraph 21 of these Commitments, submit to the Commission, sending Advent International a non-confidential copy at the same time, a reasoned opinion as to the suitability and independence of the proposed purchaser and the viability of the Divestment Business after the sale and as to whether the Divestment Business is sold in a manner consistent with the conditions and obligations attached to the Decision, in particular, if relevant, whether the sale of the Divestment Business without one or more Assets or not all of the Personnel affects the viability of the Divestment Business after the sale, taking account of the proposed purchaser;

(ix) assume the other functions assigned to the Monitoring Trustee under the conditions and obligations attached to the Decision.

32. If the Monitoring and Divestiture Trustee are not the same legal or natural persons, the Monitoring Trustee and the Divestiture Trustee shall cooperate closely with each other during and for the purpose of the preparation of the Trustee Divestiture Period in order to facilitate each other's tasks.

Duties and obligations of the Divestiture Trustee

33. Within the Trustee Divestiture Period, the Divestiture Trustee shall sell at no minimum price the Divestment Business to a purchaser, provided that the Commission has approved both the purchaser and the Agreement (and ancillary agreements) as in line with the Commission's Decision and the Commitments in accordance with paragraphs 20 and 21 of these Commitments. The Divestiture Trustee shall include in the Agreement (as well as in any ancillary agreements) such terms and conditions as it considers appropriate for an expedient sale in the Trustee Divestiture Period. In particular, the Divestiture Trustee may include in the Agreement such customary representations and warranties and indemnities as are reasonably required to effect the sale. The Divestiture Trustee shall protect the legitimate financial interests of Advent International, subject to the Notifying Party’s unconditional obligation to divest at no minimum price in the Trustee Divestiture Period.

34. In the Trustee Divestiture Period (or otherwise at the Commission’s request), the Divestiture Trustee shall provide the Commission with a comprehensive monthly report written in English on the progress of the divestiture process. Such reports shall be

submitted within 15 days after the end of every month with a simultaneous copy to the Monitoring Trustee and a non-confidential copy to the Notifying Party.

III. Duties and obligations of the Parties

35. Advent International shall provide and shall cause its advisors to provide the Trustee with all such co-operation, assistance and information as the Trustee may reasonably require to perform its tasks. The Trustee shall have full and complete access to any of Advent International's or the Divestment Business' books, records, documents, management or other personnel, facilities, sites and technical information necessary for fulfilling its duties under the Commitments and Advent International and the Divestment Business shall provide the Trustee upon request with copies of any document. Advent International and the Divestment Business shall make available to the Trustee one or more offices on their premises and shall be available for meetings in order to provide the Trustee with all information necessary for the performance of its tasks.

36. Advent International shall provide the Monitoring Trustee with all managerial and administrative support that it may reasonably request on behalf of the management of the Divestment Business. This shall include all administrative support functions relating to the Divestment Business which are currently carried out at headquarters level. Advent International shall provide and shall cause its advisors to provide the Monitoring Trustee, on request, with the information submitted to potential purchasers, in particular give the Monitoring Trustee access to the data room documentation and all other information granted to potential purchasers in the due diligence procedure. Advent International shall inform the Monitoring Trustee on possible purchasers, submit lists of potential purchasers at each stage of the selection process, including the offers made by potential purchasers at those stages, and keep the Monitoring Trustee informed of all developments in the divestiture process.

37. Advent International shall grant or procure Affiliated Undertakings to grant comprehensive powers of attorney, duly executed, to the Divestiture Trustee to effect the sale (including ancillary agreements), the Closing and all actions and declarations which the Divestiture Trustee considers necessary or appropriate to achieve the sale and the Closing, including the appointment of advisors to assist with the sale process. Upon request of the Divestiture Trustee, Advent International shall cause the documents required for effecting the sale and the Closing to be duly executed.

38. Advent International shall indemnify the Trustee and its employees and agents (each an "***Indemnified Party***") and hold each Indemnified Party harmless against, and hereby agrees that an Indemnified Party shall have no liability to Advent International for, any liabilities arising out of the performance of the Trustee's duties under the Commitments, except to the extent that such liabilities result from the wilful default, recklessness, gross negligence or bad faith of the Trustee, its employees, agents or advisors.

39. At the expense of Advent International, the Trustee may appoint advisors (in particular for corporate finance or legal advice), subject to Advent International's approval (this approval not to be unreasonably withheld or delayed) if the Trustee considers the appointment of such advisors necessary or appropriate for the performance of its duties and obligations under the Mandate, provided that any fees and other expenses incurred by the Trustee are reasonable. Should Advent International refuse to approve the advisors proposed by the Trustee the Commission may approve the appointment of such advisors instead, after having heard Advent International. Only the Trustee shall be entitled to issue instructions to the advisors. Paragraph 38 of these Commitments shall apply *mutatis mutandis*. In the Trustee Divestiture Period, the Divestiture Trustee may use advisors who served Advent International during the Divestiture Period if the Divestiture Trustee considers this in the best interest of an expedient sale.

40. Advent International agrees that the Commission may share Confidential Information proprietary to Advent International with the Trustee. The Trustee shall not disclose such information and the principles contained in Article 17 (1) and (2) of the Merger Regulation apply *mutatis mutandis*.

41. The Notifying Party agrees that the contact details of the Monitoring Trustee are published on the website of the Commission's Directorate-General for Competition and they shall inform interested third parties, in particular any potential purchasers, of the identity and the tasks of the Monitoring Trustee.

42. For a period of 10 years from the Effective Date the Commission may request all information from the Parties that is reasonably necessary to monitor the effective implementation of these Commitments.

IV. Replacement, discharge and reappointment of the Trustee

43. If the Trustee ceases to perform its functions under the Commitments or for any other good cause, including the exposure of the Trustee to a Conflict of Interest:

(a) the Commission may, after hearing the Trustee and Advent International, require Advent International to replace the Trustee; or

(b) Advent International may, with the prior approval of the Commission, replace the Trustee.

44. If the Trustee is removed according to paragraph 43 of these Commitments, the Trustee may be required to continue in its function until a new Trustee is in place to whom the Trustee has effected a full hand over of all relevant information. The new Trustee shall be appointed in accordance with the procedure referred to in paragraphs 22 to 29 of these Commitments.

45. Unless removed according to paragraph 43 of these Commitments, the Trustee shall cease to act as Trustee only after the Commission has discharged it from its duties after all the Commitments with which the Trustee has been entrusted have been implemented. However, the Commission may at any time require the reappointment of the Monitoring Trustee if it subsequently appears that the relevant remedies might not have been fully and properly implemented.

Section F. The review clause

46. The Commission may extend the time periods foreseen in the Commitments in response to a request from Advent International or, in appropriate cases, on its own initiative. Where Advent International requests an extension of a time period, it shall submit a reasoned request to the Commission no later than one month before the expiry of that period, showing good cause**.** This request shall be accompanied by a report from the Monitoring Trustee, who shall, at the same time send a non-confidential copy of the report to the Notifying Party. Only in exceptional circumstances shall Advent International be entitled to request an extension within the last month of any period.

47. The Commission may further, in response to a reasoned request from the Notifying Parties showing good cause waive, modify or substitute, in exceptional circumstances, one or more of the undertakings in these Commitments. This request shall be accompanied by a report from the Monitoring Trustee, who shall, at the same time send a non-confidential copy of the report to the Notifying Party. The request shall not have the effect of suspending the application of the undertaking and, in particular, of suspending the expiry of any time period in which the undertaking has to be complied with.

Section G. Entry into force

48. The Commitments shall take effect upon the date of adoption of the Decision.

(Signed)

duly authorised to sign on behalf of Advent International

SCHEDULE

1. The Divestment Business, with the exception of the Operating System, as operated to date has the following legal and functional structure:

   The Divestment Business (with the exception of the Operating System) is operated by CPS.

   CPS is a distinct legal entity acquired by Morpho in 2012.

   CPS is managed by [Confidential], CEO (*Directeur Général*), who is assisted by [Confidential] (CFO) and [Confidential] (COO). The CEO also heads the Sales Team in charge of answering tenders for the supply of payment smart cards in France.

   Please note that CPS's CEO and COO have been in place for more than 10 years and that CPS currently employs a comparable amount of personnel as before its acquisition by Morpho in 2012. (*i.e.* [Confidential] people at the end of February 2017, including [Confidential] employees dedicated to personalisation services and maintenance).

   [Confidential]

   In the French payment sector, CPS acts as Morpho's point of contact and contract holder with all bank customers that purchase personalised smart cards.

   CPS sells to French banks the whole payment smart card product (cards and personalisation services) and performs 100% of Morpho's payment smart card personalisation services in France, including other ancillary services such as packaging and delivery.

   The Divestment Business will include in its scope all personnel and commercial assets which contribute to CPS's current operations so as to allow it to operate on a stand-alone basis.

2. In accordance with paragraphs 6 and 7 of these Commitments, the Divestment Business includes, but is not limited to:

   (a) all tangible assets including:

   – the secure personalisation centre located in Craponne (France); and

   – all necessary equipment for carrying out personalisation and related services, [Confidential]

(b) all intangible assets (including IP rights and know-how, as well as R&D-, personalisation-, sales and marketing-related assets, as well as the Operating System's source code, documentation, and tools, so as to enable the Purchaser to maintain the CB-certification of the Operating System, provided that the Purchaser does not already have a CB-certified operating system);

(c) all licenses, permits and certifications of CPS, including notably the following site certifications: CB, Visa, MasterCard, MasterCard CQM, [Confidential].

(d) all the contracts, agreements, leases, commitments, understandings and customer orders of CPS, including in particular the framework agreements concluded with [Confidential].

In this respect, please note that the commercial relationship with the Hungarian subsidiaries of [Confidential].

All CPS's current customers are listed below:

Customer	Group	Category	Products/services provided
[Confidential]	[Confidential]	[Confidential]	[Confidential]
[Confidential]	[Confidential]	[Confidential]	[Confidential]
[Confidential]	[Confidential]	[Confidential]	[Confidential]
[Confidential]	[Confidential]	[Confidential]	[Confidential]
[Confidential]	[Confidential]	[Confidential]	[Confidential]
[Confidential]	[Confidential]	[Confidential]	[Confidential]
[Confidential]	[Confidential]	[Confidential]	[Confidential]
[Confidential]	[Confidential]	[Confidential]	[Confidential]
[Confidential]	[Confidential]	[Confidential]	[Confidential]
[Confidential]	[Confidential]	[Confidential]	[Confidential]
[Confidential]	[Confidential]	[Confidential]	[Confidential]
[Confidential]	[Confidential]	[Confidential]	[Confidential]
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[Confidential]	[Confidential]	[Confidential]	[Confidential]
[Confidential]	[Confidential]	[Confidential]	[Confidential]
[Confidential]	[Confidential]	[Confidential]	[Confidential]
[Confidential]	[Confidential]	[Confidential]	[Confidential]

Customer	Group	Category	Products/services provided
[Confidential]	[Confidential]	[Confidential]	[Confidential]
[Confidential]	[Confidential]	[Confidential]	[Confidential]
[Confidential]	[Confidential]	[Confidential]	[Confidential]
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[Confidential]	[Confidential]	[Confidential]	[Confidential]

Customer	Group	Category	Products/services provided
[Confidential]	[Confidential]	[Confidential]	[Confidential]
[Confidential]	[Confidential]	[Confidential]	[Confidential]
[Confidential]	[Confidential]	[Confidential]	[Confidential]
[Confidential]	[Confidential]	[Confidential]	[Confidential]

Apart from the contracts entered into with [Confidential], none of the contracts concluded by CPS with banking customers includes change of control provisions. Advent International will endeavour its best efforts to procure the consent of [Confidential] so as to ensure the transfer of their respective contracts. Advent International will also endeavour its best efforts to obtain, and submit at the Purchaser approval stage, written confirmation that [Confidential] do not object to the change of control;

(e) all customer, credit and other records;

(f) all the Personnel currently employed by CPS, including:

- [Confidential]
- [Confidential]
- [Confidential]
- [Confidential]
- [Confidential]

(g) the following Key Personnel: CPS' CEO ([Confidential] – Hold Separate Manager), CFO ([Confidential]), and COO ([Confidential]);

(h) the arrangements for the supply, [Confidential], with the following products by Advent International or its Affiliated Undertakings for a transitional period of up to 18 months after Closing: non-personalised cards certified under CB, VISA, and MasterCard and any other non-personalised cards currently supplied to CPS;

(i) the benefit, for a transitional period of up to 12 months after Closing, of a non-exclusive license to make, use, and sell, in France, payment smart card products embedding the Operating System (including upgrades), the price of the above interim license agreement being included in the purchase price of CPS, [Confidential];

(j) at the option of the Purchaser, the arrangements for the supply, [Confidential], with the following services by Advent International or its Affiliated Undertakings for a transitional period of up to 18 months after Closing: [Confidential]; and

(k) at the option of the Purchaser, a transitional agreement with [Confidential]and any other legal entity of Morpho, and its subsidiaries, for the supply of all product [Confidential] and services [Confidential] required to ensure that the Purchaser will be able to honour its contractual obligations with foreign banking customers, including [Confidential], this optional interim supply agreement being valid until the expiration of the current local application contracts entered into with the foreign banking customers at stake. The above optional transitional agreement may include, but may not be limited to: the supply of non-personalised payment cards, of personalisation services, and of related services.

3. The following software/IT solutions needed for CPS's payment card personalisation business will be either included in the scope of the Divestment business or covered by the transitional agreements provided for in paragraphs 8 and 9:

   – [Confidential]

4. In any event, the Divestment Business shall not include Morpho's R&D activities related to the Operating System and shall not prevent Advent International and its Affiliated Undertakings to retain joint ownership of the Operating System's source code, documentation and tools.

5. If there is any asset or personnel which is not be covered by paragraph 2 of this Schedule but which is both used (exclusively or not) in the Divestment Business and necessary for the continued viability and competitiveness of the Divestment Business, that asset or adequate substitute will be offered to potential purchasers.