



EUROPEAN COMMISSION

Hearing Officer for competition proceedings

Brussels, 4 December 2020

## **Final Report of the Hearing Officer<sup>1</sup>**

### **Case M.9660 – Google/Fitbit**

**(Text with EEA relevance)**

On 15 June 2020, the Commission received a notification of a proposed concentration pursuant to Article 4 of the Merger Regulation<sup>2</sup> by which Google, LLC ('Google') would acquire within the meaning of Article 3(1)(b) of the Merger Regulation sole control of Fitbit, Inc. ('Fitbit') by way of purchase of shares (the 'Proposed Transaction').

On 8 July 2020, I admitted Privacy International as interested third person pursuant to Article 18(4), second sentence, of the Merger Regulation, Articles 11(c) and 16(1) of the Merger Implementing Regulation<sup>3</sup>, and Article 5 of Decision 2011/695/EU.

On 4 August 2020, the Commission initiated proceedings pursuant to Article 6(1)(c) of the Merger Regulation ('Article 6(1)(c) Decision').

On 21 August 2020, Google submitted written comments on the Article 6(1)(c) Decision.

On 2 September 2020, I admitted BEUC, The European Consumer Organisation, as interested third person.

On 22 September and 16 October 2020, the Commission and Google agreed on extensions of the time limit for the Commission's investigation, pursuant to Article 10(3), second subparagraph, of the Merger Regulation, by a total of 15 working days.

On 28 September 2020, Google submitted commitments in accordance with Article 8(2) of the Merger Regulation in order to address the competition concerns identified by the Commission.

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<sup>1</sup> Pursuant to Articles 16 and 17 of Decision 2011/695/EU of the President of the European Commission of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings, OJ L 275, 20.10.2011, p. 29 ('Decision 2011/695/EU').

<sup>2</sup> Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings, OJ L 24, 29.1.2004, p. 1 ('Merger Regulation').

<sup>3</sup> Commission Regulation (EC) No 802/2004 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings, OJ L 133, 30.4.2004, p. 1 ('Merger Implementing Regulation').

On 29 September 2020, the Commission launched a market test of these commitments. The Commission provided Google with detailed feedback on the outcome of the market tests during several calls in October and early November 2020.

On 4 November 2020, Google submitted revised commitments pursuant to Article 8(2) of the Merger Regulation.

The draft decision declares the Proposed Transaction compatible with the internal market and the EEA Agreement, subject to full compliance with the revised commitments.

Overall, I consider that the effective exercise of procedural rights has been respected during the present proceedings.

Wouter WILS  
Hearing Officer