EUROPEAN COMMISSION
DG Competition

Case M.9995 - PERMIRA / NEURAXPHARM

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REGULATION (EC) No 139/2004
MERGER PROCEDURE

Article 6(1)(b) NON-OPPOSITION
Date: 04/12/2020

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EUROPEAN COMMISSION

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PUBLIC VERSION

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 Where possible the information omitted has been replaced by ranges of figures or a general description.

To the notifying party

Subject: **Case M.9995 – PERMIRA HOLDINGS LIMITED / NEURAXPHARM MIDCO S.C.A.**
Commission decision pursuant to Article 6(1)(b) of Council Regulation No 139/2004[1] and Article 57 of the Agreement on the European Economic Area[2]

Dear Sir or Madam,

(1) On 30.10.2020, the European Commission received notification of a proposed concentration pursuant to Article 4 of the Merger Regulation ("the Transaction"), by which Permira Holdings Limited ("Permira", Guernsey) acquires within the meaning of Article 3(1)(b) of the Merger Regulation sole control of the whole of Neuraxpharm Midco S.C.A. ("Neuraxpharm", Luxembourg).[3] Permira is designated hereinafter as the "Notifying Party" and together with Neuraxpharm as the "Parties".

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

2 OJ L 1, 3.1.1994, p. 3 (the 'EEA Agreement').

3 Publication in the Official Journal of the European Union No C 380, 11.11.2020, p.11.

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1. THE PARTIES

(2) Permira is a European private equity firm, which makes long-term investments in companies active in a wide variety of sectors.

(3) Neuraxpharm is a European specialty pharmaceutical company focused on the treatment of Central Nervous System ("CNS") disorders with their main activity being the production and sale of Finished Dose Pharmaceuticals ("FDPs"). Neuraxpharm also provides Contract Development and Manufacturing Organization ("CDMO") services for FDPs and Active Pharmaceutical Ingredients ("APIs") both to the Neuraxpharm group companies and to third parties.

2. EU DIMENSION

(4) The Parties have a combined aggregate worldwide turnover of more than EUR 5 000 million (Permira EUR […] million, Neuraxpharm EUR […] million). Each of them has a Union-wide turnover in excess of EUR 250 million (Permira EUR […] million, Neuraxpharm EUR […] million), but they do not achieve more than two-thirds of their aggregate Union-wide turnover within one and the same Member State. The notified operation therefore has a Union dimension pursuant to Article 1(2) of the Merger Regulation.

3. THE CONCENTRATION

(5) Pursuant to a Sale and Purchase Agreement dated 20 September 2020, between Neuraxpharm's current owners and Permira, Permira will acquire all shares of Neuraxpharm and each right attached to these, within the meaning of Article 3(1)(b) of the Merger Regulation. Therefore, Permira will have sole control over Neuraxpharm.

4. MARKET DEFINITIONS

4.1. Finished Dose Pharmaceuticals

(6) FDPs are pharmaceutical products that have undergone all stages of production, including packaging in the final container and labelling. Production and sale of FDPs is one of the most common activities of pharmaceutical companies. Neuraxpharm produces and sells FDPs focused on the treatment of CNS disorders.

(7) In its previous decisions,[4] the Commission used the Anatomical Therapeutic Classification ("ATC") system as the basis for the product market definition. The first level (ATC 1) is the most general and the fourth level (ATC 4) the most detailed. More specifically, the Commission referred to the ATC3 level, where pharmaceuticals are grouped in terms of their therapeutic indications, i.e. their intended use, as the starting point for defining the relevant product market, since these groups of products generally have the same therapeutic indication and cannot be substituted by products belonging to other ATC 3 classes.

(8) However, the Commission also recognized that it may be appropriate, if the circumstances of the case show that competitive constraints make it necessary, to carry out analyses at the more detailed ATC4 level, or possibly at the level of groups of molecules[5] or individual molecules[6]. Relevant factors to take into account include therapeutic (e.g. prescription only, or administration allowed only under medical supervision) or pharmacological criteria such as molecule class, formulation or mode of administration (e.g. topical versus systemic).[7]

(9) The Notifying Party suggests to follow this approach in the present case. It submits that its products fall into the C4A, N2B, N4A, N5A, N6A, N5B, N5C and N6D classifications at ATC3 level and into the C4A1, N2B0, N4A0, N5A1, N5A9, N5B1, N6A9, N5C0 and N6D0 classifications at ATC4 level.

(10) In any event, for the purposes of this Decision, it is not necessary to conclude on the exact product market definition for FDPs for the treatment of CNS disorders, as, regardless of the market definition considered, the Transaction does not give rise to serious doubts as to its compatibility with the internal market or the functioning of the EEA agreement.

(11) According to Commission precedents,[8] the relevant geographic market for FDPs is national in scope, due to the regulatory barriers which result inter alia from the national reimbursement systems of the EU Member States.

(12) The Notifying Party suggests to follow this approach in the present case. The Commission did not find any reason to depart from this approach in the present case.

4.2. Contract Development and Manufacturing Organisation services

(13) CDMO is an arrangement under which a manufacturer provides upstream manufacturing services of FDPs and APIs under contract on behalf of third party pharmaceutical companies.[9]

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4 COMP/M.1846 – *GlaxoWellcome / SmithKline Beecham*, 8 May 2000; COMP/M.1878 – *Pfizer / Warner-Lambert*, 22 May 2000; COMP/M.3751 –*Novartis / Hexal*, 27 May 2005; COMP/M.4402 – *UBC / Schwarz Pharma*, 21 Nov 2006; COMP/M. 5253 – *Sanofi-Aventis / Zentiva*, 4 Feb 2009; COMP/M.5295 – *Teva / Barr Pharmaceuticals*, 19 Dec 2008; COMP/M.5555 – *Novartis / EBEWE*, 22 Sep 2009; COMP/M.5778 – *Novartis / Alcon*, 9 Aug 2010; COMP/M.6258 – *Teva / Cephalon*, 13 Oct 2011; COMP/M.6969 – *Valeant Pharmaceuticals International / Bausch&Lomb Holdings*, 5 Aug 2013; COMP/M.7480 – *Actavis / Allergan*, 16 Mar 2015; COMP/M.7559 – *Pfizer / Hospira*, 4 Aug 2015.

5 COMP/M.5865 – *Teva / Ratiopharm*, 3 Aug 2010, paras. 12-14.

6 COMP/M. 7559 – *Pfizer / Hospira*, 4 Aug 2015, paras. 84, 90 and 98.

7 COMP/M.3354 – *Sanofi-Synthelabo / Aventis*, 26 Apr 2004, paras. 15 and 16; COMP/M.4314 – *Johnson & Johnson / Pfizer Consumer Healthcare*, 11 Dec 2006, para. 12; COMP/M.7480 – *Actavis / Allergan*, 16 Mar 2015, para. 11.

8 COMP/M.7480 *Allergan/ Actavis*, 16 Mar 2015, para.14; COMP/M.6969 – *Valeant Pharmaceuticals International / Bausch & Lomb Holdings*, 5 Aug 2013, paras. 48-50.

(14) In the past, the Commission distinguished the CDMO market for FDPs from the CDMO market for APIs. On the one hand, CDMO for APIs involve the evaluation, characterisation, development of production and scaling-up processes in relation to the manufacture of APIs. On the other hand, CDMO services at the FDP level mainly pertain to the development of an appropriate dosage formulation and the large-scale manufacture of the final drug products. Second, from a supply-side perspective, CDMO services at the API and FDP levels do not involve the same equipment and require specific know-how and expertise. The Commission has found in the past that multiple CDMO players do not have the capability to be active throughout the CDMO value chain and are exclusively active either at the API level or at the FDP level.[10]

(15) As regards the CDMO market for FDPs, further segmentations were considered in relation to (i) the pharmaceutical form manufactured (e.g. solids, semi-solids, injectables), (ii) the conditions of manufacture (toxicity, sterile environment, etc.), (iii) the type of API used for its production and the delivery mechanism used (swallowing, intravenous, injection, etc.).[11] The Notifying Party suggests to follow this approach in the present case.

(16) In any event, for the purposes of this Decision, it is not necessary to conclude on the exact product market definition for CDMO services, as regardless of the market definition considered, the Transaction does not give rise to serious doubts as to its compatibility with the internal market and the functioning of the EEA Agreement.

(17) The relevant geographic market for CDMO services according to Commission precedents was found to be worldwide or at least EEA-wide[12], as CDMO services are generally procured anywhere in the EEA, regardless of the EEA country where the pharmaceutical products are subsequently marketed, given the economics of the services under consideration, as well as the lack of any trade or other barriers.

(18) The Notifying Party suggests to follow this approach in the present case. The Commission did not find any reason to depart from this approach in the present case.

5. COMPETITIVE ASSESSMENT

5.1. Analytical Framework

(19) Under Articles 2(2) and 2(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.

(20) Frequently, a merger can entail horizontal effects. In this respect, in addition to the creation or strengthening of a dominant position, the Commission Guidelines on the

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9 Among others these can be i) pre-formulation/formulation development services; (ii) drug substance development and API synthesis services; (iii) drug product services; (iv) drug packaging services; and (v) analytical testing of drug substances and drug products.

10 COMP/M.9315 – *CHR. Hansen / Lonza / JV*, 16 Jul 2019, para. 17.

11 COMP/M.9315 – *CHR. Hansen / Lonza / JV*, 16 Jul 2019, para. 20; COMP/M.8541 – *Thermo Fisher Scientific / Patheon*, 23 Aug 2017, para. 47; COMP/M.8385 – *Pillarstone / Famar*, 27 Feb 2017, para. 25.

12 Case M.5953- *Reckitt Benckiser/SSL*, 26 Oct 2010, paras. 64-66.

assessment of horizontal mergers under the Merger Regulation[13] ("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,[14] namely (a) by eliminating important competitive constraints on one or more firms, which consequently would have increased market power, without resorting to coordinated behaviour (non- coordinated effects); and (b) by changing the nature of competition in such a way that firms that previously were not coordinating their behaviour are now significantly more likely to coordinate and raise prices or otherwise harm effective competition. A merger may also make coordination easier, more stable or more effective for firms, which were coordinating prior to the merger (coordinated effects). Concentrations which, by reason of the limited market share of the undertakings concerned are not liable to impede effective competition may be presumed to be compatible with the internal market. An indication to this effect exists, in particular, where the market share of the undertakings concerned does not exceed 25 % either in the internal market or in a substantial part of it.[15]

(21) Furthermore, a merger can entail vertical effects. The Commission Guidelines on the assessment of non-horizontal mergers under the Merger Regulation[16] (the "Non-Horizontal Merger Guidelines") also distinguish between two main ways in which non-horizontal mergers may significantly impede effective competition: (a) when they give rise to input and/or customer foreclosure (non-coordinated effects); and (b) when the merger changes the nature of competition in such a way that firms that previously were not coordinating their behaviour, are now more likely to coordinate to raise prices or otherwise harm effective competition (coordinated effects).[17] The Non-Horizontal Merger Guidelines distinguish two types of foreclosure: (a) where the merger is likely to raise the costs of downstream rivals by restricting their access to an important input (input foreclosure) and (b) where the merger is likely to foreclose upstream rivals by restricting their access to a sufficient customer base (customer foreclosure)[18]. According to the Non-Horizontal Merger Guidelines, the Commission is unlikely to find concern in non-horizontal mergers, where the market share post-merger of the new entity in each of the markets concerned is below 30%.[19]

5.2. Competitive Assessment

(22) Neuraxpharm's main activity (amounting to [significant share] of its 2019 turnover) is the production and sale of FDPs. Moreover, Neuraxpharm, via its subsidiary Laboratory Lesvi S.L.U. ("Lesvi", Spain), provides CDMO services for FDPs, and, via its subsidiary INKE S.A.U. ("INKE", Spain), provides CDMO services for APIs both to Neuraxpharm group's companies and to third parties.

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[13] Commission Guidelines on the assessment of horizontal mergers under the Merger Regulation, OJ C 31, 5 February 2004, p. 5–18.

[14] ibid, para.22.

[15] ibid, para. 18.

[16] Commission Guidelines on the assessment of non-horizontal mergers under the Merger Regulation, OJ C 265, 18 October 2008, p. 6–25.

[17] ibid, paras 17-19.

[18] ibid, para. 30.

[19] ibid, para. 25.

(23) None of Permira's controlled portfolio companies are pharmaceutical companies producing and selling FDPs. However, Permira currently controls four portfolio companies that are active in providing CDMO services. For FDPs, these are the Cambrex Corporation ("Cambrex", U.K.), Quotient Sciences ("Quotient", U.S.A.) and Lyophilization Services of New England ("LSNE", U.S.A.). For APIs these are Cambrex and CABB Group GmbH ("CABB", Germany).

5.2.1. Horizontal Overlaps

(24) According to the Notifying Party, the activities of the Parties overlap horizontally in: (i) CDMO services for FDPs between Lesvi and Cambrex, LSNE and Quotient, and (ii) CDMO services for APIs between INKE and Cambrex.

(25) For both overlaps, the combined market shares of the Parties post-Transaction would not exceed [5-10]% under every possible market definition, i.e. either in the overall CDMO market, or in the CDMO market further segmented in the production of (i) FDPs and any of the possible relevant further sub-segmentations and (ii) APIs, under either an EEA or a global market definition.

(26) In view of the combined market shares which are well below the threshold of paragraph 18 of the Horizontal Merger Guidelines, the Commission concludes that the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA agreement, as regards this horizontal overlap in the market for CDMO services.

5.2.2. Vertical Relationships

(27) According to the Notifying Party, the Proposed Transaction would result in vertical relationships for:

(i) the provision of CDMO services for APIs by Cambrex (upstream) and CDMO services for FDPs by Lesvi (downstream);

(ii) the provision of CDMO services for FDPs by Cambrex, LSNE and Quotient (upstream) and Neuraxpharm's pipeline products (downstream);

(iii) the supply of chemicals by CABB (upstream) and CDMO services for APIs by INKE (downstream);

(iv) the provision of CDMO services for APIs by the INKE (upstream) and CDMO services for FDPs by Cambrex, LSNE and Quotient (downstream); and

(v) the provision of CDMO services for FDPs by Cambrex, LSNE and Quotient (upstream) and Neuraxpharm's manufacture and supply of FDPs (downstream).

(28) According to the Notifying Party, the combined market shares of the Parties do not exceed 30% under any plausible market definition in the vertical relationships listed in paragraph (27) (i)-(iv) above. In view of the low combined market shares,[20] the Commission concludes that the vertical relationships listed under (i)-(iv) above cannot in any way result in input or customer foreclosure post-Transaction.

(29) A vertically affected market arises between the provision of CDMO services for FDPs by Permira's portfolio companies Cambrex, LSNE and Quotient (upstream) and FDPs manufactured and supplied by Neuraxpharm (downstream).

(30) According to the Notifying Party's best estimates, the market shares of Permira (including Cambrex', LSNE's and Quotient's activities) in the upstream market for CDMO services for FDPs are below [5-10]% both globally and in the EEA. If the CDMO for FDPs market were to be further sub-segmented in line with the plausible market definitions described above, the Notifying Party confirms that the market share of Permira's portfolio companies would be well below 30%. The possible sub-segmentations are listed in Table 1 below:

[20] ibid.

Table 1: Market shares of Permira's portfolio companies in the CDMO market for the production of FDPs at a Global and EEA level

Relevant market segment	**Relevant Market sub-segment**	**Combined market share for Cambrex, Quotient and LSNE worldwide in %**	**Combined market share for Cambrex, Quotient and LSNE in the EEA in %**
CDMO services for FDPs	-	Below [5-10]%	
CDMO services for FDPs for CNS disorders	-	Well below 30%	
CDMO services for FDPs segmented by their pharmaceutical form, i.e.	Solid and powder pharmaceuticals	Well below 30%	
	Liquid and semi-solid pharmaceuticals	Well below 30%	
	Sterile liquid pharmaceuticals	Well below 30%	
	Medicated confectionary pharmaceuticals	Well below 30%	
CDMO services for FDPs segmented by the conditions of manufacture, i.e.	Toxicity	Well below 30%	
	Sterile environment	Well below 30%	
	Nature of the technology/know-how needed to produce the FDP	Well below 30%	
CDMO services for FDPs segmented by the type of API used, i.e.	Chemically-synthesized APIs	Well below 30%	
	Biopharmaceutical APIs	Well below 30%	
CDMO services for FDPs segmented by the delivery mechanism used, i.e.	Swallowing	Well below 30%	
	Inhalation	Well below 30%	
	Absorption through the skin	Well below 30%	
	Intravenous injection	Well below 30%	
CMO services (excluding the development aspect of the services)	-	Well below 30%	

(31) The Notifying Party additionally indicates that Neuraxpharm's demand for CDMO services for FDPs at EEA-level, under every plausible market definition, does not exceed [0-5]% of the overall demand for CDMO services for FDPs, as illustrated in Table 2 below:

Table 2: Neuraxpharm's demand for CDMO services for FDPs in the EEA

Relevant market segment	**Relevant Market sub-segment**	**Neuraxpharm's demand in the EEA in %**
CDMO services for FDPs	-	< [0-5]%
CDMO services for FDPs for CNS disorders	-	< [0-5]%
CDMO services for FDPs segmented by their pharmaceutical form, i.e.	Solid and powder pharmaceuticals	< [0-5]%
	Liquid and semi-solid pharmaceuticals	< [0-5]%
	Sterile liquid pharmaceuticals	< [0-5]%
	Medicated confectionary pharmaceuticals	< [0-5]%
CDMO services for FDPs segmented by the conditions of manufacture, i.e.	Toxicity	< [0-5]%
	Sterile environment	< [0-5]%
	Nature of the technology/know-how needed to produce the FDP	< [0-5]%
CDMO services for FDPs segmented by the type of API used, i.e.	Chemically-synthesized APIs	< [0-5]%
	Biopharmaceutical APIs[21]	N/A
CDMO services for FDPs segmented by the delivery mechanism used, i.e.	Swallowing	< [0-5]%
	Inhalation	< [0-5]%
	Absorption through the skin	< [0-5]%
	Intravenous injection	< [0-5]%
CMO services (excluding the development aspect of the services)	-	< [0-5]%

[21] Neuraxpharm has no biopharmaceuticals in its portfolio.

(32) The Notifying Party confirms that, should the geographic scope of the relevant sub-segments be defined on a global level, the respective share of Neuraxpharm's demand would be significantly lower.

(33) Since Permira's market shares in the overall market of CDMO services for FDPs, as well as under all the possible sub-segmentations are very low, and Neuraxpharm's demand for CDMO services for FDPs is very low, input foreclosure seems very unlikely in this case.

(34) The Notifying Party submits that in the downstream FDPs for CNS disorders market, Neuraxpharm's market shares in categories ATC3 and ATC4[22] are also below 30%.

(35) However, as illustrated in Table 3 below, in the FDPs market for CNS disorders at molecule level, Neuraxpharm's market shares are higher than 30% in a number of national markets (France, Germany, Poland and Spain).

Table 3: Neuraxpharm's market shares per molecule

Country	Molecule	Market Shares (ATC3)		Market Shares (ATC4)		Market Shares (Molecules)	
		Value %	Volume %	Value %	Volume %	Value %	Volume %
DE	Benzerasi de!Levodopa	[0-5]	[10-20]	[0-5]	[10-20]	[20-30]	[30-40]
DE	Pramipex ole	[0-5]	[0-5]	[0-5]	[0-5]	[30-40]	[30-40]
DE	Clozapine	[0-5]	[0-5]	[0-5]	[5-10]	[60-70]	[50-60]
DE	Pipamper one	[0-5]	[0-5]	[5-10]	[5-10]	[30-40]	[20-30]
DE	Amitriptyline	[0-5]	[0-5]	[0-5]	[5-10]	[30-40]	[30-40]
DE	Melperone	[0-5]	[0-5]	[0-5]	[5-10]	[30-40]	[20-30]
DE	Trimipramine	[0-5]	[0-5]	[0-5]	[5-10]	[60-70]	[60-70]
DE	Promethazine	[0-5]	[5-10]	[5-10]	[10-20]	[70-80]	[80-90]
DE	Trazodone	[0-5]	[0-5]	[0-5]	[0-5]	[50-60]	[50-60]
DE	Haloperidol	[0-5]	[0-5]	[0-5]	[0-5]	[20-30]	[30-40]
DE	Biperiden	[0-5]	[0-5]	[0-5]	[0-5]	[20-30]	[30-40]
DE	Levomepromazine	[0-5]	[0-5]	[0-5]	[0-5]	[60-70]	[70-80]
DE	Sulpiride	[0-5]	[0-5]	[0-5]	[0-5]	[60-70]	[60-70]

[22] C4A, N2B, N4A, N5A, N6A, N5B, N5C and N6D classifications at ATC3 level and C4A1, N2B0, N4A0, N5A1, N5A9, N5B1, N6A9, N5C0 and N6D0 classifications at ATC4 level.

Country	Molecule	Market Shares (ATC3)		Market Shares (ATC4)		Market Shares (Molecules)	
		Value %	Volume %	Value %	Volume %	Value %	Volume %
DE	Benperidol	[0-5]	[0-5]	[0-5]	[0-5]	[80-90]	[70-80]
DE	Fluphenazine	[0-5]	[0-5]	[0-5]	[0-5]	[90-100]	[90-100]
DE	Chloroprothixene	[0-5]	[0-5]	[0-5]	[0-5]	[50-60]	[50-60]
DE	Perzine	[0-5]	[0-5]	[0-5]	[0-5]	[90-100]	[90-100]
DE	Piracetam	[20-30]	[10-20]	[20-30]	[10-20]	[30-40]	[20-30]
DE	Mianserin	[0-5]	[0-5]	[0-5]	[0-5]	[60-70]	[50-60]
DE	Nicergolin	[0-5]	[0-5]	[0-5]	[0-5]	[90-100]	[90-100]
DE	Selegine	[0-5]	[0-5]	[0-5]	[0-5]	[30-40]	[30-40]
DE	Fluvoxamine	[0-5]	[0-5]	[0-5]	[0-5]	[60-70]	[80-90]
DE	Perphenazine	[0-5]	[0-5]	[0-5]	[0-5]	[90-100]	[90-100]
DE	Thioridazine	[0-5]	[0-5]	[0-5]	[0-5]	[30-40]	[60-70]
DE	Nitrazepam	[0-5]	[0-5]	[0-5]	[0-5]	[20-30]	[30-40]
DE	Amitriptylinoxide	[0-5]	[0-5]	[0-5]	[0-5]	[90-100]	[90-100]
DE	Imipramine	[0-5]	[0-5]	[0-5]	[0-5]	[90-100]	[90-100]
DE	Maprotiline	[0-5]	[0-5]	[0-5]	[0-5]	[80-90]	[80-90]
FR	Lorazepam	[0-5]	[0-5]	[0-5]	[0-5]	[30-40]	[30-40]
FR	Oxazepam	[20-30]	[10-20]	[20-30]	[10-20]	[90-100]	[90-100]
ES	Ketorolac	[0-5]	[0-5]	[0-5]	[0-5]	[20-30]	[30-40]
ES	Diezepam!Sulpiride	[0-5]	[0-5]	[5-10]	[5-10]	[90-100]	[90-100]
PL	Moclobemide	[0-5]	[0-5]	[0-5]	[0-5]	[50-60]	[50-60]

(36) Nevertheless, these high market shares would not give the merged entity sufficient market power to harm rival upstream CDMO providers, in case of a potential customer foreclosure strategy. Indeed, the potential opportunity for the CDMO services linked to Neuraxpharm's molecules is low, given that Neuraxpharm's demand for such services is less than [0-5]% of the potential market for CDMO services for FDPs in the EEA (see Table 2 above). Neuraxpharm's high market shares

in some countries for some molecules will not give the merged entity sufficient market power to harm rival upstream CDMO services providers. [23] This is because the needs for CDMO services for FDPs are not differentiated according to the specific pathology covered by a specific FDP. Therefore, CDMO services providers provide the same services for all FDPs. Consequently, this limited potential demand for CDMO services by Neuraxpharm for its FDPs for CNS disorders would in any event not allow the merged entity to foreclose its rival CDMO services providers upstream from accessing customers in the downstream markets for FDPs by withholding or reducing Neuraxpharm's purchases (which are limited to FDPs for CNS disorders).

(37) Therefore, the merged entity cannot foreclose its upstream competitors in the provision of CDMO services by denying access to the downstream market for FDPs for CNS disorders.

6. CONCLUSION

(38) For the above reasons, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation and Article 57 of the EEA Agreement.

For the Commission

(Signed)
Margrethe VESTAGER
Executive Vice-President

[23] See, to that effect, Cases M.7975 Mylan/Meda of 20 Jul. 2016, paragraph 598 and COMP/M.5253 - Sanofi-Aventis / Zentiva, of 4 Feb. 2009, paragraph 533.