



EUROPEAN COMMISSION

Hearing Officer for competition proceedings

Brussels, 8 March 2021

Final Report of the Hearing Officer¹

Case M.9820 – Danfoss/Eaton Hydraulics

(Text with EEA relevance)

1. On 17 August 2020, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004,² according to which Danfoss A/S ('Danfoss') would acquire within the meaning of Article 3(1)(b) of the Merger Regulation sole control of Eaton Hydraulics ('Eaton')³ by way of purchase of stocks and assets (the 'Proposed Transaction'). Danfoss and Eaton are together referred to as the 'Parties'.
2. On 21 September 2020, the Commission adopted a decision to initiate proceedings pursuant to Article 6(1)(c) of the Merger Regulation.
3. On 12 October 2020, following a formal request by Danfoss dated 9 October 2020, the Commission extended the time-period pursuant to Article 10(3), first subparagraph, of the Merger Regulation set for the adoption of a decision pursuant to Article 8 of the Merger Regulation in relation to the Proposed Transaction by ten working days pursuant to Article 10(3), second subparagraph, of the same regulation.
4. On 27 November 2020, following the request of Danfoss, the Commission decided to extend the period for taking a decision pursuant to Article 8 of the Merger Regulation by a total of five working days in accordance with Article 10(3) second subparagraph, third sentence of the Merger Regulation.

¹ 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').

² Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation), OJ L 24, 29.1.2004, p. 1 (the 'Merger Regulation').

³ Eaton is a business of the Eaton Group that includes (i) the shares of Eaton Hydraulics LLC as well as (ii) several other entities belonging to the hydraulics division of the Eaton Group and certain assets from the Eaton Group, excluding its golf trips and filtration businesses.

5. On 8 December 2020, the Commission adopted a statement of objections (the ‘SO’). The SO was formally notified to Danfoss on 9 December 2020,⁴ at which time Danfoss was granted a deadline to submit its observations until 22 December 2020. On 11 December 2020, Eaton received a non-confidential version of the SO via Danfoss, on the basis of which it could submit written comments pursuant to Article 13(2) of the Merger Implementing Regulation.
6. On 8 December 2020, Danfoss obtained access to the accessible documents in the Commission’s case file via the handover of a CD. In addition, relevant data from the Commission's confidential file were made available to Danfoss in a data room from 8 to 22 December 2020. Further access to the file was given on 20 January and 17 February 2021, as regards documents that were added to the file later. I have not received any complaint or request from the Parties regarding access to the file.
7. On 22 December 2020, the Parties submitted their consolidated written comments on the SO. The Parties did not request that a formal oral hearing be held.
8. Between 17 December 2020 and 13 January 2021, I admitted two undertakings showing a sufficient interest pursuant to Article 18(4) of the Merger Regulation as interested third persons in this case. The interested third persons were provided with a non-confidential version of the SO and given a time limit within which to submit their observations.
9. On 15 and 18 January 2021, Danfoss submitted initial commitments in accordance with Article 8(2) and 10(2) of the Merger Regulation, with a view to rendering the Proposed Transaction compatible with the internal market and the functioning of the EEA Agreement.
10. On 20 January 2021, the Commission sent to Danfoss a letter of facts, where it informed Danfoss about additional factual elements – some of which were already present in the file at the time of the SO, while others were obtained by the Commission only after adopting the SO – that were considered by the Commission as potentially relevant for the final assessment of this case. Danfoss responded to this letter of facts on 3 February 2021.
11. On 21 January 2021, in agreement with Danfoss, the Commission decided to extend the period for taking a decision pursuant to Article 8 of the Merger Regulation by five working days in accordance with Article 10(3) second subparagraph, third sentence of the Merger Regulation.
12. On 28 January 2021, Danfoss submitted revised commitments, in accordance with Article 8(2) and 10(2) of the Merger Regulation, with a view to rendering the Proposed Transaction compatible with the internal market and the functioning of the EEA Agreement (the ‘Revised Commitments’). On 1 February 2021, the Commission launched a market test of the Revised Commitments.

⁴ On 8 December 2020, an (informal) advance information copy of the SO and its cover letter were sent to the lawyers of Danfoss.

13. On 15 February 2021, having received feedback from the Commission on the Revised Commitments, Danfoss submitted an amended set of commitments (the 'Final Commitments').
14. The draft decision declares the Proposed Transaction compatible with the internal market and the functioning of the EEA Agreement, subject to full compliance with the Final Commitments.
15. I have reviewed the draft decision pursuant to Article 16(1) of Decision 2011/695/EU and I conclude that it deals only with objections in respect of which the Parties have been afforded the opportunity of making their views known.
16. In view of all of the above, I consider that the effective exercise of procedural rights has been respected during the present proceedings.

Dorothe DALHEIMER
Hearing Officer