



EUROPEAN COMMISSION

DG Competition

Case M.10108 - S&P GLOBAL / IHS MARKIT

Only the English text is available and authentic.

REGULATION (EC) No 139/2004
MERGER PROCEDURE

Decision on the implementation of the commitments -
Purchaser approval

Date: 22/02/2022



EUROPEAN COMMISSION

Brussels, 22.2.2022
C(2022) 1242 final

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 Where possible the information omitted has been replaced by ranges of figures or a general description.

S&P Global, Inc.
55 Water Street
New York, NY 10041
United States of America

IHS Markit Ltd.
4th Floor, Ropemaker Place
Ropemaker Street
London, EC2Y 9LY
England

Dear Sir or Madam,

**Subject: Case M.10108 – S&P GLOBAL / IHS MARKIT
Approval of News Corporation as purchaser of the Price Assessments
Divestment Businesses following your reasoned submission of 29 October
2021 and the Trustee’s opinion of 14 February 2022**

1. FACTS AND PROCEDURE

- (1) By decision of 22 October 2021 (“the Decision”) based on Article 6(1)(b) in connection with Article 6(2) of Council Regulation (EC) No 139/2004,¹ the Commission declared the operation by which S&P Global, Inc. (“S&P”, USA)

¹ OJ L 24, 29.1.2004, p.1 (the “Merger Regulation”).

acquires sole control of IHS Markit Ltd. (“IHSM”, UK) (“the Transaction”) compatible with the internal market following modification by S&P and IHSM, subject to conditions and obligations laid down in the commitments annexed to the Decision (“the Commitments”). S&P and IHSM are hereinafter collectively referred to as the “Parties”.

- (2) The Commitments consist of three components, that is the CUSIP Commitments, the LCD/LLI Commitments and the OPIS/CMM Commitments (or the “Price Assessments Commitments”).²
- (3) Under the Price Assessments Commitments, the Parties commit to divest the Price Assessments Divestment Businesses, which consist of the following three functional segments: IHSM’s Oil Price Information Services group (“OPIS”), IHSM’s Coal, Metals and Mining group (“CMM”), and IHSM’s PetroChem Wire (“PCW”).
- (4) On 31 July 2021, the Parties entered into a Stock and Asset Purchase Agreements (the “SAPA”), pursuant to which they agreed to sell and transfer the Price Assessments Divestment Businesses to News Corporation through its wholly owned subsidiary Dow Jones & Company, Inc (collectively “News Corporation”). Since signing of the SAPA, the Parties made a number of minor amendments via a SAPA Amendment document and provided the final agreed forms of the following ancillary documents: Data License Agreement, Transitional Service Agreement Schedules and Moorgate Side Letter. The SAPA alongside all the ancillary documents is hereinafter referred to as the “Transaction Agreement”.
- (5) By a reasoned submission of 29 October 2021, the Parties proposed News Corporation for approval by the Commission as the purchaser of the Price Assessments Divestment Businesses.
- (6) In its opinion of 14 February 2022 (the “Reasoned Opinion”), pursuant to paragraph 29(iv) of the Price Assessments Commitments, Monitoring Trustee Partners, acting as monitoring trustee (the “Trustee”), concludes that:
 - (a) News Corporation fulfils the criteria of the purchaser requirements as set out in Section D of the Price Assessment Commitments (the “Purchaser Criteria”); and
 - (b) on the basis of the Transaction Agreement, the Price Assessments Divestment Business would be sold in a manner consistent with the Price Assessments Commitments.

2. ASSESSMENT OF THE PROPOSAL

- (7) According to paragraph 19 of the Price Assessments Commitments, in its assessment of the Transaction Agreement, the Commission has to verify:
 - (a) That the purchaser fulfils the Purchaser Criteria; and

² The CUSIP Commitments and the LCD/LLI Commitments are not further discussed in this decision, and will be addressed in separate purchaser approval decisions.

- (b) That the Price Assessments Divestment Businesses are being sold in a manner consistent with the Price Assessments Commitments including their objective to bring about a lasting structural change in the market.

2.1. Assessment of the Purchaser Criteria

- (8) News Corporation is a global diversified media and information services company focused on creating and distributing content and other products and services to consumers and businesses. The company comprises businesses across a range of media, including digital real estate services, subscription video services in Australia, news and information services and book publishing. Headquartered in New York, News Corporation operates primarily in the United States, Australia and the United Kingdom, with its content and other products and services distributed and consumed worldwide. Its global revenues in the fiscal year 2021 amounted to EUR 7.83 billion.
- (9) As set out in paragraph 18 of the Price Assessments Commitments, in order to be approved by the Commission, the Purchaser³ must fulfil the following criteria:
- i. The Purchaser shall be independent of and unconnected to the Parties and its Affiliated Undertakings (this being assessed having regard to the situation following the divestiture).
 - ii. The Purchaser shall have the financial resources, proven expertise and incentive to maintain and develop the Price Assessments Divestment Businesses as viable and active competitive forces in competition with the Parties and other competitors, including the ability and incentives to develop its own benchmark administrator in-house.
 - iii. The acquisition of the Price Assessments Divestment Businesses 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 Price Assessments Divestment Businesses.
 - iv. The Purchaser shall not be a purely financial investor.
 - v. The Purchaser shall have a global presence.
 - vi. The Purchaser shall not be a supplier of nor have material financial exposure to the price of underlying commodities assessed by the Price Assessments Divestment Businesses.
- (10) The following paragraphs in turn provide an assessment of each of the six Purchaser Criteria listed above.

³ Capitalised terms in this decision will have the meaning as set out in the Price Assessments Commitments, unless indicated otherwise.

2.1.1. Independence from the Parties

- (11) According to paragraph 18(i) of the Price Assessments Commitments, the Purchaser shall be independent of and unconnected to the Parties and its Affiliated Undertakings (this being assessed having regard to the situation following the divestiture). In this respect, the Commission notes the following.
- (12) First, the Parties and News Corporation are publicly listed, S&P and IHSM are both listed on the New York Stock Exchange and News Corporation is listed on NASDAQ. S&P and IHSM do not hold directly or indirectly any shares in News Corporation (and *vice versa*). While a number of institutional investors are shareholders of both the Parties and News Corporation,⁴ the Trustee's review revealed that these common shareholders (i) have modest individual shares in the Parties and News Corporation, typically below 5% and in no instance exceeding 10%, and (ii) that two common shareholders that hold more than 5% of both the Parties' and News Corporation's outstanding share are companies active mostly in passive equity asset management that typically have no incentive to allocate any resources to affect the corporate strategy of the companies they invest in.⁵ In addition, no shares of common shareholders confer any special rights and do not constitute a situation of control within the meaning of Article 3 of the Merger Regulation.
- (13) Second, none of the members of the board of directors of S&P and/or IHSM is active as a member of the board of directors of News Corporation or vice versa.⁶
- (14) Third, S&P and News Corporation have a number of interactions that relate to S&P's Dow Jones Indices business and News Corporation's past activities in the area of financial indices.⁷ The Trustee conducted a detailed review, which have shown that these relate only to non-commercial activities and/or have no financial impact and therefore do not impede the independence of News Corporation from the Parties (or vice versa).⁸ [...]. In addition, the Parties and News Corporation have a number of ordinary course of business commercial relationships (with Dow Jones purchasing from and selling certain products to the Parties). In relation to these, the Trustee's review has shown that (i) they can be considered standard practice in the information services industry; and (ii) are immaterial to the overall activities of all

⁴ News Corporations' top 5 shareholders include: Murdoch AC, Keith Rupert (13.8% of the outstanding stock), The Vanguard Group, Inc. (9.5%), T. Rowe Price Group, Inc. (7.8%), Independent Franchise Partners, LLP (7.4%) and BlackRock, Inc. (6.8%). S&P's top 5 shareholders include: The Vanguard Group, Inc. (8.3%), BlackRock, Inc. (7.2%), Capital Research and Management Company (6.3%), State Street Global Advisors (4.6%) and T. Rowe Price Group, Inc. (3.3%). IHSM's top 5 shareholders include The Vanguard Group, Inc. (9.5%), BlackRock, Inc. (6.6%), State Street Global Advisors, Inc. (3.8%), Canada Pension Plan Investment Board (3.7%) and Wellington Management Group LLP (3.0%).

⁵ Reasoned Opinion, Section 4.2.3.

⁶ Reasoned Opinion, Section 4.2.2.

⁷ In particular, News Corporation previously operated a financial indices business, which was acquired by CME Group Inc. ("CME") in 2010. In 2011, S&P announced that it is partnering with CME to set up a joint venture S&P Dow Jones Indices active in the provision of financial indices.

⁸ Reasoned Opinion, Section 4.3.1.

parties involved, presenting less than 1% of each the Parties' and News Corporations' total revenues or expenses.⁹

- (15) Fourth, in accordance with the Commitments, IHSM will offer certain transitional services to News Corporation (and vice versa). These agreements, however, have a pre-defined termination date or will be terminated before that date once the services are no longer required by News Corporation or IHSM. The Trustee therefore considers that the transitional services do not impede the independence of News Corporation from the Parties (and vice versa).¹⁰
- (16) In light of the above, and in line with the Reasoned Opinion,¹¹ the Commission concludes that News Corporation is independent of and unconnected to the Parties and its Affiliated Undertakings.

2.1.2. Financial resources, proven expertise and incentive to maintain and develop the Divested Business as a viable and active competitor

2.1.2.1. Financial resources

- (17) According to paragraph 18(ii) of the Price Assessment Commitments, the Purchaser shall have the financial resources to maintain and develop the Price Assessments Divestment Businesses as viable and active competitive forces in competition with the Parties and other competitors. In this respect, the Commission notes the following.
- (18) News Corporation has a market capitalisation of over EUR 9.6 billion (as per 1 December 2021) and is profitable with good financial performance over the past three years. In FY 2021, it generated revenues of EUR 7.83 billion (an increase of 3.9% compared to the previous year), of which 18% was contributed by Dow Jones segment. On an EBITDA level, News Corporation shows an average margin of approximately 10% during the presented years. The analysis of News Corporation's financial documentation shows a strong balance sheet with significant cash balances and additional loan capacity if needed.¹²
- (19) In view of the foregoing, the Commission concludes, in line with the Monitoring Trustee,¹³ that News Corporation has sufficient financial resources to develop the Price Assessment Divestment Businesses going forward.

2.1.2.2. Proven expertise, including the ability and incentive to develop its own benchmark administrator in-house

- (20) According to paragraph 18(ii) of the Price Assessment Commitments, the Purchaser shall have the proven expertise to maintain and develop the Price Assessments Divestment Businesses as viable and active competitive forces in competition with the Parties and other competitors, including the ability and incentives to develop its own benchmark administrator in-house.

⁹ Reasoned Opinion, Section 4.3.1.

¹⁰ Reasoned Opinion, Section 4.4.2.

¹¹ Reasoned Opinion, Section 4.5.

¹² Reasoned Opinion, Section 6.2.

¹³ Reasoned Opinion, Section 6.2.

- (21) First, the Commission considers, in line with the Reasoned Opinion,¹⁴ that News Corporation has proven relevant expertise as a global provider of news and business information, active in the wider financial data / market intelligence industry. News Corporations' core capabilities include for example trust, editorial rigor, expertise in deriving data from news assets, and real-time news delivery; all of which can be leveraged to develop and expand the Price Assessment Divestment Businesses' operations. News Corporation, as well as Dow Jones, have a highly experienced management team with senior employees with extensive experience relevant to the Price Assessments Divestment Businesses.
- (22) Second, with respect to the benchmark administration services, News Corporation will, as part of the SAPA, initially engage an external benchmark administration service. The appointment of an external benchmark administration service is a robust interim solution given that the appointed administrator will be fully regulated and supervised by the Financial Conduct Authority ("FCA"), which will ensure effective administration for the Price Assessments Divestment Businesses.¹⁵
- (23) Going forward, however, the Commission, in line with the Reasoned Opinion,¹⁶ concludes that News Corporation has the ability and the incentive to develop this activity in-house.
- (a) With respect to the ability, News Corporation has the necessary financial resources (including for potential external hires), strong compliance culture, and the necessary relevant expertise. More specifically, News Corporation has estimated the set-up and ongoing costs associated with in-house benchmark administration, and considered the relevant individuals that will be part of the in-house administration team ([...]). Based on this, News Corporation can be considered as having all the resources necessary for profitably setting up an in-house benchmark administrator.
- (b) With respect to the incentives, News Corporations explained to the Trustee that [Information on News Corporation's economic rationale, incentives and timeline to have an in-house benchmark administrator to support OPIS' position in the market].¹⁷
- (24) In view of the foregoing, the Commission concludes, in line with the Reasoned Opinion,¹⁸ that News Corporation has sufficient proven expertise to develop the Price Assessment Divestment Businesses going forward, including the ability and incentives to develop its own benchmark administrator in-house.

¹⁴ Reasoned Opinion, Section 6.3.

¹⁵ Reasoned Opinion, Section 5.4.3.

¹⁶ Reasoned Opinion, Section 6.3.

¹⁷ In the interim period, the risk of potential conflict situations is minimal as the external administrator is subject to (i) the UK regulatory regime, which requires it to act with independence, which in turn includes compliance with a strict regulatory regime relating to the management of conflicts of interest with the rest of its group, [...].

¹⁸ Reasoned Opinion, Section 6.3.

2.1.2.3. Incentives to maintain and develop the business

- (25) As per paragraph 18(ii) of the Commitments, the Proposed Purchaser shall have the incentive to maintain and develop the Divestment Businesses as a viable and active competitive force in competition with the Parties and other competitors.
- (26) In this respect, the Reasoned Opinion, as well as the News Corporations' business plan, demonstrate that News Corporation is a strategic buyer, who intends to maintain strong and further expand the reach of Price Assessments Divestment Businesses. News Corporation explains to the Trustee that it intends [...].
- (27) Based on the information above, and in line with the Reasoned Opinion,¹⁹ the Commission considers that News Corporation has the incentives to maintain and develop the Price Assessments Divestment Businesses.

2.1.2.4. Conclusion

- (28) Based on the above considerations, and in line with the Reasoned Opinion,²⁰ the Commission concludes that the Purchaser fulfils the criteria of having the financial resources, proven expertise and incentive to maintain and develop the Price Assessments Divestment Businesses as viable and active competitive forces in competition with the Parties and other competitors, including the ability and incentives to develop its own benchmark administrator in-house.

2.1.3. *Absence of prima facie competition concerns*

- (29) According to paragraph 18(iii) of the Price Assessments Commitments, the acquisition of the Price Assessments Divestment Businesses 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 Price Assessments Divestment Businesses.
- (30) First, according to the information available to the Commission, News Corporation is not active in the provision of commodity price assessments, or any other plausible relevant markets in which the Price Assessments Divestment Businesses are active. Therefore, the acquisition of the Price Assessments Divestment Businesses by News Corp does not lead to any horizontal overlaps and no prima facie competition concerns in this respect.
- (31) Second, certain vertical relationships exist between the Price Assessments Divestment Businesses and the Parties, whereby News Corporation acts as a distributor or provides inputs for Price Assessments Divestment Businesses products (and vice versa, Price Assessments Divestment Businesses provides certain input for News Corporation products).²¹ However, Commission notes, in accordance with the

¹⁹ Reasoned Opinion, Section 6.4.

²⁰ Reasoned Opinion, Sections 6.2. and 6.3.

²¹ In particular, News Corporation acts as a distributor of certain price assessment products of the Price Assessments Divestment Businesses. In addition, [...].

Trustee's review,²² that (i) none of these vertical links concern important inputs / customers but News Corporation and the Price Assessments Divestment Businesses provide rather peripheral inputs into each others' products;²³ and (ii) the market share of News Corporation, and Price Assessments Divestment Businesses, in any potentially adjacent or vertically related markets is below 30%.²⁴ Therefore, any vertical relationships rising from the acquisition of the Price Assessments Divestment Businesses by News Corp are unlikely to create prima facie competition concerns.

- (32) Finally, the acquisition of the Price Assessments Divestment Businesses does not require merger control filings in the EEA/UK or any other jurisdiction.²⁵ The only regulatory condition is the approval of News Corporation as a suitable purchaser in relation to the Transaction by the United States Department of Justice ("DoJ"), the UK Competition and Markets Authority ("CMA") and the Canadian Competition Bureau ("CCB"). At the time of the Reasoned Opinion, the Parties have already obtained the necessary approvals by the DoJ and the CCB, and are still awaiting the approval by the CMA. However, the Parties are expected to obtain this without delay, and the condition is therefore not expected to delay the implementation of the Commitments. For completeness, the acquisition of the Price Assessments Divestment Businesses does not require any other licenses or regulatory approvals.
- (33) In light of the above, and in line with the Reasoned Opinion,²⁶ the Commission considers that the acquisition of the Price Assessments Divestment Businesses by the Purchaser is unlikely to create, in light of the information available to the Commission, prima facie competition concerns or give rise to a risk that the implementation of the Commitments will be delayed.

2.1.4. Not a purely financial investor

- (34) According to paragraph 18(iv) of the Price Assessment Commitments, the Purchaser shall not be a purely financial investor.
- (35) In this respect, the Commission notes that News Corporation is not a purely financial investor. To the contrary, it is a strategic purchaser that intends to invest in and further develop the Price Assessments Divestment Businesses as a competitive force in the market. This is in line with the approach that News Corporation has taken in a series of previous acquisitions.

²² Reasoned Opinion, Section 6.5.1.

²³ In particular, News Corporation is not an important distribution channel for price assessment providers, with the Parties generating [...] revenues through that channel. With respect to input the Parties and News Corporation provide to each other, the Trustees' review revealed that in all such cases the provided inputs do not constitute an important input and many alternative options are available.

²⁴ News Corporation confirmed to the Trustee that News Corporation's market share in any potentially adjacent or vertically related market in which the Divestment Businesses are active is well below 30%. With respect to the Price Assessments' Divestment Businesses market shares in various plausible markets for commodity price assessments (as discussed in the Decision), News Corporation does not use any price assessment products in which the Price Assessments Divestment Business would have a share above 30% under certain market segmentations.

²⁵ Reasoned Opinion, Section 6.5.3.

²⁶ Reasoned Opinion, Section 6.5.4.

- (36) Based on the information above, and in line with the Reasoned Opinion,²⁷ the Commission considers that News Corporation is not a purely financial investor.

2.1.5. Global presence

- (37) According to paragraph 18(v) of the Price Assessment Commitments, the Purchaser shall have a global presence.
- (38) In this respect, the Commission notes that News Corporation has strong global presence. In FY2021, it generated around 18% of its FY2021 revenues in Europe, around 38% in the United States and Canada and the remaining 44% in Australasia and Other.
- (39) In addition, News Corporation has a global sales team with sales teams located in many countries across all continents. In particular, as of June 30, 2021, News Corporation had approximately 24,000 employees, of whom approximately 8,500 were located in the United States, 5,000 were located in the UK and 7,500 were located in Australia.
- (40) Based on the information above, and in line with the Reasoned Opinion,²⁸ the Commission considers that News Corporation has global presence.

2.1.6. No material financial exposure to the price of underlying commodities

- (41) According to paragraph 18(vi) of the Price Assessment Commitments, the Purchaser shall not be a supplier of nor have material financial exposure to the price of underlying commodities assessed by the Price Assessments Divestment Businesses.
- (42) In this respect, the Trustee has discussed the topic with News Corporation and reviewed News Corporation's Form 10-K annual report. Based on this, the Trustee concluded that News Corporation is not a supplier and has no material financial exposure to the price of underlying commodities assessed by the Price Assessments Divestment Businesses.
- (43) Based on the information above, and in line with the Reasoned Opinion,²⁹ the Commission considers that News Corporation has no material exposure to the price of underlying commodities assessed by the Price Assessments Divestment Businesses.

2.1.7. Conclusion

- (44) In view of the foregoing, the Commission concludes that News Corporation meets the Purchaser Criteria as set out in paragraph 18 of the Price Assessment Commitments.

²⁷ Reasoned Opinion, Section 6.3.

²⁸ Reasoned Opinion, Section 6.3.

²⁹ Reasoned Opinion, Section 6.3.

2.2. The Price Assessments Divestment Businesses are being sold in a manner consistent with the Commitments

- (45) According to paragraph 19 of the Price Assessments Commitments, in its assessment of the Transaction Agreement, the Commission has to verify that the Price Assessments Divestment Businesses are being sold in a manner consistent with the Price Assessments Commitments including their objective to bring about a lasting structural change in the market.
- (46) The Trustee performed a detailed comparison between the Transaction Agreement and the Commitments, and observed no deviations between the Commitments and the Transaction Agreement. For completeness, the SAPA explicitly specifies that if there is any conflict between the terms of the Transaction Agreement and the requirements of the Price Assessments Commitments, the Parties will comply with the Price Assessments Commitments. In addition, the Trustee discussed this matter with News Corporation and confirms that News Corporation is fully satisfied with the manner the Commitments are reflected in the Transaction Agreement.
- (47) Based on the information above, and in line with the Reasoned Opinion,³⁰ the Commission considers that the Price Assessments Divestment Businesses are being sold in a manner consistent with the Price Assessments Commitments including their objective to bring about a lasting structural change in the market.

3. CONCLUSION

- (48) On the basis of the above assessment, the Commission approves News Corporation as a suitable purchaser for the above-mentioned reasons.
- (49) On the basis of the Transaction Agreement, the Commission further concludes that the Divestment Business is being sold in a manner consistent with the Price Assessments Commitments.
- (50) This decision only constitutes approval of the proposed purchaser identified herein and of the Transaction Agreement. This decision does not constitute a confirmation that the Parties have complied with their Commitments.
- (51) This decision is based on paragraph 19 of the Commitments attached to the Commission Decision of 22 October 2021.

For the Commission

(Signed)
Olivier GUERSENT
Director-General

³⁰ Reasoned Opinion, Section 5.4.4.