



EUROPEAN COMMISSION

DG Competition

***Case M.11306 - SMARTSELLER / FNSG / SMARTSELLER
FN (JV)***

Only the English text is available and authentic.

**REGULATION (EC) No 139/2004
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION

Date: 06/12/2023

***In electronic form on the EUR-Lex website under document
number 32023M11306***



EUROPEAN COMMISSION

Brussels, 6.12.2023
C(2023) 8697 final

PUBLIC VERSION

smartseller GmbH & Co. KG
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Germany

Flughafen Nürnberg Service
Gesellschaft mit beschränkter Haftung
Flughafenstraße 100
90411 – Nürnberg
Germany

Subject: Case M.11306 – SMARTSELLER / FNSG / SMARTSELLER FN (JV) Commission decision pursuant to Article 6(1)(b) of Council Regulation (EC) No 139/2004¹ and Article 57 of the Agreement on the European Economic Area²

Dear Sir or Madam,

1. On 10 November 2023, the European Commission received notification of a proposed concentration pursuant to Article 4 of the Merger Regulation, by which Smartseller GmbH & Co. KG (“smartseller”, Germany) will acquire together with Flughafen Nürnberg Service Gesellschaft mit beschränkter Haftung (“FNSG”, Germany) joint control of Smartseller Flughafen Nürnberg GmbH & Co. KG (“smartseller FN”, Germany) currently under FNSG’s sole control, within the meaning of Articles 3(1)(b) and 3(4) of the Merger Regulation by way of purchase of shares.³
2. The business activities of the undertakings concerned are the following:
 - Smartseller operates duty free/travel value shops at the airports of Münster/Osnabrück, Leipzig/Halle (both in Germany) and Ljubljana (Slovenia). Smartseller also provides concession food services at these airports,
 - FNSG is active in the operation of shops including an existing duty-free shop at the airport of Nuremberg, Germany, as well as parking facilities.

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, OJ C, C/2023/1089, 21.11.2023.

3. Smartseller FN will operate the duty free/travel value shop previously held by FNSG and provide concession food services at the airport of Nuremberg, Germany.
4. After examination of the notification, the European Commission has concluded that the notified operation falls within the scope of the Merger Regulation and of paragraph 5 (b) and 5 (d) of the Commission Notice on a simplified treatment for certain concentrations under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings.⁴
5. For the reasons set out in the Notice on a simplified procedure, 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)
Olivier GUERSENT
Director-General

⁴ OJ C 160, 5.5.2023, p. 1–10 (the ‘Notice on a simplified procedure’).