



EUROPEAN COMMISSION
DG Competition

Case M.10860 – ADVENT / GFK

Only the English text is available and authentic.

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

Decision on the implementation of the commitments -
Purchaser approval
Date: 19/12/2023



EUROPEAN COMMISSION

Brussels, 19.12.2023
C(2023) 9179 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 Where possible the information omitted has been replaced by ranges of figures or a general description.

Advent / NielsenIQ
200 West Jackson Boulevard
Chicago, Illinois 60606
United States of America

Dear Sir or Madam,

Subject: Case M.10860 – ADVENT / GfK
Approval of YouGov plc as purchaser of the global consumer panel services business of GfK SE following your letter of 24 October 2023 and the Trustee’s opinion of 7 December 2023

1. FACTS AND PROCEDURE

- (1) By decision of 4 July 2023 (the ‘Decision’) based on Article 6(1)(b) in connection with Article 6(2) of the Merger Regulation, the Commission declared the operation by which Advent International (‘Advent’) acquired control over GfK SE (‘GfK’) compatible with the internal market, subject to conditions and obligations (the ‘Commitments’).
- (2) The Commitments consist of the divestment of the global consumer panel services (‘CPS’) business of GfK, excluding Russia (the ‘Divestment Business’). This includes all CPS personnel, all CPS customer contracts, all CPS vendor contracts, all CPS contracts with panellists, historical data and the rights emanating from the Divestment Business, all core software applications used by GfK in operating its CPS business worldwide and GfK CPS-related trademarks, existing corporate entities in each of Croatia, Serbia and Slovakia, newly incorporated entities in each

of Austria, Belgium, Bulgaria, Czechia, Denmark, Germany, Hungary, Italy, the Netherlands, Poland, Romania, Sweden and Ukraine, and all required office space and associated standard office equipment. Moreover, the Commitments include a licencing arrangement for the use of the ‘GfK’ brand by the Divestment Business, [...].

- (3) By letter of 21 July 2023, Advent proposed YouGov plc (‘YouGov’) for approval by the Commission as purchaser of the Divestment Business and submitted the Sale and Purchase Agreement (the ‘Agreement’) signed by GfK and YouGov on 6 July 2023. The Agreement is conditional on the Commission approving YouGov as the purchaser and the associated terms of the Agreement.
- (4) Advent and YouGov amended and restated the Agreement on [...] 2023, which was submitted to the Commission on [...] 2023.
- (5) The Agreement, as amended and restated provides, in compliance with paragraph 2 of the Schedule of the Commitments, that the Divestment Business will be transferred from GfK and its existing subsidiaries to a newly incorporated holding company, Gold CP Holding B.V. (‘Gold Holdco’), the share capital of which will subsequently be transferred to YouGov. Advent also submitted a draft Transitional Services Agreement with YouGov (‘TSA’), as well as the Brand License Agreement (‘LA’), in relation to the transitional use of the ‘GfK’ brand by the Divestment Business. Finally, Advent submitted the Asset Purchase Agreement (‘APA’), reflecting the required internal restructuring of the Divestment Business under Gold Holdco, before the transfer Gold Holdco’s share capital to YouGov. The Agreement, the TSA, the LA and the APA are hereinafter together referred to as the ‘Transaction Documents’.
- (6) By letter of 7 December 2023, Monitoring Trustee Partners (the ‘Trustee’) submitted an assessment of YouGov’s suitability as a purchaser and, in particular, indicated that it fulfils the criteria of the purchaser requirements in section 17 of the Commitments attached to the Decision. In this assessment, the Trustee also indicated that, based on the Agreement, the Divestment Business would be sold in a manner consistent with the Commitments. Finally, the Trustee confirmed that the Transaction Agreements are in their final form and that no material changes are expected.

2. ASSESSMENT OF THE PROPOSAL

- (7) Pursuant to paragraph 18 of the Commitments, the Commission has to verify that the remedy-taker fulfils the purchaser criteria and that the Divestment Business is being sold in a manner consistent with the Commission’s Decision and the Commitments.¹
- (8) According to paragraph 17 of the Commitments,² in order to be approved by the Commission, any remedy-taker must fulfil the following criteria:

¹ See paragraphs 101 and seq. of the Commission notice on remedies acceptable under Council Regulation (EC) No 139/2004 and under Commission Regulation (EC) No 802/2004 (the ‘Remedies Notice’).

² See Remedies Notice, paragraphs 48-49.

- (a) it shall be independent of and unconnected to Advent and its affiliated undertakings (this being assessed having regard to the situation following the divestiture);
 - (b) it shall have the financial resources, proven expertise and incentive to maintain and develop the Divestment Businesses which it acquires as a viable and active competitive force in competition with the Parties and other competitors;
 - (c) it shall have experience in the market research sector, either directly or through current or prior ownership of one or more businesses active in such sector; and
 - (d) the acquisition of the Divestment Businesses 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 remedy taker must reasonably be expected to obtain all necessary approvals from the relevant regulatory authorities for the acquisition of the Divestment Businesses, which it acquires.
- (9) In addition, pursuant to paragraph 7 of the Commitments the Divestment Businesses shall include the following:
- (a) [scope and duration of transitional arrangements];
 - (b) [scope and duration of transitional arrangements]:
 - i. [scope and duration of transitional arrangements];
 - ii. [scope and duration of transitional arrangements];
 - iii. [scope and duration of transitional arrangements];
 - iv. [scope and duration of transitional arrangements]; and
 - v. [scope and duration of transitional arrangements].
 - (c) a licensing arrangement for the use of the 'GfK' brand, [scope and duration of 'GfK' brand licensing agreement].

2.1. Brief description of the proposed Purchaser

- (10) YouGov is a multinational market research and data analytics group established in 2000 and headquartered in the UK. With operations in the UK, the Americas, Europe, the Middle East, India and Asia Pacific, YouGov has one of the largest research networks in the world.
- (11) YouGov collects and analyses opinions and behavioural data from its proprietary global panel of over 24 million registered members to provide its clients with data and insights to help them explore, plan, activate and track the impact of their marketing and communication activities.

2.2. Purchaser criteria

2.2.1. Independence from the Parties

- (12) Pursuant to paragraph 17(a) of the Commitments, in order to be approved by the Commission, a suitable purchaser must be independent from and unconnected to each of Advent and its affiliated undertakings.
- (13) According to the information provided by Advent and the Trustee, there are no cross-investments, shareholdings, JVs, consortia or partnerships, common management and/or advisory function of executive and non-executive directors, between YouGov and its affiliated undertakings and Advent and its affiliated undertakings.
- (14) With respect to commercial links, there are only limited trading activities between YouGov and Advent and its affiliates. In particular, [...].
- (15) The Trustee considers that these relationships are all at arms' length, in the ordinary course of business and of limited scope for the size of the Parties, and therefore, do not affect the independence of the Purchaser.³
- (16) Based on the information provided by Advent and taking into account the reasoned opinion submitted by the Trustee, the Commission concludes that the Purchaser is independent and unconnected to Advent and its affiliated undertakings.

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

- (17) Pursuant to Article 17(b) of the Commitments, the Purchaser shall have the financial resources, proven expertise and incentive to maintain and develop the Divestment Businesses which it acquires as a viable and active competitive force in competition with the Parties and other competitors.

2.2.2.1. Financial resources

- (18) YouGov's estimated revenues for 2023 are EUR [...] million, representing an increase of [...]% compared to the previous year, with a gross profit of EUR [...] million, and net income of EUR [...] million. Moreover, YouGov has currently no debt and its latest available credit ratings confirm that it is a financially sound company. On that basis, the Monitoring Trustee concluded that YouGov demonstrates financial robustness.⁴

2.2.2.2. Proven expertise and current activity in the market research sector

- (19) YouGov is a multinational market research and data analytics group with operations in over 50 jurisdictions across the world, and a database of [...] million panellists.

³ Reasoned Opinion, Section 4.4.

⁴ Reasoned Opinion, Section 6.2.1.

- (20) YouGov serves numerous sectors, such as agencies, academia, automotive, charities & non-profit, financial services, fast moving consumer goods, health & pharma, leisure and entertainment, media and content, retail, sports, technology, telecommunications, travel and tourism, and video gaming and sports.
- (21) YouGov therefore is active in the market research sector and has proven expertise to allow them to maintain and develop the Divested Business as a viable and active competitor to Advent and other competitors.

2.2.2.3. Incentive

- (22) The Monitoring Trustee notes that the acquisition of the Divestment Businesses coincides with strategy of YouGov to (i) [...], (ii) [...], and (iii) [...].⁵ Moreover, the Trustee notes that the Divestment Business will comprise a [...], accounting for more than [...] % of YouGov's total revenues.⁶ YouGov therefore has the incentive to maintain and develop the Divested Businesses as a viable and active competitor.

2.2.2.4. Conclusions

- (23) Based on the information provided by Advent and considering the Trustee's Reasoned Opinion, the Commission considers that YouGov, who is already active in market research, has sufficient financial resources, proven expertise and the incentives to maintain and develop the Divestment Business as a viable and active competitive force in competition with Advent and other competitors.

2.2.3. *Activity in the market research sector*

- (24) Pursuant to Article 17(b) of the Commitments, the Purchaser shall have experience in the market research sector.
- (25) As described in Section 2.2.2.2 above, YouGov is already active in the market research sector, and therefore has the relevant experience.

2.2.4. *Absence of prima facie competition problems*

- (26) Pursuant to paragraph 17(c) of the Commitments, the transfer of the Divestment Businesses to a suitable remedy-taker must neither be likely to create prima facie competition concerns nor give rise to a risk that the implementation of the Commitments will be delayed.
- (27) Advent submits that YouGov's acquisition of the Divestment Business is not conditional on obtaining merger control clearances in any jurisdiction. YouGov's acquisition of the Divestment Business is conditional on obtaining foreign direct investment approvals in [...]. The Trustee submits that, at the point of submission of its Reasoned Opinion, these approvals have already been obtained in all jurisdictions.⁷

⁵ Reasoned Opinion, Section 6.4.

⁶ *Ibid.*

⁷ Reasoned Opinion, Section 5.2.3.

- (28) Advent and the Trustee consider that the acquisition of the Divestment Business by YouGov does not raise any *prima facie* competition concerns.⁸
- (29) Based on the information provided by Advent, the acquisition of the Divestment Business by YouGov does not give rise to any affected markets.
- (30) On the basis of the above and taking into account the Reasoned Opinion submitted by the Trustee, the Commission concludes that the acquisition of the Divestment Businesses by YouGov is neither likely to create *prima facie* competition concerns, nor give rise to a risk that the implementation of the Commitments will be delayed.
- (31) This *prima facie* assessment is based on the information available for the purpose of this buyer approval and does not prejudice the competition assessment of the acquisition of the Divestment Business by YouGov by a competent competition authority under applicable merger control rules.

2.2.5. *Conclusion on purchaser criteria*

- (32) In light of the above considerations and taking into account the Reasoned Opinion submitted by the Trustee, the Commission concludes that YouGov meets the purchaser criteria set out in paragraph 17 of the Commitments.

2.3. **Assessment of the Transaction Documents**

- (33) As indicated in paragraph (5) above, the Transaction Documents consist of the Agreement, covering the sale of shares and transfer of the Divestment Business, the TSA, which regulate the transitional services to be provided to the Divestment Business by Advent, the LA, regulating the transitional use of the ‘GfK’ brand by the Divestment Business, and the APA, reflecting the required internal restructuring of the Divestment Business under Gold Holdco, before the transfer Gold Holdco’s share capital to YouGov.
- (34) The Trustee reviewed the Transaction Documents and confirmed that they fulfil the condition of the Commitments to transfer the Divestment Businesses to a suitable purchaser. The Commission agrees with that assessment.
- (35) The Trustee considered that the terms of the Transaction Documents reflect Advent’s obligations set out in the Commitments.⁹
- (36) In particular, the Trustee notes that the APA lays out the internal restructuring steps needed to ensure the relevant activities of the Divestment Business are transferred to Gold Holdco, in line with clause 2 of the Schedule to the Commitments. Moreover, the Trustee submits that the TSA includes [...] as listed in clauses 3(h) and 3(i) of the Schedule to the Commitments, except for [...], for which the Purchaser considers there to be no specific need. The Trustee submits that, [...]. Furthermore, the Trustee confirms that the LA is compliant with clause 3(j) of the Commitments.¹⁰ Lastly, the Trustee confirms that the duration of the transitional services under the TSA and the brand licensing agreement under the LA is in line

⁸ Reasoned Proposal, paragraph 65 *et seqq.*; Reasoned Opinion, paragraph 6.5.4.

⁹ Reasoned Opinion, Section 5.3.2.

¹⁰ Reasoned Opinion, footnote 18.

with the Commitments, while the transitional services are provided at cost and the LA [...].¹¹

- (37) In light of the above considerations, the Commission concludes that the Transaction Documents are consistent with the Commitments and that, accordingly, the Divestment Businesses are being transferred in a manner consistent with the Commitments.

3. CONCLUSION

- (38) Based on the above assessment, the Commission approves YouGov as a suitable purchaser for the above-mentioned reasons.
- (39) Based on the Agreement, the Commission further concludes that the Divestment Business is being sold in a manner consistent with the Commitments.
- (40) This decision only constitutes approval of the proposed Purchaser identified herein and of the Agreement. This decision does not constitute a confirmation that Advent has complied with its Commitments.
- (41) This decision is based on Section D of the Commitments attached to the Commission Decision of 4 July 2023.

For the Commission

(Signed)
Olivier GUERSENT
Director-General

¹¹ LA, Section 9.