



Competition Law Association

British Group of the
Ligue Internationale du Droit de la Concurrence
(International League for Competition Law)

www.competitionlawassociation.org.uk

Comments on the draft Commission Consolidated Jurisdictional Notice under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings

These comments are submitted on behalf of the Competition Law Association (CLA). The CLA is an association of lawyers and other professionals including economists and intellectual property practitioners. Our members include private practitioners, employed professionals and academics.

1. Proposal for a revised and consolidated jurisdictional notice

The CLA is pleased to have this opportunity to comment on the Commission's proposal to update its jurisdictional guidance on the EC Merger Regulation ("the Merger Regulation"). As the Commission is aware, the current guidance was last updated in 1998 and is set out in Commission Notices 98/C 66/01 - 66/04 ("the 1998 Notices"). The revised Merger Regulation which came into force in 2004 did not alter the general principles governing the issues dealt with in the 1998 Notices and therefore did not necessitate substantial revision of the 1998 Notices. However since the 1998 Notices came into force there have been a substantial number of further Commission merger decisions and CFI and ECJ decisions on appeal which have dealt with jurisdictional issues and serve as useful precedents. In addition, during this period the Commission has developed its thinking and policy in respect of a number of jurisdictional areas. We welcome the Commission's proposal to update and expand on the 1998 Notices to take account of these subsequent developments ("the Draft Notice"). We also welcome the proposal to combine all the jurisdictional guidance on the Merger Regulation into a single notice.

While we broadly welcome the updating, expansion and consolidation of the 1998 Notices, there are a number of specific aspects of the Draft Notice where the CLA considers the current drafting could be clarified. Further, there are a number of specific areas where expansion of the 1998 Notices would be of assistance. Lastly, as regards a limited number of aspects the CLA disagrees with the approach taken by the Commission. These areas of disagreement generally relate to situations where the Commission has expanded on the previous guidance in the 1998

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