MFE-MEDIAFOREUROPE N.V.

RESPONSE TO THE EU COMMISSION CONSULTATION ON THE REVISION OF CERTAIN PROCEDURAL ASPECTS OF THE EU MERGER CONTROL – FURTHER SIMPLIFICATION OF PROCEDURES

General remarks

MFE welcomes the opportunity to provide its views on the EU Commission proposed review of the EU Merger control simplified procedure.

In general, we appreciate any changes to the merger control process that are apt to increase legal certainty and that could reduce any unnecessary administrative burdens on the undertakings concerned.

With specific regard to the simplified procedure, we support the Commission's effort in reviewing possible changes to the procedure although we deem opportune to suggest certain aspects that deserve to be taken into consideration within the ongoing review.

Need to improve legal certainty and other suggestions

Although we share that flexibility clauses as well as further categories for simplified vertical cases allow for more unproblematic cases to be treated under the simplified procedure, we deem that there could be also a risk of legal uncertainty for the merging parties which might be difficult to ascertain due to the timing of such cases.

More particularly, we consider that the introduction of additional categories as well as a flexibility clause could increase legal uncertainty since the ultimate decision on whether to treat a case under a simplified procedure lies with the Commission and such decision could be taken in principle also at a later stage of the pre-notification phase. In this respect, a possibility to make burden and costs more efficient for the companies, could be to establish a precise time limit for the Commission to decide during the pre-notification phase whether the case better be notified under the simplified procedure or the normal procedure.

In the same perspective, we deem that more precise time limits shall apply for the Commission decision on whether to consider a case not eligible for a simplified procedure, *i.e*. in the cases listed under section II.C of the draft Communication.

With specific regard to point C.8 of the draft communication, we assume that - in case of concerns received by Member States or third parties - the Commission will simply publish

a full text of the decision but will not ask the notifying party to present the information requested by the full Form CO. Otherwise, the timing for the adoption of the final decision will be inevitably delayed.

Moreover, with respect to point C.3 of the draft communication (dealing with minority shareholding), for the sake of efficiency and swiftness of the process, we deem important for the Commission to specify *ex ante* (i) the level of the minority shareholding which may be relevant for falling under these cases; (ii) the significant market share that the minority participated undertaking shall have on the same market (or upstream/downstream ones) of the merging parties.

Finally, the Commission may also consider the case where the company in which the merging parties hold a minority participation have a significant market share in closely related neighboring market.

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