European Works Councils

The European Commission's Merger and Takeover Control Procedure

Opportunities for EWCs, the EMF and national-level employee representatives to exert influence

A Handbook

Imprint

Published by: IG Metall Vorstand

Company Policy and Codetermination – EWC Team
Authors: Aline Hoffmann and Hellmut Gohde
Layout: Susanne Powarzynski

Contact: ebr@igmetall.de /Tel.: +49-69-6693-2501 / Fax: 2087

May 2007

Table of Contents

The European Commission's Merger and Takeover Control Procedure

Opportunities for EWCs, the EMF and national-level employee representatives to exert influence[1]

Summary and Overview

This handbook outlines the opportunities for employee representatives to be heard in the context of the European Commission's merger control procedure. This procedure applies to mergers and takeovers in specifically defined cases. The paper includes some practical tips on how to proceed.

This text was originally written for the EMF Handbook on Restructuring. It has been slightly revised for this brochure. A PowerPoint presentation containing the main points of this brochure can be downloaded from the EMF website www.emf-fem.org.

1. Workforce representatives in the European procedure for controlling concentrations – the scope of the problem:

The achievement of the European Single Market is prompting substantial structural changes in European industry. These changes are reflected, amongst other things, in the number of cross-border mergers, which is continuing to rise.

The consequences for workers vary, ranging from the expansion of their duties or increased job security via a reinforcement of the market position of the newly created undertaking, or job losses and plant closures. In the long term, many undertakings are adapting to the changed market situation in this way, thereby remaining or becoming competitive and securing their long-term prospects. However, in the short term in many cases the focus will be on job losses.

However, if there is a discernible risk of the new undertaking dominating the market in Europe, then the company may take its final decision about the precise structure of the new undertaking within the framework of the EU's **procedure for controlling concentrations** as implemented by the European Commission. This in turn gives rise to a situation in which company management may refuse to disclose sufficient information to employee representatives in good time, by arguing that the details of the merger will not be clear until the Commission has taken its final decision.

The EU Commission's procedure provides for the possibility for workers and workers' representatives to put forward their opinion on the planned concentrations. Over the past few years this possibility has been used on many occasions by the EMF and its affiliate unions in cases of mergers and acquisitions. The EMF Secretariat has worked to ensure the right to be heard for the EMF members and to facilitate the coordination of strategy among workers' representatives.

The EMF Secretariat has observed a change in the EU Commission's attitude towards this possibility to be heard. Rather than merely paying lip service to this right, the Commission services now demonstrate a more positive and cooperative attitude vis-à-vis workers' representatives concerned by a concentration plan.

The EMF and IG Metall recommend that workers' representatives use this right as much as possible.

[1] The paper draws heavily on the legal expertise provided to the EMF by Jörg Towara as well as on a draft manual on the role of EWCs in mergers and takeovers drafted by Hellmut Gohde for IG Metall.

2. The new European merger control procedure

Monitoring mergers and takeovers is one of the key pillars of the EU's competition policy. Even if the Commission will generally take mergers and takeovers to be a sign of economic dynamism, the competition authorities in Brussels are called upon to examine such developments more closely when a new company resulting through a merger or takeover might dominate the market. Such a monopoly would be deemed to exist when a company can act freely in the market without needing to fear reactions by its customers, suppliers, or competitors. It is not forbidden by European law, however, to dominate the market so long as this is the result of free competition and product quality. If a company tries to achieve market dominance by buying up or merging with its competitors, then this is a violation of European competition law and policy.

In the course of European integration, merger control has gradually shifted to the European level. Whereas previously competition control authorities at the national level were responsible for monitoring market concentration, the passage of the Regulation on the control of concentrations between undertakings in 1989[2] provided for the first time a unified European merger control procedure for mergers of significant dimension.

The transfer of authority from the national level to the European level, however, does not mean that stronger mechanisms of control and monitoring were introduced. The main goal of the European procedure is to simplify the administrative procedures required of companies wishing to merge, since they would no longer be required to go through a series of merger control procedures in several different countries. For companies applying for merger approval, this means a significant reduction in costs and administrative procedures and an increase in legal security. In January 2004, the EU revised its merger control procedure in the light of experience and issued a new EC Merger Regulation[3], which took effect on 1 May 2004.

The complete text of the new Regulation on the control of concentrations between undertakings can be downloaded in all EU languages from the Official Journal or at the following website:
http://europa.eu.int/comm/competition/mergers/legislation/regulation/

2.1. When does the merger control procedure apply?

Not every merger or takeover is subject to approval by the European Commission. Only mergers or takeovers of "Community-wide" relevance fall under the remit of the competition authorities in Brussels. An intention to merge with or take over another company will be deemed to be "community-scale" once two thresholds are reached:

1. The aggregate worldwide turnover of all participating companies must be more than 5 billion Euro.

2. The Community-wide turnover of at least two participating companies must be in excess of 250 million Euro (If two-thirds of each company's Community-wide turnover is achieved within a single EU Member State, however, then national-level anti-trust procedures will apply instead of the European procedure.)

It is thus the turnover figures of the participating companies which are decisive in determining whether or not the Commission is competent to grant or refuse approval of the merger or takeover.

[2] EC Regulation No. 4064/89 of 30 September 1989
[3] Council Regulation 139/2004 of 20. January 2004 on the Control of Concentration between Undertakings (EC Merger Control Regulation) and Commission Regulation (EC) No.802/2004 implementing Council Regulation (EC) No. 139/2004 (The "Implementing Regulation") and its annexes (Form CO, Short Form CO and Form RS)

The country of origin of the company plays no role. Thus – as is the case with the EWC Directive – even those companies whose headquarters are located outside the European Union may fall under the Commission's authority.

The revised merger control procedure of 2004 also partly extended the responsibility of the Commission to rule in cases in which a merger or takeover would have been subject to approval by the competition authorities in at least three Member States based on national laws. In such cases, the participating companies may request that their case be referred to the Commission. If none of the otherwise responsible Member States files an objection within 15 days of the application for referral to the European authorities, then the Commission will take over the approval procedure.

2.2. The European Commission's procedure for controlling concentrations

Upon receiving notification of a merger or takeover, the Commission (Directorate General for Competition) shall decide whether the concentration complies with the rules governing competition in the common market.

Notification of the concentration is normally preceded by an informal exchange between the Competition Directorate-General and the companies participating in the merger. This informal phase, which is not covered by the Merger Regulation, is primarily concerned with technical matters regarding the application.

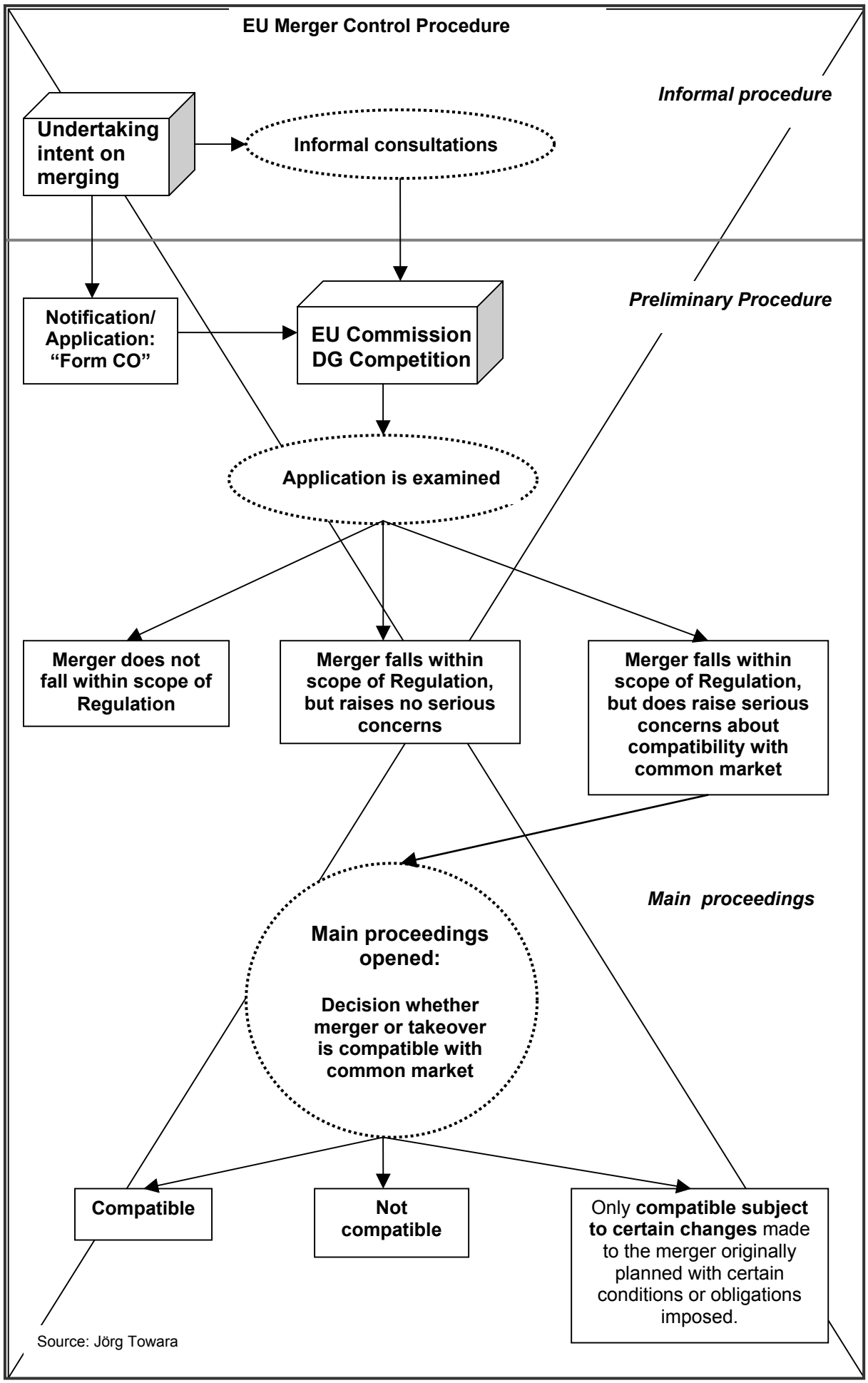
Once notification of the concentration has been received, the proceedings are initiated: the Commission must first decide whether the merger in question is even covered by the Regulation on controlling concentration. There are three possibilities at this stage:

a. The merger does not fall within the scope of the Regulation.
   Consequence: The Commission makes this plain by issuing a decision.

b. The merger does fall within the scope of the Regulation, but does not raise serious doubts as to its compatibility with the common market.
   Consequence: The Commission decides not to oppose the concentration and declares that it is compatible with the common market.

c. The merger does fall within the scope of the Regulation and does raise serious doubts as to its compatibility with the common market
   Consequence: Proceedings are initiated.

The following diagram illustrates the merger control procedure.


EU Merger Control Procedure
Informal procedure
Undertaking intent on merging
Informal consultations
Notification/ Application: "Form CO"
EU Commission DG Competition
Preliminary Procedure
Application is examined
Merger does not fall within scope of Regulation
Merger falls within scope of Regulation, but raises no serious concerns
Merger falls within scope of Regulation, but does raise serious concerns about compatibility with common market
Main proceedings
Main proceedings opened:
Decision whether merger or takeover is compatible with common market
Compatible
Not compatible
Only compatible subject to certain changes made to the merger originally planned with certain conditions or obligations imposed.
Source: Jörg Towara

2.3. Notification of Merger or Takeover: Application for Approval by the Commission

Companies wishing to merge submit a form called "Form CO" ("Notification of a Concentration") to the Commission Directorate General which is charge of competition policy.

With this form, the companies participating in the merger must supply elaborate and detailed information on their planned merger or takeover. Among other questions, the following issues must be addressed:

- Whether all or only selected areas of economic activity will be affected by the merger;
- The point in time at which the merger and the individual steps leading to the merger are to completed;
- Whether, how much, and in what form any of the participating companies have received financial or other (public/governmental) support;
- What shape the future structure of ownership and control of the merged company will take.

In addition, the structure of the participating companies must be laid out, including economic indicators, shares and interests, and expected profits. The Form CO is to be supplemented by extensive documentation, including the merger or takeover contract. A precise analysis of the business goals and the foreseeable effects of the merger or takeover on the affected markets must also be supplied as part of the notification process.

The "Form CO" (short and long versions) is contained in the Annexes to Commission Regulation No. 802/2004 implementing Council Regulation No. 139/2004. These documents can be downloaded in at least 11 languages on the following website:

http://europa.eu.int/comm/competition/mergers/legislation/regulation

Then click on the heading:
Commission Regulation (EC) No.802/2004 implementing Council Regulation (EC) No. 139/2004 (The "Implementing Regulation") and its annexes (Form CO, Short Form CO and Form RS)

3. Information and Consultation of employee representatives

Even if the European trade unions were unsuccessful in achieving their demand for full involvement of employee representatives in the revised merger control procedure of 2004, employees and their representatives are mentioned in the notification/application Form CO. Under heading 1.7 (Form CO/Annex I) and heading 1.9 (Short Form CO/Annex II), companies are reminded of their national-level and European-level obligations to inform and consult their workforces:

> 1.7 (Form CO) /1.9 (Short Form CO)
> Provision of information to employees and their representatives.
> The Commission would like to draw attention to the obligations to which the parties to a concentration may be subject under Community and/or national rules on information and consultation regarding transactions of a concentrative nature vis-à-vis employees and/or their representatives.

3.1 What deadlines apply within the merger control procedure?

The Regulation on the control of concentrations between undertakings lays out a clear timeline with binding deadlines.

As a rule, the Commission must rule on the application for approval (Form CO) within 25 working days from receipt of the application. This time period can be extended to 35 working days if the

applicants offer to fulfil further obligations, or if the Commission is requested to refer the application back to the national level.

The Commission also has the option, however, to decide to initiate a more thorough investigation and can thus extend the deadline by another 90 working days from the date on which it takes this decision to investigate more thoroughly. This time period can be extended by a further 20 working days if the participating companies or the Commission (with the approval of the participating companies) so request. If the companies agree to comply with further commitments 54 days after their initial application, then this deadline can be extended by another 15 working days.

3.2 What opportunities are there for employee representatives and unions to become involved?

As mentioned above, the Commission only takes competition issues into consideration when approving or rejecting a merger. However, even if the revised merger control procedure does not include social and employment-related criteria for the approval or denial of a merger or takeover, the merger control procedure nevertheless provides European Works Councils and the EMF the possibility to make their concerns and expectations regarding the merger or takeover heard.

Employee representatives affected by the merger or takeover may be heard if:

- The Commission invites them to a hearing of its own accord, or
- The employee representatives formally apply to be heard. This application must be approved by the Commission.
-

The right to be heard is laid out in the merger control regulations:

> Article 18(IV). *Insofar as the Commission and the competent authorities of the Member States deem it necessary, they may also hear other natural or legal persons. Natural or legal persons showing a sufficient interest and especially members of the administrative or management organs of the undertakings concerned or the recognised representatives of their employees shall be entitled, upon application, to be heard.*

At the national or local level, works councils or legally recognised trade union committees are as a rule recognised workers' representatives. EWCs can be expected to be considered legally recognised workers' representatives at the European level. Insofar as the EMF is a representative European body acting on behalf of representative national metalworkers' unions, it is the legitimate body representing the interests of its affiliate unions.

Thus, European Works Councils, national and local employee representative bodies, and the EMF itself have the opportunity to become involved in the proceedings. There are at least four good reasons why they should do so:

- EWCs, other employee representatives and the EMF can communicate their possible concerns about the merger or takeover directly to the Commission;.
- If they have not yet been properly informed and consulted about the planned concentration of activities, then they can use this forum to exert public pressure on the company to comply with its obligations to inform and consult;
- They can use the hearing to obtain further information about the background of the merger or takeover;

- By actively seeking a role in the merger control procedure, they can make it clear to management that they do not intend to take a wait-and-see approach to the possibly detrimental effects of the merger.

3.3 At what stage can workforce representatives become involved?

As already outlined above, there are three procedural phases in which the workforce representatives could theoretically present their reservations with respect to the merger and its consequences to the Commission.

In this context, the right to be heard, to information and to view documents is of central importance in each phase of the proceedings.

3.3.1 The right to be heard

In the informal proceedings:
The informal proceedings are not expressly covered by either the Merger Regulation 139 or in the Regulation on procedure. This phase of the procedure entails informal, confidential talks between the parties involved and the Commission. These talks primarily concern issues arising in connection with notification and filling out the Form CO. However, central aspects of the planned concentration are often also discussed, so it is in the interests of workforce representatives in particular at this early stage to influence the further proceedings by becoming involved early on.

However, the special informal and confidential nature of this phase of the proceedings is not conducive to such involvement. Until the Commission has received official notification, the protection of the position of the potential notifying party will most likely be given priority. Nevertheless, this is an unfavourable situation where the workforce representatives are concerned, since they will want to put forward their arguments as early as possible.

In the preliminary proceedings:
A right to be heard is only expressly granted for the main proceedings, not for the preliminary proceedings. Since main proceedings are only seldom initiated, therefore, this means that workforce representatives do not in fact have a right to be heard in every case.

However we observe that the services of the EU Commission (DG Competition, as well as DG Employment) are more and more open to meet with workers' representatives, even if this is not explicitly provided by the Regulation. This may in part be due to the fact that meeting with workers' representatives serves to give EU Commission officials further insights about the companies concerned by the concentration.

In the main proceedings:
Under the Regulation, the Commission shall inform third parties in writing of the nature and subject matter of the merger control procedure and shall fix a time limit within which they may make known their views provided they submit a written application. Furthermore, the Commission may, where appropriate, give the parties the opportunity to participate in a formal hearing upon written request.

3.3.2 The right to information

In the informal proceedings:
In principle, no information is divulged at this early stage of the proceedings.

In the preliminary proceedings
While the right to information is not expressly provided for with respect to the preliminary proceedings, it has been successfully claimed in practice. In order for employee representatives to prepare for their prospective hearing under Article 18(IV) of the merger control regulations, they are informed in writing about the nature and subject matter of the impending procedure and given a chance to make known their views in writing. They are also informed about the offers of acceptance from the parties to the concentration in the course of the proceedings so that they can take up a corresponding position.

In the main proceedings:
The same principle applies as is outlined above with respect to the preliminary proceedings. Employee representatives are given information in order to provide them with an adequate basis on which to form and voice their opinion in the main hearings.

3.3.3 The right to consult documents:

Only directly involved parties are entitled to consult the relevant file.
Workers' representatives, are therefore not entitled to consult the documents.

Overview of participatory rights of workforce representatives in the procedure for controlling concentrations

	Information	**Hearing**	**Consultation of files**
Informal Proceedings	**no**	**no**	**no**
Preliminary proceedings	**yes**, in practice: after notification, a shortened or abridged version of the **points of contention** is submitted for an opinion; also if **offers of acceptance** are made in the course of the proceedings	**yes**, although not expressly covered, hearings in the course of preliminary proceedings are usually granted to employee representatives who apply.	**no**
Main proceedings	**yes**, as above	**yes**, expressly provided for	**no**

Source: Jörg Torawa for the EMF

In effect then, there may be two separate opportunities to be heard: once in the Preliminary Proceedings and then again in the Main Proceedings if the Commission decides to launch Main Proceedings. It should be borne in mind that the hearings may well extend over several separate sessions within that stage of the proceedings.

3.4 Judicial procedure: What are our chances in court?

In addition to their rights in the administrative procedure, workforce representatives may naturally also appeal to the European Court of First Instance. However, complaints lodged by a body of workforce representatives against a decision taken by the Commission regarding the control of a concentration are only admissible insofar as it can be demonstrated that its participatory rights were violated in the administrative procedure set out in the Regulation.

In any case, care should be taken to ensure that the body of workforce representatives serving as the plaintiff is legally recognized at national or European level.

Even though only very few complaints have so far been lodged in connection with the merger control procedure, none of which have been successful, workforce representatives should nonetheless be advised to keep the judicial procedure in mind, at least as an option of last resort.

3.5 How do we find out whether the Commission is examining a merger or takeover?

The Commission will publicise a notification of a merger on its website (see below). It is via this route that employee representatives and their unions can find out whether a company has given notice of an intended merger or takeover.

3.6 Publication in the Official Journal (OJ) formally launches the procedure

The approval procedure is not formally launched, however, until the notice is officially published in the Official Journal. This usually takes place about 5-10 days after the first reports appear on the commission’s website (See above) .

> **Once the notification has been published by the Commission in the Official Journal, the workforce representatives have just 10 days to apply for a hearing by the Commission in the preliminary proceedings. This 10-day period begins from the announcement of the notification of a merger between company X and company Y.**

The notification of a possible merger or takeover is published in the Official Journal, which can be accessed via the web page of the European Commission's DG Competition:

How to find the publication in the Official Journal (link via by the European Commission's DG Competition Webpage)

1. Go to **www.europa.eu.int**
2. On the home page, click on your language button *(the following follows the link via the English language button next to "Gateway to the European Union")*
3. Under the tab marked "Institutions", click on the words "European Commission"
4. In the top right-hand corner ("The Commission at your service"), click on the heading "the Directorates-General and services"
5. Under "Policies" click on "Competition"
6. On Under the heading "Antitrust" click on "Official Journal"
7. On the DG Competition's page, click on the words "Competition thematic site"
8. This is where the Commission's publications on certain notified concentrations can be found, listed under their respective dates; the undertakings involved are listed in parentheses
9. For more specific information, click on the numbers highlighted in blue

*NB: Unfortunately, the call for the submission of any objections (Application for hearing) is currently **only** available in the **English** version.*

4. Applying for a hearing

The application should be addressed to:
European Commission
Competition Directorate-General
Directorate B – Merger Task Force,
Rue Joseph II
B – 1000 Brussels

A sample letter can be found in the annex to this brochure.

It is at this point, at the very latest, that management must be called upon to inform the workforce representatives about the plans.

An application for a hearing by the EU Commission can only be submitted by a formally mandated EWC representative or by workforce representatives who are recognised as workforce representatives of the respective undertaking under the laws of the countries concerned.

A copy of the application should also be sent to the EMF Secretariat for information (**emf@emf-fem.org**).

Since it is highly unlikely that the EWC will be able to be convened within the 10-day time frame for submitting an application to be heard, EWCs who suspect that their company may be subject to a merger or takeover should plan ahead and formally mandate its President or Secretary to act on behalf of the whole EWC.

If there are indications that management is already involved in informal consultation with the Commission (informal proceedings), then the EWC or national-level employee representatives can also apply for a hearing at this early stage. Such a pre-emptive application does not oblige the

Commission to award a hearing, but it may prevent the EWC or national-level representatives from failing to meet the 10-day deadline.

Whether or not the application to be heard is submitted by a national-level representative body or by the EWC, the effort should be coordinated across the EWC and the EMF. The EMF in particular can ensure that all unions represented in the company are informed about steps taken.

As outlined above, the Commission is very likely to give workforce representatives the opportunity to voice their point of view.

At the first hearing:
At the first hearing, if the workforce representatives are unaware of the details of the merger, they should point this out to the Commission. Furthermore, if management has failed to inform and consult the EWC, then the Commission should also be informed of this fact.

At the same time, the opportunity should be used to elicit as much information as possible about the merger from the Commission. Some possible questions to raise in the hearings can be found in the annex to this brochure The EWC or EMF may already have gained many of the answers to these questions from other sources. But in the light of the usual complexity of mergers, it is important to use the hearing with the Commission to ensure that the employee representatives actually have ALL of the detailed information about proposed merger.

> **The companies applying for the merger may request that some documentation be kept confidential, but this does not mean that the Commission can refuse to divulge information. Employee representatives should therefore insist that the Commission share with them all information which is not explicitly classified as confidential**.

If the workforce representatives have not yet been fully informed about the content of the planned concentration, they will hardly be able to put forward a position at the first hearing. They should therefore apply immediately for a second hearing, so that the information received in the first hearing can be processed. This is the most effective way to make use of the right to be heard.

By that second hearing at the latest, expert assistance should be brought along to the hearing, though an application to this effect must be made when applying for the second hearing.

Where hearings involve various workforce representatives coordinated by the EMF, it is particularly important that specific, reliable agreements are made with regard to how to behave vis-à-vis the Commission.

Use the hearing politically to highlight the social and employment consequences.

Of course, the primary aim for the workforce representatives is to highlight the social consequences of a concentration, especially the impact on employment. It must be recognised that these consequences might be positive or negative. Unlike the Commission, whose focus is solely on aspects of competition law, workforce representatives will focus on the need to take account of the social consequences. The need to do so is all the more acute insofar as the Commission rules out the social dimension of a planned concentration in principle. Nonetheless, the right to a hearing should always be invoked: first, it is essential to obtain as much information as possible, and second, the workforce representatives can undoubtedly adopt a position of some sort, and of some importance to the Commission, on issues related to competition. It may be possible to develop arguments which address both the competition aspects of a merger and its impact on employment.

From a trade union point of view, it is essential that employee representatives make it clear to the Commission that they expect it to take employment aspects into consideration. The Commission may have to be reminded of the fact that the Amsterdam Treaty explicitly states that the goal of a high level of employment must be reflected in the development and implementation of Community policy.

Should we apply for a hearing jointly with representatives from other companies involved in the merger or takeover?

An application for a hearing can be submitted by employee representatives from all companies involved in the merger. Whether or not contact can be made with the EWC or national-level employee representation bodies of the other companies concerned will vary from case to case. The EMF affiliates and the EMF itself are the first organisations to address to see whether contact can be made.

Given the tight time frame allowed for submitting a request to be heard, it may be difficult to put forward a joint application. Whether or not a joint application is made will also depend upon whether the employee representatives share the same assessment of the social and political consequences of the merger.

Should a joint application be put forward, the EMF will assist as much as possible in facilitating the coordination of strategy among employees' representatives and trade unions concerned with the view to develop a common assessment of the planned concentration and its consequences.

In any case, the employee representatives of other companies involved in the merger or takeover should be informed via the EMF that an application to be heard by the Commission has been made.

Should we inform management that we are applying for a hearing?

There is no obligation for employee representatives to inform management if they intend to apply for a hearing. Whether or not employee representatives choose to inform management will most likely depend on the company culture: Company management will probably not be eager to involve the EWC in the hearings. But it might be the case that simply the announcement of an application to be heard by the commission might move company management to inform the EWC more fully than it had originally intended – especially if the employee representatives make their decision to apply for a hearing dependent on their satisfaction of the quality and intensity of information through management. In such a case, the option of not applying for a hearing will need to be weighed carefully: which strategy seems most likely to yield more and better information for the employee representatives?

Combining European and national-level rights

The participatory rights of workforce representatives usually also exist at national level. Obviously, these can and should be used in conjunction with the possibility to be heard at the European level.

Furthermore, if the EWC cannot be certain that its President or Secretary is properly mandated in the eyes of the Commission, it may be advisable that a national-level representative body, such as a works council, put forward a request to be heard by the Commission. Clearly, the aim of such a hearing should be to address the concerns of the whole European workforce.

Annex 1: Sample list of questions to the Commission for workforce representatives:

The following are the key items of information that employee representatives will need to know about the merger. It may be that case that much of the basic information (Questions 1-5) are already available prior to the hearing before the Commission. Because it cannot be excluded that key points of information may not be known after all, it is important to use the hearing by the Commission to systematically ensure that employee representatives do indeed have full information about what the company has told the Commission about the planned merger, its participating companies, its financial structure, its timeframe and its foreseeable consequences.

While the Commission may state that it is not in a position to provide answers to Questions 6 and 7, these are nonetheless very important as political statements vis-à-vis the Commission about its responsibility to consider the social and employment effects of a proposed mergers.

1) From which undertakings has the Commission already received notification?

2) Which companies are involved in the merger?

3) What is the economic and financial structure of the merger?

4) For which point in time are important steps to complete the merger planned or expected?

5) Which establishments and undertakings in which countries are affected by the merger?

6) Does the Commission have concerns about the compatibility of the merger with the single market?
   (1) If so, what parts of the company give rise to these concerns?
   (2) Is the Commission considering requiring additional commitments on the part of the applying companies as a result of these concern? What parts of the business might be affected by these additional commitments.

7) Is the Commission aware that …[*present an own assessment of the expected impact of the merger/takeover on employment levels within the company and on employment levels in the region and ask Commission for its opinion*.]

Annex 2: Background information to be provided to the EMF

List of background questions to workforce representatives from company-level and union representatives for the EMF:

1) Which workforce representatives does the affected undertaking have?

2) Is there a European Works Council?

3) Do the workforce representatives cooperate with each other at international level?

4) What is cooperation between the respective representatives like at national level?

5) Is any information available from management on the planned concentration?

6) If so, how detailed is it and when did the information become available?

7) Did the workforce representatives ask the management to provide information?

8) If so, at what time and in what form?

9) What consequences do the workforce representatives expect or fear the merger will have?

10) How does the situation look in terms of competition policy?

Annex 3: Sample application to be heard by the Commission

Worker representation
(e.g. EWC, national works council
or similar legally recognised employee
representation body)

Date

European Commission

Competition Directorate-General

Directorate B – Merger Task Force,
Rue Joseph II
B – 1000 Brussels

Re.: e.g. Case no. COMP/M.2069 – Alstom/Fiat Ferroviaria
(Case number to be taken from the online publication in the Official Journal)

Dear Madam, Dear Sir,

Pursuant to Article 18 (IV) of Council Regulation 139/2004 of 20 January 2004 in our capacity as workforce representatives of the undertaking X, we hereby request a hearing on the notified merger between Company X and Company Y (Case no. COMP/M.2069)

With best regards,

….

cc: EMF Secretariat
EMF EWC Coordinator
National EMF Affiliate