JOINT VENTURES (SPACE): THE ASTRIUM CASE

Subject : Joint ventures
Dominant position

Industry : Space
(Some implications for other industries)

Parties : Astrium
Matra Marconi Space
DASA

Source : Commission Statement IP/99/943, dated 6 December 1999

(Note. On the principle that, among the scores of cases approved by the Commission during first-phase inquiries into proposed concentrations, a few cases are subject to a second-phase investigation and are therefore inherently interesting, the following case is reported here. The Commission considers, on the face of it with some justice, that the proposed joint venture may strengthen a dominant position on the European space market. It may also encourage vertical integration. A high proportion of cases subject to second-phase investigation are approved, often with conditions. The present case will be watched with interest.)

The Commission has decided to open a full investigation under the Merger Regulation into the proposed creation of ASTRIUM, a joint venture of the German DaimlerChrysler Aerospace AG (DASA), Stuttgart, and the Netherlands-based Matra Marconi Space NV (MMS), The Hague. The main areas of concern are the strong position of ASTRIUM in observation and scientific satellites, space infrastructure and launchers in Europe.

MMS, jointly controlled by Matra Hautes Technologies S.A.S. and by Marconi Electronic Systems Limited, and DASA belonging to the DaimlerChrysler group have both activities in the manufacture and supply of satellite systems and sub-systems, space infrastructure and launchers. ASTRIUM will combine all space activities of MMS and the major part of the DASA space activities.

In general, demand for space systems comes from either commercial customers or institutional customers such as the European Space Agency (ESA), national space agencies and, for military applications, from Ministries of Defence. There is demand from commercial customers primarily on the world-wide markets for telecommunication satellites, on which the concentration does not lead to competition concerns. As to institutional markets, MMS and DASA are both active as prime contractors for space systems and as manufacturers of equipment. As prime-contractors they

source the necessary sub-systems and equipment either in-house or from independent suppliers. ASTRIUM will by far have a leading position as a prime-contractor for observation and scientific satellites and space infrastructure in Europe. The concentration will increase the degree of vertical integration, since ASTRIUM will be able to manufacture most of the required equipment in-house.

At this stage of the investigation, the Commission has identified serious concerns that the operation could lead to the creation of a dominant position on certain institutional markets for space systems in Europe. On the prime contracting level, ASTRIUM will have a leading position in observation and scientific satellites and space infrastructure and is an important supplier of certain components to its main competitors, namely, Alcatel Space and Alenia Aerospazio. ASTRIUM may therefore be in a position to foreclose these prime contracting markets. Similarly, there are risks that the operation could have adverse effects at the component level, as ASTRIUM could use its strong position as a purchaser to favour in-house suppliers and therefore foreclose such markets to third party suppliers.

Any investigation under the Merger Regulation is conducted under a legally binding timetable. From the date the Commission is fully informed of the details of the transaction (by formal notification), the Commission has a period of one month to make an initial assessment of the notified transaction. If the Commission comes to the conclusion that there are serious doubts whether an operation is compatible with the competition rules in the common market, it initiates a full investigation. The Commission has a further four months to investigate the facts and to adopt the final decision whether or not to allow the proposed transaction to proceed. The opening of a full investigation is a procedural step without prejudice to the final outcome of the case.

With the decision to open a full investigation in the case, the Commission will continue a detailed-fact finding exercise, using as a legal test the likelihood that the joint venture may create or reinforce a dominant position. ■

Fairford Press

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