



Mergers: Commission fines General Electric €52 million for providing incorrect information in LM Wind takeover

Brussels, 8 April 2019

The European Commission has fined General Electric €52 million for providing incorrect information during the Commission's investigation under the EU Merger Regulation of GE's planned acquisition of LM Wind.

Commissioner Margrethe **Vestager**, in charge of competition policy, said: *"Our merger assessment and decision-making can only be as good as the information that we obtain to support it. Accurate information is essential for the Commission to take competition decisions in full knowledge of the facts. The fine imposed today on General Electric is proof that the Commission takes breaches of the obligation for companies to provide us with correct information very seriously."*

The [EU Merger Regulation](#) obliges companies in a merger investigation to provide correct and non-misleading information. This is essential for the Commission to review mergers and takeovers in a timely and effective manner.

On 11 January 2017, GE notified its proposed acquisition of LM Wind. In this notification, GE stated that it did not have any higher power output wind turbine for offshore applications in development, beyond its existing 6 megawatt turbine. However, through information collected from a third party, the Commission found that GE was simultaneously offering a 12 megawatt offshore wind turbine to potential customers.

As a result on 2 February 2017, GE withdrew its notification of the acquisition of LM Wind. On 13 February 2017 GE re-notified the same transaction, this time including complete information on its future project. On 20 [March 2017](#), the Commission approved the proposed acquisition.

On [6 July 2017](#), the Commission addressed a Statement of Objections to GE alleging that it had breached its procedural obligations under the Merger Regulation.

The Commission's investigation has confirmed that, contrary to GE's statements in its first notification in January 2017, GE had indeed been offering a higher power output offshore wind turbine to potential customers. As a result, GE's statement in the notification form that it had no higher power output wind turbines for offshore in development is incorrect.

Today's decision has no impact on the Commission's approval of the transaction under EU merger rules, as this was based on rectified information from the second notification.

The fine

According to the [Merger Regulation](#), the Commission can impose fines of up to 1% of the aggregated turnover of companies, which intentionally or negligently provide incorrect or misleading information to the Commission.

In setting the amount of a fine, the Commission takes into account the nature, the gravity and duration of the infringement, as well as any mitigating and aggravating circumstances.

GE committed an infringement by negligently providing incorrect information in the merger notification form. The Commission considers that this infringement is serious because it prevented it from having all relevant information for the assessment of the transaction.

Moreover, the Commission considers that GE, with whom it had continuous contacts during the merger review process, especially on the subject of GE's pipeline products in this market, should have been aware of the relevance of the information for the Commission's assessment, and of its obligations under the Merger Regulation. Therefore, GE's breach of procedural obligations was a serious infringement.

On the basis of these factors, the Commission has concluded that an overall fine of €52 million is both deterrent and proportionate.

Background

Today's case is the second time that the Commission has adopted a decision imposing fines on a company for provision of incorrect or misleading information since the entry into force of the [2004 Merger Regulation](#).

In May 2017, the Commission [fined Facebook €110 million](#) for providing incorrect or misleading information during the Commission's 2014 investigation under the EU Merger Regulation of Facebook's acquisition of WhatsApp.

Past Commission decisions in this regard were adopted under the 1989 Merger Regulation in accordance with different fine-setting rules.

The GE/LM Wind merger case

On 11 January 2017, General Electric notified the Commission of its plans to acquire LM Wind Power. On 2 February 2017, GE withdrew its notification of the merger with LM Wind. On 13 February 2017 GE re-notified the same transaction. In its review of the transaction under the EU Merger Regulation, the Commission assessed whether the vertical integration of LM Wind, a blade manufacturer, and GE, a wind turbine manufacturer, would lead to detrimental effects on any of the affected markets.

Based on the results of its market investigation, the Commission concluded that competitive concerns would be unlikely to arise after the transaction because:

- GE would not be in a position to significantly affect the upstream market. In particular since competing blade manufacturers would continue to have access to wind turbine manufacturers other than GE.
- In relation to the downstream markets, GE would continue to face significant competition from other major turbine manufacturers, such as Siemens, (MHI) Vestas, Nordex and Senvion, who either manufacture their blades in-house and/or are not dependent on LM Wind for supplies.

Therefore, the Commission concluded that the proposed acquisition would not result in a significant reduction in competition in the EU's Single Market, and cleared the transaction on [20 March 2017](#).

Other merger procedural cases

In July 2017, the Commission sent [Statements of Objections to Merck and Sigma-Aldrich and to Canon](#), alleging that Merck and Sigma-Aldrich breached EU the procedural rules in the Merger Regulation for providing incorrect or misleading information, and alleging that Canon implemented a merger before notification and clearance. These investigations are ongoing.

In April 2018, the Commission imposed a [€124.5 million fine on Altice](#), the multinational cable and telecommunications company based in the Netherlands, for implementing its acquisition of the Portuguese telecommunications operator PT Portugal before notification or approval by the Commission.

In February 2019, the Commission sent a [Statement of Objections to Telefónica Deutschland](#) alleging the company breached commitments it offered to secure the Commission's approval under the EU Merger Regulation of its acquisition of E-Plus in 2014.

More information will be available on the competition [website](#), in the Commission's public [case register](#) under the case number [M.8436](#).

IP/19/2049

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