

P5_TA(2003)0428

EC Merger Regulation *

European Parliament legislative resolution on the proposal for a Council regulation on the control of concentrations between undertakings: 'The EC Merger Regulation' (COM(2002) 711 – C5-0005/2003 – 2002/0296(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2002) 711)¹,
 - having regard to Articles 83 and 308 of the EC Treaty, pursuant to which the Council consulted Parliament (C5-0005/2003),
 - having regard to its resolution of 4 July 2002 on the Commission Green Paper on the review of Council Regulation (EEC) No 4064/89²,
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs and the opinion of the Committee on Legal Affairs and the Internal Market (A5-0257/2003),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 5. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1
Recital 12

(12) The Commission should be able to

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¹ OJ C 20 E, 28.1.2003, p. 4.

² P5_TA(2002)0369.

refer to a Member State concentrations which significantly affect competition on a market within that Member State presenting all the characteristics of a distinct market. Where the concentration affects such a market, which does not constitute a substantial part of the common market, the Commission should be obliged, upon request, to refer *the whole or part of* the case to the Member State concerned.

refer to a Member State concentrations which significantly affect competition on a market within that Member State presenting all the characteristics of a distinct market. Where the concentration affects such a market, which does not constitute a substantial part of the common market, the Commission should be obliged, upon request, to refer the case to the Member State concerned. ***Where a merger originally notified to the Commission is referred to a Member State, in order to make the control of concentrations operate more homogeneously and effectively, application of national legislation on the control of mergers should not entail solutions which are blatantly at odds with the decisions which would be reached in accordance with this Regulation.***

Amendment 2
Recital 20

(20) ***In order to ensure a system of undistorted competition in the common market operating in accordance with the principle of an open market economy with free competition, this Regulation must permit effective control of all concentrations from the point of view of their effect on the structure of competition in the Community. It should therefore*** establish the principle that a concentration with a Community dimension which creates or strengthens a dominant position as a result of which effective competition in the common market or in a substantial part of it is significantly impeded is to be declared incompatible with the common market. ***Irrespective of the structure of the relevant markets affected by a concentration or of the manner in which economic power is manifested or exercised, dominance should be defined in such a way as to reflect a considerable level of economic power held by one or more undertakings.***

(20) This Regulation must establish the principle that a concentration with a Community dimension which creates or strengthens a dominant position as a result of which effective competition in the common market or in a substantial part of it is significantly impeded is to be declared incompatible with the common market.

Amendment 42
Recital 20a (new)

(20a) The pace of change has intensified on several markets, due to technical developments, economic integration and globalisation. Therefore it is necessary to employ a more dynamic perspective when approving mergers. These dynamic processes should be taken into account when the relevant market is determined. A static definition is a risk, which may lead to an excessively narrow interpretation with serious negative consequences. The approval of a merger should aim at testing the durable impact of the merger on competition with a view to the long-term consequences.

Amendment 3
Recital 21

(21) In view of the consequences that concentrations in oligopolistic market structures may have, it is all the more necessary to maintain effective competition in such markets. Many oligopolistic markets exhibit a healthy degree of competition. However, under certain circumstances, the elimination of important competitive constraints that the merging parties exerted on each other, as well as the reduction of competitive pressure on the remaining competitors, may, particularly in these markets, be detrimental to competition unless these effects would be constrained by the reaction of competitors, customers or consumers. For that purpose, the notion of dominance within the meaning of this Regulation should, therefore, encompass situations in which, because of the oligopolistic structure of the relevant market and the resulting interdependence of the various undertakings active on that market, one or more undertakings would hold the economic power to influence

Deleted.

appreciably and sustainably the parameters of competition, in particular, prices, production, quality of output, distribution or innovation, even without coordination by the members of the oligopoly. In making this appraisal, account should be taken of the specific features of the markets under examination, such as the level of capacity constraints, the degree of product differentiation, or the functioning of the bidding process. Consideration should also be given to, inter alia, the likely reactions of actual and potential competitors, as well as of customers, and any efficiencies brought about by the merger.

Amendment 4
Recital 27

(27) The Commission should have the task of taking all the decisions necessary to establish whether or not concentrations with a Community dimension are compatible with the common market, as well as decisions designed to restore the situation prevailing prior to the implementation of a concentration which has been declared incompatible with the common market.

(27) The Commission should have the task of taking all the decisions necessary to establish whether or not concentrations with a Community dimension are compatible with the common market, as well as decisions designed to restore the situation prevailing prior to the implementation of a concentration which has been declared incompatible with the common market. ***Those decisions should be proportionate to the anti-competitive effect of the concentration.***

Amendment 5
Recital 34

(34) In order to properly appraise concentrations, the Commission should have the right to request all necessary information and to conduct all necessary inspections throughout the Community. ***To that end, and with a view to protecting competition effectively, the Commission's powers of investigation need to be expanded. The Commission should in particular have the right to interview any persons who may be in possession of***

(34) In order to properly appraise concentrations, the Commission should have the right to request all necessary information and to conduct all necessary inspections throughout the Community. ***However, communications between undertakings and associations of undertakings and outside or in-house counsel containing or seeking legal advice should be privileged, provided that the legal counsel is properly qualified and is***

useful information and to record the statements made. In the course of an inspection, officials authorised by the Commission should have the right to affix seals for the period of time necessary for the inspection, normally not for more than 72 hours, and to ask for any information relevant to the subject matter and purpose of the inspection. Without prejudice to the case-law of the Court of Justice, it is also useful to set out the scope of the control that the national judicial authority may exercise when it authorises, as provided by national law and as a precautionary measure, assistance from law enforcement authorities in order to overcome possible opposition on the part of the undertaking against an inspection ordered by Commission decision; it results from the case-law that the national judicial authority may in particular ask of the Commission further information which it needs to carry out its control and in the absence of which it could refuse the authorisation; the case-law also confirms the competence of the national courts to control the application of national rules governing the implementation of coercive measures. The competent authorities of the Member States should cooperate actively in the exercise of the Commission's investigative powers.

subject to adequate rules of professional ethics and discipline laid down and enforced in the general interest by the professional association to which the legal counsel belongs. The Commission may ask any representative of the undertaking or association of undertakings for explanations on facts or documents relating to the subject-matter and purpose of the inspection and may record the answers, provided such representatives have been informed that they are not obliged to provide an answer and that they may have a lawyer present.

Amendment 6
Recital 35

(35) When complying with decisions of the Commission, the undertakings and persons concerned cannot be forced to admit that they have committed infringements, **but** they are **in any event** obliged to answer factual questions and to provide documents, **even** if this information may be used to establish against themselves or against others the existence of such infringements.

(35) When complying with decisions of the Commission, the undertakings and persons concerned cannot be forced to admit that they have committed infringements. They are **not** obliged to answer factual questions and to provide documents if this information may be used to establish against themselves or against others the existence of such infringements.

Amendment 7
Article 2, paragraph 2

2. For the purpose of this Regulation, one or more undertakings shall be deemed to be in a dominant position if, with or without coordinating, they hold the economic power to influence appreciably and sustainably the parameters of competition, in particular, prices, production, quality of output, distribution or innovation, or appreciably to foreclose competition.

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Amendment 8
Article 3, paragraph 4

4. Two or more transactions which are conditional on one another **or are so closely connected that their economic rationale justifies their treatment as a single transaction** shall be deemed to constitute one and the same concentration arising on the date of the last transaction, provided that the transactions taken as a whole satisfy the requirements of paragraph 1.

4. Two or more transactions which are conditional on one another shall be deemed to constitute one and the same concentration arising on the date of the last transaction, provided that the transactions taken as a whole satisfy the requirements of paragraph 1.

Amendment 9
Article 4, paragraph 4

4. Prior to the notification of a concentration within the meaning of paragraph 1, the undertakings or persons referred to in paragraph 2 may inform the Commission, by means of a reasoned submission, that the concentration **affects** competition in a market within a Member State which presents all the characteristics of a distinct market and should therefore be examined, in whole or in part, by that Member State.

The Commission shall transmit this submission to all Member States without delay. The Member State concerned shall, within **10 working days** of receiving the submission, express its agreement or disagreement as regards the request to refer

4. Prior to the notification of a concentration within the meaning of paragraph 1, the undertakings or persons referred to in paragraph 2 may inform the Commission, by means of a reasoned submission, that the concentration **has significant effects on** competition in a market within a Member State which presents all the characteristics of a distinct market and should therefore be examined, in whole or in part, by that Member State.

The Commission shall transmit this submission to all Member States without delay. The Member State concerned shall, within **5 working days** of receiving the submission, express its agreement or disagreement as regards the request to refer

the concentration. Where the Member State concerned takes no such decision within that period, it shall be deemed to have agreed.

Unless the Member State concerned disagrees, the Commission, where it considers that such a distinct market exists, and ***will be affected by the concentration***, may decide to refer ***the whole or part of*** the case to the competent authorities of that Member State with a view to the application of that State's national legislation on competition.

The decision whether or not to refer the case shall be taken within 20 working days starting from the receipt of the reasoned submission by the Commission. The Commission shall inform the other Member States and the undertakings concerned of its decision. If the Commission does not take a decision within this period, it shall be deemed to have adopted a decision to refer the case in accordance with the submission made by the persons or undertakings concerned.

If the Commission decides to refer ***the whole of*** the case to the competent authorities of the Member State concerned, no notification shall be made pursuant to paragraph 1.

Article 9(6) to ***(10)*** shall apply mutatis mutandis.

the concentration. Where the Member State concerned takes no such decision within that period, it shall be deemed to have agreed.

Unless the Member State concerned disagrees, the Commission, where it considers that such a distinct market exists, and ***that the concentration will have significant effects on competition in that distinct market***, may decide to refer the case to the competent authorities of that Member State with a view to the application of that State's national legislation on competition.

The decision whether or not to refer the case shall be taken within 20 working days starting from the receipt of the reasoned submission by the Commission. The Commission shall inform the other Member States and the undertakings concerned of its decision. If the Commission does not take a decision within this period, it shall be deemed to have adopted a decision to refer the case in accordance with the submission made by the persons or undertakings concerned.

If the Commission decides to refer the case to the competent authorities of the Member State concerned, no notification shall be made pursuant to paragraph 1.

Article 9(6) to ***(9a)*** shall apply mutatis mutandis.

Amendment 10

Article 4, paragraph 5, subparagraphs 1 to 3

5. With regard to a concentration which would not have a Community dimension within the meaning of Article 1, the persons or undertakings concerned may, prior to its notification to the competent authorities of one or more Member States, inform the Commission by means of a reasoned submission that the concentration has significant cross-border effects and should therefore be examined by the

5. With regard to a concentration which would not have a Community dimension within the meaning of Article 1, the persons or undertakings concerned may, prior to its notification to the competent authorities of one or more Member States, inform the Commission by means of a reasoned submission that, ***in at least three Member States, the combined aggregate turnover of all undertakings concerned is***

Commission.

more than 10% of the combined aggregate Community-wide turnover of all undertakings concerned, or that the concentration is subject to the national merger control rules of several Member States, or that the concentration for other reasons has significant cross-border effects and should therefore be examined by the Commission.

The Commission shall transmit this submission to all Member States without delay.

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The Member State or States concerned shall decide, within **10 working days** of receiving the submission, whether or not to request the Commission to examine the concentration. Where a Member State takes no such decision within the aforementioned period of **10 working days**, it shall be deemed to have adopted a decision to make such a request to the Commission. No notification of the concentration shall be submitted to the Member State or States concerned before the decision whether or not to request has been adopted.

The Member State or States concerned shall decide, within **5 working days** of receiving the submission, whether or not to request the Commission to examine the concentration. Where a Member State takes no such decision within the aforementioned period of **5 working days**, it shall be deemed to have adopted a decision to make such a request to the Commission. No notification of the concentration shall be submitted to the Member State or States concerned before the decision whether or not to request has been adopted.

Amendment 11

Article 4, paragraph 5a (new)

5a. Articles 9(1) and 22(1) shall not apply to concentrations when the undertakings concerned have made a request for a pre-notification referral pursuant to this Article.

Amendment 12

Article 6, paragraph 1, point (b), subparagraph 2

A decision declaring a concentration compatible shall ***be deemed to*** cover restrictions directly related and necessary to the implementation of the concentration.

A decision declaring a concentration compatible shall ***also*** cover restrictions directly related and necessary to the implementation of the concentration.

Amendment 13

Article 7, paragraph 4

4. The Commission may, by regulation, define categories of concentrations for which a derogation within the meaning of paragraph 3 from the obligations imposed in paragraphs 1 and 2 shall be deemed to have been granted subject to the concentration being notified and to any other requirements defined in such a regulation. Such categories may only cover concentrations which, in general, do not lead to a combination of market positions giving rise to competition concerns.

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Amendment 14

Article 8, paragraph 4, subparagraph 2

The Commission may order any appropriate measure to ensure that the undertakings concerned dissolve the concentration or take other restorative measures as required in its decision.

The Commission may order any appropriate measure to ensure that the undertakings concerned dissolve the concentration or take other restorative measures as required in its decision. **Any such measure must be proportionate to the anti-competitive effect of the concentration.**

Amendment 15

Article 9, paragraph 2, point (a)

(a) a concentration **significantly affects competition** on a market within that Member State, which presents all the characteristics of a distinct market, or

(a) a concentration **is in danger of creating or reinforcing a dominant position as a result of which actual competition will be significantly hampered** on a market within that Member State, which presents all the characteristics of a distinct market, or

Amendment 16

Article 9, paragraph 2a (new)

2a. Notification of Member States pursuant to paragraph 2 shall be accompanied by a statement setting out which national provisions on mergers give grounds for assuming that the concentration would significantly affect competition on a market in that Member State and which effective

measures the competition authorities of that Member State intend to take in the event of a referral.

Amendments 17 and 18
Article 9, paragraph 3

3. If the Commission considers that, having regard to the market for the products or services in question and the geographical reference market within the meaning of paragraph 7, there is such a distinct market, either:

(a) it shall itself deal with the case in accordance with this Regulation; or

(b) it shall refer *the whole or part of* the case to the competent authorities of the Member State concerned with a view to the application of that State's national legislation on competition.

If, however, the Commission considers that such a distinct market does not exist it shall adopt a decision to that effect which it shall address to the Member State concerned, and shall itself deal with the case in accordance with this Regulation.

In cases where a Member State informs the Commission pursuant to paragraph 2 (b) that a concentration affects competition in a distinct market within its territory that does not form a substantial part of the common market, the Commission shall refer the *whole or part of the* case *relating to the distinct market concerned*, if it considers that such a distinct market is affected.

3. If the Commission considers that, having regard to the market for the products or services in question and the geographical reference market within the meaning of paragraph 7, there is such a distinct market *and that such a threat exists*, either:

(a) it shall itself deal with the case in accordance with this Regulation; or

(b) it shall refer the whole or part of the case to the competent authorities of the Member State concerned with a view to the application of that State's national legislation on competition. *However, cases may be not referred where the concentration is subject to the simplified procedure.*

If, however, the Commission considers that such a distinct market *or threat* does not exist it shall adopt a decision to that effect which it shall address to the Member State concerned, and shall itself deal with the case in accordance with this Regulation.

In cases where a Member State informs the Commission pursuant to paragraph 2 (b) that a concentration affects competition in a distinct market within its territory that does not form a substantial part of the common market, the Commission shall refer the case if it considers that such a distinct market is affected.

Amendment 19
Article 9, paragraphs 4, points (a) and (b) and paragraphs 5 to 8

4. A decision to refer or not to refer pursuant to paragraph 3 shall be taken:

(a) as a general rule within *the period*

4. A decision to refer or not to refer pursuant to paragraph 3 shall be taken:

(a) as a general rule within *15 days at most*

provided for in Article 10(1), second subparagraph, where the Commission, pursuant to Article 6(1)(b), has not initiated proceedings; or

(b) within **65 working days** at most of the notification of the concentration concerned where the Commission has initiated proceedings under Article 6(1)(c), without taking the preparatory steps in order to adopt the necessary measures under Article 8(2), (3) or (4) to maintain or restore effective competition on the market concerned.

5. If within the **65 working days** referred to in paragraph 4 (b) the Commission, despite a reminder from the Member State concerned, has not taken a decision on referral in accordance with paragraph 3 nor has taken the preparatory steps referred to in paragraph 4 (b), it shall be deemed to have taken a decision to refer the case to the Member State concerned in accordance with paragraph 3 (b).

6. The publication of any report or the announcement of the findings of the examination of the concentration by the competent authority of the Member State concerned shall be effected not more than 90 days after the Commission's referral.

7. The geographical reference market shall consist of the area in which the undertakings concerned are involved in the supply and demand of products or services, in which the conditions of competition are sufficiently homogeneous and which can be distinguished from neighbouring areas because, in particular, conditions of competition are appreciably different in those areas. This assessment should take account in particular of the nature and characteristics of the products or services concerned, of the existence of entry barriers or of consumer preferences, of appreciable differences of the undertakings' market shares between the area concerned and neighbouring areas or of substantial price differences.

of the notification of the concentration concerned, where the Commission, pursuant to Article 6(1)(b), has not initiated proceedings; or

(b) within **30 working days** at most of the notification of the concentration concerned where the Commission has initiated proceedings under Article 6(1)(c), without taking the preparatory steps in order to adopt the necessary measures under Article 8(2), (3) or (4) to maintain or restore effective competition on the market concerned.

5. If within the **30 working days** referred to in paragraph 4 (b) the Commission, despite a reminder from the Member State concerned, has not taken a decision on referral in accordance with paragraph 3 nor has taken the preparatory steps referred to in paragraph 4 (b), it shall be deemed to have taken a decision to refer the case to the Member State concerned in accordance with paragraph 3 (b).

6. The publication of any report or the announcement of the findings of the examination of the concentration by the competent authority of the Member State concerned shall be effected not more than 90 days after the Commission's referral.

7. The geographical reference market shall consist of the area in which the undertakings concerned are involved in the supply and demand of products or services, in which the conditions of competition are sufficiently homogeneous and which can be distinguished from neighbouring areas because, in particular, conditions of competition are appreciably different in those areas. This assessment should take account in particular of the nature and characteristics of the products or services concerned, of the existence of entry barriers or of consumer preferences, of appreciable differences of the undertakings' market shares between the area concerned and neighbouring areas or of substantial price differences.

8. In applying the provisions of this Article, the Member State concerned may take only the measures strictly necessary to safeguard or restore effective competition on the market concerned.

8. In applying the provisions of this Article, the Member State concerned may take only the measures strictly necessary to safeguard or restore effective competition on the market concerned. ***It shall ensure that any such measures are consistent with any such measures of the Commission or another Member State.***

Amendment 20
Article 9, paragraph 9a (new)

9a. If the undertakings concerned have already submitted a request for pre-notification referral in accordance with Article 4, the decision to refer or not pursuant to paragraph 3 shall be taken:

(a) within 15 working days from the date of notification of the operation in question, if the Commission has not initiated proceedings pursuant to Article 6(1)(b);

(b) within 30 working days from the date of notification of the operation in question, under the conditions laid down in paragraph 4(b);

Once the deadline laid down in point (b) has expired, the provisions of paragraph 5 shall apply.

Amendment 21
Article 9, paragraph 9b (new)

9b. The application of national legislation on competition by a Member State in accordance with this Article shall not lead to decisions which blatantly conflict with the provisions of this Regulation, notwithstanding the provisions of Article 21(3).

Amendment 22
Article 10, paragraph 3, subparagraph 2

At any time following the initiation of

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proceedings, the periods set by the first subparagraph may be extended by the Commission with the consent of the notifying parties. The periods set by the first subparagraph shall likewise be extended if the notifying parties make a request to that effect not later than 15 working days after the initiation of proceedings pursuant to Article 6(1)(c). The notifying parties may make only one such request. The total duration of any extension or extensions effected pursuant to this subparagraph shall not exceed 20 working days.

proceedings, the periods set by the first subparagraph may be extended by the Commission with the consent of the notifying parties. The periods set by the first subparagraph shall likewise be extended if the notifying parties make a request to that effect not later than 15 working days after the initiation of proceedings pursuant to Article 6(1)(c). The notifying parties may make only one such request. The total duration of any extension or extensions effected pursuant to this subparagraph shall not exceed 20 working days ***or 5 working days where the undertakings concerned offer commitments pursuant to Article 8(2), second subparagraph, with a view to rendering the concentration compatible with the common market, unless these commitments are offered less than 55 working days after the initiation of proceedings.***

Amendment 23

Article 11, paragraph 7, subparagraph 1

7. In order to carry out the duties assigned to it by this Regulation, the Commission may interview any ***natural or legal*** person who ***consents*** to be interviewed ***for the purpose of collecting*** information relating to the subject-matter of an investigation. ***At the beginning of the interview, which may be conducted by telephone or other electronic means, the Commission shall state the legal basis and the purpose of the interview and indicate the penalties provided for in Article 14 for supplying incorrect or misleading information.***

7. In order to carry out the duties assigned to it by this Regulation, the Commission may interview any person ***authorised by the management of an undertaking*** who ***agrees*** to be interviewed ***to enable*** information ***to be collected*** relating to the subject-matter of an investigation, ***provided that he is informed in advance of his right to refuse to divulge information and the right to receive legal assistance.***

Amendment 24

Article 11, paragraph 7a (new)

7a. With regard to the information requested by the Commission for the purposes of investigation pursuant to this Article, the natural or legal person concerned shall be informed beforehand

of his right not to reply or make statements which may incriminate him.

Should a person make statements which could be used to establish against him the existence of an infringement, he shall have the acknowledged right to receive legal assistance.

Amendment 25
Article 13, paragraph 1

1. In order to carry out the duties assigned to it by this Regulation, the Commission may conduct all necessary inspections of undertakings and associations of undertakings.

1. In order to carry out the duties assigned to it by this Regulation, the Commission may conduct all necessary inspections of undertakings and associations of undertakings. *Communications between undertakings and outside or in-house counsel containing or seeking legal advice shall be privileged, provided that the legal counsel is properly qualified and is subject to adequate rules of professional ethics and discipline laid down and enforced in the general interest by the professional association to which the legal counsel belongs.*

Amendment 26
Article 13, paragraph 2, point (b)

(b) to *examine* the books and other records *related to the business*, irrespective of the medium on which they are stored;

(b) to *check* the books and other *business* records, irrespective of the medium on which they are stored, *if necessary keeping them for a maximum of five working days*;

Amendment 27
Article 13, paragraph 2, point (d)

(d) to seal any business premises and books or records for the period and to the extent necessary for the inspection;

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Amendment 28
Article 13, paragraph 2, point (e)

(e) to ask any representative or member of staff of the undertaking or association of undertakings for explanations on facts or documents relating to the subject matter and purpose of the inspection and to record the answers.

Deleted.

Amendment 29
Article 14, paragraph 1, point (b)

(b) they supply incorrect or misleading information in response to a request made pursuant to Article 11(2) or in an interview pursuant to Article 11(7);

(b) they supply incorrect or misleading information in response to a request made pursuant to Article 11(2) or in an interview pursuant to Article 11(7), *provided that the provisions of Article 11(7a) are observed;*

Amendment 30
Article 14, paragraph 1, point (e), indents 2 and 3

– they fail to rectify within a time-limit set by the Commission an incorrect, incomplete or misleading answer given by a member of staff, or

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– they fail or refuse to provide a complete answer on facts relating to the subject-matter and purpose of an inspection ordered by a decision adopted pursuant to Article 13(4);

Amendment 31
Article 14, paragraph 1, point (f)

(f) seals affixed by officials or other accompanying persons authorised by the Commission in accordance with Article 13(2)(d) have been broken.

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Amendment 32
Article 22, paragraph 3

3. Where all the Member States which would be competent to review the concentration under their national legislation on competition, or at least three such Member States, have requested the

3. Where all the Member States which would be competent to review the concentration under their national legislation on competition, or at least three such Member States, have *explicitly*

Commission to examine a concentration, the concentration shall be deemed to have a Community dimension and shall be notified to the Commission in accordance with Article 4.

requested the Commission to examine a concentration, the concentration shall be deemed to have a Community dimension and shall be notified to the Commission in accordance with Article 4.

Amendment 33

Article 22, paragraph 4, subparagraph 3

The Member *State or States having made the request* shall not continue to apply their national legislation on competition to the concentration.

The Member States shall not continue to apply their national legislation on competition to the concentration.

Amendment 34

Article 22, paragraph 6a (new)

6a. The provisions of Article 9(9b) shall be observed.