



Computer & Communications Industry Association (CCIA) Submission to European Commission on Merger Control Procedures Inception Impact Assessment Consultation 23 April 2021

CCIA welcomes the opportunity to share its comments on the European Commission (EC) inception impact assessment “Merger control in the EU – further simplification of procedures”.¹ CCIA agrees with the merger evaluation findings that there may be additional cases that are typically unproblematic which are currently not captured by the simplified procedure and that information requirements may be too extensive in certain circumstances. CCIA supports further targeting of EU merger control by expanding, but also clarifying the scope of cases falling under the simplified procedure as set out in the Notice on Simplified Procedure. In particular, CCIA supports shortening the pre-notification phase, increasing legal certainty for the notification of cases directly without pre-notification, and streamlining the review of non-simplified cases where appropriate. CCIA also supports fully digital notifications, including digital signatures.

CCIA would further support an impact assessment for what the EC calls a “reappraisal” of Article 22 of the Merger Regulation,² and the EC’s corresponding “change in approach” for referral of concentrations below national jurisdictional thresholds, embodied in its guidance of 31 March 2021 “Guidance on the application of the referral mechanism set out in Article 22 of the Merger Regulation to certain categories of cases” (2021/C 113/01).³ According to the EC’s Better Regulation Guidelines,⁴ “[f]or major initiatives ... roadmaps or inception impact assessments must be finalised and published as quickly as possible. They explain to external stakeholders what the Commission is considering and allow them to provide early feedback.”

CCIA is not aware of any roadmap or impact assessment having been done, or any opportunity being given for industry stakeholders to comment on this change, despite the significant expansion of EC jurisdiction that this decision entails, the inevitable extraterritorial effects, and significant reductions in legal certainty. In this respect, CCIA notes recital 11 of the Merger Regulation stating that the rules governing the referral of concentrations should “take due account of legal certainty and the ‘one-stop shop’ principle”. CCIA fears that, in the absence of an impact assessment and stakeholder consultation, such due account may not have been taken.

About CCIA

CCIA is an international, not-for-profit trade association representing a broad cross section of communications and technology firms. For nearly fifty years, CCIA has promoted open markets, open systems, and open networks. For more, visit www.ccianet.org.

¹ Available at: <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12957-Revision-of-certain-procedural-aspects-of-EU-merger-control>

² Merger Regulation available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32004R0139>

³ Guidance available at: [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52021XC0331\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52021XC0331(01))

⁴ Available at: <https://ec.europa.eu/info/sites/info/files/better-regulation-guidelines.pdf>