

# Mergers: Commission clears Apple's acquisition of Shazam

Commissioner Margrethe **Vestager**, in charge of competition policy, said: *"Data is key in the digital economy. We must therefore carefully review transactions which lead to the acquisition of important sets of data, including potentially commercially sensitive ones, to ensure they do not restrict competition. After thoroughly analysing Shazam's user and music data, we found that their acquisition by Apple would not reduce competition in the digital music streaming market."*

Today's decision follows an [in-depth](#) investigation of Apple's proposed acquisition of Shazam. Apple operates "Apple Music", which is the second largest music streaming service in Europe, after Spotify. Shazam offers a leading music recognition application ("app") in the European Economic Area (EEA) and worldwide.

## **The Commission's investigation**

Apple and Shazam mainly offer complementary services and do not compete with each other. The Commission opened an in-depth investigation to assess:

- whether Apple would obtain access to commercially sensitive data about customers of its competitors for the provision of music streaming services in the EEA, and whether such data could allow Apple to directly target its competitors' customers and encourage them to switch to Apple Music. As a result, competing music streaming services could have been put at a competitive disadvantage.
- considering Shazam's strong position in the market for music recognition apps, whether Apple Music's competitors would be harmed if Apple, after the transaction, were to discontinue referrals from the Shazam app to them.

The Commission undertook a wide range of investigative measures and received feedback from key market participants in the digital music industry, including providers of music streaming and music recognition services, as well as other stakeholders.

The Commission found that:

- the merged entity would not be able to shut out competing providers of digital music streaming services by accessing commercially sensitive information about their customers. In particular, access to Shazam's data would not materially increase Apple's ability to target music enthusiasts and any conduct aimed at making customers switch would only have a negligible impact. As a result, competing providers of digital music streaming services would not be shut out of the market;
- the merged entity would not be able to shut out competing providers of digital music streaming services by restricting access to the Shazam

- app. This reflects the fact the app has a limited importance as an entry point to the music streaming services of Apple Music's competitors; and
- the integration of Shazam's and Apple's datasets on user data would not confer a unique advantage to the merged entity in the markets on which it operates. Any concerns in that respect were dismissed because Shazam's data is not unique and Apple's competitors would still have the opportunity to access and use similar databases.

Therefore, the Commission concluded that the transaction would raise no competition concerns in the EEA or any substantial part of it. A merger decision does not release companies from respecting all relevant data protection laws.

### **Companies and products**

**Apple** is a US based global technology company which designs, manufactures and sells mobile communication, media devices, portable digital music players and personal computers. It also sells and delivers digital content online and offers the music and video streaming service "Apple Music".

**Shazam** is a UK based developer and distributor of music recognition applications for smartphones, tablets and PCs. It mainly generates revenues from online advertising, and commissions earned on referrals of users to digital music streaming and download services, such as Apple Music, Spotify and Deezer.

### **Referral request**

On 6 February 2018, the Commission [accepted a request](#) from Austria, France, Iceland, Italy, Norway, Spain and Sweden to assess the acquisition of Shazam by Apple under the EU Merger Regulation. The proposed transaction was initially notified to Austria for regulatory clearance, as the transaction did not meet the turnover thresholds of the EU Merger Regulation. Austria submitted a referral request to the Commission pursuant to Article 22(1) of the EU Merger Regulation on 21 December 2017.

### **Merger control rules and procedures**

The Commission has the duty to assess mergers and acquisitions involving companies with a turnover above certain thresholds (see Article 1 of the Merger Regulation) and to prevent concentrations that would significantly impede effective competition in the EEA or any substantial part of it.

The vast majority of notified mergers do not pose competition problems and are cleared after a routine review. From the moment a transaction is notified, the Commission generally has 25 working days to decide whether to grant approval (Phase I) or to start an in-depth investigation (Phase II).

There are currently six on-going phase II merger investigations: the proposed [acquisition of Aurubis Rolled Products and Schwermetall by Wieland](#), the

proposed [acquisition of MKM by KME](#), the proposed [acquisition of Gemalto by Thales](#), the proposed [acquisition of Alstom by Siemens](#), the proposed [acquisition of Solvay's nylon business by BASF](#) and the proposed [acquisition of Tele2 NL by T-Mobile NL](#).

More information will be available on the [competition](#) website, in the Commission's public [case register](#) under the case number [M.8788](#).