

# Bird & Bird Satellite Bulletin

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## *The European Commission launches a full investigation into ASL's proposed acquisition of Arianespace*

The European Commission announced on 26 February 2016 that it was opening an in-depth phase II investigation into the proposed acquisition of Arianespace by Airbus Safran Launchers (ASL) under the EU Merger Regulation.

Arianespace is a global leader for launches of commercial satellites to geostationary transfer orbits. It has a monopoly in European markets for institutional launches and is entrusted by ESA with the commercial exploitation of the two ESA-funded launchers; Ariane; and Vega. ASL is a 50/50 joint venture between Airbus and Safran. Airbus is one of the leading global satellite manufacturers while Safran is active in aerospace propulsion, aircraft equipment and defence and security.

The Commission is concerned that the proposed transaction could lead to higher prices, less customer choice and a reduction in R&D in the satellite, launcher, launcher equipment and launch services markets. The Commission is concerned that the merged entity could:

- discriminate against satellite manufacturers competing with Airbus reducing the incentives of Airbus' rivals to invest and innovate;
- give priority to launch services connected to Ariane launchers, if ASL produces this launcher to the detriment of the competing launcher Vega; and
- procure payload adapters and dispensers exclusively from Airbus and ASL, regardless of the price and quality offered by competitors.

The Commission's announcement is a decision to take a closer look at the proposed transaction. It is not an indication of the outcome, expected by 12 July 2016.

The outcome of the investigation could be a complete clearance, a clearance subject to conditions and/or obligations or the transaction could be blocked. Only a minority of notified mergers have resulted in outright prohibition by the Commission. The outcome is usually clearance with or without conditions and/or obligations. It will be up to the notifying parties to offer remedies. Remedies could include divestments and/or behavioural obligations; addressing the competition concerns identified by the Commission.

Third parties with a legitimate interest in the outcome of the case have a right to make their views on the proposed transaction known in writing and potentially have a hearing if the Commission decides their contribution is of sufficient importance. The Commission is likely to send questionnaires to competitors and customers. Finally, interested parties will have an opportunity to comment on potential commitments.

If you have any queries or would like to receive further information please contact:

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## Bird & Bird's Satellite Group

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Our international team offers clients a one-stop shop to address the issues they face, with expert lawyers across Europe, the Middle East, Asia, and strong experience in Africa.

Our satellite group fits neatly within Bird & Bird's world leading Tech & Comms sector group, which offers advice in related sectors such as: energy and utilities, life sciences, transport and maritime, aerospace, defence and security, aviation, financial services, and healthcare. Bird & Bird also house a team focused on SMEs and the needs of start-ups.

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