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 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:

**Joanne Wheeler**  
Partner, UK  
Tel: +44 20 3017 6847  
joanne.wheeler@twobirds.com

**Richard Eccles**  
Partner, UK  
Tel: +44 20 7905 6261  
richard.eccles@twobirds.com

**Ariane le Strat**  
Associate, UK  
Tel: +44 20 7905 6345  
ariane.lestrat@twobirds.com
**Bird & Bird’s Satellite Group**

Bird & Bird’s satellite group are international specialists with a unique reputation and track record in the industry. Through many years of experience working in-house, at regulators, in international institutions (EC, ESA, ITU, UN) and in private practice, we have built an extensive footprint of expertise and knowledge. Possessing a genuine interest in the sector, our team assist clients in many areas including: regulatory advice, industry specific commercial contacts, competition, corporate, finance, dispute resolution, employment, and insurance.

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.

**Get in touch**

- **Joanne Wheeler**  
  Partner, UK  
  Tel: +44 20 3017 6847  
  joanne.wheeler@twobirds.com

- **Hamish Fraser**  
  Partner, Australia  
  Tel: +61 2 9226 9815  
  hamish.fraser@twobirds.com

- **Anne Federle**  
  Partner, Belgium  
  Tel: +32 2 282 6088  
  anne.federle@twobirds.com

- **Michelle Chan**  
  Partner, China and Hong Kong  
  Tel: +852 2248 6111  
  michelle.chan@twobirds.com

- **Sven-Erik Heun**  
  Partner, Germany  
  Tel: +49 69 7422 6158  
  sven-erik.heun@twobirds.com

- **Graeme Maguire**  
  Partner, UK  
  Tel: +44 20 7905 6218  
  graeme.maguire@twobirds.com

- **Marjolein Geus**  
  Partner, The Netherlands  
  Tel: +31 70 353 8806  
  marjolein.geus@twobirds.com

- **Frédérique Dupuis-Toubol**  
  Partner, France  
  Tel: +33 1 42 68 6023  
  frederique.dupuis-toubol@twobirds.com

- **Michel Matas**  
  Partner, France  
  Tel: +33 1 42 68 6960  
  michel.matas@twobirds.com

- **Richard Eccles**  
  Partner, UK  
  Tel: +44 20 7905 6261  
  richard.eccles@twobirds.com