

CONFIDENTIAL

VIEW

of the representatives of the EFTA States and the EFTA Surveillance Authority

presented at the meeting of the

EC ADVISORY COMMITTEE ON MERGERS

of 18 March 2015

regarding a preliminary draft Commission decision

in Case **COMP/M.7265 ZIMMER/BIOMET**

**Rapporteur : POLAND**

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**Concentration**

1. The representatives of the EFTA States and the EFTA Surveillance Authority agree with the Commission that the notified operation constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.
2. The representatives of the EFTA States and the EFTA Surveillance Authority agree with the Commission that the notified merger has a Union dimension pursuant to Article 1(2) of the Merger Regulation.

**Market definition**

3. The representatives of the EFTA States and the EFTA Surveillance Authority agree with the Commission's definitions of the relevant product and geographic markets in the draft decision.

**Horizontal Effects**

4. The representatives of the EFTA States and the EFTA Surveillance Authority agree with the Commission's assessment that the proposed operation is likely to give rise to non-coordinated horizontal effects that would significantly impede effective competition through the creation or strengthening of a dominant position in the following markets:

- (a) the markets for partial knee implants in Austria, Belgium (including Luxembourg), Czech Republic, Denmark, Finland, France, Germany, Greece, Italy, Netherlands, Poland, Portugal, Slovenia, Spain, Sweden and United Kingdom;
- (b) the markets for elbows implants in Austria, Belgium (including Luxembourg), Czech Republic, Denmark, France, Germany, Italy, Norway, Portugal, Spain, Sweden and United Kingdom; and
- (c) the markets for primary knee implants in Denmark and Sweden and revision knee implants in Denmark.

**Remedy**

5. The representatives of the EFTA States and the EFTA Surveillance Authority agree with the Commission that the final commitments offered by the Notifying Party on 9 February 2015 are sufficient to remove the competition concerns identified by the Commission on the following markets:

- (a) the markets for partial knee implants in Austria, Belgium (including Luxembourg), Czech Republic, Denmark, Finland, France, Germany, Greece, Italy, Netherlands, Poland, Portugal, Slovenia, Spain, Sweden and United Kingdom;
- (b) the markets for elbows implants in Austria, Belgium (including Luxembourg), Czech Republic, Denmark, France, Germany, Italy, Norway, Portugal, Spain, Sweden and United Kingdom; and
- (c) the markets for primary knee implants in Denmark and Sweden and revision knee implants in Denmark.

6. The representatives of the EFTA States and the EFTA Surveillance Authority agree with the Commission's conclusion that, subject to the full compliance with the final commitments, the notified merger is unlikely to significantly impede effective competition in the internal market or in a substantial part of it.

7. The representatives of the EFTA States and the EFTA Surveillance Authority agree with the Commission that the notified merger must therefore be declared compatible with the internal market and the functioning of the EEA Agreement in accordance with Articles 2(2) and 8(2) of the Merger Regulation and Article 57 of the EEA Agreement.

ISLAND

LIECHTENSTEIN

NORGE

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EFTA SURVEILLANCE AUTHORITY

  
 Sigrid Veflen Surlien