EUROPEAN COMMISSION
DG Competition

PUBLIC VERSION

Case M.11956 – UMG / DOWNTOWN

(Only the English text is authentic)

REGULATION (EC) No 139/2004
MERGER PROCEDURE

Article 8(2) Regulation (EC) 139/2004
Date: 13/02/2026

EUROPEAN
COMMISSION

Brussels, 13.2.2026
C(2026) 863 final

COMMISSION DECISION

of 13.2.2026

declaring a concentration to be compatible with the internal market and the EEA Agreement

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union[1],

Having regard to the Agreement on the European Economic Area[2], and in particular Article 57 thereof,

Having regard to Council Regulation (EC) No 139/2004 of 20.1.2004 on the control of concentrations between undertakings[3], and in particular Article 8(2) thereof,

Having regard to the Commission's decision of 22 July 2025 to initiate proceedings in this case,

Having given the undertakings concerned the opportunity to make known their views on the objections raised by the Commission,

Having regard to the opinion of the Advisory Committee on Concentrations,

Having regard to the final report of the Hearing Officer in this case,

Whereas:

1. INTRODUCTION

(1) On 16 June 2025, the European Commission received notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which Universal Music Group N.V. ('**UMG**' or the '**Notifying Party**', the Netherlands) will acquire within the meaning of Article 3(1)(b) of the Merger Regulation sole control of the whole of Downtown Music Holdings LLC ('**Downtown**', United States of America) (the '**Transaction**').[4] UMG and Downtown are hereinafter referred to as the '**Parties**'.

2. THE PARTIES

(2) **UMG** is a global music company incorporated in the Netherlands. UMG owns and operates various businesses engaged in wholesale recorded music (in particular music labels, which form the largest part of the business), music publishing (through

1 OJ C 115, 9.8.2008, p.47.

2 OJ L 1, 3.1.1994, p. 3 (the '**EEA Agreement**').

3 OJ L 24, 29.1.2004, p. 1 (the '**Merger Regulation**'). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ('**TFEU'**) has introduced certain changes, such as the replacement of 'Community' by 'Union' and 'common market' by 'internal market'. The terminology of the TFEU will be used throughout this decision.

4 OJ C, C/2025/3481, 26.6.2025.

Universal Music Publishing Group – '**UMPG**'), merchandising, and audio-visual content. A standalone division within UMG, Virgin Music Group ('**Virgin**'), provides so-called artist and label ('**A&L**') services, i.e., distribution services and ancillary services (such as marketing and promotion) to third-party record labels and artists.

(3) **Downtown** is a global independent rights management and music services company, headquartered in New York, USA. It is active in the provision of A&L services to third-party record labels and artists. It also offers certain publishing services focused on royalty collection and licensing (collection, rights management and registration), as well as limited neighbouring rights and user-generated content services. In addition Downtown also offers royalty administration services through Curve, a platform for calculating and reporting royalties to artists, labels and songwriters. Downtown does not operate record labels or provide any material creative support to its music publishing customers.

3. THE CONCENTRATION

(4) On 16 December 2024, UMG and Downtown entered into a Membership Interest Purchasing Agreement, according to which UMG (through its direct and indirect subsidiaries), will acquire all the shares in Downtown for a cash consideration of approximately USD 775 million.

(5) As a result, UMG will acquire sole control over Downtown. Therefore, the Transaction constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

4. UNION DIMENSION

(6) The Transaction does not have a Union dimension within the meaning of Article 1 of the Merger Regulation as the Parties' turnover does neither meet the thresholds of Article 1(2) nor Article 1(3) of the Merger Regulation.[5]

(7) On 14 March 2025, the Commission received a referral request from the Autoriteit Consument & Markt, the competition authority of the Netherlands (the '**Dutch NCA**'), pursuant to Article 22(1) of the Merger Regulation. The national competition authority of Austria (the '**Austrian NCA**') subsequently joined the request made by the Dutch NCA. On 24 April 2025, the Commission adopted two decisions by which it accepted both the referral request made by the Dutch NCA and the request to join presented by the Austrian NCA and, consequently, decided to examine the Transaction pursuant to Article 22(3) of the Merger Regulation.

5. THE PROCEDURE

(8) Based on a market investigation, the Commission considered that the Transaction raised serious doubts as to its compatibility with the internal market, including in Austria and the Netherlands, and adopted a decision to initiate proceedings pursuant

[5] Downtown's turnover in the EU is less than EUR 100 million, thus the thresholds set in Article 1(2)(b) of the Merger Regulation and Article 1(3)(d) of the Merger Regulation are not met (Form CO, Table 4). Furthermore, Downtown's turnover exceeds EUR 25 million only in the Netherlands, thus falling short of the threshold set in Article 1(3)(c) of the Merger Regulation that each of at least two undertakings concerned achieve more than EUR 25 million in at least three Member States (Form CO, Table 4).

to Article 6(1)(c) of the Merger Regulation on 22 July 2025 (the '**Article 6(1)(c) Decision**').[6]

(9) In accordance with paragraphs 45 and 46 of the Best Practices on the conduct of EU merger control proceedings, on 23 July 2025, the Commission provided nine key documents to the Notifying Party.

(10) On 31 July 2025, a meeting with the Notifying Party's economists took place.

(11) On 1 August 2025, the Commission provided, at the request of the Notifying Party four additional key documents.

(12) On 4 August 2025, a teach-in session regarding Downtown's Curve product took place.

(13) The Notifying Party submitted its written comments to the Article 6(1)(c) decision on 20 August 2025 (the '**Reply to the Article 6(1)(c) Decision**').

(14) On 26 August 2025, a state of play meeting between the Notifying Party and the Commission took place, during which the Notifying Party explained its Reply to the Article 6(1)(c) Decision. On the same day, the Commission also provided, at the request of the Notifying Party, one additional key document.

(15) On 3 September 2025, the Commission issued two decisions, on the basis of Article 11(3) of the Merger Regulation, to each Party (the '**Article 11(3) Decisions**'). The Article 11(3) Decisions suspended the time limit referred to in Article 10(3) of the Merger Regulation from 2 September 2025. On 16 October 2025, Downtown submitted a response to the Article 11(3) Decision that the Commission considered to be preliminarily complete, and UMG submitted a response to the Article 11(3) Decision on 17 October 2025 that the Commission considered to be preliminarily complete. The time limit referred to in Article 10(3) of the Merger Regulation thus resumed on 20 October 2025.

(16) On 22 September 2025, a second teach-in session regarding Downtown's Curve product took place.

(17) A state of play meeting between the Notifying Party and the Commission took place on 18 November 2025, during which the Commission explained its preliminary findings based on its Phase II investigation.

(18) On 24 November 2025, a statement of objections (the '**Statement of Objections**' or '**SO'**) was sent to the Notifying Party, concluding on a preliminary basis that the notified Transaction would significantly impede effective competition in a substantial part of the internal market.

(19) On 8 December 2025, the Notifying Party submitted its written comments on the Commission's Statement of Objections (the '**Response to the SO**').

(20) On 11 December 2025, the Notifying Party submitted a first set of commitments in the Phase II investigation with a view of rendering the concentration compatible with the internal market pursuant to Article 8(2) of the Merger Regulation (the '**Initial Commitments**').

(21) On 12 December 2025, the Commission launched a market test of the commitments submitted by the Notifying Party (the "**Market Test**").

[6] OJ C, C/2025/5229, 28.7.2025.

(22) The Commission gave the Notifying Party detailed feedback on the outcome of the Market test on 22 December 2025.

(23) Access to file was first provided on 24 November 2025. Subsequent access to the file was provided on 25 November 2025, 19 December 2025, 23 December 2025, 30 January 2026 and 4 February 2026.

(24) On 15 January 2026, the Notifying Party submitted a revised and final set of commitments in the Phase II investigation with a view of rendering the concentration compatible with the internal market pursuant to Article 8(2) of the Merger Regulation (the '**Final Commitments**').

(25) On 21 January 2026, the Commission sent a draft of the decision to be taken pursuant to Article 8(2) of the Merger Regulation (the '**Decision'**) to the Advisory Committee with the view of seeking the Committee's opinion. The meeting of the Advisory Committee took place on 4 February 2026 and the Committee issued a positive opinion.

6. THE COMMISSION'S INVESTIGATION

(26) The Commission collected evidence from various sources at various stages of the investigation.

(27) Prior to the notification of the Transaction, the Commission sent seven requests for information to the Parties, the responses to which the Notifying Party included as part of its formal notification. The Commission also conducted several interviews with market participants (competitors, customers, industry associations and digital service providers ('**DSP**s')).

(28) During the first phase of the investigation (or '**Phase I**'), the Commission sent nine requests for information to the Parties pursuant to Article 11 of the Merger Regulation. The Commission also sent requests for information in the form of different questionnaires to competitors and customers of the Parties as well as industry associations and DSPs. Moreover, the Commission conducted several interviews with market participants (competitors, customers and industry associations).

(29) On the basis of the results of its Phase I investigation, the Commission considered that the Transaction raised serious doubts as to its compatibility with the internal market, including in the Netherlands and in Austria, as a result of horizontal unilateral effects in the EEA market for the supply of A&L services and UMG's access to commercially sensitive information of its rivals through the Transaction.

(30) Over the course of second phase of its investigation ('**Phase II**'), the Commission sent twenty requests for information to the Parties pursuant to Article 11 of the Merger Regulation, including two detailed internal documents requests, resulting in the submission of over 1.3 million internal documents (approximately 821,000 internal documents from UMG and approximately 494,000 from Downtown). Further, the Commission held several calls and meetings with market participants (competitors, customers and industry associations) and sent requests for information in the form of four questionnaires to customers of Downtown which recently switched to and away from Downtown's Curve and FUGA products. In addition, the Commission also addressed one questionnaire to music managers.

(31) During its Phase II market investigation, the Commission also conducted a "market share verification" exercise during which it requested data from the Parties and seven competitors active in the provision of A&L services (see Section 9.2 below).

(32) Following the submission of the Initial Commitments on 11 December 2025, the Commission carried out a market test in the form of several requests for information to former and current Curve competitors, customers, potential purchasers as well as IMPALA.

(33) The Commission's findings in this Decision are based on a holistic approach, interpreting the results of the various complementary analyses in light of the overall evidence on the file, as described in paragraphs (26) to (32).

7. INDUSTRY OVERVIEW

(34) The music industry involves multiple players at different levels of the value chain, including authors/songwriters (who write the lyrics and music), artists/performers (who perform the music by singing and/or playing instruments), artist managers (who represent their artist customer in negotiations with labels), the labels themselves (that record, develop and distribute the music if they are vertically integrated), music publishers, collecting societies (that license and collect the publishing rights and royalties), wholesale distributors (e.g., music labels and non-label music content distributors), and retailers such as DSPs (online platforms such as Spotify, Apple Music and Amazon Music that deliver digital music to consumers, either through streaming or downloads) or physical stores who make music available to consumers.[7]

(35) The music value chain involves the exploitation of various intellectual property rights; separate rights are associated with the actual recording of a song (i.e., the recorded music rights) and with the musical lyrics and composition (i.e., the copyright and music publishing rights).[8]

(36) The process from the creation of music through to the consumption of music by listeners has several key aspects, some of which are particularly relevant in the context of the present case, such as **music recording**, which involves the creation, distribution and licensing of sound recordings (i.e. recorded music); **music publishing**, which typically involves signing and developing songwriters/composers, and managing and licensing rights in the musical composition (as opposed to the sound recording); and **retail**, which can be in a digital (e.g. DSPs such as Spotify, Apple Music and YouTube Music streaming recordings, and selling downloads) or physical format (e.g. CD and vinyl).[9]

7.1. Recorded music

(37) In recorded music, the Parties' activities overlap in the provision of wholesale digital distribution of recorded music, which includes related artist and repertoire ('**A&R**') and A&L services.

(38) Recorded music distribution services have several elements, including:

(a) <u>Wholesale distribution of recorded music (including A&R services and A&L services)</u>, which refers to music companies bringing their represented artists'

[7] Article 6(1)(c) Decision, paragraph 8.
[8] Article 6(1)(c) Decision, paragraph 9.
[9] Form CO, paragraph 124.

music to market, primarily digitally through DSPs, either by doing the distribution themselves or by using the services of a A&L service provider, for example.[10]

(b) A&R services, which relate to services ranging from (i) talent scouting; (ii) signing and negotiating artist contracts; (iii) providing advances/upfront payments to artists; (iv) funding and provision of artistic creative support and direction; (v) overseeing the recording process; and (vi) organizing tours.[11] They encompass the creative process leading up to (and including) the recording of recorded music and do not encompass the distribution of recorded music. However, as part of the record label deal or arrangement, labels almost invariably will be responsible for distributing the recorded music (which is the label's owned repertoire and thus not a service offered to artists) to retailers, such as DSPs or physical retailers.[12]

(c) A&L services, which relate to digital and physical distribution services supplied to third-party record labels and artists. The core A&L service offering is distributing labels and artists' recorded music content to retailers such as DSPs or physical retailers. In addition, many A&L service providers also offer ancillary services (e.g., marketing, data analytics or promotion).[13]

(39) The wholesale distribution of recorded music is therefore two-sided. One side is artist-facing where providers of recorded music distribution services compete to provide services to artists. The other side is where providers of such services compete to distribute their recorded music via two different wholesale channels of distribution for recorded music: (i) the digital channel, i.e. the delivery of music to the end customers (listeners) via DSPs; and (ii) the physical channel, which entails the distribution of recorded music in traditional physical formats such as vinyl or CD to retailers. In recent years, the physical distribution of recorded music plays, however, a significantly smaller role than digital distribution.[14]

(40) Artists therefore have various options to develop their music and for it to be distributed and monetized via retailers (such as DSPs or physical stores) to end-consumers, i.e. the listener. Depending on the artist's career circumstances and needs, an artist may choose the following routes:

(a) Sign with a major record label for A&R services (such as UMG, Sony Music Entertainment ('**SME**'), and Warner Music ('**Warner**'))

(b) Sign with a smaller "independent" label for A&R services (e.g. Beggars, Domino Recording Company),

(c) Use an A&L service provider (e.g. Virgin, the Orchard, ADA, Believe, Downtown Kontor, ONErpm, Audiosalad),

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10 See the CMA's Sony Music Entertainment/AWAL and Kobalt Neighbouring Rights businesses merger inquiry, closed on 25 April 2022, paragraph 10. Some artists also handle the distribution of their own recorded music themselves as explained in recital (44).

11 Form CO, paragraph 221.

12 Form CO, paragraph 222.

13 Form CO, paragraph 132; Form CO, footnote 108. See also IMPALA's response to the non-confidential version of the SO, pages 3-4 (ID 4602)).

14 See the CMA's *Sony Music Entertainment/AWAL and Kobalt Neighbouring Rights* businesses merger inquiry, closed on 25 April 2022, paragraph 9.

(d) Choose to distribute the music via a self-serve aggregator (also known as '*do it yourself*' or '**DIY**') artist platform ('**DIY platform(s)**').[15]

(41) Within the recorded music industry, a distinction is frequently made between the so-called 'major record companies' (the '**Major(s)**') and so-called '**independent(s)**' artists and labels that are not owned by, associated or affiliated with the Majors. The Majors encompass all labels belonging to the three established recorded music groups: UMG, SME, and Warner. According to the Parties, the combined market share of the Majors in the wholesale distribution of recorded music in the EEA is [70-80]%.[16]

(42) The Majors typically offer the full spectrum of A&R services, promotion and wholesale distribution services under what previously was known as 'traditional' record label deals, whereby the label provides significant upfront investments to develop the artist (i.e. developments costs and large capital advances to artists) and ensure that the music is recorded, promoted and then distributed globally.[17] In return for the significant financial risk in an artist's creative development and promotion, labels will acquire (full or partial) ownership over the repertoire they distribute, often in perpetuity or under an exclusive long-term licence and the artists will be bound to exclusively contract with the label under an 'exploitation period' for future projects.[18] Once certain costs have been recouped, the label will also pay a proportion of royalties back to artists. These arrangements will be set out in a contract that will govern the relationship between an artist and the label, as negotiated between them or with an artist's representative (e.g. artists' manager or lawyer).

(43) The alternative route for artists to procure A&R services is to sign with a non-Major-affiliated label. Non-Major-affiliated labels usually offer deals on similar deal components as those offered by the Majors. They tend to offer a wide (sometimes full) range of A&R, marketing and promotion, and distribution services. However, resource constraints can mean that the range of services (along with marketing investments, advances and creative support) offered by non-Major-affiliated labels are more limited than those offered by the Majors.[19] Traditionally, non-Major-affiliated labels have played a role in new artist discovery and some artists prefer to work with independent labels based on a closer artist relationship (non-Major-affiliated labels usually have fewer artists on their roster, allowing for more personalised attention), more creative freedom (driven by fewer commercial imperatives) and the fact that non-Major-affiliated labels may be more inclined to focus on niche artists or music genres.[20]

(44) Digitalisation and technological change (particularly over the past two decades) have led to the proliferation of new routes to market for artists, as shown in **Figure 1**

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15 See the CMA's *Sony Music Entertainment / AWAL and Kobalt Neighbouring Rights businesses* merger inquiry, closed on 25 April 2022, paragraph 11. See also IMPALA's response to the non-confidential version of the SO, pages 3-5 (ID 4602)

16 Form CO, Table 18.

17 See the CMA's Sony Music Entertainment / AWAL and Kobalt Neighbouring Rights businesses merger inquiry, closed on 25 April 2022, paragraph 13.

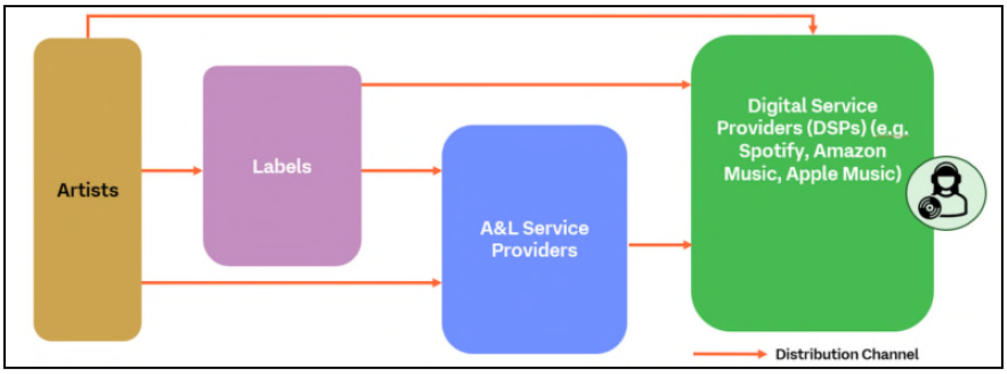
18 Form CO, paragraph 229.

19 See the CMA's *Sony Music Entertainment/AWAL and Kobalt Neighbouring Rights* businesses merger inquiry, closed on 25 April 2022, paragraph 14.

20 See the Orca for music report, accessible via Part 2: Independent Record Labels—How Labels Support Artist Development — ORCA (ID 4557) and Part 1: The Recorded Music Industry—Where It All Develops — ORCA (ID 4556).

below, and the decrease of traditional physical distribution of recorded music. These industry trends have resulted in the rapid growth of self-releasing artists who are able to take advantage of these new routes to market to reach consumers independently of a label. This has, in turn, enabled a wide range of providers to enter and compete in offering services to artists and distributing their content. This includes independent labels and alternative routes to market, such as with A&L service providers (including in the case of the latter, DIY platforms offering distribution to streaming services and low-touch marketing and promotion services).[21]

Figure 1: Music value chain for digital recorded music



Source: Form CO, Figure 1

(45) A&L service providers focus on handling the complex process of digital or physical distribution of recorded music to retailers. The ownership rights for distributed recorded music usually remain with the customer (label or artists) of A&L services and are not transferred to the distributor. Artists can easily unbundle their requirements and choose what type of support they want from a distribution partner and in return pay a distribution fee to the supplier, typically this is a percentage fee on royalties earned. In addition, artists will determine the length of the contract, which is typically significantly shorter than agreements with labels as most A&L deals that do not entertain the payment of advances by the label or A&L provider have a duration of 12 to 24 months, and there is no extended 'exploitation period' post term.[22] Importantly, a standard A&L service offering does not comprise the provision of A&R-type services, but offers ancillary services such as royalty accounting, rights management, data analytics and minor marketing and low-touch creative support on a "*à la carte*" basis.[23]

(46) DIY platforms offer distribution via streaming platforms to artists and smaller labels. These platforms, such Downtown's CD Baby, Distrokid, or Believe's Tunecore, typically charge a low fixed fee or charge fees based on a percentage of revenues generated by the artist, to digitally distribute music and provide additional supporting services.[24]

(47) On the other side of the wholesale distribution of recorded music is the distribution of the recorded music to retailers (i.e. DSPs and to a lesser extent, physical retailers). The distribution of recorded music to DSPs consists in providers competing for (a) entering into a licensing agreement with DSPs (and try to negotiate the best

21 Form CO, paragraph 132.
22 Form CO, paragraph 237.
23 Form CO, table 11.
24 See the CMA's *Sony Music Entertainment / AWAL and Kobalt Neighbouring Rights businesses merger inquiry*, closed on 25 April 2022, paragraph 16.

favourable terms under which the recording is licensed); and, (b) delivering that recording to the music streaming platform.[25] Providers of wholesale digital distribution of recorded music negotiate terms with DSPs for the licensing of proprietary rights (i.e. owned repertoire) and/or third-party repertoire (which they distribute for example in the context of A&L distribution services agreements).

7.2. Publishing

(48) Music publishing involves typically the signing and developing of authors/songwriters and managing and licensing of rights in the musical composition (as opposed to the sound recording). As with music recording, digitalisation has also further facilitated the possibility for composers/songwriters to self-publish their music, rather than go through traditional "full-service" music publishing providers.[26]

(49) Music publishing activities can be divided further into upstream services provided to composers and songwriters as well as the downstream promotion, licensing and administration of music publishing rights.

(50) Upstream, and comparable to A&R services in recorded music, publishers can also provide creative support services to composers/songwriters, which will be focused on their development (including funding and providing artistic and creative support and direction).[27]

(51) Downstream, publishers assist with the administration of music publishing rights including registration, management and monitoring, and the collection of royalties. Music publishing rights cover five broad categories which are used to license musical works either direct or through collecting societies: (i) mechanical rights: the right to reproduce a work in physical or digital sound recording; (ii) performance rights (including communication to the public/making available): the right for commercial users such as broadcasters, digital services, theatres, night clubs or restaurants to play a work to the public; (iii) synchronisation rights: the right for commercial users such as advertising agencies or film companies to synchronise music in timed relation with a visual image; (iv) print rights: the right to reproduce a work in sheet music; and (v) graphic reproduction of lyrics.[28]

(52) In practice, "full-service" music publishing service providers will sign authors/songwriters and provide them with necessary support (i.e. A&R-type services, but for composers/songwriters). Composers/songwriter will transfer the rights in their musical works to the publisher, subject to any grant of rights they make to the collecting society they are affiliated with. In consideration for services rendered, the publishers have the right to retain a certain portion of the royalties collected.

(53) Some providers of music publishing services (such as Downtown) do not provide such A&R-type services for composers/songwriters types of services and focus primarily on the administration of publishing rights on behalf of copyright owners (e.g., ensuring copyrights are appropriately registered and facilitating royalty collection), including limited ancillary offerings, as distinct from the creative development of songwriters and the promotion of their copyrights.[29]

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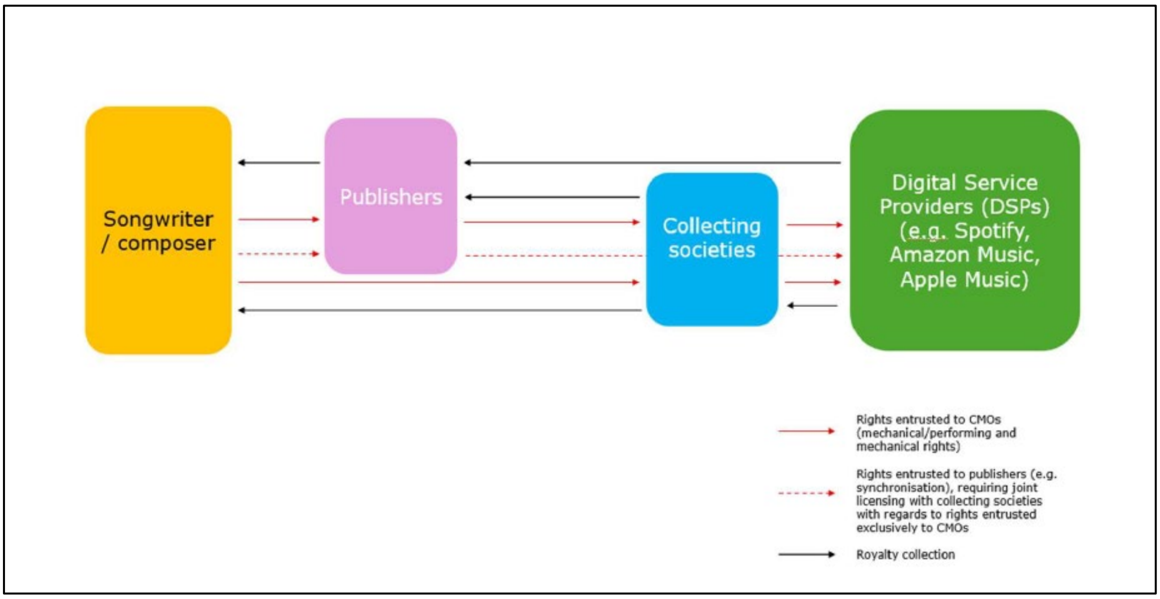
25 Form CO, paragraph 161.
26 Article 6(1)(c) Decision, paragraph 16.
27 Article 6(1)(c) Decision, paragraph 18.
28 Article 6(1)(c) Decision, paragraph 19.
29 Article 6(1)(c) Decision, paragraph 21.

(54) The following chart summarises the music value chain for music publishing:

Figure 2: Music value chain in music publishing



Source: Form CO, Figure 8.

7.3. Monetisation of rights and royalty administration services

(55) Whenever a songwriter writes an original composition, or an artist records a song, they are granted copyright (for songwriters) and related rights (for artists/performers) upon registration (where required). Both songwriters and artists can enter agreements with third parties to exploit these rights on their behalf. Songwriters can enter agreements with publishers, either for a limited timeframe or the full life of copyright, to represent their publishing rights and collect the royalties derived from exploitation of those rights. Similarly, performers can enter agreements with record labels to look after the master recording rights and collect the master royalties.[30]

(56) Given that copyrights are always limited by time, creators have a window to exploit their creation, before it becomes available to the public domain to be copied or adapted freely.[31]

(57) Recorded music rights can be monetised in various ways, such as: (i) streaming (payments by consumers typically for on-demand online access to music, and payments by advertisers to place adverts alongside music content on music streaming platforms), (ii) downloads (one-off payments by consumers for the online purchase of music in digital format), (iii) performance/neighbouring rights (payments by TV and radio stations for the exercise of the performance right to use music as part of broadcasts and payments for the public performance of music in venues) and, (iv) synchronisation (payments for the use of music in film, TV shows, TV adverts, video games and other forms of audio-visual media).[32]

(58) Publishing rights can be monetised in various ways, such as: (i) streaming (payments by consumers typically for on-demand online access to music, and payments by

30 [internal document reference], page 6 (ID 4697).

31 Curve Website, Royalties 101 (recorded music), lesson 1, accessible via https://www.curveroyaltysystems.com/royalties-101-recorded-music/lesson-1-what-is-copyright, (ID 4539).

32 Form CO, paragraph 130.

advertisers to place adverts alongside music content on music streaming platforms), (ii) downloads (one-off payments by consumers for the online purchase of music in digital format), (iii) performance/neighbouring rights (payments by TV and radio stations for the exercise of the performance right to use music as part of broadcasts and payments for the public performance of music in venues) and, (iv) synchronisation (payments for the use of music in film, TV shows, TV adverts, video games and other forms of audio-visual media). The collection of royalties is done through collecting societies or collected by the publisher directly (in case of direct deals or for some other types of publishing rights).[33]

(59) This monetisation triggers payment obligations (e.g. royalties payments) from retailers like DSPs to the owner of the master recording rights under license, often a label under an A&R contract or an A&L provider distributing on behalf of a third-party. Once the label receives the recorded music master side revenue, either directly from the DSP or indirectly via the distributor, the label will pay a share thereof to the artist under contract, in accordance with the clauses governing the artist-label contractual relationship.[34] A similar process also applies with the various publishing rights, albeit with different actors (e.g. collecting societies), and in accordance with the various licensing agreements in place.

(60) To assist labels and publishers in this complex task, royalty administration services are often used, either through in-house solutions or through a third-party provider such as Downtown's Curve software.

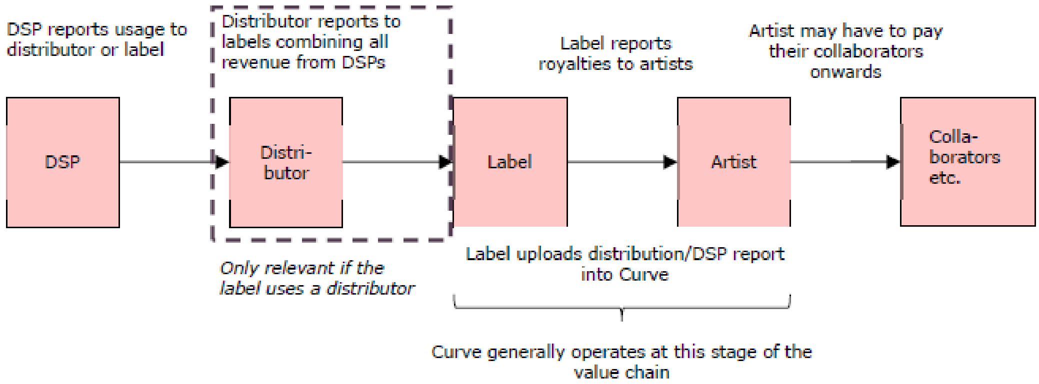
(61) These services are designed to either assist or take on the full responsibility of record labels, publishers and distributors of accurately reporting royalties to their artists, songwriters, and other rightsholders. Specifically, to perform royalty accounting, customers upload information to service providers, which includes (i) sales information from the label; (ii) certain contractual terms with the artist required to calculate the royalties; and (iii) certain other commercial terms (advance balances, marketing costs relevant for royalty calculations, etc.).[35] By way of summary, the following chart describes where royalty accounting service providers such as Curve fit into the value chain of royalty payouts in the music industry:

[33] Curve Website, Royalties 101 (publishing), lesson 2, accessible https://www.curveroyaltysystems.com/royalties-101-publishing/lesson-2-flow-or-revenues-in-music via: https://www.curveroyaltysystems.com/royalties-101-publishing/lesson-2-flow-or-revenues-in-music, (ID 4540).

[34] Curve Website, Royalties 101 (recorded music), lesson 1, accessible via https://www.curveroyaltysystems.com/royalties-101-recorded-music/lesson-1-what-is-copyright, (ID 4539).

[35] Form CO, paragraph 479; Curve website accessible at: https://www.curveroyaltysystems.com/, (ID 4541).

Figure 3: Royalty value chain



Source: Reply to the Article 6(1)(c) Decision, paragraph 203.

(62) The Commission understands that it is not necessary for third-party labels or artists, active in the wholesale distribution of recorded music or in music publishing, to procure royalty administration services such as Curve. Instead, third-party labels or artists can rely on general accounting firms, but also on inhouse solutions to administer their royalty payouts.[36]

8. MARKET DEFINITION

8.1. Introduction

(63) For the assessment of the Transaction in this Decision, the following activities of the Parties are relevant: (i) UMG and Downtown are both active in the wholesale distribution of recorded music (Section 8.2); (ii) UMG and Downtown are both active in the provision of music publishing services (Section 8.3); and (iii) Downtown is active in the supply of royalty administration services (Section 8.4).

8.2. Wholesale distribution of recorded music

8.2.1. UMG's activities within the wholesale distribution of recorded music

(64) **A&R services**. UMG operates more than [number] labels worldwide and [number] labels in the EEA providing A&R services. UMG indicated that this is the largest part of UMG's business, generating more than [70-80]% of its revenues in the EEA.[37]

(65) UMG's various record labels and brands discover, invest in and develop artists. This includes provision of advances or upfront payments. In addition, UMG targets artists who have already signed contracts with other labels.

(66) The […] of UMG's new signings (estimated at […]%) are new artists entering their first recording deal. An estimated […]% of the new signings involve artists who have been released by their previous label or whose contracts were not renewed. An estimated […]% of the new signings involve artists that an incumbent label actively wishes to retain but where the artist has an interest in leaving.[38]

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36 Slides of [information on past submissions of the Parties] of 4 August 2025, slide 7 (ID 2411).
37 Form CO, paragraph 224.
38 Reply to the Article 6(1)(c) Decision, paragraph 183.

(67) **A&L services.** Primarily through its subsidiary Virgin, UMG is active in the supply of A&L services to non-Major-affiliated labels and artists.[39]

8.2.2. Downtown's activities within the wholesale distribution of recorded music

(68) Downtown is only active in the supply of A&L services to non-Major-affiliated labels and artists. It does not operate record labels and does not offer A&R services on a standalone basis.[40] Downtown is mostly active in the digital distribution of recorded music. Its activities in physical distribution generated revenues of EUR […] in 2024 in the EEA (less than […]% of Downtown's EEA-wide revenues overall).[41]

(69) More specifically, within A&L services, Downtown is active through the following main divisions:

(a) **Downtown A&L Services**, which provides digital distribution and other services to non-Major-affiliated labels and non-Major-affiliated artists, including monetisation, marketing and promotion, and data analytics and management.[42]

(b) **FUGA**, a distribution business that primarily uses software to provide administrative services (including digital supply-chain solutions, royalty accounting, monetisation, rights management and data analytics) and marketing support to labels, distributors, artist management companies and other rights holders – as well as licensing on a SaaS basis.[43]

(c) FUGA's services are customisable, in a way that customers can select specific services based on their needs. FUGA's services are typically delivered in one of the following configurations depending on the specific needs of each individual artist or label:

(1) <u>100% Distribution-Aggregation</u>, whereby certain services (e.g. distribution, marketing and audience strategy related, as well as technical addons) are combined and often included under one deal. Downtown in certain cases provides funding to labels through advances. Clients of this service configuration would normally opt into FUGA's licensing agreement with DSPs;

(2) <u>Hybrid Distribution-Aggregation / SaaS</u>, whereby clients would choose to opt into FUGA/Downtown's licensing deals for some DSPs but maintain their own licensing deals with other DSPs. Under this configuration, delivery to all DSPs would still take place via the FUGA platform; and

(3) <u>100% SaaS</u>, whereby clients maintain their own licensing deals with all DSPs. In this case, access to the FUGA platform and delivery to all DSPs

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39 UMG has other limited A&L activities through other subsidiaries such as [PIAS]. These other activities are taken into account when assessing UMG's position in A&L services further below.

40 Contrary to IMPALA's claim in its submission on Market power from June 2025 (ID 2435), Downtown does not offer A&R services through Downtown A&L Services.

41 Notifying Party's response to RFI 8, Question 3.

42 Downtown's Downtown A&L Services account for EUR […] of Downtown's overall EEA-wide revenues of EUR […] (ca. […]%) in 2024- Notifying Party's response to RFI 8, Question 3. The reference to the acronym '**SaaS**' stands for '**Software as a Service**', i.e., a software delivery model where applications are hosted online and accessed by users over the internet, typically through a web browser, rather than being installed on individual devices.

43 Downtown's FUGA accounts for EUR […] of Downtown's overall EEA-wide revenues of EUR […] (ca. […]%) in 2024 – Notifying Party's response to RFI 8, Question 3.

would be the core service rendered by Downtown (possibly together with product/technology add-ons also purchased as a SaaS).

(d) **CD Baby and Soundrop**: DIY platforms self-distributing their content across DSPs. CD Baby is the main DIY platform of Downtown, which also offers add-on services such as analytics and marketing tools.[44]

(70) In addition, Downtown also offers a number of ancillary services within the wider A&L services sphere. These include:

(a) **User-Generated Content ('UGC') monetisation**: a revenue collection service for content provided on social media platforms;[45]

(b) **Neighbouring Rights Collection**: Collection of the public performance royalties with respect to a sound recording on behalf of artists, producers and labels.[46]

(c) **Marketing Technology**: an advertising and marketing tool (Found.ee) for labels and rights owners;[47] and

(d) **Fingerprinting technology**: in-house used fingerprinting software (Simbals) which tracks fraudulent use.[48]

8.2.3. Product market definition

8.2.3.1. The Commission's decisional practice

(71) In previous decisions, the Commission considered separate product markets for the wholesale distribution of physical recorded music and the wholesale distribution of digital recorded music. However, the Commission concluded that this market should not be further segmented based on genre, compilations versus albums, singles versus albums and audio music versus video music and/or download and streaming services.[49]

(72) With respect to A&R services, the Commission previously considered that it was not necessary to take a view as to whether A&R activities should be considered and analysed as a separate product market or even whether the recorded music market should be viewed as a two-sided market, where the strength of a record company on one side of the market (A&R) has a positive influence over its market position on the other side of the market (wholesale of recorded music) and conversely.[50]

(73) The Commission has not yet assessed whether there could be a separate product market for A&L services that would encompass digital and physical distribution and other services to non-Major-affiliated labels and artists, including monetisation, marketing and promotion, and data analytics and management.

(74) In addition, the Commission has also not yet assessed the existence of a market segment for the supply of self-serve aggregator platforms for recorded music

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44 Downtown's CD Baby (including Soundrop) accounts for EUR […] of Downtown's overall EEA-wide revenues of EUR […] (ca. […]%) in 2024 – Notifying Party's response to RFI 8, Question 3.

45 EEA-wide revenues in 2024: EUR […].

46 EEA-wide revenues in 2024: EUR […].

47 EEA-wide revenues in 2024: EUR […].

48 EEA-wide revenues in 2024: EUR […].

49 See, e.g., Case M.6458 - *Universal Music Group/EMI Music*, decision of 21 September 2012, recitals 104-168 and Case M.3333 - *Sony/BMG*, decision of 3 October 2007, recitals 12-34.

50 Case M.6458 - *Universal Music Group/ EMI Music*, decision of 21 September 2012, recital 103.

distribution to self-publishing artists, i.e., DIY platforms as part of a wider A&L services market.

(75) Equally, the Commission has not yet assessed the existence of a market segment for the supply of delivery services of third-party recorded music to DSPs as part of a wider A&L services market.

(76) In 2022, the UK's Competition and Markets Authority ('**CMA**') assessed the effects of the Sony/AWAL transaction on the market for the wholesale digital distribution of recorded music and related A&R services, including A&L services. [51] The CMA viewed the wholesale distribution of recorded music as a two-sided market. One side is artist-facing where providers of recorded music distribution compete to provide services to artists (e.g. music distribution, supporting A&R, marketing and promotion). The other side is where providers compete to distribute their content, in particular to DSPs such as Spotify, Apple Music, Amazon Music and YouTube/Google for their streaming services, which account for the majority of consumer spending on music. [52]

8.2.3.2. The Notifying Party's view

(77) The Notifying Party recalled that, in past decisions, the Commission recognised a separate product market for the **wholesale distribution of recorded music**. The Notifying Party submits that the Commission's decision in case M.6458 – *Universal Music Group / EMI Music* reflected the status of the music industry at the time, which pre-dates significant changes to the music industry in the past decade, including (notably) the substantial decline of physical distribution and exponential growth of streaming services which have opened many alternative routes to market for artists and labels.[53]

(78) The Notifying Party submits that, since Downtown does not offer A&R services but A&L services, the horizontal effects of the Transaction should be assessed on a market for the supply of A&L services within the wider market for wholesale distribution of recorded music.[54]

(79) In focussing on the horizontal overlap between the Parties' activities, the Notifying Party submits that **A&R services** and **A&L services** are distinct products / services from the demand-side perspective of both labels and artists:

(a) From a label's perspective, A&L providers offer a distribution service for which another record label's distribution activities (i.e. the distribution of that other label's owned repertoire) is neither available nor a substitute.

(b) From an artist's perspective, signing with a traditional label is very different from distributing their content through a provider of A&L services. Labels will provide a wide range of services to artists which cover the creative steps from the discovery, signing and development of artists through to the recording of their music. On the other hand, A&L providers are not involved in these processes and focus on the distribution of already recorded music.[55]

[51] See the CMA's *Sony Music Entertainment/AWAL and Kobalt Neighbouring Rights* businesses merger inquiry, closed on 25 April 2022.

[52] See the CMA's *Sony Music Entertainment/AWAL and Kobalt Neighbouring Rights* businesses merger inquiry, final report, 16 March 2022, paragraph 9.

[53] Form CO, paragraph 216.

[54] Form CO, paragraphs 204-302.

[55] Form CO, paragraphs 226-239.

(80) In addition, the Notifying Party is also of the opinion that the same applies from a supply-side perspective. A&R providers are focused on the creative process leading up to and including the recording of music. The A&R capabilities of traditional labels are not readily transferable to the provision of A&L services, which focus on the distribution of third-party content which has already undergone the creative process leading up to the recording of music. An A&L services provider (like Virgin or Downtown) cannot readily compete in this space without fundamentally changing its business model and making a significant investment in A&R capabilities (i.e. the creative process to identify and develop talent and owned creative content).[56]

(81) The Notifying Party submits further that such a market for the supply of A&L services should not be further segmented, be it based on the **type of services** rendered or based on the type of customer.[57]

(a) The Notifying Party submits that, from a supply-side perspective, even though there is some variation between the offerings of suppliers of A&L services, all A&L suppliers, including DIY platform, provide both labels and artists with the same core service: the digital distribution of music to DSPs (which includes the delivery of the recorded music to DSPs). Additionally, some A&L service providers offer a suite of "self-serve" and "full-service" offerings with different additional services under the same branding and technology or offer aggregator-like services under separate branding on the same technology.

(b) The Notifying Party is also of the opinion that the same applies from a demand-side perspective. It submits that customers can and do switch from aggregators to other A&L suppliers, and vice versa.

(82) In relation to the **delivery of third-party recorded music to DSPs**, the Notifying Party submits that this does also not constitute a market or segment separate from the market for the supply of A&L services.

(a) According to the Notifying Party, the delivery of music to DSPs is, from a supply-side perspective, at the core of the service offering of any distributor. The nature of the service and the technology involved for delivery would not change regardless of whether it was combined with access to licensing deals in a traditional distribution set-up or decoupled as a standalone SaaS offering (as is evidenced by the fact that FUGA's delivery service product is not branded as a separate product and relies on the same technology).[58]

(b) The Notifying Party furthermore submits that, from a demand-side perspective, the baseline expectation of any label or artist customer is that their music will be delivered to DSPs. In the Notifying Party's view, the licensing of software on a SaaS basis for delivery services is simply one means by which that delivery can happen but it is not a distinct product or service for market definition purposes and a solution that competes with a more traditional A&L offering as well as in-house supply options.[59]

(83) The Notifying Party submits that there should be no segmentation between providers of A&L services that are not **Major-affiliated** and those that are Major-affiliated:[60]

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56 Form CO, paragraphs 239-244.
57 Form CO, paragraphs 252-259.
58 Form CO, paragraph 261.
59 Form CO, paragraph 262.
60 Form CO, paragraphs 264-289.

(a) The Notifying Party submits that, from a supply-side perspective, the supply of A&L services includes a wide variety of providers operating under diverse ownership structures including divisions of Majors, private equity/venture capital-backed entities, companies with significant outside capital investment from technology companies, and those owned by digital service providers. Whilst offerings may vary between individual A&L service providers, there would be no difference between the A&L services provided that is driven by ownership model.

(b) From a demand-side perspective, the Notifying Party submits that label and artist customers do not choose A&L service providers based on ownership model but rather fit and service quality. Ownership was not a decisive (or even material) parameter in partner selection. To back this position up, the Notifying Party refers to [information on the Parties' switching data]. In addition, the Notifying Party also refers to [information on the Parties' switching data].

(84) With respect to the supply of the **DIY platforms for recorded music distribution**, the Notifying Party submits that there is no need to segment the market. From a supply-side perspective, A&L suppliers both provide labels and artists with the same core service, namely the digital distribution of music to DSPs. From a demand-side perspective, customers can and do switch from DIY platforms to other A&L suppliers and vice versa.[61]

8.2.3.3. The Commission's assessment

8.2.3.3.1. Wholesale distribution of recorded music

(85) Respondents to the Commission's market investigation confirmed that there is no demand-side and supply-side substitutability between wholesale digital distribution of recorded music and wholesale physical distribution of recorded music.[62] This is also in line with the Commission's previous decisional practice.[63]

(86) At the same time, the Commission notes that the concerns raised by market participants with respect to horizontal and non-horizontal effects of the Transaction cover digital and physical wholesale distribution of recorded music.[64]

(87) For the purpose of this Decision, the Commission, therefore, assesses the horizontal effects of the Transaction on an **overall market for wholesale distribution of recorded music** (that comprises both A&L and A&R services, in particular in view of a potentially increased bargaining position of UMG vis-a-vis DSPs, because UMG's licensing agreement covers both the distribution of its own repertoire (artists using UMG's A&R services) and distribution of third-party repertoire (artists and labels using Virgin's A&L services).

(88) Equally, in relation to the non-horizontal effects of the Transaction, the **overall market for wholesale distribution of recorded music** (both digital and physical) is relevant, as the Curve Data (as defined below – see recital (438)) is relevant for

61 Form CO, paragraphs 256-259.

62 Replies to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), questions D.A.A.1 and D.A.A.2.

63 See above paragraph (71).

64 See for example IMPALA submission February 2025, page 5: "*market shares for both the wholesale distribution of digital and physical recorded music markets should be considered.*" and "*[a]ccess to data is an issue in relation to strengthening UMG's position in the wholesale recorded music market (both digital and physical)*" (ID 4125).

UMG's and its competitors' role as providers of A&R services, which forms part of the wider market for the wholesale distribution of music.

(89) For the purpose of this Decision, the Commission concludes that it can be left open whether the overall market for wholesale distribution of recorded music needs to be further divided into separate markets for wholesale digital distribution on the one hand and wholesale physical distribution on the other hand, as the assessment of the Transaction remains the same irrespective of the exact product market considered (see below Section 9).

8.2.3.3.2. A&L services

(90) Based on the results of its market investigation, the Commission considers that there may be a <u>separate market for A&L services</u>[65] offered to non-Major-affiliated artists and labels, i.e. to artists who have not entered into an agreement with a label/A&R service provider and to non-Major affiliated labels. Other types of wholesale distribution (e.g. A&R services) are not considered a substitute to A&L services.[66]

(91) Respondents to the market investigation confirmed that artists and labels attribute importance to the ownership structure of A&L services providers and that A&L services providers that are not affiliated to the Majors offer different services than those that are affiliated to a Major, with non-Major-affiliated providers offering in particular more flexible and tailor-made/personalised services and, in some respondent's views, a greater degree of transparency.[67] At the same time, the respondents to the market investigation and other evidence collected in the Commission's investigation[68] confirmed that artists and labels switch in both directions between Major-affiliated A&L service providers and A&L service providers which are not Major-affiliated.[69] The Commission, therefore, considers that the ownership structure of A&L services providers may function as a differentiating factor in the competitive assessment within a single market for A&L services, but concludes that A&L services offered by Major-affiliated and non-Major-affiliated A&L service providers are not materially different and remain, in view of switching in both directions between Major-affiliated and non-Major-affiliated A&L service providers, substitutable and thus do not fall into two separate product markets.

(92) In addition, the market investigation confirmed that some providers offer not only A&L distribution services consisting of access to licensing deals combined with a delivery solution, but also specific services on a standalone basis (e.g., the delivery of music content while relying on a third party's licensing terms with DSPs or DIY

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65 The Commission's questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED) defined A&L services as "*Artists & Labels ('A&L') services, which consist of distribution and other services to third-party labels and artists, including monetisation, marketing and promotion, and data analytics and management.*"

66 Replies to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), questions D.A.A.3 and D.A.A.4.

67 Replies to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), questions D.A.A.5 and D.A.A.6.

68 See Section 9.3.3.2 below.

69 Replies to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), question D.A.A.11. Also see responses to questionnaire Phase II market investigation - Current customers of Downtown's FUGA product, question D.11 and questionnaire Phase II market investigation - Former customers of Downtown's FUGA product, question D.9 for alternative A&L service providers to FUGA considered when deciding to switch to FUGA and for alternative A&L service providers chosen when deciding to switch away from FUGA.

platforms for self-publishing artists).[70] While UMG/Virgin only offers A&L distribution services consisting of access to its own licensing deals combined with a delivery solution (but it does not offer separately services such as delivery on a standalone basis), Downtown offers various services (such as delivery services or DIY platforms) also on a standalone basis in addition to its regular A&L distribution services.[71] For the purposes of this Decision, the Commission leaves open whether the market for A&L services should be further segmented to be able to assess the impact on such markets for standalone services.

(93) The Commission has investigated the market segmentation for A&L services, including the potential sub-segmentation of the market into distribution and other services and whether DIY platforms and standalone delivery services[72] could be assessed as a segments of the A&L services market.[73] While the A&L services packages or tiers might differ between different providers, there are no differences in terms of the core service, which is the distribution of the recorded music to DSPs. Because of this, and based on the results of the market investigation, the Commission considers however that for the purpose of this Decision, the exact product market definition can be left open.

(94) In light of the above, the Commission concludes that there is likely to be a separate **market for A&L services** offered to non-Major-affiliated artists and labels, including those offered by Major- and non-Major-affiliated service providers and including specific services offered on a standalone basis. The Commission will assess the impact of the Transaction on this market for A&L services as well as on the **segments for DIY platforms** and **standalone delivery services**.

(95) For the purpose of this Decision, the Commission concludes that it can be left open whether the market for A&L services needs to be further divided into separate markets for digital A&L services on the one hand and for physical A&L services on the other hand (as in wholesale distribution – see above Section 8.2.3.3.1), as the assessment of the Transaction remains the same irrespective of the exact product market considered (see below Section 9).

8.2.4. Geographic market definition

8.2.4.1. The Commission's decisional practice

(96) In previous decisions, the Commission found that while the market for the wholesale distribution of digital recorded music was still national, it was evolving towards an EEA-wide level. In particular, the Commission noted that negotiations between record companies and the largest digital customers are increasingly conducted simultaneously for all the territories where these services are active and often result in agreements covering several Member States. In relation to the market for the wholesale distribution of physical recorded music, the market was found to be national in scope.[74]

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70 Replies to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), question C.4.

71 Form CO, paragraph 164.

72 In industry jargon also referred to as "pipes only" (cf. minutes of a meeting with a music label on 1 September 2025 – ID3783/2).

73 Replies to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), question D.A.A.9.

74 See, e.g., Case M.6458 - *Universal Music Group/EMI Music*, decision of 21 September 2012, recitals 222-232 and Case M.3333 - *Sony/BMG*, decision of 3 October 2007, recitals 35-41.

(97) There is no Commission precedent about the geographic scope of a market for the supply of A&L services.

8.2.4.2. The Notifying Party's view

(98) The Notifying Party submits that the market for the wholesale distribution of recorded music should be at least EEA-wide in scope, in view of globally operating DSPs with pan-national (or even global) licensing agreements specifically on the digital side as well as many labels competing across borders for artists both on the physical and digital side.[75]

(99) The Notifying Party submits that the geographic scope of the market for the supply of A&L services is at least EEA-wide, referring to providers of A&L services having global offerings and often competing for artists and labels in multiple countries. In addition, in a digitalised world, listeners would frequently access music from any origin worldwide. According to the Notifying Party the possibility of accessing music globally via DSPs has led to a globalisation of the upstream A&L service providers.[76]

8.2.4.3. The Commission's assessment

8.2.4.3.1. Wholesale distribution of recorded music

(100) The Commission's market investigation confirmed that competition for wholesale digital distribution of recorded music takes place at least at an EEA-wide level.[77] While a few respondents indicated that there are some preferences for service providers established within a similar geographic region (due to linguistic and cultural considerations), the majority of competitors who expressed a view considered that the digital distribution of recorded music via DSPs have made the geographic scope increasingly broad given the DSP's global reach.[78] A competitor explains: "*Competition for these services generally takes place at a worldwide level. Most labels and artists consider global options, especially for digital distribution and A&L services, as music consumption and release strategies increasingly cross borders with few structural barriers.*"[79] Another competitor sets out: "*labels and distributors are global companys with global reach. Therefore, all* [responses to the Commission's market investigation] *are based on worldwide competition*"[80]

(101) In addition, the vast majority of DSPs who expressed a view confirmed that DSP licensing agreements are typically worldwide in scope.[81]

(102) Equally, the majority of respondents to the Commission's market investigation confirmed that competition for wholesale physical distribution of recorded music as

75 Form CO, paragraphs 303, 310-312.

76 Form CO, paragraphs 303-309.

77 Replies to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), question D.A.B.1.

78 Replies to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), question D.A.B.1.

79 A competitor's non-confidential reply to 04_Competitors - Phase I market investigation - competitors (UPDATED), question D.A.B.2. (ID 1495).

80 A competitor's non-confidential reply to 04_Competitors - Phase I market investigation - competitors (UPDATED), question D.A.B.2. (ID 1300).

81 Replies to questionnaire 03_Others - Phase I - market investigation – DSPs, question D.1.

well as for an overall market of wholesale distribution takes place at least at an EEA-wide level.[82]

8.2.4.3.2. A&L services

(103) The Commission's market investigation confirmed that competition on a potential market for A&L services takes place at least at an EEA-wide level.[83] While a few respondents indicated that there are some preferences for service providers established within a similar geographic region (due to linguistic and cultural considerations), the majority of competitors who expressed a view considered that the digital distribution of recorded music via DSPs have made the geographic scope increasingly broad given the DSP's global reach.[84] A competitor explains: "*Competition for these services generally takes place at a worldwide level. Most labels and artists consider global options, especially for digital distribution and A&L services, as music consumption and release strategies increasingly cross borders with few structural barriers.*"[85] Another competitor sets out: "*labels and distributors are global companys with global reach. Therefore, all* [responses to the Commission's market investigation] *are based on worldwide competition*".[86]

8.2.4.3.3. Conclusion

(104) In view of the above, the Commission concludes that the relevant geographic markets for A&L services and the wholesale distribution of recorded music (as well as for potential digital and physical segments thereof) are at least EEA-wide in scope.

8.3. Music Publishing

8.3.1. The Parties' activities in music publishing

(105) As set out above in Section 7.2, music publishing encapsulates a range of activities carried out by music publishers including: (i) the promotion, licensing and administration of music publishing rights, i.e. rights over the composition of a song (namely its words and music); and (ii) the provision of services to authors/songwriters, including in particular the promotion, licensing and administration of certain music publishing rights.

(106) UMG is active in music publishing through UMPG, its music publishing business. UPMG discovers and develops composers and songwriters and manages a catalogue of music publishing rights to which it grants access for the creation, reproduction and performance of sound recordings and for use in films, advertisements or live performances.[87]

(107) Downtown is active in music publishing through (a) Downtown Music Publishing, a publishing partner for songwriters, music catalogues and artists, offering both

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82 Replies to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), question D.A.B.1.

83 Replies to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), question D.A.B.1.

84 Replies to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), question D.A.B.1.

85 A competitor's non-confidential reply to 04_Competitors - Phase I market investigation - competitors (UPDATED), question D.A.B.2 (ID 1495).

86 A competitor's non-confidential reply to 04_Competitors - Phase I market investigation - competitors (UPDATED), question D.A.B.2 (ID 1300).

87 Form CO, paragraph 510.

administrative and sync & licensing services; and (b) Songtrust, a self-serve publishing platform enabling songwriters and rightsholders to register their copyrights and monitor and collect royalties globally. Downtown divested its portfolio of owned and co-published music copyrights in 2021.[88]

8.3.2. Product market definition

8.3.2.1. The Commission's decisional practice

(108) In previous decisions, the Commission considered a segmentation of the wider music publishing market into the (i) upstream segment for the provision of publishing services to authors/songwriters, which consists inter alia in the provision of artistic and financial support, promoting authors'/songwriters' works to potential licensees, marketing and negotiating the licensing of rights, and administering authors'/songwriters' rights in exchange for a share of the royalties received; and (ii) the downstream segment for the exploitation of copyrights, divided into (a) mechanical rights; (b) performance rights; (c) synchronisation rights; (d) print rights; and (e) online rights.[89]

8.3.2.2. The Notifying Party's view

(109) The Notifying Party submits that it is unclear whether the music publishing administration services provided by Downtown fall into the upstream or the downstream segment previously considered by the Commission.[90] The Notifying Party furthermore proposes that a further segmentation of the upstream market segment of services provided to authors/songwriters can be left open, as the Transaction would not have any impact under any market definition in view of the very limited increment added by Downtown to UMG's market position. In addition, there would be no overlap in the downstream segment for the exploitation of copyrights, as Downtown divested its portfolio of copyrights in 2021.[91] The Notifying Party has also agreed with the Commission's assessment in leaving the market definition open for the purposes of this case.[92]

8.3.2.3. The Commission's assessment

(110) The vast majority of respondents to the Commission's market investigation who expressed a view confirmed the Commission's approach in previous decisions to divide the product market into the upstream segment for the provision of publishing services to authors/songwriters and the downstream segment for the exploitation of copyrights.[93] One competitor states: "*While the publishing industry continues to innovate and evolve, we do not consider that there have been changes to the core functionality and dynamics of the music publishing market to warrant a change to the separate assessment of the upstream and downstream segments of the market as described above. These continue to require quite different offerings, services, and*

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88 Form CO, paragraphs 511-514.

89 See, e.g., Case M.6458 - *Universal Music Group/EMI*, decision of 21 September 2012, recitals 91-98; Case M.8989 - *SONY/EMI Music Publishing*, decision of 26 October 2018, paragraphs 17-21 and 26-39.

90 Form CO, paragraph 523.

91 Form CO, paragraph 524.

92 Reply to the Article 6(1)(c) Decision, Annex 1, paragraph 5.

93 Replies to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), question D.B.A.1.

functionality."[94] Another market participant explains: "*This market definition remains relevant because, while interlinked, these two activities are distinct in terms of the activities involved and the customers served.*"[95]

(111) At the same time, the market investigation also indicated that not all providers of music publishing services provide all services.[96] One competitor explains: "*There are music publishing administration services focussing solely on digital administration, such as claiming revenues deriving from publishing rights on YouTube based on click through agreements with a low take rate. In comparison to major affiliated publishing services which offer creative services, connect songwriters, run songwriting camps and are well connected to the recording industry to get songs recorded.*"[97] And another one adds: "*Some are full service such as Sony and Universal. However, many focus on one aspect such as Registration, Collection, Sync, etc.*"[98]

(112) Therefore, the Commission considers that, for the purposes of this decision, it can be left open whether the market for music publishing should be segmented into the upstream segment for the provision of publishing services to authors/songwriters and the downstream segment for the exploitation of copyrights (possibly further divided into (a) mechanical rights; (b) performance rights; (c) synchronisation rights; (d) print rights; and (e) online rights) and whether music publishing administration services fall into the upstream or downstream segment, as the Transaction does not raise any competition concerns in music publishing irrespective of the precise product market definition.[99]

8.3.3. Geographic market definition

8.3.3.1. The Commission's decisional practice

(113) In previous decisions, the Commission considered the markets for the provision of various music publishing services to be national in scope with the exception of the exploitation of online rights, for which the market had been considered to be EEA-wide in scope.[100]

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94 A competitor's non-confidential reply to 04_Competitors - Phase I market investigation - competitors (UPDATED), question D.B.A.1.1 (ID 1550).

95 A market participant's non-confidential reply to 04_Competitors - Phase I market investigation - competitors (UPDATED), question D.B.A.1.1 (ID 1575).

96 Replies to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), question D.B.A.2.

97 A competitor's non-confidential reply to 04_Competitors - Phase I market investigation - competitors (UPDATED), question D.B.A.2.1 (ID 1741).

98 A competitor's non-confidential reply to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), question D.B.A.2.1 (ID 903).

99 The Commission focuses its assessment on the market for music publishing overall, the competitive assessment of which is reflective of the competitive dynamics on all putative narrower segments. The same considerations set out in the competitive assessment below (see Section 9.3.5) would also apply to the upstream and downstream segments of music publishing (in particular that Downtown's share on any such segment would be very small, that the Parties would, in view of the differentiated service offering within music publishing, not be close competitors, and that various alternative music publishing service providers would continue to exist post-Transaction).

100 See, e.g., Case M.6458 - *Universal Music Group / EMI Music*, decision of 21 September 2012, recitals 238-240; Case M.8989 - *SONY / EMI MUSIC PUBLISHING*, decision of 26 October 2018, paragraphs 22-25 and 43-57.

8.3.3.2. The Notifying Party's view

(114) The Notifying Party submits that the market for the provision of music publishing services is at least national in scope but argues that the exact definition can be left open, as no competition concerns arise under any geographic market definition.[101]

8.3.3.3. The Commission's assessment

(115) The market investigation indicates that the market for music publishing services overall is either worldwide or EEA-wide in scope. Similarly, the feedback from the market investigation indicates that the market for standalone platforms for the administration of publishing rights, such as Downtown's Songtrust, is also either worldwide or EEA-wide in scope.[102]

(116) However, in view of the local presence of different collecting societies or rights management entities[103], the Commission considers that it would be prudent to consider the impact of the Transaction both an EEA-wide level and a national level.

8.4. Royalty administration services

8.4.1. The Parties' activities in royalty administration services

(117) UMG does not offer royalty administrative services to third parties on a standalone basis. UMG's Virgin offers royalty administration for some of its label customers for which it procures royalty administration services from Curve.[104]

(118) Downtown is active in royalty administration services through its Curve subsidiary.[105] Curve provides a platform for calculating and reporting royalties to artists, labels and songwriters. This platform is supplied under a SaaS subscription model. Curve also provides ancillary administrative services – including rights management, royalty collection, and sync licensing. In addition, Curve offers Royalty Services with an internal team managing the platform for the client (otherwise including the same services). Finally, Curve also allows payments to be made through the platform, with the payees managing their payment details, and the client triggering payments as part of the royalty process within Curve.

8.4.2. Product market definition

8.4.2.1. The Commission's decisional practice

(119) The Commission has not previously defined a product market for the provision of royalty administration services on a stand-alone basis.

8.4.2.2. The Notifying Party's view

(120) The Notifying Party submits that royalty administration services offered on a stand-alone basis to third parties (such as those provided by Downtown's Curve) could be considered to fall into a distinct product market for royalty administration software

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[101] Form CO, paragraph 528.

[102] Replies to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), question D.B.B.1.

[103] Form CO, paragraph 503; Orca Report "*Setting the Stage: How Music Works*", page 143, accessible at: https://www.orcaformusic.com/ (ID 4542) (last accessed on 18 July 2025).

[104] Notifying Party's response to RFI 31, paragraph 17.

[105] In 2024, Curve generated worldwide revenues of EUR […] and EEA-wide revenues of EUR […] (UMG's slide deck [internal document reference], 22 September 2025, slide 21; Notifying Party's response to RFI 8, question 3.

and services to third parties, which would be separate from the wholesale distribution of recorded music and the provision of A&L services:[106]

(a) From a <u>demand-side perspective</u>, the Notifying Party argues that there is significant demand-side substitutability between providers of royalty administration software and services to third parties. The core offering relates to accounting software solutions that provide royalty accounting, processing, and reporting services, including, e.g., calculation of royalty payments based on contractual terms, to labels and other third parties, which, in the Notifying Party's view, rightsholders can source from a range of providers including those specialising in music rights as well as companies that offer equivalent functionalities but which are not focused on music rights. The Notifying Party refers to examples of switching between such providers as evidence.

(b) From a <u>supply-side perspective</u>, the Notifying Party sets out that the afore-mentioned functionalities and services are offered by a wide range of companies including those specifically focused on music and those not specifically focused on music. All of these providers are in the Notifying Party's view able to offer third party services to a range of rightsholders, including in music. All suppliers possess the necessary infrastructure and technical expertise to provide royalty administration services across different industries. Most have modular software that can be adapted to music-specific or other requirements or can be integrated with third-party tools.

8.4.2.3. The Commission's assessment

(121) The Commission's market investigation did not provide any evidence that would contradict the Notifying Party's views.

(122) More specifically, a third party confirmed in several submissions that royalty administration services offered as a stand-alone service fall into a product market that is distinct from the wholesale distribution of recorded music and the provision of A&L services.[107]

(123) And another third party recognised the distinct product offering of "*third party provider*[s] *of standalone royalty accounting services*".[108]

(124) Finally, a customer of the Parties has described the "*market offering royalty accounting software*" as "*competitive and evolving, particularly as more labels seek user-friendly, transparent financial tools*".[109]

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106 Form CO, paragraphs 585-590.

107 IMPALA submission February 2025, page 11: "*The market for the provision of royalty accounting services is a separate market in which Downtown's AdRev and Curve are active and in which UMG will now have a strong position, given the importance of these two companies in this market*" (ID 4125). Also see various references to "royalty accounting services" as being distinct from distribution services and other A&L services in IMPALA submission of October 2025 '*Additional information on key elements from our meeting with the Case team on 8 September, the economists' meeting on 16 September and the various meetings commencing week 29 September*' (ID 4099).

108 RFI response of competing Major (ID 3863/3). Also see reference to "*few alternatives that would provide royalty accounting services with the scale that Curve offers*" in minutes of call with competing Major, 20 June 2025, paragraph 24 (ID 1998/5).

109 A customer's non-confidential reply to questionnaire 02_Customers – Phase I market investigation – customers, question G.2.1. (ID 1138).

(125) The Commission, therefore, considers for the purposes of this Decision that the provision of stand-alone royalty administration services to third parties falls into a distinct product market.

8.4.3. Geographic market definition

8.4.3.1. The Commission's decisional practice

(126) The Commission has not previously defined the geographic scope of a market for the provision of royalty administration services offered on a stand-alone basis.

8.4.3.2. The Notifying Party's view

(127) The Notifying Party submits that a market for royalty administration services should be global in scope as providers in this space, including Curve and most of its competitors, have global offerings and often compete for customers in multiple countries.[110]

8.4.3.3. The Commission's assessment

(128) The majority of respondents to the Commission's Phase I market investigation who expressed a view confirmed that competition for royalty administration services takes place at a global level, with the remainder confirming that competition takes place at an EEA-wide level.[111]

(129) In line with the Notifying Party's views and based on the Phase I market investigation, the Commission considers for the purpose of this Decision that the geographic scope of the market for the provision of royalty administration services on a stand-alone basis is global.

8.5. Summary

(130) Based on the results of its market investigation as summarised above, the Commission assesses the impact of the Transaction on the following markets:

(a) the EEA-wide[112] overall market for the wholesale distribution of recorded music comprising both A&L and A&R services as well as separately for digital and physical wholesale distribution;

(b) the potential EEA-wide[113] market for A&L services including segments for DIY platforms and standalone delivery services as well as separately for digital and physical A&L services;

(c) national and EEA-wide markets for music publishing; and

110 Form CO, paragraph 591.

111 Replies to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), question D.A.B.1.

112 The Commission has found no indication that the results of a competitive assessment of the Transaction on a global market for wholesale distribution of recorded music would differ from the results of its competitive assessment on an EEA-wide market. Specifically, the market share estimates provided by the Notifying Party for a global wholesale distribution market do not materially differ from the EEA-wide market shares (please see below Section 9.2.1); cf. Notifying Party's response to RFI 33, paragraphs 3.4-3.10.

113 The Commission has no indication that the results of a competitive assessment of the Transaction on a global market for A&L services (including all relevant product market segments of this market) would differ from the results of its competitive assessment on an EEA-wide market. Specifically, the market share estimates provided by the Notifying Party for a global A&L services market do not materially differ from the EEA-wide market shares (please see below Section 9.2.2); cf. Notifying Party's response to RFI 33, paragraphs 3.11-3.17.

(d) the global market for royalty administration services to third parties on a standalone basis.

9. COMPETITIVE ASSESSMENT

9.1. Introduction

(131) Under Articles 2(2) and (3) of the Merger Regulation, the Commission must assess whether a proposed concentration would significantly impede effective competition in the internal market or in a substantial part of it, in particular through the creation or strengthening of a dominant position.

(132) In this respect, a merger may entail horizontal and/or non-horizontal (namely, vertical or conglomerate) effects. Horizontal effects are those deriving from a concentration where the undertakings concerned are actual or potential competitors of each other in one or more of the relevant markets concerned. Vertical effects are those deriving from a concentration where the undertakings concerned are active on different or multiple levels of the supply chain. Conglomerate effects are those deriving from a concentration where the undertakings concerned are in a relationship which is neither horizontal nor vertical. A concentration may involve all three types of effects. In such a case, the Commission will appraise horizontal and non-horizontal effects in accordance with the guidance set out in the relevant notices, that is to say the Horizontal Merger Guidelines[114] and the Non-Horizontal Merger Guidelines.[115]

(133) In assessing the competitive effects of a merger, the Commission compares the competitive conditions that would result from the notified merger with the conditions that would have prevailed without the merger. In most cases, the competitive conditions existing at the time of the merger constitute the relevant comparison for evaluating the effects of a merger. However, in some circumstances, the Commission may take into account future changes to the market that can reasonably be predicted.[116]

9.1.1. Horizontal assessment

(134) The Transaction gives rise to horizontal overlaps in: (i) the overall market for wholesale distribution of recorded music as well as separately in wholesale digital distribution of recorded music and in wholesale physical distribution of recorded music; (ii) the narrower plausible market for A&L services as well as separately in digital A&L services and physical A&L services, and separately (iii) the market for music publishing services.[117]

(135) Based on the market share figures and HHI increments set out in Section 9.2 below, none of the markets in which the Parties' activities overlap horizontally are affected markets.

(a) Specifically, while the Parties' combined market shares globally and EEA-wide exceed 20% in (i) overall wholesale distribution of recorded music;

114 Guidelines on the assessment of horizontal mergers under the Council Regulation on the control of concentrations between undertakings ('Horizontal Merger Guidelines'), OJ C31, 5.2.2004, p. 5.

115 Guidelines on the assessment of non-horizontal mergers under the Council Regulation on the control of concentrations between undertakings ('Non-Horizontal Merger Guidelines'), OJ C 265, 190.2008.

116 Horizontal Merger Guidelines, paragraph 9; Non-Horizontal Merger Guidelines, paragraph 20.

117 In line with its decision to examine the Transaction pursuant to Article 22(3) of the Merger Regulation, the Commission will assess the effects of the Transaction on the Austrian and Dutch markets.

(ii) digital wholesale distribution; and (iii) physical wholesale distribution, the HHI increment is in each case below 150.[118]

(b) The Parties' combined market shares globally and EEA-wide are below 20% in (i) A&L services overall; (ii) digital A&L services; and (iii) physical A&L services.[119]

(c) The Parties' combined market share in music publishing in the EEA, Austria and the Netherlands exceeds 20%, but the HHI increment is in case below 150.[120]

(136) In view of the specific concerns raised by third parties in the course of the proceedings, the Commission has nevertheless assessed horizontal unilateral[121] effects on the following markets where the Parties' activities horizontally overlap:

(a) <u>Digital wholesale distribution of recorded music in the EEA</u>: See below Section 9.3.2. As explained therein, the assessment in digital wholesale distribution equally applies to an overall market for wholesale distribution of recorded music.

(b) <u>Digital A&L services in the EEA</u>: See below Section 9.3.3. As explained therein, the assessment in digital A&L services equally applies to an overall market for all A&L services.

(c) The segment for DIY platforms of A&L services in the EEA: See below Section 9.3.49.3.4.2 below.

(d) Music publishing in the EEA, Austria and the Netherlands: See below Section 9.3.5.

(137) In view of the extremely limited presence of Downtown in physical wholesale distribution of recorded music and physical A&L services in the EEA (as also evidenced by the very small HHI increment of well below 10 ([number] or less) in physical wholesale distribution of recorded music globally and in the EEA and well below 10 (under [number]) in physical A&L services globally and in the EEA), the Commission does not conduct a detailed competitive assessment of the Transaction's

118 Cf. Commission Notice on a simplified treatment for certain concentrations under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (2023/C 160/01) (the '**Notice on Simplified Procedure**'), paragraph 5 d) i) bb).

119 Notice on Simplified Procedure, paragraph 5 d) i) aa).

120 Notice on Simplified Procedure, paragraph 5 d) i) bb).

121 The Commission notes that the Referral Request of the Netherlands (as also included in the Commission's Decision accepting the referral) listed one theory of harm linked to horizontal coordinated effects brought about by the Transaction in the market for the digital wholesale distribution of recorded music in the EEA (see in section 4.3.3. of Annex 1), on the basis of which it preliminarily concluded that the Transaction threatens to significantly affect competition in the Netherlands. However, during its investigation into this Transaction, the Commission has not received any substantiated complaints indicating that the Transaction would increase the likelihood of horizontal coordinated effects. In particular, in light of the assessment conducted in Section 9.3 below whereby, in those markets in which the Parties' activities horizontally overlap, the increment (and the consequent structural change on the market) brought about by the Transaction would be limited, Downtown is not seen as an important competitive force that would be removed by the Transaction and a large number of alternative market participants would remain after the Transaction, the Commission considers that the Transaction would not give rise to a significant impediment to effective competition as a result of horizontal coordinated effects in any of the markets in which the activities of the Parties horizontally overlap.

unilateral horizontal effects on these two markets, as the Transaction cannot conceivably lead to any significant impediment of effective competition therein.

9.1.2. Non-horizontal assessment

(138) Finally, the Commission has also assessed non-horizontal non-coordinated vertical and conglomerate effects, i.e., (i) whether the Transaction could provide UMG with access to commercially sensitive data of its rival record labels in the market for the wholesale distribution of recorded music; and (ii) whether the merged entity could, post-Transaction, engage in commercial tying or bundling strategies, whereby artists and labels using Downtown's standalone delivery services would be forced to move to UMG/Virgin's A&L distribution service package, thereby expanding UMG/Virgin's positioning in the wider A&L services market.

9.1.3. Conclusion

(139) The assessment of the effects of the Transaction in the relevant markets as set out above will be discussed in turn in the following sections. After setting out the market shares in the relevant markets, including all plausible segments (section 9.2), the Commission will first assess the potential horizontal unilateral effects stemming from the Transaction (section 9.3). The Commission will then assess the Transaction's potential non-horizontal non-coordinated effects (section 9.4).

9.2. Market shares

(140) According to the Horizontal Merger Guidelines[122] and the Non-Horizontal Merger Guidelines,[123] in the assessment of the effects of a merger, market shares constitute a useful first indication of the structure of the markets at stake and of the competitive importance of the relevant market players.

(141) In this Section, the Commission presents the market shares of the Parties and their competitors in the markets listed in Section 8 above, where the Parties have overlapping activities and/or the markets are relevant to the non-horizontal assessment. For this Decision, the Commission has relied on the Notifying Party's estimates for EEA as well as global estimates where necessary. As set out in section 8, the Commission takes the view that all markets except for the market for music publishing. are at the very least, EEA-wide in scope. Nevertheless, the Commission also presents market shares for Austria and Netherlands, as submitted by the Parties, since these Member States made a referral request for this case to the Commission. The Commission also explains in this Section how it assessed the reliability of the Notifying Party's estimates, in light of concerns raised by a complainant.

9.2.1. Wholesale distribution of recorded music

(142) The Notifying Party provided revenue-based market share estimates for the overall wholesale distribution of recorded music (including both physical and digital distribution) market, as well as the wholesale digital or physical-only distribution segments, for the EEA, Austria and the Netherlands.[124] These market share estimates submitted by the Notifying Party include revenue data from the wholesale distribution of owned recorded music content (e.g. through A&R activities) and revenue generated through the distribution of recorded music (e.g. A&L

122 Horizontal Merger Guidelines, paragraph 14.

123 Non-Horizontal Merger Guidelines, paragraph 24.

124 Form CO, tables 18, 20 and 21.

activities).[125] Such estimates are based on data from the International Federation of the Phonographic Industry ('**IFPI**'), which provides the overall market size for this market along with market share estimates, but only for some players in the market (i.e. the Majors).[126] The Parties have calculated Downtown's market share by using its actual revenues, compared to the total market size estimated by IFPI. The Notifying Party submits that volume-based shares would not materially differ to the revenue-based market shares.[127]

(143) Tables 1-3 below present the revenue-based market share estimates described in the previous recital.

Table 1: Market shares and HHI delta for the overall wholesale distribution of recorded music (digital and physical) (2022-2024)[128]

	EEA			**Austria**			**Netherlands**		
Undertaking	**2022**	**2023**	**2024**	**2022**	**2023**	**2024**	**2022**	**2023**	**2024**
UMG	[30-40]%	[30-40]%	[30-40]%	[20-30]%	[30-40]%	[30-40]%	[20-30]%	[20-30]%	[20-30]%
Downtown	[0-5]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%
Combined	***[30-40]%***	***[30-40]%***	***[30-40]%***	***[30-40]%***	***[30-40]%***	***[30-40]%***	***[30-40]%***	***[30-40]%***	***[30-40]%***
SME	[20-30]%	[20-30]%	[20-30]%	[20-30]%	[20-30]%	[20-30]%	[20-30]%	[20-30]%	[20-30]%
Warner	[10-20]%	[10-20]%	[10-20]%	[10-20]%	[10-20]%	[10-20]%	[10-20]%	[10-20]%	[10-20]%
Others ([129])	[20-30]%	[20-30]%	[20-30]%	[30-40]%	[30-40]%	[30-40]%	[30-40]%	[30-40]%	[30-40]%
	HHI Delta								
	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]

Source: Form CO, Tables 18, 20 and 21.

125 Form CO, table 18.

126 FPI collects record companies' revenue from the sale/licensing of recorded music to DSPs and other retailers.

127 Reply to Question 2, RFI 5 and Reply to Question 3, RFI 33.

128 The Parties submit that global market shares are not materially different from market shares in the EEA (Reply to Question 3, RFI 33). For a global market the HHI delta remains below 150 ([number]).

129 IFPI only reports shares for the Majors. The category "others" includes various companies active in the sale/licensing of recorded music.

Table 2: Market shares and HHI delta for the wholesale digital distribution of recorded music (2022-2024)[130]

	EEA			Austria			Netherlands		
Undertaking	**2022**	**2023**	**2024**	**2022**	**2023**	**2024**	**2022**	**2023**	**2024**
UMG	[20-30]%	[30-40]%	[20-30]%	[20-30]%	[20-30]%	[20-30]%	[20-30]%	[20-30]%	[20-30]%
Downtown	[0-5]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%
Combined	***[30-40]%***	***[30-40]%***	***[30-40]%***	***[20-30]%***	***[30-40]%***	***[30-40]%***	***[30-40]%***	***[30-40]%***	***[30-40]%***
SME	[20-30]%	[20-30]%	[20-30]%	[20-30]%	[20-30]%	[20-30]%	[20-30]%	[20-30]%	[20-30]%
Warner	[10-20]%	[10-20]%	[10-20]%	[10-20]%	[10-20]%	[10-20]%	[10-20]%	[10-20]%	[10-20]%
Others ([131])	[20-30]%	[20-30]%	[20-30]%	[30-40]%	[30-40]%	[30-40]%	[30-40]%	[30-40]%	[30-40]%
	HHI Delta								
	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]

Source: Form CO, RFI 6 Response Annexes, Annex 1.

Table 3: Market shares and HHI delta for the wholesale physical distribution of recorded music (2022-2024)[132]

	EEA			Austria			Netherlands		
Undertaking	**2022**	**2023**	**2024**	**2022**	**2023**	**2024**	**2022**	**2023**	**2024**
UMG	[30-40]%	[30-40]%	[30-40]%	[30-40]%	[40-50]%	[40-50]%	[20-30]%	[30-40]%	[30-40]%
Downtown	[0-5]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%
Combined	***[30-40]%***	***[30-40]%***	***[30-40]%***	***[30-40]%***	***[40-50]%***	***[40-50]%***	***[20-30]%***	***[30-40]%***	***[30-40]%***
SME	[10-20]%	[10-20]%	[10-20]%	[20-30]%	[10-20]%	[10-20]%	[20-30]%	[20-30]%	[20-30]%
Warner	[10-20]%	[10-20]%	[10-20]%	[10-20]%	[10-20]%	[10-20]%	[10-20]%	[10-20]%	[10-20]%
Others ([133])	[30-40]%	[20-30]%	[20-30]%	[20-30]%	[20-30]%	[20-30]%	[30-40]%	[30-40]%	[20-30]%
	HHI Delta								
	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]

Source: Form CO, RFI 6 Response Annexes, Annex 1.

130 The Parties submit that global market shares do not differ significantly from market shares in the EEA (Reply to Question 3, RFI 33). For a global market the HHI delta remains below 150 ([number]).

131 IFPI only reports shares for the Majors. The category "others" includes various companies active in the sale/licensing of recorded music.

132 The Parties submit that global market shares do not exceed market shares in the EEA (Reply to Question 3, RFI 33). For a global market the HHI delta remains below 150 (< [number]).

133 IFPI only reports shares for the Majors. The category "others" includes various companies active in the sale/licensing of recorded music.

(144) During the Commission's investigation, IMPALA raised concerns that the market share estimates provided by the Notifying Party understate UMG's position in the market for wholesale distribution of recorded music for the EEA, but also at national level (e.g. the Netherlands) which should, according to IMPALA, instead be estimated at slightly above 40%, at both EEA-level and in the Netherlands in 2023, based on a publication from Music & Copyright.[134] IMPALA also reiterated this claim in a public statement, quoting Omdia as the relevant data source.[135]

(145) The Notifying Party dismissed the alternative market share estimates put forward by IMPALA, noting that the underlying country-level data from the Music & Copyright publication does not form a reliable basis for market share estimations. Specifically, the Music & Copyright publication only presents market share estimates for six countries in the EEA and relies on a limited dataset for its calculations, such as the Top 200 song charts for France and Italy.[136] The Notifying Party's estimates are based on IFPI data, which includes a much wider data set encompassing the entirety of the EEA. Moreover, the Notifying Party points out that Omdia, cited by IMPALA as an alternative source for its market share estimates, issues market share estimates for the wholesale distribution of recorded music that align with IFPI methodology and which tallies with the market share estimates submitted by the Notifying Party, and not with IMPALA's estimates.[137]

(146) To verify the reliability of the market share estimates submitted by the Notifying Party for the wholesale distribution of recorded music in the EEA, the Netherlands and Austria, the Commission conducted a market share verification exercise during its Phase II investigation. This exercise sought from respondents their revenue figures consisting of net billings received from digital recorded music sales, and volume based-data consisting of the number of streams associated with digital sales, for the years 2022, 2023 and 2024.[138] The respondents were the Parties as well as some of their most meaningful competitors in the wholesale digital distribution of recorded music market.[139] The resulting market share estimates from this exercise

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134 For the EEA market shares, IMPALA mentions "Europe" as a proxy, combining data from the six largest European recorded music markets (Germany, France, Italy, Spain, Netherlands and Sweden) (ID 2438).

135 See IMPALA public statement from 7 July 2025, available at (ID 4555).

136 Reply to the 6(1)(c) Decision, paragraph 60.

137 Reply to the 6(1)(c) Decision, paragraph 60, see also https://musicandcopyright.wordpress.com/tag/market-share/ (ID 4543).

138 Given that Downtown has very limited physical sales and that the wholesale digital distribution of recorded music has become the prevalent distribution route to market compared to physical (as shown in Figure 6 above), the exercise only sought input for data to estimate the market shares corresponding to the wholesale **digital** distribution market in the EEA, Austria and the Netherlands. The results would in any event mirror the effects on the overall wholesale distribution market (including both digital and physical), given Downtown's negligible presence, as shown in the difference in market shares between Table 2 (for the wholesale digital distribution of recorded music) and Table 3 (for the wholesale physical distribution of recorded music).

139 To ensure the accuracy and reliability of the collected data, the Commission solicited preliminary feedback from the Parties and several of their most meaningful competitors on a draft template, which was prepared with the aim to collect data on revenues and volumes from the digital distribution of recorded music and that included sectoral terminology and data collection methodologies. To that end, the recipients received a finalised template which incorporated their initial feedback, requesting the total annual distribution revenue associated with digital sales and separately the total annual distribution revenues from owned/licensed content and total annual distribution revenue from distribution of third-party content. The Commission considered seven of the top competitors of UMG and Downtown in the digital A&L market as an appropriate proxy to its competitors in the wholesale distribution market of

showed only minimal differences compared to the Notifying Party's market share estimates for different scenarios.[140]

(147) Moreover, the Commission notes that IMPALA has not questioned the reliability of the IFPI data source[141], which the Notifying Party uses to estimate its revenue-based market shares for the wholesale distribution of recorded music in the EEA, the Netherlands and Austria. The Commission considers that IFPI is a credible source for market data, as it represents approximately 8000 members worldwide including the Majors and non-major affiliated entities such as Believe.[142] Also, the Commission previously relied on IFPI data as a credible and reliable data source in case M.5272 – *Sony/BMG*[143] and in case M.6458 – *Universal Music Group/EMI Music*, to assess competition in the wholesale distribution of recorded music market, where it noted that "*the IFPI estimates are likely to better capture the combined position of the merged entity on the overall digital market*" compared to other data sources "*given that IFPI calculates digital market shares on the basis of sales to all digital services*".[144] A similar conclusion was reached in this case considering only the market for wholesale distribution of physical recorded music. [145]

9.2.2. A&L services

(148) The Notifying Party provided revenue-based market share estimates for the broader market for A&L services (including both physical and digital distribution) market, as well as the physical A&L services, for the EEA, Austria and the Netherlands.

(149) Such estimates are based on data from IFPI, which provides total revenues for the market for wholesale distribution of recorded music. This includes revenues from the distribution of owned and third-party content, capturing revenue from A&R, "A&R-type distribution agreements"[146] and A&L activities. The Notifying Party calculates the market size for A&L services by subtracting revenues from the distribution of what IFPI refers to as "owned and licensed" content (i.e. A&R activities) from the total market size.[147] Based on data from IFPI, the Notifying Party provides market

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recorded music, given that large players in the digital A&L market, such as the Majors or Believe, are also large players in the wholesale distribution of recorded music market.

140 The Commission considered two scenarios to be the most relevant for assessing the Parties' market shares: (i) when considering all revenue received from digital sales, and (ii) when considering all revenue received from digital sales, excluding revenue passed on to labels and artists. Assessing the revenue data received from all the respondents for the EEA in 2024 and applying a factor of 0.885 to reflect that the respondents account for 88.5% of the entire wholesale digital distribution of recorded music market according to IFPI market shares and market size estimates, the resulting market shares estimates are only minimally different from the Notifying Party's estimates in both scenarios. The Commission's market share verification exercise also requested data to estimate market shares based on volume, but given inconsistencies in the methodologies employed by respondents to quantify the volume metrics (e.g. stream count), it did not provide a reliable basis to estimate volume-based market shares. In any event, given that the IFPI data source used to estimate revenue-based market shares is considered reliable (see recital (147) above) and that the Notifying Party confirmed that the volume and value-based market share estimates would not materially differ (Reply to Question 2, RFI 5) (ID 395), the Commission concludes that an assessment of market shares in terms of revenue is sufficient for the purpose of this assessment.

141 IMPALA argued that the Parties' market position should additionally be assessed based on alternative market shares, namely control shares, which are discussed in section 9.2.6.

142 https://www.ifpi.org/members/our-members/.

143 Case M.5272 – *Sony / BMG*, decision of 8 August 2008, recitals 52 and 53.

144 Case M.6458 - *Universal Music Group/EMI Music*, decision of 21 September 2012, recital 366.

145 Case M.6458 - *Universal Music Group/EMI Music*, decision of 21 September 2012, recital 322.

146 A description of such A&R-type distribution agreements is provided in footnote 156.

147 Reply to the 6(1)(c) Decision, Annex 2, Table 2 and Notifying Party's response to RFI 35, Question 2.

shares for the Majors as well as estimates for Downtown and Believe (relying for the latter two on actual revenue data and consolidated financial statements since IFPI only estimates market shares for the Majors). The Notifying Party submits that IFPI-based revenue market shares estimates do not provide the most appropriate proxy to estimate market shares in the EEA-wide digital A&L services market, given that it includes revenue that fall outside the scope of standard A&L services (e.g. "A&R-type" distribution agreements), but nevertheless confirmed that such revenue-based market shares would not materially differ from volume-based market shares estimates.[148]

(150) Tables 4 and 5 below present the revenue-based market share estimates described in the previous recitals.

Table 4: EEA-wide market shares overall A&L services (digital and physical distribution) (2022-2024)[149]

Undertaking	2022	2023	2024
UMG	[5-10]%	[10-20]%	[10-20]%
Downtown	[0-5]%	[0-5]%	[0-5]%
Combined	***[10-20]%***	***[10-20]%***	***[10-20]%***
SME	[10-20]%	[10-20]%	[10-20]%
Warner	[10-20]%	[10-20]%	[10-20]%
Believe	[20-30]%	[20-30]%	[20-30]%
Others	[30-40]%	[30-40]%	[30-40]%
	HHI delta		
	[…]	[…]	[…]

Source: the Notifying Party, Table 2 of the Annex 2 of the Reply to the 6(1)(c) Decision.

148 Notifying Party's response to RFI 36.

149 Based on IFPI data. The market share estimates also include revenue associated to "A&R-like" distribution contracts handled by UMG described in footnote 156 below. The Notifying Party confirmed that global market shares are not materially different from market shares in the EEA and in either case they are below 20% (Response to Question 3, RFI 33). The Notifying Party confirmed that volume-based market share estimates for the overall A&L services (digital and physical) market in the EEA and globally in the 2022-2024 period would not materially differ from revenue-based ones (Response to Question 5, RFI 36). The Notifying Party also confirmed that the volume-based market share estimates for the digital A&L service market globally would not be materially different from the value-based ones (Notifying Party's response to RFI 37).

Table 5: Market shares and HHI delta physical A&L services (2024)[150]

Undertaking	EEA-wide	Austria	Netherlands
UMG	[5-10]%	[0-5]%	[10-20]%
Downtown	[0-5]%	[0-5]%	[0-5]%
Combined	***[10-20]%***	***[0-5]%***	***[10-20]%***
Others ([151])	[90-100]%	[90-100]%	[80-90]%
	HHI delta		
	[…]	[…]	[…]

Source: Reply to Question 2, RFI 35.

(151) The Notifying Party provided volume-based market share estimates for the market for A&L services in the EEA, Austria and the Netherlands, relying on data from third party provider Luminate, which publishes data on the top 100,000 tracks streamed and their corresponding artists for EEA Member States.[152] Given that the Luminate data does not link the tracks streamed to the relevant labels and A&L distributors in its data reports, the Notifying Party relied on an internal tool [information on Virgin's business/commercial information]. From the resulting dataset, the Notifying Party excluded tracks that are distributed by the Majors' A&R activities (as well as "A&R" like distribution as explained in footnote 156 which the Notifying Party does not consider to fall within the scope of A&L services), but including tracks distributed by Major-affiliated and non-Major-affiliated A&L services providers. In the Notifying Party's view, this methodology provides the most accurate market share estimates for the market of the supply of digital A&L services in the EEA.

(152) Tables 6 below presents the volume-based market share estimates described in the previous recital.

150 Based on IFPI data, the Notifying Party submits that global market shares are not materially different from market shares in the EEA and in either case are below 20% (Reply to Question 2, RFI 35). For a global market, the HHI delta remains below 150. The Notifying Party also confirmed that volume-based market share estimates for physical A&L services in the EEA in 2024 would not materially differ from the revenue-based estimates presented in Table 5.

151 The category "Others" includes all providers that individually have less than [0-5]% market share.

152 Form CO, tables 6 and 15. Luminate publishes streaming data for each EEA Member State with the exception of Bulgaria, Cyprus, Estonia, Latvia, Lithuania, Malta, Slovenia and Liechtenstein. The Notifying Party submits that revenue-based market share estimates would not materially differ from volume-based and that estimates for the years 2022 and 2023 would not materially differ from estimates for the year 2024 (see Form CO, paragraphs 320 and 323, as well as the Form CO, RFI 6 Response Annexes, Annex 1). Moreover, the Notifying party's estimates cover only the provision of digital A&L services only, not physical A&L services. The Notifying Party stated that given that A&L services are mostly provided digitally, market share estimates for digital A&L services would cover the vast majority of the entire A&L services market. The Parties' combined physical A&L services market shares estimates would not materially differ to their digital A&L market shares estimates in any event.

Table 6: Market shares and HHI delta for digital A&L services (2024)[153]

Undertaking	EEA-wide	Austria	Netherlands
UMG	[5-10]%	[0-5]%	[5-10]%
Downtown	[5-10]%	[5-10]%	[10-20]%
Combined	***[10-20]%***	***[10-20]%***	***[20-30]%***
SME	[10-20]%	[10-20]%	[10-20]%
Warner	[5-10]%	[5-10]%	[5-10]%
Believe S.A. (‘**Believe**’)	[20-30]%	[20-30]%	[10-20]%
DistroKid LLC (‘**Distrokid**’)	[0-5]%	[0-5]%	[5-10]%
Kontor	[0-5]%	[0-5]%	[0-5]%
BMG	[0-5]%	[0-5]%	[0-5]%
ONErpm	[0-5]%	[0-5]%	[0-5]%
iGroove	[0-5]%	[5-10]%	[0-5]%
Routenote	[0-5]%	[0-5]%	[0-5]%
Create	[0-5]%	[0-5]%	[0-5]%
e-Muzyka	[0-5]%	[0-5]%	[0-5]%
EMPIRE	[0-5]%	[0-5]%	[0-5]%
AMUSE	[0-5]%	[0-5]%	[0-5]%
LabelWorkx	[0-5]%	[0-5]%	[0-5]%
Audiosalad	[0-5]%	[0-5]%	[0-5]%
recordJet	[0-5]%	[0-5]%	[0-5]%
Rebeat Music	[0-5]%	[0-5]%	[0-5]%
Zebralution	[0-5]%	[0-5]%	[0-5]%
Others ([154])	[10-20]%	[10-20]%	[10-20]%
	HHI delta		
	[…]	[…]	[…]

Source: Form CO, tables 15, 26, Form CO, RFI 6 Response Annexes, Annex 1 and Notifying Party’s response to RFI 8, Annex 2.

153 Based on Luminate data following the methodology described in paragraph (148). The Notifying Party confirmed that global market shares are not materially different from market shares in the EEA and in either case are below 20% (Reply to Question 3, RFI 33). For a global market the HHI delta is just slightly above 150 ([number]). The Commission’s assessment therefore would not be different when considering global market shares. Therefore, the Commission has conducted the competitive assessment on a narrower EEA-wide basis (which includes Austria and the Netherlands).

154 The category “Others” includes all providers that individually have less than [0-5]% market share.

(153) The Notifying Party has confirmed that A&L services are largely provided digitally. In addition, Downtown's revenues based on physical distribution in the EEA are very limited (EUR […] EEA-wide in 2024) and the Notifying Party presented in table 5 above market shares estimates of Downtown that are below [0-5]% in the market for physical A&L services in the EEA in 2024.[155] The Commission will, therefore, focus its competitive assessment on the provision of digital A&L services, understanding that in view of Downtown's limited presence in physical A&L distribution services in the EEA, the Transaction will have no significant effects therein.

(154) However, in relation to the volume-based market share estimates presented by the Notifying Party for the market for digital A&L services in the EEA (see table 5 above), and in light of: (i) the lack of third party reports used to estimate individual competitors' market shares and the total market size for the market of A&L services available for the EEA (including Austria and the Netherlands), (ii) the limitations in the Notifying Party's estimates, which only rely on volume-based Luminate data capturing the top 100,000 tracks streamed per country, compared to the total amount of streams; and (iii) the fact that so-called A&R "bespoke" or "distribution-like" agreements are excluded from the Notifying Party's A&L services estimates, the Commission considered it could not dispel doubts during its Phase I investigation that the estimates submitted by the Notifying Party accurately reflect the Parties' and their competitor's shares in the market for A&L services in the EEA (including Austria and the Netherlands). [156]

(155) To address such doubts, the Commission conducted a market verification exercise during its in-depth Phase II investigation, the results of which confirmed the Notifying Party's market share estimates for the A&L services market in the EEA, Austria and the Netherlands for the years 2022-2024. This exercise was based on the responses from seven of the Parties' largest competitors in the A&L market as well as from the Parties themselves.

(156) The results of this exercise are that, in 2024, the Parties' combined market shares in terms of revenue in the EEA and Austria are: (i) below [10-20]% considering all revenue associated with the digital distribution of third-party content only (i.e. net billings from gross sales and before amounts remitted (i.e. "passed on") to third party labels), excluding revenue generated from distribution of owned and licensed music content[157], (ii) below [20-30]%, if revenues generated from distribution-like or "bespoke" A&R agreements described in footnote 156 above are included, and (iii) only for the Netherlands, the Parties' combined market shares in the above-mentioned scenarios are higher than in Austria and the EEA but in remain under [30-40]%.[158]

155 To estimate market shares in the physical A&L services market in the EEA (and Austria and the Netherlands), the Notifying Party has used IFPI data tracking revenue for physical distributed content as the best available proxy. The statement applies also for the years 2022 and 2023.

156 [information on commercial negotiations].

157 This applies whether including or excluding revenues from digital DIY distribution from the overall A&L revenue market share estimates or whether revenue "passed on" to customers is also excluded from the calculations.

158 The resulting market shares from the exercise are based on responses from seven companies that are the Parties' top competitors in the digital A&L services market in the EEA, which collectively with the Parties account for approximately [70-80]% of the digital A&L market according to information provided by the Notifying Party (Form CO, table 15). The results thereof therefore overstate the market share estimates, as the respondents do not represent the entirety of the digital A&L services market. The market verification exercise results for volume-based market share estimates revealed inconsistencies in

(157) The Commission considers that the above results provide a sufficient basis to conclude that the Notifying Party's A&L market share estimates can be relied upon for the purpose of assessing this Transaction.

9.2.3. DIY platforms

(158) The Notifying Party provided volume-based market share estimates for a segment of the A&L services market consisting of the supply of DIY platforms in the EEA, Austria and the Netherlands. The Notifying Party relied on data from third party provider Luminate and used an internal tool [information on Virgin's business/commercial information] (see section 9.2.2).[159] From the resulting dataset, the Parties excluded streaming shares attributable to competitors which are not self-aggregators.[160]

(159) Table 7 below presents the Notifying Party's estimates for 2024 for UMG, Downtown and their main competitors in the segment for the supply of DIY platforms in the EEA, Austria and the Netherlands.

Table 7: Market shares DIY platforms (2024)

Undertaking	EEA-wide	Austria	Netherlands
UMG	[0-5]%	[0-5]%	[0-5]%
Downtown	[0-5]%	[0-5]%	[0-5]%
Combined	***[0-5]%***	***[0-5]%***	***[0-5]%***
Distrokid	[30-40]%	[30-40]%	[30-40]%
Tunecore	[20-30]%	[20-30]%	[30-40]%
Routenote	[5-10]%	[10-20]%	[5-10]%
Create	[5-10]%	[10-20]%	[5-10]%
Freshtunes	[5-10]%	[5-10]%	[0-5]%
Others ([161])	[10-20]%	[10-20]%	[10-20]%

Source: Form CO, Table 25, Notifying Party's response to RFI 8, Annex 2 and Annex "M.11956 – Consolidated market shares - Confidential".

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the methodologies employed by respondents to define and quantify streams, rendering the resulting data less reliable to verify volume-based market shares estimates. However, the results nevertheless tally with the revenue-based market shares estimates from the market verification exercise and the Notifying Party's estimates. Moreover, as submitted by the Notifying Party, there should be no material difference between volume and value-based market shares estimates (see Form CO, paragraph 323). On this basis, the Commission considers that the revenue-based results (on top of the resulting but less reliable volume-based estimates) of the market verification exercise can also be used to confirm the Notifying Party's digital A&L services market share estimates.

159 Form CO, table 25. The Notifying Party submits that market shares for 2022 and 2023 would not materially differ from shares in 2024 (see Notifying Party's response to RFI 8, Annex M.11956 – Consolidated market shares – Confidential).

160 Form CO, paragraph 391.

161 Based on the data submitted by the Parties in the Notifying Party's response to RFI 8, Annex 2 the category "others" includes various DIY providers with less than [0-5]% estimated market share on an EEA-wide level and in Austria and the Netherlands such as Ditto, GYROstream, RecordUnion, EmuBands and Soundcloud.

9.2.4. *Music publishing*

(160) The Notifying Party provided EEA-wide 2022, 2023, and 2024 market share estimates for music publishing services, which are based on global, revenue-based market shares reported in Omdia for UMG, Downtown and its competitors, and which the Notifying Party submits are consistent with EEA-wide market share estimates.[162] Downtown's market share estimate is based on Downtown's global music publishing revenues as a percentage of the market size reported by Omdia. The Parties also submitted that volume-based shares would not materially differ from the value-based share estimates in the three-year period covered

(161) Table 8 presents the market share estimates described in the previous recital.

Table 8: Market shares and HHI delta for music publishing (2024)

Undertaking	EEA-wide	Austria	Netherlands
UMG	[20-30]%	[20-30]%	[20-30]%
Downtown	[0-5]%	[0-5]%	[0-5]%
Combined	***[20-30]%***	***[20-30]%***	***[20-30]%***
SME	[20-30]%	[20-30]%	[20-30]%
Warner	[10-20]%	[10-20]%	[10-20]%
Kobalt	[5-10]%	[5-10]%	[5-10]%
BMG	[5-10]%	[5-10]%	[5-10]%
Others	[20-30]%	[20-30]%	[20-30]%
	HHI delta		
	[…]	[…]	[…]

Source: Form CO, Tables 33, 34 and 35.

9.2.5. *Royalty administration services*

(162) The Notifying Party provided revenue-based global market share estimates for royalty administration services.[163] These estimates are based on Downtown's estimates of the total market size for royalty administration software and services to third parties, including recorded music and publishing royalties, sales data, and public information about competitors' revenue data, where available.[164]

(163) The Parties estimate that their market shares in the EEA, the Netherlands and Austria are broadly consistent with their global shares.[165] The geographic market of royalty administration services is in any event global in scope (see Section 8.4.3 above).

(164) Table 9 presents the market share estimates for royalty administration services for the Parties and their competitors based on revenues as estimated by the Parties.[166]

162 Form CO, Table 33. Omdia's Music & Copyright newsletter is a regular industry publication.
163 Form CO, paragraph 603.
164 Notifying Party's response to RFI 8, Annex 1 - Consolidated Market Shares.
165 Form CO, paragraph 600.
166 In addition, the Notifying Party also provided estimates of royalties processed via Curve compared to the overall pool of all royalties processed (including through captive inhouse royalty accounting solutions) worldwide and in the EEA. According to UMG, Curve's share would be [0-5]% - [0-5]% of all royalties processed in the EEA; and [5-10]% of all royalties processed worldwide (Notifying Party's response to RFI 31, question 3).

Table 9: Market shares for royalty administration services (2024)

Undertaking	Worldwide	EEA-wide	Austria	Netherlands
UMG	[…]	[…]	[…]	[…]
Downtown (Curve)	[5-10]%	[5-10]%	[5-10]%	[5-10]%
Combined	***[5-10]%***	***[5-10]%***	***[5-10]%***	***[5-10]%***
Vistex / Music Maestro	[30-40]%	[30-40]%	[30-40]%	[30-40]%
Synchtank	[10-20]%	[10-20]%	[10-20]%	[10-20]%
Ritebox	[0-5]%	[0-5]%	[0-5]%	[0-5]%
Others	[50-60]%	[50-60]%	[50-60]%	[50-60]%

Source: Form CO, paragraphs 600-601, tables 37-39.

9.2.6. *Alternative market shares (control shares)*

(165) Each song has a right for the composition ('publishing right') and for the recording ('recording right'). DSPs need to acquire both rights to distribute songs on their platform, giving each right holder a veto right. Control shares refer to the proportion of all musical works made available for streaming or downloading by DSPs over which an integrated music company holds either fractional or full publishing rights and/or recording rights. Control shares are different from market shares as they take into account that recording and publishing rights are required to distribute songs on DSPs. The Commission has previously conducted control share analyses with respect to the wholesale digital distribution of recorded music (as this relates to licensing with DSPs, not physical retailers).[167]

(166) IMPALA submitted that the Commission should undertake an assessment of control shares. [168] *First*, IMPALA argues that given the size of UMG's market shares in the wholesale distribution of digital recorded music market and in the music publishing market, "*the size of its control share will be very high indeed*". According to this market participant this "*would make UMG an unavoidable trading partner for digital music services who simply cannot choose to do without UMG's repertoire*".*Second*, IMPALA argues that the Commission used control shares in case M.6458 - *Universal Music Group/EMI Music*, where "*the EC concluded that an integrated recorded music/music publishing company would likely have the ability and incentive to leverage its combined position in recorded music and music publishing to extract better terms from customers*". *Third*, a recent deal between Spotify and UMG would show that control shares would still be relevant in an assessment today.[169]

(167) The Notifying Party submitted that a control share analysis would not be applicable to the Transaction.[170] First, according to the Notifying Party, control shares are not relevant in the streaming area and UMG does not license publishing and recording rights jointly. Second, the Notifying Party submits that there would be no increment

[167] Case M.6458 - *Universal Music Group/EMI Music*, decision of 21 September 2012 and Case M.4404 - *Universal/BMG Music Publishing*, decision of 22 May 2007.

[168] Impala submission on Market power from June 2025 (ID 2435).

[169] IMPALA complementary submission 27 June 2025 (ID 2438).

[170] Reply to the Article 6(1)(c) Decision, paragraph 63 and Control share follow-on submission, 24 June 2025.

to UMG's control share as a result of the transaction because Downtown does not hold or control recording or publishing rights.

(168) As outlined below the Commission considers that applying a control shares analysis is not warranted in this case.

(169) *First*, the market investigation revealed that the licensing of recording and publishing rights in the wholesale digital distribution of recorded music market is usually carried out through separate and parallel negotiations, as confirmed by a majority of DSPs that do not combine these negotiations.[171]

(170) One DSP explained that "*music publishing and recorded music distribution agreements are negotiated separately"* and that it *"negotiates distinct music publishing agreements with each UMG affiliate and collective management organisation around the globe.*"[172]

(171) Further, a majority of the Parties' competitors that expressed an opinion, confirmed that negotiations concerning the licensing of recorded music and music publishing are completely distinct processes, and some of them indicated that, with regard to publishing rights licensing negotiations, these were done via a collecting society and not conducted directly.[173]

(172) *Second,* even when assuming there would be joint negotiations, the Commission considers the increment in market share added by Downtown in both the wholesale digital distribution of recorded music and the music publishing market to be moderate (amounting to [0-5]%) which would translate into a moderate increment in UMG's control shares. In that regard, the Commission notes that it has previously conducted a control shares assessment in case M.6458 - *Universal Music Group / EMI Music*, which involved significant market share increments in the market for wholesale digital distribution of recorded music of 10-20%.[174] The Commission concluded that both companies were active as Majors in both recorded music and music publishing and each owned and distributed significant repertoire.[175] In contrast, this Transaction involves the acquisition of Downtown which is solely an A&L services provider that does not own but only distributes repertoire held by third party rights holders. According to the Notifying Party, most Downtown clients retain the right to withdraw their rights from Downtown at short notice. Thus, the combined entity would not be in a position to pursue a withholding strategy for repertoire distributed by Downtown.[176] In any case, even when considering the distribution of repertoire for which Downtown does not hold music recording or publishing rights, Downtown only adds a limited increment ([0-5]%) to UMG's position in the market for the wholesale distribution of recorded music and for the market for music publishing.

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171 Responses to Questionnaire 03_Phase I – market investigation – DSPs, Question D.3. As stated in recital (165), the control share analysis does not apply to the wholesale physical distribution of recorded music.

172 Non-confidential version of minutes of a meeting with a market participant on 5 June 2025 (ID 1919).

173 Responses to Questionnaire 04_Phase I – market investigation – competitors (UPDATED), Question E.1.

174 Case M.6458 - *Universal Music Group/EMI Music*, decision of 21 September 2012, Table 7.

175 The Commission also conducted a control share analysis in M.4404 - *Universal/BMG Music Publishing,* which included UMG and BMG, a major music publisher.

176 Submission to the European Commission on Control shares, 24 June 2025 (ID 1326)

9.3. Horizontal unilateral effects

9.3.1. Legal framework

(173) Under Article 2(2) and (3) of the Merger Regulation, the Commission must assess whether a proposed concentration would significantly impede effective competition in the internal market or in a substantial part of it, in particular through the creation or strengthening of a dominant position.

(174) Horizontal effects are those deriving from a concentration where the undertakings concerned are actual or potential competitors of each other in one or more of the relevant markets concerned. The Commission appraises such effects in accordance with the guidance set out in the relevant notice, the Horizontal Merger Guidelines.[177]

(175) The Horizontal Merger Guidelines describe horizontal non-coordinated effects as follows: "*A merger may significantly impede effective competition in a market by removing important competitive constraints on one or more sellers who consequently have increased market power. The most direct effect of the merger will be the loss of competition between the merging firms. For example, if prior to the merger one of the merging firms had raised its price, it would have lost some sales to the other merging firm. The merger removes this particular constraint. Non-merging firms in the same market can also benefit from the reduction of competitive pressure that results from the merger, since the merging firms' price increase may switch some demand to the rival firms, which, in turn, may find it profitable to increase their prices. The reduction in these competitive constraints could lead to significant price increases in the relevant market*".[178]

(176) Generally, a merger giving rise to such horizontal non-coordinated effects would significantly impede effective competition by creating or strengthening of the dominant position of a single firm, one which, typically, would have an appreciably larger market share than the next competitor post-merger.

(177) However, under the substantive test set out in Article 2(2) and (3) of the Merger Regulation, mergers that do not lead to the creation or the strengthening the dominant position of a single firm may create competition concerns in oligopolistic markets. Indeed, the Merger Regulation recognises that in oligopolistic markets, it is all the more necessary to maintain effective competition.[179] This is in view of the more significant consequences that mergers may have on such markets. For this reason, the Merger Regulation provides that: "*under certain circumstances, concentrations involving the elimination of important competitive constraints that the merging parties had exerted upon each other, as well as a reduction of competitive pressure on the remaining competitors, may, even in the absence of a likelihood of coordination between the members of the oligopoly, result in a significant impediment to effective competition*."[180]

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177 Guidelines on the assessment of horizontal mergers under the Council Regulation on the control of concentrations between undertakings ('**Horizontal Merger Guidelines**'), OJ C 31,05.02.2004.

178 Horizontal Merger Guidelines, paragraph 24.

179 Merger Regulation, paragraph 25.

180 Merger Regulation, paragraph 25. Similar wording is also found in paragraph 25 of the Horizontal Merger Guidelines. See also Case M.7018 – *Telefónica Deutschland/E-Plus*, decisions of 2 July 2014, recital 113; case M.6992 – *Hutchison 3G UK/Telefónica Ireland*, of 28 May 2014, recital 179; and case M.6497 – *Hutchison 3G Austria/Orange Austria*, of 12 December 2012, recital 88. See also judgment of the Court of Justice of the EU dated 13 July 2023 in Case C-376/20 P - *Commission v CK Telecoms UK Investments* ECLI:EU:C:2023:561 (the '**CK Telecoms Judgment**'), paragraphs 107-114.

(178) Paragraph 24 of the Horizontal Merger Guidelines, which sets out the economic rationale underlying non-coordinated anti-competitive effects in horizontal mergers, states that a merger may significantly impede effective competition in a market by removing important competitive constraints on one or more firms. This paragraph furthermore clarifies that the most direct effect of the merger will be the loss of competition between the merging firms. In order to assess whether a notified merger will result in a significant impediment of effective competition on the basis of non-coordinated effects, the Commission therefore needs to analyse primarily the extent of the competitive constraint imposed pre-merger by each of the merging parties on each other. The following sentence of paragraph 24 of the Horizontal Merger Guidelines clarifies that the removal of the rivalry between the parties may have consequences also on the other players, who may find it profitable to increase their prices. The ultimate effect would thus typically be price increases by the merging parties but also by competitors in the relevant market.

(179) The Commission carries out an overall assessment of the likely effects of the Transaction arising from the elimination of important competitive constraints, taking into consideration the overall body of evidence in its file. The conclusion that a transaction leads to a significant impediment of effective competition is reached taking into account the degree to which all the relevant factors, including the ones listed in paragraphs 27 – 38 of the Horizontal Merger Guidelines, are present in the case under consideration.

(180) The Horizontal Merger Guidelines list a number of factors which may influence whether or not significant horizontal non-coordinated effects are likely to result from a merger. However, not all of these factors need to be present to make significant non-coordinated effects likely and it is not an exhaustive list.[181]

(181) The factors listed in the Horizontal Merger Guidelines include: the large market shares of the merging firms; the fact that the merging firms are close competitors; the limited possibilities for customers to switch suppliers; the fact that the merged entity would be able to hinder expansion by competitors; and the fact that the merger would eliminate an important competitive force.[182]

(182) As regards the elimination of an important competitive force, according to the Horizontal Merger Guidelines, some firms have more of an influence on the competitive process than their market share would suggest. A merger involving such a firm may change the competitive dynamics in a significant anti-competitive way, in particular in a market that is already concentrated.[183] In this respect, paragraph 37 of the Horizontal Merger Guidelines refers to the example of a firm that is a recent entrant on the market, and is expected to exert significant competitive pressure in the future. There may, there situations where a merger may lead to significant non-coordinated effects by removing an ICF.

(183) In situations where a merger may result in harmful non-coordinated effects on competition, the Horizontal Merger Guidelines describe a number of factors, which could counteract such harmful effects, that is, the likelihood of buyer power, entry, efficiencies and the fact that one of the merging parties is a failing firm.

181 Horizontal Merger Guidelines, paragraph 26.
182 Horizontal Merger Guidelines, paragraphs 27 et seq.
183 Horizontal Merger Guidelines, paragraph 37.

(184) As regards entry, paragraph 68 of the Horizontal Merger Guidelines provides that when entering a market is sufficiently easy, a merger is unlikely to pose any significant anti-competitive risk. However, for entry to be considered a sufficient competitive constraint on the merging parties, it must be shown to be likely, timely and sufficient to deter or defeat any potential anti-competitive effects of the merger.

(185) As for eliminating an important competitive force, the Court confirmed that it is one of the factors which may influence whether significant non-coordinated effects are likely to result from a merger and that on a given oligopolistic market a number of undertakings – not only one – may be classified as an important competitive force. Critically, the Court confirmed that ICF does not require the competitor in question to compete particularly aggressively on price. It merely requires the Commission to show that the competitor has more influence on the competitive process than implied by their market share or similar measures would suggest.[184]

(186) The Court also clarified that the Merger Regulation does not impose different standards of proof in relation approving a concentration and decisions prohibiting a concentration and that there is no general presumption that a concentration is compatible with, or incompatible with, the internal market.[185] The specific requirements relating to the quality of the evidence[186] do not, in principle, affect the standard of proof required.

9.3.2. Wholesale digital distribution of recorded music

(187) Both Parties are active in the market for the supply of wholesale distribution of recorded music in the EEA.

(188) Downtown's activities in wholesale distribution of recorded music in the EEA are marginal, in particular in physical distribution (where Downtown holds a [0-5]% market share in 2024, as illustrated in Table 3 (of Section 9.2.1 above) and had limited physical revenues in the wholesale physical distribution of recorded music of EUR […] as indicated in recital 1530).

(189) As set out above, the market for the supply of wholesale distribution of recorded music is not affected the post-Transaction change of HHI is below 150, irrespective of the exact product market definition.[187]

(190) Even if the market is not affected, the Commission still assesses the potential impact of the Transaction on the market for the supply of wholesale digital distribution of recorded music, as the Commission received complaints from market participants during its Phase I investigation alleging that UMG is already the largest player and the Transaction will further increase UMG's bargaining power in negotiations vis-à-vis DSPs.

(191) IMPALA submitted that, post-Transaction, UMG will increase its market power and bargaining leverage to the detriment of Merlin[188], independent labels, and music

184 CK Telecoms Judgment, paragraphs 160-167.

185 CK Telecoms Judgment, paragraphs 70-71.

186 See, paragraph 75 of the judgment: "*decisions must be supported by a sufficiently cogent and consistent body of evidence*." See also paragraphs 77-87.

187 See Section 9.2.1 with the market shares tables and HHI calculation.

188 Merlin is a non-profit digital rights licensing agency that negotiates licensing agreements with DSPs on behalf of its members. Merlin will be further described in the competitive assessment below.

listeners.[189] This concern is shared by Merlin, which considers that the Transaction would result in an increase in the repertoire either owned or controlled by UMG.[190] In Merlin's view, the strength of UMG's negotiating position would allow UMG to set a minimum royalty that reflects a higher price than the current consumer price point, forcing DSP to increase price to consumers.[191] In addition, Merlin fears that this would impact the "*share of the finite pool of revenues generated by any DSP from its streaming services to users*".[192]

(192) In addition, the Commission received two economic submissions from IMPALA and another market participant expressing concerns about a potential increase in UMG's bargaining power vis-à-vis DSPs post-Transaction. One market participant argued that this increase of bargaining power by UMG would result in a reduction of revenues and releases for independent labels, which consequently would also have an impact on cultural diversity (e.g. fewer releases).[193] Another market participant submitted that, post-Transaction, UMG's bargaining power would increase to the detriment of Merlin's position vis-à-vis DSPs, ultimately leading to a larger licensing revenues for UMG (which DSPs pay out) and a smaller share thereof for Merlin. This would in turn reduce Merlin's ability to negotiate terms for artists in the low and mid-segment, further diminishing cultural diversity.[194]

(193) In view of the overarching importance of digital distribution channels in the overall distribution of recorded music (based on the Parties' estimates of overall market sizes set out above in Section 9.2.1, digital wholesale distribution makes up [80-90]% of the overall wholesale distribution market in the EEA) as well as the afore-mentioned limited presence of Downtown in physical wholesale distribution (as evidenced by Downtown's very limited revenue of EUR […][195] and an HHI increment of well below 10), the Commission's competitive assessment of the Transaction's effects on a market for the wholesale digital distribution of recorded music equally applies to its effects on an overall market for the wholesale distribution of recorded music, including both digital and physical.

9.3.2.1. The Notifying Party's view

(194) The Notifying Party submits that the Transaction will not give rise to a significant impediment of effective competition in the market for the supply of wholesale digital distribution of recorded music for the following reasons.

(195) *First*, UMG does not hold a dominant position in the market for the supply of wholesale digital distribution of recorded music in the EEA, in the Netherlands or in Austria.[196] The Notifying Party submits that UMG's market share in digital distribution has […] by [0-5]% since 2013 and was [20-30]% in the market for the

189 IMPALA: *UMG/Downtown: ACCOMPANYING SUBMISSION 27 JUNE 2025* (ID 3979) and *UMG/Downtown: Looking in more detail at UMG's power in the distribution services and wholesale distribution of digital and physical recorded music markets* (ID 3219).

190 Minutes of call with market participant, 12 September 2025, paragraph 14 (ID 3893).

191 Minutes of call with market participant, 12 September 2025, paragraph 20 (ID 3893).

192 Merlin's response to the non-confidential version of the SO, section 7.a) (ID 5094).

193 Submission of a market participant, 16 October 2025 (ID 3722).

194 IMPALA, BRG/AG note, October 2025 (ID 4100).

195 Notifying Party's response to RFI 8, Q3 – Downtown Form CO figures 2024.

196 The Notifying Party refuted the statements made by IMPALA and others that UMG's market share exceeds 40%. The Notifying Party indicated that this estimate is based on a highly selective and contrived methodology that is not representative of the market.

supply of wholesale digital distribution of recorded music in the EEA in 2024, which is below the market share threshold considered to indicate dominance.[197]

(196) *Second,* Downtown's market share in the market for the supply of wholesale digital distribution of recorded music is relatively low (below [0-5]% in 2024). In addition, Downtown does not own the recorded music rights of the repertoire it distributes. Post-Transaction, the combined entity would hold [30-40]% market share in the market for the supply of wholesale digital distribution of recorded music and there is no increment based on repertoire.[198]

(197) *Third*, UMG faces significant competitive constraints from SME, Warner and many independent labels with whom it actively competes to sign and distribute artists and the ownership of recorded music repertoire.[199]

(198) *Fourth,* DSPs exercise substantial countervailing buyer power and they hold a strong negotiating position in the digital music distribution ecosystem, [information on commercial strategy and negotiations].[200] The Notifying Party further considers that [information on commercial strategy and negotiations] are not a key reference point, or confer a distinct advantage to UMG, in negotiations with DSPs for the licensing of recorded music.[201]

(199) *Fifth*, the Transaction would not impact rival labels and A&L service providers' negotiating position with DSPs, nor would it negatively impact their ability to compete for artists and labels. The competitive offering to end consumers, including price and variety of music choices, will continue to be driven by inter-DSP competition.[202]

9.3.2.2. The Commission's assessment

(200) The Commission considers that the Transaction does not result in a significant impediment to effective competition in a substantial part of the internal market resulting from horizontal non-coordinated effects on the EEA-wide market for the supply of wholesale digital distribution of recorded music for the following reasons.

(201) *First*, the Parties' combined market share in the market for the supply of wholesale digital distribution of recorded music in the EEA ([30-40]% combined in 2024) remains moderate post-Transaction, due to the limited increment brought by the Transaction.

(202) <u>In the first place</u>, Downtown's position is marginal in the market for the supply of wholesale digital distribution of recorded music in the EEA. Downtown holds a [0-5]% market share in 2024, and its position in the market remained […] over the last three years, while the market size has grown.[203]

(203) According to industry feedback, the majority of DSPs consider that licensing agreements differ based on the size of their licensing partner.[204] For instance, one

197 Notifying Party's response to RFI 28, introduction, paragraph 2.
198 Notifying Party's response to RFI 28, paragraph 10.
199 Notifying Party's response to RFI 28, introduction, paragraph 2.
200 See for instance: https://www.musicbusinessworldwide.com/deezers-artist-centric-model-now-has-a-new-element-dubbed-user-centric/
201 Notifying Party's response to RFI 28, introduction, paragraph 2.
202 Notifying Party's response to RFI 28, introduction, paragraph 11.
203 Notifying Party's response to RFI 8, Annex 1 "Consolidated market shares", where the total market size was EUR[…] in 2022 and EUR […] in 2024 in the EEA based on IFPI data.
204 Replies to questionnaire 03_Others - Phase I - market investigation - DSPs, question D.7.

DSP explained that "*Generally, licensors with larger service shares (share of total plays) on our platform have commercial terms that are more favorable to them.*"[205] The small increment in market share resulting from the Transaction suggests that the Transaction would not change the market structure or significantly increase UMG's bargaining power vis-a-vis DSPs in the market for supply of wholesale digital distribution of recorded music.

(204) The Commission also notes that Downtown does not own the recorded music rights of the repertoire it distributes. This reduces the risk of additional bargaining power by UMG given that rightsholders can quickly withdraw their consent and nullify any hypothetical withholding negotiation strategy (as explained in recital (172) above).

(205) <u>In the second place</u>, the post-Transaction HHI in the EEA-wide market for the supply of wholesale digital distribution of recorded music is, in a conservative scenario, above 2000 ([…])[206] and the delta is below 150 ([…]), thus falling into the category of markets for which it is unlikely that the Commission will identify horizontal competition concerns under point 20 of the Horizontal Merger Guidelines.

(206) <u>In the third place</u>, the Commission notes that DSPs perceive Downtown as a small player in the market for the supply of wholesale digital distribution of recorded music in the EEA.

(207) The majority of DSPs that expressed a view in the Phase I market investigation considered that the acquisition of Downtown by UMG will have a limited impact on UMG's bargaining power in their negotiations for the licensing of recorded music.[207]

(208) For example, one DSP indicated that "*Downtown's recorded music business had a relatively modest scale* […] *It would, therefore, be hard for (confidential) to argue that this specific Transaction would cause a significant shift in the recorded music market*".[208] Another DSP also shared the same view: "*UMG's market power will not increase post-Transaction. Downtown and its subsidiaries (e.g. CD Baby and FUGA) will not add significant market share*".[209] The same DSP added that "*UMG acquiring a different entity could be problematic and there should be a case-by-case review/determination*".[210] In the same vein, one DSP considered that Downtown is "*too small*" to impact UMG's bargaining power in licensing agreement negotiations.[211]

(209) In addition, when asked to explain Downtown's role in the music industry, only one competitor of the Parties out of all the competitors that expressed a view during the Commission's Phase I investigation mentioned that Downtown has a global offering

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205 Replies to questionnaire 03_Others - Phase I - market investigation - DSPs, question D.7.1.

206 The underlying assumption for a HHI of [number] is that market shares in the category "Others" submitted by the Notifying Party in Section 9.2.1 represent market shares of only two companies with equal market share. However, as argued in the present Section 9.3.3.2 there is a substantial number of competitors in the market for the supply of wholesale digital distribution of recorded music and in the A&L segment thereof. Therefore, the estimate of [number] likely presents an overestimation of the HHI in this market.

207 Replies to questionnaire 03_Others - Phase I - market investigation - DSPs, question E.4.

208 Minutes of a meeting with a market participant on 13 June 2025, paragraph 21 (ID 4209).

209 Minutes of a meeting with a market participant on 5 June 2025, paragraph 12 (ID 1919).

210 Minutes of a meeting with a market participant on 5 June 2025, paragraph 13 (ID 1919).

211 DSP's non-confidential reply to questionnaire 03_Others - Phase I - market investigation - DSPs, question E.4.1 (ID 3683).

and is active in the market of the supply of wholesale digital distribution of recorded music.[212]

(210) *Second*, the Parties are not close competitors in the market for the supply of wholesale digital distribution of recorded music.

(211) In the first place, the Parties focus their respective activities on different parts of the market. UMG operates a number of music labels (more than [number] labels worldwide and [number] labels in the EEA). A&R services are the largest part of UMG's business, generating more than [70-80]% of its revenues in the EEA.[213] Within the market for the supply of wholesale digital distribution of recorded music, Downtown is only active in the supply of A&L services to independent labels and artists. Downtown does not operate any record labels and does not provide A&R services to artists. As explained in Section 8.2, the results of the Commission's Phase I investigation confirmed that A&R services are not considered a substitute to A&L services.[214]

(212) In the second place, the majority of competitors who expressed a view during the Commission's Phase I investigation indicated that certain types of artists tend to be only served by labels not affiliated to Majors for the wholesale distribution of recorded music.[215] Respondents explained that this holds true for A&R services where certain artists prefer to retain control over their rights and creative development. One competitor explained that "*certain types of artists—particularly independent, emerging, niche genre, or regionally focused artists—are predominantly served by labels not affiliated with Majors for the wholesale distribution of recorded music. These artists often seek more flexible deals, retain more control over their rights, and value the personalised support and transparency that independent labels and distributors typically provide*".[216] In the same vein, another competitor indicated that "*most of the times artists in niche genres or artists in non-western music ecosystems are more willing to go with an indie label. I think a lot of artists (in general) prefer the control of ownership and creative direction*".[217]

(213) In the third place, even in the segment within the wholesale digital distribution of recorded music where the Parties have overlapping activities (that is, the market for the provision of A&L services in the EEA), they are also not considered to be close competitors as further explained in the competitive assessment in Section 9.3.3 below.

(214) *Third*, Downtown is not an important competitive force in the market for the supply of wholesale digital distribution of recorded music in the EEA.

(215) The Commission assessed in the competitive assessment in Section 9.3.3 below Downtown's role played in the market for the provision of A&L services and concluded that Downtown is not an important competitive force. In particular,

212 Non-confidential reply to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), question E.C.2.
213 Form CO, paragraph 224.
214 Replies to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), questions D.A.A.3 and D.A.A.4.
215 Non-confidential replies to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), Question D.A.A.7.
216 A competitor's reply to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), Question D.A.A.7.1 (ID 1776).
217 A competitor's reply to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), Question D.A.A.7.1 (ID 1253).

Downtown's offering does not stand out from what other digital A&L services providers offer and that Downtown is not a singular, unique or disruptive innovator.[218] Considering the overall market for the supply of wholesale digital distribution of recorded music in the EEA (which is not Downtown's core business and where its market share is lower), the same conclusion applies, even more so.

(216) *Fourth,* the Commission notes that, post-Transaction, numerous alternative providers would remain in the market for the supply of wholesale digital distribution of recorded music.

(217) The two other Majors – SME ([20-30]%) and Warner ([10-20]%) and other players – such as Believe or BMG – collectively representing [20-30]% of the market are active in wholesale digital distribution of recorded music.

(218) **SME** is the subsidiary company of Sony Group founded in 1929. SME is engaged in developing and providing services to artists worldwide through Sony's variety of record labels covering almost every genre – such as Almo Records, Arista Records, Columbia Records, Epic Records, Masterworks, Provident Label Group. Sony's 2024 annual report stated that it ranks second in the world in recorded music and first in the world in music publishing.[219] SME represents artists such as Adele, Miley Cyrus, Britney Spears, Tyler Childers, Jennie, or 21 Savage. In the 2024 financial year, SME's worldwide turnover was EUR 11.2 billion.[220]

(219) According to its annual report, SME has broken its own revenue record for eight consecutive years with revenue, increasing by USD 3.6 billion compared to 2019.[221]

(220) **Warner** was created in 1958 and over the years grow to become one of the Majors. Warner's 2024 annual report stated that Warner is one of the world's leading music entertainment companies. Warner's well-known record labels include Atlantic Records, Warner Records, Elektra Records and Parlophone Records and represents famous artists such as Ed Sheeran, Bruno Mars, Coldplay, Cardi B and Dua Lipa. In the 2024 financial year, Warner's worldwide turnover was USD 6.4 billion, out of which recorded music represented USD 5.2 billion.[222]

(221) **Believe** is a French company founded in 2025 and operating in more than 50 countries. Believe presents itself on its website as one of the world's leading digital music companies. With its record labels – such as Nuclear Blast, Naïve, Groove Attack, AllPoints or Play Two – Believe supports over 1 million artists at each stage of their career and development.[223]

(222) Between 2021-2024, Believe achieved strong revenue growth – of approximately 20% – and generated EUR 989 million in the 2024 financial year.[224]

(223) The Commission notes that a competing Major confirmed this during the Phase I investigation: "*the wholesale distribution of recorded music and the supply of A&L services are competitive with a lot of actors*".[225]

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218 See more detailed explanation in recital 264 of the Decision.

219 See: https://www.sony.com/en/SonyInfo/IR/library/corporatereport/CorporateReport2025_E.pdf. (ID 5300).

220 See: https://www.sony.com/en/SonyInfo/IR/library/corporatereport/CorporateReport2025_E.pdf. (ID 5300).

221 See: https://www.sony.com/en/SonyInfo/IR/library/corporatereport/CorporateReport2024/). (ID 5300)

222 See: https://s206.q4cdn.com/940328283/files/doc_financials/2024/ar/371175_WMG-2024-09-30-10K_PROOF_MS_PRINT-2.pdf. (ID 5299).

223 See: https://www.believe.com/sites/believe/files/2025-03/BLV_DEU_2024_MEL_.pdf. (ID 5301).

224 See: https://www.believe.com/sites/believe/files/2025-03/BLV_DEU_2024_MEL_.pdf. (ID 5301).

(224) A substantive competitive assessment of the digital A&L services market in the EEA which focuses notably on the offerings of competitors and possibility to switch between providers is set out in Section 9.3.3 below. As mentioned above, this is the core of Downtown's activities in the market for the supply of wholesale digital distribution of recorded music.

(225) *Fifth*, the Commission assessed UMG's position pre-Transaction in the EEA-wide market for the supply of wholesale digital distribution of recorded music.

(226) In the Phase I market investigation, competitors of the Parties expressing an opinion about UMG's role in the music industry stressed that UMG is currently the world's largest music company and has certain market power.[226] One competitor argued that "*As the world's largest record label, UMG has more negotiating power than any other label in the industry*".[227] In the same vein, another competitor indicated that "*UMG controls a significant share of the global music rights market, with estimates placing its recorded music market share at 30% or higher. This position gives UMG bargaining power for licensing partnerships with platforms*".[228] Some competitors argued that UMG holds a dominant position.[229]

(227) IMPALA claimed that UMG is the dominant player in the market for the supply of wholesale distribution of recorded music and it leverages such position to, for example, (i) influence streaming remuneration towards "artist-centric" model, by setting a 1,000 streams threshold for remuneration, (ii) combine negotiations with DSPs for both recorded music and publishing rights and (iii) push DSPs to adopt specific clauses (e.g. guarantees or Most or Least Favoured Nation ('**MFNs**')).[230] Merlin also indicated that "*UMG already has a lot of influence on the DSPs such as Spotify, and that the Streaming 2.0 initiative with Spotify is an example of this influence by UMG where it was able to impose a different business model (introducing a 1000 streams/number of individual users threshold to activate the royalty payments)"*[231].

(228) Contrary to the feedback received during the Commission's Phase I investigation, UMG is not dominant. UMG holds a market share that is significantly lower than 50% and even lower than 40% in the EEA in 2024. Therefore, the Transaction would not lead to a significant impediment to effective competition in particular by creating or strengthening a dominant position as further explained below.

(229) In the first place, UMG's market share in the market for the supply of wholesale digital distribution of recorded music is moderate, significantly lower than 50% and materially below 40% ([20-30]% in the EEA in 2024).

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225 Minutes of call with competing Major, 27 May 2025, paragraph 13 (ID 1991).

226 Non-confidential replies to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), Question E.C.1.

227 Competitor's non-confidential replies to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), Question E.C.1. (ID 1319).

228 Competitor's non-confidential replies to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), Question E.C.1. (ID 1741).

229 Non-confidential replies to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), Question E.C.1. The Commission notes that, while these respondents argue that UMG is dominant in the market, they don't specify that UMG holds a dominant position in the market of the supply of wholesale digital distribution of recorded music in the EEA.

230 IMPALA: *UMG/Downtown: ACCOMPANYING SUBMISSION 27 JUNE 2025* (ID 3979) and *UMG/Downtown: Looking in more detail at UMG's power in the distribution services and wholesale distribution of digital and physical recorded music markets* (ID 3219).

231 Minutes of call with market participant, 20 May 2025, paragraph 14 (ID 1871).

(230) As further explained in Section 9.2.1 above, the Notifying Party provided revenue-based market share estimates based on data from IFPI.[232] During the Commission's investigation, IMPALA raised concerns that the market share estimates provided by the Notifying Party understate UMG's position in the market for the supply of wholesale distribution of recorded music.[233]

(231) The Commission conducted a market share verification exercise during its Phase II investigation to verify the accuracy of the market share estimates submitted by the Notifying Party in the EEA, the Netherlands and Austria for the years 2022, 2023 and 2024. The result of this exercise confirmed the Notifying Party's estimates in the market for the supply of wholesale digital distribution of recorded music.

(232) The Commission considers that the estimates submitted by the Notifying Party in the Form CO are reliable for the assessment of any actual market power of UMG and the other players in the market for the supply of wholesale digital distribution of recorded music in the EEA.

(233) Finally, the Commission also notes that the Notifying Party submits that UMG's market share in digital distribution has […] by [0-5]% since 2013.[234] This is consistent with the market shares calculated in *Universal Music Group/ EMI Music* case where UMG's position in the market for the supply of wholesale digital distribution of recorded music was, based on IFPI data, [40-50]% in the EEA in 2010 and [40-50]% in the EU in 2011, i.e., [10-20] percentage points and [5-10] percentage points above the 2024 figures.[235]

(234) <u>In the second place</u>, when negotiating licensing agreements with UMG, DSPs enjoy and will continue to enjoy countervailing buyer power due to their size and commercial significance compared to UMG.

(235) DSPs include the largest digital platforms and technology companies worldwide, such as Google, Amazon, Meta and Apple, for whom music is not the core offering and generate important sources of revenue outside of recorded music, strengthening their position vis-à-vis the Majors and other players in the industry.[236] The same applies to TikTok and Meta which operate primarily as social media platforms, or to YouTube, which focuses on video content. Even Spotify, which initially was active in music only, diversified into other forms of non-music content, such as podcasts and audiobooks. In addition, DSPs are concentrated with leadership in the market provided by Spotify, YouTube and Apple music representing 55% of all subscribers.[237]

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[232] The Notifying Party also submitted that volume-based shares would not materially differ to the revenue-based market shares.

[233] IMPALA: *UMG/Downtown: ACCOMPANYING SUBMISSION 27 JUNE 2025* (ID 3979) and *UMG/Downtown: Looking in more detail at UMG's power in the distribution services and wholesale distribution of digital and physical recorded music markets* (ID 3219). Merlin also indicated that "UMG is the world's largest music company, controlling more than 40% of the recorded music market in Europe" and "*UMG's influence over the music market is greater even than these market share numbers suggest*" (A competitor's non-confidential reply to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), Questions E.C.1 and G.1 (ID 1542).

[234] Notifying Party's response to RFI 28, paragraph 2.

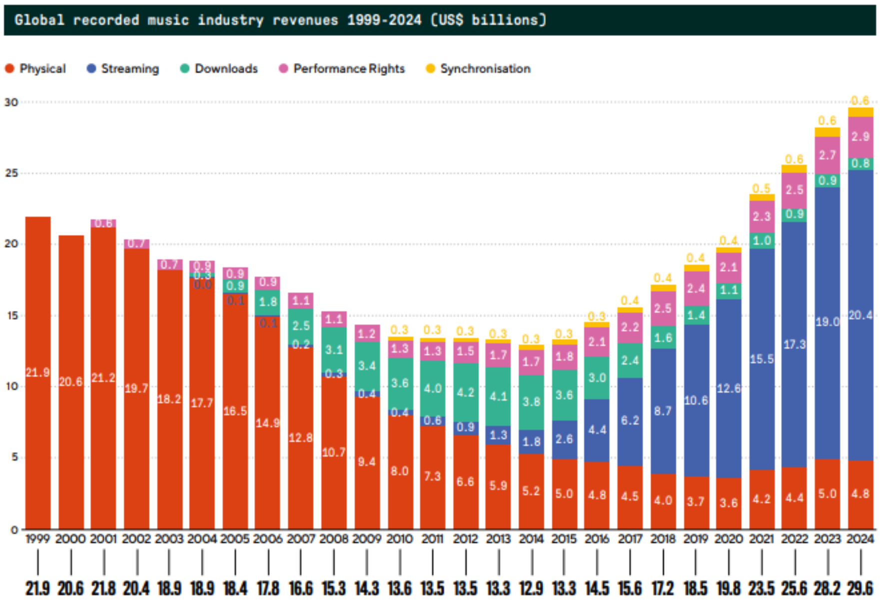
[235] Case M.6458 - *Universal Music Group/ EMI Music*, decision of 21 September 2012, recital 270 (tables 7 and 8).

[236] Form CO, paragraph 372 where the Notifying Party submits that the largest DSPs have larger market capitalisations than UMG: Apple (51x), Google/YouTube (37x), Amazon (38x), and Spotify (2.5x).

[237] HSBC Global Research, "Music Sector: Battle of the bands", 15 October 2024 submitted as Annex 24 to the Form CO, page 11.

(236) The importance of DSPs in the music sector has increased as a result of the industry-wide shift to digital music consumption and music streaming. As evidenced by the Figure 4 below, DSPs are now the prevailing route to market for all artists and labels. In 2024, streaming continues to grow in popularity across the globe – exceeding US 20 billion for the first time. Subscription streaming revenues accounted for 68.2% of global recorded music revenues in 2024 showing the continued popularity of the format.[238]

Figure 4: Global recorded music revenues evolution 1999-2024



Source: IFPI, Global Music Report, 2025, page 4.

(237) The music industry's shift away from physical sales towards streaming has been stressed by a HSBC Global Research report into the music sector published in late 2024. This report analysed the impact of the evolution of the music sector on the relationship between labels and DSPs. It explored several key trends, focused on the relationship between UMG and Spotify, and found that "*the relationship between DSPs and music labels has been symbiotic, with power tilting towards DSPs such as Spotify*".[239] The report noted that Spotify's long-term revenues should be more than double the size of its recorded music streaming revenues alone, in particular resulting from podcasts and audiobooks. The fact that music is becoming less important for Spotify "*could improve Spotify's bargaining power with major labels*".[240]

(238) The Commission notes that in November 2022, the CMA conducted a market study into music and music streaming services and published its final Report. On the bargaining position of music streaming services with record companies, the CMA indicated that "*music streaming services are currently in a weaker negotiating position than the majors. The impact of any temporary failure to reach an agreement is likely to be more harmful to a music streaming service than to a major. Music streaming services are also in a weaker negotiating position than they otherwise*

[238] IFPI, Global Music Report, 2025, page 4. https://www.ifpi.org/wp-content/uploads/2024/03/GMR2025_SOTI.pdf (ID 5121).

[239] HSBC Global Research, "Music Sector: Battle of the bands", 15 October 2024 submitted as Annex 24 to the Form CO, page 1.

[240] HSBC Global Research, "Music Sector: Battle of the bands", 15 October 2024 submitted as Annex 24 to the Form CO, pages 9-10.

would be if they could switch away from a rightsholders' catalogue or could more easily shift streams away from this catalogue".[241]

(239) However, the Commission considers that this does not exclude the ability of the DSPs to exercise a meaningful degree of countervailing buyer power vis-à-vis UMG and other players in the wholesale distribution market in general. This has been confirmed by the other two Majors during the Phase I investigation, stating that "*given their large size, the DSPs have considerable bargaining power vis-à-vis labels during the negotiations*"[242] and "*DSPs also have considerable negotiating power given their economic might and size*".[243] It was also confirmed in the Commission's market investigation.[244] This is what the CMA highlighted in its final Report by stressing that "*The increasing bargaining strength of some music streaming services is consistent with the increase in music streaming services' share of revenues in recent years* […] *The increasing importance of music streaming and the expanding scale of some music streaming services appears to be increasing the degree of mutual dependence between record companies and music streaming services.*"[245]

(240) The Commission notes that UMG's and Downtown's internal documents show that [information on commercial negotiations], evidencing countervailing buyer power. The following internal documents illustrate this point:

(a) Contract negotiation between UMG and [DSP 1] in [year] and in [year]: an internal email reported on [information on commercial negotiations] and shows that [DSP 1] [information on commercial negotiations].[246] Another example is email exchanges where UMG raised with [DSP 1] that [information on commercial negotiations] and that a solution benefiting both parties should be found: [information on commercial negotiations].[247]

(b) Contract negotiation between UMG and [DSP 2] in [year] and in [year]: internal emails reporting on [information about commercial negotiations] and the fact that [DSP 2] wants to [information about commercial negotiations][248] as well as UMG [information about commercial negotiations].[249] Another example of [DSP 2]'s countervailing buyer power is that UMG [information about commercial negotiations].[250]

(c) Contract negotiation between UMG and [DSP 3] in [year]: email exchanges where [information about commercial negotiations].[251]

(d) Contract negotiation between UMG and [DSP 4] in [year]: internal emails reporting on [information about commercial negotiations] and the fact that [information about commercial negotiations].[252]

241 CMA, Music and streaming, Final Report, 29 Novembre 2022, paragraph 4.20.
242 Minutes of call with competing Major, 27 May 2025, paragraph 13 (ID 1991).
243 Minutes of call with competing Major, 20 June 2025, paragraph 14 (ID 1998).
244 This is based on the size and strength of the DSPs as well as the internal documents mentioned in the Section 9.3.3.2.
245 CMA, Music and streaming, Final Report, 29 Novembre 2022, paragraphs 4.11 and 4.12.
246 UMG_00753493.
247 Notifying Party's response to RFI 28, Annex 1.
248 Notifying Party's response to RFI 28, Annex 4.
249 UMG_00571192.
250 Notifying Party's response to RFI 28, Annex 5.
251 UMG_00361426.
252 UMG_00695864.

(e) Contract negotiation between UMG and [DSP 5] in [year]: internal email reporting on the [information about commercial negotiations] for UMG following [information about commercial negotiations][253] and [information about commercial negotiations].[254]

(f) Contract negotiation between Downtown and [DSP 5] in [year]: email exchanges where [DSP 5] [information about commercial negotiations].[255]

(241) [Information about commercial negotiations between UMG and TikTok].[256] [Information about commercial negotiations between UMG and TikTok].[257] [Information about commercial negotiations between UMG and TikTok].[258] [Information about commercial negotiations between UMG and TikTok].[259]

(242) The Commission also assessed an initiative (or a series of initiatives) launched by UMG to enter into agreements with DSPs to reform music streaming and the underlying subscription fees of streaming platforms in 2024 and 2025, which is often referred to as the "Streaming 2.0" initiative.[260] . One feature of the "Streaming 2.0" initiative is the "artist-centric" approach mentioned by several complainants during the Commission's market investigation [information about commercial strategy and negotiations].[261] [Information about commercial strategy and negotiations].[262] [Information about commercial strategy and negotiations]. In that respect, when introducing its new agreement with Deezer that included this artist-centric model, Merlin publicly explained that it ensured artists are fairly compensated: "*We have worked with Deezer to ensure their new model works for the benefit of our members, representing a path forward in ensuring that high-quality music, and the artists who create it, are recognized and rewarded in the manner they deserve*".[263] Another Major confirmed that this "artist-centric" approach "*was a way of remunerating "professional" artists that actually create valuable content*".[264] This shows that this "Streaming 2.0" initiative and the implementation of the "artist centric" model are not illustrations of [information about commercial strategy and negotiations].

(243) Finally, [information on UMG's shares of streams on Amazon, Apple, Deezer, Spotify and YouTube].

Figure 5: […]

[…]

Source: [reference to the Notifying Parties past submissions].

253 UMG_00614820.
254 Notifying Party's response to RFI 28, Annex 6.
255 Notifying Party's response to RFI 28, Annex 2.
256 Notifying Party's response to RFI 8, question 18, paragraph 18.8.
257 TokTok's response to RFI 1, question 3 (ID 1890).
258 See Notifying Party's response to RFI 8, question 18 where the Notifying Party explained that [information about commercial negotiations]. In addition, [information about commercial negotiations].
259 See Notifying Party's response to RFI 8, question 18, paragraph 14 where [information about commercial negotiations].
260 See for instance https://www.universalmusic.com/universal-music-group-and-spotify-strike-new-multi-year-agreement/
261 Non-confidential replies to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), Question E.C.1 and Minutes of call with market participant, 20 May 2025, paragraph 14 (ID 1871). See also recital (210) above
262 See Notifying Party's response to RFI 8, question 18.
263 See: https://merlinnetwork.org/merlin-and-deezer-renew-partnership-around-new-streaming-model-to-ensure-continuous-growth-for-indie-music/ (ID 5122).
264 Minutes of call with competing Major, 20 June 2025, paragraph 29 (ID 1998).

(244) In the third place, the Commission assessed the potential impact of the Transaction on Merlin, which complained about the effects of the Transaction in the market of the supply of wholesale digital distribution of recorded music. IMPALA also argued that an increase in bargaining power by UMG would negatively impact Merlin, resulting in a reduced share of the total amount paid by DSPs with licensors and, in turn, a decrease in Merlin's members to sign and support artists in the low and mid-segment, leading to a reduction in cultural diversity.[265] In that respect, one market participant submitted an economic model showing the likely negative effects on culture and diversity which result from a decrease of revenue per stream for independent labels.[266]

(245) Merlin was created in 2008 and is a non-profit digital rights licensing agency that negotiates licensing agreements with DSPs on behalf of its members – independent record labels – which included Downtown pre-Transaction.[267] Merlin explained that "*[b]y improving its negotiating position, UMG could take more from the finite resources of DSPs, to the detriment of Merlin*"[268].

(246) In response to the question whether the Transaction will have an impact on Merlin's bargaining power in negotiations vis-à-vis DSPs to conclude licensing agreements for recorded music following the loss of Downtown as a Merlin member, the majority of DSPs which expressed a view considered that the Transaction will have no impact.[269] One respondent stressed that "*Merlin's market share will be decreased if Downtown no longer supplies content through Merlin. However, providers come and go all the time from Merlin, so there is unlikely to be a substantial impact on Merlin's bargaining power*".[270]

(247) IMPALA also stressed that the Transaction removes the repertoire of FUGA and CD Baby from Merlin's basket of rights used to negotiate with DSPs.[271] The Commission notes that, pre-Transaction, Downtown primarily relies on direct deals with DSPs, except for [specific DSPs]. [Information on the impact of the Transaction

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265 IMPALA, BRG/AG note, October 2025 (ID 4100). IMPALA also claimed that UMG would have an incentive to negotiate better licensing terms for artists signed with UMG compared to artists signed with labels distributed by Downtown. As explained in recitals 209 and following, the Commission considers that UMG's bargaining power will not increase significantly post-Transaction. Additionally, the Commission finds in Section 9.3.4.2. that UMG faces sufficient competitive pressure from alternative A&L service providers to which labels signed to Downtown could switch without incurring significant costs. Therefore, the Commission considers that UMG does likely not have the ability or incentive to negotiate better licensing terms for its own artists compared to artists signed with labels that are distributed by Downtown.

266 Submission of a market participant, 16 October 2025 (ID 3722).

267 Merlin's licensing model allows its members to opt in to centrally negotiated deals with the goal of offering access to more favourable commercial terms than individual members might otherwise independently secure. Although some independent record labels enter directly into negotiations with DSPs, they often use Merlin's negotiated terms with DSPs.

268 Minutes of a meeting with a market participant on 12 September 2025, paragraph 13 (ID 3893).

269 Replies to questionnaire 03_Others - Phase I - market investigation - DSPs, question E.5.

270 DSP's non-confidential reply to questionnaire 03_Others - Phase I - market investigation - DSPs, question E.5.1 (ID 1512).

271 IMPALA, BRG/AG note, October 2025 (ID 4100). The Commission notes that IMPALA employs a generalised Nash bargaining model to simulate the impact of an increase in UMG's bargaining power on the market of the supply of wholesale digital distribution of recorded music. Using a simplified market structure with one DSP, UMG, and Merlin, the model estimates the impact of an increase in UMG's bargaining power under linear and non-linear bargaining power. In this context, the Commission notes that, due to the small increment of the Transaction of around [0-5]% in the market for the wholesale distribution of recorded music, the Transaction will have limited effects on the market independent of the exact form of bargaining (linear / non-linear).

on DSP negotiations and platform agreements][272]. [Information on the impact of the Transaction on DSP negotiations and platform agreements][273], [information on the impact of the Transaction on DSP negotiations and platform agreements]. Taking into account the limited position of Downtown in the overall market, the relatively small size of the repertoire it distributes using DSP licensing terms negotiated by Merlin, [information on regional availability of specific DSPs], the Commission considers that the Transaction is unlikely to meaningfully impact Merlin's position to continue to effectively negotiate on behalf of independent rightsholders, attractive licensing terms with DSP.

(248) In addition, the Commission also notes that Merlin's bargaining position has not significantly changed when other members have left in the recent past, such as AWAL, FineTunes, Ultra Music, Ingrooves, and [PIAS]. This is evidenced by a statement of Merlin's former CEO in September 2025 regarding the new agreement with Spotify, where the former CEO publicly indicated that "*the revenues [for Merlin members] increase by 17% year-over-year. That is clearly over-indexing against the market. And keep in mind that every year or two, one – if not two – of our largest members are acquired.* […] *We closed our Spotify deal a couple of months ago, and I would say it's the strongest the partnership has been since I got here* […] *my core goals over this year was to ensure that Merlin is as strong as possible for whoever takes over*".[274]

(249) The Commission also did not find evidence suggesting that the potential weakening, even if established, of Merlin's bargaining position vis-à-vis DSPs would significantly affect cultural diversity, because, for example, artists' and labels' remuneration would suffer from the decreased ability of Merlin to negotiate attractive licensing terms for their recorded music (e.g. indirect impact on the release of new music and investments in new artists).[275] This concern was expressed in an economic model submission by a market participant. The Commission considers that, given the several limitations stemming from the economic model's underlying assumptions, significant negative effects on culture and diversity would be unlikely.[276]

(250) Finally, as the Transaction will not have a material impact on UMG's bargaining power vis-à-vis DSPs, the Transaction is not likely to directly affect the DSP subscription price consumers pay to access digital music content. The Commission notes that DSP subscription prices are first and foremost determined by DSPs themselves. Moreover, when asked whether the Transaction will have an impact on consumers of music, the majority of DSPs indicated that the Transaction was not

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272 See https://www.musicbusinessworldwide.com/spotify-and-merlin-ink-multi-year-global-licensing-deal/ (ID 5119).

273 Form CO, footnote 192.

274 See https://musically.com/2025/09/18/jeremy-sirotas-pre-exit-interview-the-marketplace-needs-a-strong-merlin/ (ID 5120).

275 This claim was made by IMPALA and by at least another market participant, which submitted an economic model, 16 October 2025 (ID 3722).

276 For example, the Commission notes that the economic model oversimplifies the market of the supply of wholesale digital distribution of recorded music by assuming that only one representative label competes with one representative Major, failing to account for competition between multiple Majors. Additionally, the model assumes that Majors provide non-recoupable upfront advances, which is not reflective of real-world practices where successful artists can recoup such advances. The Commission considers that these limitations imply that the model may not accurately capture the market dynamics, potentially leading to unrealistic predictions that could overstate the impact of the Transaction on cultural diversity.

likely to have any material impact, and be neutral at most (with no DSP stating that this was a likely scenario).[277] The Commission's review of UMG's internal documents did not identify evidence to the contrary (either on the Transaction's indirect impact on cultural diversity or DSP subscription prices through Merlin's reduced bargaining position through the loss of Downtown as a member and its distributed repertoire).

(251) Based on the assessment in Section 9.3.3.2, and in light of the results of the market investigation and of all the evidence available to it, the Commission concludes that the Transaction would not significantly impede effective competition as a result of horizontal non-coordinated anti-competitive effects in the EEA-wide market for the supply of wholesale digital distribution of recorded music.

9.3.3. Digital A&L services

(252) Both UMG and Downtown compete in the market for the provision of A&L services in the EEA (see above recitals (67) to (70)).

(253) Downtown's activities in A&L services in the EEA are not significant, in particular in physical A&L where its share is marginal ([0-5]% market share in 2024, as illustrated in Table 5 in the Section 9.2.2; with physical distribution revenues of EUR […] in 2024).

(254) The market for digital A&L services in the EEA is not affected, as the Parties' combined market shares globally and EEA-wide are well below 20% irrespective of the exact product market definition.[278]

(255) Even if the market is not affected, the Commission still assesses the potential impact of the Transaction on the market for digital A&L services, as the Commission received complaints from market participants during its Phase I investigation.

(256) During its investigation, the Commission received complaints from market participants alleging that the Transaction will significantly impede effective competition as a result of non-coordinated horizontal effects in the EEA-wide market for the supply of digital A&L services, given the removal of Downtown as an important competitive force, the high switching costs faced by customers and the fact that the Transaction reduces the number of meaningful A&L providers active in the EEA that are not Major-affiliated.[279]

(257) In view of the overarching importance of digital distribution channels in (see above recital (193) for wholesale distribution) as well as the afore-mentioned limited presence of Downtown in physical A&L services, (as evidenced by Downtown's very limited revenue of EUR […][280], its very limited market shares estimates, under [0-5]% in 2024 at EEA-wide level and an HHI increment of below 5), the Commission's competitive assessment of the Transaction's effects on a market for digital A&L services equally applies to its effects on an overall market for A&L services including both digital and physical.

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277 Replies to questionnaire 03_Others - Phase I - market investigation - DSPs, question G.4.

278 See Section 9.2.2 with the market shares tables and HHI calculation.

279 See IMPALA UMG/Downtown submission 30 august 2025 (ID 4106).

280 Notifying Party's response to RFI 8, Q3 – Downtown Form CO figures 2024.

9.3.3.1. The Notifying Party's view

(258) The Notifying Party considers that the Transaction will not give rise to any competition concerns in relation to the market for the supply of A&L services[281] in the EEA for the following reasons.

(259) *First,* the Notifying Party argues that the Parties' combined share in the market for the supply of A&L services in the EEA is approximately [10-20]%, which is well below the 20% market share threshold, under which competition concerns are highly unlikely to arise. [282]

(260) *Second,* the Notifying Party states that there is no distinct product market for the provision of A&L services in the EEA depending on whether a supplier is Major-affiliated or not, because the demand for such services is driven by the fit and quality of the service provided, rather than its ownership model or structure of the supplier.

(261) *Third,* the Notifying Party notes that the Parties are not close competitors in the supply of A&L services in the EEA, as their offerings are highly differentiated. Downtown for example has offerings that UMG does not have, such as CD Baby and features of its FUGA product. [283] Even if there would be a customer preference depending on "Major-affiliation" of A&L services suppliers, Virgin (affiliated to UMG) and Downtown (not Major-affiliated) would not be close competitors in that regard.

(262) *Fourth*, the Notifying Party argues that in the market for the provision of A&L services in the EEA, the Parties are constrained by a long tail of competitors, either Major or non-Major affiliated A&L services suppliers, that provide a similar level of A&L services in the EEA such as Believe ([20-30]-[20-30]%), SME (through its A&L service providers AWAL, Altafonte and The Orchard) ([10-20]-[10-20]%), Warner (through its A&L services provider ADA) ([5-10]- [5-10]%), Distrokid ([0-5]-[0-5]%), and Kontor ([0-5]-[0-5]%) as well as other competitors.[284] The Notifying Party states that there is also significant entry and expansion by emerging A&L service providers.

(263) *Fifth*, the Notifying Party also submits that there are low barriers for customers to switch between A&L services suppliers (regardless of whether they are Major-affiliated or not) of A&L services. [285]

(264) *Sixth*, the Notifying Party argues that Downtown is not an important competitive force in A&L services. UMG refers specifically (i) to the fact that most competitors of Downtown are non-Major-affiliated; (ii) to most A&L service providers having the technological expertise required to offer A&L services and specifically to meet

281 In addition, the Notifying Party submits that "*The Parties consider that the share estimates provided for the supply of A&L services are reflective of share estimates in a hypothetical segment for the supply of A&L services limited to digital distribution*" (Notifying Party's response to RFI 8, paragraph 1.11). In view of this, the Commission understands that the Notifying Party's submissions in relation to A&L services overall also apply to digital A&L services.

282 Form CO, paragraph 317.

283 Form CO, paragraphs 80 337. For example, the Notifying Party noted that Downtown has offerings and capabilities that Virgin does not have such as: [information about commercial strategy].

284 Form CO, paragraphs 339 and 340; according to UMG, additional A&L service providers are BMG ([0-5]-[0-5]%), ONErpm ([0-5]-[0-5]%), iGroove ([0-5]-[0-5]%), Routenote ([0-5]-[0-5]%), Merlin ([0-5]%), Create ([0-5]-[0-5]%), e-Muzyka ([0-5]-[0-5]%), EMPIRE ([0-5]-[0-5]%), Amuse ([0-5]-[0-5]%). Other competitors in this space account for approximately [10-20]-[20-30]% of the share of supply of A&L services in the EEA.

285 Form CO, paragraph 284.

DSP requirements; (iii) to most A&L service providers having a global reach; (iv) to the fact that many other A&L service providers offer comparable solutions to Downtown; (v) to Downtown not being a singular, unique or disruptive innovator that goes beyond what is already reflected in its market shares.[286] Moreover, the Notifying Party also indicated that Downtown's limited […] in market share between 2022-2024 is inconsistent with the finding it is an important competitive force.[287]

9.3.3.2. The Commission's assessment

(265) The Commission considers that the Transaction would not result in a significant impediment to effective competition in a substantial part of the internal market resulting from horizontal non-coordinated effects on the EEA-wide market for the supply of digital A&L services for the following reasons.

(266) *First*, the Commission notes that the digital A&L services market in the EEA is not an affected market and falls within the criteria set in the Notice on Simplified Procedure[288] based on the Notifying Party's market share estimates which are well below a level that would indicate that the concentration is likely to produce horizontal unilateral effects in this market.[289] The Parties' combined volume-based market share in digital A&L services in the EEA in 2024 amounts to [10-20]% combined, with a [5-10]% share increment being attributable to UMG and [5-10]% to Downtown (see above Section 9.2.2).[290] Including A&R "bespoke" or "distribution-like" agreements concluded by UMG (as defined in footnote 156), the combined market share would slightly increase to [10-20]% combined but not change the overall assessment. The Notifying Party confirmed that its estimates for 2024, whether or not such A&R "bespoke" or "distribution-like" agreements are included or not, would be similar for 2023 and 2022.

(267) As explained in Section 9.2, the Commission conducted a market share verification exercise (taking both value and volume metrics for market share estimations) to ensure such estimates may be relied on for its assessment, the result of which confirms the Parties' estimates for the digital A&L services market in the EEA. This in itself ought to be sufficient to dismiss competition concerns in the market for digital A&L services in the EEA.

(268) *Second*, the Commission considers, after reviewing the Parties' submissions and internal documents, that both Virgin and Downtown are constrained by a large number of competitors, regardless of their ownership model (i.e. whether Major-affiliated or not), that provide a comparable digital A&L services offering to Virgin and Downtown.[291]

(269) In relation to Downtown specifically, a majority of the customers and competitors who responded to the Commission's Phase I market investigation questionnaires indicates that there are meaningful competitors in the EEA-wide market for A&L services providing a similar breadth of digital A&L services as Downtown. Respondents specifically refer to: Believe ([20-30]%), other Major-affiliated A&L

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286 Article 6(1)(c) Response, paragraphs 82-130.

287 Ibid.

288 See above recital (135).

289 Cf. Horizontal Merger Guidelines, paragraphs 17 following.

290 The Notifying Party stated in the Form CO that it does not expect that revenue-based market shares would materially differ from the volume-based market shares estimates provided. This was also confirmed by the market verification exercise.

291 As evidence, [internal document reference].

services providers (AWAL, Altafonte and The Orchard for SME ([10-20]%) and ADA for Warner ([5-10]%)) as well as Absolute, Amuse ([0-5]%), Audiosalad ([0-5]%), BMG ([0-5]%), Cinq, Create ([0-5]%), Ditto, EMPIRE ([0-5]%), IDOL, iGroove ([0-5]%), Kontor ([0-5]%), ONErpm ([0-5]%), Platoon, Redeye, Secretly Distribution, United Masters, and Vydia.[292] As additional supporting evidence, an internal Downtown document lists [name], [name], [name], [name], and [name] as Downtown's top competitors.[293]

(270) On the question whether a digital A&L service provider's ownership model (whether a provider is Major-affiliated or not) is a decisive competitive factor, a third-party market study submitted by the Notifying Party states: "*ALSPs* [Artists & Labels services providers] *may have any one of a number of ownership structures: from being fully independent, to being invested in or owned by private equity, venture capital, or independent or major labels. Whatever their ownership status, ALSPs serve any artist or label that meets their service criteria or is assessed to have the desired growth potential and fit, depending on the type of service offered. We have not seen in our market survey an example of an ALSP whose services are taken off the market as a result of a change in ownership structure. We have seen no evidence that the typical ALSP operating model differs as a result of being acquired by a major label*."[294]

(271) The Commission found ample evidence that corroborates this point. When asked to determine what were the "*top 3 parameters driving an artist's or label's choice of wholesale distribution of recorded music service*", the vast majority of respondents to the Commission's Phase I market investigation questionnaire pointed to the cost, quality and global scope of the service offering, but not Major-affiliation.[295] This is why many top 50 label customers by streams in the EEA choose A&L providers that are not Major-affiliated in direct competition with the Parties, as shown in Figure 6 below (see "Independent A&L providers").

Figure 6 : […]

[…]

Source: [reference to the Notifying Parties past submissions]

(272) Customer switching patterns also demonstrate that a digital A&L provider's ownership model is not a major competitive parameter for customers. A majority of respondents to the Commission's Phase I market investigation questionnaire indicate that customers do switch (bi-directionally) regardless of a provider's ownership model, with one respondent stating that: "*artists and labels regularly switch between Major-affiliated and non-Major-affiliated A&L service providers, in both directions. These decisions are often driven by factors such as deal terms, control over rights, access to services, and strategic fit. Some move toward Major-affiliated providers for*

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292 See replies to questionnaire 02_Competitors - Phase I market investigation – competitors, question E.A.2 and E.A.2.1. See also, Replies to Questionnaire to customers – Phase I market investigation, question D.2. and D.2.1.

293 Annex 36 Tranche 2 to RFI 2 to the Form CO, [internal document reference], pages 25 and 26 (ID 303). The document refers also to competition in the potential segment for DIY platform services within the A&L services market, which will be assess further in section 9.3.4 below. [internal document reference].

294 Enders Analysis "Recorded music distribution", October 2025, p. 28 (ID 5088), a third-party market study submitted by the Notifying Party.

295 Replies to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), question E.A.1.

broader reach or marketing support, while others switch to independent providers for more flexibility, transparency, or autonomy." [296] Equally, none of the former FUGA customers responding to the Commission's Phase II market investigation stated that the ownership model was relevant when explaining why they switched away from FUGA.[297] And out of FUGA's current customers, only a minority of respondents explained that the ownership model of FUGA was a reason for switching to FUGA.[298]

(273) The fact that customers do often switch between providers that are or are not Major-affiliated (or also between two different providers that are (not) Major-affiliated) is also documented in the Parties' own internal documents or the Notifying Party's submission.[299] For instance, the Commission also notes that a sizeable majority of customers switching away from Virgin ([number]/ [number], so […]%) in the [year]-[year] period, have chosen another A&L services provider that is not Major-affiliated.[300] Recital (279) further below also explains that Virgin's closest competitor in terms of customers switches is [name], an A&L services provider that is not Major-affiliated. Conversely, [name] (an A&L services provider affiliated to [name], one of the Majors) was listed as Downtown's closest competitor, along with to [a non Major-affiliated A&L provider]. More details on switching A&L providers (Major-affiliated or not) will follow further below at recital (287) and following.

(274) Competitors to Downtown that are not Major-affiliated are considered to exert meaningful competitive constraints on Downtown (and Virgin) because they offer a comparable full suite of digital A&L service offering, that includes, on top of the core distribution services of recorded music to DSPs, the provision of technological features such as a software dashboard or data analytics capabilities (as Downtown offers through with FUGA), the meeting of DSP technical requirements and a global coverage, for example. The Commission lists below examples of such meaningful digital A&L service providers that are active in the EEA, ranked by market share.

(a) **Believe** ([20-30] % market share in EEA) is a non-Major-affiliated French provider of A&L services that holds a significant position in the EEA-wide A&L services market. As argued in recital 262, Believe is [information on closeness of competition].[301] It offers a full suite of distribution, marketing and data analytics services to its artist and label customers on a global basis. A third party report describes Believe as "*the second largest ALSP* [Artists & Labels services provider] *in the market,* […] *with revenues exceeding $1 billion in 2024, having more than doubled in four years*" and which markets a platform called Backstage that offers, "*the best full music distribution software for artists and labels on the market", including a tracking solution to follow*

296 A competitor's reply to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), question D.A.A.11.1. (ID 1495).

297 Replies to questionnaire 03_Former customers of Downtown's FUGA product – Phase II market investigation, questions D.7 and D.7.1.

298 Replies to questionnaire 04_Phase II market investigation - Current customers of Downtown's FUGA product, question D.1.

299 Reply to the 6(1)(c) Decision, paragraphs 93 and 102-103 as well as Figures 2 and 3. For evidence of switching between two A&L providers that are not Major-affiliated, see recital (288) further below that [information on switching]. Responses from the Questionnaire to customers – Phase I market investigation, question D.3.1., also show that customers are ready to switch to other non-Major-affiliated providers.

300 See Form CO, paragraph 274 and Figure 4.

301 [Information on closeness of competition].

deliveries, check promotions, control rights conflicts, read financial reports and obtain payments".[302] It also has significant private equity backing.[303] Believe is mentioned in [internal document reference].[304] As shown in Figure 6 above, Believe is also used as a distributor by [number] of the top 50 labels by streams in the EEA.[305] The Notifying Party also submitted evidence showing that […]% of the customers that terminated their accounts with Virgin between [year]-[year] moved over to Believe.[306] Believe is also referred to by respondents (customers and competitors alike) to the Commission's Phase I and Phase II market investigation questionnaires as (one of) the main alternative(s) to Downtown in the digital A&L services market. [307]

(b) **Kontor** ([0-5]% market share in the EEA) is the digital distribution arm of the Germany-based Edel media group. It is an EEA-based provider that advertises its A&L suite of services as "*tailor-made music distribution for all digital needs*" alongside effective analytic tools. It is also active globally and supplies "*In addition to the most popular services like Spotify, Apple Music, Amazon Music, YouTube Music, Deezer, and Tidal, […] over 300 DSPs worldwide*".[308] [Information about competing digital A&L services provider].[309] As shown in Figure 6 above, Kontor is also used as a distributor by [number] of the top 50 labels by streams in the EEA.[310]

(c) **ONErpm** ([0-5]% market share in the EEA) is a US-based A&L services provider active globally that has expanded its operations in the EEA and is listed as a recognised distributor by multiple DSPs such as YouTube, Deezer and Pandora**.**[311] It offers: "*Digital Delivery, Promotion & Marketing, Accounting, Full Suite Analytics, Direct-To-Fan Marketing, Technical support*", launching its own Software-as-a-Service (ONErpm Enterprise

302 Enders Analysis: "Recorded music distribution", October 2025, p. 39-41 (ID5088). This third-party market study submitted by the Notifying Party mentions Believe being the "*second largest ALSP*" with The Orchard (owner by the Major SME) being first, but the Notifying Party's market share estimations, as confirmed by the Commission's market share verification exercise, show Believe being the largest player in the A&L services market in the EEA (with a market share of [20-30]%), with SME being second (with an [10-20]% market share estimate).

303 https://www.billboard.com/pro/believe-us-expansion-focus-emerging-markets/ (ID 5189).

304 Annex 7 Tranche 2 to RFI 2 to the Form CO, presentation titled [internal document reference], Slide 100 (ID 519) (for Virgin), Annex 36 Tranche 2 to RFI 2 to the FORM CO, presentation titled [internal document reference], slides 25-26 (ID 303) (for Downtown), which refers to which refers to [name], [name], [name], [name], [name] and [name] as providing A&L services comparable and in competition with Downtown.

305 Annex 4, Reply to the 6(1)(c) Decision, Figure 11.

306 Form CO, paragraph 275.

307 For references to Believe as an alternative A&L provider for Downtown customers, see Replies to Questionnaire to customers – Phase I market investigation, question D.3.1 and Replies to questionnaire 04_Competitors - Phase II market investigation – Current customers of Downtown's FUGA product, question D.11. For competitors mentioning Believe as an alternative A&L provider to Downtown or FUGA, see Replies to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), question E.A.2.1.

308 https://kontornewmedia.com/en/services/music/ (ID 5123).

309 See Annex DT6, Reply to the 6(1)(c) Decision, [information about competing digital A&L services provider].

310 Annex 4, Reply to the 6(1)(c) Decision, Figure 11.

311 Enders Analysis: "Recorded music distribution", October 2025, p. 20 (ID 5088), a third-party market study submitted by the Notifying Party.

Solutions) in 2023.[312] Its offering is recognized as full suite also as it offers tailored and flexible solutions, going from self-serve platforms for emerging artists to more encompassing A&L (and A&R) service offerings.[313] ONErpm appears in [internal document reference] and is mentioned in responses to the Commission's Phase I market investigation questionnaire as a meaningful competitor to Downtown.[314] [Information on Virgin's strategy].[315]

(d) **iGroove** ([0-5]% market share in the EEA) is a Switzerland-based A&L provider that was founded in 2014. It is an all-in-one artist distribution and analytics service company. iGroove is also listed by Spotify as a preferred partner for record labels.[316] In the phase 1 market investigation, one customer expressed interest in switching to iGroove if the Transaction was to take place and stated "*technology forward thinking iGroove AG in Switzerland could be a big winner and get us and others*."[317] As shown in Figure 6 above, iGroove is also used as a distributor for [number] of the top 50 labels by streams in the EEA.[318]

(e) **Amuse** ([0-5]% market share in the EEA) is a globally active A&L service provider that is based in the EEA (Sweden). In the market since 2015, it offers services ranging from "*digital music distribution, licensing deals, revenue management, to release support*".[319] It has more than 400 A&L services partnerships and is listed as one of Spotify's preferred providers.[320] Amuse describes itself as having "*a smart and flexible model that empowers artists to stay independent at every stage of their careers*".[321] In the Commission's phase 1 market investigation, one competitor to Downtown mentioned Amuse as an alternative to Downtown.[322] The Notifying Party also submits that […] percent of Virgin's customer's that terminated accounts between [year]-[year] subsequently migrated to Amuse, indicating that a segment of customers consider Amuse's offering sufficiently attractive to justify switching providers.[323]

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312 See Digital Distribution - ONErpm (ID 5117) and ONErpm LAUNCHES TWO NEW ENTITIES, ONErpm ENTERPRISE SOLUTIONS AND OFFstep.com - ONErpm (ID 5118).

313 Enders Analysis: "Recorded music distribution", October 2025, p. 38 (ID 5088), a third-party market study submitted by the Notifying Party

314 Reply to the 6(1)(c) Decision, see also Annex DT1 to the Reply to the 6(1)(c) Decision, [internal document reference] and Annex 36 Tranche 2 to RFI 2 to the Form CO, ([internal document reference], pages 25 and 26 (ID 303) ([internal document reference]), and, for a [internal document reference], see Annex 7 Tranche 2 to RFI 2 to the Form CO, presentation titled [internal document reference], Slide 100 (ID 519). See also Replies to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), question E.A.2.1..

315 Annex 18 to the Form CO.

316 Enders Analysis: "Recorded music distribution", October 2025 p. 92 (ID 5088), a third-party market study submitted by the Notifying Party.

317 Questionnaire to customers - Phase 1 market investigation, Question D.2.1 (ID 931)

318 Annex 4, Reply to the 6(1)(c) Decision, Figure 11.

319 Amuse: Artist & Label Services | Tailored Partnerships & Support (ID 5190).

320 Provider Directory – Spotify for Artists (ID 5191).

321 Amuse Unveils Notable Product Updates, Including Auto-Save Links and Trolley-Powered Business Payouts for Professional Plan | amuse (ID 5192).

322 Replies to Questionnaire to competitors (Updated) – Phase 1 market investigation, Question E.A.2.1. (ID 1495).

323 Form CO. paragraph 275.

(f) **Create Music Group** ([0-5]% market share in the EEA) is an A&L service provider that offer an all-in-one service for artists and labels.[324] Its services span "music distribution, digital collection, artist funding, data and analytics, content creation, release strategy and music publishing".[325] Create distribute to over a 100 digital music stores.[326] Since entering the market in 2015, it has continuously attracted new artists and labels.[327] It recently also received private equity backing to scale operations and fund acquisitions.[328] During the phase 1 market investigation, one customer responded that it has considered Create as an alternative A&L service provider to Downtown.[329] Another customer responded that it would consider switching to Create as a response to the Transaction.[330] In the phase 1 market investigation, some competitors responded that they view Create as a meaningful alternative to Downtown.[331] As shown in Figure 6 above, Create is also used as a distributor by [number] of the top 50 labels by streams in the EEA.[332]

(g) **EMPIRE** ([0-5] % market share in the EEA) is a record label and a label service provider. It's the largest privately held record company in the US.[333] EMPIRE states that it offers distribution, marketing, and data and analytics.[334] It is described in Forbes magazine as "*Although it is simply a distribution company at its core, their current model has the infrastructure to sign and develop new talents through radio promotion, press campaigns and publishing administration*".[335] EMPIRE recently entered a partnership with the AI-powered music and audio tech company AudioShake.[336] In the Commission's phase 1 market investigation, several competitors to Downtown also mentioned EMPIRE as a meaningful alternative A&L service provider.[337] As shown in Figure 6 above, EMPIRE is also used as a distributor by [number] of the top 50 labels by streams in the EEA.[338] In an internal document of Virgin, EMPIRE is being described as [information on Virgin's strategy].[339] [Information on Virgin's strategy].[340]

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324 Enders Analysis: "Recorded music distribution", October 2025, p. 85 (ID 5088), a third-party market study submitted by the Notifying Party.
325 Services | Create Music Group | Trusted by the largest artists, labels and brands (ID 5193).
326 Services | Create Music Group | Trusted by the largest artists, labels and brands (ID 5193).
327 Enders Analysis: "Recorded music distribution", October 2025, p. 27 (ID 5088), a third-party market study submitted by the Notifying Party.
328 Create Music Group, at $1 billion valuation, raises $165 million investment round - Music Business Worldwide (ID 5194).
329 A customer's reply to Questionnaire to customers – Phase 1 market investigation, Question D.2.1. (ID 3764).
330 A customer's reply to Questionnaire to customers – Phase 1 market investigation, Question D.3.1. (ID 929).
331 Replies to Questionnaire to competitors (UPDATED) – Phase 1 market investigation, Question E.A.2.1. Six competitors pointed out Create as a meaningful competitor.
332 Annex 4, Reply to the 6(1)(c) Decision, Figure 11.
333 Enders Analysis: "Recorded music distribution", October 2025, p. 62 (ID 5088), a third-party market study submitted by the Notifying Party.
334 (3) EMPIRE: Overview | LinkedIn (ID 5202).
335 Empire: The Distribution Company That Turned Music Streaming Pennies Into Profit (ID 5201).
336 Empire & AudioShake Bring AI Stems to Empire Catalog | AudioShake (ID 5195).
337 Phase 1 market investigation, competitors, question E.A.2.1.
338 Annex 4, Reply to the 6(1)(c) Decision, Figure 11.
339 Annex 18 to the Form CO.
340 Form CO, paragraph 275.

(h) **Audiosalad** ([0-5]% market share in the EEA), which is identified as a preferred/recommended provider by Apple[341] and Spotify,[342] offers a wide array of distribution, marketing and data analytics A&L services. Audiosalad label themselves as "*an industry-leading technology platform (…) ha[ving] amassed a global client base with over 16 million audio and video assets under management*"[343]. Originating from the US, it expanded into the UK and EEA-market in 2021.[344] The company has recently been acquired by SESAC (indirectly owned by the private equity Blackstone) which provides it with significant funds to expand its competing offering. Audiosalad was mentioned as a credible alternative to Downtown by two customers who responded to the Commission's Phase I market investigation questionnaire.[345] In addition, the Notifying Party submits that [information about competing digital A&L services provider], which also serves as evidence that Audiosalad constitutes a meaningful alternative digital A&L service provider.[346]

(i) **Cinq**, ([0-5]% market share in the EEA) a subsidiary of GoDigital and founded in 2012, operates as a label and digital A&L distributor, offering a broad range of services including record labelling, distribution, publishing, rights management, data and analytics through its in-house creator tech platform, "Cinqup", as well as catalog services.[347] Cinq holds a preferred partner status with Spotify for record labels.[348] Some competitors who responded to the Phase 1 market investigation viewed Cinq as a meaningful alternative to Downtown.[349] Moreover, the Parties' internal documents [internal document reference].[350]

(j) **IDOL** ([0-5]% market share in the EEA) is an EEA-based A&L service provider that is active globally, offering a full suite of digital A&L services that include distribution, marketing and data analytics through its Labelcamp interface.[351] IDOL offers Labelcamp on a SaaS basis, similar to FUGA.[352] It is also listed as a preferred/recommended provider by Spotify and as an Apple Music partner.[353] In addition to this, IDOL was nominated in the Distributor of the Year category at the internationally recognised 2025 Libera Awards.[354] A third party market report also describes IDOL as an A&L services provider offering expertise from "*digital distribution and strategy to track pitching and*

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341 See Spotify's Provider Directory (ID 4549).

342 See Apple Music's Partner Directory (ID 4550).

343 Redeye and AudioSalad Partner Up - Music Connection Magazine (ID 5206).

344 AudioSalad expands into UK and Europe, hiring Tom Deakin to lead new offices - Music Business Worldwide (ID 5205).

345 Replies to Questionnaire to customers – Phase I market investigation, question D.2.1. (ID 1282) and E.3.1. (ID 3921).

346 Form CO, paragraph 283.

347 Cinq Music | More than music (ID 5197).

348 Enders Analysis: "Recorded music distribution", October 2025, p. 89 (ID 5088). A third-party market study submitted by the Notifying Party.

349 Questionnaire to competitors (UPDATED) – Phase 1 market investigation, Question, E.A.2.1.

350 See Annex 36 Tranche 2 to RFI 2 to the Form CO, [internal document reference], (ID 303) ([information on competing A&L service provider]), and, for a Virgin internal document listing [name], see Annex 7 Tranche 2 to RFI 2 to the Form CO, presentation titled [internal document reference], Slide 100 (ID 519).

351 https://idol.io/what-we-do/ (ID 5116).

352 https://labelcamp.io/about-us/ (ID 5204).

353 Annex 5, Reply to the 6(1)(c) Decision, page 5.

354 2025 Nominees - Libera Awards (ID 5203).

PR", which is growing internationally and that operates technology services through its Labelcamp platform giving customers "*a complete range of tools for managing deliveries, sales reports and analytical dashboard* [that] *enables distribution companies to manage all digital operations, with maximum autonomy and efficiency. With its focus on user experience, Labelcamp is designed for large catalogs and complex operational needs*".[355] IDOL is mentioned in Downtown's internal documents [internal document reference].[356] It is also repeatedly mentioned in responses to the Commission's Phase I market investigation questionnaire as a meaningful competitor to Downtown.[357]

(k) **Secretly** ([0-5]% market share in the EEA) is a globally operating A&L services provider that offers "*a full suite of services including metadata management, physical management, release strategy, financial support, and much more*".[358] Secretly is also in Spotify's preferred list for labels. In the phase 1 market investigation, Secretly was identified by some competitors as a meaningful alternative to Downtown.[359] It is also identified in the Parties' internal documents as [internal document reference].[360] In addition, Secretly was nominated in the Distributor of the Year category at the internationally recognised 2025 Libera Awards.[361] [Information on competing A&L service provider].[362]

(275) The above-mentioned non-Major-affiliated digital A&L service providers are only some relevant examples of competitors of Downtown, but the Commission notes the presence of many other such as Absolute, Ampsuite/Beatport, BMG, Labelcamp, Platoon, Ditto, Revelator, Redeye, Symphonic, Vydia, United Masters and Zebralution that also exert competitive constrains on Downtown, for its entire breadth of digital A&L services or at least part of that digital A&L services offering.[363] This is on top of those providers that are Major-affiliated such as the Orchard, AWAL, Altafonte (SME) and ADA (Warner) who themselves are very meaningful competitors to both Virgin and Downtown. For instance, Major-affiliated

355 Enders Analysis: "Recorded music distribution", October 2025, p. 46 (ID 5088).), a third-party market study submitted by the Notifying Party.

356 See Annexes DT 7 and DT 10 to the Reply to the 6(1)(c) Decision, showing exchanges evidencing recent customer switching away from [name] to [name]. See also Annex 36 Tranche 2 to RFI 2 to the FORM CO, presentation titled [internal document reference]. (ID 303), which lists IDOL as [internal document reference]. See also recital (284) for quotes from these internal documents.

357 Replies to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), question E.A.2.1.

358 Secretly Distribution – A passionate music company with a global digital and physical distribution solution, for the most exciting independent labels and artists (ID 5196).

359 Phase 1 market investigation – Competitors (UPDATED), Question E.A.2.1.

360 See for example Annex 7 Tranche 2 to RFI 2 to the Form CO, presentation titled "Universal Music Group – Capital Markets Day 2024", (ID 519).

361 2025 Nominees - Libera Awards (ID 5203).

362 Form CO. paragraph 275.

363 Replies to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), question E.A.2.1: Absolute, Ditto, Platoon, Redeye, Symphonic, Vydia and United Masters have been flagged as meaningful competitors to Downtown. See also Replies to Questionnaire to customers – Phase I market investigation, question D.2.1: one customer mentioned Symphonic out of that list. In the response to question E.A.2.1., customers also mentioned BMG, Labelcamp, Revelator, Symphonic, Zebralution as potential alternatives. All these competitors are also mentioned by the Notifying Party in the Form CO and in the Response to the 6(1)(c) Decision (i.e. Ditto, Redeye, Symphonic, Revelator, Vydia and UnitedMasters and for Downtown's SaaS competition listing also Vydia, Zebralution and Ampsuite).

providers of digital A&L services are mentioned by 13 competitors that responded to the Commission's Phase I market investigation questionnaire as a meaningful alternative to Downtown.[364]

(276) This shows that there are numerous meaningful alternative providers of digital A&L services to Downtown that are and are not Major-affiliated, which provide labels and artists procuring digital A&L services with different competitive alternatives to distribute their recorded music post-Transaction.[365]

(277) The Commission considers that the multitude of routes to market available to artists and labels procuring digital A&L services in the EEA (through Major affiliated providers or those that are not), also addresses the concerns raised by IMPALA that the Transaction's effects would negatively affect cultural diversity given the lack of alternative A&L services providers.[366]

(278) *Third*, the Parties are not close competitors in the market for digital A&L services in the EEA. Downtown's offering in the market for digital A&L services differs from Virgin's given that it includes: (a) CD Baby, a DIY platform that Virgin does not offer itself (for further details on the assessment of this market, 9.2.3) and (b) FUGA's software licensing on a SaaS basis ([details of Downtown's commercial/business information]), which Virgin also does not offer. On both of these types of digital A&L services offerings, Downtown would compete more closely with other digital A&L services providers that provide DIYplatforms. For the SaaS license offering, Downtown would compete more closely with other digital

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364 Replies to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), question E.A.2.1. Only Believe was picked by more competitors as the most meaningful alternative to Downtown, with 16 competitors' votes.

365 IMPALA raised concerns that the Transaction would remove a key provider of A&L services within the "open ecosystem" (which encompasses A&L providers that are not Major-affiliated) and reinforce UMG's position in the "closed ecosystem" (composed of Major-affiliated providers). The Transaction would have the effect of significantly weakening the attractiveness of the "open system" vis-à-vis the "closed" one, given Downtown's key position as a provider for labels and artists that procure (digital) A&L services from non-Major affiliated providers (see IMPALA, BRG/AG note, October 2025 (ID 4100)). The Commission does not consider such hypothesis to be sufficiently likely given that it does not take account of the competitive constraints exerted by (digital) A&L services providers that are not Major-affiliated on Major-affiliated providers, and does not consider the equally important competitive constraints by Major-affiliated providers (the Orchard and AWAL for SME and ADA for Warner) in the "closed system" described in IMPALA's submission. Moreover, recitals (274) to (277) also explain why the Commission does not consider Downtown to be an important competitive force in the A&L services market in the EEA whose role in the market's competitive dynamics is not properly reflected by its market share.

366 The Commission notes that IMPALA's claims over the concentration's impact on cultural diversity were primarily focused on UMG's increased (bargaining) position in the market for the wholesale distribution of recorded music market, but it nevertheless assessed here whether sufficient meaningful alternative A&L providers remain for EEA-based customers procuring A&L services. See IMPALA, UMG/DOWNTOWN submission 11 APRIL 2025, page 21 (ID 4044). In a separate economic submission by a market participant, it was argued that independent label face higher distribution fees when procuring from Major-affiliated A&L services providers. This would be to the detriment of A&L services customers' revenues (both artists and labels) and would impact the release of recorded music by these customers (see submission by a market participant, 27 July, 2025 (ID2550)). Based on the competitive constraints set out in this section, the Commission considers that the combined entity would not have an incentive to increase prices for A&L services for independent labels in the EEA). Moreover, the Commission notes that the scenarios assessed in the economic submission do not reflect market realities, given that A&L services customers can and do choose between plenty of meaningful competing offerings by A&L services providers regardless of their ownership model (Major-affiliated or not).

A&L services providers such as Audiosalad, IDOL, Openplay, Ampsuite or Revelator.[367]

(279) The Commission's review of the evidence submitted by the Notifying Party confirms that Downtown and Virgin are not each other's closest competitor. Less than […] of Virgin's new customers had mentioned Downtown as their previous digital A&L services distributor.[368] The Notifying Party also indicated that less than […]% customers leaving Virgin chose Downtown as their new A&L distributor.[369] For Virgin, [a non Major-affiliated A&L provider] is the most mentioned Virgin competitor both in terms of new Virgin customers and customers Virgin lost through terminated accounts.[370] For Downtown, the closest competitors are [a non Major-affiliated A&L provider] and [a Major-affiliated A&L provider]. Both are also being mentioned as the most common previous A&L services provider of Downtown's new customers.[371]

(280) Moreover, and as mentioned above, Virgin is a Major-affiliated provider owned by UMG while Downtown is not Major-affiliated. As a consequence, under the hypothetical thesis that the ownership model would matter because the market is differentiated based on a provider's ownership model, the Parties would then not be close competitors. Virgin would then be in closer competition with other Major-affiliated A&L services providers such as SME's AWAL and the Orchard and Warner's ADA, whilst Downtown on the other hand, would compete more closely with the various A&L providers that are non-Major-affiliated, that are described above in recitals (274) and (275). In any event, the market investigation results show that A&L service provider's ownership model (whether a provider is Major-affiliated or not) is not a decisive competitive factor.

(281) *Fourth,* Downtown does not meet the standard of an "important competitive force", within the meaning of the Horizontal Merger Guidelines and the case law, that has more influence on the competitive process than its estimated market share in the market for digital A&L services in the EEA suggests (which is approximately [5-10]% at EEA-wide level, as confirmed by the Commission's market share verification exercise referred to in more detail in Section 9.2).[372] This is based on the factors explained in the following recitals.[373]

(282) *In the first place,* and as a preliminary remark, assessing first the broader market for A&L services in the EEA in which Downtown operates, the Transaction at hand does not lead to the creation or strengthening of a dominance position in the market for digital A&L services in the EEA. Moreover, this market does not present oligopolistic features. This indicates that removing Downtown as a standalone provider of digital A&L services through the Transaction is less likely to lead to

367 Form CO, paragraph 337.
368 Form CO, Figure 3.
369 Form CO, Figure 4.
370 Form CO, Tables 12-13.
371 Form CO, paragraph 277 and table 14.
372 Horizontal Merger Guidelines, paragraphs 37 and 38.
373 For decisional practice discussing the notion of an important competitive force being a recent entrant or one of the fastest growing players in the market: See, e.g., Case M.10663 – *Orange/VOO/Brutélé*, decision of 20 March 2023recitals 387-388; Case M.10438 – *MOL/OMV Slevenija*, decision of 17 May 2023, recital 157.

significant impediment of effective competition in the market for A&L services in the EEA.[374]

(283) *In the second place,* Downtown's offering does not stand out from what other providers offer on the market. As mentioned at recitals (270) to (276) above, a wide range of Major affiliated and non-Major affiliated providers offer a comparable full suite of competing digital A&L services, which includes the capacity to offer such services on a global basis, in meeting DSP requirements as well as providing a similar level of technological distribution solutions as Downtown offers.

(284) Moreover, Downtown is not a singular, unique or disruptive innovator, nor otherwise more innovative than many other players active in providing digital A&L services. Downtown is [information on Downtown's strategy] in relation to digital A&L services in the near term.[375] On the other hand, internal documents from Downtown show that [internal document reference].[376] Another Downtown internal document documents how FUGA took stock of a customer switching to competitor [name] [internal document reference], adding [internal document reference].[377] Competitor responding to the Commission's phase I market investigation also indicated that "[g]*iven the lack on innovation from Fuga in the last few years, it has opened up an opportunity for competition*" or that "[n]*othing particularly innovative, many similar offer*[s]. *They* [Downtown] *have been good in their service, more than innovative*.".[378]These facts show that Downtown is not an important competitive force.[379]

(285) *In the third place*, Downtown is not a recent entrant poised to significantly disrupt the competitive dynamics in the digital A&L services market. As mentioned in Section 9.2, Downtown's market share of [10-20]% at an EEA-wide basis has been […] in the past three years and it is not a recent entrant, given its presence in the A&L market for longer than three years, having been founded in 2007 and with FUGA being active in the market for 15 years.[380] Moreover, Downtown's share is

374 Horizontal Merger Guidelines, paragraph 37 and CK Telecoms Judgment, parasgraphs 107, 162, 167. See also, e.g., Case M.10438 – *MOL/OMV Slevenija*, of 17 May 2023, recitals 94-95, 306; Case M.9569 – *Essilorluxottica/Grandvision*, decision of 23 March 2021, recitals 242-244; Case M.6570 – *UPS/TNT Express*, decision of 30 January 2013, recital 723; Case M.10663 - *Orange/VOO / Brutélé*, decision of 20 March 2023, recitals 345, 386, 512; Case M.7018 – *Telefónica Deutschland/E-Plus*, decision of 2 July 2014, recital 790.

375 The Notifying Party confirmed at paragraph 122 of the Response to the Article 6(1)(c) Decision that Downtown does not [information on Downtown's strategy].

376 See Annex 36 Tranche 2 to RFI 2 to the Form CO, presentation titled [internal document reference], pages 25 and 26 (ID 303). [internal document reference]. Annex DT8 of the Response to the Article 6(1)(c) Decision shows internal FUGA exchanges stating: [internal document reference] and that [internal document reference].

377 DMH_00104151.

378 A competitor's non-confidential reply to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), Question D.A.10 and E.A.9.1. (ID1542).

379 For decisional practice discussing the notion of an important competitive force being a particular innovator, see, e.g., Case M.10663 – *Orange/VOO/Brutélé*, decision of 20 March 2023, recital 389; Case M.7018 - *Telefónica Deutschland/E-Plus*, decision of 2 July 2014, recitals 354, 364; Case M.7265 – *Zimmer/Biomet*, decision of 30 March 2015, recitals 364 and 371; Case M.9343 – *Hyundai Heavy Industries Holdings/Daewoo Shipbuilding & Marine Engineering*, decision of 13 January 2022, recitals 491-492 and 506, For the reference to promising pipeline projects, see the Horizontal Merger Guidelines, paragraph 38.

380 See for Downtown being founded in 2007: https://downtownmusic.com/about/ (ID 5211). The reference to FUGA being active in the market for 15 years can be found at paragraph 79 (d) of the Response to the Response to the Article 6(1)(c) Decision. FUGA was acquired by Downtown in early 2020. https://www.digitalmusicnews.com/2020/01/22/downtown-music-fuga/

not expected to [information on Downtown's strategy] that would materially affect its market position. [381]

(286) *In the fourth place*, the Commission does not consider the facts to support a finding of Downtown being an important competitive force on the basis of its commercial or strategic positioning in the market. The review of the Notifying Party's submission and internal documents did not reveal internal plans from Downtown to start [information on Downtown's strategy].[382]

(287) *Fifth*, the Commission notes that ample evidence of customers switching between digital A&L providers (regardless of ownership structure). Based on the Parties' submissions and internal documents, the market for A&L services in the EEA is not characterised by high barriers to switching leading to substantial costs for customers seeking to switch in standard cases. A third-party market study mentioned that "*Switching is a common occurrence, driving dynamism in the market as the primary competitive response to losing clients is to improve the software platform, innovate the services offered, expand the range of integrations with DSPs, and undertake outreach to the market.*"[383] As a competitor of the Parties indicated during a call with the Commission: "*the main reasons for switching A&L provider are the A&L providers' ability to negotiate more favourable terms with DSPs, to the extent there are differences, the add-on services and support they can provide to the artists and labels (e.g. marketing), and personal relationships with artists and labels.*"[384]

(288) The Notifying Party provided many examples of customers switching to and away from Virgin and Downtown[385] as well as to other digital A&L services providers, such as to [name]([name] from [name]), [name] ([name] from [name]), [name] ([name] from [name]), [name] ([name] from [name]), [name] ([name] from [name]).[386] In the Notifying Party's submissions, evidence was presented that in the case of Virgin, […]% of their new customers had previous digital A&L providers that were not Major-affiliated, with […]% of them being with a Major-affiliated provider.[387] In relation to A&L services customers leaving Virgin, [number] customers switched away to competing providers of A&L services, both Major-

381 For reference to the decisional practice on the point of an important competitive force being a recent entrant, see, e.g., Case M.10663 – *Orange/VOO/Brutélé*, decision of 20 March 2023, recitals 387-388; Case M.10438 – *MOL/OMV Slevenija*, recital 157.

382 For decisional practice on an important competitive force having strategic branding or market share positioning, see, See, e.g., Case M.7018 - *Telefónica Deutschland / E-Plus*, recital 390; Case M.10438 - *MOL/OMV Slevenija*, decision of 17 May 2023, recital 159; Case M.8713 - *Tata Steel/Thyssenkrupp/JV*, recitals 883-892, 910-933

For the reference in decisional practice to factors such as being a price leader or a market disruptor as being important to be categorise a firm as an important competitive force, see Case M.7612 - *Hutchison 3G UK/Telefónica UK*, decision of 11 May 2016, recitals 485, 522, 533; Case M.6497 – *Hutchison 3G Austria/Orange Austria*, decision of 12 December 2012, recitals 258-259, 261; Case M.8444 - *AreclorMittal/Ilva*, decision of 7 May 2018, recitals 585, 587-591; Case M.8480 - *Praxair/Linde*, decision of 20 August 2018, recital 415; Case M.10663 - *Orange/VOO/Brutélé*, decision of 20 March 2023, recitals 387 and 764; Case M.7018 - *Telefónica Deutschland/E-Plus*, decision of 2 July 2014, recitals 381, 383.

383 Enders Analysis: "Recorded music distribution", October 2025, p. 26 and 27 (ID 5088), a third-party market study submitted by the Notifying Party.

384 Minutes of call with competing Major, 27 May 2025, paragraph 13 (ID 1991).

385 See Form CO, paragraphs 270 to 280 (and tables 12 to 14) and paragraphs 93 and 151 of the Reply to the Article 6(1)(c) Decision.

386 Reply to the Article 6(1)(c) Decision, paragraph 152 (b).

387 Figure 3, Form CO. […]% of Virgin's new customers were previously with Downtown.

affiliated or not, in the EEA in the 2020-2024 period.[388] In the case of Downtown, approximately [number] customers switched to Downtown in the last 5 years (both previously procuring from both Major-affiliated and non-Major affiliated providers).[389] The Notifying Party also submitted evidence of customers switching away from Downtown in the financial years 2023 and 2024, with at least [number] customers switching away to both Major-affiliated or non Major-affiliated providers.

(289) Responses to the Commission's Phase I market investigation questionnaire to customers also provide evidence that customers would be able to switch to other digital A&L services providers, such as Create, iGroove, Audiosalad, Symphonic and Believe.[390] Moreover, no DSP who expressed a view in the Commission's Phase I market investigation questionnaire considered that the impact of switching on a digital A&L customer's position on streaming platforms (such as visibility and inclusion on playlists) was significant.[391] Spotify for instance mentioned that: "*We do not anticipate that switching away from Downtown to another A&L service provider will have a significant impact for artists' and/or labels' positioning (such as visibility and inclusion in playlists) on Spotify*."[392]

(290) The ease of switching digital A&L services providers is further confirmed by former and current FUGA customers responding to the Commission's Phase II market investigation. In terms of alternative providers, current FUGA customers considered – by order of number of responses – Believe, SME (AWAL, The Orchard), UMG (Virgin), Distrokid, IDOL, Merlin, Warner (ADA), ONErpm, Routenote, BMG, iGroove, Amuse as well as other A&L service providers as alternatives to FUGA.[393] And former FUGA customers considered – by order of number of responses – the following alternative A&L service providers when deciding to switch away from FUGA: Believe, Warner (ADA), SME (AWAL, The Orchard), Distrokid and others[394]; and they actually switched to – by order of number of responses – Believe, SME (AWAL, The Orchard), Distrokid as well as other A&L service providers.[395] In terms of switching time, current FUGA customers reported an average switching time of 3.8 months for switching to FUGA[396]; and former FUGA customers reported an average switching time of 7.4 months for switching away from FUGA[397]. In terms

[388] Form CO, paragraph 274 and Figure 4. Out of [number] terminated Virgin accounts for which Virgin was able to identify the A&L service provider to which the customer switched in the EEA between 2020 and 2024, [number] customers moved to A&L service providers not Major-affiliated and [number] to Major-affiliated.

[389] Form CO. paragraph 276 and Figure 5.

[390] Replies to Questionnaire to customers – Phase I market investigation, question D.3.1.

[391] Replies to the Questionnaire to DSPs – Phase I market investigation, question E.2. The responses of the DSPs that expressed a view were split between switching having "no impact" or "some impact".

[392] Replies to the Questionnaire to DSPs – Phase I market investigation, question E.3.

[393] Replies to Questionnaire Phase II market investigation - Current customers of Downtown's FUGA product, question D.11.

[394] Non-confidential replies to Questionnaire Phase II market investigation - Former customers of Downtown's FUGA product, Question D.8. "Others" include DashGo, Symphonic and MVKA Ltd distributing via Warner (ADA).

[395] Non-confidential replies to Questionnaire Phase II market investigation - Former customers of Downtown's FUGA product, Question D.9. "Others" include AGE Media (Phoenix), DashGo and MVKA Ltd distributing via Warner (ADA).

[396] Replies to Questionnaire Phase II market investigation - Current customers of Downtown's FUGA product, question D.6.

[397] Replies to Questionnaire Phase II market investigation - Former customers of Downtown's FUGA product, Question D.4. Only one customer reported switching time of more than 6 months, which therefore appears to be an outlier.

of switching costs, current FUGA customers reported average switching costs of less than EUR 1,200 for switching to FUGA[398]; and former FUGA customers reported average switching costs of EUR 95 for switching away from FUGA.[399] In addition, all former FUGA customers who switched away and who expressed a view confirmed that they did not experience any significant impact on DSP stream counts in their catalogue's migration processes.[400]

(291) The Commission considers that there are no substantial contractual barriers to switching that would tie down a customer to its current providers, unless a customer requires tailor-made solutions to be developed which would make switching more burdensome. A third-party market study mentioned that "*ALSPs* [artist and label services providers] *can use competitive terms and features to attract artists and labels, who can switch at short notice, as contracts are regularly annual rolling or fixed for around three years*."[401] The Commission relied also on evidence provided by the Notifying Party that Virgin or Downtown customers are usually bound by short-term contracts (between [number] to [number] months in general which in most cases can be terminated with reasonable notice periods ranging between [number] hours (for DIY distribution to [number] days (Downtown A&LS) or [number] months (FUGA)), often mix-and-match A&L services from other providers and charge customers switching away no exit fees.[402]

(292) The Commission also considers that the costs of switching do not constitute a substantial barrier to switching. It notes that there is evidence pointing out that migration costs are often absorbed by the new distributor as part of onboarding services and digital A&L providers tend to have dedicated teams or tools assisting customers managing switching to or away from their platform and to minimise playlist disruptions at DSP level concerning the streaming of the switching customer's catalogue.[403] The same abovementioned third-party report corroborates this finding by stating: "*Many ALSPs explicitly offer advice and support for inbound clients, with an industry push around common standards. While switching requires some work, it is a historic requirement of the record and publishing businesses that has been made vastly easier by the advent of digitised content and data*."[404] The

398 Replies to Questionnaire Phase II market investigation - Current customers of Downtown's FUGA product, question D.7. Nine out of eleven respondents reported zero switching costs.

399 Non-confidential replies to Questionnaire Phase II market investigation - Former customers of Downtown's FUGA product, Question D.5.

400 Replies to Questionnaire Phase II market investigation - Former customers of Downtown's FUGA product, question D.10

401 Enders Analysis: "Recorded music distribution", October 2025, p. 26 and 27 (ID 5088), a third-party market study submitted by the Notifying Party.

402 Form CO, paragraph 450 (d) (i) and paragraph 149 of the Response to the Article 6(1)(c) Decision. This was also confirmed by the majority of respondents to the phase II market investigation questionnaire sent to former customers of FUGA who switched away, which confirmed that no exit fees or the repayment of advances constitute barriers to them switching away (Replies to Questionnaire to customers – Phase II market investigation, question D.10).

403 The Notifying Party provided evidence of other A&L services providers offering tools to smoothen the switching process, such as [name] being offered by competitor [name], or third-party tools such as [name] and [name] which help significantly reduce the catalogue metadata enrichment process. Moreover, the Notifying Party also submitted that all major DSPs and A&L providers, including Downtown, support standardized metadata exports (such as the DDEX XML format) which help streamline catalogue transfers, and so lower technical barriers to switching (see Annex 9 Form CO and Annex 8 to the Reply to the Article 6(1)(c) Decision).

404 Enders Analysis: "Recorded music distribution", October 2025, p. 26 and 27 (ID 5088), a third-party market study submitted by the Notifying Party.

report also mentions that "*ALSPs have built out digital tools to ease the catalog migration process, from automated metadata collation mechanisms to digital dashboards that switching artists and labels can use to monitor the transferring process*."[405]

(293) Although some costs are associated with switching for A&L customers (such as the length of the process, the operational and human capital required, and proportionally higher costs for customers with larger catalogues), the Commission does not consider such costs to be so substantial as to form a barrier to switching in standard cases, should an digital A&L provider raise prices considerably or reduce the quality of its offering. This is confirmed also by the responses of previous and current FUGA customers that responded to the Commission's Phase II market investigation questionnaire who indicated generally that the time and costs associated with switching are not substantial, as explained in recital (290). Moreover, the presence of industry standards (such as the DDEX standard) and the assistance and tools provided by digital A&L services providers also help minimizing costs by ensuring a smooth transition.[406]

(294) *Fifth*, the Commission also considers that the barriers to entry and expansion for the market for digital A&L services in the EEA are not high, given the evidence of recent entry by providers of A&L services in the EEA, such as Audiosalad, Create Music Group, Distrodirect and Gamma.[407] The Commission notes evidence of a number of digital A&L services providers that have expanded their activities in the EEA. Examples thereof are: Believe[408], EMPIRE[409], Symphonic Distribution[410] and Zebralution[411]. Competitors responding to the Commission's Phase I market investigation questionnaire indicated that: "*this is a very competitive market and with the market consolidation it will be possible to launch a new service in the market*" or also "[w]*hile setting up a DSP delivery service isn't simple, it is achievable with the right resources. Several companies like Too Lost, Stem, and Amuse have entered the space in recent years. Standardised metadata delivery and growing third-party infrastructure have made it easier to build competitive offers, especially for tech-oriented teams*".[412]

(295) Therefore, in light of the results of its in-depth investigation and of all the evidence available to it, the Commission concludes that the Transaction would not

405 Enders Analysis: "Recorded music distribution", October 2025, p. 29 (ID 5088). This third-party market study submitted by the Notifying Party shows an example of such a tool by competitor iGroove which offers a dashboard helping the switching customer monitor the key steps in the migration process. See Catalog Migfration: Switch to a New Distributor with a Few Simple Steps - iGroove (ID 5198).

406 See footnote 403 for additional information on tools and industry standards assisting switchers.

407 Form CO, paragraph 361.

408 https://completemusicupdate.com/believe-is-going-private-and-backed-by-hypergrowth-investors-has-its-sights-set-on-being-musics-first-global-major-independent/ (ID 5225).

409 https://www.musicbusinessworldwide.com/empire-launches-in-nordic-region-hires-iman-hazheer-to-lead-initiatives-across-sweden-denmark-norway-finland-and-iceland/ (ID 5224).

410 https://www.musicweek.com/labels/read/symphonic-distribution-expands-in-europe-with-a-r-client-development-team-hires/092308 (ID 5223).

411 See https://www.musicweek.com/digital/read/we-re-open-for-business-digital-distributor-zebralution-s-uk-mission-statement/092331 (ID 5222). The article on Zebralution's plans to step up its international expansion plans mentions: "*The management team behind German-hailing digital distributor Zebralution has sent a message to the UK business as the pioneering firm steps up its international plans*"; "*We have a track record of working campaigns globally with concrete results. We are now very much a global business*"

412 Replies to Questionnaire to customers – Phase I market investigation, question E.A.10.1.

significantly impede effective competition as a result of non-coordinated anti-competitive effects in the EEA-wide market for the supply of digital A&L services.

9.3.4. DIY platforms

(296) The supply of DIY platforms is a segment of the wider market of A&L services.

(297) Downtown provides, through its CD Baby and Soundrop brands[413], DIY platforms for artists that do not want or have not yet attracted interest from labels, to self-release their recorded music to DSPs. CD was acquired by Downtown in March 2019. Today, CD Baby has a client base of over [number] artists.[414] CD Baby also offers add-on services such as analytics and marketing tools.[415]

(298) UMG is currently not active in the DIY platforms segment. UMG previously had a DIY platform called Spinnup, which it discontinued in 2022.

(299) Even if UMG is no longer active on the segment for the supply of DIY platforms, the Commission assesses the potential impact of the Transaction on this segment, as the Commission received complaints from market participants during its investigation. One market participant indicated that Downtown is home to many DIY artists, particularly through CD Baby.[416] Some customers of Downtown submitted that, post-Transaction, UMG may discontinue or stop developing this part of the music service offering or some functionalities because it may not have the incentive to do so given that it does not fit easily with UMG's established A&R business model, which relies on discovering, developing and contractually engaging with artists in the long term and on focusing more resources on artists with higher streaming volume. They also expressed concerns about potential price increases.[417]

9.3.4.1. The Notifying Party's view

(300) The Notifying Party considers that the Transaction will not lead to a significant impediment of effective competition in the segment for the supply of DIY platforms in the EEA for the following reasons.

(301) *First*, the Notifying Party submits that the Parties do not overlap in this segment. CD Baby neither operates record labels nor engages in comparable A&R activities to UMG. CD Baby's services are complementary to UMG which does not currently have a DIY platform.[418]

(302) *Second*, the Notifying Party submits that Downtown has only a small presence on the segment for the supply of DIY platforms, holding [0-5]% market share in the EEA in 2024.[419] According to the Notifying Party, CD Baby is not a "disruptor" that has the potential to displace UMG. Founded in 1998, CD Baby has not displaced UMG or its

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413 According to the Form CO, paragraph 34, Soundrop is a direct-to creator digital music distribution service catering to amateurs and covers artists which enables self-serve creators to reach more fans and collect more royalties. Given that the complaints received during the Commission's investigation concerned only CD Baby, the Commission's competitive assessment focuses on CD Baby.

414 Enders Analysis: "Recorded music distribution", October 2025, p. 45-46 (ID 5088), a third-party market study submitted by the Notifying Party.

415 Form CO, paragraph 184 (c) and footnote 163.

416 Submission to the European Commission, Competition in the music market UMG acquisition of Downtown and PIAS, February 2025 (ID 4125).

417 See customers' non-confidential reply to questionnaire 02_Customers - Phase I market investigation – customers, question F.6.1 (ID 1181/ ID 599 / ID 3669).

418 Submission to the European Commission on four potential concerns raised by complainants and articulated by the Commission 22 June 2025, paragraph 104 (a) (ID 863).

419 Form CO, Table 25, paragraph 391.

subsidiaries in over 27 years, making it implausible that it could be regarded as an innovator that has the potential to disrupt UMG's core business in the future.[420]

(303) *Third*, the Notifying Party provided internal documents showing that [internal document reference].[421] According to the Notifying Party, [information on UMG's strategy], which builds on the complementarity of UMG and Downtown's businesses.[422] Therefore, according to the Notifying Party, there is no basis to conclude that UMG intends to terminate these services, but rather that UMG intends to maintain and grow the operations of the Downtown business post-Transaction – including CD Baby.

(304) The Notifying Party further submits that UMG's discontinuation of Spinnup as evidence that CD Baby would follow a similar fate is not an instructive example. Spinnup was a small-scale DIY platform [details of UMG's commercial/business information] that generated an annual revenue of approximately USD […].[423] UMG's decision to discontinue Spinnup was driven by [information on UMG's strategy].[424] [Information on UMG's strategy].[425]

(305) *Fourth*, the Notifying Party submits that even in the hypothetical scenario of UMG discontinuing CD Baby (quod non), there is a range of viable alternatives available to customers of DIY platform services in the EEA. Other meaningful competitors are active in the market for the supply of DIY platforms, as for example Distrokid, Tunecore, Routenote, Create, Freshtunes, Ditto, GYROstream, Record Union and EmuBands. Moreover, the scope of competitors to CD Baby can also be expanded to other digital A&L services providers that essentially offer the same core service being the digital distribution of music to DSPs. To that regard, the Notifying Party submits that customers can and do switch from aggregators to other A&L suppliers, and vice versa. Virgin, which does not have a DIY platform, regularly competes with DIY platforms for business opportunities.[426]

(306) Finally, according to the Notifying Party, there are no contractual barriers nor technical barriers to switching. [Information on contractual terms]. On average, [information on migration process].[427]

9.3.4.2. The Commission's assessment

(307) The Commission considers that the Transaction would not give rise to a significant impediment to effective competition as a result of horizontal non-coordinated effects on the segment for the supply of DIY platforms in the EEA, for the following reasons.

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420 Submission to the European Commission on four potential concerns raised by complainants and articulated by the Commission 22 June 2025, paragraph 104 (b) (ID 863).

421 As evidence, the Notifying Party notably submits in particular [internal document reference], submitted as Annex 1 to the RFI 4 Response (ID 505) or Annex 4 to Tranche 2 of the RFI 5 Response [internal document reference] (ID 526).

422 Submission to the European Commission on four potential concerns raised by complainants and articulated by the Commission 22 June 2025, paragraph 106 (ID 863).

423 [Information on past submissions of the Parties], paragraph 112 (ID 863).

424 [Information on past submissions of the Parties], paragraph 113 (ID 863). The Notifying Party also provides Annex 5 to the RFI 5 Tranche 2 Response (ID 527), [information on UMG's strategy] and Annex 7 to the RFI 5 Tranche 2 Response (ID 528), [information on UMG's strategy].

425 [Information on past submissions of the Parties], paragraph 114 (ID 863).

426 [Information on past submissions of the Parties], paragraph 116 (ID 863).

427 [Information on past submissions of the Parties], paragraph 117 (c) (ii) (ID 863).

(308) *First*, the Notice on Simplified Procedure applies simplified treatment to certain categories of concentrations that are generally not likely to raise competition concerns. According to the Notice on Simplified Procedure, the Commission reviews under the simplified procedure concentrations where none of the parties to the concentration are engaged in business activities in the same product and geographic market.[428]

(309) In this case, the Parties do not overlap on the segment for the supply of DIY platforms in the EEA. Only Downtown is active on this segment through CD Baby, since UMG's took the decision to discontinue the platform Spinnup in 2022. The Parties' positions on the market segment remain therefore unchanged post-Transaction. In this respect, and in light with the Notice on Simplified Procedure, the Transaction on the segment for the supply of DIY platforms is considered not likely to raise competition concerns.

(310) The Horizontal Merger Guidelines provide that a merger with a potential competitor can generate horizontal anti-competitive effects either: (i) where the potential competitor already significantly constrains the behaviour of the firms active in the market or (ii) where there is a significant likelihood that the potential competitor would enter the market in a relatively short period of time after which the potential competitor would constrain the behaviour of the firm currently active in the market.[429]

(311) The Commission notes that UMG was active on the segment for the supply of DIY platforms in the EEA until 2022 and [internal document reference]. In addition, the Commission's investigation did not suggest that UMG significantly constrains the behaviour of the firms active segment for the supply of DIY platforms. UMG [information on UMG's strategy].

(312) *Second*, CD Baby's market share of [0-5]% on the segment for the supply of DIY platforms in the EEA in 2024 is modest. Its market share is much lower than the market shares of some competitors – Distrokid, TuneCore, Routenote, Create or Freshtunes – that are described in more detail further below. In particular, Distrokid and TuneCore are approximatively [number] times larger in terms of market share than CD Baby.

(313) *Third*, post-Transaction, there will be sufficient credible alternatives to CD Baby remaining on the segment for the supply of DIY platforms in the EEA.

(314) <u>In the first place</u>, post-Transaction, the Parties will continue to face strong competition from several DIY platforms in the EEA, in particular from Distrokid ([30-40]%) and Tunecore ([20-30]%). Routenote ([5-10]%), Create ([5-10]%) and Freshtunes ([5-10]%) are also competitors to CD Baby. A number of other smaller companies are also active in the EEA, such as Symphonic, United Masters or Ditto Music, which taken together account for a combined [10-20]% market share.

(315) **Distrokid**, founded in 2012, enables artists to distribute their music through 250 digital music stores and streaming services. DistroKid also provides tools to actively promote music with social media integration, email marketing and music video hosting.

[428] Notice on Simplified Procedure, paragraph 5 (c).

[429] Horizontal Merger Guidelines, paragraphs 59 and 60.

(316) DistroKid claimed to be the biggest self-release music platform in the world. In 2021, DistroKid introduced a refresh of its 'Splits' royalty distribution service, and claimed that it was distributing "*30-40% of all new music in the world*", processing "*more than 35,000 new tracks every day*" and boasting a catalogue of nearly 20 million tracks.[430] DistroKid is used by over 3 million artists globally, including high-profile artists such as 21 Savage, Ludacris and Tom Waits.[431]

(317) **Tunecore**, which is controlled by Believe, is a platform for independent musicians to build audiences and careers with technology and services across distribution, publishing administration and a range of promotional services. TuneCore is headquartered in Brooklyn (New York), with offices in Los Angeles and Nashville, and operates globally through local teams based in the United Kingdom, Germany, France, Belgium, The Netherlands, Italy, Brazil, Mexico, Nigeria, South Africa, India, Japan, Indonesia, Thailand, Philippines and Singapore across 5 continents.[432]

(318) **Routenote** is a digital music distribution service for independent artists and record labels providing distribution, marketing and promotion, revenue sharing and rights protection tools. It serves over 1.6 million artists globally.[433]

(319) **Create Music Group** was founded in 2015 as a platform designed to help artists monetise their content across all platforms, offering proprietary technology that allows artists to track their earnings in real-time, copyright detection and label services.[434]

(320) **Freshtunes** was founded in 2016 and is headquartered in Moscow, Russia. Freshtunes offers digital music distribution service for artists from various corners of the globe.[435]

(321) <u>In the second place</u>, the presence of alternatives on the segment for the supply of DIY platforms in the EEA, listed above, are confirmed by the results of the Commission's Phase I market investigation and the Parties' internal documents.[436]

(322) A majority of both customers and competitors who expressed a view in the Commission's Phase I market investigation considered that there are meaningful alternative providers of DIY platforms to CD Baby.[437]

(323) In particular, Distrokid and Tunecore have been mentioned by several market respondents to the Commission's market investigation as a meaningful alternative to CD Baby.[438] Furthermore, in addition to the options mentioned above, other meaningful alternatives have been mentioned by customers of CD Baby during Phase I market investigation. For instance, Amuse, RecordJet, or Symphonic are seen as

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430 Enders Analysis: "Recorded music distribution", October 2025, p. 45-46 (ID 5088), a third-party market study submitted by the Notifying Party.

431 Form CO, paragraph 342.

432 See: https://www.tunecore.com, (ID 4544).

433 See: https://routenote.com/about, (ID 4545).

434 Form CO, 361.

435 See:https://iamghostproducer.com/blog/exploring-freshtunes-empowering-independent-musicians-worldwide, (ID 4546).

436 The Commission notes that the existence of sufficient alternatives on the segment for the supply of DIY platforms ensure that artists and record labels will have sufficient routes to market. The Transaction is therefore unlikely to sufficiently impede cultural diversity in the music industry.

437 Replies to Questionnaire to customers – Phase I market investigation, question F.2 and Replies to Questionnaire to competitors – Phase I market investigation, question E.A.12.

438 Replies to Questionnaire to customers – Phase I market investigation, question F.2.1.

credible alternatives to CD Baby [439] One customer of CD Baby indicated during the market investigation that it "*used and considered DistroKid, TuneCore, and Amuse as alternatives to CD Baby. Each offers DIY music distribution services that allow independent artists to release music globally without the need for a traditional label. I compare them regularly based on pricing, support, analytics, and contract flexibility".*[440]

(324) The Parties' internal documents showed that [internal document reference]. For instance, one Downtown's internal document prepared in [year] analysed [internal document reference].[441] Another Downtown's document prepared in [year] entitled [internal document reference] stated that [internal document reference].[442] UMG also describes the segment for the supply of DIY platforms as [internal document reference].[443]

(325) In the third place, the Commission assessed the customers' ability to switch suppliers and notes that that customers can and do switch from DIY platforms to other A&L suppliers, and vice versa. Virgin, which does not have an DIY offering, regularly competes with self-serve aggregators for business opportunities. The Notifying Party provided examples of switching. For instance, [information about commercial negotiations]. Similarly, [information about commercial negotiations].[444]

(326) The Commission considers that these [number] examples are not sufficient to come to the conclusion that A&L services providers are exercising competitive pressure on DIY platforms. In any event, even without the competitive pressure from A&L services providers, based on the information provided by the Notifying Party and the results of the Phase I market investigation, the Commission considers that, post-Transaction, there will be sufficient credible alternatives of DIY platforms remaining on the segment for the supply of self-serve aggregator/DIY platforms.

(327) *Fourth*, the Commission considers that customers can switch from one DIY platform to another. With respect to CD Baby, the contracts are highly flexible and customers can terminate their agreement at [information on contractual terms].[445] During the Phase II investigation, Distrokid also explained "*that switching from another DIY services provider to DistroKid is not difficult or long.*"[446]

(328) The Commission notes that a majority of customers who expressed a view during the Commission's market investigation indicated that switching providers quickly, easily and without incurring significant costs would not be possible after the Transaction.[447] However, a majority of customers who expressed a view during the Commission's market investigation also indicated that if the acquisition of Downtown by UMG were to happen, they will switch to another independent DIY platform.[448] The Commission considers this to be evidence that, in practice, switching providers would be possible for CD Baby customers.

439 Replies to Questionnaire to customers – Phase I market investigation, question F.2.1.
440 Replies to Questionnaire to customers – Phase I market investigation, question F.2.1.
441 DMH_00061728. See also DMH_00345311 and DMH_00345390 where [internal document reference].
442 DMH_00337233.
443 UMG_00746471.
444 [Information on past submissions of the Parties], para 116 (b) (ID 863).
445 Form CO, Annex RFI 5 Response, Tranche 1, paragraph 13.3.
446 Non-confidential version of minutes of a meeting with a market participant on 17 September 2025, paragraph 10. (ID 3698).
447 Replies to Questionnaire to customers – Phase I market investigation, question F.4.
448 Replies to Questionnaire to customers – Phase I market investigation, question F.3 and question F.3.1.

(329) Finally, a UMG internal document indicated that [internal document reference].[449]

(330) *Fifth*, the Commission assessed during its market investigation whether UMG has incentives to deteriorate or terminate CD Baby's offering post-Transaction.

(331) The Notifying Party's internal documents evidence [information on UMG's strategy].

(332) UMG prepared [internal document reference].[450] [Internal document reference].

(333) In another internal document prepared in [date], the Transaction is presented as [internal document reference].[451]

(334) In the same vein, another internal document prepared in [date] identified [internal document reference].[452]

(335) Therefore, the Commission found no evidence suggesting that UMG would deteriorate or terminate CD Baby's offering post-Transaction.

(336) Finally, the Commission notes several distinctions between Spinnup, which was discontinued by UMG in 2022, and CD Baby. [Information on differentiating factors between Spinnup and CD Baby],[453] [information on differentiating factors between Spinnup and CD Baby],[454] [information on differentiating factors between Spinnup and CD Baby].[455]

(337) In any event, regardless of whether UMG will have the incentive to deteriorate or terminate CD Baby's offering post-Transaction, the Commission considers that there will be sufficient alternatives to CD Baby as further detailed in recitals (321)-(324) above.

(338) Based on the assessment in Section 9.3.4, and in light of the results of the market investigation and of all the evidence available to it, the Commission concludes that the Transaction would not significantly impede effective competition as a result of horizontal non-coordinated effects in the segment for the supply of DIY platforms in the EEA.

9.3.5. Music publishing

(339) As set out above (see recitals (106)-(107)), both Parties are active in music publishing in the EEA, Austria and the Netherlands.

(340) UMG is active through UMPG, its music publishing business, which discovers and develops composers and songwriters and manages a catalogue of music publishing rights to which it grants access for the creation, reproduction and performance of sound recordings and for use in films, advertisements or live performances.

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449 UMG_00746471.

450 UMG_00746471.

451 Annex 19 to the Form CO, pages 2 and 4.

452 Annex 4 to Tranche 2 of the RFI 5 Response, pages 6-8.

453 Spinnup was a small-scale self-serve aggregator platform. At its peak in [year], it had a headcount of [number] employees, compared to [number] employees at CD Baby, and generated an annual revenue of approximately [number], representing […]% of CD Baby's 2024 revenue of $[…]. Form CO, Annex RFI 5 Response, Tranche 1, paragraph 16.6.

454 [Information on differentiating factors, including financial performance, between Spinnup and CD Baby]. Form CO, Annex RFI 5 Response, Tranche 1, paragraphs 16.7 and 16.8.

455 Spinnup dealt with [information on UMG's strategy]. UMG's internal documents evidence [internal document reference] (Annex 12 to the First Draft Form CO (ID 76) and Annex 13 to the First Draft Form CO) (ID 77). Form CO, Annex RFI 5 Response, Tranche 1, paragraphs 16.7 and 16.8.

(341) Downtown is active in music publishing through (a) Downtown Music Publishing, a publishing partner for songwriters, music catalogues and artists, offering both administrative and sync & licensing services; and (b) Songtrust, a self-serve publishing platform enabling songwriters and rightsholders to register their copyrights and monitor and collect royalties globally.

(342) Third parties such as IMPALA are concerned that UMG would, post-Transaction, increase its market power in music publishing by the addition of Songtrust's market share. In IMPALA's view, this would increase UMG's ability to extract better terms from digital services, thereby enabling UMG to leverage its strengthened position in publishing administration services into the music publishing market overall. In addition, IMPALA submits that publishing administration deals are also considered in negotiations with DSPs; the Transaction would thus further enhance the position and negotiating power of UMG vis-à-vis DSPs.[456]

9.3.5.1. The Notifying Party's view

(343) The Notifying Party considers that the Transaction will not lead to a significant impediment to effective competition in the market for the provision of music publishing services in the EEA as well as in Austria and the Netherlands for the following reasons.

(344) *First*, the Notifying Party submits that the Parties' market shares for music publishing on an EEA-wide basis is not indicative of any prima facie competition concerns in this market. Downtown's EEA music publishing market share is estimated to be consistent with its global share (at [0-5]%).[457] Consequently, the Proposed Transaction will at most result in a modest combined share with a minimal increment.

(345) *Second*, the Notifying Party submits that the Parties are not close competitors in music publishing, as they have distinct focuses: UMPG on creative development and exploitation of songwriters/composers' works, and Downtown on ancillary music publishing services (accounting for […]% of its 2023 EEA gross revenue) and a self-serve tool Songtrust, for which UMPG has no equivalent.

(346) *Third*, the Notifying Party submits that the merged entity will continue to be constrained by numerous significant players post-transaction.[458] Songwriters/composers have many alternatives for music publishing services, given the numerous competitors, and the option of self-publishing music. According to the Notifying Party, there are numerous players offering a similar product compared to Songtrust and songwriters/composers are readily able to switch

456 IMPALA, UMG/DOWNTOWN submission 11 APRIL 2025 (ID4044/19).

457 Form CO, Table 33, paragraph 537.

458 In addition to Sony Music Publishing and Warner Chappell, the Notifying Party refers to the following alternatives that focus especially on publishing administrative services and which are active globally and across the EEA: Ditto, Kosign/Kobalt, One Publishing, ABKCO, Sentric and Tunecore. There are also more regionally focused providers, such as Roba Publishing in Germany and CTM in the Netherlands as well as collecting societies and PROs — such as Austro-Mechana and AKM in Austria, and Buma/Stemra in the Netherlands. Moreover, the Notifying Party refers to the following "full suite" publishing providers that are not associated with the Majors and provide music publishing services globally and within the EEA: BMG Music Rights, Kobalt Music Group, Armada Music Publishing/Cloud 9 Music, Beggars Music, Concond, Stellar Songs, Peer Music, Reservoir, Empire Publishing and Mutesong. Additionally, regional players include Blue Skies Publishing, Pennies from Heaven, Edith Hochmuth and Intervox in Austria.

between music publishers both in relation to new works and, to an increasing extent, for older songs for which the retention period has expired.[459]

(347) *Fourth*, the Notifying Party submits that collecting societies will retain significant influence over royalties and licensing terms for music publishing rights post-transaction, while the shift to digitalisation of the music industry has also empowered DSPs, making them the prevailing route to market.

(348) *Fifth*, the Notifying Party submits that UMG will [information on UMG's strategy] post-Transaction, and the acquisition will not alter UMPG's negotiating power post-transaction, either vis-à-vis DSPs or vis-à-vis collecting societies.

(349) The Notifying Party also considers that the Proposed Transaction will not lead to a significant impediment to effective competition in the market for the provision of music publishing services in the Netherlands or Austria for the following reasons. *First*, the Notifying Party argues that Proposed Transaction would give rise to only a modest combined share and a negligible increment in Netherlands and Austria, which would be incapable of leading to any competition concerns in this market.[460] *Second*, the Parties are differentiated and only overlap to a limited extent.[461] *Lastly*, the Notifying Party reiterates that the music publishing market in the Netherlands and Austria are highly competitive and characterised by a large number of significant competitors and market participants.[462]

9.3.5.2. The Commission's assessment

(350) The Commission considers that the Transaction would not give rise to a significant impediment to effective competition as a result of horizontal non-coordinated effects in the markets for music publishing in the EEA, Austria and the Netherlands for the following reasons.

(351) *First*, the Parties' combined market share in the market for the supply of music publishing in the EEA as well as in the Austria and the Netherlands remains moderate. Post-Transaction, and based on 2024 revenues, the combined entity would have an EEA-wide, Austrian and Dutch market shares of approximately [20-30]% (out of which less than [0-5]% can be attributed to Downtown whose music publishing revenues in the EEA are limited[463]). The post-Transaction HHI in the EEA-wide, Austrian and Dutch markets for music publishing, based on these figures,

459 The Notifying Party noted that historically, it was common for a songwriter/composer to agree retention periods for the duration of the copyright in the work (usually 70 years after the death of the songwriter/composer). However, more recently, retention periods have shortened in duration, which facilitates even greater ease of switching.

460 Downtown's music publishing market share in the Netherlands is estimated to be broadly consistent with its de minimis global share (at [0-5]%), accounting for only [...]% of its total turnover in the Netherlands. Moreover, Downtown estimated that its market share in Austria ([0-5]%) is lower than its global shares ([0-5]%). See Form CO, Table 34, paragraphs 560-561 and Table 35, paragraphs 569-570.

461 The Notifying Party notes that arguments presented in relation to the EEA apply equally to the Netherlands and Austria. See Form CO, paragraph 540.

462 The Notifying Party notes that in addition to the competitors that are active EEA-wide, competitors also include local independent music publishers from the Netherlands such as CTM Publishing, Ya Ya Music and Strengholt Music Group and local independent music publishers from Austria, such as Kliment, AKM austromechana, Universal Edition and Schedler Music.

463 Downtown's 2024 revenues in music publishing in the EEA were EUR […], cf. Downtown's response to Commission's RFI 8.

not materially above 2,000 ([number])[464]) and the delta of [number] below 150, thus falling into the category of markets for which it is unlikely that the Commission will identify horizontal competition concerns under point 20 of the Commission's Horizontal Merger Guidelines.[465]

(352) *Second*, the Parties are not close competitors in music publishing. UPMG offers a full suite of music publishing services including creative support and development of songwriters/composers, promotion of works and the administration of copyrights based on acquired publishing rights. Downtown, on the other hand, does not acquire any publishing rights and instead provides only administrative publishing services through Downtown Music Publishing and Songtrust. These services are limited to the registration of works with collecting societies, the compilation and tracking of composition usage data, synchronisation services, and the collection of royalties.

(353) *Third*, the Commission notes that post-Transaction, there would remain numerous alternative providers of music publishing services active in the EEA including SME (with a similar market share as that of the Parties – [20-30]%), Warner ([10-20]% market share), Kobalt ([5-10]%) and BMG ([5-10]%). Specifically for standalone platforms for the administration of publishing rights on behalf of copyright owners (such as Downtown's Songtrust), the majority of customers and competitors responding to the Commission's market investigation who expressed a view confirmed that there are meaningful alternative providers of such services.[466]

(354) A competitor explains: "*There are many alternatives to SongTrust in terms of smaller or mid-sized publishers and administrators.*"[467] Another competitor adds: "*competitors are on the market, they will be able to deliver same services to existing songtrust clients*".[468]

(355) Responding customers and competitors identified amongst others Sentric, TuneCore Publishing (owned by Believe), Kobalt's publishing platform Kosign, and direct membership with collecting societies like SACEM and local CMOs as alternative providers to Songtrust.[469] Additional non-Major-affiliated providers of music publishing services include Ditto Music Publishing[470] and ONErpm[471]

(356) *Fourth*, a majority of competitors who expressed a view consider that specifically non-major affiliated music publishing services providers have sufficient capacity to

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464 The underlying assumption for a HHI of [number] is that market shares in the category "Others" submitted by the Notifying Party in Section 9.2.4 represent the market share of one single company. Therefore, the estimate of [number] likely presents an overestimation of the HHI in this market.

465 The Commission understands that the Austrian and Dutch market shares for music publishing will be – based on the Notifying Party's best estimates –consistent with the estimates provided for the EEA (which in turn are based on global share estimates). The competitive assessment does, therefore, not differ for Austria or the Netherlands.

466 Reply to Phase I market investigation – customers, Question H.2.; Reply to Phase I market investigation - competitors (UPDATED), question E.B.2.

467 A competitor's non-confidential reply to 04_Competitors - Phase I market investigation - competitors (UPDATED), question E.B.2.3 (ID 1300).

468 A competitor's non-confidential reply to 04_Competitors - Phase I market investigation - competitors (UPDATED), question E.B.2.3 (ID 1420).

469 Reply to Phase I market investigation – customers, Question H.2.1.; Reply to Phase I market investigation - competitors (UPDATED), question E.B.2.1.

470 Enders Analysis: "Recorded music distribution", October 2025, p. 59 (ID5088), a third-party market study submitted by the Notifying Party; company website: https://publishing.dittomusic.com/ (ID 5188)

471 Enders Analysis: "Recorded music distribution", October 2025, p. 64 (ID5088), a third-party market study submitted by the Notifying Party; company website: https://onerpm.com/onepublishing/ (ID 5187).

serve Downtown's customers if they were to switch post-Transaction.[472] One competitor explains that there are: "*already many non major affiliated music publishing services on the market*".[473] Another competitor states that "*[company] is not aware of any capacity constraints impacting non-major owned publishers*".[474] And another competitor explains: "*Publishing is a business of scale and publishers are accustomed to handling large amounts of data. There are many independent publishers in the marketplace who would be equipped to take on administration of such a sizable catalog (or a portion thereof).*"[475]

(357) *Fifth*, as set out in detail above in recitals (169) to (172), the Commission's market investigation has confirmed that negotiations between rights holders and DSPs are generally carried out separately for recorded music rights and music publishing rights.

(358) The Commission is unaware of any considerations that would change this assessment specifically for the music publishing markets in Austria (where Downtown's 2024 revenues of EUR […] were very low) and in the Netherlands (where Downtown's 2024 revenues of EUR […] were also low).

(359) In view of the above considerations and in light of the results of the market investigation and of all the evidence available to it, the Commission concludes that the Transaction would not significantly impede effective competition as a result of horizontal non-coordinated effects on the markets for the supply of music publishing services in the EEA, in Austria or in the Netherlands.

9.4. Non-horizontal effects

9.4.1. Legal framework

(360) According to the Non-horizontal Merger Guidelines, non-coordinated effects may significantly impede effective competition as a result of a vertical merger if such merger gives rise to foreclosure concerns. Foreclosure occurs where actual or potential competitors' access to supplies or markets is hampered or eliminated as a result of the merger, thereby reducing those companies' ability and/or incentive to compete.[476] Such foreclosure may discourage entry or expansion of competitors or encourage their exit.[477]

(361) The Non-Horizontal Merger Guidelines distinguish between two forms of vertical foreclosure, i.e. input foreclosure and customer foreclosure. Input foreclosure occurs where the merger is likely to raise the costs of downstream competitors by restricting their access to an important input.[478] Customer foreclosure occurs where the merger is likely to foreclose upstream competitors by restricting their access to a sufficient customer base.[479]

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472 Reply to Phase I market investigation - competitors (UPDATED), question E.B.6.

473 A competitor's non-confidential reply to 04_Competitors - Phase I market investigation - competitors (UPDATED), question E.B.6.1 (ID 1420).

474 A competitor's non-confidential reply to 04_Competitors - Phase I market investigation - competitors (UPDATED), question E.B.6.1 (ID 1766).

475 A competitor's non-confidential reply to 04_Competitors - Phase I market investigation - competitors (UPDATED), question E.B.6.1 (ID 1702).

476 Non-Horizontal Merger Guidelines, paragraph 18.

477 Non-Horizontal Merger Guidelines, paragraph 29.

478 The term "input" is used here as a generic term and may also cover services. Non-Horizontal Merger Guidelines, footnote 24.

479 Non-Horizontal Merger Guidelines, paragraph 30.

(362) Foreclosure may also take more subtle forms, such as the degradation of the quality of input supplied. In its assessment, the Commission may consider a series of alternative or complementary possible strategies.[480]

(363) In assessing the likelihood of an anticompetitive foreclosure scenario, the Commission examines, first, whether the merged entity would have, post-merger, the ability to substantially foreclose access to inputs or customers, second, whether it would have the incentive to do so, and third, whether such a foreclosure strategy would have a significant detrimental effect on competition.[481]

(364) As regards conglomerate mergers, and according to the Non-horizontal Merger Guidelines, these will not lead to any competition concerns in the majority of cases.[482]

(365) However, foreclosure effects may arise when the combination of products in related markets may confer on the merged entity the ability and incentive to leverage a strong market position from one market to another closely related market by means of tying or bundling or other exclusionary practices. While tying and bundling have often no anticompetitive consequences, in certain circumstances such practices may lead to a reduction in actual or potential competitors' ability or incentive to compete. This may reduce the competitive pressure on the merged entity allowing it to increase prices.[483]

(366) In assessing the likelihood of such a scenario, the Commission examines, first, whether the merged firm would have the ability to foreclose its competitors[484], second, whether it would have the economic incentive to do so[485] and, third, whether a foreclosure strategy would have a significant detrimental effect on competition, thus causing harm to consumers.[486] These factors are often examined together as they are closely intertwined.[487] And the EU courts have confirmed that "*those three conditions are cumulative, so that the absence of any of them is sufficient to rule out the likelihood of anti-competitive input foreclosure*".[488]

(367) In order to be able to foreclose competitors, the merged entity must have a significant degree of market power, which does not necessarily amount to dominance, in one of the markets concerned.[489] The most immediate way in which the merged entity may be able to use its market power in one market to foreclose competitors in another is by conditioning sales in a way that links the products in the separate markets together. This is done most directly either by tying or bundling.[490] The effects of tying or bundling can only be expected to be substantial when at least one of the merging parties' products is viewed by many customers as particularly important and there are few relevant alternatives for that product.[491] Further, for foreclosure to be a potential concern, it must be the case that there is a large common pool of customers,

480 Non-Horizontal Merger Guidelines, paragraph 33.
481 Non-Horizontal Merger Guidelines, paragraphs 32 and 59.
482 Non-Horizontal Merger Guidelines, paragraph 92.
483 Non-Horizontal Merger Guidelines, paragraphs 91 and 93.
484 Non-Horizontal Merger Guidelines, paragraphs 95-104.
485 Non-Horizontal Merger Guidelines, paragraphs 105-110.
486 Non-Horizontal Merger Guidelines, paragraphs 111-118.
487 Non-Horizontal Merger Guidelines, paragraph 94.
488 Judgment of the General Court on 23 May 2019, *KPN BV v European Commission*, Case T-370/17, ECLI:EU:T:2019:354, paragraph 119.
489 Non-Horizontal Merger Guidelines, paragraph 99.
490 Non-Horizontal Merger Guidelines, paragraph 95.
491 Non-Horizontal Merger Guidelines, paragraph 99.

which is more likely to be the case when the products are complementary.[492] Finally, bundling is less likely to lead to foreclosure if rival firms are able to deploy effective and timely counter-strategies, such as single-product companies combining their offers.[493]

(368) The incentive to foreclose competitors through tying or bundling depends on the degree to which this strategy is profitable.[494] Bundling and tying may entail losses or foregone revenues for the merged entity.[495] However, they may also allow the merged entity to increase profits by gaining market power in the tied goods market, protecting market power in the tying good market, or a combination of the two.[496]

(369) It is only when a sufficiently large fraction of market output is affected by foreclosure resulting from the concentration that the concentration may significantly impede effective competition. If there remain effective single-product players in either market, competition is unlikely to deteriorate following a conglomerate concentration.[497] The effect on competition needs to be assessed in light of countervailing factors such as the presence of countervailing buyer power or the likelihood that entry would maintain effective competition in the upstream or downstream markets.[498]

9.4.2. Access to commercially sensitive data

9.4.2.1. Legal framework

(370) According to the Non-Horizontal Merger Guidelines, there are two main ways in which non-horizontal mergers may significantly impede effective competition: non-coordinated effects and coordinated effects. Non-coordinated effects may principally arise when non-horizontal mergers give rise to foreclosure.[499]

(371) The Non-Horizontal Merger Guidelines mainly distinguish between two forms of foreclosure. Input foreclosure occurs where the merger is likely to raise the costs of downstream competitors by restricting their access to an important input. Customer foreclosure occurs where the merger is likely to foreclose upstream competitors by restricting their access to a sufficient customer base.

(372) Separate from foreclosure, as set out in paragraph 78 of the Non-Horizontal Merger Guidelines, non-horizontal non-coordinated effects can also arise when the merged entity, by vertically integrating, gains access to commercially sensitive information regarding the upstream or downstream activities of rivals.[500]

(373) This theory of harm differs from the vertical non-coordinated effects described in paragraphs 29 to 77 of the Non-Horizontal Merger Guidelines in so far as it does not require the merged entity to engage in a conduct that ultimately forecloses rivals. Rather, the competitive harm is linked to the possibility to access commercially sensitive information on the merged entity's rivals that is acquired through the

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492 Non-Horizontal Merger Guidelines, paragraph 100.
493 Non-Horizontal Merger Guidelines, paragraph 103.
494 Non-Horizontal Merger Guidelines, paragraph 105.
495 Non-Horizontal Merger Guidelines, paragraph 106.
496 Non-Horizontal Merger Guidelines, paragraph 108.
497 Non-Horizontal Merger Guidelines, paragraph 113.
498 Non-Horizontal Merger Guidelines, paragraph 114.
499 Non-Horizontal Merger Guidelines, paragraphs 17-18.
500 Non-Horizontal Merger Guidelines, paragraph 78. The legal soundness of paragraph 78 of the Non-Horizontal Merger Guidelines was confirmed by the General Court in its judgment of 18 May 2022 in case T-251/19 - *Wieland-Werke v Commission*, EU:T:2022:296, paragraph 88.

merger. Therefore, the Commission needs to establish that the access to commercially sensitive information likely results in a significant impediment to effective competition Paragraph 78 of the Non-Horizontal Merger Guidelines mentions two examples of competitive harm: the access to commercially sensitive information could allow the merged entity to price less aggressively to the detriment of consumers or put competitors at a competitive disadvantage.

(374) This Decision nevertheless provides an assessment including (i) the ability to access commercially sensitive information, (ii) the incentives to access commercially sensitive information, and (iii) the likely effects.

9.4.2.2. The Notifying Party's view

(375) In the Form CO, the Notifying Party submits that it would not have the ability and/or incentive to either access or misuse any competitively sensitive data received from Downtown customers for the following reasons.[501]

(376) *First*, the Notifying Party submits that Downtown only receives very limited and basic information in order to distribute recorded music. For instance, the Notifying Party explains that while A&L service providers may gain insight on the success of an artist with information on the number of streams and specific breakdowns of that artist's music streams (e.g., success in a specific country), such data is broadly available in the industry (for instance, through Luminate data) and not commercially actionable.[502]

(377) *Second*, the Notifying Party explains that access to all of Downtown's customer data is subject to significant internal, legal and contractual safeguards which the Notifying Party has no plans to change.[503]

(378) *Third*, the Notifying Party explains that UMG would not have the incentive to allow itself or Virgin to access commercially sensitive information about Downtown's customers or misuse that data due to the reputational and economic damage to Virgin's business which would lead to customers switching away from Virgin.[504]

(379) In the Reply to the Article 6(1)(c) Decision, the Notifying Party expands on the submissions made in the Form CO.

(380) *First*, the Notifying Party confirms that there is certain third-party data received by Downtown which should be regarded as confidential and proprietary.[505] This is particularly the case in relation to data stored on Curve.[506] In relation to data stored on FUGA, the Notifying Party submits that most of the data held in FUGA is publicly available from industry sources like Luminate.[507]

(381) *Second*, the Notifying Party submits that while some of the data held by Curve may be regarded as confidential and proprietary, it should not be regarded as commercially sensitive. Specifically, the Notifying Party considers that Catalogue Metadata and Digital Assets as well as Payee and Payment Information are by their very nature not commercially sensitive; in relation to DSP sales data and royalty calculation details in contracts and recoupable costs, the Notifying Party argues that

501 Form CO, paragraph 468.
502 Form CO, paragraph 469 and footnote 577.
503 Form CO, paragraphs 471-475.
504 Form CO, paragraphs 484-492.
505 Reply to the Article 6(1)(c) Decision, paragraph 165.
506 Reply to the Article 6(1)(c) Decision, paragraph 207.
507 Reply to the Article 6(1)(c) Decision, paragraph 217.

they should also not be considered to be commercially sensitive within the meaning of paragraph 78 of the Non-Horizontal Merger Guidelines, in particular in view of the fact that most of this information would be voluntarily disclosed during artist negotiations or due diligence processes.[508]

(382) More specifically, the Notifying Party argues that the third-party data held on Curve does not provide any incremental insight into an artist's profitability or performance beyond what UMG already has access to through public data sources. UMG argues (i) that the […] of A&R decisions taken by UMG relate to unsigned artists who, by definition, are not artists signed to rival labels (whereas artists signed to but desiring to leave a rival label account for only […]% of new signings according to UMG); (ii) that Curve holds only very limited third-party data, confined to what is necessary for the royalty calculation process; (iii) that the data on Curve is [details of Curve's commercial/business information].[509] In addition, UMG argues that the third-party data available on Curve would not allow UMG to analyse a correlation between marketing spend and music consumption.[510]

(383) *Third*, the Notifying Party submits that UMG would not have the ability to access third-party data held on Curve. This is particularly the case since (i) International Standardization Organization ('**ISO**') certifications that are currently in place provide robust restrictions on Curve will continue post-Transaction; (ii) contractual restrictions prevent Curve from disclosing data to UMG and customers are unlikely to consent to changes to the data restrictions in their agreements; (iii) the GDPR[511] prevents UMG from accessing personal third-party data held on Curve without the artists' consent; and, (iv) there is no basis for finding that data sharing is part of the rationale of UMG's growth after the Transaction or evidence of a broader strategy.[512] The Notifying Party submits, for similar reasons, that UMG would not have the ability to access third-party data held on FUGA.[513]

(384) *Fourth*, the Notifying Party submits that post-Transaction, UMG will not have the incentive to access commercially sensitive third-party data held on Curve. This is particularly the case since (i) UMG and Virgin already have access to equivalent data and do not use it in the manner envisaged in the Article 6(1)(c) Decision; (ii) any hypothetical gains from accessing third-party data would not be appreciable as Curve processes only around [5-10]% of royalties processed worldwide and [0-5]% of the royalties processed in the EEA; (iii) any hypothetical gains from using third-party data held on Curve would be vastly outweighed by the risk of legal fines, and reputational and economic harm; and, (iv) there is no evidence suggesting that UMG would access third-party data held on Curve in the manner envisaged in the

508 Reply to the Article 6(1)(c) Decision, paragraphs 208-210.

509 Notifying Party's response to RFI 31, supplementary submission, paragraphs 2.1-2.10.

510 Notifying Party's response to RFI 31, supplementary submission, paragraphs 3.1-3.2.

511 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2006, page 1 ('**GDPR**').

512 Reply to the Article 6(1)(c) Decision, paragraphs 222-254.

513 Reply to the Article 6(1)(c) Decision, paragraphs 222-254. For completeness, the Notifying Party does not consider that FUGA is subject to any ISO certification, that argument only being relevant insofar as it concerns Curve.

Article 6(1)(c) Decision.[514] The Notifying Party submits, for similar reasons, that UMG will not have the incentive to access third-party data held on FUGA.[515]

(385) *Fifth*, the Notifying Party submits that access to third-party data held on Curve would not harm competition. This is particularly the case since (i) the Article 6(1)(c) Decision fails to consider the materiality of the purported effects on competition as part of its assessment under paragraph 78 of the Non-Horizontal Merger Guidelines; and, (ii) even if UMG were to access third-party data held by Curve, it would not obtain a significant competitive advantage and such access would not harm competition in the manners described in the Article 6(1)(c) Decision.[516] The Notifying Party submits, for similar reasons, that access to third-party data held on FUGA would not harm competition.[517]

(386) In the Response to the SO, the Notifying Party reiterates and expands on its views expressed in the Reply to the Article 6(1)(c) Decision, insofar as they concern data held by Curve.

(387) *First*, the Notifying Party submits that the SO fails to apply the correct legal and economic framework.[518] In particular, the Notifying Party explains that (i) the SO is an unwarranted departure from established decisional practice in relation to data access under paragraph 78 of the Non-Horizontal Merger Guidelines;[519] (ii) the SO is not grounded in an appropriate economic framework;[520] (iii) the SO fails to meet the standard required by law to establish a significant impediment to effective competition;[521] and, (iv) the SO fails to meet the evidentiary standards required by law.[522]

(388) *Second*, the Notifying Party submits that the SO fails to demonstrate convincingly that the Curve Data (as defined below – see recital (438)) is commercially sensitive within the meaning of paragraph 78 of the Non-Horizontal Merger Guidelines[523] and that such data is, in any event, not competitively relevant.[524]

(389) *Third*, the Notifying Party submits that UMG will not have the ability to access the Curve Data.[525]

(390) <u>In the first place</u>, the Notifying Party submits that the SO fails to properly consider the application of the EU/UK GDPR to Curve's data processing activities.[526] In particular, the Notifying Party submits that the SO (i) wrongly ignores the application of UK GDPR to Curve payees;[527] (ii) incorrectly concludes that the GDPR does not apply to individual band members;[528] and, (iii) unrealistically

514 Reply to the Article 6(1)(c) Decision, paragraphs 255-278.
515 Reply to the Article 6(1)(c) Decision, paragraphs 255-278.
516 Reply to the Article 6(1)(c) Decision, paragraphs 279-308; Notifying Party's response to RFI 31, paragraphs 23-25.
517 Reply to the Article 6(1)(c) Decision, paragraphs 279-308.
518 Response to the SO, section 2.
519 Response to the SO, paragraphs 24-28.
520 Response to the SO, paragraphs 29-30.
521 Response to the SO, paragraphs 31-33.
522 Response to the SO, paragraphs 34-39.
523 Response to the SO, section 3 and, in particular, paragraphs 42-46.
524 Response to the SO, section 3 and, in particular, paragraphs 47-50.
525 Response to the SO, section 4.
526 Response to the SO, section 4.1.
527 Response to the SO, paragraphs 58-60.
528 Response to the SO, paragraphs 61-68.

assumes that UMG would be able to obtain consent from artist payees.[529] Furthermore, the Notifying Party explains that UMG could not use insight derived from anonymised or aggregate Curve Data[530] and that the Commission's decisional practice and the Commission's market investigation confirm that the GDPR is an effective restriction on UMG's ability to access Curve Data.[531]

(391) In the second place, the Notifying Party submits that contractual restrictions are effective in preventing UMG from accessing Curve Data.[532] In particular, the Notifying Party explains that (i) hypothetical concerns about UMG's access to Curve Data have no bearing on the strength of Curve's contractual restrictions;[533] (ii) the Parties' internal documents demonstrate [information about commercial strategy];[534] (iii) Curve customers can request to re-negotiate privacy clauses in their agreements;[535] and, (iv) contractual safeguards similar to the ones Curve has in place have previously been considered sufficient to address potential data access concerns.[536]

(392) In the third place, the Notifying Party submits that the SO fails to give due consideration to factors that will compel Virgin to maintain and comply with Curve's ISO certification post-Transaction.[537]

(393) In the fourth place, the Notifying Party submits that switching away from Curve could occur quickly, easily and at a low cost.[538]

(394) In the fifth place, the Notifying Party submits that the lack of any evidence that UMG has accessed equivalent data held on Virgin is highly probative.[539]

(395) *Fourth*, the Notifying Party submits that UMG will not have the incentives to access the Curve Data.[540] In particular, the Notifying Party submits that (i) the theory of harm on the existence of an incentive is entirely theoretical;[541] (ii) even under the entirely theoretical theory of harm, any gains from accessing Curve Data would be only limited and one-off;[542] and, (iii) any hypothetical gains from using Curve Data would be vastly outweighed by the risk of legal fines and economic and reputational harm.[543]

(396) *Fifth*, the Notifying Party submits that the theory of harm would not give rise to any effects.[544] In particular, the Notifying Party considers that (i) a hypothetical artists poaching strategy that relies on access to Curve Data would not be capable of harming competition as it would be economically irrational and incoherent and the Commission's findings are flawed;[545] (ii) a hypothetical strategy to obtain market

529 Response to the SO, paragraphs 69-75.
530 Response to the SO, paragraphs 76-77.
531 Response to the SO, paragraphs 78-81.
532 Response to the SO, section 4.2.
533 Response to the SO, paragraphs 85-86.
534 Response to the SO, paragraph 87.
535 Response to the SO, paragraphs 88-89.
536 Response to the SO, paragraphs 90-91.
537 Response to the SO, paragraphs 92-103.
538 Response to the SO, paragraphs 104-123.
539 Response to the SO, paragraphs 124-126.
540 Response to the SO, section 5.
541 Response to the SO, paragraphs 129-130.
542 Response to the SO, paragraphs 131-137.
543 Response to the SO, paragraphs 138-140.
544 Response to the SO, section 6.
545 Response to the SO, paragraphs 145-175.

insights through Curve Data would not be capable of harming competition;[546] and, (iii) the purported effects would not be of a magnitude that would result in a significant impediment to effective competition.[547]

9.4.2.3. The Commission's assessment

9.4.2.3.1. Nature of the information processed by Downtown

9.4.2.3.1.1. Information processed by CD Baby

(397) The Commission notes that to offer DIY platforms for self-publishing artists services, CD Baby requires access to, amongst others, metadata such as music files, artwork, rights information, sales/streaming data, customer information and analytics/marketing.[548]

(398) The Commission considers that the data processed by CD Baby does not constitute commercially sensitive data regarding the upstream or downstream activities of rivals within the meaning of paragraph 78 of the Non-Horizontal Merger Guidelines for the following reasons.

(399) *First*, the Commission recalls that paragraph 78 of the Non-Horizontal Merger Guidelines, the commercially sensitive data must regard "*upstream or downstream activities of rivals*."[549] In this regard, the Commission notes that in 2023, [50-60]% of CD Baby's revenues come from artists in the EEA.[550] Furthermore, the Parties confirmed that in the EEA and globally in 2024, while it is possible that a small number of label customers use CD Baby, those would be *de minimis*.[551] In this context, the Commission recalls that since UMG is only a rival of record labels (and not of artists directly), which only represent a *de minimis* share of the customer base of CD Baby, the Commission considers that through the acquisition of CD Baby, UMG would only acquire a *de minimis* amount of commercially sensitive information of its rival record labels.

(400) *Second*, the Commission notes that in the Article 6(1)(c) Decision, the Commission ultimately left open the question whether the data from CD Baby was likely to be commercially sensitive within the meaning of paragraph 78 of the Non-Horizontal Merger Guidelines.[552] Following the adoption of the Article 6(1)(c) Decision, the Commission did not receive any substantiated submission which would suggest that the data processed by CD Baby would be commercially sensitive within the meaning of paragraph 78 of the Non-Horizontal Merger Guidelines. For instance, in the response to the non-confidential version of the SO, IMPALA mentions "*CD Baby*" but does not provide an overview of the data processed by CD Baby or otherwise any indication that the data would be commercially sensitive.[553] In its response to the non-confidential version of the SO, Merlin only mentions CD Baby once, without

546 Response to the SO, paragraphs 176-180.

547 Response to the SO, paragraphs 181-189.

548 Form CO, paragraph 470(b).

549 Non-Horizontal Merger Guidelines, paragraph 78.

550 Form CO, RFI 2 Response Annexes, RFI 2 Response Tranche 1, Annex 2. In the Reply to the Article 6(1)(c) Decision, the Notifying Party confirmed that: "*CD Baby's customers are primarily independent artists who self-release their music*" (Reply to the Article 6(1)(c) Decision, footnote 211).

551 Notifying Party's response to RFI 33, paragraph 1.1.

552 Article 6(1)(c) Decision, paragraph 174.

553 IMPALA's response to the non-confidential version of the SO (ID 4602). For example, in Annex 1 of this submission, IMPALA states: "*other Downtown services in particular Songtrust and CD Baby would provide sensitive information as well*" without further substantiating such statement.

providing any information on the type of data processed by CD Baby or otherwise indicating that such data would be commercially sensitive.[554]

(401) *Third* and in any event, the Commission notes that, contrary to Curve, CD Baby does not process commercially sensitive information on an individual artist's deal with UMG's rival record labels[555] for the following reasons.

(402) In the first place, through the acquisition of CD Baby, UMG would only obtain information relating to "*rates paid by the DSPs*", "*advances paid by DSPs recoupable from royalties*" and "*sales data*".[556] As explained by one market participant, "*the DSP-related data is not significant if it cannot be compared to the marketing/ad spending behind the streaming data. In this regard, Curve could provide insight into the investment that certain labels incurred for a given artist to achieve a given number of streams. In other words, Curve would enable UMG to acquire data on the return on investment of artists signed rival labels giving UMG a better insight into which artists have potential.*"[557] On this basis, the Commission considers that CD Baby does not contain valuable information to better predict an artist's future success.

(403) In the second place, the Notifying Party explains that "*UMG's A&R team use a range of public data sources and analytical tools ...* [which] *include (but are not limited to)* [information on UMG's strategy]."[558] The Notifying Party explains that such "*detailed, market-wide analytics and trends data*"[559] can be found on the following public sources:

(a) **Luminate**, a data aggregator from over 500 sources which provides extensive data on global music consumption, including streaming, sales, and airplay. Luminate actively promotes its services to A&R teams.[560]

(b) **Chartmetric**, a comprehensive analytics platform that pulls data from a wide range of sources, including major streaming services, social media and radio airplay.[561]

(c) The **Apple Music Partner Program**, which offers a suite of tools and APIs for labels and distributors. It provides access to real-time listener counts, extensive chart data and global radio spins.[562]

(404) The Notifying Party also mentions Discogs and MusicBrainz as providers of data that may support A&R decisions (which also cover UMG's label activities).[563] The Notifying Party further explains that DSPs make detailed information on metadata about songs, albums, playlists and editorial charts available.[564]

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554 Merlin's response to the non-confidential version of the SO, section 6.d) (ID 5094).

555 IMPALA's response to the non-confidential version of the SO, page 7 (ID 4602).

556 IMPALA's response to the non-confidential version of the SO, page 7 (ID 4602).

557 Non-confidential minutes of a meeting with a record label of 9 September 2025, point 12 (ID 3527).

558 Reply to the Article 6(1)(c) Decision, paragraph 184. The Commission understands that at least part of this information (e.g. sales/streaming data and analytics/marketing) would also be available through CD Baby for CD Baby's customers.

559 Reply to the Article 6(1)(c) Decision, paragraph 185.

560 Reply to the Article 6(1)(c) Decision, paragraph 185(a).

561 Reply to the Article 6(1)(c) Decision, paragraph 185(b).

562 Reply to the Article 6(1)(c) Decision, paragraph 185(c).

563 Reply to the Article 6(1)(c) Decision, footnote 229.

564 Reply to the Article 6(1)(c) Decision, footnote 229.

(405) In the third place, the Commission notes that IMPALA submitted, on 27 June 2025, a compilation of submissions including an open letter which contains the following statement: "*UMG has already been successful in pushing through the "demonetisation" by DSPs of many smaller artists, a policy which has harmed many independent labels. It has also negotiated preferential terms with DSPs, paving the way for similar deals for the other majors – Sony and Warner – which have most favoured nation agreements (MFNs) with the main DSPs. These deals are not extended to independent players and are to their detriment.*"[565] This has been confirmed by a DSP which indicated that "*its agreements with the Majors and MERLIN have been in place for many years [confidential].* [Information about commercial strategy and negotiation]"[566] In this regard, the Commission notes that while access to CD Baby data may enable the Notifying Party to more easily enforce any pre-existing [information about commercial strategy and negotiation] with main DSPs, the Transaction will not change the [information about commercial strategy and negotiation]. In this regard, the Commission notes that these pre-existing [information about commercial strategy and negotiation] are already likely to enable the Notifying Party to [information about commercial strategy and negotiation]. In this regard, all the DSPs who expressed a view in response to the Commission's market investigation consider that the Transaction will have a positive or neutral impact on artists and labels.[567]

(406) On the basis of the above, the Commission considers that the data processed by CD Baby is not commercially sensitive data within the meaning of paragraph 78 of the Non-Horizontal Merger Guidelines and, in any event, access to such data would not cause a significant impact to UMG's rivals.

9.4.2.3.1.2. Information processed by FUGA[568]

(407) The Commission notes that to offer A&L services, FUGA requires access to, amongst others, (i) the music file itself and artwork, as well as associated data like song title, artist name, genre, etc.; (ii) limited rights information (e.g., in which territories the label has the right to distribute the titles); and, (iii) sales and streaming information related to the distributed titles provided back from DSPs.[569]

(408) The Commission considers that the data held on FUGA is not commercially sensitive data regarding the upstream or downstream activities of rivals within the meaning of paragraph 78 of the Non-Horizontal Merger Guidelines, for the following reasons.[570]

565 IMPALA's submission of 27 June 2025, page 17 (ID 3979).

566 Non-confidential version of minutes of a meeting with a market participant on 5 June 2025, paragraph 8 (ID 1919).

567 Replies to questionnaire 03_Others - Phase I - market investigation – DSPs, question G.3.

568 The Commission recalls that FUGA also has a legacy royalty accounting product named RASA. RASA was discontinued by Downtown in a decision that was independent from the Transaction and is no longer offered to new clients. Furthermore, the Commission understands that [information on Downtown's strategy]. In this regard, the Commission focuses this section on the data that FUGA processes outside RASA, given that RASA will be discontinued and that the substantive assessment of data processed by RASA would be analogous to the assessment of data processed by Curve below.

569 Form CO, paragraph 477.

570 The Commission recalls that paragraph 78 of the Non-Horizontal Merger Guidelines, the commercially sensitive data must regard "*upstream or downstream activities of rivals*." In this regard, the Commission notes that in 2023, FUGA generated some limited revenues from artists in the EEA (Form CO, RFI 2 Response Annexes, RFI 2 Response Tranche 1, Annex 2). In this context, the Commission recalls that since UMG is only a rival of record labels (and not of artists directly), the Commission

(409) *First*, the Commission notes that the insights that can be derived from data processed by FUGA for recorded music after its release is publicly available for the following reasons.

(410) In the first place, in the Reply to the Article 6(1)(c) Decision, the Notifying Party explained that data processed by FUGA which related to third-party data held on FUGA, is publicly available from industry sources like Luminate.[571] In particular, the Notifying Party explains that: "*once a track is made available, its underlying files, packshots, credits, and core metadata are immediately accessible to the public*."[572] This information was confirmed by the Commission's market investigation. For instance, in reply to a questionnaire addressed to former customers of FUGA, all the respondents to the market investigation who expressed a view do not recall inputting into FUGA information that was not publicly available.[573] One market participant even explained that: "*most of it was standard catalog* [catalogue] *and artist metadata*."[574] While the views of current customers of FUGA is inconclusive, some market participants still supported the Notifying Party's view.[575] For instance, one customer explained that: "*everything is publicly available through other information sources (after release)*"[576] while another customer explained that "*I think everything I am uploading is public, I mean I want to publish this information anyway --> we release music and want the metadata to be live.*"[577]

(411) In the second place, the Notifying Party explains that "*UMG's A&R team use a range of public data sources and analytical tools* ... [which] *include (but are not limited to)* [information on UMG's strategy]."[578] The Notifying Party explains that such "*detailed, market-wide analytics and trends data*"[579] can be found on the following public sources:

(a) **Luminate**, a data aggregator from over 500 sources which provides extensive data on global music consumption, including streaming, sales, and airplay. Luminate actively promotes its services to A&R teams.[580]

(b) **Chartmetric**, a comprehensive analytics platform that pulls data from a wide range of sources, including major streaming services, social media and radio airplay.[581]

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considers that through the acquisition of FUGA, UMG would not exclusively acquire commercially sensitive information of its rival record labels.

571 Reply to the Article 6(1)(c) Decision, paragraph 217. See also Notifying Party's response to RFI 34, paragraph 1.1 and Table 1.

572 Reply to the Article 6(1)(c) Decision, paragraph 217(a)(i).

573 Replies to questionnaire 03_Phase II market investigation - Former customers of Downtown's FUGA product, Question E.1.

574 A customer's non-confidential reply to questionnaire 03_Phase II market investigation - Former customers of Downtown's FUGA product, Question E.1 (ID 3208).

575 Replies to questionnaire 04_Phase II market investigation - Current customers of Downtown's FUGA product, Question E.3.

576 A customer's non-confidential reply to questionnaire 04_Phase II market investigation - Current customers of Downtown's FUGA product, Question E.3 (ID 3430).

577 A customer's non-confidential reply to questionnaire 04_Phase II market investigation - Current customers of Downtown's FUGA product, Question E.3 (ID 3299).

578 Reply to the Article 6(1)(c) Decision, paragraph 184. The Commission understands that at least part of this information (e.g. sales and streaming information related to the distributed titles provided back from DSPs) would also be available through FUGA for FUGA's customers.

579 Reply to the Article 6(1)(c) Decision, paragraph 185.

580 Reply to the Article 6(1)(c) Decision, paragraph 185(a).

581 Reply to the Article 6(1)(c) Decision, paragraph 185(b).

(c) The **Apple Music Partner Program**, which offers a suite of tools and APIs for labels and distributors. It provides access to real-time listener counts, extensive chart data and global radio spins.[582]

(412) The Notifying Party also mentions Discogs and MusicBrainz as providers of data that may support A&R decisions (which also cover UMG's label activities).[583] The Notifying Party further explains that DSPs make detailed information on metadata about songs, albums, playlists and editorial charts available.[584]

(413) In the third place, the Commission notes that in an annex to its response to the non-confidential version of the SO, IMPALA provided a table comparing the type of data available through FUGA and Curve.[585] Such annex confirms that at least part of the data stored on FUGA is publicly available, including streams, streams per track, followers and chart inclusion.[586] More generally, IMPALA further explains that even though "*the distributor data is far more complex than any top level data that might be used by a data aggregator such as Luminate or Chartmetric …* [t]*hey are sources of some data of course*."[587]

(414) In the fourth place, the Commission notes that Merlin, in its response to the non-confidential version of the SO, explained that: "*FUGA ingests usage information relating to* [a] *customer from multiple DSPs; were FUGA to be owned by UMG, this would provide UMG with complete visibility into how its competitors' content is performing in the market*."[588] In this regard, the Commission notes that, through the acquisition of FUGA, UMG would only obtain information relating to "*rates paid by the DSPs*", "*advances paid by DSPs recoupable from royalties*" and "*sales data*".[589] As explained by one market participant, "*the DSP-related data is not significant if it cannot be compared to the marketing/ad spending behind the streaming data. In this regard, Curve could provide insight into the investment that certain labels incurred for a given artist to achieve a given number of streams. In other words, Curve would enable UMG to acquire data on the return on investment of artists signed rival labels giving UMG a better insight into which artists have potential.*"[590] On this basis, the Commission considers that FUGA, contrary to Curve (see below), does not contain valuable information to better predict an artist's future success. Accordingly, the submission does not enable the Commission to consider that the data stored on FUGA is commercially sensitive within the meaning of paragraph 78 of the Non-Horizontal Merger Guidelines.[591]

(415) On this basis, the Commission considers that the insights that can be derived from data processed by FUGA for recorded music after its release is publicly available.

(416) *Second*, the Commission notes that the data processed by FUGA regarding recorded music prior to its release is very limited in volume, and, in any event, not necessary to operate FUGA.

582 Reply to the Article 6(1)(c) Decision, paragraph 185(c).
583 Reply to the Article 6(1)(c) Decision, footnote 229.
584 Reply to the Article 6(1)(c) Decision, footnote 229.
585 IMPALA's response to the non-confidential version of the SO, Annex 1 (ID 4602).
586 IMPALA's response to the non-confidential version of the SO, Annex 1 (ID 4602).
587 IMPALA's response to the non-confidential version of the SO, Annex 1 (ID 4602).
588 Merlin's response to the non-confidential version of the SO, section 7.a) (ID 5094).
589 IMPALA's response to the non-confidential version of the SO, page 7 (ID 4602).
590 Non-confidential minutes of a meeting with a record label of 9 September 2025, point 12 (ID 3527).
591 Reply to the Article 6(1)(c) Decision, paragraph 185.

(417) In the first place, the Commission notes that for less than [0-5]% of tracks, FUGA holds data on the song prior to such track's release date.[592]

(418) In the second place, the Commission notes that while FUGA recommends to its users to upload catalogue at least [number] days prior to the release date, the Notifying Parties confirmed that some FUGA customers only upload releases [number] day prior to the release date.[593] Furthermore, the Commission notes that, as explained by the Notifying Party, "*labels retain full control over pre-release information, as they can upload catalogue data immediately before release onto FUGA.*"[594] In any event, the Commission recalls that the aim of relying on FUGA is to release recorded music, which will eventually become public. As explained by one market participant, "*I think everything I am uploading is public, I mean I want to publish this information anyway --> we release music and want the metadata to be live.*"[595] Accordingly, even if the data were to be considered commercially sensitive information within the meaning of paragraph 78 of the Non-Horizontal Merger Guidelines, such data would likely cease to be commercially sensitive information in [number] to [number] days.

(419) In the third place, the Commission notes that Merlin explained that: "*In order to deliver content for independent labels, FUGA needs to know what content needs to be delivered, to whom, and when.*"[596] In this regard, the Commission notes that, given the very limited amount of data regarding non-released recorded music stored on FUGA and the flexibility that record labels have as to the timing of uploading their information on FUGA, Merlin's submission is not capable of contradicting the Commission's assessment. As explained by the Notifying Party, "*UMG could not easily or practicably change its release schedule based on this information, given pre-existing marketing plans. Release dates are set jointly with artists and their teams and are determined by multiple promotional considerations, meaning they cannot be moved at short notice.*"[597] In addition, release dates are often announced ahead of time to gather momentum for a specific release,[598] thus further reducing the commercial sensitivity of data related to non-released recorded music on FUGA. Accordingly, the Commission considers that, since FUGA allows its customers to upload data on non-released recorded music very close to the release data, and, in all likelihood, after those customers announced a given release data, data of non-released recorded music stored on FUGA cannot be considered commercially sensitive within the meaning of paragraph 78 of the Non-Horizontal Merger Guidelines.

(420) On the basis of the above, the Commission considers the data processed by FUGA regarding recorded music prior to its release is very limited in volume (less than [0-5]%), and, in any event, entirely dependent on the strategy pursued UMG's rival record labels which are also customers of FUGA.

(421) *Third*, the Commission notes that that in an annex to its response to the non-confidential version of the SO, IMPALA explains that: "*Why FUGA's data is*

592 Reply to the Article 6(1)(c) Decision, paragraph 217(a)(ii).
593 Reply to the Article 6(1)(c) Decision, footnote 259.
594 Reply to the Article 6(1)(c) Decision, footnote 259.
595 A customer's non-confidential reply to questionnaire 04_Phase II market investigation - Current customers of Downtown's FUGA product, Question E.3 (ID 3299).
596 Merlin's response to the non-confidential version of the SO, section 7.a) (ID 5094).
597 Reply to the Article 6(1)(c) Decision, footnote 259.
598 Reply to the Article 6(1)(c) Decision, paragraph 217(a)(ii).

sensitive ... Distribution reporting provides the full operational + marketing + streaming intelligence data including: - A complete picture of the label's DSP strategy (full distribution deal or delivery only) ... - Information on DSP deals (including third party licensing) – full distribution deal only."[599] The Commission considers that this submission does not allow the Commission to conclude that the data stored on FUGA is commercially sensitive within the meaning of paragraph 78 of the Non-Horizontal Merger Guidelines for the following reasons.

(422) In the first place, with regards to the impact on record labels, the Commission notes that IMPALA submitted, on 27 June 2025, a compilation of submissions including an open letter which contains the following statement: "*UMG has already been successful in pushing through the "demonetisation" by DSPs of many smaller artists, a policy which has harmed many independent labels. It has also negotiated preferential terms with DSPs, paving the way for similar deals for the other majors – Sony and Warner – which have most favoured nation agreements (MFNs) with the main DSPs. These deals are not extended to independent players and are to their detriment.*"[600] This has been confirmed by a DSP which indicated that "*its agreements with the Majors and MERLIN have been in place for many years [confidential].* [Information about commercial strategy and negotiation][601] In this regard, the Commission notes that while access to FUGA data may enable the Notifying Party to more easily enforce any pre-existing [information about commercial strategy and negotiation] with main DSPs, the Transaction will not change the [information about commercial strategy and negotiation]. In this regard, the Commission notes that these pre-existing [information about commercial strategy and negotiation] are already likely to enable the Notifying Party to [information about commercial strategy and negotiation]. In this regard, all the DSPs who expressed a view in response to the Commission's market investigation consider that the Transaction will have a positive or neutral impact on artists and labels.[602]

(423) In the second place, with regards to the impact on DSPs, the Commission notes that the majority of DSPs who expressed a view consider that the Transaction will have a neutral impact on their business.[603] For instance, one DSP indicated that "*Downtown's recorded music business had a relatively modest scale (...) It would, therefore, be hard for (confidential) to argue that this specific Transaction would cause a significant shift in the recorded music market*".[604] Another DSP also shared the same view: "*UMG's market power will not increase post-Transaction. Downtown and its subsidiaries (e.g. CD Baby and FUGA) will not add significant market share*".[605] The same DSP added that "*UMG acquiring a different entity could be problematic and there should be a case-by-case review/determination*".[606] In the same vein, one DSP considered that Downtown is "*too small*" to impact UMG's bargaining power in licensing agreement negotiations.[607]

599 IMPALA's response to the non-confidential version of the SO, Annex 1 (ID 4602).
600 IMPALA's submission of 27 June 2025, page 17 (ID 3979).
601 Non-confidential version of minutes of a meeting with a market participant on 5 June 2025, paragraph 8. (ID 1919).
602 Replies to questionnaire 03_Others - Phase I - market investigation – DSPs, question G.3.
603 Replies to questionnaire 03_Others - Phase I - market investigation – DSPs, question G.1.
604 Minutes of a meeting with a market participant on 13 June 2025, paragraph 21 (ID 4209).
605 Minutes of a meeting with a market participant on 5 June 2025, paragraph 12 (ID 1919).
606 Minutes of a meeting with a market participant on 5 June 2025, paragraph 13 (ID 1919).
607 DSP's non-confidential reply to questionnaire 03_Others - Phase I - market investigation - DSPs, question E.4.1 (ID 3683).

(424) In the third place, the Commission notes that Merlin explains that: "*In order to deliver content, FUGA would need to know to whom content is to be delivered. This would provide UMG with information on the fact that competitors' (including Merlin's) deals with DSPs ... This would provide UMG with a competitively advantageous window into its competitors' activities and business strategies*."[608] In this regard, the Commission notes that the timing with which a given label inputs information into FUGA is in the label's hands alone. Furthermore, given that FUGA, prior to the Transaction, already offers licensing deals,[609] the concern raised does not appear to be specific to the Transaction being assessed in this Decision.

(425) In the fourth place, the Notifying Party explains that: "[w]*here clients* [of FUGA] *use their own agreement, FUGA typically does not receive this* [DSP sales] *data, although customers may grant FUGA access to obtain it directly from DSPs. Only* [number] *out of the* [number] *Hybrid/SaaS EEA customers provide FUGA with access to trends and analytics data relating to repertoire distributed using their own licensing agreements*."[610] Accordingly, the Commission considers that the information on the agreement between a given label and a given DSP is neither necessary, in theory, to operate FUGA, neither consistently provided to FUGA in practice.

(426) *Fourth*, the Notifying Party explains that the DSP sales data received by FUGA is materially different than the information stored on Curve because (i) unlike Curve, FUGA does not receive third-party data on the artist-label relationship that would allow it to produce royalty statements for artists; and, (ii) FUGA only received DSP sales files for content distributed under its own licensing agreements with DSPs, and not under rival labels' agreements.[611]

(427) On the basis of the above, the Commission considers that, while the data on FUGA may provide the Notifying Party with a complete picture of the labels' DSP strategy and/or with information on DSP deals, such information is not necessary to enable the Notifying Party to extract a benefit from such information, in light of [information on contractual terms].

(428) On the basis of the above and for the purpose of this Decision, the Commission considers that the data held on FUGA does not constitute commercially sensitive data within the meaning of paragraph 78 of the Non-Horizontal Merger Guidelines and, in any event, access to such data would not cause a significant impact to UMG's rivals.

9.4.2.3.1.3. Information processed by Songtrust

(429) The Commission notes that to offer music publishing services, Songtrust requires access to, amongst others, (i) personal and contact information; (ii) payment details; (iii) payee/payment information; (iv) revenue from DSPs; and (v) financial and billing information.[612]

608 Merlin's response to the non-confidential version of the SO, section 7.a) (ID 5094).
609 In this regard, the Notifying Party explains that […]% of Downtown's EEA turnover are generated by [information on contractual terms] (see Form CO, paragraph 188(a)).
610 Reply to the Article 6(1)(c) Decision, paragraph 213(b).
611 Reply to the Article 6(1)(c) Decision, paragraph 213(c)(ii).
612 Form CO, paragraph 470(c).

(430) The Commission considers that the data processed by Songtrust is not commercially sensitive data within the meaning of paragraph 78 of the Non-Horizontal Merger Guidelines for the following reasons.

(431) *First*, the Commission recalls that paragraph 78 of the Non-Horizontal Merger Guidelines, the commercially sensitive data must regard "*upstream or downstream activities of rivals*."[613] In this regard, the Commission notes that in 2023, Songtrust generated [60-70]% of its revenues from authors in the EEA.[614] Furthermore, the Parties confirmed that globally in 2024, [90-100]% of Songtrust customers self-identify as songwriters while [0-5]% self-identify as publishers.[615] In this context, the Commission recalls that since UMG is only a rival of music publisher (and not of authors directly), which only represent a limited share of the customer base of Songtrust, the Commission considers that through the acquisition of Songtrust, UMG would only acquire a limited amount of commercially sensitive information of its music publishers.

(432) *Second*, the Commission notes that in the Article 6(1)(c) Decision, the Commission ultimately left open the question whether the data from Songtrust was likely to be commercially sensitive within the meaning of paragraph 78 of the Non-Horizontal Merger Guidelines.[616] Following the adoption of the Article 6(1)(c) Decision, the Commission did not receive any substantiated submission which would suggest that the data processed by Songtrust would be commercially sensitive within the meaning of paragraph 78 of the Non-Horizontal Merger Guidelines. For instance, the response to the non-confidential version of the SO of IMPALA mentions "*Songtrust*" but does not provide an overview of the data processed by Songtrust or otherwise any indication that the data would be commercially sensitive.[617] In its response to the non-confidential version of the SO, Merlin only mentions Songtrust once, without providing any information on the type of data processed by Songtrust or otherwise indicating that such data would be commercially sensitive.[618]

(433) *Third*, data stored on Songtrust pertains primarily to rights administration and is necessary for royalty collection and registration with collecting societies but does not reveal any strategic, commercial, or pricing information about the business models or negotiations of individual rights holders. For instance, Songtrust does not have access to confidential deal terms, licensing negotiations, or distribution strategies of its customers.[619] In particular, the Notifying Party confirmed that Songtrust does not collect or process any data which may be of interest to UMG's music publishing business that would not already be captured by public data sources which UMG's

613 Non-Horizontal Merger Guidelines, paragraph 78.

614 Form CO, RFI 2 Response Annexes, RFI 2 Response Tranche 1, Annex 2. The Commission notes that in Austria and the Netherlands, Songtrust generates [turnover information]. Accordingly, any conclusion which would apply on the EEA market for music publishing would equally apply to the Austrian and Dutch markets for music publishing.

615 Notifying Party's response to RFI 33, paragraph 1.1.

616 Article 6(1)(c) Decision, paragraph 174.

617 IMPALA's response to the non-confidential version of the SO (ID 4602). For example, in Annex 1 of this submission, IMPALA: "*other Downtown services in particular Songtrust and CD Baby would provide sensitive information as well*" without further substantiating such statement.

618 Merlin's response to the non-confidential version of the SO, section 6.d) (ID 5094).

619 Form CO, paragraph 555.

music publishing business relies upon in the ordinary course of business.[620] These public data sources include:[621]

(a) Local and global Top 50 charts on Spotify or other DSPs;

(b) TikTok trending charts;

(c) Billboard charts;

(d) Radio playlists;

(e) Music & Copyright and similar publications; and,

(f) Reports from the International Confederation of Societies of Authors and Composers, the International Confederation of Music Publishers and similar reports.

(434) The Notifying Party also explains that data is also available from other third-party data sources such as Chartmetric or Luminate.[622]

(435) *Fourth* and in any event, the Commission notes that contrary to Curve, Songtrust does not process commercially sensitive information on an individual artist's deal with UMG's rival music publishers.[623] In particular, through the acquisition of Songtrust, UMG would only obtain information relating to "*rates paid by the DSPs*", "*advances paid by DSPs recoupable from royalties*" and "*sales data*".[624] However, such data is not sufficient to be characterised as commercially sensitive within the meaning of paragraph 78 of the Non-Horizontal Merger Guidelines. Indeed, as explained by one market participant, "*the DSP-related data is not significant if it cannot be compared to the marketing/ad spending behind the streaming data. In this regard, Curve could provide insight into the investment that certain labels incurred for a given artist to achieve a given number of streams. In other words, Curve would enable UMG to acquire data on the return on investment of artists signed rival labels giving UMG a better insight into which artists have potential.*"[625] On this basis, the Commission considers that Songtrust does not contain valuable information to better predict an author's future success.

(436) On the basis of the above, the Commission considers that the data processed by Songtrust does not constitute commercially sensitive data within the meaning of paragraph 78 of the Non-Horizontal Merger Guidelines and, in any event, access to such data would not cause a significant impact to UMG's rivals.

620 Notifying Party's response to RFI 34, paragraph 3.4.
621 Notifying Party's response to RFI 34, paragraph 3.2.
622 Notifying Party's response to RFI 34, paragraph 3.3.
623 IMPALA's response to the non-confidential version of the SO, page 7 (ID 4602).
624 IMPALA's response to the non-confidential version of the SO, page 7 (ID 4602).
625 Non-confidential minutes of a meeting with a record label of 9 September 2025, point 12 (ID 3527).

9.4.2.3.1.4. Information processed by Curve

(437) The Commission notes that the following categories of information are inputted by Curve customers[626] onto Curve for it to function as a royalty administration tool:[627]

(a) catalogue metadata and digital assets:

(1) on a track level: details such as the International Standard Recording Code (‘**ISRC**’), artist participation, version, label, company and mechanical contract information;

(2) on a release level: details such as artist names, barcodes, label and company information, distribution channel, price category, dealer price, duration, format, Foreign IDs, Project IDs and related mechanical contract details;

(b) payee information, including the payee addresses, name, identification documents, VAT status and payment details;

(c) artist-label contract details required to calculate royalties, including:

(1) royalty rates,

(2) retention/accounting periods,

(3) advances paid,

(4) recoupment status,

(5) recoupment rules for costs (e.g., recording costs, marketing and promotion);

(d) DSP sales data, including:

(1) release/track information,

(2) territory, usage type,

(3) revenue source,

(4) exchange rates,

(5) units sold or streamed, and

(6) revenue amount; and

(e) Cost data (any recoupable costs incurred).

(438) The Commission notes that Curve processes data on catalogue metadata and digital assets, payee information, including the payee addresses, name, identification documents, VAT status and payment details and DSP sales data. With regards to that data, the Commission recalls that one market participant explained that “*the DSP-related data is not significant if it cannot be compared to the marketing/ad spending behind the streaming data. In this regard, Curve could provide insight into the investment that certain labels incurred for a given artist to achieve a given number of streams. In other words, Curve would enable UMG to acquire data on the return on investment of artists signed rival labels giving UMG a better insight into which*

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626 According to the Notifying Party, over […]% of Curve’s customers are record labels (UMG’s Reply to the Article 6(1)(c) Decision, paragraph 203).

627 Form CO, paragraph 480; UMG’s Reply to the Article 6 (1) (c) Decision, paragraphs 204-205; UMG’s slide deck [internal document reference], 22 September 2025, slides 12-17 (ID 3296).

artists have potential."[628] On this basis, the Commission considers that such data is not commercially sensitive within the meaning of paragraph 78 of the Non-Horizontal Merger Guidelines.

(439) Accordingly, the Commission will focus its assessment in this Section the remaining categories of information inputted in Curve identified above, namely artist-label contract details required to calculate royalties and cost data, are collectively referred to as '**the Curve Data**'. As confirmed by IMPALA, "*only Curve will provide information on an individual artist's deal*" with its record label.[629]

(440) In view of the fact that the Curve Data is entered into Curve by its customers,[630] the Commission understands that the vast majority[631] of the categories of information constituting the Curve Data is non-public. This applies in particular to all contract-based information (i.e., categories of data that can only be filled in knowing the agreed terms of the respective artist-label contract).

(441) The non-public nature of the Curve Data has been confirmed by the Commission's Phase II investigation. All current and former customers of Curve who expressed an opinion confirmed that they input data on Curve that is not publicly available[632]. One current customer explains: "*It consist of revenue data that no one except the artist and management can get access to.*"[633] And another current customer adds: "*Yes. The data includes non-publicly available information, as it covers the revenues generated by each individual recording or work. Depending on the agreements we have with artists, managers, songwriters, publishers, sub-publishers, or producers, it also includes all relevant copyright data.*"[634]

(442) Music managers confirmed that the following categories of information (comparable to those held by Curve) are non-public: royalty rates; advances; expenses covered (comparable to recoupment rules); and recoupment status.[635]

(443) In addition, the Commission understands that Curve also offers the option for customers to add additional categories of non-public information, such as the contractual end date / term of agreements with artists and as well as to upload entire label-artist contracts, but that this is only used by minority of customers.[636]

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628 Non-confidential minutes of a meeting with a record label of 9 September 2025, point 12 (ID 3527).

629 IMPALA's response to the non-confidential version of the SO, page 7 (ID 4602).

630 UMG's Reply to the Article 6 (1) (c) Decision, paragraph 204.

631 Based on Table 4 of UMG's Reply to the Article 6 (1) (c) Decision, the Commission understands that only the category "*catalogue metadata and digital assets*" is "*[w]idely available, including on DSPs*".

632 Responses to Questionnaire 01_Phase II market investigation - Former customers of Downtown's Curve product, Question E.3; Responses to Questionnaire 02_Phase II market investigation - Current customers of Downtown's Curve product, Question E.3.

633 A customer's non-confidential reply to questionnaire 02_Phase II market investigation - Current customers of Downtown's Curve product, Question E.3.1 (ID 3291).

634 A customer's non-confidential reply to questionnaire 02_Phase II market investigation - Current customers of Downtown's Curve product, Question E.3.1 (ID 3318).

635 Responses to questionnaire 05_Others - (Phase II market investigation) - music managers, questions C.2 and C.4.

636 According to UMG, approximately […]% of customers upload artist contracts, and approximately […]% of customers enter the end dates of artist contracts (UMG's slide deck [internal document reference], 22 September 2025, slide 12) (ID 3296).

9.4.2.3.1.4.1. Commercially sensitive nature of the Curve Data

(444) The Commission considers that that the Curve Data constitutes commercially sensitive information within the meaning of paragraph 78 of the Non-Horizontal Merger Guidelines for the following reasons.

(445) *First*, the Commission recalls that paragraph 78 of the Non-Horizontal Merger Guidelines, the commercially sensitive data must regard "*upstream or downstream activities of rivals.*" In the Reply to the Article 6(1)(c) Decision, the Notifying Party explains that: "*Curve is a royalty accounting software platform used primarily by record labels (over* […]*% of its clients).*"[637] In addition, based on the EEA data provided by the Parties, in 2023, […]% of Curve's EEA revenues were generated from record label customers.[638] [Details of Curve's commercial/business information].[639] In this context, the Commission notes that through the acquisition of Curve, UMG would be acquiring almost exclusively information regarding its rival record labels.

(446) *Second*, the **Commission's Phase I market investigation** confirms the commercially sensitive nature of the Curve Data. For instance, one market participant explains that: "*Curve contains the financial details of all of our agreements, as well as all sales and costs affiliated with our artists.*"[640] Other customers of the Parties further explain, in response to a question regarding Curve, that: "*Our financial and commercial data is competitively valuable to us and we do not want our biggest competitor to be able to access it,*"[641] "*It is not in the interest of independent labels and artists to give a major company access to their data, sales and analytics. Major labels already have more access to data due to their big market share and bigger budgets for reseach* [research] *and development and this will make the position of independent labels and artists even worse. On top of this if a Major record label is affiliated with our royalty accounting system, they would have acces*[s] *to our deals and royalty percentages with our artists and labels.*"[642] and that "*When looking for a partner who has access to highly sensitive data (anaylytics* [analytics] *as well as payment information), we deliberately opted for an independent partner.*"[643]

(447) This is further confirmed in the **Commission's Phase II market investigation**.

(448) A large majority of current Curve customers who responded to the Commission's questionnaire confirmed that the commercial sensitivity of the Curve Data is high in relation to the ability to identify upcoming artists vis-à-vis rival labels (78.6% of respondents who expressed a view), the ability to compete for upcoming artists vis-à-vis rival labels (78.6% of respondents who expressed a view), the ability to enter and expand as a label vis-à-vis rival labels (78.6% of respondents who expressed a view), and the ability to assess the profitability of rival labels (all respondents who

637 Reply to the Article 6(1)(c) Decision, paragraph 203.

638 Form CO, RFI 2 Response Annexes, RFI 2 Response Tranche 1, Annex 2.

639 Notifying Party's response to RFI 33, paragraph 1.1.

640 A customer's non-confidential reply to questionnaire 02_Customers - Phase I market investigation – customers, question G.1.1 (ID 3921).

641 A customer's non-confidential reply to questionnaire 02_Customers - Phase I market investigation – customers, question G.1.1 (ID 4218).

642 A customer's non-confidential reply to questionnaire 02_Customers - Phase I market investigation – customers, question G.1.1 (ID 1503).

643 A customer's non-confidential reply to questionnaire 02_Customers - Phase I market investigation – customers, question G.1.1 (ID 1557).

expressed a view).[644] This is particularly true when the Curve Data is looked at in conjunction with other non-commercially sensitive information processed by Curve, other Downtown products or public sources. As explained by one market participant, "*the DSP-related* [or performance] *data is not significant if it cannot be compared to the marketing/ad spending behind the streaming data. In this regard, Curve could provide insight into the investment that certain labels incurred for a given artist to achieve a given number of streams. In other words, Curve would enable UMG to acquire data on the return on investment of artists signed rival labels giving UMG a better insight into which artists have potential.*"[645]

(449) One current customer explains: "*The information is highly commercially sensitive. Access to it enables an assessment of which artists and songwriters are worth negotiating with and allows offers to be made that may be more competitive than those currently offered by our company*."[646] The same customer adds: "*The commercial sensitivity of this information is high. Access to it allows us to understand the potential profitability of the company by providing insights into revenue streams, cost structures, and the performance of individual works or recordings. Such data reveals not only current income but also future earning potential, contractual liabilities, and the extent of recouped or unrecouped advances. This level of visibility is critical for making informed business decisions, including whether to renew or terminate contracts, how to allocate resources across artists, and where to focus marketing efforts. It also underpins strategic investments, such as acquiring catalogues, expanding into new markets, or negotiating partnerships, all of which rely on accurate and confidential financial and performance information*."[647] In addition, the same customer explains: "*For a label, access to such data provides clear strategic advantages: it enables the identification and evaluation of which artists or songwriters are most valuable to approach for potential deals, based on their current terms and performance. It also allows the label to structure offers that are more competitive than those already agreed with other providers, thereby improving its chances of securing talent and gaining a stronger position in the market.*"[648]

(450) Another current Curve customer highlights the possible competitive relevance of the Curve Data: "*If our company had access to this data from rivals, it would be incredibly valuable as our business is catalogue acquisition, and the income data is vital in order to assess a deal's value.*"[649] The same customer adds: "*Our ability to compete in the marketplace is directly linked to the ability to value catalogues. Income statements are essential to that process as well as knowing when existing contracts between artists and rivals expire.*"[650]

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644 Responses to Questionnaire 02_Phase II market investigation - Current customers of Downtown's Curve product, Question E.5.

645 Non-confidential minutes of a meeting with a record label of 9 September 2025, point 12 (ID 3527).

646 A customer's non-confidential reply to questionnaire 02_Phase II market investigation - Current customers of Downtown's Curve product, Question E.5.2 (ID 3318).

647 A customer's non-confidential reply to questionnaire 02_Phase II market investigation - Current customers of Downtown's Curve product, Question E.5.2 (ID 3318).

648 A customer's non-confidential reply to questionnaire 02_Phase II market investigation - Current customers of Downtown's Curve product, Question E.5.2 (ID 3318).

649 A customer's non-confidential reply to questionnaire 02_Phase II market investigation - Current customers of Downtown's Curve product, Question E.5.2 (ID 3134).

650 A customer's non-confidential reply to questionnaire 02_Phase II market investigation - Current customers of Downtown's Curve product, Question E.5.2 (ID 3134).

(451) And another current Curve customer refers specifically to the impact of the Curve Data ending up with a Major: "*Contractual terms, royalty splits, and revenue data stored in Curve reflect how we structure deals and remunerate talent. If accessible to rivals, this information could be used to outbid or undercut us in negotiations with upcoming artists and songwriters*"[651] and: "*Curve contains granular financial data (revenues, costs, recoupment, advances). This information allows us to assess business performance and client profitability. It is extremely commercially sensitive: disclosure would expose our margins, efficiency, and strategic decision-making capacity to rivals.*"[652]

(452) And yet another current Curve customer refers to the competitive relevance of the Curve Data: "*This data could reveal future signings or negotiations*,"[653] "*Disclosure would weaken competitive position*,"[654] and "*Financial performance, margin structures, and royalty splits are core confidential information*."[655]

(453) Another current Curve customer also raises competition concerns: "*It is obvious that any entity running activities competing with ours and purchasing/controlling Curve would be in possession of highly confidential information related to our business. This would be an obvious treat to the development of our business and would be potential harm the development of our activities.*"[656]

(454) *Third*, the commercially sensitive nature of the Curve Data is further confirmed by **Downtown's internal documents**.

(455) [Internal document reference][657]. [Internal document reference][658]. [Internal document reference][659]; [internal document reference]:

(456) [Internal document reference].[660]

(457) [Internal document reference].[661]

(458) Furthermore, existing Curve customers raised the issue of protecting their data's confidentiality on Curve against access by Downtown after the announcement of Curve's acquisition by Downtown in January 2023, referring to the commercial sensitivity of such data.

(459) Curve customer [name] asks: [internal document reference].[662]

(460) Curve customer [name] asks: [internal document reference].[663]

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651 A customer's non-confidential reply to questionnaire 02_Phase II market investigation - Current customers of Downtown's Curve product, Question E.5.2 (ID 4229).

652 A customer's non-confidential reply to questionnaire 02_Phase II market investigation - Current customers of Downtown's Curve product, Question E.5.2 (ID 4229).

653 A customer's non-confidential reply to questionnaire 02_Phase II market investigation - Current customers of Downtown's Curve product, Question E.5.2 (ID 3336).

654 A customer's non-confidential reply to questionnaire 02_Phase II market investigation - Current customers of Downtown's Curve product, Question E.5.2 (ID 3336).

655 A customer's non-confidential reply to questionnaire 02_Phase II market investigation - Current customers of Downtown's Curve product, Question E.5.2 (ID 3336).

656 A customer's non-confidential reply to questionnaire 02_Phase II market investigation - Current customers of Downtown's Curve product, Question F.1 (ID 3779).

657 Documents DMH_00173970; DMH_00261591; DMH_00261592; DMH_00261593; DMH_00261599.

658 Documents DMH_00173970; DMH_00261591; DMH_00261592; DMH_00261593; DMH_00261599.

659 Documents DMH_00173970; DMH_00261591; DMH_00261592; DMH_00261593; DMH_00261599.

660 Documents DMH_00173970; DMH_00261591; DMH_00261592; DMH_00261593; DMH_00261599.

661 Documents DMH_00173970; DMH_00261591; DMH_00261592; DMH_00261593; DMH_00261599.

662 Documents DMH_00199737; DMH_00199728; DMH_00199751.

(461) Curve customers also voice concerns following the announcement of the Transaction end of 2024 / beginning of 2025:

(462) Curve customer [name] states: [internal document reference].[664]

(463) Curve customer [name] reacts: [internal document reference].[665]

(464) *Fourth*, a **competing Major** expressly confirms the commercial sensitivity of the data held by Curve:

(465) "*Post-Transaction, UMG would gain access to the data collected by Curve and be able to understand which labels (and especially which types of repertoire) are performing well and the terms of their deals with artists and other royalty participants. This will give UMG the opportunity to target such labels to become acquisition or upstreaming targets or customers of its A&L offering. Importantly, Curve would provide access to data from a broader set of clients than those clients who use FUGA's services, including into the terms of artist deals.*"[666]

(466) The same Major sets out, in relation to its own royalty accounting product which collects comparable categories of data as Curve:

(467) "*As regards sales data, this is not readily available from public sources and would be costly and burdensome to collect. The data itself is commercially sensitive as it would allow a rival distributor / label to calculate very accurately a more favourable commercial alternative that could then be proposed to the customer in question.*

(468) *As regards payment data, this is not publicly available and is commercially sensitive vis-a-vis rival labels (as it provides insight into how a label is accounting to its artist customers). Hence a rival label with access to payment data in respect of the relationship between an artist and its label could easily use that information to undercut that label.*"[667]

(469) In relation to the commercial sensitivity of the Curve Data, the Major confirms that they are "*concerned that access to detailed artist royalty rates, advance payments and advance recoupment status will allow UMG insight into artist deal terms giving them a potential advantage in trying to seek deals with those artists*". "*Artist royalty rates, advance payments and advance recoupment status are highly commercially sensitive because they are not publicly available and form the fundamental basis of the commercial relationship between artist and label, in particular because they determine artist compensation. Access to such information would clearly allow a rival label specific insight into one of the key competitive parameters that determine competition between labels to sign artists. Blended DSP per play rates may also be discernible and are also highly commercially sensitive as they are not publicly available.*"[668]

(470) Another competing Major explains that "*the type of data collected by Curve will have business value to UMG. UMG would be able to understand the economics and*

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663 Documents DMH_00002879; DMH_00002891; DMH_00199289: DMH_00199679.
664 Documents DMH_00256762; DMH_00256799; DMH_00256800; DMH_00256801.
665 Documents DMH_00162814; DMH_00163727; DMH_00163737; DMH_00165092.
666 Minutes of call with competing Major, 20 June 2025, paragraph 25 (ID 1998).
667 RFI response of competing Major (ID 3863).
668 RFI response of competing Major (ID 3863).

scale of independent labels and artists, and then target them to become customers of its A&L services arms."[669]

(471) *Fifth*, **other market participants** reiterate the commercial sensitivity of the Curve Data.

(472) The European organisation for independent music companies, IMPALA, collected feedback from third-party labels. These labels state, inter alia:[670]

(a) "*the deal is especially damaging because Downtown's sub-companies like Curve handle sensitive financial and operational insights, a major corporation will have unprecedented visibility into the inner workings of their competitors, creating a huge imbalance and undermining trust*". (Independent German music company owner).

(b) "*It gives away sensitive information away to competitors, which could be damaging to our A&R and deal-making; they will officially know all our commercial terms*." (British Record Label).

(c) "*Through the acquisition of Curve, Universal will be in the unprecedented position of access to very specific market data of independent competitors. With the recorded music market's growth currently slowing Universal will not hesitate to make the most of this data, i.e. signing successful indie artists, identifying trends and grading rival companies according to their revenue*". (German Record Label).

(473) IMAPALA itself submits: "*To make informed cost/benefit decisions, labels rely on detailed profitability, engagement, and audience data - the very data UMG would obtain through its acquisition of Downtown. With access to this data with respect to independent labels, UMG could immediately identify which artists working with those labels are profitable (and which are not) and target them with tailored offers, directly undermining existing label relationships. This will give UMG a clear competitive advantage over those independent labels.*"[671]

(474) More specifically, IMPALA explains in relation to "*data on streaming revenues splits with artists and other recording contract terms such as advances, labels costs, artist contract data*" held by Curve that accessing this data "*Would enable UMG to retrofit information on labels' confidential deals with artists. System may require labels to enter key terms to allow the split, so no need even for retrofitting. Any such info would in turn give UMG an unfair advantage in competing for A&L. For labels which do 50:50 profit share, this would UMG a full picture of labels' confidential P&L, by artist, and overall [sic] approach to working with artists. This is extremely broad and would tell UMG what is being paid for recording costs, manufacturing, distribution, studio producer fees, video director, artwork, marketing, tour support, merchandise etc. Would enable UMG to see what the labels' approach is to working with artists, the type of costs and amounts they spend to secure a particular result*."[672]

(475) IMPALA goes on to provide background on the commercial sensitivity of the Curve Data category by category:

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669 Minutes of call with competing Major, 27 May 2025, paragraph 17 (ID 1991).
670 IMPALA brochure (ID 4102); https://www.blockthedeal.com/.
671 IMPALA, October 2025 submission (ID 4099).
672 IMAPALA, October 2025 submission (ID 4099).

Type of data	HOW IT COULD BE USED BY UMG
Contract duration	Provides insight into competitor labels' policy on contract duration, in general and for specific artists. Enables to approach an emerging/successful artist before its label tries to renew the deal or other labels express interest. Also possibly sow seeds of doubt with artists about the fairness of their existing deals.
Royalty rate	Provides insight into competitor labels' policy on royalty rate, in general and for specific artists. Enables to offer better terms to lure artists away while minimizing UMG's costs of artists/content acquisition. Also possibly sow seeds of doubt with artists about the fairness of their existing deals
Advance	Provides insight into competitor labels' policy on advance, in general and for specific artists. Enables to offer better terms to lure artists away while minimizing UMG's costs of artists/content acquisition. Also possibly sow seeds of doubt with artists about the fairness of their existing deals.
Recoupable costs (particularly on profit share deals)	Provides a detailed understanding of how and where a competitor label spends its marketing budget and the true profitability of an artist's contract. Also provides a detailed look at the books of their competitors. Enables UMG to negotiate similar or better deals with the same providers as those used by the competitor label.
Distribution costs	Provides a clear understanding of how much rival distributors are being paid. Enables UMG to tailor its offers accordingly, without overcommitting
Marketing commitment	Provides an understanding of what commitments (if any) a competitor label is giving to an artist on marketing spend. Also provides insight into competitor label's policy on committing marketing costs in its deals with artists. Enables UMG to tailor its offers accordingly, without overcommitting

Type of data	HOW IT COULD BE USED BY UMG
Manufacturing costs	Provides a detailed understanding of manufacturer(s) being used by a competitor label, and key terms, such as pricing, duration, manufacturing commitment, etc. Relevant to an artist deal and in general.
Recording and producer costs	Provides a detailed understanding of studio(s) being used, what recording costs are incurred and what producers have been engaged, on what terms. Also provides insight into competitor label's policy on recording and producer costs in its deals with artists.
Tour support	Provides insight into what a competitor label is providing to an artist to support their costs of touring. Also provides insight into competitor label's policy on tour support in its deals with artists. Enables UMG to approach the artist with a more favourable deal, without overcommitting.
Video costs	Provides insight into what video production costs are being committed to in an artist deal. Also provides insight into competitor label's policy on commitment to funding video costs in its deals with artists. Enables UMG to approach the artist with a more favourable deal, without overcommitting.

Source: IMPALA.[673]

(476) In its response to the non-confidential version of the SO, IMPALA further confirmed that: "*anyone accessing Curve can see the artist royalty rates, but also all of the elements that go into an independent's profit & loss account e.g. what they are spending on marketing, what they are spending on independent promotion, their manufacturing and distribution costs, revenues from different sources including from DSPs as well as certain usage data that comes in from their distributor reporting, which can include other major competitors, or Merlin for example, what they are spending on tour support for the artist, etc. All of this information is clearly non-public and sensitive.*"[674]

(477) *Sixth*, the fact that some contract terms such as those held on Curve may be voluntarily disclosed by artists or their managers during contract negotiations does not render the information less commercially sensitive.[675] Logically, in negotiations

[673] IMAPALA, BRG/AG note, October 2025 (ID 4100).

[674] IMPALA's response to the non-confidential version of the SO, page 9-10 (ID 4602).

[675] In the Commission's Phase II market investigation, the majority of Curve's current customers who responded and expressed a view confirmed that artists, their managers or representatives typically share non-publicly available information such as the one held on Curve as part of their negotiation strategy questionnaire 02_Phase II market investigation - Current customers of Downtown's Curve product, Question E.4); half of Curve's former customers who responded and expressed a view agreed

concerning individual artists, an artist or manager would only disclose selectively this specific artist's contractual terms, but not those of all artists signed to one label or of several labels.

(478) And even then, only selected information is being disclosed. One music manager explains: "*I would not generally share contractual terms but may, as a negotiation tactic, indicate whether certain of the terms being offered by the new label are less advantageous than the contractual terms with the previous label. Examples of categories of terms would be advance levels, royalty rates and rights periods.*"[676] And another music manger adds: "*It is extremely rare for a producer to ask for the terms of an artist's previous contract. When this happens (e.g. to know the proportional remuneration rates previously applicable), I share this information with the labels that request it*."[677]

(479) In any event, the mere fact that categories of information such as those held on Curve are disclosed during artist-label negotiations confirms that these are of commercial relevance.

(480) On this basis, the Commission considers that the Curve Data constitutes commercially sensitive information of record labels competing with UMG.

9.4.2.3.1.4.2. Competitive relevance of the commercially sensitive Curve Data

(481) In addition to finding the Curve Data to be commercially sensitive within the meaning of paragraph 78 of the Non-Horizontal Merger Guidelines, and in order to respond to arguments made by the Notifying Party, the Commission considers that the commercially sensitive Curve Data also likely has competitive relevance and thus a potential to impact competition on the market for wholesale distribution of recorded music.

(482) This is because, on the one hand, it provides a multi-faceted insight into the commercial agreements of independent record labels competing with UMG:[678]

(a) The Curve Data consists of data points across a sizeable part of non-Major-affiliated artists and record labels. According to UMG, Curve processes royalties for [number] payees worldwide and [number] payees in the EEA.[679] This is a magnitude comparable to the overall number of artists signed to UMG, the largest of the Majors ([number] artists signed to UMG worldwide, and [number] artists in the EEA).[680] This shows that the Curve Data has a considerable <u>volume</u>.

Questionnaire 01_Phase II market investigation - Former customers of Downtown's Curve product, Question E.4). And no music manager who responded to the Commission's Phase II market investigation confirmed that, during contract negotiations, they usually share contractual terms from the current or previous contract(s) between the artist and their current or previous label (Questionnaire 05_Others - (Phase II market investigation) - music managers, question C.1.

676 Respondent to Commission's Questionnaire 05_Others - (Phase II market investigation) - music managers, question C.1 (ID 3906).

677 Respondent to Commission's Questionnaire 05_Others - (Phase II market investigation) - music managers, question C.1 (translation from French) (ID 3854).

678 In previous decisions, the Commission assessed the commercial sensitivity of datasets by assessing the so-called "four Vs" as relevant metrics: the variety of data composing the dataset; the speed at which the data are collected (velocity); the size of the data set (volume); and the economic relevance (value) – cf. Commission's decision in Case M.8788 – *Apple/Shazam*, decision of 6 September 2018, recitals 317-328.

679 Notifying Party's response to RFI 31, paragraph 14.

680 Notifying Party's response to RFI 31, paragraph 22.

(b) The Curve Data goes across a variety of different data that are artist- and contract- specific and cover their royalty payments, cost recoupments and sales data.

(c) While the Curve Data is backwards-looking insofar as it depends on labels inputting the relevant data points based on the contractual arrangements agreed to in the specific artist-label contract, it is still the most up-to-date information of that kind available, as it could otherwise not be used for calculating the royalty rates accurately based on actual DSP sales and applying the valid contractual terms concerning royalty payouts and cost recoupments, thereby confirming its velocity.

(d) The breadth and depth of industry participants confirming the commercial sensitivity of the Curve Data indicates a commercial value of that data. UMG estimates that Curve processes [5-10]% of all royalties processed worldwide.[681]

(483) On the other hand, the Commission considers that the Curve Data also likely fulfils the conditions for qualifying as commercially sensitive information under the Commission's Horizontal Cooperation Guidelines.[682]

(a) The Curve Data touches upon pricing (i.e., the royalty rates agreed between labels and artists), costs of labels as well as their customers and can thus be considered to be commercially sensitive.[683]

(b) In addition, the Curve Data is also granular and individualised (i.e., artist and label-specific) as opposed to aggregate.[684]

(c) Furthermore, the Curve Data – while backwards looking – is as current as it can be (see above recital (482)).[685] As explained by IMPALA in its response to the non-confidential version of the SO: "*the data can be seen in real time and is available as soon as it is provided to Curve*."[686]

9.4.2.3.1.5. Conclusion

(484) On the basis of the above, the Commission concludes that the Curve Data constitutes commercially sensitive information within the meaning of paragraph 78 of the Non-Horizontal Merger Guidelines and has competitive relevance.

(485) On the basis of the above, the Commission concludes that the data processed by CD Baby, FUGA and Songtrust is not commercially sensitive information within the meaning of paragraph 78 of the Non-Horizontal Merger Guidelines. Similarly, the Commission concludes that the data processed by Curve, other than the Curve Data, is not commercially sensitive information within the meaning of paragraph 78 of the Non-Horizontal Merger Guidelines.

(486) The Commission will, therefore, assess in turn the likely ability and incentive for UMG to access the commercially sensitive Curve Data and the likely effects of such access.

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681 Notifying Party's response to RFI 31, paragraph 25 (ID 4048).

682 Guidelines on the applicability of Article 101 of the Treaty on the Functioning of the European Union to horizontal co-operation agreements (2023/C 259/01) (the '**Horizontal Cooperation Guidelines**').

683 Horizontal Cooperation Guidelines, paragraph 385.

684 Horizontal Cooperation Guidelines, paragraphs 390-391.

685 Horizontal Cooperation Guidelines, paragraphs 393-394.

686 IMPALA's response to the non-confidential version of the SO, page 11 (ID 4602).

9.4.2.3.2. Ability for UMG to access the Curve Data

(487) The Commission finds that post-Transaction, UMG would likely have the ability to access the commercially sensitive Curve Data, i.e., commercially sensitive third-party data of rival record labels for the following reasons.

(488) *First*, the Commission notes that, contrary to other Downtown products (CD Baby, FUGA and Songtrust), Curve almost exclusively caters for record label customers, i.e., rivals of UMG. In the Reply to the Article 6(1)(c) Decision, the Notifying Party explains that: "*Curve is a royalty accounting software platform used primarily by record labels (over* [90-100]*% of its clients)*."[687] In addition, based on the EEA data provided by the Parties, in 2023, [90-100]% of Curve's EEA revenues were generated from record label customers.[688] [Details of Curve's commercial/business information].[689]

(489) *Second*, regarding the Notifying Party's argument that Downtown and Curve abide by specific ISO certifications, the Commission notes that there is no evidence suggesting that the various ISO certification safeguards that currently exist between the various Downtown products would likely continue to be in place after the Transaction.

(490) In the first place, the Notifying Party explains that while Downtown has implemented a number of ISO certifications which limit the flow of data,[690] the Notifying Party does not seem to conform itself with those same voluntary ISO certifications – a conclusion which the Commission already presented in the Article 6(1)(c) Decision and which the Notifying Party did not question in the Reply to the Article 6(1)(c).[691] This conclusion was once again included in the SO and not contradicted by the Notifying Party in their Response to the SO.[692]

(491) In the second place, in the Response to the SO, the Notifying Party provided Curve's current ISO certification.[693] Such a certificate explicitly states that it is "*subject to annual assessments*," with an expiration date set to [date].[694] The Commission notes that Curve's current ISO certification will expire shortly after the adoption of this Decision. On this basis, the Commission considers that the current ISO certification would not be lasting enough to be taken into account in the Commission's assessment of the structural effects of the Transaction on the relevant markets.

(492) In the third place, regarding the Notifying Party's willingness to make a public statement that it would abide by pre-existing ISO certifications, the Commission notes that such public commitment would not have the same structural impact on the market as the Transaction itself. In particular, given that the Curve's ISO certification would need to be reviewed annually, any reassurances that may be derived from any public statement regarding maintaining the effects of pre-existing ISO certifications would not last enough to be taken into account in the Commission's assessment of the Transaction. In any event, compliance with pre-

687 Reply to the Article 6(1)(c) Decision, paragraph 203.

688 Form CO, RFI 2 Response Annexes, RFI 2 Response Tranche 1, Annex 2.

689 Notifying Party's response to RFI 33, paragraph 1.1.

690 Notifying Party's response to RFI 12, first tranche, paragraphs 3.3 (regarding Curve's data) and 3.17 (for other Downtown products).

691 Notifying Party's response to RFI 12, first tranche, paragraphs 3.7 and 3.22 and Notifying Party's Reply to the Article 6(1)(c) Decision, paragraphs 222(a) and 225-228.

692 See, SO, paragraph 169 and Response to the SO, paragraphs 92-103.

693 Notifying Party's response to RFI 12, first tranche, Annex 1.

694 Response to the SO, Annex 3.

existing ISO certifications is not in the Notifying Party's hands alone as it is subject to an annual assessment operated by a third-party, a process from which the ISO certification derives its value. On this basis, unilateral promises such as any public statement from the Notifying Party, would not – by definition – have the same value as it lacks third-party checks.

(493) *Third*, regarding the Notifying Party's argument that both Downtown and UMG abide by the requirements of the GDPR, the Commission notes that the argument is subject to a number of caveats.[695]

(494) In the first place, the Commission recalls that Article 3 of the GDPR provides that: "*1. This Regulation applies to the processing of personal data in the context of the activities of an establishment of a controller or a processor in the Union, regardless of whether the processing takes place in the Union or not. 2. This Regulation applies to the processing of personal data of data subjects who are in the Union by a controller or processor not established in the Union, where the processing activities are related to: (a) the offering of goods or services, irrespective of whether a payment of the data subject is required, to such data subjects in the Union; or (b) the monitoring of their behaviour as far as their behaviour takes place within the Union. 3. This Regulation applies to the processing of personal data by a controller not established in the Union, but in a place where Member State law applies by virtue of public international law.*"[696] In this regard, the Commission recalls that Curve processes its customers' data outside the Union, namely in the United Kingdom.[697] Accordingly, the Commission considers that for those artists who are not in the Union, the GDPR would not be applicable.

(495) According to UMG, Curve processes royalties for [number] payees worldwide and [number] payees in the EEA.[698] On this basis, the Commission notes that the GDPR would apply to less than [10-20]% of the pool of data currently processed by Curve.

(496) In the second place, the Notifying Party acknowledges that the GDPR would not apply to artists which are not natural persons, for instance, to bands.[699] While in the Response to the SO the Notifying Party suggests that the information submitted in the Reply to the Article 6(1)(c) should be nuanced,[700] the Commission considers, without being contradicted by the Parties, that as long as individual members of a band are not identifiable, the GDPR would not apply to band customers of Curve, in line with the Notifying Party's submission in the Reply to the Article 6(1)(c) Decision.

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695 In this section, the Commission focuses its assessment on the EU's GDPR. Indeed, while the Notifying Parties submit that the UK GDPR would offer sufficient protections thereby dispelling the ability for UMG to access the Curve Data, the Commission notes that in the absence of a documented enforcement practice by the relevant enforcement authorities supporting the Notifying Party's views, the Commission considers that the Notifying Party has not sufficiently demonstrated, in facts, its claim. Furthermore and in any event, assuming (in line with the Parties' argument) that the UK GDPR would provide safeguards analogous to those afforded by the EU's GDPR, the Commission considers that those would not cover the entire scope of customers of Curve, for the reasons explained in recital (496) below. For these reasons, the Commission does not consider that the UK GDPR would be likely to preclude UMG's ability to access the Curve Data.

696 Article 3 of the GDPR.

697 Notifying Party's response to RFI 22, first tranche, paragraphs 106-107 (ID 3202).

698 Notifying Party's response to RFI 31, paragraph 14.

699 Reply to the Article 6(1)(c) Decision, footnote 294.

700 Response to the SO, section 4.1.2.

(497) In the third place, the Commission cannot exclude that following the Transaction, the Notifying Party would attempt to seek the consent of its customers to amend pre-existing privacy consent agreements to allow the flow of commercially sensitive information to UMG to be able to lawfully process the data Curve's Union-based customers within the meaning of Article 6(1)(a) of the GDPR.[701]

(498) Accordingly, the Commission considers that, the GDPR would not apply to bands and to data subjects outside the EU. Furthermore, in light of the duration and cost of switching away from Curve, the Commission cannot exclude that the merged entity would try to seek consent from Curve's Union-based customers to allow UMG to process their data. On this basis, the Commission does not consider that the GDPR is likely to preclude UMG's ability to access the Curve Data.

(499) *Fourth*, the Commission considers that contractual restrictions on the transfer of data are insufficient to dispel UMG's ability to access the Curve Data for the following reasons.

(500) In the first place, the Commission notes that customers of Downtown are concerned about the possible flow of data from Downtown to UMG. For instance, regarding Curve, a customer explained that: "*Our financial and commercial data is competitively valuable to us and we do not want our biggest competitor to be able to access it.*"[702] Another customer of the Parties explains that the Transaction: "*does raise questions about financial and other data being available to UMG from potential competitors / labels not distributed by UMG.*"[703] A customer of Downtown further explains that: "*We are conncerned* [concerned] *if a major has access or technically can have access to our sales and marketing data. As an independent company we are discovering artists and invest in them and build their careers. If we give access to our data a major record label could evaluate targets and as they know who they can try to steel the profitable projects and artists without doing the investment work upfront*,"[704] "*We as an indie record company rely on confidentiality of data - seeing Downtown/Fuge* [Fuga]*/Curve being acquired by Universal threatens that confidentiality of data insights. The acquisition would also give insight in our catalog* [catalogue]*, contractual deals, financial data and data-flow with the different DSP's, artists & labels,*"[705] and "*The buyout of Downtown (which also owns services that are well known to independent players, such as distributor FUGA and aggregator CDBaby) would fuel the concentration of distribution channels. It also gives UMG privileged access to the data of the independent labels and artists it now distributes.*"[706]

701 In this regard, the Commission notes that this paragraph does not conclusively assume that UMG would be able to obtain consent from artist payees, as suggested by the Notifying Party in the Response to the SO, section 4.1.3.

702 A customer's non-confidential reply to questionnaire 02_Customers - Phase I market investigation – customers, question G.1.1 (ID 4218).

703 A customer's non-confidential reply to questionnaire 02_Customers - Phase I market investigation – customers, question G.1.1 (ID 1032).

704 A customer's non-confidential reply to questionnaire 02_Customers - Phase I market investigation – customers, question D.1.1 (ID 1354).

705 A customer's non-confidential reply to questionnaire 02_Customers - Phase I market investigation – customers, question D.1.1 (ID 1282).

706 A customer's non-confidential reply to questionnaire 02_Customers - Phase I market investigation – customers, question D.1.1 (ID 1288).

(501) In the second place, internal documents of the Parties suggest that [internal document reference] For instance, [internal document reference].[707]

(502) The Commission considers that this document [internal document reference]. Furthermore, the Commission considers that this document [internal document reference]. Finally, this document also shows that [internal document reference].

(503) In the third place, and contrary to the Parties' submissions, it does not appear that [details of Curve's commercial terms]. For instance, the Parties have only identified [details of Curve's commercial terms].[708] Compared to Curve's [number] customers globally,[709] only [0-5]% of the customer base of Curve [details of Curve's commercial terms]. Even though in the Response to the SO the Notifying Party claims that such analysis is incorrect due to the non-exhaustive nature of the list provided in response to RFI 22, the Commission notes that the Notifying Party has only identified [details of Curve's commercial terms].[710] The Commission notes that these [number] additional customers would only marginally impact the figures stated above, with the proportion of customers which [details of Curve's commercial terms]. On this basis, the Commission considers that the vast majority of customers of Curve rely on [details of Curve's commercial terms], which the Commission understands from the Notifying Party's internal documents [internal document reference].[711]

(504) In the fourth place, the Commission notes that while the [details of Curve's commercial terms], none of the respondents to the Commission's market investigation are aware of [details of Curve's commercial terms].[712] This was confirmed by the Notifying Party, which explains that [details of Curve's commercial terms][713] and that [details of Curve's commercial terms].[714] Accordingly, the Commission considers that given the time it takes to switch away from Curve (see, for instance, recital (506) below), a customer is unlikely to expect that [details of Curve's commercial terms].[715] On this basis, the Commission considers that [details of Curve's commercial terms]. As a matter of fact, on average, former Curve customers consider that their data would be retained for four months[716]

707 Document ID UMG_00516000.

708 Notifying Party's response to RFI 22, first tranche, paragraph 89 (ID 3202).

709 Notifying Party's slide deck titled [internal document reference] of 22 September 2025, slide 21 (ID 3296).

710 Response to the SO, footnote 168. Even though the Notifying Party clarifies that it would not be possible to review every existing Curve contract, the Commission considers that the data submitted by the Parties is the best available data the Commission currently has. In any event, the Commission's assessment is made to obtain an order of magnitude of the amount of customers who individually negotiate privacy-related clauses in their Curve agreement rather than to conclusively determine the exact number of customers who did.

711 See, for instance, Document ID UMG_00516000.

712 Replies to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question E.7 and replies to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question E.7.

713 Notifying Party's response to RFI 31, paragraph 9.

714 Notifying Party's response to RFI 31, paragraph 10.

715 The Commission considers that this statement holds true irrespective of the fact that [details of Curve's commercial terms] (see Form CO, paragraph 481(b) and the Notifying Party's response to RFI 12, first tranche, paragraph 3.3(a)) (ID 1935). In particular, the Commission understands that [details of Curve's commercial terms], which will not necessarily continue after the Transaction.

716 Replies to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question E.7.

whereas current Curve customers expect their data would be retained for less than 2.5 months[717] – which is [details of Curve's commercial terms].

(505) On this basis, the Commission considers that the contractual safeguards currently in place are insufficient to dispel the data-related concerns the Transaction may raise. Indeed, given that following the Transaction Curve would become part of an undertaking with record label activities (i.e., UMG), a rival of Curve's customers, it is likely that existing contractual safeguards (set up in a context where Curve was not part of an undertaking which was competing with its record label customers) may be inadequate to address customers needs after the Transaction (when Curve would become part of an undertaking competing with its customer record labels). As explained by one market participant: "*Having divested its music copyright assets in 2021 we understand that it is solely focussed* [focused] *on service provision to third parties.*"[718] Thus, the Commission considers that even if current safeguards were considered sufficient, those safeguards do not provide certainty that no commercially sensitive information would be accessed and used by UMG after the Transaction. If the Curve Data were to become available within UMG through the Transaction, there would be an increased risk for this data to be used, compared to the situation prior to the Transaction.

(506) *Fifth*, the Commission considers that the market investigation has not confirmed the Notifying Party's submission that switching away from Curve could occur quickly, easily and without incurring significant costs such that, in turn, the merged entity would be appreciably constrained in its ability to access commercially sensitive information of rival, third-party, record labels due to those rival record labels swiftly switching away from Downtown, for the following reasons.

(507) In the first place, current customers of Curve explain that it took them more than six months to move to Curve.[719] Compared to the overall duration of those customers' contract with Curve, a majority of respondents to the Commission's questionnaire who expressed a view explain that such a switching duration would be substantial.[720] Those same customers of Curve consider that it would take them more than six months to switch away from Curve,[721] which would also be a substantial amount of time when compared to the overall duration of the contract with Curve.[722]

(508) In the second place, current customers of Curve explain that it cost them more almost EUR 9 000 to move to Curve.[723] More than 70% of market respondents who expressed a view in the Commission's market investigation consider that compared

717 Replies to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question E.7.

718 A competitor's non-confidential reply to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), question E.C.2 (ID 1550).

719 Replies to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question D.9.

720 Replies to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question D.9.1.

721 Replies to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question D.11.

722 Replies to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question D.11.1. Subject to certain exceptions, the Commission understands that Curve's contracts [details of Curve's commercial terms] (Notifying Party's response to RFI 22, first tranche, paragraph 101).

723 Replies to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question D.10.

to the overall cost of purchasing royalty administration services, such cost is significant.[724] Those same customers consider that it cost them in excess of EUR 15 000 to switch away from Curve,[725] which would also be a substantial cost when compared to the overall costs of purchasing royalty administration services.[726]

(509) In the third place, former customers of Curve who switched away from Curve since Curve's acquisition by Downtown confirm that it would take more than 6 months to switch away from Curve.[727] Half of the market participants who expressed a view consider that compared to the overall duration of the contract with Curve, the duration of switching is substantial.[728] Regarding the cost of switching, former customers of Curve consider that it costed them slightly less than EUR 7 000 to switch away from Curve,[729] which is not considered substantial by market participants.[730]

(510) In the fourth place, the Commission notes that at least some of the current customers of Curve are small record labels, with limited financial abilities. Consequently, there are unlikely to switch due to the significant costs they would incur to move away from Curve. For instance, one market participant explains that: "*I am a small company. So 5K is substantial.*"[731] Similarly, another market participant explains that: "*we consider the switching costs to be substantial. In addition to the fixed costs charged by Curve, there are also significant internal company costs related to the management of the data transfer, which involve both IT staff and the personnel responsible for royalty administration, who will have to manage all the mistakes generated by the switch.These additional resources increase the overall burden of switching and make the process costly and complex.*"[732]

(511) In the fifth place, one customer of the Parties explains that timing of switching is of the essence: "*We pay our clients monthly, so changing providers is very tricky and we can*[']*t disrupt payments*."[733] Another customer of Curve explains that: "*We would consider going* [an alternative]. *But this would be a major invest in time and money. Technical adjustments would also have to be made*."

(512) On this basis, given the time and cost involved in the process to switch away from Curve, and [details of Curve's commercial terms],[734] the Commission at this stage

724 Replies to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question D.10.1.

725 Replies to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question D.12.

726 Replies to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question D.12.1.

727 Replies to questionnaire Phase II market investigation - Former customers of Downtown's Curve product, question D.8.

728 Replies to questionnaire Phase II market investigation - Former customers of Downtown's Curve product, question D.8.1.

729 Replies to questionnaire Phase II market investigation - Former customers of Downtown's Curve product, question D.9.

730 Replies to questionnaire Phase II market investigation - Former customers of Downtown's Curve product, question D.9.1.

731 A customer's non-confidential reply to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question D.10.2 (ID 3082).

732 A customer's non-confidential reply to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question D.10.2 (ID 3318).

733 A customer's non-confidential reply to questionnaire 02_Customers - Phase I market investigation – customers, question G.3.1 (ID 3659).

734 [details of Curve's commercial/business information].

does not consider that (the threat of) switching away from Curve would likely remove the ability of UMG to access the Curve Data.

(513) *Sixth*, regarding the Notifying Party's argument that UMG and Virgin [details of UMG/Virgin's commercial/business information], the Commission considers that the argument is not capable of questioning the ability of UMG accessing the Curve Data. Indeed, record labels which currently provide their commercially sensitive information to Virgin do so with the knowledge that Virgin is part of UMG. On this basis, those customers could either be less concerned about access by UMG to their data or otherwise took into account the ownership structure of Virgin while negotiating their agreement with Virgin, including any of the provisions regarding processing of their data.

(514) On the basis of the above, the Commission considers that UMG is likely to have the ability to access the Curve Data.

9.4.2.3.3. Incentive for UMG to access the Curve Data

(515) As explained in Section 9.4.2.1, the Commission needs to establish that the access to commercially sensitive information likely results in a significant impediment to effective competition. The below assessment of UMG's incentives is merely provided in response to the Parties' arguments in this regard.

(516) The Commission considers that UMG would likely have the incentive to access the Curve Data. Such incentive is present if the gains of using Curve Data outweigh the losses. The Commission considers this to be true for the following reasons.

(517) *First*, the Commission considers that UMG could benefit from the Curve Data to gain an information advantage on the market for the wholesale distribution of recorded music mainly via two channels. In the first channel, UMG may combine the Curve Data with the individual and detailed streaming available, for instance, on Curve to more precisely assess the profitability of artists currently signed with rival labels. On the cost side, Curve contains past data on advances paid to artist, royalty rates, recoupable costs, profit shares, marketing costs, tour support and video costs. On the revenue side, streaming data allows to assess the future potential of an artist. When combined, the acquired information can be used in two ways. On the one hand, UMG might poach some artists it would not have poached otherwise, that is artists it would have undervalued in absence of better information. On the other hand, UMG might avoid poaching some artists it would have poached otherwise, that is artists it would have overvalued in absence of better information. As a result, the average profitability of artists poached from rival labels increases. In the second channel, UMG may use insights derived from Curve data on advances and royalties splits to gain general insights on recent market trends by region or specific demographic groups. Beyond artists already signed with a rival label, such general insights might even allow UMG to better assess the quality of artists signing their first label contract.

(518) This is also supported by the Phase II market investigation, during which:

(a) One competitor of UMG indicated that "*As noted, the data in question forms a fundamental part of the commercial relationship between an artist and its label, and consequently represents a core parameter of competition between labels to sign artists.* ***The transaction would provide UMG with the unique ability and incentive to leverage access to this existing payments data to displace competing labels by undercutting them on this specific, critical element****. This will clearly be bad for rival labels and their ability to compete* *with UMG (which already has a very substantial position in wholesale music distribution), as well as for artists - since UMG will have little or no incentive to offer more competitive terms for other aspects of its commercial offering. Additionally, the insight offered by the data will minimise risk for UMG in paying excessive advances to artists. Additionally, the blended DSP 'per play' rates may also offer insight into the effective terms of rival distributors' DSP agreements and allow UMG to indicate to prospective artists or labels whether its own deals might offer higher reward than those of their current distributor.*"[735] (emphasis added).

(b) Another competitor of UMG explained that "*Data inputted in Curve relate to contractual terms such as costs and advances, duration and terms of the contract. [It] considers that both individual data for each artist/label as well as aggregate data can be used to obtain a better understanding of other labels' terms with their artists*".[736]

(c) One market participant explained that "*the DSP-related data is not significant if it cannot be compared to the marketing/ad spending behind the streaming data. In this regard, Curve could provide insight into the investment that certain labels incurred for a given artist to achieve a given number of streams. In other words, Curve would enable UMG to acquire data on the return on investment of artists signed rival labels giving UMG a better insight into which artists have potential.*"[737] The market participant also explained that through access to non-publicly available information on Curve, such as contract terms, sales figures or country specific streams as well as due to its higher IT capacities, UMG would "*be able to predict much earlier* […] *how artists are and will be performing*" compared to the market participant.[738]

(519) *Second*, the Commission considers that the value of the Curve Data, when applied to gain an information advantage on the market for wholesale distribution of recorded music, likely goes far beyond Curve's revenue and market position in the market for royalty accounting. In 2024, Curve accounted for EUR […] in revenues in the EEA and EUR […] globally. While these revenues all consist in [details of the Parties' commercial/business information]. In 2024, Curve processed in total approximately EUR […] in royalties, of which approximately EUR […] relate to EEA-based customers. The number of payees that receive payments via Curve was approximately [number] globally and [number] in the EEA in the same year.[739] In comparison, UMG processes royalties of EUR […] globally and EUR […] in the EEA outside of Virgin, which only offers royalty accounting services via Curve.[740] Thus, when measured in terms of processed royalties, Curve adds around [30-40]% globally and [5-10]% in the EEA to UMG's already existing data on artists.

735 Request for Information addressed to one competitor (ID 3863).

736 Non-confidential version of minutes of a meeting with a market participant on 1 September 2025 (ID 3783).

737 Non-confidential version of minutes of a meeting with a market participant on 9 September 2025, paragraph 12 (ID 3527).

738 Non-confidential version of minutes of a meeting with a market participant on 9 September 2025, paragraph 11 (ID 3527).

739 Notifying Party's response to RFI 31, paragraphs 13 and 17.

740 Notifying Party's response to RFI 31, paragraph 21. For completeness, Virgin also offers a very basic royalty accounting calculator as an ancillary component of its A&L services, using the proprietary tools [details of Virgin's commercial/business information]. The combined total gross revenues generated was approx. USD […] (Notifying Party's response to RFI 31 – Tranche 1, paragraph 115).

(520) Even this comparison likely understates the relevance of the Curve Data for UMG, since the pool of artists differs across the two firms. It is in UMG's interest to identify artists at an inflection point in their career in order to further scale the artists' career inhouse. Several factors suggest that artists using Curve are likely at an earlier stage of their career.

(521) In the first place, the Curve data concerns artists producing [details of the Parties' commercial/business information] on average compared to UMG as a Major. Excluding Virgin, UMG estimates that there are currently [number] artists signed to UMG globally, of which [number] are signed in the EEA.[741] For comparison, the number of payees that receive payments via Curve was approximately [number] globally and [number] in the EEA in the same year.[742] Thus, the Curve Data represents [details of the Parties' commercial/business information] both globally and in the EEA. As a result, each payee must produce [details of the Parties' commercial/business information].[743]

(522) In the second place, Curve customers are, to a large part, independent labels, as explained on Curve's webpage: *"Curve is a royalty accounting platform, purpose-built for today's music industry & used by a large set of independent labels, distributors & publishers. ... Curve's client base encompasses a variety of music recording & publishing businesses including Audiosalad, Cooking Vinyl Group, Domino Recording Company, Hospital Records/Songs in the Key of Knife, Ingrooves, Mad Decent, Maxwood Music, NBCUniversal, Syntax Creative, Involved Productions & Sky TV."*[744]

(523) In the third place, comments made by a market participant in the context of a market report conducted by the CMA suggest an important role of independent labels for music diversity. This market participant states that *"independents are the innovators and early adopters, discovering new talent and producing over 80% of all new releases and are responsible for 80% of the sector's jobs"*.[745] IMPALA also submitted that: "*Independents account for 80% of investment in new releases, based on figures from key markets a few years ago. (Note in France last year, CNM figures showed independents account for 97% of new releases.)*."[746]

(524) In the fourth place, this was also confirmed by the Commission's Phase II investigation, during which a market participant noted that *"the low end segment of artists, which appeal to specific listeners, are mainly developed by independent labels, with small volumes"*, whereas *"the high end segment of artists, with high appeal to listeners, are mainly developed by majors and bigger independent labels, with high volumes". The "middle segment of artists, with middle- range appeal to listeners, can be developed by both*."[747]

(525) *Third*, the Commission notes that [strategy in relation to data]. For instance, slide 19 of Annex 12 of RFI 2 (second tranche) contains the following statement: [internal

[741] Notifying Party's response to RFI 31, paragraph 22.
[742] Notifying Party's response to RFI 31, paragraph 14.
[743] Notifying Party's response to RFI 31, paragraph 14.
[744] About Curve webpage (ID 4548).
[745] A market participant's comments on the issues raised in the statement of scope of the CMA's music and streaming market study, 24 February 2022 (ID 4547).
[746] IMPALA's submission of 27 June 2025, page 8 (ID 3979).
[747] IMPALA, BRG/AG note, October 2025, paragraph 64 (ID 4100).

document reference].[748] More precisely linked to the Transaction, the Commission has been able to at least identify such strategy [internal document reference] ([749]) Another document of the Notifying Party explains that: [internal document reference].[750]

(526) *Fourth*, the Commission considers that the lack of access to Virgin customer data by UMG does not convincingly show the lack of incentives to access the Curve Data as well. In contrast to Curve, Virgin was already part of UMG when it started offering A&L services and thus there was no change in the owner of Virgin's data. Consequently, at the stage where a customer decided for Virgin, the risk of UMG potentially accessing the data as well as the resulting costs of that action for the customer were already present. Customers who did not want their data to be accessed, would not have chosen Virgin in the first place. Only those customers that, at the time, considered the costs of their data being taken advantage of by UMG to be acceptable, would have decided for Virgin. However, for exactly this pool of customers, the benefits of accessing their data are limited for UMG.

(527) *Fifth*, the Commission considers that the costs of either losing Curve customers or more general reputational risks beyond Curve as a result of accessing the Curve Data are likely limited for several reasons.

(528) In the first place, Curve's global revenues on the overall small market for royalty accounting are small, around EUR […], compared to the much larger market for wholesale distribution of recorded music, on which UMG generated revenues of EUR […] in 2024.[751] Thus, even in the extreme scenario, in which UMG were to lose all Curve customers, the resulting revenue loss is extremely limited.

(529) In the second place, it would be difficult for Curve's customers to observe whether their Curve Data has been accessed by UMG limiting any reputational risk going beyond the Curve customer base. No information would be displayed on Curve or communicated to customers if UMG accesses the data. This has been explicitly raised by one current customer of Curve during our Phase II investigation, which indicated that "*This would allow Curve also to provide the date [data] to UMG and monitoring would be impossible to tracks whether that data goes to others in the company group or for other purposes, especially as very little info needs to be passed or discussed to have an impact*."[752] In the same vein, another customer shared that they "*are concerned that if UMG acquires Downtown/Curve, sensitive business and royalty data from competing labels and publishers could become accessible to UMG*".[753] In any event, the Commission considers that rival record labels would only find out of a possible access to their commercially sensitive data once the effects of such access to commercially sensitive data would materialise. For the same reason, a GDPR fine or a contractual liability claim would only materialise after the effects of

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748 Form CO, section 5.4(b) document titled [internal document reference] (Form CO, RFI 2 response Annexes, second tranche, Annex 12), slide 19.

749 Form CO, section 5.4(b) document titled [internal document reference] (Form CO, RFI 2 response Annexes, second tranche, Annex 13), slide 4 (ID 509).

750 Form CO, section 5.4(b) document titled [internal document reference] (Form CO, RFI 2 response Annexes, second tranche, Annex 15), slide 4 (ID 204).

751 Form CO, table 7.

752 A customer's non-confidential reply to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question E.8.1 (ID 3322).

753 A customer's non-confidential reply to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question F.1 (ID 3336).

UMG's access to commercially sensitive data via Curve and benefiting from the gains associated with such access.

(530) Furthermore, the Commission notes that on [date], an email chain within Downtown was initiated in relation to the following subject-matter: [internal document reference].[754] In that email chain, [internal document reference].[755] In this regard, [internal document reference].[756] Accordingly, the Commission notes that [internal document reference]. The Commission cannot exclude that this would remain true after the Transaction.

(531) In the third place, switching away from Curve, while possible, is not a swift process. The Commission tested switching process during its Phase I investigation[757] as well as during its Phase II investigation, with targeted questionnaires to former and current customers of Curve. The results of the Phase II investigation from current customers, one the one hand, are mixed on whether duration of switching to Curve was substantial or not,[758] but, on the other hand, confirmed that the duration of switching away would be substantial.[759] With respect to the costs of switching, the majority of the current customers of Curve who expressed a view considered the costs of switching (from and away) to be substantial.[760] One current customer indicated that it considers "*the switching costs to be substantial. In addition to the fixed costs charged by Curve, there are also significant internal company costs related to the management of the data transfer, which involve both IT staff and the personnel responsible for royalty administration, who will have to manage all the mistakes generated by the switch. These additional resources increase the overall burden of switching and make the process costly and complex*".[761] The results of the Phase II investigation from former customers of Curve are mixed on whether duration of switching away from Curve was substantial.[762] However, one former customer of the Curve explains that: "*Onboarding, processing as well as offboarding was an extremely hard and lengthy process.*"[763]

(532) Thus, in light of the above and on the whole, customers desiring to move away post-Transaction would not be able to swiftly move away from Curve, thus increasing the incentives for UMG to access the Curve Data. This could be particularly true for larger rival record labels. Even if such labels could afford the technical expertise, a competitor of the Parties explained that they have a more burdensome switching process: "*The larger the volume of recordings, the more significant an issue this may be. There is also some risk of additional work being required if DSPs make errors in*

[754] DMH_00173970.
[755] DMH_00173970.
[756] DMH_00173970.
[757] See replies to questionnaire 02_Customer - Phase I market investigation - customers, question G.4.
[758] Replies to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question D.9.1.
[759] Replies to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question D.11.1. More specifically, two customers highlighted that switching away would be substantial because finding a better partner than Curve would be difficult. (ID 3242 and ID 3134).
[760] Replies to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, questions D.10.1 and D.12.1.
[761] A customer's non-confidential reply to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question D.10.2 (ID 3318).
[762] Replies to questionnaire Phase II market investigation - Former customers of Downtown's Curve product, question D.8.1.
[763] A customer's non-confidential reply to questionnaire Phase II market investigation - Former customers of Downtown's Curve product, question D.8.2 (ID 3313).

reporting post notice of take down or change of distributor, which require resource to resolve."[764]

(533) Based on the above, the Commission considers that UMG would likely have the incentive to access the Curve Data after the Transaction.

9.4.2.3.4. Effects of UMG's access to the Curve Data

(534) The Commission considers that UMG's access to the Curve Data may hamper effective competition on the market for wholesale distribution of recorded music for the following reasons.

(535) As discussed in Section 9.4.2.3.3, the Commission considers two main channels via which UMG might use the information advantage gained via Curve, which are discussed in turn.[765]

(536) *First*, the Commission considers that UMG might be able to poach on average more profitable artists from smaller rival labels by using information on individual artists available on Curve. According to the Notifying Party this concerns around […]% of artists that a rival label actively wishes to retain, but where the artist has an interest in leaving.[766] The remaining share are artists either signing their first label contract or being released by their current label.[767] Out of the […]% of artists, the Notifying Party further argues that only a small share of artists are Curve customers given Curve's small share in total processed royalties.[768]

(537) While only limited to a seemingly small subset of the market, the Commission considers that the poaching channel might still disturb the competitive process on the market for wholesale distribution of recorded music for the following reasons.

(538) In the first place, as discussed in Section 9.4.2.3.3, the Curve Data might be of higher relevance than the share of processed royalties suggests as the pool of artists differs compared to Majors.[769] The Curve Data more likely concerns early-stage artists which are particularly interesting for Majors, such as UMG, from a poaching perspective, since they offer higher development potential once transferred to a Major.

(539) In the second place, the Notifying Party argues that the Curve Data is [details of Curve's commercial/business information].[770] However, as discussed in Section 9.4.2.3.3 above, it is exactly the combination of past cost data and streaming data (whether sourced from Curve, other Downtown products or public sources) that allows an informed forward-looking profitability assessment. Indeed, as explained by one market participant: "*DSP-related data is not significant if it cannot be compared to the marketing/ad spending behind the streaming data. In this regard, Curve could*

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764 A competitor's non-confidential reply to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), question E.A.3.1 (ID 1550).

765 The Notifying Party puts forward a similar economic framework but, in contrast to the Commission's assessment, does not consider that the Curve Data contains valuable information to better predict an artist's future success. Based on such a premise (which questions the Commission's conclusions in Section 9.4.2.3.1.4 above), the Notifying Party considers that the effects would be limited. See SO Response, Annex 1, Economic Annex.

766 Reply to the Article 6(1)(c) Decision, paragraph 183(a).

767 Form CO, paragraph 183 (a).

768 Notifying Party's response to RFI 31, paragraph 38(b) (ID 4048).

769 See, for instance, the CMA's Music and streaming Final Report, paragraph 5.9 (see document UMG_00552807).

770 Reply to the Article 6(1)(c) Decision, paragraph 188.

provide insight into the investment that certain labels incurred for a given artist to achieve a given number of streams. In other words, Curve would enable UMG to acquire data on the return on investment of artists signed rival labels giving UMG a better insight into which artists have potential."[771]

(540) In the third place, the Notifying Party argues that rival labels, which UMG wants to poach from, can make counteroffers to avoid losing their most profitable artists to UMG.[772] This overlooks the resulting impact on profitability of smaller rival labels. The redistribution of "high quality" artists between UMG and smaller labels will likely impact the profitability of rival labels and therefore the ability and incentive of rival labels to compete and invest. This is also true for the case, in which the rival label manages to keep such artist at improved contractual terms by at least matching UMG's offer for the artist, since this increases the costs of the current label.

(541) In the fourth place, the Notifying Party argues that these effects would most likely be short-lived.[773] The impact would mostly be on current or former customers of Curve. Future label customers would be providing data to Curve knowing that Curve is part of UMG, which would therefore make the theory of harm less strong. At the same time, the Commission notes that while [details of Curve's commercial terms], none of the respondents to the Commission's market investigation are aware of [details of Curve's commercial terms].[774] This was confirmed by the Notifying Party, which explains that [details of Curve's commercial terms][775] and that [details of Curve's commercial terms].[776]

(542) In addition, the Commission considers that even assuming that the impact would mostly be on current or former customers of Curve, those current or former customers of Curve would see their artists poached, and their attached revenues, permanently affected. In other words, even assuming that any poaching of profitable artists would be short-lived, the effects on rival record labels would be lasting.

(543) *Second*, the Commission considers that UMG may use (aggregate and/or anonymised) insights derived from Curve Data on advances and royalty splits to gain general insights on recent market trends. The Commission considers that, in this case, UMG's information advantage would go beyond artists signed with labels using Curve and would thus affect a larger share of the market for the wholesale distribution of recorded music.

(544) The Commission notes that, while in the short-run UMG and independent record labels may compete more fiercely for higher quality artists, lower quality artists will likely get paid less on average. Due to the information advantage gained, UMG might be in a better position to identify promising artists in the market as a whole. This may, in turn, decrease profits of independent labels, which may sign less profitable artists in the first place as a result. As in the first channel, this may hinder independent labels' ability to invest (for instance, into new and riskier artists) and expand. In a market where independent labels play a critical role for developing

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771 Non-confidential version of minutes of a meeting with a market participant on 9 September 2025, paragraph 12 (ID 3527).

772 Reply to the Article 6(1)(c) Decision, paragraph 187.

773 Reply to the Article 6(1)(c) Decision, paragraph 268.

774 Replies to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question E.7 and replies to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question E.7.

775 Notifying Party's response to RFI 31, paragraph 9 (ID 4048).

776 Notifying Party's response to RFI 31, paragraph 10 (ID 4048).

early-stage artists and thus music diversity, this appears to be particularly problematic.

(545) In this regard, the Commission notes that the Notifying Party itself considers that independents play an important and growing role in the music sector.[777] For instance, the Notifying Party notes that: "*This disruption of the music sector has resulted in significant growth in the overall recorded music sector ... and significant growth of the "independent" sector with, for example, non-major labels' global share in recorded music having increased from* [20-30]*% to* [30-40]*% between 2015 and 2023 (compared with a decline in the majors' share of* [5-10]*% collectively)*."[778]

(546) The relevance of the "independents" for music variety is further corroborated by volume data provided by the Notifying Party. For instance, data from the Notifying Parties suggests that out of the 100 000 most listened to songs in the EEA, more than [60-70]% of the most listened to songs in the EEA were distributed by an A&L provider, i.e., by artists or labels not signed or controlled by a Major.[779]

(547) *Third*, the Commission finds that several market participants have expressed strong concerns about UMG accessing their data currently processed by Curve after the Transaction.

(548) For instance, already in phase I, customers of the Parties submitted to the Commission that "*Universal could gain access to our sales data via the analytics, they know which DSPs carry our music and could use this information to detect holes and create competive* [competitive] *offers to approach our clients based on confidential data*."[780] Another customer of the Parties further explained that: "*The risk can occur that, because of the access to our data, UNI* [UMG] *knows what artists have a potential to grow and sign away our local talents*."[781] Finally, a customer of the Parties explains that: "*Universal can technically get access to all confidential sales data and can try to attack attractive customers directly.*"[782]

(549) In this regard, the Commission notes that the vast majority of current customers of Curve who responded to the Commission's Phase II market investigation consider that disclosure to UMG of the Curve Data is likely to harm rival record labels in relation to a number of parameters, including:[783]

(a) The ability to identify upcoming artists vis-à-vis rival labels. For instance, one market participant explained that: "*Data in Curve includes unreleased repertoire, early registrations, and detailed usage/royalty reporting. This information can reveal which artists or writers are emerging, what repertoire is gaining traction, and which projects are being prioritised. Such intelligence*

777 The Commission understands that this important and growing role is also relevant from a cultural diversity perspective.

778 Reply to the Article 6(1)(c) Decision, paragraph 9.

779 Reply to the Article 6(1)(c) Decision, paragraph 48.

780 A customer's non-confidential reply to questionnaire 02_Customers - Phase I market investigation – customers, question E.6.1 (ID 1354).

781 A customer's non-confidential reply to questionnaire 02_Customers - Phase I market investigation – customers, question D.6.1 (ID 1282).

782 A customer's non-confidential reply to questionnaire 02_Customers - Phase I market investigation – customers, question D.6.1 (ID 1354).

783 Replies to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question E.5. Half of former customers of Curve who responded to the Commission's market investigation share this: see replies to questionnaire Phase II market investigation - Former customers of Downtown's Curve product, question E.5.

is highly sensitive and could give rivals - especially a major - unfair insight into our pipeline."[784] Another customer explained that "*If our company had access to this date [data] from rivals, it would be incredibly valuable as our business is catalogue acquisitions, and the income data is vital in order to assess a deal's value*."[785] Finally, another market participant explains that: "*Access to it enables an assessment of which artists or songwriters are worth negotiating with and allows offers to be made that may be more competitive than those currently offered by our company*."[786]

(b) The ability to compete for upcoming artists vis-à-vis rival labels. For instance, one market participant explained that: "*Contractual terms, royalty splits, and revenue data stored in Curve reflect how we structure deals and remunerate talent. If accessible to rivals, this information could be used to outbid or undercut us in negotiations with upcoming artists and songwriters.*"[787] Another customer explained that "*If our company had access to this date [data] from rivals, as income data is vital in order to assess a deals value, we would have an ability to compete for more artists*."[788] Finally, another market participant explains that: "*Access to it enables an assessment of which artists or songwriters are worth negotiating with and allows offers to be made that may be more competitive than those currently offered by us*."[789]

(c) The ability to enter and expand as a label vis-à-vis rival labels. For instance, one market participant explained that: "*Our input includes repertoire management, CWR registrations, and distributor/society data. This reveals the scope of our catalogue and expansion strategy across markets and societies. Disclosure would provide competitors with a roadmap of our activities, undermining our ability to grow.*"[790] Another customer explained that "*Our ability to compete in the marketplace is directly linked to the ability to value catalogues. Income statements are essential to that process as well as knowing when existing contracts between artists and rivals expire*."[791] Finally, another market participant explains that: "*The commercial sensitivity of this information is high. For a label, access to such data provides clear strategic advantages: it enables the identification and evaluation of which artists or songwriters are most valuable to approach for potential deals, based on their current terms and performance. It also allows the label to structure offers that are more competitive than those already agreed with other providers, thereby*

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784 A customer's non-confidential reply to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question E.5 (ID 4229).

785 A customer's non-confidential reply to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question E.5 (ID 3134).

786 A customer's non-confidential reply to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question E.5 (ID 3318).

787 A customer's non-confidential reply to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question E.5 (ID 4229).

788 A customer's non-confidential reply to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question E.5 (ID 3134).

789 A customer's non-confidential reply to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question E.5 (ID 3318).

790 A customer's non-confidential reply to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question E.5 (ID 4229).

791 A customer's non-confidential reply to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question E.5 (ID 3134).

improving its chances of securing talent and gaining a stronger position in the market."[792]

(d) The ability to assess the profitability of a given respondent's record label business. For instance, one market participant explained that: "*Curve contains granular financial data (revenues, costs, recoupment, advances). This information allows us to assess business performance and client profitability. It is extremely commercially sensitive: disclosure would expose our margins, efficiency, and strategic decision-making capacity to rivals*."[793] Another customer explained that "*As all income is logged in Curve, it gives a clear picture of the gross income*."[794] Finally, another market participant explains that: "*Access to it allows us to understand the potential profitability of the company by providing insights into revenue streams, cost structures, and the performance of individual works or recordings. Such data reveals not only current income but also future earning potential, contractual liabilities, and the extent of recouped or unrecouped advances. This level of visibility is critical for making informed business decisions, including whether to renew or terminate contracts, how to allocate resources across artists, and where to focus marketing efforts. It also underpins strategic investments, such as acquiring catalogues, expanding into new markets, or negotiating partnerships, all of which rely on accurate and confidential financial and performance information*."[795]

(550) Furthermore, the Commission notes that several market participants have publicly expressed concerns about the impact that the flow of the Curve Data to UMG would have on their business and/or on the market:[796]

(a) "*Before the explosive growth in digital consumption, there was an expression often quoted by record companies – 'content' may be king, but data will build the castle. Universal's bid to acquire the richest dataset in the market from the Fuga and Curve systems on behalf of their independent label clients will allow Universal the unique ability to farm that data to their own commercial advantage. Independent A&R activity will be laid bare, both from the market activity that A&R reaches, to the royalty and advance/recoupment arrangements of every single artist signed to an independent – as Rob Stringer (CEO Sony) acknowledged lately*" (Alison Wenham, COO, Chrysalis Records, page 5).

(b) "*On top of that, with access to Curve, the majors would gain deep insights into the business operations of countless indie labels, giving them an even greater advantage in the data-driven side of the industry*." (Anton Teichmann, Founder, Mansions and Millions, page 15).

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792 A customer's non-confidential reply to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question E.5 (ID 3318).

793 A customer's non-confidential reply to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question E.5 (ID 4229).

794 A customer's non-confidential reply to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question E.5 (ID 3134).

795 A customer's non-confidential reply to questionnaire Phase II market investigation - Current customers of Downtown's Curve product, question E.5 (ID 3318).

796 Booklet titled "UMG'S PROPOSED ACQUISITION OF DOWNTOWN MUSIC HOLDINGS MUST BE BLOCKED – Voices from the independent music community on why this matters" (ID 4102). The relevant page number is referenced in each quote.

(c) "*If Universal acquires Downtown, it will vast a catalogue of data from independent labels, as they have been using Downtown's accounting system to date. We don't want this data to be in the hands of major labels*." (Henrietta Bauer, Bretford Records, page 19).

(d) "*We use Curve for accounting, which means Universal will have access to our data. They may also use Curve to incentivise us to move to major distribution. Increased market share means increased leverage*." (Martin Goldschmidt, Cooking Vinyl, page 23).

(e) "*Through the acquisition of Curve, Universal will be in the unprecedented position of access to very specific market data of independent competitors. With the recorded music market's growth currently slowing Universal will not hesitate to make the most of this data, i.e. signing successful indie artists, identifying trends and grading rival companies according to their revenue*." (German record label, page 28).

(f) "*Beyond the general threat to competition and diversity, the deal is especially damaging because Downtown's sub-companies like Curve handle sensitive financial and operational insights, a major corporation will have unprecedented visibility into the inner workings of their competitors, creating a huge imbalance and undermining trust*." (Independent German music company owner, page 29).

(g) "*The prospect of our royalty accounting software being absorbed by a major corporation who are controlling a significant part of the market is concerning. It gives away sensitive information away to competitors, which could be damaging to our A&R and deal-making; they will officially know all our commercial terms*." (British record label, page 32).

(h) "*We have thought long and hard about which Royalty Accounting System to use in our day to day business, tested several services that are on offer and finally settled with Curve (…). If the bigger fish in the sea, i.e. Universal, now gobbies up Downtown, Universal is suddenly in an unprecedented position of access to very specific market data of independent competitors. With the recorded music market's growth currently slowing Universal will not hesitate to make the most of this data, i.e. signing successful indie artists, identifying trends and grading rival companies according to their revenue*" (CEO of a German music company, page 42).

(551) Similar concerns were also voiced by competitors of the Parties. In particular, one competitor explained that: "*about the level of confidential and proprietary data access that UMG will acquire as a result of the Transaction. UMG will be able to leverage that data, in particular the data acquired via the Curve royalty system (one of only a few third party royalty systems available globally) as well as via FUGA, to identify talent, trends and market information and to target labels and artists … to the detriment of other distributors and labels. The Transaction will provide UMG with a unique, extensive dataset that, combined with its substantial pre-existing market power in the wholesale distribution of music, in particular digital distribution, will harm* [a competitor]*'s ability to compete effectively with UMG*."[797]

[797] A competitor's non-confidential reply to questionnaire 04_Competitors - Phase I market investigation - competitors (UPDATED), question F.1.1 (ID 1550).

(552) That same competitor further explains that: "*the data in question forms a fundamental part of the commercial relationship between an artist and its label, and consequently represents a core parameter of competition between labels to sign artists. The transaction would provide UMG with the unique ability and incentive to leverage access to this existing payments data to displace competing labels by undercutting them on this specific, critical element. This will clearly be bad for rival labels and their ability to compete with UMG (which already has a very substantial position in wholesale music distribution), as well as for artists - since UMG will have little or no incentive to offer more competitive terms for other aspects of its commercial offering. Additionally, the insight offered by the data will minimise risk for UMG in paying excessive advances to artists.*"[798]

(553) Finally, the same competitor further explains that: "*Post-Transaction, UMG would gain access to the data collected by Curve and be able to understand which labels (and especially which types of repertoire) are performing well and the terms of their deals with artists and other royalty participants. This will give UMG the opportunity to target such labels to become acquisition or upstreaming targets or customers of its A&L offering. Importantly, Curve would provide access to data from a broader set of clients than those clients who use FUGA's services, including into the terms of artist deals*."[799]

(554) Another competing Major explains that "*the type of data collected by Curve will have business value to UMG. UMG would be able to understand the economics and scale of independent labels and artists, and then target them to become customers of its A&L services arms*."[800]

(555) On the basis of the above, the Commission considers it is likely that UMG's access to the Curve Data may put rival record labels at a competitive disadvantage, thereby dissuading them to invest into new artists (i.e., expand their activities).[801] Furthermore, in response to the Notifying Party's arguments in Section 5.4.1 of the Reply to the Article 6(1)(c) Decision and in Section 6.3 of the Response to the SO, the Commission considers that these effects would likely be of a magnitude that they can result in a significant impediment to effective competition, for the following reasons.

(556) *First*, the Commission notes that Curve processes approximately [5-10]% of the total pool of royalties globally.[802] The Commission understands that this figure considers

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798 A competitor's non-confidential reply to a request for information (ID 3863).

799 Non-confidential minutes of a meeting with a competitor of the Parties, 20 June 2025, paragraph 25 (ID 1998).

800 Minutes of call with competing Major, 27 May 2025, paragraph 17 (ID 1991).

801 The Commission notes that in their responses to the non-confidential version of the SO, IMPALA and Merlin explained that the Commission should assess the impact of UMG accessing the Curve Data not only on the artist-facing side of the market for the wholesale distribution of recorded music, but also on the DSP-facing side of that same market (see, for instance, ID 4601, page 1 and ID 5094, section 6.e)). While the Commission does not consider it necessary to show an impact on both sides of two-sided markets, the Commission nonetheless considers that the impact described in this section is likely to lead to an increased ability for UMG to extract additional revenues from the DSP-facing side of the market for the wholesale distribution of recorded music. In particular, the Commission considers that by putting rival record labels at a competitive disadvantage, thus reducing their profitability, all other remaining equal, UMG would be able to indirectly benefit from its rivals' reduced profitability by distributing more profitable recorded music and thereby extract proportionally more revenues from DSPs than its rival record labels.

802 Notifying Party's response to RFI 31, paragraph 25. In this regard, the Commission notes that while it appears that Curve processes a limited amount of data for customers in the EEA, the Commission

the entire pool of royalties processed by royalty accounting software. In this context, the Commission considers that when excluding royalties processed by (vertically integrated) labels themselves, Curve's share of processed royalties in the global market for the supply of royalty administration services (i.e., the relevant market identified in Section 8.4 above) is likely higher than the figure submitted by the Notifying Party.[803]

(557) *Second*, the Commission notes that UMG is, already today, the largest market participant in the market for the wholesale supply of recorded music in the EEA.[804] In this sense, providing such a large market participant with additional information on its rival record labels is likely to increase the magnitude of any effects that may arise from UMG accessing Downtown's commercially sensitive third-party data of rival record labels.

(558) *Third*, the Commission understands that Curve today processes data of approximately [number] contracts across its active client base, even though some of these contracts may no longer be used to do royalty accounting.[805] This figure excludes the data inputted into Curve by Virgin, which represents approximately [number] contracts.[806] Accordingly, the Commission considers that the amount of data that UMG would be acquiring through the Transaction would be more than [number] times the amount of data that rival labels have willingly provided to UMG prior to the Transaction.

9.4.2.3.5. Conclusion

(559) In light of the above, the Commission considers that it is likely that the Transaction would significantly impede effective competition in a substantial part of the internal market (including in the Netherlands and Austria) within the meaning of Article 2(3) of the Merger Regulation as a result of the Notifying Party obtaining access to commercially sensitive information of rival record labels, i.e., the Curve Data, in the EEA, which includes Austria and the Netherlands.

9.4.3. Conglomerate effects: Foreclosure of Merlin or independent record labels by preventing, restricting or degrading access to FUGA's standalone delivery service offering

9.4.3.1. Conglomerate relationship

(560) The Transaction gives rise to a conglomerate relationship between the delivery services segment of the A&L services market for those artist and label customers that rely on Merlin's collective DSP licensing agreements or that have their own DSP licensing agreements in place while relying on standalone delivery services offered by Downtown's FUGA on the one hand <u>and</u> UMG's offering in the wider A&L

considers that the relevant metric to appreciate the magnitude of the effect of the Transaction is the global share of royalties processed by Curve, given that the Curve Data on non-EEA labels (which may also relate to EEA artists) is relevant for UMG for poaching artists in the EEA and that music listeners in the EEA are unlikely to only listen to artists signed by EEA-based labels.

803 In this regard, the Commission notes that while in the Response to the SO the Notifying Party explains that "*it is unclear why the relevant market should exclude vertically integrated labels*" (see Response to the SO, paragraph 186), the Notifying Party has not made any substantiated submission in the Response to the SO raising any concerns with the market definition section of the SO.

804 See section 9.2.1 above.

805 Notifying Party's response to RFI 22, first tranche, paragraph 122.

806 Notifying Party's response to RFI 22, first tranche, paragraph 122 and Table 3.

market through Virgin (which does not currently contain a standalone delivery service product) on the other hand.

(561) This Decision assesses whether the merged entity could engage in commercial tying or bundling strategies, whereby artists and labels using Downtown's delivery services would be forced to move to UMG/Virgin's A&L distribution service package, thereby expanding UMG/Virgin's positioning in the wider A&L services market.[807]

9.4.3.2. The Notifying Party's view

(562) The Notifying Party submits that UMG would have no ability to degrade or withhold access to FUGA's delivery services for Merlin members (or other independent labels) post-Transaction for the following reasons:[808]

(a) In the Notifying Party's view, FUGA's delivery service offering is not a unique or particularly important input for independent labels/Merlin members. Any hypothetical loss of access would not have any meaningful impact on their ability to compete against UMG. Merlin members do not necessarily need a delivery service offering from an A&L service provider. Based on Downtown's best internal estimates, less than […]% of Merlin members use FUGA's delivery option for delivery, and in terms of revenues, this percentage is even lower. Less than […]% of FUGA customers opted for the 100% SaaS configuration in 2023, representing a similar percentage of Downtown's total EEA revenue. The vast majority of Merlin members use their own in-house capabilities, other delivery solutions or rely on an A&L service provider.[809]

(b) In addition, the Notifying Party submits that there is also no benefit for labels and Merlin members that use the FUGA delivery service option in negotiations with DSPs. FUGA delivery service customers do not opt in to FUGA's licenses with DSPs, and instead have their own agreements with DSPs (including via Merlin). They simply use FUGA's "pipes" to distribute their music to those DSPs. No FUGA delivery service customer's royalty revenue passes from the DSP to FUGA; rather, it passes from the DSP directly to that customer pursuant to their own arrangement with the DSP.

(c) The Notifying Party submits that there are numerous A&L service providers that have delivery service offerings similar to FUGA[810], and competition is further guaranteed by the ease of portability. When a Merlin member migrates from FUGA to another delivery services provider, it remains a Merlin member, and licensing agreements continue to apply. There are no contractual or technical barriers to switching.[811]

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807 This concern was raised by third parties such as IMPALA (see, for example, minutes of the meeting between the Commission and IMPALA on 8 September 2025 – ID4199/3), Merlin (see minutes of a meeting between the Commission and Merlin on 20 May 2025 – ID1871) and a music label (cf. minutes of a meeting with the Commission on 1 September 2025 – ID3783/1-3).

808 Notifying Party's submission of 22 June 2025, paragraph 98.

809 The Notifying Party provides three examples to back up this claim: Redeye Distribution uses AudioSalad's software, Republic of Music uses IDOL's, and Symphonic has its own in-house mechanism.

810 See below recital (563)(c).

811 More specifically, UMG explains that the switching customer's music metadata present in the FUGA platform can be extracted through a Digital Data Exchange (DDEX) / Extensible Markup Language (XML) feed, which is ingestible by a new SaaS delivery provider. FUGA can deliver a client's catalogue in DDEX format in bulk to a specified FTP server, or to the new provider. A Merlin

(563) In addition, the Notifying Party also submits that UMG would not have any incentive to engage into a strategy to degrade or withhold access to FUGA's delivery services for Merlin members (or other independent labels) post-Transaction for the following reasons:[812]

(a) UMG submits that its [details describing UMG's strategy]. In doing so, UMG refers to internal documents concerning [internal document reference]. According to UMG, [internal document reference].[813]

(b) UMG also submits that engaging in such a foreclosure strategy would be highly damaging from a wider reputational perspective, both vis-à-vis UMG's Virgin customers but also the independent sector more broadly, and make no commercial sense. UMG created Virgin as a separate division within UMG with the explicit aim of providing distribution services to independent record labels and artists. Virgin has operated as a distinct business apart from UMG's record label businesses and has provided distribution services to independent record labels for many years. Virgin has worked hard to build a trusted reputation with its customers and the independent community more broadly. To engage in a strategy that then restricts access to FUGA's delivery services for its customers would be entirely illogical and would significantly damage the brand in a way that could even undermine future business opportunities for Virgin.

(c) UMG submits that such a foreclosure strategy would not make any commercial sense. Theoretically, for a recoupment strategy to stand any prospect of working, customers would need to switch to Virgin after a hypothetical degradation of FUGA's delivery services post-Transaction. In UMG's view, this would not be the case. Instead, any foreclosure strategy would result in Merlin members (or other independent labels) swiftly and effectively turning to one of the many viable alternatives.[814] UMG also points out that Merlin provides the functionality to deliver content to a limited set of DSPs (e.g., Amazon, Kakao/Melon, TikTok or Tidal are not included) via a DDEX interface.[815]

(564) UMG also refers to [number] examples of customers switching away from FUGA to one of its competitors in the wider A&L services market, thereby proving that switching can, and does, occur.[816]

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member's data and analytics are also not lost as a result of switching delivery providers, as these are stored and made available by Merlin on the member's designated File Transfer Protocol (FTP) server at Merlin. Downtown/FUGA, during a term, merely retrieves, stores, normalises and visualises this data for the Merlin member (Form CO, paragraph 160).

812 Notifying Party's submission of 22 June 2025, paragraph 99 (ID 863).

813 Notifying Party's submission of 22 June 2025, paragraph 101 (ID 863).

814 UMG refers to the following alternatives: Ampsuite, AudioSalad, Consalad, Danmark Music Group, DistroDirect Group Speed, Empire, EMS, EVEARA, GYROstream, Horus Music, IDOL (through its Labelcamp platform), LabelGrid, Limbo Music, NueMeta, ONErpm, OpenPlay, Ragbe, Random Sounds, Recordjet, Revelator, Sonosuite, VerseOne, Viberate, Vydia, Xelon Digital and Zebralution, at least eight of whom would also delivery SaaS services comparable to those offered by FUGA and are listed on Merlin's website as "recommended distributors": Ampsuite, Danmark Music Group, EMS, GYROstream/DistroDirect/Group Speed, IDOL, Recordjet, Revelator and Zebralution.

815 Form CO, paragraph 154.

816 Form CO, paragraph 450.

9.4.3.3. The Commission's assessment

(565) For the reasons set out below, the Commission considers that, post-Transaction, the merged entity would not have the ability to foreclose UMG's rivals on the market for A&L services, since Downtown is unlikely to have any significant degree of market power on a narrower market segment for delivery services.

9.4.3.3.1. Ability to foreclose

(566) According to the Non-Horizontal Merger Guidelines, for foreclosure to be a concern, the merged entity resulting from the Transaction must have a significant degree of market power.[817] The Commission considers that Downtown does not have such market power for the following reasons.

(567) **First**, and based on Downtown's best internal estimates, less than […]% of Merlin members use FUGA's standalone delivery services.[818] In addition, less than […]% of FUGA customers opted for the 100% SaaS configuration[819] in 2023.[820] Similarly, based on 2024 revenues, […]% (EUR […]) of FUGA's overall revenues in the EEA of EUR […] were delivery services revenues from both SaaS-only clients and hybrid clients to the extent they use their own or Merlin licensing arrangements with DSPs.[821]

(568) In addition, Merlin confirms that, out of its approximately 450 non-Major affiliated members[822], [60-120] of its members use FUGA for content delivery, [60-120] members use Audiosalad, [0-60] members use Revelator and [0-60] members also use Ampsuite, Danmark and Kontor.[823] In addition, Merlin confirms that [60-120] of its members use proprietary in-house delivery solutions; for one specific DSP, [60-120] members use Merlin's proprietary content delivery system, Merlin Bridge.[824] Equally, Merlin confirms that, based on revenues generated by Merlin in the EEA, [0-20%] was payable to members that used FUGA as a content delivery provider, [0-20%] was payable to members that used the [second most significant provider] as a content delivery provider, and [0-20%] was payable to members that used the [third most significant provider] as a content delivery provider.[825]

(569) The Commission is unaware of any reliable market share data for a potential standalone delivery services segment within the wider A&L services market. It also notes that this segment is wider than only Merlin members, as there are labels and artists that have their own DSP licensing agreements and are not a member of Merlin/do not opt into Merlin's DSP licensing agreements. Nevertheless, the Commission considers that the delivery options chosen by Merlin's members gives a good indication of the competitive situation for standalone delivery services within the A&L services market.

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817 Non-Horizontal Merger Guidelines, paragraph 23.

818 This includes both (i) FUGA's 100% SaaS offering and (ii) FUGA's hybrid offering to the extent that FUGA customers use FUGA's SaaS capabilities with their own or third-party (e.g., Merlin) licensing arrangements with DSPs. Cf. Notifying Party's response to RFI 10, footnote 1.

819 See recital (69) above for a more detailed explanation of FUGA's different service options including the "100% SaaS" offering/configuration.

820 Form CO, paragraph 189.

821 Notifying Party's response to RFI 8, paragraph 4.1 and annex to RFI 8, question 3.

822 Minutes of a meeting with Merlin, 20 May 2025, paragraph 6 (ID 1871/2).

823 Merlin response to Commission RFI of 1 July 2025 (ID 5072).

824 Ibid.

825 Ibid.

(570) Against this backdrop and in view of the fact that only some of Merlin members use FUGA's standalone delivery services (and other using competing services such as Audiosalad, Revelator, but also inhouse solutions and Merlin's own delivery services), the Commission concludes that Downtown's share of supply alone is not indicative of a significant degree of market power in the delivery services segment.

(571) **Second**, the Commission's market investigation confirms that there is a number of viable alternative providers of standalone delivery services remaining post-Transaction:

(572) In the first place, the vast majority of competitors who responded to the Commission's Phase I market investigation and who expressed a view consider that there will be meaningful alternatives providers to FUGA's service for music content delivery to DSPs.[826] Respondents consider that the following competitors are meaningful alternatives to FUGA's service for music content delivery to DSPs (by order of votes received): Audiosalad; IDOL; Revelator; Major-affiliated A&L services providers (Ada, Altafonte, AWAL, Virgin, The Orchard); ONErpm; Empire; Kontor; Symponic; Zebralution; Nuemeta; OpenPlay; Absolute; Ampsuite; Danmark Music Group; Ditto; Eveara; iGroove; InnerCat; recordJet as well as others.[827]

(573) In the second place, the vast majority of customers who responded to the Commission's Phase I market investigation and who expressed a view confirmed that there are meaningful alternatives providers to FUGA's delivery service software.[828] Respondents name a variety of alternative delivery service providers including but not limited to (in alphabetic order): Audiosalad; Believe; dig dis!; Distrokid; EMS; Identity Music; IDOL; iGroove; Labelcamp; LabelWorx; Open Play; Recordjet; Revelator; SME; Symphonic; Warner; and Zebralution.[829]

(574) In the third place, those DSPs that responded to the Commission's market investigation confirmed that alternative suppliers of delivery services are used. Specifically, respondents list – by order of number of streams – the following alternative delivery service providers in addition to Downtown's FUGA: Zebralution, Revelator, IDOL, Recordjet, Ampsuite, Gyrostream, Danmark Music Group and EMS.[830]

(575) This is backed up by the fact that Merlin itself used to refer to a list of 19 recommended distributors on its website,[831] out of which eight offer a standalone delivery service comparable to that offered by FUGA.

(576) In addition, various large DSPs refer to different distribution service providers including those that provide standalone delivery services:

(a) Spotify lists various artist and label distributors as well as eight delivery platforms including FUGA on its website;[832]

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826 Responses to questionnaire "04_Competitors - Phase I market investigation - competitors (UPDATED)", question E.A.7.

827 Responses to questionnaire "04_Competitors - Phase I market investigation - competitors (UPDATED)", question E.A.7.1.

828 Responses to questionnaire "02_Customers - Phase I market investigation – customers", question E.2.

829 Responses to questionnaire "02_Customers - Phase I market investigation – customers", question E.2.1.

830 Responses to questionnaire Phase I market investigation - DSPs, question E.1.

831 Merlin has in the meantime removed this information from its website. See the Notifying Party's presentations of 2 June 2025, Slide 31, and of 26 August 2025, Slide 26, as well as Annex 6 to the Reply to the Article 6(1)(c) Decision for a screenshot of the relevant Merlin website.

832 https://artists.spotify.com/providers (ID 4549).

(b) Apple Music lists fourteen preferred distributors including FUGA;[833] and

(c) YouTube lists nine preferred music distributors not including FUGA (but instead Downtown's CD Baby).[834]

(577) Similarly, a third-party market study lists, in addition to FUGA, the following "pipes only" (i.e., delivery) service providers: AmpSuite; Audiosalad; Create; EMS/Zebralution; IDOL; ONErpm; Revelator.[835]

(578) **Third**, the Commission's Phase II market investigation confirms that switching from alternative standalone delivery service providers to Downtown's FUGA and away from FUGA to alternative delivery service providers happens and is neither costly nor time-consuming.

(579) Concerning the time to switch, those current FUGA delivery service customers[836] who responded to the Commission's Phase II market investigation and who expressed a view required on average three months for switching to FUGA[837] and estimate that they would require on average four months for switching away from FUGA to an alternative delivery services provider.[838] And former FUGA delivery customers[839] who responded to the Commission's Phase II market investigation and who expressed a view required on average ten months for switching away from FUGA to an alternative delivery services provider.[840]

(580) Concerning switching costs, all current FUGA delivery customers[841] who responded to the Commission's Phase II market investigation and who expressed a view reported that they incurred no costs at all for switching to FUGA's delivery services;[842] and they estimate that they would also not incur any costs at all for switching away.[843] And former FUGA delivery customers[844] who responded to the

833 https://artists.apple.com/partners?page=1 (ID 4550).

834 https://servicesdirectory.withyoutube.com/directory/#?services=preferred-music-distributor (ID 4551).

835 Enders Analysis: "Recorded music distribution", October 2025, p. 51 (ID5088), a third-party market study submitted by the Notifying Party.

836 Customers who stated that they either procure recorded music delivery (supply to DSPs) only or recorded music delivery (supply to DSPs) and ancillary services from FUGA.

837 Responses to questionnaire "Phase II market investigation - Current customers of Downtown's FUGA product", question D.6. Out of the respondents, only one indicated a switching period longer than 3 months.

838 Responses to questionnaire "Phase II market investigation - Current customers of Downtown's FUGA product", question D.9.

839 Former customers who stated that they either procured recorded music delivery (supply to DSPs) only or recorded music delivery (supply to DSPs) and ancillary services from FUGA.

840 Responses to questionnaire "Phase II market investigation - Former customers of Downtown's FUGA product", question D.4. It should be noted that only one former FUGA customer for delivery and ancillary services indicated a switching period longer than 6 months. If one were to count only former FUGA customers for delivery services, then the average switching time would be 3 months.

841 Customers who stated that they either procure recorded music delivery (supply to DSPs) only or recorded music delivery (supply to DSPs) and ancillary services from FUGA.

842 Responses to questionnaire "Phase II market investigation - Current customers of Downtown's FUGA product", question D.7.

843 Responses to questionnaire "Phase II market investigation - Current customers of Downtown's FUGA product", question D.8.

844 Former customers who stated that they either procured recorded music delivery (supply to DSPs) only or recorded music delivery (supply to DSPs) and ancillary services from FUGA.

Commission's Phase II market investigation and who expressed a view stated that they incurred on average switching costs of EUR 100.[845]

(581) **Fourth**, the Parties' internal documents confirm that various alternative standalone delivery service providers to FUGA exist (see above recitals (571)-(577)):

(a) [Internal document reference].[846]

(b) [Internal document reference].[847]

(c) [Internal document reference].[848]

(d) [Internal document reference].[849]

(e) [Internal document reference].[850]

(582) The Parties' internal documents also show that switching to and from the alternative standalone delivery providers happens in the ordinary course of business. For instance, in an internal document from Downtown from [date], company [name] approaches Downtown, asking questions about FUGA's API capabilities in view of a potential switch form other delivery providers: [internal document reference].[851]

(583) In addition, the review of the Parties' internal documents has not yielded any evidence of plans by UMG to [internal document reference] FUGA's standalone delivery services post-Transaction.

(584) **Fifth**, market participants confirmed in meetings with the Commission that – in their view – there is nothing special about standalone delivery services that would prevent other A&L service providers to offer delivery services comparable to those offered by FUGA.

(585) For example, A&L service provider Distrokid explained:

(586) "*DistroKid further explained that switching from another DIY services provider to DistroKid is not difficult or long. Distrokid is not capacity constrained as it is mainly providing software which is easy to scale up. Currently, DistroKid is mainly supporting DIY artists but would be able to support artists with larger catalogues. The technology is advanced but is not complex and not very difficult to roll out. In terms of commoditization,* ***the delivery of recorded music is what is most commoditized from all A&L services, according to Distrokid****.*"[852] (emphasis added)

(587) And the largest DSP, Spotify, set out: "*We do not anticipate that switching away from Downtown to another SaaS service provider will have a significant impact for artists' and/or labels' positioning (such as visibility and inclusion in playlists) on Spotify* ***because there are many other independent providers offering delivery SaaS services****.*" [853] (emphasis added)

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845 Responses to questionnaire "Phase II market investigation - Former customers of Downtown's FUGA product", question D.5.

846 DMH_00400603.

847 UMG_00057614; UMG_00056621.

848 UMG_00373524.

849 UMG_00598721.

850 Various versions on file, see for example: DMH_00169594.

851 DMH_00246735.

852 ID3698/2.

853 ID1723/16.

(588) Since the Commission has concluded above that UMG would not have the ability to foreclose Downtown's rivals, the question whether UMG would have an incentive to engage in any foreclosure strategies or whether the Transaction would cause any negative impact on competition can be left open for the purposes of this Decision.

9.4.3.3.2. Conclusion

(589) In view of the above considerations and in light of the results of the market investigation and of all the evidence available to it, the Commission concludes that the Transaction would not significantly impede effective competition on the market for A&L services in the EEA, which includes Austria and the Netherlands, as a result of conglomerate effects, notably by tying or bundling the provision of standalone delivery services to DSPs to customers also purchasing the full A&L service package from UMG (e.g., by way of preventing, restricting or degrading the access to FUGA's standalone delivery services), considering that the merged entity would not have the ability to foreclose its rivals.

9.5. Conclusion

(590) In light of the above, the Commission has come to the view that it is likely that the Transaction would significantly impede effective competition in a substantial part of the internal market (including in the Netherlands and Austria) within the meaning of Article 2(3) of the Merger Regulation as a result of the Notifying Party obtaining access to commercially sensitive information of rival record labels, i.e., the Curve Data, in the EEA, which includes Austria and the Netherlands.

10. COMMITMENTS

10.1. Analytical framework

(591) When a concentration raises competition concerns, the merging parties may seek to modify the concentration in order to resolve those competition concerns and thereby obtain clearance for the merger.[854]

(592) Under the Merger Regulation, the Commission must show that a concentration would significantly impede effective competition in the internal market, or in a substantial part of it. It is then for the notifying party/parties to the concentration to propose appropriate commitments.[855] The Commission only has the power to accept commitments that are deemed capable of rendering the concentration compatible with the internal market so that they will prevent a significant impediment to effective competition in all relevant markets in which competition concerns were identified.[856]

(593) The commitments must eliminate the competition concerns entirely and must be comprehensive and effective in all respects. The commitments must also be proportionate to the competition concerns identified.[857] Furthermore, the

854 Commission notice on remedies acceptable under Council Regulation (EC) No 139/2004 and under Commission Regulation (EC) No 802/2004 (the '**Remedies Notice**'), OJ C 267, 22.10.2008, p.1, paragraph 5.

855 Remedies Notice, paragraph 6.

856 Remedies Notice, paragraph 9.

857 Recital 30 of the Merger Regulation. The General Court set out the requirements of proportionality as follows: "*the principle of proportionality requires measures adopted by Community institutions not to exceed the limits of what is appropriate and necessary in order to attain the objectives pursued; when there is a choice between several appropriate measures recourse must be had to the least onerous, and*

commitments must be capable of being implemented effectively within a short period of time as the conditions of competition on the market will not be maintained until the commitments have been fulfilled.[858]

(594) In assessing whether the proposed commitments will likely eliminate the competition concerns identified, the Commission considers all relevant factors including *inter alia* the type, scale and scope of the proposed commitments, judged by reference to the structure and particular characteristics of the market in which the competition concerns arise, including the position of the parties and other participants on the market.[859]

(595) In order for the commitments to comply with those principles, commitments must be capable of being implemented effectively within a short period of time.[860] However, where the parties submit remedies proposals that are so extensive and complex that it is not possible for the Commission to determine with the requisite degree of certainty, at the time of its decision, that they will be fully implemented and that they are likely to maintain effective competition in the market, an authorisation decision cannot be granted.[861]

(596) Regarding the form of acceptable commitments, the Merger Regulation leaves discretion to the Commission as long as the commitments meet the requisite standard.[862] Divestiture commitments are generally the best way to eliminate competition concerns resulting from horizontal overlaps, although other structural commitments, such as access remedies, may be suitable to resolve concerns if those remedies are equivalent to divestitures in their effects.[863]

(597) It is against that background that the Commission analysed the proposed commitments in this case.

10.2. Initial Commitments

10.2.1. Description of the Initial Commitments

(598) In order to render the concentration compatible with the internal market, the Parties have submitted commitments on 11 December 2025 (the '**Initial Commitments**') pursuant to Article 8(2) of the Merger Regulation.

(599) The Initial Commitments consisted in the divestment to a suitable purchaser(s) (the '**Purchaser**')[864] of the Curve royalty accounting business, including Curve's cloud-

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the disadvantages caused must not be disproportionate to the aims pursued" (Case T-177/04 - *EasyJet v Commission* [2006] ECR II-1931, paragraph 133).

858 Remedies Notice, paragraphs 9, 10, 11, 63 and 64.

859 Remedies Notice, paragraph 12.

860 Remedies Notice, paragraph 9.

861 Remedies Notice, paragraphs 13, 14 and 61 et seq.

862 Case T-177/04 - *EasyJet v Commission* [2006] ECR II-1913, paragraph 197.

863 Remedies Notice, paragraph 19.

864 Initial Commitments, Section D contains a list of criteria (the '**Purchaser Criteria**') that a given Purchaser should satisfy to be considered a suitable Purchaser of the Divestment Business (defined below). These include that (i) the Purchaser shall be independent of and unconnected to the Parties and should not be the seller in the Transaction; (ii) the Purchaser shall have the financial resources to maintain and develop the Divestment Business as a viable and active competitive force in competition with the Parties and other competitors including that the Purchaser shall not be excessively leveraged, shall have sufficient equity and profitability, shall have a turnover significantly larger than the turnover of the Divestment Business, shall have sufficient means to finance the acquisition of the Divestment Business and the execution of its business plan, including investments; (iii) the Purchaser shall have the proven expertise, ability and incentive to maintain and develop the Divestment Business as a viable and

based royalty accounting software platform (the '**Curve Platform**'), in the form of a legal entity Curve Royalty Systems, Ltd (United Kingdom) (the '**Divestment Business**').[865] In particular, the Divestment Business includes:

(a) IT hardware used by the Divestment Business (i.e., laptops and peripherals used by the Divestment Business);[866]

(b) Trademarks and trademarks applications, including the "Curve" market and the pending trademark registration in the United Kingdom;[867]

(c) Any other intangible assets required to deliver royalty accounting services including Curve's domain registrations, AWS hosting environment and the source code, data and algorithms relating to Curve's royalty accounting platform;[868]

(d) All sales resources and operations;[869]

(e) Licenses;[870,871]

(f) All customer contracts, relationships and associated records pertaining to:[872,873]

   (1) All existing standalone Curve customer contracts (the '**Curve Standalone Customers**'), excluding [confidential information on a customer contract];

   (2) All customers that utilise Curve's royalty accounting services alongside Downtown's distribution, publishing and/or neighbouring rights services (the '**Default Shared Customers**'), unless the customer elects to receive royalty accounting services from Downtown's new offering instead (the '**Electing Shared Customer**').

(g) Vendor contracts that relate exclusively or predominantly to the Divestment Business' operations – such as those for cloud hosting and storage, payment services and outsourced technical development. These contracts will be transferred to the Purchaser, subject to the consent of the applicable vendor (if required). The Divestment Business also includes certain shared vendor contracts, i.e., agreements that support both the Divestment Business and the retained business;[874]

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active competitive force in competition with the Parties and other competitors; and, (iv) the acquisition of the Divestment Business by the Purchaser must neither be likely to create, in light of the information available to the Commission, *prima facie* competition concerns nor give rise to a risk that the implementation of the Commitments will be delayed.

865 Initial Commitments, Schedule, paragraphs 1(a) and 1(b).

866 Initial Commitments, Schedule, paragraph 2(a)(ii).

867 Initial Commitments, Schedule, paragraph 2(a)(ii). The Commission notes that the Divestment Business does not hold any patents.

868 Initial Commitments, Schedule, paragraph 2(b)(ii).

869 Initial Commitments, Schedule, paragraph 2(b)(iii).

870 Curve's platform is used exclusively by Curve and Curve licenses the platform on a non-exclusive basis to its customers, whether external or to group affiliates.

871 Initial Commitments, Schedule, paragraph 2(c)(i).

872 Initial Commitments, Schedule, paragraph 2(d)(i).

873 With regards to [assessment regarding the fact that current RASA customer's data would be sufficiently protected].

874 Initial Commitments, Schedule, paragraph 2(d)(ii).

(h) All documentation and data (irrespective of the date of such data) relating to Curve Standalone Customers and the Electing Shared Customer and former Curve customers whose data Curve still retains. This includes, but is not limited to, commercial correspondence, contractual and billing records, configuration and integration files, implementation and onboarding documentation, technical specifications, usage statistics, and all other operational information required to ensure the uninterrupted provision of services and the full commercial continuity of the Divestment Business;[875,876]

(i) All business records, books of accounts, financial records, and tax records; and all information, including pricing information, account histories, research data and commercial data used exclusively or predominantly for the Divestment Business;[877]

(j) All Personnel currently employed by the Divestment Business, including all personnel working on Curve who are employed by other Downtown or third-party entities, other than two retained engineers (the '**Retained Engineers**').[878] In addition, the Divestment Business will include the following most senior individuals involved in the Divestment Business (the 'Key Personnel'):[879]

(1) [confidential details on Key Personnel of the Divestment Business];

(2) [confidential details on Key Personnel of the Divestment Business];

(3) [confidential details on Key Personnel of the Divestment Business];

(4) [confidential details on Key Personnel of the Divestment Business];

(5) [confidential details on Key Personnel of the Divestment Business];

(6) [confidential details on Key Personnel of the Divestment Business].

(k) The arrangements for the supply with the following products or services by Downtown (or affiliated undertakings) for a transitional period of up to [confidential information on timing]:[880]

(1) Human resources, finance and accounting services;

(2) Misdirected cash payments;

(3) IT;

(4) Data migration;

(5) Knowledge transfer.

(600) The Divestment Business shall not include non-dedicated employees who support Curve on a part-time basis from other Downtown entities, [confidential information on customer contract], Electing Shared Customer and the Retained Engineers.[881]

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875 Initial Commitments, Schedule, paragraph 2(e)(i).

876 Should any such data come into Parties' hands following the divestment of the Divestment Business, such data would be promptly deleted, save where retention is required by law.

877 Initial Commitments, Schedule, paragraph 2(e)(ii).

878 Initial Commitments, Schedule, paragraph 2(f).

879 Initial Commitments, Schedule, paragraph 2(g).

880 Initial Commitments, Schedule, paragraph 2(h).

881 Initial Commitments, Schedule, paragraph 3.

(601) The Initial Commitments does not include offices. The Divestment Business does own or lease any office space given that the majority of its employees are remote workers. Curve's registered office is not office space owned or leased by the Divestment Business.[882]

(602) In addition, the Initial Commitments foresee that the Parties would retain a duplicate version of the Curve Platform[883], which will be sanitized and therefore will not contain any data of the Curve Standalone Customers or the Downtown Shared Customers (except the Electing Shared Customer) (the '**Duplication**').

(603) Furthermore, the Initial Commitments foresee the appointment of a monitoring trustee to carry out the functions specific in the Initial Commitments for a monitoring trustee (the '**Monitoring Trustee**')[884] as well as a dispute resolution mechanism which would follow the arbitration rules of the Arbitration Chamber of Commerce.[885]

(604) The Commission launched the Market Test of the Initial Commitments on 12 December 2025. The Market Test was sent to 136 market participants, including potential purchasers of the Divestment Business, competitors of Curve, former and current customers of Curve and the interested third parties admitted to the proceedings.

(605) The Commission gave the Parties detailed feedback on the outcome of the Market Test on 22 December 2025. On 23 December 2025, the Commission provided the Notifying Party with access to the responses to the Market Test.

10.2.2. Results of the Market Test of the Initial Commitments

(606) The Commission notes that a majority of respondents to the Commission's Market Test consider that the Initial Commitments will ensure that post-Transaction, UMG would not have access to commercially sensitive information of its rival record labels currently processed by Curve.[886] Similarly, a majority of respondents to the Commission's Market Test consider that the Purchaser Criteria set out in the Initial Commitments are sufficient for the Commission to approve a Purchaser of the Divestment Business.[887]

(607) Even if a majority of respondents who expressed a view considers that the Divestment Business includes all the necessary elements for a Purchaser to effectively compete in the market for the supply of royalty accounting services on a lasting basis,[888] there are a number of market participants which have raised some concerns on a number of aspects of the Initial Commitments.

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882 Initial Commitments, Schedule, paragraph 2(a)(i).

883 It shall comprise the royalty-accounting software system, including its source code, databases, interfaces and documentation, as they exist at that time.

884 Initial Commitments, Section E.

885 Initial Commitments, Section G.

886 Replies to the Market Test, question D.11.

887 Replies to the Market Test, question D.7. In this regard, the Commission notes that most respondents to the Market Test consider that music distribution, music publishing, music royalty processing, accounting and payment, music technology or software, neighbouring rights representation activities would constitute proven expertise within the meaning of the Purchaser Criteria (see replies to the Market Test, question D.9).

888 Replies to the Market Test, question D.2.

(608) *First*, a majority of respondents to the Commission's Market Test, although considering the Divestment Business contains all necessary elements for a Purchaser to effectively compete on a lasting basis, consider that the Duplication is likely to impact the viability of the Divestment Business.[889] For instance, potential purchasers of the Divestment Business explained that:

(a) "*If UMG was to offer a duplicate version of Curve as an option to customers who would previously have looked to Curve for such services, and with UMG likely able to offer those services at a lower cost than the Divestment Business I can certainly see that as likely to impact the viability of the Divestment Business*"[890]

(b) The Duplication "*would significantly lower the value because it would create a competitive situation, meaning UMG would be a direct competitor, which is not the case at present*;"[891]

(c) "*if UMG were to rename the service and start competing with Curve out in the open, that could affect future business*;"[892]

(d) "*UMG's retention of a copy of the Curve software presents competition to the Divestment Business which will have to be evaluated in the context of the non-solicitation provisions in the purchase agreement and existing Customer agreements in order determine the impact on the Divestment Business, including its viability and/or purchase price*;"[893]

(e) "*A potentially risky scenario for an independent Curve could be if UMG ends up offering the Curve service at marginal cost or less, bundled into its overall service offering. It is essential that proper economic incentives form the basis of any agreement between Downtown/UMG and Curve*;"[894] and,

(f) "*If the ... Parties ... offer a nearly identical service to Curve but with the addition of other benefits bundled together based on being associated with the broader businesses of the ... Parties, the Divestment Business will be at a competitive disadvantage*."[895]

(609) These concerns were also voiced by other market participants, including customers of Curve, which explained that: "*UMG's retention of a copy of the Curve software, combined with its continued provision of competing royalty accounting services, may have an impact on the feasibility and long-term viability of the divestment business, even in the absence of current Curve customer data.*"[896] Another customer of Curve explained that: "*Retaining a copy of the software would seem to negate the sale as a competitive business*."[897] Finally, a customer of Curve further explained that: "*UMG retaining a copy of the software for the purpose of creating a competitive product would disadvantage the viablity* [viability] *Curve as a standalone business given* UMG[']s *resources and position in the industry.*"[898]

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889 Replies to the Market Test, question D.5.
890 A potential purchaser's response to the Market Test, question D.5.1 (ID 4852).
891 A potential purchaser's response to the Market Test, question D.5.1 (ID 4973).
892 A potential purchaser's response to the Market Test, question D.5.1 (ID 4795).
893 A potential purchaser's response to the Market Test, question D.5.1 (ID 4884).
894 A potential purchaser's response to the Market Test, question D.5.1 (ID 4735).
895 A potential purchaser's response to the Market Test, question D.5.1 (ID 4966).
896 A customer's response to the Market Test, question D.5.1 (ID 4664).
897 A customer's response to the Market Test, question D.5.1 (ID 4828).
898 A customer's response to the Market Test, question D.5.1 (ID 4900).

(610) IMPALA further explained that: "*The copycat Curve offering of the Parties will thus already have a head start in the market vis-à-vis the Divestment Business, without the transaction cost and uncertainties attached to the Divestment Business, and the Divestment Business will not be able to differentiate itself against the copycat offering*."[899] IMPALA further explains that since "*Curve has been integrated into Downtown's infrastructure, ... the Divestment Business will face a possibly more efficient copycat, both on a standalone basis as well as within the context of the suite of services to be provided by the Parties ... The Divestment Business will therefore be at a further competitive disadvantage compared to the Parties' copycat solution similarly affecting both its viability and its ability to compete effectively on a lasting basis in the market.*"[900]

(611) *Second*, some market participants explain that carving out from the scope of the Divestment Business, the Electing Shared Customer may impact the viability and competitiveness of the Divestment Business. For instance, one potential purchaser explained that: "*What needs to be ensured, and this is addressed in the* [Initial] *Commitments, is that, when they replicate the software and system,* [the Parties] *do not replicate the customer data. In this respect, further clarity would be welcomed regarding the treatment of the data of the Electing Shared Customers*."[901] Another potential purchaser explained that: "*while the core business elements described in Section 2 of the Schedule are generally acceptable, the incompleteness of the Customer contracts and withholding of two key experienced engineers is problematic to the competitiveness of the Divestment Business*."[902] A third potential purchaser explained that: "*The viability of the Divestment Business depends on the number of current curve Customers that actually transfer with the sale of the business and the scope of any non-solicit provisions related to the* [T]*ransaction.*"[903] A competitor of the Parties further explained that: "*We believe that it is best for the effective functioning of the market if all Curve customers are part of the Divestment Business and the concepts of Electing Shared Customers and Downtown's new offering are eliminated from the Commitments. In order to ensure the viability of the Divestment Business, no part of the current Curve business - customers, employees or software - should remain with UMG.*"[904] Finally, Merlin explained that the Initial Commitments "*involve the retention of commercially sensitive data available as a result of the provision of services under the Virgin Customer Contract, customer contracts outsourced by Virgin and to Electing Shared Customers*."[905] More specifically, one competitor of the Parties explained that: "*The concept of "commercially disproportionate terms" (per para 2(d)(i)(b) of the Schedule* [of the Initial Commitments]*) is unclear*."[906]

(612) *Third*, some market participants have expressed concerns as to the Retained Engineers by Downtown for the competitiveness of the Divestment Business. In particular, one potential purchaser explained that: "*further clarity would be needed on the identity and roles of the two engineers being retained by Downtown to ensure they are not critical engineers to the continuing operation of the Divestment*

899 IMPALA's response to the Market Test, question D.5.1 (ID 5014).
900 IMPALA's response to the Market Test, question D.5.1 (ID 5014).
901 A potential purchaser's response to the Market Test, question D.11.1 (ID 5001).
902 A potential purchaser's response to the Market Test, question D.2.1 (ID 4865).
903 A potential purchaser's response to the Market Test, question D.1.1 (ID 4884).
904 A competitor's response to the Market Test, question D.1.1 (ID 4920).
905 Merlin's response to the Market Test, question D.11.1 (ID 5031).
906 A competitor's response to the Market Test, question D.6.1 (ID 4920).

Business."[907] Another potential purchaser explained that: "*while the core business elements described in Section 2 of the Schedule are generally acceptable, the incompleteness of the Customer contracts and withholding of two key experienced engineers is problematic to the competitiveness of the Divestment Business*."[908] Merlin further explained that: "*Given the two excluded engineers are expressly proposed to be retained to ensure technical support continuity for the retained Curve instance, we can only assume they are senior and expert personnel – again suggesting that the Divestment Business would lack elements necessary for a Purchaser to effectively compete in the market for the supply of royalty accounting services on a lasting basis*."[909]

(613) *Fourth*, market participants raised concerns about the transfer of data process and potential data breaches. In particular, one customer of Curve explained that: "*The transfer of customer data would pose a risk and UMG must ensure that they retain no access to any records or information belonging to any customer.*"[910] Merlin further explained that: "*the elimination and sanitisation processes will need to be closely monitored. The* [initial] *Commitments do not currently give clarity about how that process will be implemented or how effective monitoring will be ensured.*"[911] A customer of Curve explained that: "*I do not think the text is sufficient in defining exactly how any sensitive data will be cleansed by UMG. It is crucial that this is properly addressed*."[912]

(614) *Fifth*, some market participants consider that some of the wording of the Initial Commitments is unclear in relation to the divestment of vendor contracts. For instance, a former customer of Curve explained that: "*The fact that vendor contracts included pertain to those* "*exclusively or predominantly" related to the Divestment Business significantly depends on the current scope of bundling and interconnection of these agreements with other services and their operational relevance – it may well be possible, if not likely, that vital supply arrangements are tied to other services and would thus not be included within the Divestment Business, jeopardizing the sustainability of the remedy*."[913] Merlin further explained that: "*there are other elements to be excluded from the business where we do not have sufficient information to properly assess the ability of the Divestment Business to compete effectively on a lasting basis. These are supply contracts that do not relate exclusively or predominantly to the Divestment Business and two excluded engineers*."[914]

(615) *Sixth,* the Commission notes that a number of market participants have raised concerns about the fact that the Initial Commitments do not address all the concerns raised by the Transaction. In particular, IMPALA considered that the scope of the Commitments should be extended to other Downtown's services: "*for the Divestment Business to be in a position to compete effectively on a lasting basis in the market in the same way as Curve before the Transaction, the Proposed Commitments should include the means to provide the full suite of services currently offered by Downtown, beyond Curve, without the attached customers for services other than*

907 A potential purchaser's response to the Market Test, question D.2.1 (ID 5001).
908 A potential purchaser's response to the Market Test, question D.2.1 (ID 4865).
909 Merlin's response to the Market Test, question D.2.1 (ID 5031).
910 A customer's response to the Market Test, question D.6.1 (ID 4828).
911 Merlin's response to the Market Test, question D.11.1 (ID 5031).
912 A customer's response to the Market Test, question D.11.1 (ID 4828).
913 A customer's reply to the Market Test, question D.2.1 (ID 4959).
914 Merlin's response to the Market Test, question D.2.1(ID 5031).

Curve. That would allow the Purchaser to replicate Curve's current appeal to customers, and to develop further and readily the complementary offerings to the benefit of labels."[915]

10.2.3. The Commission's assessment of the Initial Commitments

(616) On the basis of the results of the Market Test, the Commission considers that, while the Initial Commitments are suitable to eliminate the competition concerns identified in Section 9 above, the Divestment Business, as described in the Initial Commitments, is not viable, competitive and marketable business, for the following reasons.

(617) *First*, the Commission considers that the Divestment Business as defined in the Initial Commitments is suitable to eliminate the competition concerns identified in Section 9 above for the following reasons.

(618) In the first place, the Commission notes that the Initial Commitment consists in a clear-cut structural remedy, namely in the divestment of the Divestment Business, i.e., Curve. In this regard, the Commission notes that the nature of the remedy dispels the concerns raised by two interested third parties which explained to the Commission that non-structural remedies would not be suitable to address the competition concerns arising from the Transaction.[916]

(619) In the second place, the Commission recalls that in line with the assessment in Section 9 above, the Commission has only found that the Transaction is likely to give rise to a significant impediment to effective competition as a result of UMG obtaining access to commercially sensitive information of rival record labels processed by Curve, i.e., the Curve Data. In this regard, the Commission considers that any proposed commitments would only need to address such competition concern. In that regard, the Commission considers that while some market participants explained that the Divestment Business should include the full suite of services currently offered by Downtown, such consideration fails to recognise that Curve was only purchased by Downtown in December 2022[917] and that Curve Standalone Customers represent more than […]% of Curve's total customer base and generate almost […]% of Curve's global revenues.[918] In this sense, the Commission considers that the […] of Curve's customers do not rely on additional Downtown services. Furthermore, the Parties have confirmed that [details on the integration of Curve with other Downtown products].[919] [Details on the integration of Curve with other Downtown products].[920] In this regard, the Commission considers that it would not be necessary for the Divestment Business to include additional services beyond those offered by Curve to be suitable to address the competition concerns expressed in Section 9 above.

915 IMPALA's response to the Market Test, question D.2.1 (ID 5014). The Commission also notes that IMPALA considers that commercially sensitive information is also found in other Downtown products, such as CD Baby, FUGA and Songtrust (see IMPALA's response to the Market Test, question E.1 (ID 5014)).

916 See submissions of the IMPALA (ID 4602, pages 24-26) and of Merlin (ID 5094, Section 9).

917 Form RM of 11 December 2025, paragraph 43.

918 Form RM of 11 December 2025, tables 1 and 2.

919 Form RM of 15 January 2026, footnote 19.

920 Form RM of 15 January 2026, paragraphs 70-71.

(620) In the third place, the Commission recalls that a majority of respondents who expressed their view to the Commission's Market Test consider that the Initial Commitments will ensure that post-Transaction, UMG would not have access to commercially sensitive information of its rival record labels currently processed by Curve.[921] The respondents therefore consider that the remedies address the competition concern identified by the Commission.

(621) In the fourth place, the Commission recalls that a majority of respondents to the Commission's Market Test consider that the Purchaser Criteria set out in the Initial Commitments are sufficient for the Commission to approve a Purchaser of the Divestment Business.[922]

(622) In the fifth place, the Commission considers that while the Initial Commitments provide for the divestment of all vendor agreements which exclusively or predominantly related to the Divestment Business' operations, the Initial Commitments foresee that "*for a transitional period of up to* [confidential details on timing] ... *and on terms and conditions equivalent to those at present afforded to the Divestment Business or at cost (whichever is more advantageous to the Divestment Business), [the Divestment Business includes the benefit] of all current arrangements under which Downtown … supply products or services to the Divestment Business or of any other current or new arrangements which are necessary for the viability of the Divestment Business, as detailed in the Schedule.*"[923] These include human resources, finance and accounting services, misdirect cash payments, IT, data migration and knowledge transfer.[924] On this basis, the Commission considers that the Divestment Business would not be impacted in its operations, in light of the scope of the divested vendor agreements and the transitional agreements which will be offered to the Purchaser.

(623) In the sixth place, the Commission notes that it has not received any standalone and substantiated complaints in relation to section E (Trustee) or section G (Dispute Resolution Procedure) of the Initial Commitments. Furthermore, the Commission notes that these sections are drafted in line with the Commission's model text for divestiture commitments. On this basis, the Commission considers that the monitoring and dispute resolution procedures are suitable.

(624) In the seventh place, the Commission notes that several respondents to the Market Test confirmed their interest in purchasing the Divestment Business as described in the Initial Commitments.[925]

(625) On the basis of the above, the Commission considers that the Initial Commitments are suitable to eliminate the competition concerns expressed in Section 9 above.

(626) *Second*, however, the Commission considers, in light of the results of the Market Test, that the Divestment Business, as presented in the Initial Commitments, is not viable, competitive and marketable business for the following reasons.

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921 Replies to the Market Test, question D.11.

922 Replies to the Market Test, question D.7. In this regard, the Commission notes that most respondents to the Market Test consider that music distribution, music publishing, music royalty processing, accounting and payment, music technology or software, neighbouring rights representation activities would constitute proven expertise within the meaning of the Purchaser Criteria (see replies to the Market Test, question D.9).

923 Initial Commitments, paragraph 6.

924 Initial Commitments, Schedule, paragraph 2(h).

925 Replies to the Market Test, question D.10.

(627) In the first place, the Commission notes, in line with the views of a majority of respondents to the Market Test,[926] that the Duplication of the Curve Platform is likely to impact the viability of the Divestment Business and the ability of the purchaser to compete effectively in the global market for royalty administration services.

(628) In the second place, the Commission notes, in line with the substantiated views of respondents to the Market Test,[927] that the uncertainty regarding the number (and associated revenues) of Electing Shared Customer is likely to impact the viability and competitiveness of the Divestment Business. Furthermore, the lack of clarity in relation to the efforts that the Parties may deploy to increase as much as possible the amount of Electing Shared Customers further increases the likely impact on the viability and competitiveness of the Divestment Business. The Commission also considered, in line with the replies received to the Market Test, that the current wording related to the commercial terms to the Electing Shared Customer need to be clarified and shall be supervised and monitored by the Trustee.

(629) In the third place, the Commission notes, in line with the substantiated views of respondents to the Market Test,[928] that the fact that not all engineers would be transferred with the Divestment Business is likely to impact the viability and competitiveness of the Divestment Business.

(630) In the fourth place, the Commission notes, in line with the substantiated views of respondents to the Market Test,[929] that the exceptions to the prompt deletion of customer records which would improperly fall in the hands of the Parties should be clear and exhaustively listed in the Commitments. In addition, the Commission considers that the Notifying Party shall provide more guarantees that no commercially sensitive information of UMG's rival record labels will be available to UMG during the transfer process.[930]

(631) On the basis of the above, the Commission considers that the Divestment Business, as described in the Initial Commitments, does not consist in a viable, competitive and marketable business.

(632) In light of the above, the Commission concludes that the Initial Commitments in their entirety are suitable to eliminate the competition concerns expressed, according to which the Transaction would result in a significant impediment to effective competition. However, the Commission considers, in line with paragraph 7 of the Remedies Notice, that the Divestment Business does not consist in a viable, competitive and marketable business.

926 Replies to the Market Test, question D.5.
927 See recital (611) above.
928 See recital (612) above.
929 See recital (613) above.
930 Replies to the Market Test, questions D.1.1 and D.6.1.

10.3. Final Commitments

10.3.1. Description of the Final Commitments

(633) On 15 January 2026, the Notifying Parties formally submitted a new Form RM as well as a new commitments text (the '**Final Commitments**'). The Final Commitments are identical to the Initial Commitments, except on the following aspects:

(a) Exclude the Duplication. Instead, the Purchaser shall grant to the Parties a license (without any data of the Curve's customers) enabling the Parties to continue to use the Curve Platform for internal purposes/use cases for a period of up to [confidential details on timing]. During the period, the Purchaser will provide sufficient (tech) support, including personnel and resources, to maintain the internal purposes/use cases required by the Parties with relevant details to be set out in a service level agreement;[931,932]

(b) All customers of Curve, whether they were referred to as Curve Standalone Customers, Curve Shared Customers or Electing Shared Customers in the Initial Commitments have now been included in a single definition '**Curve Customers**';[933]

(c) The non-solicitation period has been extended to cover all Curve Customers (including Curve Shared Customers, as defined in the Initial Commitments);[934]

(d) The Divestment Business will include all Curve Customers as well as [confidential details on customer contract];[935,936]

(e) The Parties may only retain customer record data (which cannot include any data on the relationship between an artist and its record label) where it is required by law (e.g., jurisdictions requiring retention of financial and accounting records for a period of time for companies to fulfil their applicable tax and corporate obligations); and,[937]

(f) Includes the Retained Engineers within the scope of the Divestment Business.[938]

10.3.2. The Commission's assessment of the Final Commitments

(634) The Commission considers that the Final Commitments in their entirety are suitable and sufficient to eliminate the competition concerns expressed, according to which

931 In the Form RM, the Parties confirm that the internal purposes/use cases do not involve access to or processing of any data on the relationship between an artist and its record label (Form RM of 15 January 2026, footnote 23). Furthermore, in the Form RM, the Parties explain that the key terms of the service level agreement are expected to include [confidential details on agreement with purchaser] to support the internal purposes/use cases (Form RM of 15 January 2026, paragraph 53).

932 Final Commitments, Schedule, paragraph 2(i).

933 Final Commitments, paragraph 1.

934 Final Commitments, paragraph 14.

935 [Confidential details of customer contract].

936 Final Commitments, Schedule, paragraph 2(d)(i).

937 Final Commitments, Schedule, paragraph 2(e)(i).

938 Final Commitments, Schedule, paragraph 2(f).

the Transaction would result in a significant impediment to effective competition, for the following reasons.[939]

(635) *First*, in Section 10.2.3 above, the Commission already concluded that the Initial Commitments were suitable to eliminate the competition concerns identified in Section 9 above.

(636) *Second*, the Commission notes that the improvements resolve any viability, competitiveness or marketability concern identified in Section 10.2.3 above for the following reasons.

(637) <u>In the first place</u>, the Commission notes that the Final Commitments no longer foresee the Duplication. Instead, the Purchaser will need to provide the Parties with a license-back for [confidential details on timing] to ensure business continuity in light of Downtown's internal purposes/use cases. The Commission considers that such license-back will generate revenues for the Purchaser, and will thus enhance the viability of the Divestment Business. Furthermore, given the transitional nature of the license-back, the Commission notes that the Purchaser will be free to terminate the license-back after [confidential details on timing].

(638) <u>In the second place</u>, the Commission notes that all Curve Customers would be included in the Divestment Business, including [confidential details on customer contract]. In this regard, the Commission notes that no current customer of Curve would remain with the Parties for royalty accounting services. Furthermore, including in the scope of the Divestment Business the [confidential details on customer contract] will generate revenues for the Purchaser, and will hus enhance the viability, of the Divestment Business.

(639) <u>In the third place</u>, the Commission notes that the Retained Engineers would not be divested with the Divestment Business. The Divestment Business thus includes all the necessary personnel to operate the Divestment Business.

(640) <u>In the fourth place</u>, the Commission notes that the language of the Commitments regarding the circumstances in which the Parties may retain data has been listed and clarified.

(641) *Third*, the Commission considers that the Commitments are capable of being implemented effectively within a short period of time. In particular, the Commission notes that the Parties have not identified any material legal obstacles to transferring the Divestment Business to the Purchaser on the basis of a share sale, including *inter alia*, any dependency on third-party rights or any requirement for consent to key supply contracts.[940] Similarly, the vast majority of customer contracts [confidential details on customer contract].[941] In addition, the Parties do not expect any antitrust or regulatory filings.[942]

(642) In light of the above, the Commission concludes that the Final Commitments in their entirety are suitable and sufficient to eliminate the competition concerns expressed,

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939 Given that the improvements offered by the Parties directly and comprehensively address the concerns raised by the Market Test, the Commission does not consider that a Market Test is necessary or otherwise required to assess the Final Commitments.

940 Form RM of 15 January 2026, paragraph 27.

941 Form RM of 15 January 2026, paragraph 27.

942 Form RM of 15 January 2026, paragraph 28(b). The Commission also notes that while some supply agreements [confidential details on terms of supply agreements] (Form RM of 15 January 2026, paragraph 28(a)).

according to which the Transaction would result in a significant impediment to effective competition. The Commission also concludes that the Commitments are capable of being implemented effectively within a short period of time.

10.4. Overall conclusion

(643) In the light of the above, the Commission considers the Final Commitments capable of rendering the Transaction compatible with the internal market as they will prevent a significant impediment to effective competition as a result of UMG accessing commercially sensitive information of its rivals through the acquisition of the Curve Data.

11. CONDITIONS AND OBLIGATIONS

(644) Pursuant to the second subparagraph of Article 8(2) of the Merger Regulation, the Commission may attach to its decision conditions and obligations intended to ensure that the undertakings concerned comply with the commitments they have entered into vis-à-vis the Commission with a view to rendering the concentration compatible with the internal market.

(645) The fulfilment of the measure that gives rise to the structural change of the market is a condition, whereas the implementing steps which are necessary to achieve this result are generally obligations on the parties. Where a condition is not fulfilled, the Commission's decision declaring the concentration compatible with the internal market is no longer applicable. Where the undertakings concerned commit a breach of an obligation, the Commission may revoke the clearance decision in accordance with Article 8(6) of the Merger Regulation. The undertakings concerned may also be subject to fines and periodic penalty payments under Articles 14(2) and 15(1) of the Merger Regulation.

(646) In accordance with the basic distinction described in Recital (644) as regards conditions and obligations, this Decision should be made conditional on the full compliance by the Notifying Party with the Section B (including the Schedule of the Final Commitments submitted by the Notifying Party on 15 January 2026) and all other Sections should be obligations within the meaning of Article 8(2) of the Merger Regulation.

(647) The full text of the Final Commitments is attached as an Annex to this Decision and forms an integral part thereof.

HAS ADOPTED THIS DECISION:

Article 1

The notified operation whereby Universal Music Group N.V. acquires sole control of Downtown Music Holdings LLC within the meaning of Article 3(1)(b) of the Merger Regulation is hereby declared compatible with the internal market and the EEA Agreement.

Article 2

Article 1 is subject to compliance with the conditions set out in the Section B and the Schedule of the Annex to this decision.

Article 3

Universal Music Group N.V. shall comply with the obligations set out in the Sections C to G of the Annex to this decision not referred to in Article 2.

Article 4

This Decision is addressed to:

Universal Music Group N.V.
‘s-Gravelandseweg 80
1217 EW Hilversum
The Netherlands

Done at Brussels, 13.2.2026

For the Commission

(Signed)
Valdis DOMBROVSKIS
Member of the Commission

Case *M.11956 – UMG / DOWNTOWN*

COMMITMENTS TO THE EUROPEAN COMMISSION

15 January 2026

Pursuant to Article 8(2) of Council Regulation (EC) No 139/2004 (the '***Merger Regulation***'), Universal Music Group N.V. ('***UMG***') and Downtown Music Holdings LLC ('***Downtown***') (together, the '***Committing Parties'***) hereby enter into the following commitments (the '***Commitments***') vis-à-vis the European Commission (the '***Commission***') with a view to rendering UMG's proposed acquisition of sole control of Downtown (the '***Concentration***') compatible with the internal market and the functioning of the EEA Agreement.

This text shall be interpreted in light of the Commission's decision pursuant to Article 8(2) of the Merger Regulation, to declare the Concentration compatible with the internal market and the functioning of the EEA Agreement (the '***Decision***'), in the general framework of European Union law, in particular in light of the Merger Regulation, and by reference to the Commission Notice on remedies acceptable under Council Regulation (EC) No 139/2004 and under Commission Regulation (EC) No 802/2004 (the '***Remedies Notice***').[1]

Section A. Definitions

1. For the purpose of the Commitments, the following terms shall have the following meaning:

Affiliated Undertakings: undertakings controlled by the Committing Parties and/or by the ultimate parents of the Committing Parties, whereby the notion of control shall be interpreted pursuant to Article 3 of the Merger Regulation and in light of the Commission Consolidated Jurisdictional Notice under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (the '***Consolidated Jurisdictional Notice***').

Assets: the assets that contribute to the current operation or are necessary to ensure the viability and competitiveness of the Divestment Business as indicated in Section B, paragraph 5 and described more in detail in the Schedule.

Closing: the transfer of the legal title to the Divestment Business to the Purchaser(s).

Closing Period: the period of [confidential information on timing] from the approval of the Purchaser(s) and the terms of sale by the Commission.

Committing Parties: UMG and Downtown. This includes also any legal successors of the Committing Party/Committing Parties (notably the merged entity).

[1] For completeness it is noted that Commission Regulation (EC) No 802/2004 has been replaced by Commission Regulation (EC) 914/2023.

Confidential Information: any business secrets, know-how, commercial information not in the public domain, or any other information of a proprietary nature that is not in the public domain.

Conflict of Interest: any conflict of interest that impairs the Trustee's objectivity and independence in discharging its duties under the Commitments.

Curve: Curve Royalty Systems, Ltd.

Curve Customers: all (i) existing standalone Curve customer contracts; and (ii) customers that utilize Curve's royalty accounting services alongside Downtown's distribution, publishing and/or neighbouring rights services, at the time of Closing.

Curve Platform: Curve's cloud-based royalty accounting software platform.

Divestment Business: the business or businesses as defined in Section B and in the Schedule which the Committing Parties commit to divest.

Divestiture Trustee: one or more natural or legal person(s) who is/are approved by the Commission and appointed by the Committing Parties and who has/have received from the Committing Parties the exclusive Trustee Mandate to sell the Divestment Business to a Purchaser at no minimum price.

Downtown: Downtown Music Holdings LLC incorporated under the laws of Delaware, with its registered office at 155 6th Avenue, Floor 15, New York, United States and registered with the Commercial/Company Register at 10/15/2021 under number 6311648.

Effective Date: the date of adoption of the Decision.

First Divestiture Period: the period of [confidential information on timing] from the Effective Date.

Hold Separate Manager: the person appointed by the Committing Parties for the Divestment Business to manage the day-to-day business under the supervision of the Monitoring Trustee.

Key Personnel: all personnel necessary to maintain the viability and competitiveness of the Divestment Business, as listed in the Schedule, including the Hold Separate Manager.

Monitoring Trustee: one or more natural or legal person(s) who is/are approved by the Commission and appointed by the Committing Parties, and who has/have the duty to monitor the Committing Parties' compliance with the conditions and obligations attached to the Decision.

Personnel: all staff currently employed by the Divestment Business, including staff seconded to the Divestment Business, shared personnel as well as the additional personnel listed in the Schedule.

Purchaser(s): the entity(ies) approved by the Commission as acquirer(s) of the Divestment Business in accordance with the criteria set out in Section D.

Purchaser Criteria: the criteria laid down in paragraph 19 of these Commitments that the Purchaser must fulfil in order to be approved by the Commission.

Schedule: the schedule to these Commitments describing the Divestment Business in more detail.

Seller in the Concentration: the legal or natural person currently controlling the undertaking that is the target of the Concentration, if applicable.

Trustee(s): the Monitoring Trustee and/or the Divestiture Trustee as the case may be.

Trustee Divestiture Period: the period of [Confidential information on timing] from the end of the First Divestiture Period.

UMG: Universal Music Group N.V.

[Confidential information on a customer contract which forms part of the Divestment Business]

2. Should issues arise relating to the interpretation of terms listed in paragraph 1 of these Commitments or terms not defined, the Commission will retain the interpretation that is the most favourable for an effective implementation of the Commitments.

Section B. The commitment to divest and the Divestment Business

Commitment to divest

3. In order to maintain effective competition, the Committing Parties commit to divest, or procure the divestiture of the Divestment Business as a going concern to a purchaser(s) and on terms of sale approved by the Commission in accordance with the procedure described in paragraph 20 of these Commitments. To carry out the divestiture, the Committing Parties commit to find a purchaser(s) and to enter into a final binding sale and purchase agreement for the sale of the Divestment Business within the First Divestiture Period. If the Committing Parties have not entered into such an agreement at the end of the First Divestiture Period, the Committing Parties shall grant the Divestiture Trustee an exclusive mandate to sell the Divestment Business in accordance with the procedure described in paragraph 33.

4. The Committing Parties shall be deemed to have complied with this commitment if they fulfil the following conditions:

   (a) a final binding sale and purchase agreement has been entered into by the Committing Parties by the end of the First Divestiture Period or by the Divestiture Trustee by the end of the Trustee Divestiture Period, and the Commission approves the Purchaser(s) and the terms of sale as being consistent with the Commitments in accordance with the procedure described in paragraph 20; and

(b) the Closing of the sale of the Divestment Business to the Purchaser(s) takes place within the Closing Period on the basis of the transaction documents approved by the Commission without any modification, unless explicitly approved by the Commission.

Structure and definition of the Divestment Business

5. The Divestment Business consists of a pre-existing subsidiary of Downtown which is a music royalty technology company that provides the Curve Platform and processing, accounting, payment and distributions services in relation to royalties as well as rights management for both record labels and music publishers. The legal and functional structure of the Divestment Business as operated to date is described in the Schedule. The Divestment Business, described in more detail in the Schedule, includes the transfer of all assets and staff that contribute to the current operation or are necessary to ensure the viability and competitiveness of the Divestment Business, in particular:

(a) all tangible and intangible assets (including products under development and related rights, intellectual property rights, and know how);

(b) all licences, permits and authorisations issued by any governmental organisation for the benefit of the Divestment Business;

(c) all contracts, leases, commitments and customer orders of the Divestment Business; all customer, credit and other records of the Divestment Business; all cooperation agreements with third parties; and

(d) all Key Personnel and Personnel.

6. In addition, the Divestment Business includes the benefit, for a transitional period of up to [confidential information on the divestment package] after Closing and [confidential information on the divestment package], of all current arrangements under which Downtown or its Affiliated Undertakings supply products or services to the Divestment Business or of any other current or new arrangements which are necessary for the viability of the Divestment Business, as detailed in the Schedule, unless otherwise agreed with the Purchaser and with the approval of the Commission. Strict firewall procedures shall be adopted so as to ensure that any competitively sensitive information related to, or arising from, such supply arrangements (for example, product roadmaps) will not be shared with, or passed on to, anyone outside those operations.

Section C. Related commitments

Preservation of viability, marketability and competitiveness

7. From the Effective Date until Closing, the Committing Parties shall preserve or procure the preservation of the economic viability, marketability and competitiveness of the

Divestment Business, in accordance with good business practice, and shall minimise as far as possible any risk of loss of the competitive potential of the Divestment Business. In particular the Committing Parties undertake:

(a) not to carry out any action that might have a significant adverse impact on the value, management, viability or competitiveness of the Divestment Business or that might alter the nature and scope of activity, or the industrial or commercial strategy or the investment policy of the Divestment Business;

(b) to make available, or procure to make available, sufficient financial and other resources needed for the development of the Divestment Business, including the development of pipeline products or services where relevant, on the basis of the continuation of the existing business plans;

(c) to take all reasonable steps, or procure that all reasonable steps are being taken, to assist the Divestment Business in the process of IT migration and/or IT separation until the full process is completed;

(d) to the extent the Divestment Business includes any licences, permits and authorisations issued by any governmental organisation or any other third party/parties for the benefit of the Divestment Business, to take all reasonable steps, or procure that all reasonable steps are being taken, to obtain consent from any governmental organisation or any other third party/parties for all required licences, permits and authorisations;

(e) to take all reasonable steps, or procure that all reasonable steps are being taken, including appropriate incentive schemes, to encourage all Key Personnel to remain with the Divestment Business, and not to solicit or move any Personnel to the Committing Parties' remaining business. Incentives schemes should not be linked to the sale of the Divestment Business within a certain period or to the sale price of the Divestment Business. Where, nevertheless, individual members of the Key Personnel exceptionally leave the Divestment Business, the Committing Parties shall provide a reasoned proposal to replace the person or persons concerned to the Commission and the Monitoring Trustee. The Committing Parties must be able to demonstrate to the Commission that the replacement is well suited to carry out the functions exercised by those individual members of the Key Personnel. The replacement shall take place under the supervision of the Monitoring Trustee, who shall report to the Commission.

Hold-separate obligations

8. The Committing Parties commit, from the Effective Date until Closing, to keep, or procure to keep, the Divestment Business separate from the businesses the Committing Parties are retaining, and to ensure that unless explicitly permitted under these Commitments: (i) management and staff of the business(es) retained by the Committing Parties have no involvement in the Divestment Business; (ii) the Key Personnel and Personnel of the

Divestment Business have no involvement in any business retained by the Committing Parties and do not report to any individual outside the Divestment Business.

9. Until Closing, the Committing Parties shall assist the Monitoring Trustee in ensuring that the Divestment Business is managed as a distinct and saleable entity separate from the business(es) which the Committing Parties are retaining. Immediately after the adoption of the Decision, the Committing Parties shall appoint a Hold Separate Manager. The Hold Separate Manager shall be the current head of the Divestment Business and shall be part of the Key Personnel. If the Hold Separate Manager is not the head of the Divestment Business at the time of the submission of the Commitments, the appointment should occur in agreement with the Commission. The Hold Separate Manager shall manage the Divestment Business independently and in the best interest of the business with a view to ensuring its continued economic viability, marketability and competitiveness and its independence from the businesses retained by the Committing Parties. The Hold Separate Manager shall closely cooperate with and report to the Monitoring Trustee and, if applicable, the Divestiture Trustee. The Committing Parties shall ensure that the Hold Separate Manager is available for an initial call with the Monitoring Trustee and the Commission, as well as to discuss any significant matter at the request of the Monitoring Trustee or the Commission during his/her mandate. The Monitoring Trustee or the Commission can discuss any matter relevant for the implementation of the Commitments with the Hold Separate Manager without the presence or explicit agreement of representatives of the Committing Parties. The Hold Separate Manager should provide all information requested by the Commission, including confidential information.

10. Any replacement of the Hold Separate Manager shall be subject to the procedure laid down in paragraph 7(e) of these Commitments. The Commission may, after having heard the Committing Parties, require the Committing Parties to replace the Hold Separate Manager. The Hold Separate Manager shall not be employed by the Committing Parties or their affiliated undertakings for a period of two years after Closing.

<u>Ring-fencing obligations</u>

11. The Committing Parties shall implement, or procure to implement, all necessary measures to ensure that it does not, after the Effective Date, obtain any Confidential Information relating to the Divestment Business and that any such Confidential Information obtained by the Committing Parties before the Effective Date will be eliminated and not be used by the Committing Parties. This includes measures vis-à-vis the Committing Parties' appointees on the supervisory board and/or board of directors of the Divestment Business. In particular, the participation of the Divestment Business in any central information technology network shall be severed to the extent possible, without compromising the viability of the Divestment Business. All personnel in the Committing Parties' remaining business who have had access to Confidential Information relating to the Divestment Business shall sign non-disclosure agreements preventing them from using or disclosing any such information. To that effect, within [Confidential aspects of the implementation of the commitments] of the Effective Date, the Committing Parties shall provide a detailed work plan on the implementation of the ring-fencing measures to the Monitoring Trustee for its review. The Committing Parties may obtain or keep information relating to the

Divestment Business which is reasonably necessary for the divestiture of the Divestment Business or the disclosure of which to the Committing Parties is required by law.

Transitional obligations

12. Until the end of the term of the relevant obligations, the Committing Parties shall fulfil and respect their obligations under any and all of the agreements between the Committing Parties and the Purchaser, as detailed in the Schedule.

Non-solicitation obligation

13. The Committing Parties undertake, subject to customary limitations, not to solicit, and to procure that Affiliated Undertakings do not solicit, the Key Personnel transferred with the Divestment Business for a period of [confidential aspects of the implementation of the commitments] after Closing.

14. The Committing Parties undertake, subject to customary limitations, not to solicit, and to procure that Affiliated Undertakings do not solicit, Curve Customers for royalty accounting services for a period of [confidential aspects of the implementation of the commitments] after Closing.

Non-reacquisition obligation

15. In order to maintain the structural effect of the Commitments, the Committing Parties shall, for a period of 10 years after Closing, not acquire, whether directly or indirectly, the possibility of exercising influence (as defined in paragraph 43 of the Remedies Notice, footnote 3) over the whole or part of the Divestment Business, unless, following the submission of a reasoned request from the Committing Parties showing good cause and accompanied by a report from the Monitoring Trustee (as provided in paragraph 55 of these Commitments), the Commission finds that the structure of the market has changed to such an extent that the absence of influence over whole or part of the Divestment Business is no longer necessary to render the Concentration compatible with the internal market.

Due diligence related obligations

16. In order to enable potential purchasers to carry out a reasonable due diligence of the Divestment Business, the Committing Parties shall, provide them with the confidential version (or a meaningful non confidential version) of the Commitments. Subject to customary confidentiality assurances and dependent on the stage of the divestiture process, the Committing Parties shall also provide potential purchasers with:

(a) sufficient information as regards the Divestment Business;

(b) sufficient information relating to the Personnel and allow them reasonable access to the Personnel.

Reporting obligations

17. The Committing Parties shall submit written reports in English on potential purchasers of the Divestment Business and developments in the negotiations with such potential purchasers to the Monitoring Trustee no later than 10 days after the end of every month following the Effective Date (or otherwise at the Monitoring Trustee's request). The Committing Parties shall submit a list of all potential purchasers having expressed interest in acquiring the Divestment Business to the Commission and the Monitoring Trustee at each and every stage of the divestiture process, as well as a copy of all the offers made by potential purchasers within five days of their receipt.

18. The Committing Parties shall inform the Monitoring Trustee on the preparation of the data room documentation and the due diligence procedure and shall submit a copy of any information memorandum to the Monitoring Trustee before sending the memorandum out to potential purchasers.

Section D. The Purchaser

19. In order to be approved by the Commission, the Purchaser must fulfil the following criteria:

(a) The Purchaser shall be independent of and unconnected to the Committing Parties and their Affiliated Undertakings (this being assessed having regard to the situation following the divestiture). In addition, the Purchaser should not be the Seller in the Concentration nor any of its Affiliated Undertakings.

(b) The Purchaser shall have the financial resources to maintain and develop the Divestment Business as a viable and active competitive force in competition with the Committing Parties and other competitors. In particular, the Purchaser shall not be excessively leveraged, shall have sufficient equity and profitability, shall have a turnover significantly larger than the turnover of the Divestment Business, shall have sufficient means to finance the acquisition of the Divestment Business and the execution of its business plan, including investments.

(c) The Purchaser shall also have the proven expertise, ability and incentive to maintain and develop the Divestment Business as a viable and active competitive force in competition with the Committing Parties and other competitors.

(d) The acquisition of the Divestment Business by the Purchaser must neither be likely to create, in light of the information available to the Commission, *prima facie* competition concerns nor give rise to a risk that the implementation of the Commitments will be delayed. In particular, the Purchaser must reasonably be expected to obtain all necessary approvals from the relevant regulatory authorities for the acquisition of the Divestment Business.

20. The final binding sale and purchase agreement (as well as ancillary agreements) relating to the divestment of the Divestment Business shall be conditional on the Commission's approval. When the Committing Parties have reached an agreement with a purchaser, they shall submit a fully documented and reasoned proposal, including a copy of the final

agreement(s), within [confidential aspects of the implementation of the commitments] to the Commission and the Monitoring Trustee. For the approval, the Committing Parties must be able to demonstrate and the Commission shall verify that the purchaser fulfils the Purchaser Criteria and that the Divestment Business is being sold in a manner consistent with the Commission's Decision and the Commitments including their objective to bring about a lasting structural change in the market. The Commission may approve the sale of the Divestment Business without one or more of the Assets or parts of the Personnel, or by substituting one or more Assets or parts of the Personnel with one or more different assets or different personnel, if this does not affect the implementation of the Commitments and the viability and competitiveness of the Divestment Business after the sale, taking account of the Purchaser.

21. Any change to the final binding sale and purchase agreement (as well as ancillary agreements) taking place after the Commission's approval referred to in the previous paragraph shall be approved by the Commission, following consultation of the Monitoring Trustee.

Section E. Trustee

I. Appointment procedure

22. The Committing Parties shall appoint a Monitoring Trustee to carry out the functions specified in these Commitments for a Monitoring Trustee. The Committing Parties commit not to close the Concentration before the appointment of a Monitoring Trustee.

23. If the Committing Parties have not entered into a binding sale and purchase agreement regarding the Divestment Business [confidential aspects of the implementation of the commitments] before the end of the First Divestiture Period or if the Commission has rejected a purchaser proposed by the Committing Parties at that time or thereafter, the Committing Parties shall appoint a Divestiture Trustee. The appointment of the Divestiture Trustee shall take effect upon the commencement of the Trustee Divestiture Period.

24. The Trustee shall:

(a) at the time of appointment, be independent of the Committing Parties and their Affiliated Undertakings;

(b) possess the necessary qualifications to carry out its mandate, for example have sufficient relevant experience as an investment banker or consultant or auditor;

(c) neither have nor become exposed to a Conflict of Interest;

(d) demonstrate sufficient capacity and resources to take on the Trustee role with all the obligations that the role entails, including to report regularly to the Commission; and

(e) have a sufficient presence in the EU/EEA, and sufficient expertise in the relevant EU/EEA countries covered by the Commitments.

25. The Trustee shall be remunerated by the Committing Parties in a way that does not impede the independent and effective fulfilment of its mandate. In particular, where the remuneration package of a Divestiture Trustee includes a success premium linked to the final sale value of the Divestment Business, such success premium may only be earned if the divestiture takes place within the Trustee Divestiture Period.

Proposal by the Committing Parties

26. If not already approved at the Effective Date, no later than [Confidential aspects of the implementation of the commitments] after the Effective Date, the Committing Parties shall submit the names of at least three natural or legal persons whom the Committing Parties propose to appoint as the Monitoring Trustee to the Commission for approval and a list of two or more persons, who can be the same as the persons proposed as Monitoring Trustee, whom the Committing Parties propose to appoint as Divestiture Trustee to the Commission for approval. The proposal shall contain sufficient information for the Commission to verify that the persons proposed as Trustee fulfil the requirements set out in paragraph 24 and shall include:

(a) the full terms of the proposed mandate, which shall include all provisions necessary to enable the Trustee to fulfil its duties under these Commitments; and

(b) the outline of a work plan which describes how the Trustee intends to carry out its assigned tasks.

Approval or rejection by the Commission

27. The Commission shall have the discretion to approve or reject the proposed Trustee(s) and to approve the proposed mandate subject to any modifications it deems necessary for the Trustee to fulfil its obligations. If only one name is approved, the Committing Parties shall appoint or cause to be appointed the person or persons concerned as Trustee, in accordance with the mandate approved by the Commission. If more than one name is approved, the Committing Parties shall be free to choose the Trustee to be appointed from among the names approved. The Trustee shall be appointed within [Confidential aspects of the implementation of the commitments] of the Commission's approval, in accordance with the mandate approved by the Commission.

New proposal by the Committing Parties

28. If all the proposed Trustees are rejected, the Committing Parties shall submit the names of at least two more natural or legal persons within [Confidential aspects of the implementation of the commitments] of being informed of the rejection, in accordance with paragraphs 22 and 27 of these Commitments.

Trustee nominated by the Commission

29. If all further proposed Trustees are rejected by the Commission, the Commission shall nominate a Trustee, whom the Committing Parties shall appoint, or cause to be appointed, in accordance with a trustee mandate approved by the Commission.

II. Functions of the Trustee

30. The Trustee shall assume its specified duties and obligations in order to ensure compliance with the Commitments. The Commission may, on its own initiative or at the request of the Trustee or the Committing Parties, give any orders or instructions to the Trustee in order to ensure compliance with the conditions and obligations attached to the Decision.

Duties and obligations of the Monitoring Trustee

31. The Monitoring Trustee shall:

(a) propose in its first report to the Commission a detailed work plan describing how it intends to monitor compliance with the obligations and conditions attached to the Decision.

(b) oversee, in close co-operation with the Hold Separate Manager, the on-going management of the Divestment Business with a view to ensuring its continued economic viability, marketability and competitiveness and monitor compliance by the Committing Parties with the conditions and obligations attached to the Decision. To that end the Monitoring Trustee shall:

(i) monitor the preservation of the economic viability, marketability and competitiveness of the Divestment Business, and the keeping separate of the Divestment Business from the business retained by the Committing Parties, in accordance with paragraphs 7, 8 and 9 of these Commitments;

(ii) monitor that the Committing Parties make available sufficient resources for the Divestment Business to develop, including for the development of pipeline products or services where relevant (including to reach completion, approval or registration of pipeline products or services), based on the continuation of existing business plans and relevant milestones or of any other future or ongoing projects that are important for the viability of the Divestment Business to the extent that there are any support obligations from the Committing Parties;

(iii) to the extent that the Commitments include transitional agreements or the obligation to supply certain inputs, products or services, the Trustee shall monitor the strict compliance with the terms approved and inform the Commission promptly of any changes or compliance problems during the term of such agreements;

(iv) supervise the management of the Divestment Business as a distinct and saleable entity, in accordance with paragraphs 9 to 10 of these Commitments;

(v) with respect to Confidential Information:

- determine all necessary measures to ensure that the Committing Parties do not after the Effective Date obtain any Confidential Information relating to the Divestment Business,

- in particular strive for the severing of the Divestment Business' participation in a central information technology network to the extent possible, without compromising the viability of the Divestment Business,

- make sure that any Confidential Information relating to the Divestment Business obtained by the Committing Parties before the Effective Date is eliminated and will not be used by the Committing Parties and

- decide whether such information may be disclosed to or kept by the Committing Parties as the disclosure is reasonably necessary to allow the Committing Parties to carry out the divestiture or as the disclosure is required by law;

(vi) monitor the splitting of assets and the allocation of Personnel between the Divestment Business and the Committing Parties or Affiliated Undertakings;

(c) propose to the Committing Parties such measures as the Monitoring Trustee considers necessary to ensure the Committing Parties' compliance with the conditions and obligations attached to the Decision, in particular the maintenance of the full economic viability, marketability or competitiveness of the Divestment Business, the holding separate of the Divestment Business and the non-disclosure of competitively sensitive information;

(d) review and assess potential purchasers as well as the progress of the divestiture process and verify that, dependent on the stage of the divestiture process:

(i) potential purchasers receive sufficient and correct information relating to the Divestment Business and the Personnel in particular by reviewing, if available, the data room documentation, the information memorandum and the due diligence process, and by ensuring their access to a confidential version (or a meaningful non-confidential) version of the Commitments, and

(ii) potential purchasers are granted reasonable access to the Personnel and Key Personnel;

(e) act as a contact point for any requests by third parties, in particular potential purchasers, in relation to the Commitments;

(f) provide to the Commission, sending the Committing Parties a non-confidential copy at the same time, a written report within 15 days after the end of every month that shall cover the operation and management of the Divestment Business as well as the splitting of assets and the allocation of Personnel so that the Commission can assess whether the business is held in a manner consistent with the Commitments and the progress of the divestiture process as well as potential purchasers. The Committing Parties shall neither receive nor comment on draft reports that the Monitoring Trustee prepares for the purposes of reporting to the Commission:

(g) promptly report in writing to the Commission, sending the Committing Parties a non-confidential copy at the same time, if it concludes on reasonable grounds that the Committing Parties is failing to comply with these Commitments. The Committing Parties shall neither receive nor comment on draft reports that the Monitoring Trustee prepares for the purposes of reporting to the Commission;

(h) promptly report in writing to the Commission as soon as it becomes aware of potential exposure to a Conflict of Interest appearing after its appointment, including if it becomes aware of any potential lack of independence or Conflict of Interest with any purchaser participating in the sale process;

(i) to the extent that the Commitments include transitional services agreements, support for projects under development, or the obligation to supply certain inputs, products or services, assess that these obligations are satisfactorily reflected in the sale and purchase agreement and other transaction documents, and inform the Commission promptly of any deviation from the terms included in the Commitments or approved by the Commission or any dispute as to the compliance with such terms during the full duration of the agreement;

(j) promptly report in writing to the Commission risks of degradation of the value or operation of the Divestment Business, or risks that the Purchaser does not or is not able to carry out or maintain investments that are essential for the viability of the Divestment Business;

(k) within [confidential aspects of the implementation of the commitments] after receipt of the documented proposal referred to in paragraph 20 of these Commitments, submit to the Commission, sending the Committing Parties a non-confidential copy at the same time, a reasoned opinion as to the suitability and independence of the proposed purchaser and the viability of the Divestment Business after the sale and as to whether the Divestment Business is sold in a manner consistent with the conditions and obligations attached to the Decision, in particular, if relevant, whether the Sale of the Divestment Business without one or more Assets or not all of the Personnel affects the viability of the Divestment Business after the sale, taking account of the proposed purchaser;

(l) remain throughout the term of the Commitments a point of contact for the Committing Parties, potential purchasers, the Purchaser, the Commission and any other interested third party, in case of issues arising from the implementation and monitoring of the Commitments, including by producing *ad hoc* reports upon request of the Commission;

(m) contact potential purchasers that submitted a bid for the Divestment Business and ask for relevant information;

(n) assume the other functions assigned to the Monitoring Trustee under the conditions and obligations attached to the Decision.

32. If the Monitoring and Divestiture Trustee are not the same legal or natural persons, the Monitoring Trustee and the Divestiture Trustee shall cooperate closely with each other during and for the purpose of the preparation of the Trustee Divestiture Period in order to facilitate each other's tasks.

Duties and obligations of the Divestiture Trustee

33. Within the Trustee Divestiture Period, the Divestiture Trustee shall sell at no minimum price the Divestment Business to a purchaser; provided that the Commission has approved both the purchaser and the final binding sale and purchase agreement (and ancillary agreements) as in line with the Commission's Decision and the Commitments in accordance with paragraphs 19 and 20 of these Commitments. The Divestiture Trustee shall include in the sale and purchase agreement (as well as in any ancillary agreements) such terms and conditions as it considers appropriate for an expedient sale in the Trustee Divestiture Period. In particular, the Divestiture Trustee may include in the sale and purchase agreement such customary representations and warranties and indemnities as are reasonably required to effect the sale. The Divestiture Trustee shall protect the legitimate financial interests of the Committing Parties, subject to the Committing Parties' unconditional obligation to divest at no minimum price (including at a negative price if considered appropriate and reasonably required) in the Trustee Divestiture Period.

34. In the Trustee Divestiture Period (or otherwise at the Commission's request), the Divestiture Trustee shall provide the Commission with a comprehensive monthly report written in English on the progress of the divestiture process. Such reports shall be submitted within 15 days after the end of every month with a simultaneous copy to the Monitoring Trustee and a non-confidential copy to the Committing Parties.

III. Duties and obligations of the Committing Parties

35. The Committing Parties shall provide and shall cause their respective advisors to provide the Trustee with all such co-operation, assistance and information as the Trustee may reasonably require to perform its tasks. The Trustee shall have full and complete access to any of the Committing Parties' or the Divestment Business' books, records, documents, management or other personnel, facilities, sites and technical information necessary for fulfilling its duties under the Commitments and the Committing Parties and the Divestment Business shall provide the Trustee upon request with copies of any document. The Committing Parties and the Divestment Business shall make available to the Trustee one or more offices on their premises and shall be available for meetings in order to provide the Trustee with all information necessary for the performance of its tasks.

36. The Committing Parties shall provide the Monitoring Trustee with all managerial and administrative support that it may reasonably request on behalf of the management of the Divestment Business. This shall include all administrative support functions relating to the Divestment Business which are currently carried out at headquarters level. The Committing Parties shall provide and shall cause their respective advisors to provide the Monitoring Trustee, on request, with the information submitted to potential purchasers, in particular give the Monitoring Trustee access to the data room documentation and all other information granted to potential purchasers in the due diligence procedure. The Committing Parties shall inform the Monitoring Trustee on possible purchasers, submit lists of potential purchasers at each stage of the selection process, including the offers made by potential purchasers at those stages, and keep the Monitoring Trustee informed of all developments in the divestiture process.

37. The Committing Parties shall grant or procure Affiliated Undertakings to grant comprehensive powers of attorney, duly executed, to the Divestiture Trustee to effect the sale (including ancillary agreements), the Closing and all actions and declarations which the Divestiture Trustee considers necessary or appropriate to achieve the sale and the Closing, including the appointment of advisors to assist with the sale process. Upon request of the Divestiture Trustee, the Committing Parties shall cause the documents required for effecting the sale and the Closing to be duly executed.

38. The Committing Parties shall indemnify the Trustee and its employees and agents (each an '***Indemnified Party***') and hold each Indemnified Party harmless against, and hereby agree that an Indemnified Party shall have no liability to the Committing Parties for, any liabilities arising out of the performance of the Trustee's duties under the Commitments, except to the extent that such liabilities result from the wilful default, recklessness, gross negligence or bad faith of the Trustee, its employees, agents or advisors.

39. At the expense of the Committing Parties, the Monitoring Trustee may appoint advisors (in particular for corporate finance or legal advice), subject to the Committing Parties' approval (this approval not to be unreasonably withheld or delayed) if the Monitoring Trustee considers the appointment of such advisors necessary or appropriate for the performance of its duties and obligations under the Mandate; provided that any fees and other expenses incurred by the Monitoring Trustee are in line with business practice. Should the Committing Parties refuse to approve the advisors proposed by the Monitoring Trustee the Commission may approve the appointment of such advisors instead, at the expense of the Committing Parties, after having heard the Committing Parties. Only the Trustee shall be entitled to issue instructions to the advisors. Paragraph 38 of these Commitments shall apply *mutatis mutandis*. In the Trustee Divestiture Period, the Divestiture Trustee may use advisors who served the Committing Parties during the Divestiture Period if the Divestiture Trustee considers this in the best interest of an expedient sale. At the expense of the Committing Parties, the Divestiture Trustee may appoint advisors (in particular for corporate finance or legal advice), without the Committing Parties' approval if the Divestiture Trustee considers the appointment of such advisors necessary or appropriate for the performance of its duties and obligations under the Mandate, provided that any fees and other expenses incurred by the Divestiture Trustee are in line with business practice.

40. The Committing Parties agree that the Commission may share Confidential Information proprietary to the Committing Parties with the Trustee. The Trustee shall not disclose such information and the principles contained in Article 17 (1) and (2) of the Merger Regulation apply *mutatis mutandis*.

41. The Committing Parties agree that the contact details of the Monitoring Trustee are published on the website of the Commission's Directorate-General for Competition and they shall inform interested third parties, in particular any potential purchasers, of the identity and the tasks of the Monitoring Trustee. The Committing Parties agree that the contact details of the Divestiture Trustee are published on the website of the Commission's Directorate-General for Competition upon the commencement of the Trustee Divestiture Period begins.

42. For a period of 10 years from the Effective Date the Commission may request all information from the Committing Parties that is reasonably necessary to monitor the effective implementation of these Commitments.

IV. Replacement, discharge and reappointment of the Trustee

43. If the Trustee ceases to perform its functions under the Commitments or for any other good cause, including for failure to comply with the requirements in paragraph 24:

(a) the Commission may, after hearing the Trustee and the Committing Parties, require the Committing Parties to replace the Trustee; or

(b) the Committing Parties may, with the prior approval of the Commission, replace the Trustee.

44. If the Trustee is removed according to paragraph 43 of these Commitments, the Trustee may be required to continue in its function until a new Trustee is in place to whom the Trustee has effected a full hand over of all relevant information. The new Trustee shall be appointed in accordance with the procedure referred to in paragraphs 22-29 of these Commitments.

45. Unless removed according to paragraph 43 of these Commitments, the Trustee shall cease to act as Trustee only after the Commission has discharged it from its duties after all the Commitments with which the Trustee has been entrusted have been implemented. However, the Commission may at any time require the reappointment of the Monitoring Trustee if it subsequently appears that the relevant remedies might not have been fully and properly implemented.

Section F. Interpretation of the Commitments

46. In case of a conflict between the wording of the text of the present Commitments and the contractual instruments executed by the Committing Parties, the Purchaser or any other party for the purposes of implementing the Commitments, the wording of the Commitments shall prevail, without prejudice to the fact that the interpretation of the Commitments shall take into account the solution that is more favourable to the Divestment

Business. Deviations from the Commitments in such contractual instruments are only valid if they have been expressly approved by the Commission. A clause implementing this paragraph should be included in the contractual instruments executed by the Committing Parties.

Section G. Dispute Resolution Procedure

47. The following dispute resolution procedure applies in case of conflict between the Committing Parties and the Purchaser in relation to the Commitments.

48. The Committing Parties and the Purchaser shall appoint a panel of experts (the '**Experts'**). This panel shall comprise:

(a) one expert appointed jointly by the Committing Parties;

(b) one expert appointed by the Purchaser; and

(c) one expert appointed by the two experts appointed under (a) and (b) provided that if they fail to appoint the third expert within 15 working days from their appointment, either the Committing Parties or the Purchaser may request the Monitoring Trustee to appoint the third expert, provided that each person so appointed shall be independent of the Committing Parties and the Purchaser, and a suitably qualified and experienced expert.

49. The process shall be conducted in private and shall be confidential but under supervision of the Monitoring Trustee. The language of the process shall be English.

50. The Experts shall act on the following basis:

(a) the Experts shall act fairly and impartially;

(b) each party shall submit to the Experts its brief and its submission in relation to the matter in dispute within 5 working days of the Experts' appointment;

(c) the Experts shall decide the procedure to be followed within 5 working days of their appointment, which may be the rules of arbitration under the ICC;

(d) the Committing Parties and the Purchaser shall assist and provide documentation as the Experts reasonably requires to consider the matters referred to them;

(e) decisions of the Experts shall be based on majority votes of the panel;

(f) the Experts' determination in relation to any matter referred to them shall be given within a maximum period of one month of the Experts' appointment;

(g) the Experts' determination in relation to any matter referred to them shall (save for manifest error or fraud) be final and binding on the Committing Parties and the Purchaser;

(h) any challenge to the Experts' determination shall be made in the courts of the Netherlands;

(i) each party shall carry out the actions required to comply with the obligations set out in the Experts' determination in relation to any matter pursuant referred to them within any time-limits specified by the Experts; and

(j) the Experts shall determine how and by whom the costs of the determination in relation to any matter referred to it including the fees and expenses of the Experts are to be paid.

51. The Commission shall be allowed and enabled to participate in all stages of the dispute resolution procedure by:

(a) receiving all written submissions (including documents and reports, etc.) made by the Committing Parties and the Purchaser to the procedure;

(b) receiving all documents exchanged by the Experts with the Committing Parties and the Purchaser to the procedure;

(c) filing any written submissions; and

(d) being present at the hearing(s) and being allowed to ask questions.

52. The Experts shall forward, or shall order the Committing Parties and the Purchaser to forward, the documents mentioned to the Commission without delay.

53. The Monitoring Trustee shall receive copies of:

(a) all submissions made by the Committing Parties and the Purchaser in relation to the matters they wish to have resolved by the Experts, on the day when these have been submitted to the Experts;

(b) all other documentation provided by the Committing Parties and the Purchaser, on the day when these have been submitted to the Experts; and

(c) the determination made by the Experts, on the day when the determination has been provided to the Committing Parties and the Purchaser.

This dispute resolution procedure is without prejudice to any other rights and remedies that may be available to the Committing Parties and the Purchaser as the case may be in respect of any breach of the transaction documents. This procedure is also without prejudice to any Commission decision related to the compliance of the Committing Parties with the Commitments.

Section H. The review clause

54. The Commission may extend the time periods foreseen in the Commitments in response to a request from the Committing Parties or, in appropriate cases, on its own initiative. Where the Committing Parties request an extension of a time period, it shall submit a reasoned request to the Commission no later than one month before the expiry of that period, showing good cause**.** This request shall be accompanied by a report from the Monitoring Trustee, who shall, at the same time send a non-confidential copy of the report to the Committing Parties. Only in exceptional circumstances shall the Committing Parties be entitled to request an extension within the last month of any period.

55. The Commission may further, in response to a reasoned request from the Committing Parties, showing good cause waive, modify or substitute, in exceptional circumstances, one or more of the undertakings in these Commitments. This request shall be accompanied by a report from the Monitoring Trustee, who shall, at the same time send a non-confidential copy of the report to the Committing Parties. The request shall not have the effect of suspending the application of the undertaking and, in particular, of suspending the expiry of any time period in which the undertaking has to be complied with.

Section I. Entry into force

56. The Commitments shall take effect upon the date of adoption of the Decision.

……………………………………

duly authorised for and on behalf of

Universal Music Group N.V.

……………………………………

duly authorised for and on behalf of

Downtown Music Holdings LLC

SCHEDULE– DIVESTMENT BUSINESS

1. The Divestment Business as operated to date has the following legal and functional structure:

   (a) **General**. The Divestment Business comprises the Curve royalty accounting business. Curve is a royalty accounting software platform used by record labels and publishers. Curve focuses on the following core activities: royalty processing, royalty accounting services, publishing registration and payments.

   (b) **Legal structure**. The legal entity to be divested will be Curve Royalty Systems, Ltd., which is incorporated in the United Kingdom and has its registered office at 7 Bell Yard, London WC2A 2JR, United Kingdom.

   (c) **Functional Structure**. The Divestment Business is managed by Richard Leach, President of Curve. A high-level organization chart is shown at Figure 1 below, and **Annex 1 (Commitments)** provides an overview of Downtown's broader corporate structure as of 16 July 2025.

   [Confidential organizational chart of the Divestment Business]

2. In accordance with paragraph 5 of these Commitments, the Divestment Business includes, but is not limited to:

   (a) **the following main tangible assets:**

      i. **Offices**. None. The Divestment Business does not own or lease any office space given that the majority of its employees are remote workers. Curve's registered office is not office space owned or leased by the Divestment Business.

      ii. **Other assets**. IT hardware used by the Divested Business (i.e., laptops and peripherals used by the Personnel).

   (b) **the following main intangible assets:**

      i. **Patents**. None. The Divestment Business does not hold any patents.

      ii. **Trademarks and Trademarks applications**. All trademarks and trademark applications owned by Curve, i.e., the "Curve" mark (including the pending trademark registration in the UK).

      iii. **All other intangible assets**. Any other intangible assets required to deliver royalty accounting services through the Curve Platform will also be divested. This includes Curve's domain registrations, AWS hosting environment and the source code, data and algorithms relating to Curve's royalty accounting platform.

iv. **Sales.** All sales resources and operations.

(c) **the following main licenses, permits and authorizations:**

i. **Licenses**. The Curve Platform is used exclusively by Curve and Curve licenses the platform on a non-exclusive basis to its customers, whether external or to group affiliates.

(d) **the following main contracts, agreements, leases, commitments and understandings:**

i. **Customer contracts.** All customer contracts, relationships and associated records pertaining to the provision of royalty accounting services to Curve Customers as well as the [confidential information on a customer contract which forms part of the Divestment Business]. A list of the top 10 Curve Customers (excluding intercompany agreements) for 2024 and 2025 is set out in Annex 2 (Commitments).

[Confidential information on a customer contract which forms part of the Divestment Business]

To the extent Curve Customers choose to return for royalty accounting services to the Committing Parties after transferring with the Divestment Business or if new distribution (digital or physical), publishing, or neighbouring rights customers of the Committing Parties require ancillary royalty accounting services (i.e. not on a standalone basis) post-Closing, the Committing Parties shall have the option to obtain these services from the Purchaser under the [confidential information on a customer contract which forms part of the Divestment Business]. These provisions will be captured in the purchase agreement or equivalent.

ii. **Vendor Agreements**. Vendor contracts that relate exclusively or predominantly to the Divestment Business' operations – such as those for cloud hosting and storage, payment services and outsourced technical development. These contracts will be transferred to the Purchaser, subject to the consent of the applicable vendor (if required). The Divestment Business also includes certain shared vendor contracts, i.e., agreements that support both the Divestment Business and the retained business. With respect to these shared vendor contracts, the Committing Parties will cooperate in good faith and use best efforts to (i) enter into new, stand-alone agreements with the relevant vendors; or (ii) transfer the rights under the existing contracts to the Purchaser, to the extent they relate to the Divestment Business. A list of Curve vendor contracts with a value exceeding GBP 6,000 is set out in **Annex 3 (Commitments)**.

(e) **the following customer, credit and other records:**

i. **Customer records**. All documentation and data (irrespective of the date of such data) relating to Curve Customers and former Curve customers whose data Curve still retains. This includes, but is not limited to, commercial correspondence, contractual and billing records, configuration and integration files, implementation and onboarding documentation, technical specifications, usage statistics, and all other operational information required to ensure the uninterrupted provision of services and the full commercial continuity of the Divestment Business. Such data, which cannot include any data on the relationship between an artist and its record label, will only be retained by the Committing Parties following the divestment where it is required by law (e.g., jurisdictions requiring retention of financial and accounting records for a period of time for companies to fulfil their applicable tax and corporate obligations).

ii. **Credit and other records**. All business records, books of accounts, financial records, and tax records; and all information, including pricing information, account histories, research data and commercial data used exclusively or predominantly for the Divestment Business.

(f) **the following Personnel:** Subject to their consent, all Personnel currently employed by the Divestment Business, including all personnel working on Curve who are employed by other Downtown or third-party entities. This includes currently [confidential details on employees of the Divestment Business] employees/contractors across engineering, technical support, development, customer management, product/project management, and sales. The individuals in these roles are capable of effectively operating the Divestment Business as a standalone, competitive business from the outset.

(g) **the following Key Personnel:** Subject to their consent and at the option of the Purchaser, the following Key Personnel, as the most senior individuals involved in the Divestment Business:

i. [Confidential details on Key Personnel of the Divestment Business]

ii. [Confidential details on Key Personnel of the Divestment Business]

iii. [Confidential details on Key Personnel of the Divestment Business]

iv. [Confidential details on Key Personnel of the Divestment Business]

v. [Confidential details on Key Personnel of the Divestment Business]

vi. [Confidential details on Key Personnel of the Divestment Business]

A list of Key Personnel and Personnel is set out at **Annex 4 (Commitments)**. All personnel required to effectively operate the Divestment Business will transfer with the Divestment Business.

(h) **the arrangements for the supply with the following products or services by Downtown or Affiliated Undertakings for a transitional period of up to** [confidential information on timing] **after Closing:** The Committing Parties commit to enter into a transitional service agreement (***TSA***) covering central corporate services currently shared across the Downtown and FUGA organisations. These services include elements of Human Resources, Finance and Accounting, Legal, IT, and Compliance. None of these shared services are essential to the ongoing viability of the Divestment Business, and equivalent services can be readily replicated by the Purchaser or outsourced under standard commercial arrangements. However, to ensure operational continuity, the Committing Parties will make these services available to the Purchaser for a limited period following Closing under TSAs. These TSAs will be time-limited and shall not exceed [confidential information on timing] months in duration. The specific transitional services to be provided are as follows:

i. **Human Resources, Finance and Accounting services**: transitional support for certain central corporate services currently offered to the Divestment Business by Downtown, where such services cannot be readily outsourced. This includes specific operational functions such as closing financial periods and operational payroll services which are necessary to ensure continuity during the transition.

ii. **Misdirected Cash Payments**: transitional support for settlement of any cash that is erroneously sent to Downtown instead of the Purchaser.

iii. **IT**: transitional IT support to assist the Purchaser during its migration to independent systems. This includes maintenance related to enterprise IT systems currently shared between Downtown and the Divestment Business. Specifically, Curve shares Salesforce as a CRM tool with other Downtown entities, while Slack and Airtable are centrally managed by Downtown. Hardware procurement and initial setup (including OneLogin and Google Workspace) are handled by FUGA's IT team.

iv. **Data migration**: transitional support to assist the Purchaser in extracting data from Downtown's systems. This includes delivering the relevant data and offering guidance on data fields, formats and entries.

v. **Knowledge transfer**: reasonable transitional support to facilitate knowledge transfer during the integration period. This includes responding to Purchaser inquiries where Downtown is best positioned to provide clarification or guidance.

As noted above, the Committing Parties will implement appropriate safeguarding measures to ensure that they will not have access to third-party data held on the Curve Platform while providing transitional services under the TSA.

(i) **License-back arrangement**: the Purchaser shall grant the Committing Parties a license (without any data of the Curve Customers) enabling the Committing Parties to continue to use the Curve Platform for internal purposes / use cases for a period of up to [confidential information on timing]. During this period, the Purchaser will provide sufficient (tech) support, including personnel and resources, to maintain the internal purposes / use cases required by the Committing Parties with relevant details to be set out in a service level agreement.

3. The Divestment Business shall not include:

(a) **Non-dedicated employees**: **Annex 5 (Commitments)** provides an overview of non-dedicated employees who will not transfer as part of the Divestment Business. These individuals are employees of FUGA or Downtown group who currently support Curve on a part-time basis (typically between [confidential details on employees of the Divestment Business] of their time) and whose services are charged to Curve via a flat monthly management fee. Any tasks currently performed by non-dedicated employees will either be assumed by the transferring Personnel, handled by the Purchaser, or covered under a TSA offered by the Committing Parties for a period of up to [confidential information on timing] post-Closing, allowing the Divestment Business sufficient time to internalise or outsource these functions without any disruption to its operations.

4. If there is any asset or personnel which is not covered by paragraph 2 of this Schedule but which contribute to the current operation (and are not excluded pursuant to paragraph 3 of this Schedule) and is necessary to ensure the viability and competitiveness of the Divestment Business, that asset, personnel, or adequate substitute will be offered to potential purchasers.

Annex 1 (Commitments) – Downtown Corporate Structure

[…]

Annex 2 (Commitments) - Top 10 Curve Customers 2024–2025

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Annex 3 (Commitments) – List of Vendor Agreements

[…]

Annex 4 (Commitments) – Key Personnel and Personnel

[…]

Annex 5 (Commitments) – List of Non-Dedicated Employees

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