



Mergers: Commission starts investigation for possible breach of the standstill obligation in Illumina / GRAIL transaction

Brussels, 20 August 2021

The European Commission has decided to open an investigation to assess whether Illumina's decision to complete its acquisition of GRAIL, while the Commission's in-depth investigation into the proposed transaction is still ongoing, constitutes a breach of the "standstill obligation" under Article 7 of the Merger Regulation. The standstill obligation prevents the potentially irreparable negative impact of transactions on the market, pending the outcome of the Commission's investigation. This investigation is separate from the Commission's in-depth investigation into the substance of the case which will continue in line with the timelines foreseen in the Merger Regulation.

Executive Vice-President Margrethe **Vestager**, in charge of competition policy, said: "*We deeply regret Illumina's decision to complete its acquisition of GRAIL, while our investigation into the transaction is still ongoing.*"

Companies have to respect our competition rules and procedures. Under our ex-ante merger control regime companies must wait for our approval before a transaction can go ahead. This obligation, that we call standstill obligation, is at the heart of our merger control system and we take its possible breaches very seriously. This is why we have decided to immediately start an investigation to assess whether Illumina's decision constitutes a breach of this important obligation".

Background

On 18 August 2021, Illumina publicly announced that it had decided to complete its acquisition of GRAIL, while the Commission's review of the proposed transaction is still pending.

On 22 July 2021, the Commission had [opened an in-depth investigation](#) into the proposed transaction. The Commission is concerned that the proposed acquisition may reduce competition and innovation in the emerging market for the development and commercialisation of cancer detection tests based on sequencing technologies. Following the parties' failure to provide essential information for the Commission's assessment, on 11 August, the Commission stopped the clock in its in-depth investigation into the proposed acquisition. The parties have still not provided the information requested.

On [19 April 2021](#), the Commission accepted the requests submitted by Belgium, France, Greece, Iceland, the Netherlands, and Norway to assess the proposed acquisition of GRAIL by Illumina under the EU Merger Regulation. The Commission considered that a referral was appropriate, in particular because the transaction threatens to significantly affect competition within the territory of the Member States making the request and GRAIL's competitive significance is not reflected in its turnover.

With this decision, the transaction falls under the Commission's jurisdiction.

All transactions falling under the Commission's jurisdiction need to be notified and approved by the Commission before they can be implemented ("standstill obligation", under Article 7 of the Merger Regulation, referred to in Article 22(4) of the Merger Regulation).

The Commission can impose fines on companies that, either intentionally or negligently, breach the standstill obligation which may reach up to 10% of the companies' aggregate turnover, pursuant to Article 14 of the Merger Regulation.

More information will be available on the Commission's [competition website](#), in the Commission's [public case register](#) under the case number [M.10188](#).



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