



Press and Information

Court of Justice of the European Union
PRESS RELEASE No 5/16
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Judgment in Case C-514/14 P
Éditions Odile Jacob SAS v Commission

The Court dismisses Odile Jacob's appeal in the case concerning Lagardère's purchase of Vivendi Universal Publishing

The Court confirms that the Commission was justified in approving, for a second time, Wendel's acquisition of the assets of Vivendi Universal Publishing that Lagardère was obliged to sell

In September 2002, Vivendi Universal, a company operating in the French-speaking publishing market, decided to sell the entirety of its book publishing business in Europe through its subsidiary, Vivendi Universal Publishing (VUP). The Lagardère group offered to purchase those assets.

In 2004, the Commission authorised the concentration, subject to certain undertakings by Lagardère. The Commission considered that, without those undertakings, the concentration would lead to the creation or reinforcement, in several markets, of dominant positions, thereby giving rise to a significant impediment to effective competition. Accordingly, Lagardère undertook to sell on a significant part of VUP's assets. It approached several undertakings potentially interested in purchasing those assets. Éditions Odile Jacob was one of the undertakings that expressed an interest in the transaction.

Following the procedure for selecting a purchaser for the assets of VUP for re-sale, Lagardère accepted the offer of another undertaking, Wendel Investissement. The Commission approved that purchaser. Odile Jacob then brought an action before the General Court for the annulment of the decision authorising the concentration and the decision approving Wendel. By judgments of 13 September 2010,¹ the General Court upheld the authorisation decision but annulled the approval decision on the ground that the latter had been adopted on the basis of a report drawn up by an agent who did not satisfy the condition of independence required by the Commission. The judgments of the General Court were upheld by the Court of Justice in 2012.²

Following the judgments of the General Court, Lagardère made a further request to the Commission for the approval of Wendel by proposing a new agent, which was approved by the Commission in early 2011. On 13 May 2011, the Commission again approved Wendel as the purchaser of the assets sold, with retroactive effect from 30 July 2004. Odile Jacob then brought another action for the annulment of that decision, which was rejected by the General Court by judgment of 5 September 2014.³ Odile Jacob claims that the Court of Justice should set aside that judgment.

In today's judgment, the Court confirms the General Court's assessment on the points against which Odile Jacob appealed and dismisses Odile Jacob's appeal.

In particular, the Court considers that the General Court correctly ruled that in order to give full effect to the judgments of 2010, the Commission was required to approve a new agent responsible for drawing up a new report evaluating Wendel's candidature, then to authorise or reject the approval of Wendel on the basis, inter alia, of that new report.

¹Case [T-279/04](#) and [T-452/04](#), Éditions Jacob v Commission see also Press Release No [84/10](#).

²Case [C-551/10 P](#) Éditions Odile Jacob v Commission and Joined Cases [C-553/10 P](#) and [C-554/10 P](#) Commission v Éditions Odile Jacob and Lagardère v Éditions Odile Jacob). The background to the dispute and the reasoning of the General Court and of the Court of Justice are set out in greater detail in Press Release No [137/12](#).

³Case [T-471/11](#) Éditions Odile Jacob v Commission, see also Press Release No [119/14](#).

Moreover, the Court rejects Odile Jacob's arguments concerning the legal basis for the further decision approving Wendel and the retroactive effect given to that decision by the Commission (and confirmed by the General Court). In that regard, the Court finds that Odile Jacob failed to demonstrate that there were no grounds that could justify such retroactive effect. In particular, the new decision aimed at attaining several general interest objectives, including respect by the administration for legality and the force of res judicata.

Lastly, the Court rejects Odile Jacob's arguments seeking to call into question the General Court's finding that Wendel was independent of Lagardère despite the presence of the same person in either the managerial or supervisory boards of both companies. In addition, the Court finds that the regular progress reports that the agent had to submit to the Commission on Lagardère's compliance with its undertakings and, more generally, on the carrying out of its task were clearly capable of allowing the Commission to supervise the asset sale procedure.

NOTE: An appeal, on a point or points of law only, may be brought before the Court of Justice against a judgment or order of the General Court. In principle, the appeal does not have suspensive effect. If the appeal is admissible and well founded, the Court of Justice sets aside the judgment of the General Court. Where the state of the proceedings so permits, the Court of Justice may itself give final judgment in the case. Otherwise, it refers the case back to the General Court, which is bound by the decision given by the Court of Justice on the appeal.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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