
Airbus/Air France JV

Five case insights on efficiencies in EU merger control

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Introduction

In April 2026, the European Commission granted unconditional Phase I clearance to the Airbus/Air France joint venture (JV) for A350 global component maintenance services. The Commission describes this case as “the first example of the renewed role of efficiencies in the overall assessment of a transaction”.²

We advised the parties to this JV on the competitive assessment of potential harms and benefits. In this article, we consider how the investigation already put into practice the approach outlined in the Draft Merger Guidelines and the recent economic study on dynamic effects.³

We draw five key insights from our experience on the case:

- **The benefit of engaging early with how efficiencies inform the assessment of harm** – This case demonstrates that even when no impediment to competition is evident, explaining a transaction’s benefits early can reinforce that conclusion. The precise role of those efficiencies, however, depends on the economic relationship between the potential harms and benefits.
- **The benefit of historical comparisons to strengthen the assessment of dynamic competition** – Experience in comparable markets helped the Commission assess how competition might develop in the future in the relevant market. While close comparisons were available, exact parallels are unnecessary. Comparability is a matter of degree: the experience here can be applied elsewhere, provided that degree of comparability is properly assessed.
- **A more realistic approach to merger-specificity** – On occasion, the merger-specific limb of the efficiencies test has been applied unrealistically: assessing transactions against alternative scenarios that are infeasible, less effective, or inconsistent with the underlying counterfactual. That was not the case here. The Commission examined what contractual alternatives could realistically deliver and concluded the JV was superior.
- **The need to engage with requirements for verification from the start** – The Commission accepted there were benefits, but could not verify them from the evidence available. Starting early helps, but there is a limit on what can be achieved in pre-notification where quantifying benefits requires detailed operational analysis, expertise, and data that are difficult to assemble while the businesses remain separate. It didn’t matter here. But in cases where benefits must be balanced against a quantified harm, early engagement will need to address both what the Commission requires for verification and what the parties can feasibly produce.
- **Making economic analysis and market evidence work together** – The Draft Merger Guidelines has ambitious aims, and a traditional analytic toolkit to pursue them with. However, we should avoid a false dichotomy. At the most effective points in the investigation, quantitative analysis and traditional tools such as market testing guided and reinforced each other: analysis helped refine the questions put to customers, whose responses tested the explanations.

Key factual background

Before addressing our five insights in more detail, we briefly describe the key factual background to the case.

The global component maintenance services market for A350 aircraft

Both Airbus and Air France already supplied component maintenance services for A350 aircraft to airline customers worldwide. The JV would combine those activities.

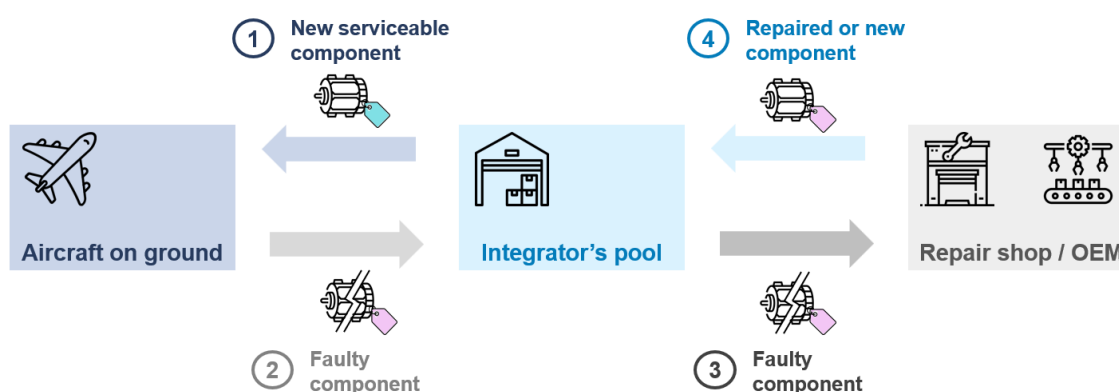
Service quality is crucial in this market. In particular, the availability and delivery speed of replacement parts determine service quality, as delays can ground aircraft, disrupting flights and imposing financial and reputational costs on airlines. To manage that, providers supply airlines with a replacement from their stocks, so that an airline does not need to wait for a faulty part to be repaired before returning its aircraft to service. The provider then arranges for the faulty part to be repaired to replenish its stock.

Figure 1 below presents a schematic representation of the logistics flows of component maintenance services, and illustrates the role of integrators such as the JV. The numbers indicate the order in which the various steps take place, in order to minimise delays.

Airlines generally procure these external services through tenders and may use several providers, which differ in their coverage and capabilities. They can buy directly from original equipment manufacturers (OEMs), which generally service their own components; or from integrators, which hold replacement stocks and arrange maintenance for components made by several manufacturers. Airlines with sufficient scale and technical capabilities may also self-supply, maintaining some components themselves. These roles can overlap: Airbus manufactured some components, Air France maintained components for its own fleet, and both supplied maintenance services to other airlines as integrators.

The market was growing after the A350 entered into commercial service in 2015. Demand for component maintenance services would increase as more aircraft entered service and the existing fleet aged. In the long run, the expanding ageing fleet would also increase supply. Initially, second-hand components were scarce, making it expensive for new providers to assemble the stocks needed to compete. However, more second-hand components would become available as aircraft are retired and dismantled, reducing the investment needed to enter or expand in the market.⁴

Figure 1: Schematic logistic flows of component maintenance services



Source: Compass Lexecon.

The potential harms and benefits

The transaction would remove rivalry between two existing integrators. The Commission examined whether loss of rivalry could significantly impede effective competition, enabling higher prices or poorer service. The assessment turned on the strength of competition from other integrators and component manufacturers, and the prospects for entry as the fleet matured. In particular, it examined whether buying maintenance directly from component manufacturers offered airlines an effective alternative to using an integrator.

The parties claimed four sources of benefit. We focus on two of them. **Pool synergies** would arise from combining inventories to reduce duplicated stocks and additional investment needed to serve new customers, while improving the availability of replacement parts. **Geographic footprint synergies** would arise from using better-positioned stock and repair locations to reduce transport costs and delivery times. Both sources of savings could support lower prices, while improved availability and faster delivery could reduce the time aircraft spent grounded.⁵

The size of these claimed benefits would vary by components and customers. Inventory savings depend on how often parts need replacing and the stocks needed to provide a reliable service. Delivery improvements depend on where stocks and customers are located. The value of faster delivery to airlines depends on the disruption avoided.

The decision and its reasoning

The Commission cleared the transaction unconditionally in Phase I.

On the potential loss of rivalry, the Commission concluded that other integrators would continue to constrain the JV. Evidence from past tenders showed that they competed strongly against both parties. Direct supply from component manufacturers provided a further constraint. The Commission also considered entry likely in the medium term, as

fleet growth increased demand and the retirement of older aircraft made cheaper second-hand components available.⁶

On the claimed benefits, the Commission considered it *prima facie* plausible that pooling stocks and combining geographical coverage could deliver merger-specific benefits to consumers. Its reasoning recognised the coordination problems and misaligned incentives that could prevent contractual arrangements from reproducing those benefits. However, the evidence was insufficient to verify the scale of the efficiencies during Phase I: estimates required reconciliation, examples had not been shown to be representative, and supporting data or estimates were not available in internal documents to the level required. The Commission reserved its final conclusions on merger specificity and consumer benefits and did not rely on the efficiencies for clearance.⁷

Insight 1: The benefit of engaging with efficiencies early depends on the economic link between the theory of harm and benefit

The issue

In merger investigations, benefits cases have been caught in a bad equilibrium. When efficiencies are treated as a defence to be raised only towards the end of an investigation, parties are often reluctant to present them at all, because doing so can appear to concede harm. But that approach means the Commission then lacks compelling evidence of the benefits, reinforcing its scepticism about them.

The Draft Merger Guidelines offer a way out. They welcome early engagement with the merger's rationale, making clear that benefits can be considered without a preliminary finding of harm. For that invitation to work, however, practitioners need to see those words borne out in practice: that benefit claims will receive serious scrutiny, without being treated as a tacit admission that the merger is harmful.⁸

Our experience

In that respect, our experience on Airbus/Air France is encouraging. The Commission engaged with the JV's rationale and its benefits case early, critically, and on a no-prejudice basis. Not only did that not jeopardise the parties' position that the transaction would not significantly impede effective competition; it helped confirm it.

That was because, in this particular case, the economic issues that underpinned the benefits case and the theory of harm were entwined. Both concerned how integrators competed with each other and with direct supply from component OEMs in both price and non-price dimensions. Their stocks and delivery networks determine the prices, availability and lead times they can offer. Explaining how integration could improve those dimensions helped the Commission confirm the whole array of competitive constraints and why loss of rivalry was not concerning. That is not the same as concluding that the claimed benefits would offset the potential harm.

The implications for future cases

So, the case provides reassurance about putting benefits forward early, even where no harm is expected - explaining benefits can reinforce that assessment. The nature of that contribution, however, depends on the economic relationship between the potential harms and benefits. In other cases, explaining the mechanism that generates benefits may also reinforce the theory of harm, confirming that both are likely and that their relative magnitude must be assessed and balanced. Therefore, practitioners need to work through the economic interaction between the benefits and competitive assessment, as that determines what the Commission needs to examine when it engages early with the benefits case.

Insight 2: Historical experience in comparable markets can strengthen evidence on a dynamic counterfactual

The issue

Merger investigations are forward-looking assessments that compare how competition is expected to develop in the future, with and without the transaction. Existing market conditions may provide a useful benchmark for the counterfactual. But in many markets, they do not. The Draft Merger Guidelines recognises this, giving much greater prominence to dynamic effects and counterfactuals. Much of the discussion has focused on their relevance in innovative markets. Their relevance to other industries deserves more attention, including those restructuring in response to declining demand or risks to security of supply.

The challenge in dynamic markets is that both the merger scenario and the counterfactual depend on uncertain forecasts. Assuming that today's conditions will persist does not remove uncertainty; it selects one possible future – one that may itself be implausible, if not the most implausible scenario. The practical task is therefore to improve the reliability of those forecasts and assess how the uncertainty that remains affects the conclusions.⁹

Our experience

In Airbus/Air France, the dynamic counterfactual concerned how growth and ageing of the A350 fleet would affect maintenance demand and the availability of used components. Growth in demand was expected to encourage new entrants to the market, and access to cheaper parts was expected to reduce entry costs, making entry more likely in the medium term. Our analysis drew principally on experience with earlier aircraft generations – for instance, the release of older A320 components during the transition to the A320neo.

Historical comparisons had two benefits. First, they provided evidence of how fleet scale, inventory costs and component availability had affected the viability of different suppliers and airlines' own maintenance capabilities for similar aircraft. That experience helped the Commission assess how competition in A350 maintenance might develop more tangibly. Second, they gave the Commission specific hypotheses to test with customers. Airlines familiar with several aircraft generations could assess whether the same mechanisms were likely to recur and identify differences that might affect their timing or strength. In this case, customer evidence supported the expectation that those mechanisms would also apply to the A350.

The implications for future cases

The relatively clear parallels between the A350 and historical markets made this a relatively straightforward application of comparable markets. Comparability, however, is a matter of degree and exact parallels are rare. Experience in another market, for example, may help establish how a mechanism operates, without providing a precise guide to its timing or magnitude in the market under investigation. The task is therefore to identify what can reasonably be inferred from the comparison and where further evidence is needed.

Further, this case illustrates only one aspect of dynamic assessment: how foreseeable changes in demand and supply affect competition with and without the merger. Those developments could change firms' incentives to enter or expand and thereby to exert further competitive constraints onto the JV, but they were not caused by the JV. A further test of the Commission's renewed approach would be how it assesses changes in incentives caused by a merger. Those effects require an explanation of how the transaction itself changes firms' behaviour relative to the counterfactual. The economic study on the dynamic effects of mergers, prepared for the Commission by Oxera,

expressly distinguishes these effects from external market developments.¹⁰

Insight 3: The assessment of merger specificity depended on what alternatives could realistically deliver

The issue

Demonstrating that benefits are merger specific has, at times on previous cases, been unrealistically challenging. In particular, the Commission could reach for theoretical alternatives such as "just compete more" and "contractual arrangements" rather quickly; without fully ensuring that those alternatives were realistic, as effective as the merger would be, and consistent with the counterfactual that underpins the competitive assessment of potential harm.¹¹ The Draft Merger Guidelines provide scope to examine those issues and exclude merely hypothetical alternatives.¹²

Our experience

In Airbus/Air France, the Commission considered it *prima facie* plausible that the benefits from pooling inventories and combining geographical coverage were merger-specific. It reserved its final conclusion because verifiability remained unresolved within the Phase I timeframe.

In practice, "just compete more" was never a realistic option and, reassuringly, wasn't an issue in this case. The commercial setting renders it ineffective. Providers could add stocks after winning contracts, but that did not make it realistic for each party to win enough additional business to achieve comparable inventory savings and delivery improvements within the relevant period. Further, for spare parts where the pooling benefits are greatest, incremental competitive gains would have little to no effect. Fragmentation would remain a barrier.

The Commission did ask about contractual alternatives. The claimed benefits depended on coordinated decisions about how many

spare parts to hold, where to locate them and which customers to supply. In principle, a stock-sharing agreement could provide access to another provider's inventory, achieving the same effect. However, whether a contractual agreement could achieve the same reduction in duplicate stocks depended on how reliably that inventory would be available when needed.

The Commission identified reasons why contractual arrangements might not reproduce either benefit. For pooling, an inventory owner might not share the provider's incentive to meet its commitments to airline customers. Anticipating unreliable access, the provider might therefore retain duplicate spares, placing a tourniquet on the benefits of pooling. Geographical benefits similarly depended on coordinating stock allocation, dispatch and repair across locations. The Commission considered it *prima facie* plausible that contractual arrangements would not achieve the same degree of integration and coordination.¹³ This reflects a familiar problem in the economics of incomplete contracts: it can be difficult to specify and enforce in advance how decisions should be taken in an uncertain setting. Separate owners may then pursue different priorities or need to renegotiate. Integration can place those decisions under common control, with incentives to consider the costs and benefits across the combined business.¹⁴

The implications for future cases

This case is an encouraging sign that the requirement for merger specificity will become less of a theoretical exercise but focus on realistic situations. Such inquiries can also allow for a more nuanced assessment of the potential alternatives, which may be partial: an agreement or independent expansion may be technically feasible, but slower, costlier, or less effective. In that event, the merger-specific benefit is the additional gain attributable to the transaction, as the Draft Merger Guidelines recognise.¹⁵

However, a more realistic counterfactual for merger-specificity addresses only half the concern. The Draft Merger Guidelines retain a distinction between the two inquiries: a realistic and attainable alternative can be used to test merger specificity without being treated as the expected counterfactual outcome when assessing harm. Benefits can therefore be excluded because they could arise under an alternative that is not assumed in the competitive assessment.¹⁶ In our view, both the assessment of benefits and the assessment of harm should use the same assumptions about what would happen without the transaction.

Insight 4: Early engagement in the benefits case will need to consider verification from the start

The issue

Verifiability has traditionally been a demanding limb of the efficiencies test. The evidence that parties use to justify an acquisition commercially may differ from what the Commission requires to substantiate efficiencies, both in the questions addressed and the detail required to answer them. Even where the Commission accepts benefits in principle, it may find the evidence insufficient to verify their likely magnitude to the required standard.¹⁷

The Draft Merger Guidelines address this issue to some extent. They expressly provide for the same evidential standard to apply to benefits and harms. They envisage quantitative comparisons where possible, but allow an assessment of relative magnitudes where precise quantification is unavailable. The challenge is to ensure that this symmetry holds in practice: that benefits are not required to be estimated relatively precisely while harms are inferred in broad terms from structural indicators and qualitative evidence.¹⁸

Our experience

In Airbus/Air France, the Commission accepted that there would be benefits, but it

was unable to verify them based on the evidence available during Phase I. Essentially, the verification challenge was how to quantify the benefits reliably, and what methods and evidence that required.

During Phase I, the Commission drew on two sources, which it considered insufficient for its needs.

- The parties' internal documents identifying and estimating the potential synergies.
- Worked examples illustrating the savings for specific components. A pooling calculation, for instance, demonstrates how combining inventories would meet the same service standard with a smaller stock of parts. For the case, that helped explain the economic mechanisms and demonstrate their plausibility. But estimating savings across the business as a whole requires further steps: showing a range of examples that are collectively representative of the various customers and locations, so that their results could support broader estimates.

Although it was unnecessary, it is worth appreciating how challenging a fully quantified benefits case would have been, as it requires evaluating and modelling how the combined network could operate. This is a complex optimisation problem: how many parts to hold, where to locate them, and how to organise dispatch and repair while meeting customers' service requirements. Those decisions depend on replacement frequencies, repair times and costs across thousands of components. Holding fewer stocks can reduce inventory costs but lengthen delivery routes; adding locations can improve delivery but require more stocks. The analysis would need to compare the likely combined-network configurations with a counterfactual where the parties operated independently.

This analysis is possible, but the work is extensive; it is not the type of undertaking that the Commission can routinely expect to find in parties' board papers. The challenge is to work through how the combined business

could operate more efficiently and estimate the resulting savings.

Orange/MásMóvil provides a useful comparison. Moving customers onto cheaper network arrangements could incur migration costs and require capacity beyond that included in existing contracts. Estimating the savings therefore required assessing how customers and traffic could be allocated across the available networks and contracts, taking those costs and constraints into account.¹⁹ Another example is Fiat/Peugeot, where savings depended on choices about shared vehicle platforms, components and suppliers. The cheapest component or supplier could not simply be selected in isolation: the choices had to be technically compatible and commercially feasible across the combined operation.²⁰ In Airbus/Air France, the corresponding task would have been similarly demanding: identifying which stocks to combine or relocate to minimise inventory and delivery costs, while maintaining the required service levels.

The implications for future cases

The Commission's Competition Merger Brief's lesson from Airbus/Air France is that parties should focus on "front-loading substantiation during pre-notification: internal documents should be representative, reconcilable across data sets, and otherwise verifiable".²¹ That is fine. But it does not address the core issue in a case like this one. Had quantification been necessary, preparing evidence during pre-notification to the Commission's required standard would have faced considerable constraints.

As FCA/PSA and Orange/MásMóvil illustrate, quantification of this kind requires detailed plans for the combined business to be developed and tested. The challenge extends beyond analytical complexity: access to the necessary knowledge, people and data is also constrained. The analysis depends on input from engineers, procurement specialists and operational managers who understand what is feasible. Confidentiality adds further restrictions while the businesses

remain separate. Protected-data arrangements can help, but cannot replace operational expertise or eliminate the time needed to develop and test a combined plan. Starting early does not necessarily make verification at the highest standard achievable within Phase I.

The key issue, therefore, is not just whether the Commission engages early on benefits, but how it engages. Quantification should explicitly be on the agenda, addressing both what the Commission requires for verification, and what the parties can feasibly produce. In complex cases, that means discussing possible methods, the people and information needed to apply them, and the precision and coverage that is achievable. Those discussions should shape the analytical approach from the outset.

Insight 5: Broader ambitions require economic analysis to guide traditional evidence

The issue

The Draft Merger Guidelines are ambitious, giving greater prominence to benefits, dynamic effects, and non-price parameters of competition.²² Airbus/Air France is encouraging on each: the Commission engaged with benefits, the evolution of the market mattered, and changes in service quality were central to the investigation.

However, whether the Commission has the analytical toolkit and evidence to match that ambition is open to debate. Its traditional tools and sources will remain important: market testing, internal documents and inferences from structural indicators such as market shares. But on their own, their capacity to answer these broader questions is limited.²³

Our experience

In Airbus/Air France, those traditional tools and sources were prominent and influential. Market testing played a central role in the competitive assessment, confirming that direct purchases from component

manufacturers offered an effective alternative to integrators. Internal documents were important to the Commission's assessment of the merger's rationale and claimed benefits.²⁴

Interestingly, however, those sources did not operate in isolation. Analysis of past tenders demonstrated competition among integrators, complementing and contextualising customer evidence about the alternatives available. The analysis of comparable markets enhanced understanding of how competition might develop as the A350 fleet matured, which both corroborated the account in internal documents, and helped refine the hypotheses that the Commission could test with customers. Their responses, in turn, supported those explanations. At the most effective points in the investigation, quantitative analysis and market evidence guided and reinforced each other.

The implications for future cases

Airbus/Air France may act as a helpful guide for the Commission and practitioners as they navigate the slightly false and adversarial dichotomy between qualitative and quantitative evidence – a point emphasised in the General Court's judgment on *Booking Holdings v Commission*: separating qualitative and quantitative evidence can be artificial; ultimately what matters is whether evidence is sufficiently cogent and consistent, contains all the relevant evidence which must be taken into consideration and is capable of substantiating the conclusions drawn from it.²⁵

There are limits, however. In Airbus/Air France, the evidence and analysis were sufficient to establish that the transaction would not significantly impede effective competition. But in cases where both harm and benefits are likely, the evidence base and analytic approach will need to be capable of assessing their relative magnitudes. The need for quantitative analysis will be greater. As will the need for practitioners and the Commission to engage early on how to approach that analysis.

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- 2 N. Riess, F. Louge, C. Uwayo and L. Solek, "M.11295 Airbus/Air France/JV", Competition Merger Brief, Issue 5, July 2026, p. 1. The Brief states that its content does not necessarily reflect the Commission's official position, *At the time of publication, the final public decision has not been issued by the European Commission*.
- 3 European Commission, Draft Merger Guidelines. Available at: https://competition-policy.ec.europa.eu/mergers/review-merger-guidelines_en. See also Oxera et al. (2026), Economic study on the dynamic effects of mergers, Volume 1: Main report, prepared for the European Commission, Directorate-General for Competition, Publications Office of the European Union, doi:10.2763/4204115. Available at: https://competition-policy.ec.europa.eu/mergers/review-merger-guidelines_en
- 4 Airbus, A350 Family, "When did A350 enter into service?", www.airbus.com/en/products-services/commercial-aircraft/passenger-aircraft/a350-family.
- 5 The parties also claimed repair synergies and vertical synergies from eliminating double marginalisation. The Commission considered these insufficiently substantiated to merit further consideration (Merger Brief, p. 2).
- 6 Competition Merger Brief, p. 2.
- 7 Competition Merger Brief, p. 3.
- 8 Draft Merger Guidelines, paragraph 36. See also Compass Lexecon, "Reflections on the European Commission's Draft Merger Guidelines: Where should we focus?", 11 May 2026, section "Introducing a formal 'Theory of Benefit'". Available at <https://www.compasslexecon.com/insights/publications/reflections-on-the-european-commissions-draft-merger-guidelines-where-should-we-focus>.
- 9 Draft Merger Guidelines, paragraphs 37–42; J. Padilla, When and How to Rescue Efficiencies from Oblivion in Horizontal Merger Control?, supplied version dated 18 May 2026, section IX, Step 2, p. 57, Available at SSRN: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=6217838; Oxera et al. (2026), Economic study on the dynamic effects of mergers, Volume 1: Main report, prepared for the European Commission, DG Competition, paragraphs 13.2–13.3 and footnote 456. Available at: https://competition-policy.ec.europa.eu/mergers/review-merger-guidelines_en#ref-2-economic-study-on-dynamic-effects-of-mergers.
- 10 Oxera et al. (2026), Economic study on the dynamic effects of mergers, , paragraph 13.18 and footnote 462, p. 135.
- 11 For instance, see R. Fischer and E. Zoido, Developing an innovation defence in European merger control, Compass Lexecon, 9 October 2025, where **Western Digital/Hitachi** (contractual cooperation as an alternative to combining R&D capabilities) and **Hutchison/WIND** (a network sharing agreement as an alternative to the merger) are discussed as contractual alternatives, and **Aurubis/Metallo** (independent development or licensing of know-how) and **INEOS/Solvay** (independent development of equivalent know-how) are discussed as independent alternatives, Available at: <https://www.compasslexecon.com/insights/publications/developing-an-innovation-defence-in-european-merger-control>. Also see L. Nilausen, Lessons from the life and death of merger efficiency claims, Compass Lexecon, 28 November 2023, pp. 2 and 8–10, Available at: <https://www.compasslexecon.com/insights/publications/lessons-from-the-life-and-death-of-merger-efficiency-claims-merger-rationales-v-merger-efficiencies>. Also see: J. Padilla, R. Fischer and C. Nardini, "Could is not Would: Restoring the Proper Counterfactual for Merger Efficiencies", 2 September 2026. Available at SSRN: <https://ssrn.com/abstract=7402218> or <http://dx.doi.org/10.2139/ssrn.7402218>.
- 12 Draft Merger Guidelines, paragraphs 310–312.
- 13 Competition Merger Brief, p. 3.
- 14 See Milgrom, P. and J. Roberts 1992, *Economics, Organization and Management*, Prentice Hall International.
- 15 Draft Merger Guidelines, paragraph 314.
- 16 J. Padilla, *Dynamic Merger Control after Draghi*, 25 August 2026, section 5, pp. 7–9, Available at SSRN: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=7381342; Draft Merger Guidelines, paragraph 44 and footnote 88.
- 17 L. Nilausen, "Lessons from the life and death of merger efficiency claims", Compass Lexecon, 28 November 2023, pp. 2–3 and 12; R. Fischer and E. Zoido, "Developing an innovation defence in European merger control", Compass Lexecon, 9 October 2025, pp. 7–8. Examples include TomTom/Tele Atlas, where the Commission recognised that combining the parties' data would improve maps but found the proposed valuations unconvincing (Decision M.4854, paragraphs 245–250). Precise quantification was ultimately unnecessary because the transaction lacked anticompetitive effects irrespective of those efficiencies. Fischer and Zoido also discuss Telia/Bonnier, where claims of increased innovation lacked concrete projects or plans explaining how combining the workforces would generate it (Decision M.9064, paragraph 1296).
- 18 Draft Merger Guidelines, paragraphs 26, 304, 307–308, 343–344 and 347–348. The qualification that efficiencies should be quantified where reasonably possible already appeared in the Horizontal Merger Guidelines (2004), paragraph 86. See also Oxera et al. (2026), *Economic study on the dynamic effects of mergers*, Volume 1, paragraph 16.76, supporting consistency in the types of evidence used to assess harm and benefits, taking account of information availability. On the risk of asymmetry in application, see J. Padilla, *Dynamic Merger Control after Draghi*, 25 August 2026, sections 2 and 7; and *When and How to Rescue Efficiencies from Oblivion in Horizontal Merger Control?*, 18 May 2026, section IX, Step 4.
- 19 Decision M.10896 Orange/MásMóvil/JV, paragraphs 1607–1613 and Annex B, paragraphs 9(e), Item 12, and 20(f), Item 43. The Commission verified certain savings; this did not establish that the efficiencies justified clearance.
- 20 Decision M.9730 FCA/PSA, Economic Annex, paragraphs 93–94 and 103–104, particularly footnote 43.
- 21 Competition Merger Brief, p. 3. The Brief does not necessarily reflect the Commission's official position.
- 22 Draft Merger Guidelines, paragraphs 20, 30–31 and 36–39.
- 23 J. Padilla, N. Dryden, M. Caldana, C. Nardini and R. Fischer, "Reflections on the European Commission's Draft Merger Guidelines: Where should we focus?", especially the section "Strengthening the evidentiary framework, and how that evidence is interpreted". Available at: <https://www.compasslexecon.com/insights/publications/reflections-on-the-european-commissions-draft-merger-guidelines-where-should-we-focus>; and J. Padilla, R. Fischer, C. Nardini and A. Stenimachitis, "A difficult balancing act: How to weigh the potential harms and benefits of mergers under the Draft Merger Guidelines", *Concurrences*, No. 10-2026, 1 October 2026, Article No. 138876. Available at <https://www.concurrences.com/en/review/numeros/no-10-2026/dossier/draft-merger-guidelines-first-review/part-iv-a-difficult-balancing-act-how-to-weigh-the-potential-harms-and-benefits>.
- 24 Competition Merger Brief, p. 3.
- 25 General Court, judgment of 9 September 2026, Booking Holdings v Commission, T-1139/23, EU:T:2026:535, paragraphs 456–458.