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Reference: AT.39398

European Commission
Directorate-General for Competition
Antitrust Registry
1049 Brussels
BELGIUM

AT.39398: observations on the proposed commitments

First of all, a lot of thanks to the commission of organising this important consultation related to the proposed commitments (10 May 2013) by VISA in the case AT.39398 ¹.

This opinion (i.e. observations) represents an opinion of an individual citizen, not any legal entity.

This opinion does not contain:

- any business secrets
- any trade secrets
- any confidential information.

This opinion is public.

The European Commission Directorate-General for Competition (COMP) can add the PDF file of this opinion to a relevant web page.

Annex 2 holds information about disclaimers and copyright.

Best Regards,

Jukka S. Rannila
citizen of Finland

signed electronically

¹ http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_39398

43

44 **Previous consultation(s)**

45

46 In the Opinion 18 I have issued some ideas about the Monitoring Trustee, which was meant to
47 assess and follow Microsoft during the period accepted final commitments.

48

49 EN: Opinion 18: Opinion Related to the Public Undertaking by Microsoft

50 http://www.jukkarannila.fi/lausunnot.html#nro_18

51

52 In the Opinion 18 I refer to and analyse several ambiguous definitions of the Monitoring Trustee.

53

54 Based on those previous analyses I have some (humble) comments about the Monitoring Trustee in
55 this case (AT.39398).

56

57 **Section 8.1 – Necessary qualifications of the Monitoring Trustee?**

58

59 It should be noted, that there is two classes of qualifications in this case:

60

61 1) Technological qualifications

62 2) Legal qualifications.

63

64 Visa operates on a certain field of information technology, and numerous and very different
65 stakeholders are directly linked to the technologies developed by VISA. Most probably there will be
66 new technological developments in the specific information technology area, where VISA operates.

67

68 Therefore, VISA should propose a Monitoring Trustee, which have both legal qualifications and
69 technological qualifications. This might result proposing a team of persons, not just one person.

70

71 Co-operation with the Monitoring Trustee should notice the new technological developments in the
72 specific information technology area, where VISA operates. These developments should be assessed
73 according to several legal viewpoints during the Commitments period, i.e. period of 4 years from
74 the Commencement Date.

75

76 The initial assumption is, that there can be several new and different stakeholders using
77 technologies developed by VISA during the Commitments period. In other words, the market
78 situation and some technologies can change during the Commitments period.

79

80 **Section 8.2 – full terms of the proposed mandate?**

81

82 I suppose, that the **full terms of the proposed mandate** will be publicly available information after
83 the Monitoring Trustee is finally selected.

84

85 There is not a clear indication in the proposed Commitments, that the **full terms of the proposed**
86 **mandate** are public. I propose clearly defined publicity for the full terms.

87

88

89 **Section 8.2 – the outline of a plan?**

90

91 Corollary to the previous proposals, the outline of a plan (which describes how the Trustee intends
92 to carry out its assigned tasks) should be publicly available after the Commission's approval.

93

94 **Co-operation between different stakeholders?**

95

96 In the section 8.7 there is well-revised explanation of duties and obligations of the Monitoring
97 Trustee.

98

99 However, it is not clear who is responsible to gather information from other stakeholders.

100

- 101 1) Should new/existing stakeholders inform **the Commission** about the possible
102 problems during the Commitments period?
- 103 2) Should new/existing stakeholders inform **the Monitoring Trustee** about the possible
104 problems during the Commitments period?
- 105 3) Should new/existing stakeholders inform both **the Commission and the Monitoring**
106 **Trustee** about the possible problems during the Commitments period?

107

108 Like said before, during the Commitments period, there can be several changes in the
109 (technology/business) area, where VISA operates.

110

111 I propose the third option, when stakeholders can inform **both** the Commission and the Monitoring
112 Trustee about the possible problems during the Commitments period. Then the Monitoring Trustee
113 can propose reasoned options to mitigate possible new and/or arising problems during the
114 Commitments period.

115

116 **Information distribution to different stakeholders?**

117

118 I have following proposals:

119

- 120 1) There has to be a dedicated web page for the commitments provided by VISA.
- 121 2) There has to be a dedicated email (discussion) for the Commitments.
- 122 3) There has to be a dedicated information feed for the Commitments.

123

124 In the proposed Commitments VISA is taking rather passive attitude, and is not clearly articulating
125 how VISA will keep different stakeholders up-to-date during the Commitments period.

126

127 The proposed web page can be like:

128

<http://www.visa.com/EU>

129

130 All relevant documents created during the Commitments period should be added to the proposed
131 web page. Naturally, some of the documents can be confidential, and possibly some redacted /
132 modified non-confidential parts of the documents can be added to the web page.

133
134 Also, there should be a (discussion) (email) list for questions and answers related to the
135 Commitments. In the simplest form, there can be a email list for discussion, and all interested
136 stakeholders can have possibility for a serious discussion during the Commitments period.
137

138 I have several time urged the Commission to provide information feeds, and the most common form
139 at the moment is the RSS feed.
140



141
142
143 There are some resources for understanding the RSS feed

- 144 • RSS: Wikipedia article ²
- 145 • RSS 2.0 Specification ³
- 146 • News aggregator: Wikipedia article ⁴

147
148 Depending on the selected technological measures, there can be a RSS feed for the email
149 (discussion) list. In any case, VISA should provide RSS feed for the information distribution during
150 the Commitments period.
151

152 **Possibilities to comment different documents, e.g. draft reports?**

153
154 There is not a clear indication in the proposed Commitments, that there are clearly articulated
155 commenting possibilities for different stakeholders.
156

157 There should be clearly articulated commenting possibilities for different stakeholders, e.g. a
158 possibility to comment draft reports prepared by the Monitoring Trustee.
159

160 Like said before, VISA is taking rather passive attitude, and is not clearly articulating how VISA
161 will keep different stakeholders up-to-date during the Commitments period.
162

163
164 **Good luck !!!!!!!**
165

166 This Opinion is quite limited, and probably other opinions will result some constructive ideas.
167

168 Jukka S. Rannila
169 citizen of Finland

2 <http://en.wikipedia.org/wiki/RSS>, Wikipedia article – RSS

3 <http://www.rssboard.org/rss-specification>, RSS 2.0 Specification

4 http://en.wikipedia.org/wiki/Feed_aggregator, Wikipedia article – News aggregator

170

171

ANNEX 1

172

173 My opinions to the previous and relevant consultations – there consultations were mostly organised
174 by the Commission of the European Union.

175

176 General page to all consultations – both in English and in Finnish:

177 <http://www.jukkarannila.fi/lausunnot.html>

178

179

180 EN: Opinion 1: Review of the rules on access to documents

181 http://www.jukkarannila.fi/lausunnot.html#nro_1

182

183 EN: Opinion 2: Schools for the 21st Century

184 http://www.jukkarannila.fi/lausunnot.html#nro_2

185

186 EN: Opinion 3: The future of pharmaceuticals for Human use in Europe- making Europe a Hub for
187 Safe and Innovative medicines

188 http://www.jukkarannila.fi/lausunnot.html#nro_3

189

190 EN: Opinion 5: Consumer Scoreboard, Questionnaire for stakeholders

191 http://www.jukkarannila.fi/lausunnot.html#nro_5

192

193 EN: Opinion 6: Consultation on a Code of Conduct for Interest Representatives

194 http://www.jukkarannila.fi/lausunnot.html#nro_6

195

196 EN: Opinion 8: European Interoperability Framework, version 2, draft

197 http://www.jukkarannila.fi/lausunnot.html#nro_8

198

199 EN: Opinion 9: CAMSS: Common Assessment Method for Standards and Specifications, CAMSS
200 proposal for comments

201 http://www.jukkarannila.fi/lausunnot.html#nro_9

202

203 EN: Opinion 15: Collective Redress

204 http://www.jukkarannila.fi/lausunnot.html#nro_15

205

206 EN: Opinion 17: Opinion to Antitrust Case No. COMP/C-3/39.530

207 http://www.jukkarannila.fi/lausunnot.html#nro_17

208

209 EN: Opinion 18: Opinion Related to the Public Undertaking by Microsoft

210 http://www.jukkarannila.fi/lausunnot.html#nro_18

211

212 EN: Opinion 19: Official Acknowledgement by the Commission

213 http://www.jukkarannila.fi/lausunnot.html#nro_19

214

- 215
216 EN: Opinion 20: SECOND Opinion Related to the Public Undertaking by Microsoft
217 http://www.jukkarannila.fi/lausunnot.html#nro_20
218
219 EN: Opinion 21: Opinion about the European Interoperability Strategy proposal
220 http://www.jukkarannila.fi/lausunnot.html#nro_21
221
222 EN: Opinion 23: Public consultation on the review of the European Standardisation System
223 http://www.jukkarannila.fi/lausunnot.html#nro_23
224
225 EN: Opinion 27: Public Consultation on the Modernisation of EU Public Procurement Policy
226 http://www.jukkarannila.fi/lausunnot.html#nro_27
227
228 EN: Opinion 28: Consultation on the Europe 2020 Project Bond Initiative
229 http://www.jukkarannila.fi/lausunnot.html#nro_28
230
231 EN: Opinion 30: Internet Filtering
232 http://www.jukkarannila.fi/lausunnot.html#nro_30
233 NOTE: Organised by the European Committee for Standardization (CEN) ⁵
234
235 EN: Opinion 32: COMP/C-3/39.692/IBM – Maintenance services
236 http://www.jukkarannila.fi/lausunnot.html#nro_32
237
238 EN: Opinion 34: REMIT Registration Format
239 http://www.jukkarannila.fi/lausunnot.html#nro_34
240 NOTE: Organised by The Agency for the Cooperation of Energy Regulators (ACER) ⁶
241
242 EN: Opinion 35: Exploiting the employment potential of the personal and household services
243 http://www.jukkarannila.fi/lausunnot.html#nro_35
244
245 EN: Opinion 37: CASE COMP/39.654 - Reuters instrument codes
246 http://www.jukkarannila.fi/lausunnot.html#nro_37
247
248 EN: Opinion 39: Registry options to facilitate linking of emissions trading systems
249 http://www.jukkarannila.fi/lausunnot.html#nro_39
250
251 EN: Opinion 40: Media Freedom and Pluralism / audiovisual regulatory bodies
252 http://www.jukkarannila.fi/lausunnot.html#nro_40
253

5 <http://www.cen.eu/> (Accessed 2 July 2012)

6 <http://www.acer.europa.eu/> (Accessed 2 July 2012)

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255

ANNEX 2

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257

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269

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273 worldwide politics.

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288

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295 The English explanation is in the following web page:

296 <http://creativecommons.org/licenses/by-nd-nc/1.0/fi/deed.en>

297



7 Based on the Finnish three-party system there is a phenomenon called extreme-centre in Finland. The 2011 parliamentary elections in Finland challenge the three-party system, since three "old" parties were not traditionally as the three largest parties. The is now a "new" party as the third largest party. We all must remain being interested about this new development in Finland.