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Answer given by Executive Vice-President Vestager
on behalf of the European Commission
(25.10.2024)

Preventing so-called killer acquisitions which threaten to significantly impede effective competition in the common market has been a priority for the Commission. Hence in 2021 the Commission revised its approach on referrals from Member States under Article 22 of the EU Merger Regulation (EUMR)¹, to capture, in certain circumstances, transactions falling below national notification thresholds.

Given the *Illumina* judgment, the Commission will need to pursue alternative means to scrutinise killer acquisitions. Determining a new way forward will be a priority for the incoming Commission, in line with the Political Guidelines of the Commission President and the Mission Letter of Executive Vice-President designate for Clean, Just and Competitive Transition.

The Commission can still rely on Article 22 EUMR referrals in cases where national competition authorities are competent to review. Many Member States have introduced, or are considering introducing, ‘call-in’ provisions in their national laws – in addition to some having market share and transaction value thresholds that may capture such transactions.

More structural solutions can be contemplated in the longer term, such as a targeted revision of Regulation 139/2004 to introduce new thresholds or a ‘safeguard mechanism’ as indicated by the Court of Justice in the *Illumina* judgment. Such options will be for the new Commission to consider.

The Digital Markets Act (DMA)² and the EUMR are complementary, focused on their respective aims. Article 14 DMA allows the Commission and Member States to have visibility on all mergers and acquisitions by designated gatekeepers and to seek review of such transactions under the EUMR where possible and appropriate.

¹ Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1, ELI: <http://data.europa.eu/eli/reg/2004/139/oj>).

² Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) (OJ L 265, 12/10/2022, p. 1, ELI: <http://data.europa.eu/eli/reg/2022/1925/oj>).