Concession catering sector: The Autorité unconditionally clears the creation of a full-function joint venture between Select Service Partner and Aéroports de Paris

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Background

On 28 October 2022, the Aéroports de Paris and Select Service Partner groups notified the *Autorité de la concurrence* of their plan to create a full-function joint venture called Extime Food & Beverage Paris, whose purpose is to eventually operate almost all of the catering outlets located in Paris-Roissy Charles de Gaulle and Paris-Orly airports.

At the end of the first phase of the review (known as "phase 1"), the *Autorité* considered that the transaction contained a serious risk of harm to competition that justified an in-depth review of the transaction (known as "phase 2") (see PR of 9 January 2023).

In the present decision, for the first time, the *Autorité* draws a distinction between the upstream market for granting concessions and the downstream concession catering market.

Following its analysis, the *Autorité* ruled out any risk of harm to competition on the upstream and downstream markets for commercial catering at Paris-CDG and Paris Orly airports. As a result, it clears the merger without commitment.

Parties to the transaction

- **Aéroports de Paris ("ADP")**

ADP is a limited company controlled by the French State, in charge of developing, operating and expanding airport facilities in the Île-de-France region (mainly Paris-CDG, Paris-Orly and Paris-Le Bourget). ADP is active across the entire airport value chain, as in addition to making its infrastructure available to airlines, it operates the commercial sites (shops and restaurants) located in the airports it manages.

- **Select Service Partner ("SSP")**

SSP is owned and exclusively controlled by the SSP Group. This group is mainly active in concession catering. This activity involves providing a catering service in areas mainly used for a different activity such as transport (airports, train stations, etc.), sports and leisure (museums, cinemas, amusement parks, stadiums, etc.), retail (shopping centres, department stores, etc.) and other public places. SSP is particularly present in transport infrastructures: in France, it is active in airports (Marseille, Nice, Nantes, Bordeaux, Lyon, Paris-CDG and Orly), train stations (Gare de Lyon and Gare Montparnasse), motorway service stations and the Paris metro.

- **Extime Food & Beverage Paris ("Extime")**

Prior to the transaction, Extime was a subsidiary of the ADP Group. To date, its business has been the management of some thirty catering outlets at Paris-CDG and Paris-Orly airports. Following the transaction, Extime will be jointly controlled by ADP and SSP and will eventually operate almost all the catering outlets at Orly and Paris-CDG airports.

For the first time, the Autorité has identified a downstream market for commercial airport catering, distinct from the upstream market for airport concession catering.

The *Autorité* considers it appropriate to draw a distinction between the upstream market for the granting of concessions and the downstream concession catering market.

On this point, the *Autorité* has drawn on the European Commission's decision-making practice, which has identified a market for the provision of catering services in related sectors such as concession catering at freeway service areas or commercial services at airports, alongside the market for the awarding of concessions for these services.

Regarding the geographical delineation of the downstream market for airport catering, the *Autorité* considered that the analysis of the anticompetitive effects of the transaction should be conducted at the level of each airport managed by ADP. The investigation has shown that commercial activities, including catering, are not subject to competitive pressure from outside the airport. In fact, once through the security checkpoints, passengers are unable to eat outside the catering outlets in their waiting areas.

However, the *Autorité* considers it unnecessary to segment the market at a level lower than that of the airport infrastructure (at terminal or zone level), as the investigation has shown that the operators define a single pricing policy for all the catering outlets they manage within the same airport.

On the basis of the counterfactual scenario, the Autorité has ruled out any risk of horizontal effects on the downstream catering markets at Paris-CDG and Paris-Orly airports.

The transaction takes place in a special context, since ADP has decided to combine the leases on its catering outlets and entrust their management to Extime independently of the transaction, and since Extime has begun to operate the catering outlets previously managed by the other operators, whose leases have expired.

In its analysis, the *Autorité* considered that, in the absence of the transaction, the most likely scenario would be for ADP alone to take over the management of almost all catering outlets, via Extime. ADP not only has the legal capacity, but also the technical resources and experience required to ensure this management. Moreover, ADP's incentives to entrust virtually all catering operations to a single operator over which it can exercise control are also

plausible and established by a body of corroborating evidence.

Under these conditions, the notified transaction would not result in the transition from an oligopolistic to a monopolistic situation, since, in the absence of the transaction, the catering outlets at Paris-CDG and Paris-Orly airports would in any case be operated by a single operator, Extime. The *Autorité* therefore considers that the notified transaction has no impact on the structure of competition on the downstream airport catering market.

The Autorité also ruled out any risk of harm to competition through vertical effects on the upstream concession catering market.

Leaving the question open, the *Autorité* conducted its analysis on the airport catering market defined at national level. On this market, the investigation has established that there is no risk of SSP's competitors foreclosing access to customers. Similarly, any risk of SSP locking in its service offering to other French airports has been ruled out.

Lastly, the *Autorité* verified that the transaction would not give Extime a privileged position on the market, particularly with catering chains. On this point, the investigation has confirmed that the transaction does not alter the competitive parameters of the contracts between concession caterers and chains, particularly as regards the granting of exclusive rights.

The Autorité clears the transaction without commitment

Following its analysis, the *Autorité* considers that the transaction is not likely to affect competition on the markets affected by the transaction and authorises the merger without commitment.

The full text of the decision will be available soon.

See merger control decisions

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