



## Case summary

31 March 2020

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### Planned acquisition of Honey Science Corp. by PayPal Inc. cleared

Sector: Online advertising, internet payment methods

File number: B6-86/19

Date of decision: 17 December 2019

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The Bundeskartellamt cleared the planned acquisition of Honey Science Corp. (Honey) by PayPal Inc. (PayPal). The merger, which had to be notified, is not expected to significantly impede effective competition.

Honey's main product is a browser extension which is free for users and automatically finds and applies promotional and discount codes when checking out – that is in the final stage of concluding the online shopping process. Advertisers make such codes available to online retailers via intermediaries (referred to as affiliate networks), which receive a commission if products are bought using these codes. According to the figures publicly available, Honey has 17 million monthly active users worldwide.

PayPal mainly offers a range of various payment services. The company's most important product is the digital wallet which allows consumers and retailers to make and receive payments online.

The Bundeskartellamt considered this merger to be subject to notification since it exceeded the transaction value threshold set out in Section 35(1a) German Competition Act (*GWB*), which was introduced in the 9th Amendment to the German Competition Act. The parties involved did not reach the turnover thresholds set out in Section 35(1) *GWB* establishing the obligation to notify the authority of a merger. In particular, the target company's sales numbers in Germany were very low in the relevant fiscal year 2018. Consequently, the second domestic turnover threshold of €5 million was not reached. The obligation to notify the authority pursuant to Section 35(1a) *GWB* still existed, however, since the value of the consideration provided in return for the merger amounted to approx. US\$4 billion (approx. €3.6 billion), thus exceeding the amount of €400 million, and Honey had already taken up considerable activities in Germany.

The assessment of whether the company's activity in Germany was substantial had to focus primarily on the number of users located in Germany because with regard to online trading and the associated advertising measures this is the location where the service is actually rendered. In this respect, it is irrelevant that users in Germany use the promotional codes free of charge. Including such services in the assessment is in fact the rationale behind the transaction threshold. In September 2019, the target company already had a relatively large number of users in Germany despite the fact that it was only establishing its business in Germany and its sales figures in Germany had been low in the preceding financial year.

Therefore, the activity was not only a marginal one which, according to the explanatory memorandum to the 9<sup>th</sup> amendment, is not to be included in the scope of application of merger control. In this respect, it has to be taken into account that the transaction threshold is intended to cover those cases previously excluded from merger control due to the fact that the target company has not (yet) achieved noteworthy sales figures while nevertheless showing great economic and competitive potential; since this potential is not reflected in the low sales figures, examining the sales figures in such cases thus fails to provide an adequate benchmark, see para. 82 of the guidelines on transaction value thresholds<sup>1</sup>. This was the case in the present merger.

In non-English-speaking markets such as Germany, Honey is still establishing its business. So far, the company has not developed a German-language browser extension and has not (yet) introduced a number of functions in Germany. Consequently, the company has not been very active in encouraging its business in Germany. Especially the fact that Honey was nevertheless able to convince a relatively large number of Germany-based users of its service and to acquire considerable funds from venture capital funding in several rounds of financing between 2014 and 2018 shows the company's considerable economic and competitive potential, which cannot be assessed based on the turnover generated in Germany so far, cf. para. 103 of the guidelines on transaction value thresholds.

Especially internet-based business models such as those implemented by Honey are usually characterised by a high degree of scalability and can often be rolled out very quickly in additional markets at reasonable cost. This applies especially with regard to the fact that the internet service provided by Honey is a transaction platform with services available free of charge (for users) on the one side and services available for a charge (for retailers or affiliate networks) on the other

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<sup>1</sup>Joint "Guidelines on Transaction Value Thresholds for Merger Projects Subject to Notification (Section 35(1a) German GWB and Section 9(4) Austrian KartG)" published by the Bundeskartellamt and the Austrian competition authority in July 2018.

side. It can be assumed that both sides are significantly affected by indirect network effects since the retailers benefit from a large number of users and the users also benefit from a large number of available promotional codes and participating retailers. During the first year of operations in Germany, Honey was already able to considerably increase the number of active users. It can be expected that the quicker both market sides of the service grow, the better Honey will be able to finance its service in the long term. Therefore, transaction platforms are often monetised on a larger scale only years after entering a market. During the first years following the market entry, the sales figures of such services usually do not reflect the sales and competitive potential.

Lastly, when evaluating the exact number of users to draw conclusions as to whether the company's activity in Germany is substantial, it had to be taken into account that the target company is active on a rather young market which is still developing and growing fast. In Germany, Honey is currently offering only some of the functions it has already introduced with the browser extension in other countries. Honey's users who have already signed up in Germany are likely to constitute a significant part of the still young market. In the present case, the considerable number of partnerships with German retailers was also a reason to assume that the company's activity in Germany was substantial.

The target company's main activity with the browser extension that searches and applies vouchers offered to end users by affiliate networks and the market for internet payment methods were particularly important for the substantive assessment. The market for internet payment methods was examined in more detail especially because of PayPal's relatively strong market position and due to possible vertical or conglomerate effects.

Despite PayPal's relatively strong market position in the market for internet payment methods, the merger is not expected to significantly impede effective competition. The main reason for this is that over the past few years a number of fast growing payment service providers have emerged, such as Klarna, WireCard or Adyen. In addition, with Apple Pay and Google Pay having been launched in the recent past, two companies with significant resources and a very large user base have entered the market; it is to be expected that they could be able to reach a position in which they can trigger strong network effects. Therefore, there was no reason to expect any vertical or conglomerate effects arising from this market, such as market foreclosure or bundling practices, or the transfer of market power to third markets.

With regard to the target company's activity, the merger would not result in a critical market position to the extent that Honey's activity was included in a wider national market for the provision of

non-search online advertising space. If the considerations were based on a more narrowly defined market for affiliate advertising, the merger would not result in horizontal overlaps either. This also applies to an even more narrowly defined market for Honey's specific bundle of services, which is separate from a possible market for affiliate advertising.