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U.K. Competition Authority Launches Phase 2 Review of Viasat-Inmarsat Merger

On October 14, 2022, the U.K. Competition & Markets Authority ("CMA"), the United Kingdom's competition/antitrust regulator, announced a Phase 2 in-depth review of the pending \$7.3 billion Viasat-Inmarsat merger, following the parties' decision not to give requested undertakings to the CMA. A copy of the CMA referral decision can be found [Here](#). The CMA Phase 2 inquiry is prompted by the competition regulator's concern that the transaction may decrease competition in the in-flight connectivity sector: data and Internet service to airplanes in flight. Viasat and Inmarsat have countered that over three-quarters of the market is controlled by Intelsat and Panasonic, and that their merger will not reduce competition. They also argue that cost-lowering efficiencies will be created by the merger. The Phase 2 inquiry is due to issue a report by March 30, probably putting an end to the parties' plan to close the transaction by the end of the year.

The CMA referral is not the first road bump for the Viasat-Inmarsat deal; we recently reported that SpaceX-Starlink opposed the merger at the U.S. Federal Communications Commission ("FCC") on grounds of alleged misuse of FCC licenses. See, "Eutelsat and OneWeb Agree to \$3.4 Billion Merger" at [Kurtin PLLC Satellites & Space](#). The transaction must also receive FCC and U.S. Department of Justice ("DoJ") approval. As we noted in our recent "M&A VIII: Antitrust Merger Control & Clearance," available at [Kurtin PLLC Mergers & Acquisitions](#), DoJ Antitrust Chief Jonathan Kanter recently announced a review of the "efficiencies" rationale as a basis for merger approval, describing it as an area in which U.S. antitrust policy has diverged from the law. It remains to be seen if the CMA Phase 2 review and that of the FCC and DoJ presage problems in approval for the Viasat-Inmarsat merger.

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