

Interlocutory Orders, Etc.

IN THE MATTER OF

NIELSEN HOLDINGS, N.V.

AND

ARBITRON INC.

Docket No. C-4439; Order, March 31, 2014

Letter approving application to divest the Linkmeter Assets and Related Agreements to comScore Inc.

LETTER ORDER APPROVING DIVESTITURE OF CERTAIN ASSETS

Aidan Synnott

Paul, Weiss, Rifkind, Wharton & Garrison LLP

Dear Mr. Synnott:

This responds to the Application for Approval of Divestiture of Linkmeter Assets and Related Agreements (“Application”) to comScore Inc. filed by Nielsen Holdings N.V. dated January 17, 2014. Pursuant to the Decision and Order in Docket No. C-4439, Nielsen requests prior Commission approval of its proposal to divest certain assets to comScore. The Application was placed on the public record for comments for thirty days, until February 24, 2014, and one comment was received.

After consideration of the Application and other available information, the Commission has determined to approve the proposed divestiture to comScore as set forth in the Application. In according its approval, the Commission has relied upon the information submitted and the representations made by Nielsen and comScore in connection with Nielsen’s Application and has assumed them to be accurate and complete.

This also responds to Respondents’ Request for Extension of Time (“Request”) filed by Nielsen dated December 11, 2013. Pursuant to Commission Rule 4.3(b), 16 C.F.R. § 4.3(b), Nielsen requests an extension of time in which to complete the divestiture required by the Decision and Order in this matter. Pursuant to the terms of the Decision and Order, Nielsen was required to complete the divestiture within three months from the date

Interlocutory Orders, Etc.

Respondents executed the Agreement Containing Consent Order, or by December 12, 2013. Rule 4.3(b) provides that “the Commission, for good cause shown, may extend any time limit prescribed by the rules in this chapter or order of the Commission.” Under applicable precedent, Nielsen has the burden of demonstrating good cause, and granting an extension of time rests in the discretion of the Commission. *United States v. Swingline, Inc.*, 371 F. Supp. 37, 45 (E.D.N.Y. 1974). The Commission has reviewed Nielsen’s Request, its compliance reports and other information and, after careful consideration, has determined to grant the Request and extend the time in which Nielsen must complete the divestiture to comScore as approved by the Commission today. Nielsen has shown that it began its divestiture efforts immediately upon reaching the consent agreement with the Commission staff, that it has acted diligently throughout the entire divestiture period, and that the delays in completing negotiations were not due to unreasonable demands or other conduct of Nielsen. The Commission expects that Nielsen will complete the divestiture promptly upon the Commission’s approval.

By direction of the Commission, Commissioner Ohlhausen recused and Commissioner Wright dissenting.

Interlocutory Orders, Etc.

IN THE MATTER OF

ECM BIOFILMS, INC.
D/B/A
ENVIROPLASTICS INTERNATIONAL*Docket No. 9358; Order, April 8, 2014*

Order responding to Complaint Counsel's motion seeking a continuance of the evidentiary hearing.

ORDER RESCHEDULING HEARING DATE

On October 18, 2013, the Federal Trade Commission issued the Administrative Complaint in this adjudicative proceeding and scheduled the evidentiary hearing for June 18, 2014. On March 18, 2014, Complaint Counsel filed a Motion which, among other things, requests that the Commission continue the evidentiary hearing for three months, arguing that such additional time is "the time minimally necessary to complete discovery."¹ Respondent opposes any such delay, arguing that a three-month delay "will substantially increase costs but will not yield any more substantive information than Complaint Counsel now possesses."²

On April 1, 2014, Chief Administrative Law Judge Chappell issued an Order ruling on Complaint Counsel's Motion.³ As

¹ Complaint Counsel's Motion To Certify Scheduling Issues to the Commission and Request for Interim Relief at 12, In the Matter of ECM Biofilms, Inc. et al, F.T.C. Docket No. 9358 (Mar. 18, 2014) [hereinafter Motion], available at <http://www.ftc.gov/system/files/documents/cases/140318ccmtntocertify.pdf>.

² ECM BioFilm's Opposition To Complaint Counsel's Motion To Certify Scheduling Issues and For Interim Relief, *in camera*, at 2, In the Matter of ECM Biofilms, Inc. et al, F.T.C. Docket No. 9358 (Mar. 28, 2014) (quoted language public, but redacted public version of Opposition not yet filed).

³ Order On Complaint Counsel's Motion To Certify Scheduling Issues To the Commission and Request For Interim Relief, In the Matter of Biofilms, Inc. et al, F.T.C. Docket No. 9358 (Apr. 1, 2014) [hereinafter ALJ Order], available at <http://www.ftc.gov/system/files/documents/cases/140401ordercertifycommn.pdf>.