ALERT MEMORANDUM

FSR Remedies Take Shape: Lessons From JD.com/CECONOMY

November 12, 2026

1. Introduction

On November 3, 2026, the European Commission (the Commission) conditionally approved JD.com's €2.2 billion acquisition of CECONOMY under the Foreign Subsidies Regulation (FSR).[1] To address concerns that JD.com's subsidized logistics, technology, and financing capabilities could increase CECONOMY's financial capacity and enable aggressive pricing, the Commission accepted 10-year behavioral commitments designed to remove these competitive advantages.

This is the third FSR Phase II merger decision, after *ADNOC/Covestro* and *e&/PPF*, and the first to involve a privately controlled (and Chinese) acquirer.[2] It underscores the Commission's continued focus on post-merger distortions and illustrates how such distortions can be addressed through ring-fencing and access remedies. The full decision, once published, should shed light on how the Commission addressed procedural challenges, including a Chinese order prohibiting cooperation with the investigation,[3] and applied its new FSR Guidelines.[4]

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[1] Commission Press Release IP/26/2300, "Commission conditionally approves JD.com's acquisition of CECONOMY under the Foreign Subsidies Regulation," November 3, 2026, available here.

[2] It follows the Commission's decisions in *e&/PPF Telecom Group* (Case FS.100011) (available here) and *ADNOC/Covestro* (Case FS.100156) (available here), which both involved acquirers ultimately controlled by the United Arab Emirates.

[3] Ministry of Commerce of the People's Republic of China (MOFCOM), published August 25, 2026, available here.

[4] For a discussion of the Guidelines, *see* our Alert Memorandum of January 26, 2026, available here.

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2. Transaction Background

JD.com is a Nasdaq- and Hong Kong-listed Chinese e-commerce and retail group that also provides logistics and technology solutions. CECONOMY is a German consumer electronics retailer operating more than 1,000 brick-and-mortar and online stores across 11 European countries under the MediaMarkt, MediaWorld, and Saturn brands. Through its partnership with JD.com, CECONOMY expected to enhance the customer experience, advance store digitalization, strengthen its logistics networks, and accelerate its growth as "*Europe's leading omnichannel consumer electronics platform.*"[5]

Timeline. The Commission's clearance decision came 15 months after the transaction was first announced.[6] The formal review lasted approximately six and a half months, making it the longest of the three FSR Phase II merger reviews to date. Following the submission of commitments, the review period was extended twice, by 15 and seven working days, respectively. The Commission conditionally cleared the merger on November 3, 2026, one day before the applicable procedural deadline and only seven days before the transaction's long-stop date.[7] The approval was the last outstanding regulatory clearance, following foreign investment approvals in Germany, France, Italy, Spain, and Austria.[8]

Comparison of FSR Phase II Merger Review Timelines

	e&/PPF Telecom	**ADNOC/Covestro**	**JD.com/CECONOMY**
Time from announcement to clearance	13.8 months	13.4 months	15.1 months
Time from notification to clearance	5.0 months	6.0 months	6.6 months
Review-period extensions	20 working days (party request); 15 working days (commitments)	15 working days (commitments)	15 working days (commitments); 7 working days (party request)
Clock stops	One clock stop: 3 calendar days	Two clock stops: 35 and 56 calendar days	None reported

[5] CECONOMY AG, "CECONOMY enters into investment agreement with JD.com," Investor Presentation, July 31, 2025, p. 7, available here.

[6] JD.com, Inc., "JD.com Announces Decision to Make a Voluntary Public Takeover Offer and Strategic Investment Partnership with CECONOMY," July 30, 2025, available here.

[7] Commission case register, *JD.com/CECONOMY* (Case FS.100253), available here; Commission Press Release IP/26/2300, November 3, 2026, available here.

[8] CECONOMY AG, "New chapter: CECONOMY and JD.com receive final regulatory clearance," November 3, 2026, p. 1, available here.

Chinese blocking order. During the in-depth review, the Chinese authorities issued an order prohibiting organizations and individuals from assisting with the Commission's information requests, following a similar measure in *Nuctech*.[9] The order was triggered by broad requests seeking information from banking institutions in China.[10] The full scope of the order, including the entities and information covered, is not public, and its impact on the parties' defense remains unclear. Under the FSR, the Commission can rely on "facts available" and may draw negative inferences from the absence of information. In the previous two Phase II merger investigations, the Commission had already relied on facts available on specific topics and had nevertheless conditionally cleared the transactions.

3. The Commission's Concerns

The Commission's concerns focused on post-merger distortions: improvements to CECONOMY's competitive position due to subsidies granted to JD.com in China.[11]

Targeted subsidies. The Commission identified three types of subsidies that raised concerns: (a) preferential financing, potentially from state-owned banks; (b) tax incentives; and (c) government grants. These are emerging as the subsidies most commonly targeted by the Commission, apart from unlimited guarantees. They have drawn scrutiny in the Phase II *ex officio* cases *Nuctech* and *Goldwind*,[12] and in the Phase II public procurement investigations *Romanian solar farms*,[13] *Lisbon Metro*,[14] and *Bulgarian rail*,[15] which all concerned Chinese operators.

Theories of harm. The Commission's concerns reflect the two-step test established in its FSR Guidelines for identifying competitive distortions arising from subsidies. The Commission examined, first, whether a foreign subsidy was liable to improve JD.com's competitive position in the internal market; and, second, whether, as a result, it actually or potentially harmed competition.

- **Improvement in competitive position**. The Commission found that (i) access to the subsidies could improve JD.com's and CECONOMY's capacity to finance their activities; and (ii) access to logistics and technological capabilities developed with subsidies could be used to support CECONOMY after the transaction.
- **Competitive impact.** The Commission was concerned that the merged entity could (i) have an enhanced capacity to finance its activities in the internal market, potentially enabling investments to expand and improve its logistics and infrastructure networks and provide more attractive services than would otherwise be possible; and (ii) engage in aggressive pricing strategies, including by offering lower prices or more favorable sales terms, or expanding sales beyond the level

[9] *Nuctech* (Case FS.100068), Commission summary notice concerning the decision of December 11, 2025 to initiate an in-depth investigation, OJ C/2026/545, January 23, 2026, available here.

[10] MOFCOM press conference response (fn. 3 above).

[11] While the Commission had concerns that subsidies enabled JD.com to offer more attractive acquisition terms, it did not maintain those concerns following the in-depth investigation. *See JD.com/CECONOMY* (Case FS.100253), Commission summary notice concerning the initiation of an in-depth investigation, OJ C/2026/3101, June 4, 2026, section 3, available here.

[12] *Goldwind* (Case FS.100143), Commission summary notice concerning the decision of February 3, 2026 to initiate an in-depth investigation, available here.

[13] *ENEVO–LONGi* (Case FSP.100151), Commission summary notice concerning the initiation of an in-depth investigation, OJ C/2024/2830, April 22, 2024, available here. *See* also *Shanghai Electric* (Case FSP.100154), Commission summary notice concerning the initiation of an in-depth investigation, OJ C/2024/2832, April 22, 2024, available here.

[14] *Lisbon Metro* (Case FSP.103117), Commission summary notice concerning the initiation of an in-depth investigation, OJ C/2025/6441, November 27, 2025, available here.

[15] *CRRC Qingdao Sifang* (Case FSP.100147), Commission summary notice concerning the initiation of an in-depth investigation, OJ C/2024/1913, February 29, 2024, available here.

likely in the absence of the subsidy, to the detriment of other market participants. These effects could distort competition in the EU internal market by causing competitors to lose sales and profits, reducing their ability or incentives to invest and potentially leading to their downsizing, marginalization or exit from the market.[16]

4. Commitments

The parties offered the following commitments to address the Commission's concerns, for a period of 10 years:

- **Ring-fencing of EU activities.** All intra-group transactions between JD.com and CECONOMY, including intra-group financing, would be conducted on market terms.
- **Access commitments.** JD.com would provide third parties with access to (a) its warehousing and logistics services and (b) its technology services on the same terms as those provided to CECONOMY.

The technology and logistics access remedies are novel. The broad ring-fencing commitment mirrors the one adopted in *e&/PPF* but is more permissive in one respect: JD.com is allowed to finance CECONOMY on market terms, whereas e& was prohibited from financing PPF's EU businesses except in limited cases.

The remedies appear directly targeted at the conduct that raised concerns. By contrast, *ADNOC/Covestro* included no ring-fencing commitment: alongside the removal of ADNOC's unlimited guarantee, the Commission accepted IP licensing commitments intended to stimulate competition and counterbalance the distortive impact of the subsidies.[17]

[16] Commission Press Release IP/26/2300, "Commission conditionally approves JD.com's acquisition of CECONOMY under the Foreign Subsidies Regulation," November 3, 2026, available here.

[17] *ADNOC/Covestro* (Case FS.100156), Commission decision of November 14, 2025, recitals 586-7, 592, and 596-601 available here.

Remedy type	*JD.com/CECONOMY*	*ADNOC/Covestro*	*e&/PPF*
Ring-fencing commitment	All intra-group transactions between JD.com and CECONOMY, including financing, on market terms.[18]	None (no financing restriction or market-terms commitment).	No financing of PPF's EU activities by e& or the Emirates Investment Authority (EIA), subject to exceptions (*e.g.*, emergency funding); all other transactions with PPF on market terms.[19]
Access commitment	Access for third-party retailers to JD.com's warehousing and logistics services, and for third parties to its technology services, on the same terms as those provided to CECONOMY.[20]	None (but see IP licensing commitment below).	None.
Removal of unlimited guarantee	Not applicable.	No provisions in ADNOC's articles of association deviating from UAE bankruptcy law; no steps by ADNOC to disapply that law to itself or its subsidiary holding Covestro.[21]	No provisions in e&'s articles of association deviating from UAE bankruptcy law; no proposal of, or vote for, amendments by EIA exempting e& from that law.[22]
Other	None.	Licensing of Covestro's existing and future sustainability patents for use in the EU to third parties (other than eight named competitors) on market-standard terms; honoring of existing R&D cooperation arrangements with competitors; maintenance of Covestro's patenting policy.[23]	Reporting of certain future acquisitions below the FSR notification thresholds to the Monitoring Trustee and the Commission.[24]

[18] Commission Press Release IP/26/2300, "Commission conditionally approves JD.com's acquisition of CECONOMY under the Foreign Subsidies Regulation," November 3, 2026, available here.

[19] *e&/PPF Telecom Group* (Case FS.100011), Commission decision of September 24, 2024, recital 416 and Annex (Final Commitments), paras. 7-9, available here.

[20] Commission Press Release IP/26/2300, "Commission conditionally approves JD.com's acquisition of CECONOMY under the Foreign Subsidies Regulation," November 3, 2026, available here.

[21] *ADNOC/Covestro* (Case FS.100156), Commission decision of November 14, 2025, recital 595, and Final Commitments (non-confidential version), paras. 2-5, available here.

[22] *e&/PPF Telecom Group* (Case FS.100011), Commission decision of September 24, 2024, recitals 412 and 414 and Annex (Final Commitments), para. 4 and Schedule 1 (EIA Commitments), para. 2, available here.

[23] *ADNOC/Covestro* (Case FS.100156), Commission decision of November 14, 2025, recital 592, and Final Commitments (non-confidential version), paras. 6-10, available here.

[24] *e&/PPF Telecom Group* (Case FS.100011), Commission decision of September 24, 2024, Annex (Final Commitments), para. 35, available here.

5. Key Takeaways

- **FSR merger concerns have so far been addressable through commitments.** All three in-depth merger investigations to date (*e&/PPF Telecom*, *ADNOC/Covestro,* and now *JD.com/CECONOMY*) have ended in conditional clearance, and none has resulted in a prohibition. Even where the Commission identified a distortion of the acquisition process (as in *ADNOC/Covestro*), it found that, in the absence of other potential acquirers, "*the harm to the acquisition process and to potentially competing acquirers [was] limited*,"[25] and accepted commitments that also "*address[ed] the limited harm resulting from the distortion in the acquisition process for the future*."[26]
- **The Commission's remedy playbook is taking shape**. The emerging decisional practice suggests that ring-fencing is a common remedy for post-merger concerns. Where it is used, its scope may vary: *e&/PPF* prohibited intragroup financing except in limited cases, whereas *JD.com/CECONOMY* allowed financing on market terms. By contrast, *ADNOC/Covestro* included no ring-fencing commitment at all. The Commission has also accepted other measures that tackle perceived distortions in other ways, including measures to eliminate distortions at their source (*e.g.*, removal of an unlimited guarantee in *e&/PPF* and *ADNOC/Covestro*), measures to ensure third parties have equal access to advantageous capabilities (*e.g.*, nondiscriminatory access commitments in *JD.com/CECONOMY*), and measures to generate rebalancing competitive effects (*e.g.*, IP licensing in *ADNOC/Covestro*).
- **Access commitments can be broad**. The third-party access remedies adopted in *JD.com/CECONOMY* encompassed services central to the transaction's rationale (JD.com's technology, warehousing and logistics services) and which the combined entity was expected to continue developing. A key question remains whether competitors will take up those services given the risk of becoming dependent on JD.com's facilities.
- **Phase II merger reviews remain lengthy**. All three in-depth merger investigations to date have taken more than a year from transaction announcement to clearance. Where remedies are anticipated, parties should ensure their timetables allow time for several rounds of commitments negotiations, market testing, and potential extensions of the review period.
- **Pay attention to commonly targeted subsidies.** Preferential financing, tax advantages, and grants are recurring targets of the Commission's FSR scrutiny, especially in investigations involving Chinese companies.

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[25] *ADNOC/Covestro* (Case FS.100156), Commission decision of November 14, 2025, recitals 456–457, available here.

[26] *ADNOC/Covestro* (Case FS.100156), Commission decision of November 14, 2025, recital 600, available here.