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# Universal's £1.2bn EMI takeover approved – with conditions

EC says labels that are home to Coldplay, Blur, Kylie Minogue and others must be sold off, as deal also gets US green light

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Universal-EMI deal: the Parlophone label, home to Coldplay, is among the assets the music giant must sell off.  
Photograph: Jacek Turczyk/EPA

Universal Music has been given the green light for its £1.2bn EMI takeover by the European Commission, but will have to sell off labels that bring in nearly a third of the British company's revenues – including recordings from Coldplay, Pink Floyd and David Bowie – in order to gain approval.

The deal has already been cleared in Australia and Japan and was also approved in the US on Friday.

Valuable EMI assets Universal will have to offload include the historic Parlophone record label – bar the Beatles – but also the British company's half share in the perennially popular Now! That's What I Call Music compilation series and its operations in 10 other European countries.

Universal said that despite the large-scale enforced sell-off – understood to account for 10% of the new combined business's global revenues and 30% of the existing EMI operation – the deal will still be financially positive and parent Vivendi is still supportive of the music group's management.

But the approval process has been bruising for Universal, which has been forced to make far more divestments than originally expected and has required the Vivendi chairman, Jean Rene Fortou, to join the lobbying effort in Brussels alongside the Universal Music chief executive, Lucian Grainge.

"We are delighted Universal Music will retain over two-thirds of EMI on a global basis, contributing to the accretive nature of the deal," said a Universal spokesman. "With a broad array of EMI artists from Katy Perry, Emeli Sandé [and] Robbie Williams ... to icons like The Beatles, the Beach Boys, Genesis and Bob Seger, we remain true to our vision: to invest in talent and grow the company to offer consumers more music and more choice."

According to music industry sources as many as a dozen parties have already expressed interest in snapping up assets, including Warner Music and BMG Rights Management, the failed bidders for EMI's recording and publishing businesses. Universal will have to sell the labels to companies active in the music industry, or have a "proven track record" – and cannot re-sign any of the artists for a period of 10 years.

In the US, the FTC approved the acquisition with a unanimous 5-0 vote, with no remedies or disposals required. The deal has been approved by regulators by all relevant country regulators.

Vivendi said that the deal would be able to "significantly strengthen its ownership of exclusive content".

In an email to staff the outgoing EMI chief executive, Roger Faxon, said: "With [EC] approval and the imminent clearance in America, as well as those already received from other regulators around the world, UMG has cleared the final hurdle in its quest to become the owner of EMI Music."

Meanwhile, Sir Richard Branson's attempt to buy back Virgin Records UK appears to have been thwarted, as Universal Music will not have to divest the business – although it is selling Virgin Classics.

"Competition in the music business is crucial to preserve choice, cultural diversity and innovation," said the European Commission vice-president in charge of competition policy, Joaquín Almunia. "The very significant commitments proposed by Universal will ensure that competition in the music industry is preserved and that European consumers continue to enjoy all its benefits."

A major concern for the European Commission was the ability for an enlarged Universal Music to dominate the price of digital music, especially licensing deals with players such as Amazon, Apple, Spotify and Vodafone.

"The commission's investigation confirmed that even a customer such as Apple continues to launch new digital music services and that it is not established that it could defeat price increase or other types of worsening of licensing terms by Universal," said the commission.

Bruce Kilpatrick, head of City competition at law firm Addleshaw Goddard, said that Universal had paid a "high regulatory price" but added that the impact of Apple on the music market also helped the deal go through.

"With such an extensive remedies package, Universal has paid a high regulatory price for EMI. But it's important to put this into context: this deal would have been blocked 10 years ago, before iTunes was established, so Universal will still be pleased to have secured clearance and will be confident that it can make the deal work for the benefit of its shareholders."

As part of the deal Universal has agreed to drop the clause known as "most favoured nation" – which obliges digital customers such as Apple to extend any favourable term granted to rivals also to Universal – for 10 years.

"This commitment will allow Universal's competitors to negotiate more freely with digital customers and further levels the playing field between these competitors and Universal," said the commission. "The commission concluded that competition on the digital music markets in the European Economic Area will be adequately preserved and that the transaction will have no negative impact on consumers."

It has come in for intense criticism from the independent music industry, which is concerned about Universal's global dominance, but there has been a positive response to Universal having to sell off valuable EMI's assets to push the deal through.

"Universal are being forced to sell the crown jewels of EMI following their misjudged attempt to persuade the European Commission that there would be no competition concerns," said Alison Wenham, chief executive of the Association of Independent Music. "We congratulate the EC on a very diligent and thorough investigation."

According to the Music & Copyright Blog, Universal has an almost 36% share of total recorded music revenues globally, ahead of Sony Music on almost 22% and Warner Music on 15%.

Impala, which represents music companies including Beggars Group, home to Adele, said the remedies were "not tough enough" and that Universal's "arrogance" had paid off.

"Universal's arrogance has paid off for them ... they have destroyed a significant competitor, and that even with these divestments their ability to dominate and control the market has reached even more unacceptable levels," said Martin Mills, chairman of Beggars. "Anyone trying to start a new digital service will be realising that very soon, and we will continue to look to the regulators to monitor ongoing behaviour."

EMI's Faxon said it will be "pretty much business as usual" for business units of EMI that Universal is retaining.

However, the parts that are to be sold off, probably over a period of about six months, will be ringfenced as a separate unit managed independent of Universal.

Faxon, who said he will step aside on 28 September when the deal is complete, said that an executive will be appointed in a few days to run the businesses as a "hold separate manager".

"His role is to be sure that these businesses continue to be a strong and competitive force on the market, through and beyond the point at which they are sold," said Faxon. "He will report to a trustee whose duty is to assure that the intent of the agreement with the commission is met".

Faxon is already the subject of rumours of a shift to a rival, with Warner Music touted as his most likely future employer.

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## Full list of divestments

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- EMI Recording Limited (including EMI's iconic Parlophone label, with the exception of the Beatles), featuring artists such as Coldplay, Blur, Kylie Minogue and artists with steady revenues such as Pink Floyd, Cliff Richard and Tina Turner.

- Other EMI labels, such as Chrysalis (featuring Spandau Ballet, but without the Robbie Williams catalogue) and Mute Records (featuring Depeche Mode, and Nick Cave and the Bad Seeds).
- EMI Classics/Virgin Classics artist and composers and EMI's half share in the popular "Now! That's What I Call Music" compilations business.
- Universal's Sanctuary (featuring Iron Maiden), Co-op Music Ltd, King Island Roxystar (featuring Swedish artists such as Agnes) and MPS Records (featuring Oscar Peterson), and Universal's share in Jazzland (featuring Norwegian artists such as Bugge Wesseltoft and Sidsel Endresen).
- EMI operations in France (featuring the David Guetta catalogue), Spain, Portugal, Belgium, Denmark, Sweden, Norway, Poland, Czech Republic) – and Universal Greece (featuring Eleftheria Arvanitaki, the Goin' Through Group and Nikos Vertis).
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