

Report of the Board of Statutory Auditors pursuant to Article 2408 of the Italian Civil Code

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1. Introduction: the letter sent by Vivendi S.A. on 20 December 2019

On 20 December 2019, the Board of Statutory Auditors (hereinafter, the “**Board**”) received a letter, also sent to Board of Directors, qualified by Vivendi S.A. (hereinafter, “**Vivendi**”) also as a formal complaint for misconduct pursuant to Article 2408 of the Italian Civil Code. (hereinafter the “**Complaint**”) as a shareholder of Mediaset S.p.A. (hereinafter “**Mediaset**”). The letter was also addressed to the Italian Financial Markets Supervisory Authority (“**CONSOB**”) for information.

The Complaint relates both to certain aspects of the resolution process concerning the merger plan between Mediaset, Mediaset España Comunicación S.A. and Mediaset Investment N.V., through the incorporation of the first two into the third, renamed “**MFE – MEDIAFOREUROPE**” (hereinafter, “**MFE**” and the “**Merger**”, respectively), and to the procedures in progress for the amendment of said plan. More specifically, the Complaint challenges:

- i. the correctness and completeness of the Mediaset S.p.A. Board of Directors' Explanatory Report on the proposed resolution pursuant to Articles 2377(8) and 2502(2) of the Italian

Civil Code, published on 5 December 2019 in view of the Shareholders' Meeting called for the next 10 January 2020. More specifically, Vivendi believes that the abovementioned Report does not provide complete and correct information about:

- a) the reasons behind Vivendi's criticism of the Merger and the current MFE's proposed articles of association, and the resulting alternative proposals made by Vivendi itself;
 - b) the critical issues, including those of a procedural nature, of the proposals put forward by the managing bodies of the companies involved in the Merger aimed at amending or replacing previous resolutions of the shareholders' meeting;
 - c) the corporate interest pursued by Mediaset's Board of Directors in the adoption of a corporate governance model that appears unbalanced in favour of the controlling shareholder Fininvest S.p.A. (hereinafter, "**Fininvest**"):
- ii. the correctness and compliance with the law of the resolution process followed by the Board of Directors, with reference, among other things, to the disclosure and assessment of the personal interests of certain directors pursuant to Article 2391 of the Italian Civil Code and the compliance with the rules set forth in Article 2497-ter of the Italian Civil Code in connection with the Board of Directors' resolutions referred to in the Complaint, namely:
- a) the approval of the merger plan, adopted on 7 June 2019;
 - b) the exclusion of Simon Fiduciaria S.p.A. (hereinafter, "**SimonFid**") from participation and voting at the Shareholders' Meeting of 4 September 2019, adopted on the same date;
 - c) the approval of amendments to the merger plan, adopted on 22 November 2019;
 - d) any exclusion of SimonFid from participation and voting at the Shareholders' Meeting of 10 January 2020, still to be held;
- iii. the correctness and compliance with the law of the procedures that Mediaset S.p.A., Mediaset España Comunicación S.A. and Mediaset Investment N.V. intend to follow to amend the MFE's articles of association within the Merger (hereinafter, the "**Amendment**").

2. Activities carried out by the Board of Statutory Auditors

Upon receipt of the Complaint, the Board of Statutory Auditors immediately took action, initiating the investigation activities within its remit, aimed at verifying the shareholder's findings.

In general, also with regard to the content of the Complaint, the Board of Statutory Auditors intends to maintain its assessments within the scope of control provided for by current legislation (firstly, the Italian Civil Code and the Italian Consolidated Law on Finance), as construed according to the best professional practices, including, primarily, the document of the Italian Council of Chartered Accountants and Accounting Experts, "Rules of conduct of the Board of Statutory Auditors of listed companies"¹. The law assigns to the Board of Statutory Auditors, as far as is relevant here, a function of control over compliance with the principles of correct administration and, more generally, of assessment of the legality of corporate actions.

¹ April 2018 edition, available at <https://commercialisti.it/norme-di-comportamento-del-collegio-sindacale-verbali-e-procedure>.

In accordance with current regulations, “[t]he Board of Statutory Auditors shall supervise compliance with the law and the articles of association. The function of supervising compliance with the law and the articles of association consists in assessing the compliance of corporate actions and resolutions of the corporate bodies with the laws, regulations, provisions of the articles of association and codes of conduct with which the company has declared to comply” (see ‘Rules of conduct of the Board of Statutory Auditors of listed companies’, rule Q.3.2).

The auditors’ supervision duty does not instead extend to an assessment of appropriateness with regard to the management choices and the strategic-economic evaluations underlying them, if the resulting decisions have been taken with full knowledge of the facts, in good faith and through appropriate decision-making processes. If these conditions are met, the choices made by the directors are unquestionable, including by the Board of Statutory Auditors.

Since the Complaint contains various points where the merits of the choices made by Mediaset’s corporate bodies are also addressed, contesting the appropriateness of such choices, the Board of Statutory Auditors has taken action in relation to the points within its remit, in accordance with the provisions of rule of conduct Q.6.2 of the board of statutory auditors of listed companies, that is, by i) examining the Complaint in a timely manner in order to assess its merits, and ii) proceeding with the necessary investigations in order to gather further information and ascertain the admissibility of the Complaint and the merits of the facts complained of. For the purpose of issuing this report, the Board of Statutory Auditors has held 9 meetings since 20 December 2019.

The assessments carried out in relation to these points are reflected in this report. The investigations involved further examination of numerous complex documents, already the subject of previous analysis, and a series of assessments, including legal ones, of the facts to which these documents refer. The Board therefore asked the Company, as a support to its activities, to avail itself of two independent external legal advisors appointed by the Board itself, namely the international law firm Baker McKenzie, under the coordination of the partner Mr Pietro Bernasconi, to assist in the drafting of the report and, in particular, to examine the foreign law profiles, and Professor Lorenzo Stanghellini, Professor of Commercial Law at the University of Florence, to advise the Board and, in particular, to examine the corporate law profiles.

The Board carried out the following preliminary checks to verify the independence of the experts:

- request for a statement in lieu of certification as to the absence of conflicts of interest;
- request for a statement in lieu of certification as to the absence of relevant professional appointments and related economic, financial and asset relationships, during the last three years, such as to compromise independence.

3. Result of the verifications carried out following the Complaint

Having clarified the foregoing, for the benefit of Mediaset Shareholders’ Meeting, below are the assessments made by the Board with regard to the individual points of interest raised by the shareholder Vivendi in the aforementioned Complaint; where appropriate, for reasons of topic consistency, the discussion of these points is included.

<i>A) Assessment concerning the correctness and completeness of the Mediaset S.p.A. Board of Directors’ Explanatory Report</i>

In the Board’s opinion, the report that the Board of Directors made available to the shareholders pursuant to Article 125-ter of the Italian Consolidated Law on Finance (the “**Report**”) is complete and

correct, also with reference to the requirements under Annex 3, Schedule I, of the CONSOB Issuers' Regulations, as applicable. It provides comprehensive information on the resolution to be submitted to the Shareholders' Meeting of 10 January 2020 for the purposes of the voting evaluations to be made by shareholders regarding the approval of the proposed amendments to the articles of association. In order to justify the proposed amendments, the Report also provides ample information on the litigation between Vivendi and SimonFid, on the one hand, and the companies of the Mediaset Group, on the other.

To further clarify what the Board of Directors stated in this report, and supplementing the same concerning the events after its publication on 22 November 2019, the Board notes the following:

- a) the Court of Milan, by order of 6 December 2019, confirmed the interim order staying "on a provisional basis" the effectiveness of the merger resolution of 4 September 2019 challenged by Vivendi and SimonFid. already ordered by order of 4 November 2019, which the Board had considered on in the Report (p. 9); the decision, including the exclusion of SimonFid from the Shareholders' Meeting, was adjourned to 21 January 2020;
- b) the enforcement of the resolution proposed by the Board of Directors for 10 January 2020 in order to remedy, pursuant to Articles 2377(8) and 2502(2) of the Italian Civil Code, any invalidity of the first merger resolution, requires the Court of Milan to rule on the suitability of the new resolution to remedy any defects in the resolution of 4 September 2019, which is currently provisionally stayed upon Vivendi and SimonFid's application.

B) Assessment concerning the correctness and compliance with the law of the resolution process followed by the Board of Directors concerning the Merger, with reference, among other things, to the disclosure and assessment of the personal interests of certain directors pursuant to Article 2391 of the Italian Civil Code and the compliance with the rules set forth in Article 2497-ter of the Italian Civil Code

As a preliminary point, it should be noted that "[t]he supervision of the directors' diligent behaviour does not consist of a control of merit on the appropriateness and convenience of the directors' management choices, but only concerns the aspects of substantial legitimacy of the choices themselves and the assessment of the correctness of the directors' decision-making process.

To this end, the Board of Statutory Auditors, on the basis of the information received, shall ensure that the directors, when adopting resolutions, have acquired the appropriate information and implemented the preventive precautions and checks normally required for a choice of that type, made in those circumstances and according to those procedures.

More specifically, the supervision of the decision-making process adopted by the directors is exercised by verifying that:

- management choices are inspired by the principle of correct information and reasonableness, and that they are consistent and compatible with the resources and assets at the company's disposal;
- directors are aware of the risks involved and the effects of the decisions taken.

To this end, it is therefore desirable that the managing body expresses its opinion on an explicit proposal for resolution supported by appropriate documentation and any opinions deemed necessary" (see "Rules of conduct of the Board of Statutory Auditors of listed companies", rule Q.3.3).

That said, with reference to the decisions of the Board of Directors whose resolution process Vivendi is contesting (approval of the merger plan on 7 June 2019, exclusion of SimonFid from participation and

voting at the Shareholders' Meeting on 4 September 2019, approval of the Amendment on 22 November 2019, possible exclusion of SimonFid from participation and/or voting at the Shareholders' Meeting of 10 January 2020), it should be noted that:

- each decision taken by the Board of Directors so far has been preceded by the acquisition of extensive and thorough preliminary information, authoritative legal opinions and the declaration of directors' interests, if any. The Board did not see, nor does it see today, following Vivendi's reporting and the investigations carried out as a result, any evidence to believe that the resolution process followed by Mediaset's Board of Directors on the above occasions was incorrect;
- with specific reference to the approval of the Merger plan, which took place during the board meeting of 7 June 2019, it was preceded by preparatory meetings during which the directors (and the Board) were explained the strategic, operational and industrial reasons for the Merger, its technical details and legal implications; also, in preparation for the meeting, extensive documentation was made available to the directors and members of the Board, for the examination of which the non-executive directors were given the opportunity to receive clarification in a special question time session, held also in the presence of the advisors;
- with regard to the possible exclusion of SimonFid from participation and/or voting at the Shareholders' Meeting on 10 January 2020, at the date of preparation of this report no resolution process has been initiated by the Board of Directors and, therefore, we cannot assess its correctness.

More in detail, from the content of the Complaint three types of challenges can be deduced, concerning:

- the disclosure and assessment of the interests of certain directors pursuant to Article 2391 of the Italian Civil Code;
- The compliance with the provisions of Article 2497-ter of the Italian Civil Code;
- the exclusion of SimonFid from participation and/or voting at the shareholders' meeting.

B.1) On the disclosure and assessment of the personal interests of certain directors pursuant to Article. 2391 of the Italian Civil Code

With regard to the first challenge, *i.e.* that relating to the disclosure and assessment of the personal interests of certain directors pursuant to Article 2391 of the Italian Civil Code, the following should be noted.

It is clear from Vivendi's Complaint that the potentially relevant interest in accordance with Article 2391 of the Italian Civil Code would be that of some of Mediaset's directors as to having Mediaset, through the Merger, subject to Dutch company law and adopt the specific governance structure characterising MFE. There is no allegation in this Complaint of the existence of interests of the directors (or of some of them) other than this interest, nor any other interests (with the exception of the interest reported at the meeting held on 7 June 2019 by four Mediaset's directors who play a similar role in the subsidiaries involved in the Merger) came to the attention of the Board during the resolution process that led to the approval of the merger plan.

As mentioned above, the Board of Directors approved the Merger highlighting, with the support of qualified advisors, its strategic and industrial value and the creation of synergies. The Board has been reported no directors' interests in the transaction other than the implementation of the benefits deriving from the Merger, with the related organisational structure, benefits which, if the Merger were

implemented and the assumptions proved to be correct, would be enjoyed by all MFE's shareholders.

As to the adoption of Dutch company law, given that it is less imperative than Italian company law with regard to the relationship between majority and minority shareholders, it is noted that such adoption is in accordance with Italian law. As a matter of fact:

- a) European Union law allows cross-border mergers, with the consequent possibility for Italian companies to adopt the operating rules of a legal system other than the Italian one, even if these rules allow the strengthening of the majority shareholder control;
- b) the resolution process has shown that the MFE's articles of association appear to comply with the rules of Dutch company law.

Therefore, the Board, having also taken note of the further assessments made by the Board of Directors regarding the strategic, industrial and economic profile of the transaction, did not consider the directors' choice to approve the Merger plan to be an element of interest unrelated to the role of director, nor, *a fortiori*, an interest in conflict with that of Mediaset.

B.2) On the provisions of Article 2497-ter of the Italian Civil Code

With regard to the second challenge, *i.e.* that relating to the provisions of Article 2497-ter of the Italian Civil Code, the Board found that, on the one hand, Mediaset develops its own industrial and financial strategies independently and takes the relevant decisions with an assessment of its own exclusive corporate interest, on the other hand, it itself exercises management and coordination activities over its subsidiaries, excluding Mediaset España Comunicación S.A.

Mediaset's Board of Directors explicitly stated, on an annual basis as part of the approval of the "Report on Corporate Governance and Ownership Structure", its assessment as to the absence of Mediaset's submission to management and coordination activities by the parent company Fininvest; such assessment does not appear to be contradicted by specific events, structures or organisational systems (directives, including implied ones, requests, authorisations, delegation processes, centralised treasury management) which could imply such submission.

At present, therefore, the Board has no evidence to suggest that Mediaset is subject to the management and coordination of Fininvest or others.

In any event, the Board believes that - even though there is no obligation to state reasons pursuant to Article 2497-ter of the Italian Civil Code for the above reasons - the resolution process followed by Mediaset in approving the resolutions challenged by Vivendi, including in particular that relating to the Merger plan, appears to be adequately justified in relation to every aspect of Mediaset's interest. In the Board's opinion, these reasons can be found in the detailed presentation by the Directors of the strategic and industrial value of the Merger and of the consequent income benefits expected in the 2020-2023 period, supported also by the consistent assessments by primary industrial consultants, disclosed to the Board of Directors and the Board of Statutory Auditors.

B. 3) On the exclusion of SimonFid from participation and/or voting at the shareholders' meeting

Finally, with regard to the third challenge, *i.e.* that relating to the exclusion of SimonFid from participation and/or voting at the Shareholders' Meeting, the following should be noted.

One of the issues of the vast dispute between Vivendi and Mediaset concerns the exercise of voting rights relating to the Mediaset shares purchased in 2016 by Vivendi, equal to 28.80% of the capital (29.92% net of the treasury shares currently held by Mediaset). Mediaset's Board of Directors

considered in the past that Vivendi could not exercise the right to vote, both because it was in breach of its contractual obligations towards Mediaset and because the purchase of the shares took place in violation of Legislative Decree No. 177 of 31 July 2005 (the “TUSMAR”), a violation ascertained by the Italian Authority for Guarantees in Communications with its measure No. 178/17/CONS of 18 April 2017. The exclusion from voting was also opposed to SimonFid, to which Vivendi has transferred in trust 19.19% (19.94% net of treasury shares) of Mediaset’s share capital, in order to fall within the 10% limit of the capital under Article 43(11) of the TUSMAR.

The Court of Milan, before which Vivendi and SimonFid have brought proceedings in various occasions, has held - for the time being only as an interim measure - that SimonFid’s exclusion from voting due to violation of the TUSMAR was well founded (order of 23 November 2018, issued in the proceedings General Docket No. 50173/2018, not amended by the subsequent order of 17 January 2019 in the proceedings to challenge an interim measure General Docket No. 57492/2018), while it stated (by order of 31 August 2019, issued in the proceedings General Docket No. 33508/2019-1) that “*the personal exception relating to Vivendi’s failure to comply with the April 2016 contract relating to the ‘Premium Transaction’ does not appear to be well founded at present and in summary decision of the interim phase*” and, therefore, considered the exclusion of Vivendi on the basis of breach of contractual obligations unfounded. In summary, the Court of Milan considered SimonFid’s non-admission to Mediaset’s Shareholders’ Meeting to be legitimate, while it ordered Vivendi to be allowed to attend this meeting, an order which Mediaset’s Board of Directors, albeit considering it not acceptable, complied with through a reasoned resolution adopted on 4 September 2019 at Mediaset’s Shareholders’ Meeting.

That said, to the Board’s knowledge, after verification, we can certainly state that the content of the decisions taken by Mediaset’s Board of Directors in this matter has been the subject of in-depth examination and preliminary assessment, as well as in-depth study activities of the various corporate bodies involved, with the help and support of authoritative legal advisors, opinions rendered by third-party experts, and in compliance with the measures issued until that date by the competent administrative and judicial authorities. Therefore, the resolution process followed by Mediaset’s Board of Directors in approving, among other things, the exclusion of the shareholder SimonFid from participation and voting at the Shareholders’ Meeting of 4 September 2019 does not appear, in the Board’s opinion, to violate the principles of fairness and substantive legality, since the reasons for the exclusion are based on relevant factual and legal circumstances. This exclusion follows a similar exclusion ordered at Mediaset’s ordinary Shareholders’ Meeting of 27 June 2018, which, as mentioned above, was deemed justified, with ample grounds, by a ruling made by the Court of Milan in an interim proceedings, confirmed in the proceedings to challenge an interim measure .

In conclusion, the exclusion of SimonFid’s from voting at the Shareholders’ Meeting of 4 September 2019, following the ascertained violation of the TUSMAR by Vivendi (which, as mentioned above, transferred in trust part of its shares to SimonFid), which was also based on court rulings, albeit issued as interim measures, appears to be correct in light of the legal and case-law framework in force at the time.

Without prejudice to the foregoing, with specific reference to the dispute concerning a possible exclusion of SimonFid from the Shareholders’ Meeting of 10 January 2020, as mentioned above, the Board notes that the resolution process has not been initiated, and it is therefore not possible to assess its correctness.

The shareholder Vivendi points out that on 18 December 2019, in the context of case C-719/18² before the European Court of Justice (“CJEU”) concerning compliance of the TUSMAR with EU law, the Advocate General Manuel Campos Sanchez-Bordona has filed his opinion, which shows a partial violation, by the TUSMAR, of the freedom of establishment protected by Article 49 TFEU. The judgment is expected to be delivered this year.

It should also be noted that on 2 January 2020, with an urgent application, Vivendi asked the Lazio Regional Administrative Court to suspend the Italian Authority for Guarantees in Communications’ measure No. 178/17/CONS of 18 April 2017. At the time of completion of this report, the Board has no news of the outcome of the application.

In light of the above, while being aware that the reference framework could change if, after the date of this report, any measures taken by judicial authorities (national and/or European) that might affect the cases under assessment were to intervene, the Board notes that to date the regulatory and case-law framework in force at the date of the Shareholders’ Meeting of 4 September 2019 has not changed.

C) Assessment concerning the reporting as to the correctness and compliance with the law of the procedures that Mediaset S.p.A., Mediaset España Comunicación S.A. and Mediaset Investment N.V. intend to follow to amend the merger plan

Vivendi argues that “*the procedure followed in Italy, Spain and the Netherlands to modify the merger plan are irremediably illegal*” (p. 7 of the notice).

It should be noted that the Amendment in question, which concerns certain clauses of the surviving company’s articles of association, is in line with the terms of the conciliation proposal made by the Investigating Judge in the context of the (joint) interim proceedings pursuant to Article 2378 of the Italian Civil Code, under General Docket Nos. 48580-1/2019 and 48580-2/2019 of the Court of Milan, pending between Mediaset, on one side, and Vivendi and Simon Fiduciaria, on the other.

C. 1) Assessment of the procedures followed in Italy: a) the resolution process followed by the Board of Directors on 22 November 2019 in approving the amendments to the merger plan which is the subject of the Shareholders’ Meeting of 10 January 2020

The proposals to amend the articles of association of the surviving company, MFE, were approved at the meeting of the Board of Directors of 22 November 2019. As a preliminary step, the Board had the opportunity to attend various preparatory meetings for this Board meeting, with the directors of Mediaset and its lawyers attending, during which the strategic, operational and industrial reasons in support of the Merger were reiterated and the technical-legal reasons in support of the legitimacy, under Italian law, of the amendments to certain provisions of the articles of association of the surviving company Mediaset Investment N.V. (to be renamed MFE – MEDIAFOREUROPE) were explained. The resolution was then taken by the Board of Directors on 22 November.

During that meeting, moreover, extensive preliminary information was provided on the multiple judicial initiatives taken by Vivendi and SimonFid before the Court of Milan and the courts of Madrid and Amsterdam against the Merger, with particular reference to (a) the complaints concerning the alleged illegality of certain clauses of the articles of association of the surviving company, MFE, which - according to Vivendi - are in violation of Dutch law, (b) the outcome of the interim proceedings

² This judgment will be issued in the proceedings for a preliminary ruling under Article 267 TFEU referred by the Lazio Regional Administrative Court (commenced by order No. 10654 of 5 November 2018), as part of the appeal against the decision of the Italian Authority for Guarantees in Communications (“AGCOM”) proposed by Vivendi.

pursuant to Article 2378(4) of the Italian Civil Code and Article 700 of the Italian Code of Civil Procedure pending before the Court of Milan and (c) the contents of the order made by the Court of Madrid on 11 October 2019.

The Board took note of the updates provided with regard to pending litigation and the fact that these proceedings were specifically summarised in Section II of the Report pursuant to Article 125-ter of the Italian Consolidated Law of Finance approved by the Board of Directors in that occasion.

The Board of Statutory Auditors also took note of the Board of Directors' declared intention to implement the suggestions made on 4 November 2019 by the Judge in the interim proceedings before the Court of Milan (joint proceedings General Docket Nos. 48580-1/2019 and 48580-2/2019) and of the remarks made in the order issued by the Court of Madrid proposing, unilaterally and by its own decision, the adoption of certain amendments to the text of the surviving company's articles of association, also in order to overcome the claims of illegality of these articles of association made by Vivendi and SimonFid. With regard to the procedural steps relating to Mediaset España Comunicación S.A. and Mediaset Investment N.V., according to the Directive on cross-border mergers, each company involved in a cross-border merger must independently verify that the conditions for the implementation of the merger in its jurisdiction are met.

At the Board of Directors' meeting, the directors also set out the reasons why they believe that the adoption of the proposed Amendments is in the company's interest, also in light of the possibility of receiving a greater consensus from minority shareholders, thus enabling the Merger to be carried out promptly.

With specific reference to the procedure followed in Italy, Mediaset's resolution process appears to have taken place, since, under Italian law:

- (i) the shareholders' meeting of each company involved in the Merger may amend the merger plan drawn up by the Board of Directors, provided that the amendments lead the companies to have a single set of articles of association and, pursuant to Article 2502(2) of the Italian Civil Code, do not affect the fundamental elements of the operation with regard to the rights of shareholders and third parties;
- (ii) the shareholders' meeting resolution amending the merger plan, pursuant to Article 2377(8) of the Italian Civil Code, may remedy the previous merger resolution, where the amendments resolved are aimed at eliminating those aspects of alleged invalidity of the surviving company's article of association, for which the first resolution had been challenged.

These assumptions were confirmed, on the basis of extensive arguments, by the two legal notes drawn up by Studio Legale BonelliErede and the Notary Public Professor Mario Notari, respectively, and acquired during the meetings of the Board of Directors on 22 November and 23 December 2019 (the *pro veritate* opinion of Professor Mario Notari, made in summary form for reasons of urgency, was subsequently rendered in extensive form by note acquired on 7 January 2020, with arguments that the Board, to the extent of its remit, deems acceptable).

A reading of these two opinions, drawn up by professionals with undisputed expertise in the sector, shows that the procedure that Mediaset intends to follow for the Amendment is compliant with the law, specifically bearing in mind that:

- (i) pursuant to Article 2377(8) of the Italian Civil Code, the resolution replacing and remedying the previous one has retroactive effect, with the consequence that, in the event that the

replaced resolution is a merger resolution, the steps taken in the meantime remain effective, without the need to start the merger resolution process again;

- (ii) in the case at hand, the resolution to be adopted is intended to amend the merger plan by affecting those clauses in the surviving company's articles of association, the invalidity of which was alleged when challenging the first merger resolution;
- (iii) even in the absence of case-law precedents concerning the interpretation of Article 2502(2) of the Italian Civil Code (introduced with the 2003 reform), on the basis of a systematic and functional reading of that provision, the amendments made in the case at hand to the surviving company's articles of association must not be considered such as to affect the rights (of third parties and) of shareholders, with the result that the resolution to amend the merger plan must be considered admissible.

After examining the Report and the abovementioned opinions, the Board believes it can conclude as follows:

- that Mediaset's Board of Directors acquired complete and in-depth information on the substantial and procedural aspects of the Amendment;
- in light of the information acquired, it appears that the resolution to be adopted is admissible pursuant to Article 2502(2) of the Italian Civil Code, and may remedy the alleged defects of the Shareholders' Meeting resolution of 4 September 2019 relating to the clauses of the surviving company's articles of association, it being understood that the Court of Milan, which stayed the resolution in question, must rule on the matter.

C. 2) Assessment of the procedures followed in Italy (continued): b) the right of withdrawal

With reference to the complaints made by the shareholder Vivendi concerning the failure to acknowledge a "*right of withdrawal in favour of shareholders who do not approve the resolution called to replace the previous invalid resolution of 4 September 2019*" (p. 7 of the notice), it should be noted that the position taken by the Board of Directors, on this point, appears built on a resolution process that cannot be challenged, and is also clearly illustrated in the Report. As a matter of fact:

- the resolution process followed by Mediaset's Board of Directors appears adequate from an investigative point of view as it is supported by suitable documentation and opinions deemed necessary. It appears that the Board of Directors' decision not to acknowledge the right of withdrawal in favour of shareholders who do not approve the resolution of 10 January 2020 was taken on the basis of the abovementioned opinions of Studio Legale BonelliErede and the Notary Public Professor Mario Notari, respectively acquired during the Board of Directors' meetings of 22 November and 23 December 2019. This approach appears to be correct and appropriate;
- the Board of Directors has given an account of the reasons why it believes that shareholders who do not contribute to the adoption of the resolution of 10 January 2020 should not have the right of withdrawal. In paragraph IV of the Directors' Explanatory Report, entitled "*Evaluations Concerning the Right of Withdrawal*", the Board specified that (p. 28 of the Report):
 - o the resolution that the shareholders are called to vote on 10 January 2020 does not constitute approval of a new cross-border merger operation, but a mere "*modification of certain organisational aspects of MFE's corporate structure*" which "*leaves unchanged the cross-border nature of the Merger, as well as all the terms and conditions of the Merger*";
 - o the new resolution does not affect "*the assumptions on which Mediaset's shareholders may*

have already exercised their right of withdrawal following the approval of the Merger by Mediaset's extraordinary Shareholders' Meeting held on 4 September 2019";

- the new resolution “*does not include any of the cases provided for the exercise of the right of withdrawal pursuant to Article 2437 of the Italian Civil Code and Article 5 of Legislative Decree No. 108 (...)*”;

Therefore, the Board, having found no evidence that the information acquired by the Board of Directors and the related decision are incomplete or incorrect, and having noted that the Directors' Report appears exhaustive on this point, considers the procedures that Mediaset intends to follow for the Amendment to be in compliance with the law.

C.3) Acknowledgement of the opinions expressed by foreign legal advisors on the procedures followed by Mediaset España Comunicación S.A. and Mediaset Investment N. V.

According to the Board's findings, which were acquired independently from those of the Company's managing body, the resolution process relating to the subsidiaries Mediaset España Comunicación S.A. and Mediaset Investment N.V. (legal entities governed by legal systems different from the Italian legal system), was carried out on the assumption, identical to that relating to Mediaset illustrated above, that the plan can be amended by the shareholders' meetings of the companies involved in the Merger, provided that the amendments lead the three companies to have a single set of articles of association and do not affect the fundamental elements of the operation with regard to the rights of shareholders and third parties.

As a preliminary point, it should be noted that in the system of Legislative Decree No. 108 of 30 May 2008 (and Articles 127 and 128 of Directive 2017/1132):

- a) assessment as to the feasibility of the cross-border merger, for each company involved, is left to the competent authority identified according to the law of the Member State where each company is established (which, in the case of Italy, is the notary public);
- b) the competent authority in respect of one of the companies involved is not required to carry out direct and independent supervision of the merger process followed by the other companies established in a different Member State, the acquisition of a prior certificate issued by the relevant foreign authority being sufficient in this respect.

In this context, the Board's supervision over the merger process of the companies established in another Member State appears necessarily limited.

Despite this, the Board nevertheless deemed it appropriate to obtain independent legal opinions regarding the legitimacy of the procedures that Mediaset España Comunicación S.A. and Mediaset Investment N.V. intend to follow for the Amendment. These opinions, issued by the Spanish and Dutch lawyers, state the procedures followed are reasonable.

For the sake of completeness, please note that:

- (i) the Spanish lawyers, while stressing that legal scholars extensively discussed the possibility to amend the MFE's articles of association within the merger plan, conclude that there are solid arguments in support of the possibility to amend the merger plan, provided that such amendments are uniformly approved by the shareholders' meetings of all the companies involved in the cross-border merger, in this case without the need to restart the merger procedure given the unsuitability of such amendments to affect the rights of shareholders or third parties;
- (ii) the Dutch lawyers also conclude, in the absence of precedents and taking into account the law

rationale, that the proposed amendments to the articles of association of the surviving company, MFE, are included within those amendments admissible - without the need to restart the merger procedure - if they are adopted by the shareholders' meeting upon proposal of the managing body and do not affect essential and structural aspects of the draft terms of merger.

It is also worth recalling the considerations of the Dutch lawyers according to which (in a manner which does not differ from that laid down in the Italian legislation on the subject) it is, in any event, the responsibility of the Dutch notary public (the competent authority under the Dutch law transposing the directive on cross-border mergers) to make a final assessment of the correctness and legitimacy of those amendments to the plan. Such a legality check on the merger procedure (in its entirety and on each individual deed) is required by Dutch law when the notary issues the final merger certificate, which is an essential requirement for the conclusion of the merger procedure.

For the sake of completeness, it should be noted that, pursuant to Article 4(2) of Legislative Decree No. 108/2008 on cross-border mergers, in case of conflict between different national laws during a cross-border merger procedure, the law applicable to the surviving company (in this case, the Dutch law) prevails.

4. Conclusions of the Board at the Mediaset Shareholders' Meeting

Upon receipt of the Complaint of 20 December 2019 by the shareholder Vivendi, the Board immediately took action to the extent of its remit, both in compliance with the provisions of Article 2408 of the Italian Civil Code invoked by the shareholder, and, more generally, in order to ascertain the legality of the corporate action.

The checks carried out on the individual points, described in detail above, conducted in light of the regulatory framework at the time and currently in force and on the basis of the information available to date, have not revealed any misconduct in relation to the Report prepared by Mediaset's Board of Directors pursuant to Article 125-*ter* of the Italian Consolidated Law on Finance or, more generally, concerning the Merger in question.

Therefore, the Board does not currently have any proposals to submit to the Mediaset Shareholders' Meeting.

Cologno Monzese, 8 January 2020

4:15 pm

The Board of Statutory Auditors

Mr Mauro Lonardo (Chairman) [signature]

Mr. Ezio Maria Simonelli (Standing Auditor) [signature]

Mr. Francesca Meneghel (Standing Auditor) [signature]