EN

Case No COMP/M.3014 - LOGICA / CMG

Only the English text is available and authentic.

REGULATION (EEC) No 4064/89
MERGER PROCEDURE

Article 6(1)(b) NON-OPPOSITION
Date: 09/12/2002

Also available in the CELEX database
Document No 302M3014

Office for Official Publications of the European Communities
L-2985 Luxembourg

COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 09/12/2002

SG (2002) D/233055

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EEC) No 4064/89 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus […]. Where possible the information omitted has been replaced by ranges of figures or a general description.

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying parties

Dear Sir/Madam,

Subject: **Case No COMP/M.3014 - Logica / CMG**
Notification of 07 November 2002 pursuant to Article 4 of Council Regulation No 4064/89[1].

1. On 7 November 2002, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 (Merger Regulation) by which the undertaking Logica plc ('Logica') acquires, within the meaning of Article 3(1) (b) of the Merger Regulation, control of CMG plc ('CMG').

2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of Council Regulation (EEC) No 4064/89 and does not raise serious doubts as to its compatibility with the common market and with the EEA Agreement.

I. THE PARTIES TO THE OPERATION

3. Logica is a UK-based information and communications technology (ICT) services company, providing ICT consultancy, systems integration, products, services and support on a world-wide scale to a variety of business sectors.

1 OJ L 395, 30.12.1989 p. 1; corrigendum OJ L 257 of 21.9.1990, p. 13; Regulation as last amended by Regulation (EC) No 1310/97 (OJ L 180, 9. 7. 1997, p. 1, corrigendum OJ L 40, 13.2.1998, p. 17).

4. CMG is an Anglo/Dutch ICT services company, serving customers in a variety of business sectors with solutions through telecommunication products, consultancy, business services and systems developments on a world-wide scale.

II. THE OPERATION

Concentration

5. The transaction is the acquisition of CMG by Logica which will be effected by way of a scheme of arrangement under section 425 of the UK Companies Act. Under this scheme, Logica will issue new LogicaCMG shares to CMG shareholders and their existing CMG shares will be cancelled. Post transaction, Logica will hold the entire issued share capital of CMG thereby creating a combined group which will incorporate the whole of both parties' respective businesses. Logica and CMG shareholders will hold respectively 60% and 40% of the new group, to be named LogicaCMG plc. The proposed transaction therefore constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

Community dimension

6. The combined worldwide turnover of all undertakings concerned is well in excess of EUR 2,500 million in 2001. The combined aggregate turnover of Logica and CMG exceeded EUR 100 million in the UK, the Netherlands, France and Germany. In addition, the aggregate turnover of each of Logica and CMG exceeded EUR 25 million in the UK, the Netherlands, Belgium, Germany and France in 2001. The aggregate Community-wide turnover of Logica and CMG respectively exceeded EUR 100 milion. Finally, the undertakings concerned did not achieve more than two-thirds of their EU turnover within one and the same member state. On the basis of the turnover figures of the parties, it can be concluded that the concentration has a Community dimension pursuant to the Article 1(3) of the Merger Regulation.

III. COMPETITIVE ASSESSMENT

7. Both Logica and CMG provide a wide array of IT Services and are strong players for Mobile Messaging services.

A. IT Services

Relevant Product Market

8. The Commission has recently reviewed the IT Services markets[2] and has considered that the market for IT services can be sub-divided into the following seven segments: IT management services, business management services, software development and integration, IT and business consulting, software maintenance and support, hardware maintenance and education and training. In contrast, the parties take the view that competition in the IT services market is most properly analysed across the market as a whole, as most of the top players in the global IT services market are active in all segments described above. In addition to the above, the IT services market can also be delineated on a sectoral basis according to the activities of customers. As such, separate industry sectors for communications, education, energy and utilities, financial services,

[2] Case COMP M.2946 IBM/PwC consulting

government, healthcare, manufacturing, retail, services and transportation could be distinguished. In the light of this transaction, the exact definition of the relevant market can be left open, since on any alternative product market definition, the concentration does not raise competition concerns.

Relevant geographic market

9. The parties submit that the market is EEA-wide, if not global, in scope. In previous decisions[3], the Commission concluded that, despite a strong trend towards internationalisation of supply and demand, the geographic scope of the IT services market has not yet become wider than national. In any case, with regard to the present transaction, the exact geographical scope of the IT services market(s) can be left open, since on any alternative geographic market definition, the concentration does not raise competition concerns.

Competition effects

10. Regardless of which of the above described product market definitions is retained, the concentration does not lead to affected markets for IT services. No matter what approach is taken to segment IT services, the parties' combined market shares[4] do not exceed 15% either globally, in the EEA or on a Member State level[5]. Even combined, the new entity would not enter the top five league of major IT services providers, which consists of IBM, EDS, HP, Accenture and Cap Gemini. Accordingly, it appears that the transaction will not give rise to competition concerns on the markets for IT services.

B. Mobile Messaging Services

Relevant Product Market

11. Both Logica and CMG have developed a strong expertise with regard to mobile messaging services. The Parties provide Telecommunication companies (Telcos) with the necessary hardware, software and necessary services to implement and maintain a mobile messaging solution. The supported mobile messaging applications are then developed by third parties and content providers. The parties do not view the business segment of mobile messaging services as a market in itself, rather considering this as a small sub-set of activity within IT Services relating to the communications sector.

12. Mobile messaging relates to the transfer of data between mobile telephones (and in future, between a mobile telephone and other communication devices). On the basis of the underlying technology, a distinction can be made between short messaging service

3 Case COMP M.2946 IBM/PwC consulting

4 Source : Gartner 2001

5 With the exception of the 'development & integration' and 'IT and business consulting' markets in Ireland, where the combined entity would hold market shares between 15% and 30%. However, as CMG currently has no presence in Ireland, the combined market share is entirely attributable to Logica and is not incremented by the Merger.

(‘SMS’) on the one hand and multimedia messaging services (‘MMS’) on the other hand[6].

13. SMS data messaging emerged in the early to mid 1990’s, enabling mobile users to send non formatted text-based messages via their mobile handsets. SMS usage developed slowly, but unexpectedly became an extremely popular service in the late 1990’s, as a cheaper way to communicate and as an alternative to email. As a result, SMS usage spiralled upwards, at a disproportionately higher rate than the increase in the mobile phone subscriber base.

14. MMS represents the “new generation” of messaging capability, as it enables users to send and receive messages containing high-resolution data such as formatted text, photographs, images and sounds. MMS and future third generation mobile services will enable interaction through e-mail and instant messaging using high speed internet transmission technology.

15. The market investigation has clearly indicated that the provisioning of mobile messaging services is a distinct market, separate from overall IT Services relating to the communications sector. Indeed, mobile messaging service providers have specific expertise and are selected on the basis of past performance and track record. With regard to the question whether SMS based messaging services form a separate market from MMS based messaging services, a distinction needs to be made between the Telco who implements the technology and the end-user who seeks the most appropriate solution for his communication needs. From the point of view of the latter, MMS is a promising but nascent technology that is not yet sufficiently widely available to form a distinct market. From the point of view of the Telco, MMS can be considered as the next important step in the development of the telecom markets, although the rate at which end-users will adopt MMS is uncertain. Despite the potential importance of MMS, Telcos do not consider that this technology will substitute SMS in the short to medium term. Rather, it can be expected that SMS and MMS will exist in parallel over the next 5 years.

16. The market investigation has indicated that the importance of demand substitutability would not support a further segmentation into SMS and MMS mobile messaging services. Indeed, Telcos without existing SMS-C infrastructure could purchase mobile messaging platforms that are capable of supporting both SMS and MMS traffic. Such will be even more the case when Telcos invest in GPRS/3G/UMTS networks that will be capable of handling SMS, MMS and instant messaging within one platform.

17. In any case, due to the limited impact of MMS on the market for the provisioning of Mobile messaging services, the question whether MMS forms a market in itself can be left open, since on any alternative product market definition, the concentration does not raise competition concerns.

18. The parties have submitted that competition in the SMS segment reflects demand-side substitutability as Telcos can meet their remaining capacity demands with buying SMS specific router technology rather than additional SMS systems. The market investigation has confirmed this to a certain extent. Although routers cannot substitute the need for SMS infrastructure in itself, the use of routers optimises the working of existing SMS

[6] Enhanced Messaging Service (EMS), is an intermediate step between SMS and the more technologically advanced MMS. EMS enables end-users to send multimedia richer messages whilst Telcos can provide this communication through standard SMS-C infrastructure. The Market Investigation has indicated that EMS is almost not in use in Europe.

infrastructure as it allows the existing capacity to be used up to its maximum. Routers are particularly effective in applications where the store/forward features of SMS infrastructure are not required (such as voting applications). Precisely these applications are expected to be important for the remaining growth of SMS. As the market investigation has confirmed that almost all future SMS mobile messaging competitions will be for the increase of current capacity, routers already provide customers with demand substitutability for additional SMS.

Relevant geographical Market

19. The parties submit that the relevant geographical scope of the market ought to be considered as global in scope or at least as EEA-wide. The market investigation has confirmed this and has not pointed to market characteristics that would allow to consider the market as national in scope. Currently, almost all important suppliers for mobile messaging services are located in the EEA. However, as US suppliers increasingly adopt European GSM standards, it is not to be excluded that they could increasingly compete for future competitions outside the US. In any case, with regard to the present transaction, the exact geographical scope of the mobile messaging services market(s) can be left open, since on any alternative geographic market definition, the concentration does not raise competition concerns.

B. Market Positions

20. Both CMG and Logica hold leading positions in the EEA[7] for SMS mobile messaging services with a combined market share of around [75%-80%] (CMG [60%-65%] and Logica [15%-20%]), facing limited competitive pressure from Nokia ([10%-15%]), Schlumberger/SEMA ([5%-10%]) and Comverse ([0%-5%]). The parties submit that such high market shares can however not be considered as a proxy for market power in the mobile messaging services market. Indeed, the parties suggest that the relevance of SMS is rapidly fading, as it is to be replaced by multimedia enhanced MMS and that remaining competitions for SMS infrastructure and related services are becoming scarce.

21. The market investigation has not fully confirmed this. Telcos are investing heavily in 3G infrastructure and MMS but have rejected that this will have immediate important substitution effects on the current levels of SMS traffic. From the point of view of the end-user, MMS currently complements, rather than substitutes SMS. It can however not be ignored that penetration of SMS amongst end-users in Western Europe is now reaching its saturation point, with an estimated 75% of mobile phone uses regularly using the service. Whilst it is anticipated that the consumer use of SMS will continue to increase slightly in the short term, it is expected to peak in 2003, before stabilising or declining. MMS traffic is expected to grow exponentially after 2003 reaching critical mass whilst also the expected convergence between mobile phones and portable computers could have a lasting effect on SMS traffic.

22. Although SMS mobile messaging services will remain important, the parties' argument that competition for this segment has had its course has been confirmed by the market investigation. Telecommunications companies have invested heavily in SMS infrastructure prior to 2001 and have built up sufficient capacity the meet their SMS traffic forecast for the years to come. In part, the level of built up idle capacity is due to

[7] Market shares on the basis of a world-wide market definition are less important on all occasions

external factors (such as the forecasted traffic growth for the millennium) and internal factors (Telcos have incentivised customers to use SMS away from peak moments and are using capacity more efficiently). The parties have illustrated the abrupt stop of Telcos investing in SMS by […] and the reduction of mobile messaging services prices ([…]) over the past two years. Telcos have confirmed that their investment plans for additional SMS capacity are minimal and that the pressure on prices will continue. An analysis of the SMS capacities available to Telcos above peak load traffic indicates that there is sufficient capacity to cover future SMS traffic, even if the transition from SMS to MMS based messaging would take longer than expected by industry analysts.

23. Even for the limited SMS competition opportunities remaining, the parties combined high market share would not allow them to act independently by raising prices or reducing quality. As most remaining investments target additional capacity, the parties face competitive pressure from companies offering routers, for which they have no market presence, as routers can be effectively implemented to increase SMS system capacity. As for new SMS-C installations, it can be expected that these competition opportunities will be rare as Telcos would rather invest in combined SMS/MMS infrastructure. In addition, alternative suppliers such as Nokia, Ericsson and SEMA remain viable and can continue to counteract a stronger Logica CMG.

24. Once a Telco has selected a mobile messaging supplier, there is limited possibility to change the incumbent supplier within a short period of time as switching costs are high and generally not economically justifiable. However, as customers are locked in with their present supplier, the merger will merely increase the combined entity's market share without having an impact on its ability to act independently. As confirmed by the market investigation, the provisioning of SMS mobile messaging services are subject to […]. The market investigation has also pointed to the maturity of the SMS segment. All Telcos have selected their SMS suppliers and instances where CMG and Logica could still compete against each other have become scarce. Consequently, neither Telcos nor other third parties have raised significant objections with regard to the combination of the parties' SMS activities.

25. As to the parties' incentive to act independently, it is to be emphasised that the new entity will need to compete for future MMS mobile messaging services contracts and that Telcos could effectively retaliate any observed independent behaviour of the combined entity for SMS. As illustrated by the parties' limited number of wins in MMS bidding competitions[8], they have not been able to extend their leading positions for SMS to the technologically more advanced MMS and face strong competition from suppliers such as Nokia and Ericsson (who hold technologically leading positions and have an inherent advantage as handset and network equipment providers) and players that have no presence for SMS mobile messaging services. Telcos have indicated that the combination of the parties' MMS activities would result in a more competitive entity with regard to MMS.

26. Accordingly, it appears that the transaction will not give rise to competition concerns on the markets for mobile messaging services, regardless of whether such analysis is made for the market as a whole or for SMS and MMS individually.

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8 Market shares on the basis of MMS competitions indicates that Ericsson is the clear leader with around [50%-60%], followed by Nokia with [20%-25%] and CMG with [15%-20%]. Logica accounts for [0%-5%] of the market.

IV. CONCLUSION

27. In light of the above, the Commission has concluded that the proposed transaction is not likely to create or strengthen a dominant position as a result of which effective competition would be significantly impeded in the EEA or any substantial part of that area.

28. For the above reasons, the Commission has decided not to oppose the notified operation and to declare it compatible with the common market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of Council Regulation (EEC) No 4064/89.

For the Commission

(signed)
Mario MONTI
Member of the Commission