

***Case No COMP/M.4944 -
SAP / BUSINESS
OBJECTS***

Only the English text is available and authentic.

**REGULATION (EC) No 139/2004
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION
Date: 27/11/2007

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 27/XI/2007

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In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 party:

Dear Sir/Madam,

**Subject: Case No. COMP/M.4944 – SAP/Business Objects
Notification of 22 October 2007 pursuant to Article 4 of Council
Regulation (EC) No. 139/2004¹**

1. On 22/10/2007, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 by which the undertaking SAP AG ("SAP", Germany), acquires within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of the undertaking Business Objects SA ("Business Objects", France/USA) by way of purchase of shares.
2. After examining the notification, the Commission found that the notified transaction fell within the scope of the Merger Regulation and that it did not raise serious doubts as to its compatibility with the common market and the EEA agreement.

¹ OJ L 24, 29.1.2004 p. 1

I. THE PARTIES AND THE OPERATION

3. SAP is a provider of enterprise applications software solutions. It develops, produces and markets a large range of software applications, including relevant support, consulting maintenance and training services for the implementation of its software solutions.
4. Business Objects is a software company that specializes in business analytics software solutions and provides consulting and training services for its customers. It offers a range of analytical, reporting and visualization applications enabling its customers to manage data and improve decision making.
5. On 7 October 2007, SAP announced its intention to acquire all the shares of Business Objects by way of a cash tender offer. As a consequence SAP will acquire sole control over Business Objects.

II. COMMUNITY DIMENSION

6. The undertakings concerned have a combined aggregate worldwide turnover of more than EUR 5 billion (SAP: EUR 9,402 billion; Business Objects: EUR 0,998 billion). The aggregate Community-wide turnover of each of these two undertakings concerned is more than EUR 250 million (SAP: EUR [...]; Business Objects: EUR [...]) for 2006. Neither SAP nor Business Objects achieve more than two thirds of their Community wide turnover in any Member State. The notified transaction therefore has a Community dimension.

III. RELEVANT MARKETS

7. According to the notifying parties, SAP and Business Objects are active in the Enterprise Application system software ("EAS") industry. EAS is software that supports the major business functions of companies, irrespectively of size and sector of activity. As the software offers different functionalities, EAS can be further broken down into the following subdivisions: ERP (Enterprise Resource Planning), CRM (Customer Relationship Management), SRM (Supplier Relationship Management), SCM (Supply Chain Management), PLM (Product Lifecycle Management) and BA (Business Analytics).
8. The transaction would relate in particular to the Business Analytics ("BA") segment of EAS. BA applications are tools and applications for tracking, analyzing and managing data in support of corporate decision making processes. The notifying parties took the view that EAS should be the relevant market and that if alternatively the Commission was to concentrate only on the BA segment and the market definition should include the various types of BA applications and should not be further divided.
9. The notifying parties suggest delineating the BA segment into two sub-segments along the lines of IDC terminology²: Performance Management Tools

² IDC is an industry analyst group which *inter alia* collects data about the information technology industry in particular software applications and provides industry reports.

and Applications (PMT) on the one hand and Data Warehouse Platforms on the other.

10. PMT can itself be divided between:
 - a. Business Intelligence (BI);
 - b. FPSM (Financial Performance Strategy Management applications);
 - c. CRM (Customer Relationship Management) analytics;
 - d. SCM (Supply Chain Management) analytics;
 - e. Service Operations management applications
 - f. Workforce analytics
11. BI applications would include Query, Reporting and Analysis ("QRA") tools on the one hand and Advanced Analytics on the other. These tools allow data mining, ad hoc query capabilities, reporting functions, scorecards and modeling. FPSM would consist of applications measuring, analyzing and optimizing business financial performance management processes using pre-packaged applications that include budgeting and planning, financial consolidation, profit management and strategy management applications.
12. The activities of the notifying parties only overlap in the BI (Query/Reporting/Analysis) and FPSM segments. With regard to BI, the notifying parties submit that the BI segment could also be divided between BI software applications sold as standalone products and BI software applications embedded in larger EAS solutions. Along such a market definition, defined by Gartner³, only Business Objects would sell standalone BI software solutions and only SAP would sell embedded BI software solutions.

Relevant product market

13. In the course of the market investigation a vast majority of the respondents have indicated that within the EAS market a BA sub-market can be considered. Two competitors expressed doubts about the relevance of defining a separate BA market arguing that the industry is evolving constantly and that software tools or solutions in this area often defy neat categorization. However, several customers indicated that BA applications are not interchangeable with other EAS applications. A large customer also explained that while certain BA functionality is available in various EAS applications, that functionality is often specific to the application. Another customer pointed to the existence of independent vendors who offer standalone BA solutions that can be independent of the underlying EAS platform.
14. The market investigation however did not allow reaching a clear conclusion as to whether BA could be further divided into sub markets such as BI and FPSM. Several customers and competitors viewed BI and FPSM as two related segments part of the same BA market. One competitor explained that BI was the underlying

³ Gartner is an industry analyst and consulting group which collects data about the information technology industry and provides guidance and advice on IT strategy developments.

technology that enabled BA, while FPSM was a type of BA solution. Conversely, a number of customers pointed to the existence of separate standalone FPSM and BI solutions offered by vendors responding to different customer needs. One customer explained that BI products essentially included Query, Reporting and Analysis ("QRA") tools and did not offer the analytics components usually supplied by FPSM solutions.

15. Within the BI segment, respondents' replies provided no clear view as to whether two separate markets for QRA and Advanced Analytics should be distinguished. One competitor expressed the view that BI is typically associated with QRA tools but not Advanced Analytics. Another competitor explained that QRA is a broad based requirement across multiple application areas whereas Advanced Analytics is more application specific and is serviced by discrete product and vendors. On the other hand several customers viewed Advanced Analytics as an extension or an add-on product to QRA that generally requiring the data set available in QRA and concluded that the two categories of applications were part of the same market.
16. In the present case, although the market investigation points towards the existence of a market for Business Analytics (BA), the exact delineation of the market can be left open as even with the narrowest possible definition (market for QRA within BI) the transaction does not raise serious competition concerns.

Relevant geographic market

17. The notifying parties submit that the geographic scope of the market is global and that the geographic market definition remains valid even if a narrower product market would be retained. The notifying parties notably submit that customer demand does not substantially vary across the different regions and that most software vendors are global players.
18. These conclusions have generally been confirmed in the course of the market investigation which showed that vendors sell the same products in all the countries as customer demand does not vary across regions except for the requirement to offer and support the product in the local language. In the present case, it can be assumed that the geographical market is at least EEA wide as the concentration does not rise any competition issues either considering that the geographical scope is EEA or worldwide.

IV. COMPETITIVE ASSESSMENT

Horizontal assessment

19. SAP and Business Objects only have overlapping activities in the BA area (EAS sub-segment) and in BI & FPSM (BA sub-segments) in particular. SAP is active in other EAS areas whereas Business Objects focuses on BA exclusively. It should be noted that the software market is currently undergoing a significant

consolidation with several large software providers acquiring BA software specialists⁴.

20. The market share reached by the combined entity at world level or at Western Europe⁵ level is below 25% under any alternative market definition, even under the narrowest one.

Market shares in EAS and EAS sub-segments – market shares (%) – Western Europe 2006			
	SAP	Business Objects	Combined
EAS	[10-20]%	[0-10]%	[10-20]%
BA (EAS sub segment)	[10-20]%	[0-10]%	[10-20]%
PM (BA sub segment)	[10-20]%	[0-10]%	[10-20]%
<i>PM sub-segments</i>			
FPSM (PM sub segment)	[10-20]%	[10-20]%	[20-30]%
BI (PM sub segment)	[0-10]%	[10-20]%	[10-20]%
<i>BI sub-segments</i>			
Query/Reporting/Analysis (BI sub segment)	[0-10]%	[10-20]%	[20-30]%

Source: Notifying parties, IDC

21. SAP/Business Objects would reach a [20-30]% market share in Western Europe in the FPSM segment, and would reach a [10-20]% market share in the BI segment⁶. It would also reach a [20-30]% market share in the Query/Reporting/Analysis BI sub segment. Such market shares are not deemed to raise a competition concern, which the results of the market investigation confirm.
22. The EAS market, as well as EAS sub markets are characterised by the presence of several internationally active competitors among which Oracle (including Hyperion), Cognos Inc., Microsoft, SAS all represent credible alternatives to customers. SAS, Microsoft and Cognos are particularly strong in the BI sub-segment, whereas Oracle (including Hyperion) and Cognos are particularly strong in the FPSM sub-segment. The market investigation also points to the existence of smaller niche players having recently successfully entered the BA market. Although the merged entity would become a stronger player, all customers and competitors who replied in the market investigation have indicated that post-merger there would remain sufficient alternative offers on any of the markets i.e. EAS, BA, PM, FPSM or BI software applications, and that no anti-competitive effect would result from the merger.

⁴ Oracle purchased Hyperion in May 2007, SAP announced its intention to purchase Business Objects in October 2007, IBM has announced on 12 November 2007 its intention to acquire Cognos Inc.

⁵ IDC aggregates data for Western Europe, which may not include some Eastern European countries. However, as Business Objects has virtually no turnover in the new 10 Member States, the market shares for Western Europe appear to accurately reflect Business Objects' strength in the market.

⁶ If a different classification as proposed by Gartner would be followed, the notifying parties would reach a [30-40]% market share in Europe in the BI segment. This difference to the data from IDC is notably due to different definitions of the market hence the scope of product sales taken into account. However, no reply to the market investigation indicated to solely use Gartner's proposition of the BI segment to reflect the parties' market shares.

23. It can therefore be concluded that the concentration would not give rise to serious doubts as to its compatibility with the common market on the basis of horizontal concerns.

Non-horizontal assessment

24. SAP offers an integration platform (middleware) named NetWeaver which allows *inter alia* for certain embedded BA applications to extract data from the SAP applications. BA and EAS applications are interfaced. In this sense, EAS and BA applications could be considered as belonging to neighbouring markets. In theory, SAP could therefore, as a result of the merger, decide to limit access to its integration platform for BA software from other vendors and favour Business Objects products only. The notifying parties have submitted that this scenario is unlikely as SAP strategy is to develop open standards, facilitating interoperability between its EAS applications and competitors' applications, notably in the BA area (EAS sub-segment).
25. The market investigation confirmed the position of the notifying parties. Customers and competitors notably indicated that it would not be in the interest of SAP/Business Object to close its platform to other vendors of standalone BA solutions. The demand from customers is for open integration platforms and closing such platforms would result for SAP in potential loss of customers, as they generally decide on purpose to work with several software providers to limit their dependency on one vendor and hence it would considerably limit SAP's interest to pursue the before- mentioned strategy.
26. Therefore SAP would have no guarantee that limiting access to its integration platform for BI software to Business Objects would be beneficial. Nevertheless, would such a strategy be implemented by SAP/Business Objects, according to customers and competitors they would find sufficient software solution alternatives. A few customers even indicated that the merger would put SAP/Business Objects on an equal footing with Oracle/Hyperion, and could as such better enter into competition for integrated offers.
27. The Commission furthermore examined whether SAP could foreclose competitors by leveraging its leading position in the EAS segment. However, the notifying parties have submitted that SAP market position in EAS is not of such strength that it would be able to leverage it in the BA segment to foreclose the market for Business Objects' competitors. With a market share of [10-20]% in the Western Europe EAS market, the notifying parties submit that SAP/Business Objects is unlikely to exercise sufficient market power to foreclose competition. When looking more specifically at EAS segments, SAP has however higher market shares in SRM and SCM ([20-30]% & [30-40]% respectively - Western Europe 2006).
28. However, within the market investigation, customers and competitors indicated that they do not see any competitive issue arising in this respect. Purchase of BA software solutions are notably more frequent than purchase of EAS suites, and correspond to specific needs, whereas purchase of EAS suites are less frequent and correspond to more structuring needs (software infrastructure). As such purchase of BA and EAS suites are not systematically coupled. In addition, as already

indicated, it would not be in the interest of customers to purchase all their software solutions from the same provider.

29. Therefore, it appears unlikely that SAP/Business Objects would foreclose competition in the BA segment on counting on its strong position in the EAS market.
30. Several customers⁷ expressed the concern that post-merger SAP could limit the use of Business Objects software applications to SAP suites and standalone versions of Business Objects products could suffer from lack of functions. However, the majority of customers⁸ and competitors indicated that such a strategy appears unlikely because the result would primarily be a loss of customers not desiring to abandon their EAS suites (purchased to SAP competitors)⁹. SAP's internal documents describe the evolution of their middleware platform for the foreseeable future, [...]. In this respect, SAP has indicated that it intends to continue to run Business Objects as an independent company. It can also be noted that, although the transaction is still recent, Oracle has continued to sell Hyperion BA software solutions as independent products that can be interfaced with competitors' products.
31. Nevertheless, would such a strategy be implemented by SAP/Business Objects, as already indicated above in the case of integration platforms, according to customers and competitors there would remain sufficient alternatives of BA software solutions on the market.
32. It can therefore be concluded that the concentration would not give rise to serious doubts as to its compatibility with the common market on the basis of non-horizontal concerns.

V. CONCLUSION

33. 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 (EC) No 139/2004.

For the Commission
signed
Neelie KROES
Member of the Commission

⁷ 3 out of 20

⁸ 15 out of 20

⁹ BI instruments are only marginally important for companies in regard to EAS suites. BI accounts for 7,9% of the total EAS worldwide revenues.