



DETERMINATION OF MERGER NOTIFICATION M/11/030 -

IBM/Fitch Risk Management Inc

Section 21 of the Competition Act 2002

Proposed acquisition by IBM Corporation of Fitch Risk Management Inc and its subsidiaries

Dated 20 September 2011

Introduction

1. On 7 September 2011, in accordance with section 18 of the Competition Act 2002 ("the Act"), the Competition Authority ("the Authority") received a notification of a proposed transaction whereby IBM Corporation ("IBM") would acquire sole control of Fitch Risk Management Inc and its subsidiaries ("Fitch Risk") through the acquisition of the entire shareholding of Fitch Risk.

The Undertakings Involved

The Acquirer

2. IBM is a public company incorporated in the United States of America and listed on the New York Stock Exchange. It is active worldwide in the development, production and marketing of Information Technology ("IT") solutions. These IT solutions include software, systems (servers, storage systems, software) and services (business consulting and IT infrastructure services). IBM currently has a minimal presence in financial risk management and compliance software. In particular, it provided a limited amount of Service Operations Management ("SOM") software, in the form of its Cognos banking risk software, which it withdrew from the market in July-August 2011.¹ IBM states that its acquisition of Fitch Risk will enable it to expand its presence in the financial risk management and compliance software business.
3. In the State, IBM's activities are carried out through a subsidiary, IBM Ireland Limited ("IBM Ireland"). IBM Ireland has sales and marketing businesses, manufacturing businesses, a software group and software development laboratory, a telesales and marketing centre, an international banking software services unit and a corporate treasury centre.
4. For the financial year ending 31 December 2010, IBM had worldwide turnover of €75.3 billion of which €[] was generated in the State.

¹ IDC market research has developed a typology which divides the activities of IT firms into a number of categories. IDC data have been used by the Authority in a previous merger decision (M/09/017). SOM software is one of three sub-sectors within the Operations and Manufacturing Applications category. SOM applications support the services supply chain and are unique to particular industries. They cover a broad range of activities such as automating insurance claim processes, automating admissions/discharges and transfers of patients in healthcare, or automating energy trading (as applied to energy and utility functions).

The Target

5. Fitch Risk is a fully-owned subsidiary of the Fitch Group. Fimalac SA, controlled by French businessman Marc Ladreit De Lacharrière, holds a 60% stake in the Fitch Group and the Hearst Corporation holds the remaining 40%. Fitch Risk is the holding company of the Algorithmics Group, headquartered in Toronto. Neither Fitch Risk nor Algorithmics has a physical presence in the State.
6. The Algorithmics Group provides IT services to financial organisations in the fields of risk management and compliance. These services consist largely of software, but also analytics, content and advisory services, as well as collateral and capital management. Algorithmics' customers are typically banks, but they also include insurance companies, hedge funds, pension funds and asset managers. These IT services help financial organisations to plan for, analyse and manage risk and compliance. Algorithmics' products are marketed under the "Algo" brand.
7. Using the typology established by IDC market research, Algorithmics' financial risk management and compliance software falls into two IT product categories: SOM (defined above), and Financial Accounting Applications ("FAA").² FAA support accounting, financial, treasury, and risk management functions. SOM and FAA software are both used for risk management in the areas of market, credit and operational risk, as well as collateral and capital management.
8. For the financial year ending 30 September 2010, Fitch Risk had a worldwide turnover of €[] of which €[] was generated in the State.

Third Party Submissions

9. No third party submissions were received.

Analysis

10. FAA and SOM software are complementary components of financial enterprise risk management and compliance. In the State, there is no horizontal overlap between the activities of IBM and Algorithmics in the FAA market. However, both companies develop SOM software, leading to some horizontal overlap.

Views of the Parties

11. The parties submit that the result of the proposed transaction will not be to substantially lessen competition in any market for goods or services in the State due to the:
 - (i) *de minimis* horizontal overlap between the Parties' activities;
 - (ii) dynamic and intense competition in the provision of both SOM and FAA software; and,

² Using IDC's typology, SOM is one of three sub-sectors in the Operations and Manufacturing Applications category; while FAA is one of 8 sub-sectors in the Enterprise Resource Management category.

(iii) lack of any conglomerate or vertical effects attributable to the proposed acquisition.

12. IBM submits that the relevant geographic market is worldwide on the basis that:
- leading suppliers of SOM and FAA market and distribute their products globally. The example of Algorithmics demonstrates that a physical presence in the State is not necessary to achieve sales;
 - product configurations are largely identical across borders. Typically, buyers source solutions directly from the developers, or from authorised distributors; and,
 - costs of distributing SOM and FAA products are negligible, given that products are either supplied on CD or downloaded online.
13. With respect to the State, the parties submitted that specific market share data is not available as suppliers of software products operate on a global basis. However, the parties submitted that their market shares in the State would not be significantly different from those in the region comprising Europe, Middle East and Africa (“EMEA”).
14. The parties provided worldwide and EMEA market share figures based on IDC data. The IDC data is presented in Table 1 below. This table shows that the increase in IBM’s market share worldwide and in EMEA in respect of the supply of SOM and FAA software following the completion of the proposed transaction would be minimal.

Table 1: Market Shares of the Parties Worldwide and EMEA³

SOM			
Geographic area	IBM	Algorithmics	Combined
Worldwide	[0-5]%	[0-5]%	[0-5]%
EMEA	[0-5]%	[0-5]%	[0-5]%
FAA			
Geographic area	IBM	Algorithmics	Combined
Worldwide	[0-5]%	[0-5]%	[0-5]%
EMEA	[0-5]%	[0-5]%	[0-5]%

Source: IDC data provided by the parties

Views of the Authority

15. The assessment carried out by the Authority confirms that the geographic scope for FAA and SOM IT services is wider than the State, and is most likely to correspond to EMEA. The Authority considers that the proposed acquisition does not raise any competition concerns in the State with respect to the provision of FAA or SOM IT services for the following reasons:
- (i) IDC data in Table 1 above indicate that, post-acquisition, IBM will account for less than [0-5]% of the supply of SOM IT services in the EMEA market.

³ The IDC data provided by the parties have been corrected to remove SOM providers which operate exclusively in non-financial sectors, such as healthcare, life sciences and retail/hospitality.

- (ii) There will remain at least 5 significant global competitors in both the SOM and FAA markets who are currently active in the State. In both markets all 5 competitors had market shares in 2010 in excess of the expected market share of the merged entity immediately post-acquisition.

Table 2: Competitors to IBM and Algorithmics in the FAA and SOM IT markets in the State

FAA	SOM
SAP	Siemens
Sage	Misys
Microsoft	Sungard
Oracle	SAP
Infor	Oracle
IRIS (through local exclusive distributor)	
Unit4 (through local exclusive distributor)	

Source: IDC data provided by the parties

- (iii) IDC data indicate that the EMEA SOM market is unconcentrated, and is unlikely to become concentrated due to the proposed transaction. The C4 ratio is 27% and the HHI is well below 1,000.
 - (iv) There is no evidence to suggest that the proposed transaction will lead to tying obligations. Customers who purchase FAA (or SOM) software from the merged entity will remain free to purchase SOM (or FAA) software from other vendors.
16. The proposed transaction does not raise any vertical or conglomerate competition issues in the State.
 17. In light of the above, the Competition Authority considers that the proposed transaction does not raise any competition concerns in the State in relation to the provision of FAA or SOM IT services.

Ancillary Restraint

18. FAA and SOM software are complementary components of financial enterprise risk management and compliance. The proposed transaction imposes a non-compete obligation for a period of [] years following the closing of the proposed transaction []. The non-compete obligation will not prevent the Fitch Group from continuing to carry out a number of activities in the field of credit and financial markets, including *inter alia* the provision of financial ratings services and the operation of a credit default swap pricing database.
19. The Authority considers that these restrictions are directly related and necessary to the implementation of the proposed transaction.

DETERMINATION

The Competition Authority, in accordance with section 21(2)(a) of the Competition Act, 2002, has determined that, in its opinion, the result of the proposed acquisition whereby IBM Corporation would acquire sole control of Fitch Risk Management Inc. and its subsidiaries will not be to substantially lessen competition in markets for goods or services in the State, and accordingly, that the acquisition may be put into effect.

For the Competition Authority

Noreen Mackey

Member of the Competition Authority