



DETERMINATION OF MERGER NOTIFICATION M/12/013 - Dell/ Quest

Section 21 of the Competition Act 2002

Proposed acquisition by Dell Inc. of Quest Software Inc.

Dated 17 August 2012

Introduction

1. On 20 July 2012, 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 Dell Inc. ("Dell") would acquire sole control of Quest Software, Inc. ("Quest").
2. As stated by the parties, the proposed transaction would be put into effect pursuant to an agreement among Dell, its wholly-owned subsidiary Diamond Merger Sub Inc. ("Diamond"), and Quest. In essence, Diamond would be merged with and into Quest, and Quest would become a wholly owned subsidiary of Dell.¹

The Undertakings Involved

The Acquirer

3. Dell is a leading Information Technology ("IT") company headquartered in Round Rock, Texas, U.S.A. Dell is involved in the manufacture and sale of a broad range of IT products, including desktop personal computers, software and peripherals, mobility products, servers and storage systems. Dell's services include a broad range of configurable information technology and business-related services, including infrastructure technology, consulting and applications and business process services.²
4. Dell is a reseller of third-party software products, i.e., in conjunction with its hardware products Dell sells software products such as operating systems, business and office applications, anti-virus and related security software and entertainment software.³ In March 2012 Dell established a

¹ Diamond would cease to exist as a separate entity once the proposed transaction is put into effect.

² For more information on Dell see <www.dell.com>.

³ Dell is a reseller of a various software products including, as described in paragraphs 23 and 24, Quest software products.

Software Group with the aim of establishing Dell as a so-called “end-to-end”⁴ IT company.

5. Within the State, Dell’s Irish based subsidiary companies are involved in the sale of Dell IT products and services, including hardware and software.⁵ Dell also provides financial services to customers purchasing Dell products.⁶
6. For the financial year ended 3 February 2012 Dell’s worldwide turnover was approximately €44.723 billion of which approximately €[...] million was generated in the State.⁷

The Target

7. Quest is an IT company headquartered in Aliso Viejo, California U.S.A. Quest is active in the design, marketing, and sale of management software products. Both globally and within the State Quest provides IT products and services in each of the following software categories:⁸
 - i. Database Management – to manage, control and understand data.
 - ii. Performance Monitoring – to monitor and improve the efficiency of applications, infrastructure and user experience.
 - iii. Data Protection – to backup, recover and replicate data, including disaster protection.
 - iv. User Workspace Management – to improve the security and flexibility of user workspaces.
 - v. Windows Server Management – to efficiently structure user accounts, data, or systems.
 - vi. Identity and Access Management – to manage security and access, including to privileged accounts, and monitoring user activity.
8. Within the State, Quest’s customers are in both the public and private sector and include: [...].

⁴ “End to end” in this context refers to the one entity supplying hardware and software to customers without the involvement of other suppliers of either software or hardware.

⁵ Dell ceased manufacturing operations in Ireland in January 2009. For more information on Dell Ireland see <<http://www.dell.ie>>.

⁶ As described in M/011/016 – Dell/CIT Dell acquired certain vendor financing assets from CIT Group. See <<http://www.tca.ie/EN/Mergers--Acquisitions/Merger-Notifications/Dell--CIT-Group.aspx?page=3&completed=True&year=2011>>.

⁷ Based on the European Central Bank average annual exchange rate for February 2011 to January 2012 of €1 = US\$1.3879. Approximately €[...] million of Dell turnover within the State was derived from software sales.

⁸ For more information about these software categories and/or Quest see <<http://www.quest.com>>.

9. For the year ended 31 December 2011 Quest's worldwide turnover was approximately €616.0 million of which approximately €[...] million was generated in the State.⁹

Third Party Submissions

10. No submissions were received.

Rationale for Proposed Transaction

11. The parties state that the proposed transaction will enable Dell to expand its current presence in the software sector. For example Dell states that:

"The addition of Quest will enable Dell to deliver more competitive server, storage networking and end user computing solutions and services to customers."¹⁰

12. Quest states that:

"Dell's distribution, reach and brand are well recognized in the industry. Combine that with Quest's software expertise and award-winning systems management products and you have a very powerful combination for our customers and partners"¹¹

Analysis

13. Both globally and within the State there are horizontal and vertical overlaps in the activities of the parties. The parties state that the overlaps are not significant:

"the businesses carried on by the parties do not materially overlap, horizontally or vertically, either in Ireland or elsewhere."¹²

14. Table 1 shows, on the basis of global turnover, the market shares and horizontal overlap for software categories as identified by International Data Corporation ("IDC").¹³ The software categories in Table 1 are described in greater detail and their relationship with the Quest categories in Paragraph 7 is explained Annex 1.

⁹ Calculated using the ECB average annual exchange rate of €1 = \$1.3920. All Quest turnover in the State derives from software sales.

¹⁰ See <http://www.quest.com/company/pdfs/acquisition/press-release.pdf>

¹¹ *ibid.*

¹² Notification Form page 11.

¹³ International Data Corporation is global provider of IT market intelligence. IDC data has previously been relied upon by the European Commission in IT sector mergers. See for example Intel/Mcafee, Case No. COMP/M.5984 and Symantec/Veritas, Case No. COMP/M.3697. For more information on IDC see <<http://www.idc.com>>.

Table 1: Software Categories – Global Market Shares

	Software Category	Dell %	Quest %	Combined %
1	Identity and Access Management	<1%	2.5%	<3.5%
2	Database Development and Management Tools	0%	10.8%	10.8%
3	System Management	<1%	2.0%	<3.0%
4	Change and Configuration Management	2.1%	4.2%	6.3%
5	Distributed System Management	<1%	2.5%	<3.5%
6	Archiving	1.1%	2.2%	3.3%
7	Message and Social Media Archiving Applications	1.6%	5.1%	6.7%
8	Distributed Virtual Server Management	0%	7.9%	7.9%
9	Performance and Availability Management	<1%	2.2%	<3.2%
10	Distributed Server/Workload Automation	<1%	<1%	<2.0%
11	Storage	<1%	1.0%	<2.0%
12	Data Protection and Recovery	<1%	2%	<3.0%
13	Application and User Session Virtualization	0%	<1%	<1%

Source: IDC data as submitted by the Parties.

15. Table 1 indicates no horizontal overlap in three categories: (i) Database Development and Management Tools, (ii) Distributed Virtual Server Management and (iii) Application and User Session Virtualization.
16. Table 1 indicates that the largest combined market share where there is overlap in the activities of the parties is 6.7% (in the Message and Social Media Archiving Applications category). Table 1 also shows that the largest increase in Dell market share would be 5.1% (also in the Message and Social Media Archiving Applications category).
17. For all categories listed in Table 1 Dell is ranked outside the top ten competitors. Quest is ranked in the top five competitors in only two categories (i) Database Development and Management Tools, and (ii) Distributed Virtual Server Management. As indicated in Table 1 there is no overlap in either category. Quest is ranked sixth in the category "Message and Social Media Archiving Applications," and after the acquisition would rank fifth, behind Symantec, Autonomy, IBM, and Iron Mountain, and just ahead of Open Text. For the remaining categories in which there is an overlap Quest is ranked no higher than seventh.¹⁴
18. As indicated by IDC data, and as stated by the parties, there are strong competitors globally in each of the above segments (e.g., Oracle, Microsoft, CA Technologies, BMC, SAP, HP, EMC, and Symantec).
19. In summary, the absence of significant overlap and the absence of a significant increase in combined market shares, as indicated by the figures in Table 1, suggest the proposed transaction will not give rise to global horizontal competition concerns.
20. The parties submit the above market share data on a global basis and stated that comparable data for the State is not available.¹⁵ The parties further state that:

*"given the de minimis proportion of their Irish software revenues out of their total global software revenues, their shares in Ireland are not materially different from, [...] estimates for each of the 13 ... segments identified"*¹⁶
21. The parties further stated that the main global competitors in each global IDC segment, as listed in paragraph 18, are also the largest competitors in each of the categories in Table 1 in the State.¹⁷
22. The relatively small amount of Quest turnover within the State suggests at most a minimal increase in the overlap in any category within the State relative to the global overlap. There is no evidence to suggest that the category overlaps within the

¹⁴ Notification Form pages 15-18.

¹⁵ Correspondence with the parties dated 26 July 2012.

¹⁶ *ibid.*

¹⁷ Correspondence with the parties dated 12 August 2012.

State differ significantly from those shown in Table 1. Consequently the proposed transaction does not give rise to horizontal competition concerns within the State.

23. There is a vertical overlap in the activities of the parties. Dell has a reselling arrangement with Quest both globally and within the State (i.e., Quest software is available in some Dell hardware products). This reselling arrangement is non-exclusive both globally and within the State. Dell is not the only buyer of Quest software and Quest is not the only supplier of software to Dell.
24. Within the State, Dell's reselling of Quest software is limited to [...] of the categories listed in Table 1, namely [...]. The parties submit that within the State there are many alternative suppliers of computer software, including [...] software, such as BMC, CA Technologies, EMC, Microsoft, Oracle, SAP, and Symantec, and that also within the State there are other purchasers of Quest's [...] software such as [...]. Consequently the proposed transaction does not raise any vertical competition concerns.
25. For the purpose of examining the competitive effects of the proposed transaction, the Authority does not need to come to a definitive view on the precise relevant product market because its conclusions concerning the competitive effects of the proposed transaction, outlined above, would be unaffected whether the relevant product market is defined narrowly, (e.g., the software categories in Table 1 above) or more broadly.
26. In light of the above, the Authority considers that the proposed transaction will not raise competition concerns in any market for goods or services in the State.

Ancillary Restraints

27. The parties have entered into non-solicitation obligations for a duration of [...] from [...]. The Authority considers these restrictions to be 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 transaction whereby Dell Inc. will acquire sole control of Quest Software, Inc. will not be to substantially lessen competition in any market for goods or services in the State and, accordingly, the acquisition may be put into effect.

For the Competition Authority

Stephen Calkins
Member of the Competition Authority
Director, Mergers Division

Annex 1 Software Categories

	Software Category	Description
1	Identity and Access Management	Identity and access management software covers a comprehensive set of solutions used to identify users in a system (employees, customers, contractors, and so on) and control their access to resources within that system by associating user rights and restrictions with the established identity.
2	Database Development and Management Tools	Database development and management software tools are used to develop, load, reload, reorganize, recover, or otherwise manage and optimize databases and to maintain replica databases for recovery, performance, or availability purposes. Tools used to archive, mask, and subset database data also belong to this category. This category also includes database-specific accelerators, SQL optimization tools, database security, and other database utilities.
3	System Management	System Management software enables the management of all the computing resources for the end user, small business, workgroup, or enterprise, including systems, applications, and desktop and client devices. This category does not include storage management and other storage software.
4	Change and Configuration Management	Change and configuration management software provides management of system, client, desktop, mobile devices, and peripheral hardware and software assets but not network devices. Software for planning, tracking, and applying system hardware and software changes is also included, as is software distribution, hardware and software discovery and inventory, configuration management databases ("CMDBs"), license management, settings and state management, and auditing.
5	Distributed System Management	System management software is used to manage all the computing resources for the end user, small business, workgroup, or enterprise, including systems, applications, and desktop and client devices. This category does not include storage management and other storage software.
6	Archiving	Archiving software includes software that provides policy-based controls for copying, moving, purging (delete from primary storage), retaining (in read-only fashion for a defined period), and deleting (delete from secondary storage) data. The software may be deployed on-premise or consumed as a service from cloud-based archive service providers.

7	Message and Social Media Archiving Applications	Message and social media archiving applications offer automated and policy-based controls for storing, indexing, moving, retrieving, and deleting (from the application's primary storage) individual messages and document attachments, as well as content that has been captured (for business or compliance reasons) from social media (social platforms and social networking sites) that businesses use to communicate with customers and business partners
8	Distributed Virtual Server Management	Distributed Virtual Server Management software includes (i) Purpose-built software tools that specifically provide system management functions for virtual servers and/or workloads running on virtual servers, and (ii) Purpose-built adaptors, plug-ins, or modules sold as standalone products/SKUs that connect virtual server resources to general-purpose systems management tools that surround and interact with virtual server operations.
9	Performance and Availability Management	Performance and availability management software includes software tools routinely used in IT operations or by end users to manage the performance of the systems and the response of the systems to non-scheduled system and application events. Performance and availability management software comprises (i) performance management software and (ii) event management tools.
10	Distributed Server/ Workload Automation	Distributed server/workload automation software is a sub-category of worldwide workload scheduling and automation software. Distributed server/workload automation includes software running on distributed, non-mainframe platforms that enable dynamic automated physical and virtual server provisioning, workload and VM allocation and reclamation, self-serve cloud provisioning portals, run-book automation, and workflow orchestration products.
11	Storage	Storage software manages and assures the accessibility, availability, and performance of information stored on physical storage media. This category does not include operating systems or subsystems.
12	Data Protection and Recovery	Data protection software includes revenue from licensed software and online data protection services (also known as online backup) licensed in a subscription fashion. Data protection and recovery software is focused on protection, restoration, and recovery of data in the event of physical or logical errors. Included within the data protection and recovery category are data protection, continuous data protection ("CDP"), bare metal restore, virtual tape library ("VTL"), and backup/recovery reporting products.
13	Application and User Session Virtualization	Application and user session virtualization simplifies application management by minimizing the bind between an application and a user's desktop environment through the use of application virtualization or virtual user session software. The application and user session virtualization software market comprises two submarkets. Virtual user session ("VUS") software and Application virtualization software.

Source: Competition Authority based on IDC Competitive Analyses supplied by the parties.

The Quest categories in paragraph 7 relate to the IDC categories in Table 1 as follows:¹⁸

Both **Identity and Access Management** and **Database Management** are distinct IDC categories

Other Quest software categories in paragraph 7 fall under one or more of IDC's classifications. Specifically:

- **Windows Server Management** falls under (i) Change and Configuration Management software, (ii) Distributed System Management, (iii) System Management, (iv) Archiving and (v) Message and Social Media Archiving Applications.
- **Performance Monitoring** falls under (i) Performance and Availability Management, (ii) Distributed Server/Workload Automation and (iii) Distributed Virtual Server Management.
- **Data Protection** falls under the (i) Storage, (ii) Distributed Virtual Server Management and (iii) Data Protection and Recovery.
- **User Workspace Management** falls under (i) Change and Configuration Management and (ii) Application and User Session Virtualization.

¹⁸ Notification Form page 14.