



Determination No. M/05/008 of the Competition Authority, dated 24th March 2005, under Section 21 of the Competition Act, 2002

Notification No. M/05/008 – Proposed acquisition by Microsoft Corporation of Sybari Software, Inc.

Introduction

1. On 25th February 2005 the Competition Authority, in accordance with Section 18 (1) of the Competition Act, 2002 (“the Act”) was notified, on a mandatory basis, of a proposal whereby Microsoft Corporation (“Microsoft”) would acquire Sybari Software, Inc. (“Sybari”).

The Parties

2. Microsoft is involved in the design, development and supply of computer software and the supply of related services on a world-wide basis. Among Microsoft’s main software products are operating systems for client personal computer and for server computers and well as the “Office” applications software. In 2004, Microsoft’s turnover in Ireland was c. €[50-100]m, of which only a negligible amount related to security software solutions.
3. Sybari is a global provider of anti-virus and anti-spam enterprise security software solutions. Sybari’s technology is primarily mail server-based and does not reside on the operating system. It acts as a platform for various third party virus scanning products. Sybari does not have an office or subsidiary on the island of Ireland and sales to customers in Ireland are generated primarily from Sybari’s UK sales office. Its sales in Ireland in 2004 were c. €[less than 1]m.

Analysis

4. Customer enquiries in Ireland indicate that the transaction does not give rise to competition concerns in the State. Sybari’s principal customer in Ireland is a licence reseller: it resells Sybari’s products to its customers who are all or predominantly international. Enquiries show that Irish customers of Sybari are satisfied that demand for the products of other suppliers of anti-spam and anti-virus software, including McAfee and Symantec, will continue. The proposed transaction does not therefore give rise to competition concerns.



The Competition Authority
An tÚdarás Iomaíochta

Determination

The Competition Authority, in accordance with Section 21(2) of the Competition Act, 2002, has determined that, in its opinion, the result of the proposed acquisition by Microsoft Corporation of Sybari Software Inc. will not be to substantially lessen competition in markets for goods and services in the State and, accordingly, that the acquisition may be put into effect.

For the Competition Authority

Edward Henneberry
Member of the Competition Authority