

Section 57 of the Competition Act (Cap. 50B)

Grounds of Decision issued by the Competition Commission of Singapore

In relation to the notification for decision of the proposed acquisition by Accenture Pte Ltd of NewsPage Pte Ltd pursuant to section 57 of the Competition Act

31 Oct 2012

Case number: CCS 400/003/12

Confidential information in the original version of this Decision has been redacted from the published version on the public register. Redacted confidential information in the text of the published version of the Decision is denoted by [X]

I. Introduction

The notification

1. On 20 September 2012, Accenture Pte Ltd (“Accenture”) filed a notification pursuant to section 57 of the Competition Act (Cap. 50B) (the “Act”), applying for a decision by the Competition Commission of Singapore (“CCS”) as to whether the proposed acquisition by Accenture of 100% of the issued share capital in NewsPage Pte Ltd (“NewsPage”)(the “Transaction”), would infringe the section 54 prohibition of the Act.

2. To assess the Transaction, CCS sought further information from Accenture and NewsPage (collectively the “Parties”) regarding their supply of commercial front office software solutions for the consumer packaged goods (“CPG”) industry.¹ CCS also consulted with fifteen customers and eight competitors, including those based overseas to seek their views on the likely impact of the Transaction on competition.

3. Responses were received from two competitors and five customers. A number of third parties who responded to CCS provided general comments on the nature of the market and the Transaction. Two respondents did not provide a specific response to CCS’ queries, but indicated that they had no concerns regarding the Transaction.² None of the third parties who responded raised objections to the Transaction.

4. At the end of the consultation process and after evaluating all the evidence provided to CCS, CCS has concluded that the Transaction, if carried into effect, will not infringe section 54 of the Competition Act.

II. The Parties

Accenture

5. Accenture, based in Singapore, is a wholly-owned subsidiary of Accenture plc³ Accenture plc, its affiliates, and subsidiaries (collectively the “Accenture Group”) provide management consulting services, as well as technology and outsourcing services.⁴ While the Accenture Group has three entities based in Singapore, namely Accenture, Accenture Technology Solutions Pte Ltd and Avanade Asia Pte Ltd⁵, these entities provide only management consulting services and outsourcing services.⁶

¹ Responses were received from Accenture and NewsPage on 3 October, 11 October and 15 October 2012.

² [§<]

³ Paragraph 10.5 of Form M1.

⁴ Paragraph 10.10 of Form M1.

⁵ Paragraph 10.1 of Form M1.

⁶ Telephone conference note of meeting with Accenture dated 11 October 2012.

6. Accenture's technology service solutions for Singapore customers, which consist of a wide variety of mainly systems integration services and other related technology services, are currently provided by overseas subsidiaries of Accenture plc. In particular, the Accenture Group offers commercial front office software solutions to CPG companies⁷, such as [X], through its acquisition of CAS Computer Anwendungs-und Systemberatung AG in December 2010.⁸

7. Accenture submits that the total (group) worldwide turnover for the Accenture Group in the financial year ending 31 August 2011 was US\$27.353 billion (S\$34.66 billion)⁹, and the total (group) turnover for the Accenture Group in Singapore in the financial year ending 31 August 2011 was [X], accounting for [X] of Accenture Group's total global turnover.¹⁰ In respect of commercial front office software solutions supplied to the CPG industry, the Accenture Group made [X] from support services in Singapore for the financial year ending August 2011.¹¹

NewsPage

8. NewsPage is a provider of software products and services to manage and facilitate the automation of systems and processes for products of CPG companies, using mobile technology platforms and devices such as smartphones.¹² NewsPage is headquartered in Singapore. It utilises a strong global network of local partners across the world to provide business consulting, implementation and support services¹³ for its customers who are primarily based outside of Singapore.¹⁴

9. The total (group) worldwide turnover for NewsPage in the financial year ending 31 December 2011 was [X].¹⁵ The total (group) turnover for NewsPage generated from Singapore customers in the financial year ending 31 December 2011 was [X] accounting for [X] of NewsPages' global turnover.¹⁶ In respect of commercial front office software solutions supplied to the CPG industry NewsPage's sales in 2011 was [X] in Singapore for the financial year ending 31 December 2011.¹⁷

III. The Transaction

10. The Transaction is the acquisition of sole control by Accenture through an acquisition of 100% of the ordinary share capital of NewsPage. The Transaction is

⁷ CPG companies are companies that supply products that are sold quickly and at relatively low cost. Examples include non-durable goods such as soft drinks, toiletries, and grocery items.

⁸ Paragraph 10.6 of Form M1.

⁹ Paragraph 13.1 of Form M1. Footnote 2 of Form M1.

¹⁰ Paragraph 13.3 of Form M1.

¹¹ Paragraph 16.2 of Form M1 and paragraphs 1.33 and 1.47, Annex 1 of Accenture letter dated 3 October 2012 responding to CCS inquiries.

¹² Paragraph 1.6, Annex 2 of Accenture's letter to CCS dated 3 October 2012 responding to CCS inquiries.

¹³ Paragraph 10.8 of Form M1. See also NewsPage website <http://www.newspage.com.sg/partners.html>.

¹⁴ Telephone conference note of meeting with NewsPage dated 11 October 2012.

¹⁵ Paragraph 13.2 of Form M1.

¹⁶ Paragraph 13.4 of Form M1.

¹⁷ Paragraph 22.2 of Form M1.

subject to CCS issuing a favourable decision that the acquisition does not infringe section 54.¹⁸ The Transaction has been notified only to CCS.¹⁹

11. Accenture submits that the Transaction will enable the Accenture Group to further develop its consumer goods and services strategy for commercial front office solutions (i.e. sales, trade management and retail execution). The Transaction will also enable Accenture to close current product portfolio gaps with a product offering related to business requirements of the emerging markets. Accordingly Accenture submits that the Accenture Group will be better able to offer a global sales platform to CPG customers, which are increasingly focused on investments into emerging markets operations.²⁰

12. Given that the Transaction is an acquisition for sole control, the Transaction constitutes a merger pursuant to section 54(2)(b) of the Act.²¹

IV. Competition Issues

13. Accenture submits that the areas of overlapping business between Accenture and NewsPage in Singapore are in the supply of commercial front office software solutions for the CPG industry (“CPG Front Office Solutions”).²² Accenture further submits that CPG Front Office Solutions, which the Parties overlap in, would fall within the scope of Client Relationship Management (“CRM”) software and Supply Chain Management (“SCM”) software.²³ For example, Direct Store Delivery (“DSD”) and Express DMS, supplied by Accenture and NewsPage respectively, have overlapping CRM and SCM software functionalities.²⁴

14. In evaluating the potential impact of the Transaction, CCS has considered whether the Transaction will lead to coordinated or non-coordinated effects that would substantially lessen competition within any markets in Singapore.

V. Relevant Market

(a) Product Markets

¹⁸ Paragraph 11.7 of Form M1.

¹⁹ Paragraph 5.1 of Form M1.

²⁰ Paragraph 12.1 of Form M1.

²¹ Section 54(2)(b) provides that a merger occurs if “one or more persons or other undertakings acquire direct or indirect control of the whole or part of one or more other undertakings”.

²² Paragraph 15.1 of Form M1.

²³ Paragraph 19.9 of Form M1. The key differences between the products offered by NewsPage and those offered by Accenture are functionality and price; Accenture submit that its products which are [X] are more sophisticated and have a richer functionality.

²⁴ Telephone conference note of meeting with Accenture dated 11 October 2012 and telephone conference note of meeting with NewsPage dated 11 October 2012.

15. Accenture submits that the relevant product markets should, at the narrowest, be defined as:

- i. the market for the design, production and distribution of CRM software; and
- ii. the market for the design, production and distribution of SCM software.²⁵

16. Accenture explains that CRM software encompasses applications that automate customer-facing business functions (i.e. sales, marketing, customer services and support, call centres, and processes related to the automation of sales, order processing, contact management, information sharing, inventory monitoring and control, order tracking, sales forecast and analysis etc).²⁶ On the other hand, SCM software encompasses applications that automate the process of planning, producing and delivering a good or service to market (i.e. supply planning, manufacturing, order fulfilment, distribution and logistics, sourcing and procurement).²⁷

17. CRM and SCM software are used by CPG companies for the distribution management, field sales automation and merchandising operations of CPG products. Such software solutions are used to facilitate the tracking of sales and distribution of products from CPG companies through distributors and retailers to reach consumers.²⁸

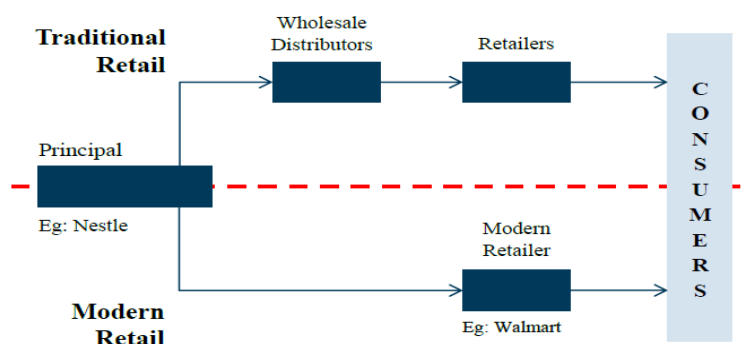


Diagram 1. Flow of goods from principal to consumer under traditional and modern retail model²⁹

18. Accenture submits that CPG Front Office Solutions are generally not offered as an off-the-shelf product, and that prices will ultimately depend on factors such as the extent of customisation required, the size of the planned implementation and the level of support to be provided. For example, the degree of customisation can vary significantly between customers from hundreds to thousands of working days.³⁰ Accenture estimates that for a typical implementation of its products, [3<] of the software will be comprised of the standard “off the shelf” solution.³¹

²⁵ Paragraph 20.1 of Form M1.

²⁶ Paragraph 19.8 of Form M1. See also paragraph 1.3 of Accenture’s letter to CCS dated 3 October 2012 responding to CCS inquiries.

²⁷ Paragraph 19.8 of Form M1. See also paragraph 1.3 of Accenture’s letter to CCS dated 3 October 2012 responding to CCS inquiries.

²⁸ Paragraph 19.1 of Form M1.

²⁹ Paragraph 18.1 of Form M1.

³⁰ Paragraph 1.21, Annex 1 of Accenture’s letter to CCS dated 3 October 2012 responding to CCS inquiries and paragraph 19.12 of Form M1.

³¹ Paragraph 1.23 Annex 1 of Accenture’s letter to CCS dated 3 October 2012 responding to CCS inquiries.

19. CCS notes that various products of Accenture and NewsPage's CPG Front Office Solutions may have functionalities of both CRM and SCM software. For example, Accenture's product "Retail Execution" enables the automation of communication between central sales planning unit of the principal and the sales force who execute the plan.³² However CCS also notes that the attributes and functions of CRM and SCM software differ. CRM and SCM products are likewise recognised to have different functionalities in the European Commission's (EC) decision in Case No. COMP/M.3216 - *Oracle/Peoplesoft*.³³ Furthermore, suppliers of CRM products do not necessarily also supply SCM products or *vice versa*.³⁴ Nor do customers who purchase a CRM software product necessarily purchase an SCM product or *vice versa*.³⁵

20. Third-party responses show that customers use CPG products where they supply goods directly to retailers or where they use third-party distributors. Customers can use CRM and SCM solutions from different companies for the different functions that they require.³⁶ Customers procure CRM and SCM software solutions by direct purchasing on-line, quotations or through a tender process.³⁷ The duration of a contract can vary between a period of [X] and the software product is usually provided either by way of a licence or subscription.³⁸ Tender processes are most commonly used by large businesses who set out in their tender the specifications which they require.

21. Responses from third parties also indicate that customers who purchase these software products require a level of customisation to suit their business needs and that the needs for a developed market can differ from those of an emerging market. The level of customisation required can differ significantly from minimal customisation of off-the-shelf products to new software development altogether.³⁹ Furthermore, even if a business has purchased a CRM or SCM global software solution, whether that solution is "rolled out" to local subsidiaries can vary.⁴⁰

22. CCS also notes that Accenture has submitted that the supply of SCM and CRM design, production and distribution fall under the same market as these activities are interconnected and typically undertaken by the same entities.⁴¹ Third-party responses confirm all three activities can be, and usually are, conducted by the same entity.⁴² CCS notes that in contrast, implementation can be carried out by another company and

³² Telephone conference note of meeting with Accenture dated 11 October 2012.

³³ European Commission Case No. COMP/M.3216-*Oracle/Peoplesoft*, paragraph (18).

³⁴ [X]

³⁵ [X]

³⁶ [X]

³⁷ [X]

³⁸ Paragraph 25.1.1 of Form M1. [X]

³⁹ [X]

⁴⁰ [X]

⁴¹ Paragraph 1.41 of Annex 1 of Accenture's letter to CCS dated 3 October 2012 responding to CCS inquiries.

⁴² [X]

that Accenture itself implements software products for a number of companies who are its competitors in the supply of CRM and SCM products. [REDACTED].⁴³

23. In view of the information received from the Parties and responses from third parties, CCS has considered various alternative product market definitions. However in the final analysis, as the merger is unlikely to lead to competition concerns under alternative possible product market definitions, CCS considers that a precise market definition is not necessary in the present case.

(b) Geographic Markets

24. Accenture submits that the relevant geographic market is worldwide in scope.⁴⁴ Accenture submits that most competitors to the Parties for CPG Front Office Solutions are global competitors and software products are typically not designed and developed locally to the place of implementation.

25. Accenture submits that CPG companies can procure software solutions on a global basis for regional and global roll-outs,⁴⁵ and that transport and distribution costs across geographical borders are negligible for CRM and SCM software. Nor do software vendors require a physical presence in all locations where customers are present, as Accenture submits that software may be implemented and serviced by third party implementation partners, or delivered to customers through software as a service (“SaaS”) model.⁴⁶ Accenture cites the EC’s decision in Case No. COMP/M.4944 – *SAP/Business Objects*, where the EC found that vendors of software products generally sell the same products across countries as customer demand does not vary across regions except for the requirement to offer and support the product in the local language, to support its submission.⁴⁷

26. Based on the Parties’ submissions and responses from third parties, the location of the software provider does not appear to be a determinative factor in respect of CRM and SCM products. Customers commented that while a local presence is advantageous, they would consider vendors located overseas.⁴⁸ Most of NewsPage’s customers are based overseas. Where NewsPage does not have a local office, it will often use a local partner. Customers who responded with a preference for a local vendor or a vendor within the same time zone said that it was for better coordination.⁴⁹ Similar feedback was provided by competitors who likewise noted that while their software products can easily be provided to different countries, customers may prefer to have a local vendor for the implementation and support associated with the software.⁵⁰

⁴³ [REDACTED]

⁴⁴ Paragraph 20.2 of Form M1.

⁴⁵ Paragraph 19.17 of Form M1. For example, NewsPage’s CPG Front Office Solutions have been rolled out in countries such as [REDACTED].

⁴⁶ Paragraph 19.18 of Form M1.

⁴⁷ Paragraph 19.19 of Form M1.

⁴⁸ [REDACTED]

⁴⁹ [REDACTED]

⁵⁰ [REDACTED]

27. Based on the information submitted by the Parties and responses from third parties, customers appear well able to source the relevant product globally. Suppliers from overseas are able to compete in Singapore to provide their software products. CCS is consequently of the view that the scope of the relevant geographical market is likely to be global. However as CCS is of the view that no competition issues arise from the Transaction, there is no need to precisely define the relevant geographic market.

VI. Market Structure

(a) Market shares and market concentration

28. Accenture estimates that the total size of the worldwide market for CPG Front Office Solutions worldwide in 2011 to be approximately [X]. This consists of approximately [X] for developed markets and approximately [X] for emerging markets.⁵¹ Accenture estimates its market share to be [0-10]% for developed markets and approximately [0-10]% for emerging markets.⁵² Accenture submits that their general market sense is that global competitors for CPG Front Office Solutions, such as SAP and Oracle, have [0-10]% market share for CPG customers in emerging markets.⁵³ Market share estimates by third parties are not available to Accenture.⁵⁴

29. Accenture submits that in respect of the size of the market in Singapore it is unable to provide estimates of the size of the market in Singapore for the financial years ending in either 2011 or 2012.⁵⁵ Accenture itself had [X] from technological product support in Singapore. Accenture does not have any customer that have procured CPG front office software solutions globally, that have “rolled out” or are intending to “roll out” the software solutions in Singapore.⁵⁶ Nor has Accenture undertaken any implementation of their competitors’ products in Singapore with similar functionalities as Accenture’s products.⁵⁷

30. In relation to NewsPage, Accenture submits that sales of their products in Singapore have [X]: in 2009 sales totaled [X], in 2010 sales totaled [X], in 2011 sales totaled [X], and in 2012 sales totaled [X].⁵⁸ NewsPage indicates that at present it has [X] in Singapore for the following companies: [X].⁵⁹ NewsPage has an estimated [X] licensed end users worldwide.⁶⁰

⁵¹ These estimates are based on Accenture’s estimate that the addressable market for the Accenture Group’s CAS business is the [X].

⁵² Paragraph 21.4 of Form M1.

⁵³ Paragraph 21.7 of Form M1.

⁵⁴ Paragraph 21.5 of Form M1.

⁵⁵ Paragraph 22.1 of Form M1.

⁵⁶ Paragraph 1.39 of Annex 1 of Accenture letter dated 3 October 2012 responding to CCS inquiries. Telephone conference note of meeting with Accenture dated 11 October 2012.

⁵⁷ Letter from Accenture dated 15 October 2012.

⁵⁸ Paragraph 22.2 of Form M1.

⁵⁹ Telephone conference note of meeting with NewsPage dated 11 October 2012.

⁶⁰ Telephone conference note of meeting with NewsPage dated 11 October 2012.

31. Responses from competitors indicate there exist a large number of players in the market ranging from medium to large software suppliers including SAP, Oracle and Salesforce to smaller software suppliers.⁶¹ Customers likewise indicate that there are a range of CRM and SCM suppliers available.⁶² One customer mentioned that they had more than five potential providers for their software tender for [X].⁶³

32. Given Accenture's current position with [X] from support services in Singapore, the Parties' post merger market shares are likely to remain low and under each alternative market definitions, likely to fall below the indicative thresholds of the CCS Guidelines.⁶⁴

(b) Barriers to entry and expansion

33. Accenture submits that the capital expenditure required for a company with the necessary technology and expertise to develop equivalent software products as those offered by NewsPage to be approximately [X] and would require a company like Accenture at least [X] to develop such products.⁶⁵ Accenture submits however that there are negligible capacity constraints on competitors to license CRM and SCM solutions to customers as capacity for software solutions is highly expandable.⁶⁶

34. Responses from competitors indicate that costs will vary depending on the approach of a business to enter the market; whether they enter as a new competitor or expand their existing product offering.⁶⁷ One competitor also indicated that while entry barriers may be perceived as low, the ongoing client relationship between vendor and client in the period of the contract, which can be of a few years can provide a useful insight for the incumbent provider to have information early on as to the changing considerations of the client and their software solution requirements for future.⁶⁸ Responses from customers indicate that switching suppliers may not be easy, due to factors such as retraining for all users, resistance by business partners, business disruption and investments that have already been made.⁶⁹

35. It has not, however, been necessary for CCS to conclude on the likelihood of new entry, or the significance of barriers to entry or switching costs, given the number of suppliers currently in the market offering viable alternatives to the proposed merged entity.

⁶¹ [X]

⁶² [X]

⁶³ [X]

⁶⁴ Paragraph 5.15 of CCS Guidelines on the Substantive Assessment of Mergers. The CCS is generally of the view that competition concerns are unlikely to arise in a merger situation unless: the merger entity will have a market share of 40% or more; or the merged entity will have a market share of between 20% to 40% and the post-merger CR3 is 70% or more.

⁶⁵ Paragraph 26.1 of Form M1.

⁶⁶ Paragraph 34.9 of Form M1.

⁶⁷ [X]

⁶⁸ [X]

⁶⁹ [X]

(c) Countervailing buyer power

36. Accenture submits that the key customers of CPG Front Office Solutions are large sophisticated CPG customers who typically have global large scale operations. Key customers to the Parties include large multinational CPG companies such as [X]. Accenture submits that such large CPG companies are well informed on the wide range of competitive options available.⁷⁰

Responses from third parties also note that customers who use CRM, SCM products tend to be large multinational companies.⁷¹ These companies procure their CRM or SCM software usually by way of tender⁷² and enjoy a position of countervailing bargaining strength in respect of the contracts negotiated, especially as there exist a number of alternative software suppliers for these companies.

37. From CCS' inquiries and the submissions received from the Parties, CCS is of the view that the ability of the merged entity to raise prices may be constrained particularly in the case of large customers who are well resourced and well informed about the products they require and the suppliers available to them.

VII. Assessment of Effects on Competition

(a) Non-coordinated effects

38. Concerns regarding non-coordinated effects may arise where, as a result of the Transaction, the merged entity finds it profitable to raise prices (or reduce output or quality) because of the loss of competition between the merged entities. A concern was also highlighted to CCS that Accenture, as an important IT partner for many large clients in the implementation of their software solutions, may bundle their CPG Front Office Solutions with the other solutions that they provide to their clients.⁷³

39. In this case, globally and within Singapore the merged entity is likely to be constrained by a number of large competitors, such as SAP and Oracle, as well as by a number of smaller players.⁷⁴ CCS notes that although market participants will have the intellectual property rights to the software that they develop, the Transaction will not impede competitors from developing their own CRM and SCM software solutions for customer requirements. CCS also notes that vendors have the ability to expand the number of licenses issued easily.

40. There also exists a degree of countervailing power, particularly in respect of large customers. As explained above, large sophisticated buyers typically source from

⁷⁰ Paragraph 34.10 of Form M1.

⁷¹ [X]

⁷² [X]

⁷³ [X]

⁷⁴ [X]

a number of vendors or develop their own in-house software solutions tailored for their business needs.⁷⁵ These buyers generally purchase their software solution based on tenders, and given the number of alternative suppliers, are able negotiate prices with vendors.

41. CCS is consequently of the view that due to the Parties' low market shares, the presence of strong countervailing buyer power and the presence of numerous competitors, the Transaction is unlikely to result in non-coordinated effects.

(b) Coordinated effects

42. Given the characteristics of the market, whether defined on a broad or narrow basis, CCS is of the view that the Transaction will not lead to coordination being more likely or successful. While Accenture has existing relationships with several of their competitors such as SAP, Oracle through its role in implementing competitors products or providing maintenance services for competitors' products,⁷⁶ the market (whether defined broadly or more narrowly) is fragmented and characterized by a number of differing players with a range of non-homogenous products which are usually customized to varying degrees for customers.

43. Secondly, a fundamental characteristic of this market is that it is subject to a tender process; demand fluctuates over time with customers often entering into long-term contracts of between [X] years making it difficult for competitors to coordinate on either price or output.⁷⁷ This is reflected in both the Parties and third-parties' difficulties in estimating market shares. Thirdly, prices in the market are not transparent as large customers usually use a tender process and the customization necessary is likely to affect the cost of the CRM or SCM product purchased.

44. These factors indicate that while the Transaction reduces the number of market participants, it would be difficult for market participants to align their behavior in the market to make coordination possible.

VIII. Ancillary restraints

45. Accenture has notified a restriction to CCS in clauses 6.1 to 6.3 of the Share Purchase Agreement which sets out that [X].

46. CCS has considered these [X] clauses and is of the opinion that they are directly related and necessary to the implementation of the agreement. Consequently they fall under the exclusion in paragraph 10 of the Third Schedule to the Act.

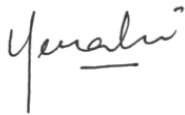
⁷⁵ [X]

⁷⁶ [X]

⁷⁷ Paragraph 25.1.1 of Form M1. [X]

IX. Conclusion

47. For the reasons detailed above and based on the information available to the CCS, CCS has assessed that the Transaction, if carried into effect, will not infringe the section 54 prohibition.

A handwritten signature in black ink, appearing to read 'Yena Lim', with a horizontal line underneath the name.

Yena Lim
Chief Executive
Competition Commission of Singapore