Completed acquisition by Care Monitoring & Management Limited of Panztel Limited

ME/6388-14

The CMA's decision on reference under section 22(1) given on 9 May 2014. Full text of the decision published on 17 June 2014.

Please note that the square brackets indicate figures or text which have been deleted or replaced in ranges at the request of the parties for reasons of commercial confidentiality.

Summary

1. Care Monitoring & Management Ltd (CMML) is the parent company of CM2000. CMML acquired sole control of Panztel Limited (Panztel) on 4 October 2013 and the transaction was made public on 7 October 2013. The Parties have ceased to be distinct. The parties together supply in excess of one quarter of electronic homecare monitoring products to local authorities in the UK. The CMA considers that a relevant merger situation has therefore been created.

2. The parties overlap in the supply of Electronic Homecare Monitoring systems. These systems can be supplied in two forms: centralised and devolved. The parties are two of only three providers active in the supply of 'centralised' monitoring systems for the monitoring of home care commissioned by local authorities (LAs) and delivered by external care providers, and have a high combined share in this segment – approximately [75-85]%. However, the CMA considers that the parties are subject to strong remaining constraints within a changing market. These include the switching, or threat of switching, by LAs, to hybrid and devolved models of monitoring where there are many more providers present, the likely entry of one devolved model provider into the centralised model, and the threat of entry by further devolved model providers.

3. The CMA considers that these constraints, taken together, are sufficient to ensure that no realistic prospect of a substantial lessening of competition will arise as a result of the merger.

Decision

4. This merger will therefore **not be referred** under section 22(1) of the Enterprise Act 2002 (the **Act**).

Parties

5. Care Monitoring & Management Ltd (CMML) is the parent company of CM2000, which provides homecare monitoring, scheduling and financial management solutions to LAs, and private and third sector care providers.

6. Panztel provides monitoring and scheduling services for homecare, similar to those offered by CM2000. Panztel also provides electronic monitoring services for customers in building services, recruitment and other lone working sectors. Panztel has operations in the UK, New Zealand and Australia. Its UK turnover for the year ended 31 December 2013 was £[✂] million.

Transaction

7. CMML acquired Panztel on 4 October 2013 and the transaction was made public on 7 October 2013. The transaction was not notified to the Office of Fair Trading (now the CMA)[1] by the parties and the merger was examined following the receipt of a complaint.

8. The CMA has not received a satisfactory submission in this case and therefore the administrative timetable did not commence. The four-month statutory period from the date that the completed transaction was made public has been overridden, as a result of a Section 25(2) notice. The administrative timetable for a decision has not been started.

Jurisdiction

As a result of this transaction CMML and Panztel (the parties) have ceased to be distinct. The parties overlap in the supply of Electronic Homecare Monitoring systems, where they have an approximate [75-85]% share of supply of 'centralised' monitoring systems to LAs for the monitoring of home care commissioned by the LA and delivered by external care providers. The share of supply test in section 23 of the Enterprise Act 2002 (the Act) is therefore met.

[1] The Competition and Markets Authority (CMA) was established on 1 October 2013. By virtue of the Enterprise and Regulatory Reform Act 2013, the Office of Fair Trading's functions were transferred to the CMA on 1 April 2014.

The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.

Frame of reference

Market background

9. LAs with responsibility for social care, pay for in-home care visits for service users in their areas. These visits may be delivered by in-house LA care teams, which often focus on intensive ‘reablement’ services, but for many authorities the majority of care is delivered by external care providers. A LA will usually procure home care from multiple external care providers. The number of care providers used by LAs can vary significantly and the providers range in size from small local organisations employing a few carers to large national organisations.

10. The parties offer two related categories of technology which are used in the delivery of home care: scheduling and electronic call monitoring (ECM). Broadly speaking, scheduling systems are used to plan carer visits, while monitoring systems are used to verify that carer visits have taken place, and to monitor and record times of arrival and departure. Across different technology providers:

    - these systems may offer various additional functionality that supports the business processes of LAs and/or care providers;

    - scheduling and monitoring may be offered as one integrated system from a single technology provider; or

    - scheduling and monitoring may be purchased from separate providers, and adjustments can be made so that the two systems (and others) can interoperate, for example so as to reconcile those visits which are commissioned, planned and verified.

11. In respect of scheduling, the purchasing decision is always made by the care provider, whether this is a LA for its in-house care team, or an external care provider.

12. In respect of monitoring, LAs may choose to:

    - Have no requirement for monitoring – the CMA understands from the parties and third parties that this approach is becoming increasingly uncommon.

- Require that their external care providers purchase and use a monitoring system, but leave the choice of monitoring technology open for the care provider to make, although the council may request that it be provided with data from the system, in a specific format (the ‘devolved model’).

- Purchase a specific monitoring system themselves, and require each of their external care providers to use this same system (the ‘centralised model’).

- Procure a centralised reporting and arbitration function, but devolve the monitoring purchase to the care providers (the ‘hybrid model’).

13. The model choice selected by a local authority generally determines that LA’s scheduling and monitoring and associated technology requirements, including system interfaces. The CMA notes that customer segmentation – here between LAs operating a centralised or hybrid model and LAs operating a devolved model – may be appropriate when firms have the ability to price discriminate such that the effects of the merger on competition to supply a targeted group of customers (centralised and hybrid LAs) may differ from its effects on other groups of customers (devolved LAs). In this case, suppliers are aware of the model operated by any given LA. The CMA’s starting point has therefore been to consider the devolved model separately from the hybrid and centralised models (and within each of these, where applicable, scheduling and monitoring, for external and in-house care teams).

Product frame

Devolved system

14. Within LAs that use the devolved model the parties:

    - Supply systems to LAs for them to schedule visits made by their in-house care teams.
    - Supply systems to LAs for them to monitor their in-house care teams.
    - Supply systems to external care providers for monitoring in LA contracts under a devolved model (and in private contracts).
    - Do not supply scheduling systems to external care providers.

15. Taking any of these devolved-model products as starting points, it has not been necessary to conclude on the frame of reference for assessing competition in the sale of monitoring and/or scheduling systems, since no competition concerns are raised by the merger on any basis.

Centralised system

16. Within centralised models, the parties supply:

    - Scheduling systems to LAs for visits made by their in-house care teams.
    - Monitoring systems to LAs for in-house care teams.
    - Monitoring systems to LAs for supply to external care providers.

17. The CMA has considered the extent to which monitoring and scheduling can be considered together as part of the same relevant market, and if monitoring for in-house and external providers care providers can be considered together as part of the relevant market.

Monitoring and scheduling

18. Monitoring and scheduling systems for in-house provision under the centralised model are not substitutes on the demand-side (or supply-side) – since a system which is designed only to do scheduling cannot do monitoring (or vice versa).

19. The parties submitted that scheduling for in-house teams is distinct from monitoring (for in-house staff and external providers) as separate systems are usually used for the two functions, the systems provide different functionality and the contracts are procured separately. Figures provided by the parties show that of 51 LAs that currently operate a centralised model, [✂] ([45-55]%) have the same supplier for in-house scheduling and ECM for in-house staff while the remainder use separate suppliers. Of the 12 tenders issued in the last two years relating to the centralised model, seven included both in-house ECM and scheduling. This data suggests that some LAs have a preference for purchasing in-house monitoring and in-house scheduling from the same supplier. Some third parties suggested that, for some LAs, this preference is strong.

20. The CMA therefore takes a cautious approach and considers the possible effects of the merger (in the centralised model) on the bundled purchase of in-house scheduling and in-house monitoring, as well as the effects on in-house scheduling purchased separately from monitoring, and the effect on in-house monitoring purchased separately from scheduling.[2]

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[2] Note that should no competition concerns arise in the assessment of the supply of monitoring on its own, no competition concerns would arise in the supply of monitoring and scheduling together, as those suppliers that can provide both are limited to those that can supply monitoring. A larger range of suppliers is present in the supply of scheduling.

Monitoring of external providers and in-house teams

21. The CMA has received evidence from the parties and third parties, that from the demand-side, all products currently in use for monitoring external providers in the centralised model can also be used for monitoring in-house care teams, but that not all products in use by LAs for monitoring in-house care teams are suitable for monitoring external providers in a centralised model.

22. The parties submitted that monitoring for external providers and monitoring for in-house staff should be considered separately. They submitted that separate suppliers service each and the contracts are generally tendered separately (albeit simultaneously). Figures provided by the parties show that of the 51 LAs currently operating a centralised model, [✂] ([60-70]%) have the same supplier for in-house ECM and external provider ECM. In the [✂] tenders in the last two years relating to the centralised model, [✂] covered both in-house and external ECM. This data suggests that some LAs have a preference for purchasing in-house and external ECM from the same provider. Some third parties suggested that, for some LAs, this preference is strong.

23. The CMA therefore takes a cautious approach and considers the possible effects of the merger (in the centralised model) on the bundled purchase of in-in-house and external ECM, as well as the effects on in-house ECM purchased separately from external ECM, and the effect on external ECM purchased separately from in-house ECM.[3]

Geographic frame of reference

24. All competitors who responded to the CMA's market investigation considered that the conditions of competition are broadly similar across the UK, although it was reported that CM2000 has been particularly successful in Scotland, [✂]. The parties also submitted that in Scotland and Northern Ireland a higher proportion of care is delivered by in-house LA care teams. Competitors indicated that entry from outside the UK would involve some difficulties including restrictions relating to the storage of sensitive client data offshore.

25. The CMA therefore considers that the UK is the appropriate geographic frame of reference.

[3] Note that should no competition concerns arise in the assessment of the supply of monitoring for external providers on its own, no competition concerns would arise in the supply of monitoring for external providers and in-house teams together, as those suppliers that can provide both are limited to those that can supply external monitoring. A larger range of suppliers are present in the supply of monitoring for in-house teams.

Counterfactual

26. The CMA assesses the merger's impact relative to the situation that would prevail absent the merger (that is, the counterfactual). In practice, the CMA generally adopts the pre-merger conditions of competition as the counterfactual against which to assess the impact of the merger. However, the CMA will assess the merger against an alternative counterfactual where, based on the evidence available to it, there is a realistic prospect of a counterfactual that is more competitive than prevailing conditions.[4]

27. The CMA has considered whether to adopt an alternative counterfactual [✂].

28. [✂]. [✂]. [✂].[5] [✂]. [✂].[6] [✂].

29. As a result, the CMA considers it appropriate to take as the relevant counterfactual a situation in which Panztel exercises a constraint on CM2000, both through retaining existing customers, and – [✂] – through competing for new customers in the centralised model. Following from this, in assessing the competition lost as a result of the merger, the CMA places more weight on evidence of the nature of competition between the parties prior to [✂].

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[4] See *Mergers Assessment Guidelines*, paragraph 4.3.5 *et seq.*
[5] [✂]
[6] [✂]

Competitive assessment

Market size and market shares

30. The parties submitted that of the 213 local authorities in the UK, 51 use the centralised model for monitoring external care providers, with a further four due to start in the next 12 months. 53 use the devolved model and the remaining 105 are thought not to currently use an electronic system. The parties also provided evidence on the number of contracts held by themselves and, where known, by competitors, which the CMA has broadly verified with third parties.

Table 1: Parties' shares of supply

	External Centralised ECM (LAs)	In-house monitoring (centralised and devolved) (LAs)	In-house scheduling (centralised and devolved) (LAs)	Devolved monitoring for external providers (care providers)
CM2000	[✂] ([55-65]%)	[✂] ([35-45]%)	[✂] ([20-30]%)	[✂] ([10-20]%)
Panztel	[✂] ([15-25]%)	[✂] ([10-20]%)	[✂] ([0-10]%)	[✂] ([5-15]%)
Combined	**[✂] ([75-85]%)**	**[✂] ([45-55]%)**	**[✂] ([25-35]%)**	**[✂] ([15-25]%)**
All	55 LAs (100%)	100 LAs (100%)	155 LAs (100%)	~1300 care providers (100%)

Source: the parties.

31. The parties' shares of supply, and increment, for in-house team scheduling and for monitoring in the devolved model are low and therefore do not raise *prima facie* competition concerns. Customers and competitors that the CMA contacted did not raise concerns about these segments, and considered that there were a large number of providers competing in these segments. As there is no realistic prospect of a substantial lessening of competition, these segments are not considered further.

32. As set out in paragraph 21, the CMA considers that monitoring products for external-users are demand-side substitutes for in-house, but not vice-versa. This means that the set of providers of in-house monitoring includes all those that can offer external monitoring, plus others. As a result, if no competition concerns arise in respect of the supply of external monitoring, there would be none for in-house monitoring, or for bundles including both in-house and external monitoring. For this reason, the remainder of the assessment is focused on the provision of external monitoring under the centralised model.

Centralised model – external monitoring

33. The CMA has, first, considered the extent of current competition between the parties and other suppliers, before then considering a number of competitive constraints it expects the parties to face post-merger, including the ability of LAs currently using the centralised model to switch to the devolved or hybrid models, enabling them to source from a significantly greater number of suppliers and take advantage of improved technology, and the potential entry (and the threat of entry) into the centralised model by some of the many providers present in the devolved model.

Current competition between the parties and other suppliers

34. The parties have high combined shares of supply by volume in the external centralised model, of approximately [75-85]%, with an increment of [15-25]%.

35. The parties provided evidence on the contracts for a centralised model that each of them has bid for between January 2012 and November 2013,[7] although they were unable to provide information on which other suppliers had also bid for these contracts. This bidding data, in Table 2, shows that among the [✂] centralised contracts for which CM2000 bid over the period, Panztel also bid in at least [✂] tenders, [✂]. In addition, Panztel had [✂] [8] centralised monitoring contracts extended without a tendering process.

36. This data suggests that Panztel was a weaker competitor in both 2012 and 2013 than its current share of supply suggests – that is, [✂].

Table 2: Bidding data from the parties

Contracts tendered for centralised external monitoring	2012	2013
CM2000 bids	[✂]	[✂]
CM2000 Wins	[✂]*	[✂]**
Panztel bids	[✂]	[✂]
Panztel wins	[✂]*	[✂]

* [✂].

** In two cases the tenderer subsequently cancelled the tender – [✂]

37. The CMA also received comments from LAs including eight that had awarded contracts earlier than 2012 (the earliest being 2006). Among these eight, in the four cases where information on ranking was given, CM2000 and Panztel were placed first and second, or one or other was described by the LA as the 'main

[7] [✂]
[8] [✂]

competitor'. Overall, LAs listed a small number of other competitors by name, and many LAs noted that they invite bids from all suppliers listed on the ESPO framework.[9] Some of these alternative providers told the CMA that they generally bid when invited to do so.

38. The CMA is aware of one other provider that has current customers of a centralised ECM system and that is also bidding for new custom, Advanced Health and Care (ACS) through its Staffplan product. The parties submitted that ACS has a [5-15]% share of councils currently using a centralised model. This figure has been broadly corroborated through the CMA's enquiries.

39. [✂] ('Codebox'),.[10] [✂.] However, competitors indicated that this technology is not essential, given that it is only used in a small proportion of instances, and LAs tolerate a certain proportion for unverified visits. LAs also noted that some visits are not verified. Competitors also noted that it is possible for carers to use their own mobile phones to log the time of arrival and departure through the standard landline monitoring phone-number.

40. The parties also listed two other providers as serving one council each under the centralised model, although evidence from these firms suggests that they are not actively competing for customers in the centralised model.

41. That Panztel and ACS are the main competitors in tendering for LA work under the centralised model is supported by internal documents from CM2000.[11] Internal documents also showed that CM2000 believed it was the 'market leader' in the sector,[12] that its only major contract loss was to [✂], [13] and that Panztel has played a part in driving innovation by CM2000, who has looked to roll out additional products in response to rivals (including Panztel) copying its functionality.[14] That Panztel and ACS are the main competitors in this segment was also supported by comments from care providers and monitoring providers.

Constraints from LAs switching away from the centralised model

42. The CMA considers, first, the relative benefits of the centralised, devolved and other models and, second, the extent of switching away from the centralised

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[9] Eastern Shires Procurement Organisation - The current ESPO framework lists nine suppliers of monitoring systems, including the Parties
[10] The technology is used within landline systems, in instances where the service user does not have a landline phone (or does not allow its use).
[11] [✂]
[12] CM2000 was incorporated in April 1999.
[13] [✂]
[14] [✂]

model to the devolved and other models. Finally, the CMA considers the effect that such (potential) switching has on competition.

Benefits of the devolved model

43. The parties pointed to the main benefit of the centralised model to LAs being that by directly procuring a (landline) monitoring solution for all their care providers, LAs have a relatively simple, automated low-cost means of ensuring that all their care providers are carrying out monitoring, and that this monitoring provides data in a consistent format. This was supported by some LAs and competitors.

44. However, several other LAs indicated that these benefits can be difficult to realise in practice. For example, one LA that is currently considering a move away from the centralised model noted that although in theory a centralised model provides better data, in fact not all providers use the system correctly or in the same way, and that the centralised system requires almost all care providers to employ people to do data manipulation. As a result, this LA considered that in reality it may get better data under the devolved model, at the same time as reducing the burden on its care providers, and encouraging its care providers to seek the best monitoring technology available and to improve it over time.

45. Further, the parties submitted that some of the benefits of a centralised model can still be achieved in the devolved model, including checking the total hours of care delivered per service user.[15]

46. Set against the benefits of the centralised model, the parties and third parties pointed to both a number of additional benefits within the devolved model and factors that are likely to drive demand for the devolved model from LAs, including:

    a) **Care providers demand flexibility to use their own system**. The CMA's investigation shows that care providers have a preference for the devolved model as it gives them the flexibility and choice to use their own system. Several care providers, and monitoring providers, told the CMA that many care providers are reluctant to adopt the system imposed by LAs, which can lead to them using different systems across their different customers. Care providers often lobby for the devolved model either directly with LAs or through engagement with ECM providers when they bid for LA work.

[15] The parties submitted [✂]. The parties submitted that [✂]. [✂].

Monitoring providers noted that if the care provider is a national provider their views on the technology are likely to carry more weight with LAs. The parties also emphasised that some councils that have switched to the devolved model, or dropped monitoring altogether, did so in part because of the influence of care providers.[16] The parties and other monitoring providers noted that in LAs where a high proportion of care providers already have their own monitoring systems in place, the LA is less likely to choose a centralised model.[17] LAs also noted the role of care provider preferences in their decision-making, suggesting that care provider preferences affect their decisions about whether to use a centralised or devolved model. Overall, the evidence points to care providers exerting influence over LA decisions on choice of model or whether to switch model.

b) **Complexity and up-front cost in the centralised model**. The parties emphasised that councils are beginning to move away from the complexity of the granular[18] centralised model – [✂]. The parties submitted that LAs are instead looking for a simpler solution such as can be achieved in non-centralised models. This was supported by comments the CMA received from LAs. The parties pointed to LAs that switched to the devolved model to achieve a less complex solution.[19] For example, one LA that uses a hybrid-model described to the CMA the complexity of the centralised system, commenting that since some of the care providers were quite small it would be impractical for the LA to mandate one system and another LA to mandate another. That is, when choosing its monitoring model, the LA took into account the monitoring systems already used by its care providers, and the additional costs that would be imposed by mandating a different one.[20]

c) **Improved quality and lower cost of mobile monitoring.** The parties and third parties also commented on the role of changing technology in encouraging a move to the devolved model. At present, for reasons of cost, almost all centralised monitoring of external providers makes use of landline monitoring, while 80-90% of devolved monitoring of external providers uses landline monitoring.[21] Both the parties and competitors told the CMA that they expect the incidence of mobile monitoring to grow rapidly over the next few years.[22] One factor highlighted as driving this was the growing demand

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[16] [✂].
[17] The parties submitted that in LAs where a high proportion of private provider have monitoring systems, the LA may be less inclined to choose a centralised model because the prices offered by scheduling and monitoring suppliers in devolved supply make it more competitive for sales to independent home care providers. [✂].
[18] See footnote 15
[19] [✂] and [✂] London Boroughs.
[20] [✂]
[21] Notes of calls with [✂], and [✂]
[22] For example the parties believe that landline telephone ECM solutions will no longer attract sales after 2016, in line with Panztel's experience in Australia and New Zealand, and a competitor indicated that mobile uptake would grow strongly in the next 12-24 months

from care providers for mobile. The attractions of mobile are reflected in the fact that all the parties' sales to in-house care teams have, since 2012, been mobile systems, and that [✂] of CM2000's private care provider customers[23] (that is, in the devolved model), upgraded from landline to mobile solutions in 2013. As set out above, an increasing uptake and investment in monitoring by care providers – driven by the benefits of mobile - may encourage LAs to choose a devolved model, regardless of whether LAs have a particular preference for mobile monitoring.

The parties and some competitors also submitted that they expect increased demand for (the benefits of) mobile monitoring to encourage a shift by LAs from a centralised to a devolved model. The parties submitted that mobile solutions are more complex than landline to implement in a centralised model, and evidence from the parties and care providers suggests that the mobile solutions available in the devolved model are better than the mobile solutions offered by the parties in the centralised model. For example, a care provider expressed a desire to be able to use its own choice of mobile system,[24] which has superior functionality. These factors may further incentivise a switch to the devolved model, where more providers are present. In support of this view, several competitors and the parties submitted that:

- The incidence of smartphones[25] among carers has grown rapidly, solutions can be downloaded onto almost any smartphone, and carers' own phones can be used at negligible cost.

- Mobile monitoring offers greater benefits than landline: mobile scheduling; more detailed recording of actions taken and outcomes achieved during visits; and higher proportions of verified visits – around 90% compared to 50-60% for landline.[26]

- A growing proportion of service users either do not have a telephone or do not want it to be used.[27]

d) **Increased focus on outcomes.** One element of functionality offered through mobile monitoring is the ability to record more detailed information about each visit, in order to monitor 'outcomes'. Several LAs (and ECM

[23] Of [✂]
[24] [✂]
[25] That is one using an Android operating system or the Apple operating system.
[26] eg [✂]
[27] For example, an Ofcom report in 2011 highlighted that, at that time, one in seven households were mobile only.

providers) highlighted that there is an increasing focus on the activities carried out, and outcomes achieved, through care visits rather than just measuring the time of attendance alone. Although some third parties described quality monitoring as an additional process which is carried out separately from ECM, some respondents to the CMA thought that the increasing focus on outcomes may encourage use of a devolved model.[28] That this trend is considered by the parties to signal a threat to their business model is supported by its mention in a [✂] sales and marketing report of CM2000: *'[✂]'*[29]

47. The CMA therefore considers that a number of influences are encouraging LAs to switch from a centralised to hybrid or devolved model.

Competition in the devolved and other models and in mobile

48. As described above, within the devolved model it is care providers rather than LAs that make the choice of ECM provider for monitoring external providers. Third parties submitted that within the devolved model there is a relatively large number of ECM providers, which includes both the centralised model providers, and others that currently do not offer some of the requirements necessary for operating in the centralised model (discussed in the later section on entry and expansion).

49. Present in the devolved model are:

- The parties and ACS who are present in the centralised model.
- At least four additional providers that can offer their own landline (and mobile) monitoring solution.
- Three additional providers that are distributors of the Panztel landline service, but offer their own mobile monitoring service.
- Further providers that offer mobile monitoring only.

50. Third parties told the CMA that there is strong competition among these providers in the devolved model. That the Parties perceive these constraints is

[28] The CMA also asked LAs what effect may arise from 'personalisation in social care', through which increasing numbers of service users can exercise choice over the provider that delivers their care. Some LAs noted that personalisation had increased the number of providers with whom they deal, and one LA noted that care providers commissioned directly by service users were not required to use the centralised monitoring system. However, most respondents noted that this model of care had not led to, and is not expected to lead to, significant changes in the way ECM is procured.
[29] CM2000's [✂] sales and marketing report [✂]

shown in their internal documents. [30] These note that in the devolved and in-house segments CM2000 currently faces strong competition from other providers, including from their mobile offerings:

- [✂].
- [✂].
- [✂].
- [✂][31]

51. The CMA considers that the parties will face constraints within the centralised model, if the additional devolved model suppliers act as disciplining mechanism through:

    - LAs switching model, or choosing the devolved model at the point of first implementing monitoring.[32]

    - Being a credible means with which LAs can negotiate within the centralised model.

    - In addition, LAs choosing a hybrid model, or choosing not to monitor at all may also act as a constraint on the parties.

52. Evidence on these constraints is considered in more detail below.

LAs switching or considering switching to alternative models

53. As outlined above, the parties submitted that only approximately 55 of 213 LAs currently use (or will soon use) a centralised model for care monitoring, that a further 53 others use a devolved model, and that, at present, 105 others are likely to have no system at all. Third parties have told the CMA that there is continuing uptake of ECM, so that the number of LAs without a system will decline over time. The Parties provided evidence that showed that over recent years the uptake of ECM has been in both the centralised and devolved models, although the parties and both competitors and customers indicated that LAs would increasingly choose the devolved and other hybrid models, given the benefits associated with them and through pressure from care providers.[33] This

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[30] CM2000's [✂] sales and marketing report [✂]
[31] This points to increasing uptake of monitoring by care providers. This in turn is likely to encourage LAs to choose a devolved model. See a) above.
[32] Given the wider range of suppliers, and the absence of concerns in the supply of monitoring (and scheduling) systems within LAs operating a devolved model, such a switch in business model would mean that any price rise in sales to LAs operating a centralised model would not be profitable. Even the threat to switch business model may be sufficient therefore to constraint the supply of monitoring systems to centralised LAs.
[33] [✂]

is also supported by a [✂] sales and marketing report of CM2000's which notes that: *'[✂]'*[34]

54. Based on evidence from the Parties and the CMA's third party enquiries, the CMA understands that among current centralised LAs, there are:

- Five LAs currently planning or considering a move from the centralised to the devolved model.[35]

- Eight LAs[36] that either use or are planning to use a hybrid model where the care providers may choose their own monitoring system which has to be compatible with the centralised aggregation / arbitration software.

55. The hybrid model involves the LA procuring a centralised reporting and arbitration function, but devolving the monitoring purchase to the care providers. Based on responses from the parties and third parties, the CMA considers that there is increasing demand for the hybrid model, which increases the range of monitoring providers that care providers can use, suggesting that this model is likely to increase the constraints on the parties. At present only the parties and [✂] offer centralised reporting and arbitration. However, this is low in value relative to monitoring, and the parties argued that LAs may themselves be able to develop the relevant technology. They submitted that Hertfordshire, Barnet, Hillingdon, East Sussex, and York have done so.[37]

56. The section on entry and expansion discusses the ease with which other monitoring providers, currently present only in the devolved model, may already have or be able to develop the necessary reporting and arbitration functionality to offer a hybrid (or centralised) model.

57. The CMA has also been made aware of four LAs that have switched from a centralised model to a devolved model.[38] The CMA is therefore aware of 13 current centralised LAs (24% of 55) that are actively pursuing or considering moving away from the centralised model and where the parties' monitoring offer may be subject to some constraint from the providers present in the devolved model, as well as four LAs that have dropped the centralised system. The CMA considers, based on this evidence that it is reasonable to assume that other

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[34] CM2000's [✂] sales and marketing report [✂]
[35] [✂]; two others appear to have dropped monitoring altogether.
[36] [✂].
[37] [✂]
[38] [✂]

LAs using the centralised model may consider moving away from the centralised model.

58. Third party comments suggest that LAs take account of the relative prices and the wider costs and benefits of different models when choosing a supplier (particularly when care providers are advocating certain models). The parties also submitted that LAs increasingly investigate the rates that care providers pay for monitoring services that they buy directly (in the devolved model) and use this as a benchmark to ensure they are getting a good deal. Given this, the ability of a LA to switch to an alternative model (say, from centralised to devolved) is likely to act as a disciplining mechanism on the parties, knowing the risk of losing LAs as customers should they switch (or threaten to switch) to an alternative model.[39]

Constraints from entry and expansion[40]

59. The CMA, through its market investigation, received a number of comments from third parties concerning the features that LAs would want to see in a centralised monitoring system. These included technology that: allows verification of the location of the care provider (as is the case for landline, and for NFC mobile solutions)[41]; is capable of ensuring high levels of compliance; is hosted[42] by the monitoring provider; is low cost;[43] and is a standalone system that can interface with many scheduling systems. Finally, third parties submitted that it is desirable that the supplier is on the ESPO Framework, and can provide references from previous contracts.

60. Through its market investigation, the CMA has found that while only [✂] currently meets all of the features looked for by LAs in a centralised model, other providers are either capable of meeting some or many of the features or are developing technology which would enable them to supply these features.

61. The parties submitted that the costs of entry are not high. Landline solutions are low-cost, widespread in a range of industries (for example banking), and very quick to develop (approximately six months of staff-time). With regard to mobile solutions they submitted there are a range of options available which

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[39] The parties submitted that once a LA has switched, it is very rare that it will switch back, given the benefits available in the devolved model and the trend towards mobile technology so that it would be difficult to regain customers that switch away.
[40] See *Mergers Assessment Guidelines*, section 5.8, for an outline of the CMA's approach to entry and expansion.
[41] Near Field Communication - which involves swiping a tag placed in the service user's home - records accurate data, even when the phone is outside of signal range. Other mobile technologies have weaknesses - GPS may not detect locations very accurately; and QR codes can be copied and need not be in the intended location.
[42] So that the care provider is not able to manually change the visit times recorded by the system.
[43] At present, landline technology.

can be cheaply and quickly implemented (approximately three months of staff- time, depending on the complexity of the offer). This was supported by responses from competitors.

62. One barrier to winning centralised work cited by some competitors is the need for interfaces between monitoring and scheduling systems. In response to this concern, the parties submitted that interfaces between monitoring and scheduling systems are not essential, and that the simplest 'Broad Brush' centralised solution could be developed within a week. Moreover, the parties considered that these interfaces are not complex or challenging for any competent software developer. The interface typically consists of a 'flat file' being passed from the scheduling system to the monitoring system. Integrations could be developed through the LA mandating that care providers request from their scheduling system supplier an interface to the chosen monitoring system. This has been the case in many centralised council implementations and it is typical in an ESPO tender. A typical charge from a scheduling company would be around £[✂]. Furthermore the LA could even offer to pay part or all of the cost involved and would still achieve significant savings by introducing the monitoring service. In addition, a number of devolved model suppliers indicated that, should they wish to do so, they could develop these interfaces quickly and at low cost.

63. The parties submitted that, based on current software available, competing suppliers who do not already have an equivalent to a Provider Manager or a Finance Manager would be able to deliver these services to the centralised model either by developing their own financial arbitration module (that is, an equivalent to a Finance Manager or a Provider Manager), or by using other methods such as producing bespoke invoice reports for Care Providers based on their monitoring data / visit logs and the commissioned care delivery information from the Council's Client Index System. Some devolved model competitors indicated that they could easily develop this functionality if they chose to do so.

64. The parties submitted that the necessary references for winning LA work could be taken from non-LA work, including nationally recognised corporate homecare providers. For example one national corporate homecare provider uses the parties, ACS and Coldharbour. The parties also submitted that, although desirable, it is not essential to be on the ESPO framework to win LA work, since some LAs procure outside the framework (such as through OJEU) and it is open to any company to submit bids.[44] Moreover, framework access is

[44] The CMA understands that [✂] and [✂] have done so.

available to any organisation which can demonstrate its system meets the requirements, and the parties anticipate that People Planner will become approved on the next iteration of the ESPO Framework (in March 2015), if not before. This was supported by People Planner itself. The parties also submitted that if ESPO felt that, as a result of the merger of Panztel and CM2000 and by virtue of the effect on competition being highlighted by the CMA's investigation, there was insufficient competition between approved suppliers in relation to the Centralised Model under the ESPO Framework, then it could choose to admit further providers early.

65. Overall, while a number of competitors have indicated costs and barriers to achieving sales within the centralised model, several confirmed (in line with the Parties' submission) that these costs are not high, and that they could develop (all or some of) the relevant technology quickly if they wished to do so.

Competitors' ability and intentions to expand into the centralised model

66. The parties made the overarching point that while their own combined revenues are less than £[✂] across all markets, some potential competitors (suppliers in the devolved model) were significantly larger, with a sizable presence in related segments, and hence had vastly greater resources to compete in relation to the Centralised Model, and as a result the parties perceive themselves to be under a very strong competitive threat and constraint. They submit that for any technology-related business the key to being able to develop and maintain a competitive edge is largely influenced by the number and quality of staff. This drives innovation and service delivery, the resources to be able to develop technology (both financial and people) and the market knowledge to be able to see and create the solutions required by the customer. In the parties' view a number of competitors are better equipped than the combined entity in this regard.

67. People Planner considers that it is able to meet all the features required of a centralised model monitoring system (including offering a landline solution, interfaces with scheduling systems, and functionality similar to the parties' Provider and Finance Manager modules), but can currently only bid for contracts with LAs that procure outside the ESPO framework, as it is not currently on the framework. The parties themselves highlighted People Planner as an example of the increasing competition they face. People Planner intends to apply for the ESPO framework competition which will be rerun in March 2015, and to bid for centralised model contracts for monitoring external providers. ESPO indicated that the framework checks that suppliers can evidence their 'general suitability' and currently includes several providers that are currently present in the devolved model only. The CMA also spoke with a

very large national care provider that highlighted the quality and competitiveness of People Planner's products that can be used to supply the centralised model, pointing to them being superior in quality to those of the parties, and, as a result, considers that People Planner will be able to provide references to LAs when necessary.

68. In addition to People Planner, four other providers indicated that they have some of the necessary functionality or that they could easily develop that functionality, although two indicated that this is not their current priority. The parties also highlighted two additional companies with significant resources available to them that they considered could easily expand into the centralised model. The CMA has not been able to verify whether or not these firms have definitive plans to do so.

69. The CMA considers that the evidence available – in particular from People Planner itself on its intentions to enter and from third parties on its ability to do so – points to entry by People Planner being timely and likely. The CMA considers that People Planner is likely to win a place on the ESPO framework, and that once there it is likely to be invited to bid for centralised model contracts (since many LAs invite all ESPO providers). Further, customer endorsement of the product suggests that such entry may be sufficient to exert a constraint on the parties in competing for centralised model contracts.

Conclusion on horizontal effects

70. At present the parties are two of only three providers active in the supply to LAs of centralised monitoring of external providers, and have a high combined share in this segment. There is also evidence of them competing for tenders in the centralised monitoring of external providers. However, for the reasons set out above, and in particular those restated below, the CMA considers that the parties are subject to strong remaining constraints within a changing market.

71. LAs face a choice when deciding to purchase Electronic Home Care monitoring systems or when reviewing their existing supply arrangements about the type of model they wish to obtain. The CMA considers that there are a range of factors which play into that choice and which, in turn, will constrain the parties' ability to raise prices or lower quality, range or service post-merger.

72. Firstly, the parties are constrained by the threat of LAs switching to hybrid and devolved models of monitoring, where there are many more providers present. A large proportion of LAs are either already using or investigating hybrid and devolved models, and the CMA considers, based on evidence from the parties, competitors (and LAs themselves) that LAs will increasingly seek alternative

options in the near future because:

- Care providers require flexibility in the monitoring systems they can use and are increasingly lobbying LAs for the devolved model.

- Councils have constrained budgets and have found it difficult to achieve the potential savings offered by the centralised model – this makes the devolved or hybrid models more attractive, since these impose lower direct and staff costs on the council.

- Landline ownership is falling, while mobile monitoring is falling in cost, offers better functionality, and achieves higher rates of compliance. Third parties have told the CMA that increased demand for mobile will encourage a shift to a devolved model.

73. Secondly, the parties are constrained by (the threat of) specifically identified devolved model providers entering the centralised model. The CMA has received evidence that the costs of the necessary technology are low, and that a number of competitors could compete in the centralised segment with relatively limited investment. One competitor already has the necessary technology in place and is considered to be a timely and likely entrant into the centralised model; another is in the process of developing the necessary technology.

74. Taking all the arguments and evidence of competitive constraints, both actual and anticipated, in the round, the CMA considers that these constraints are sufficient to ensure that no realistic prospect of a substantial lessening of competition arises as a result of the merger.

Third party views

75. The CMA received mixed comments on the merger:

- Most monitoring providers the CMA spoke with considered that only CM2000, Panztel, and ACS could meet the needs of LAs purchasing for a centralised model.

- [✂].

- Among 17 centralised LA respondents, four raised concerns including two that had recently procured. Some did not feel well-informed enough to comment on the conditions of competition, and others, including one LA

that had very recently procured, were unconcerned.

- Among care providers, the majority raised no concerns. Some indicated that they had not looked into the market in detail and that they simply use the system mandated by their local authority. However, three providers raised concerns, including two very large care providers.

76. These concerns have been considered in the preceding text.

Assessment

77. Consequently, the CMA does not believe that it is or may be the case that the merger has resulted or may be expected to result in a substantial lessening of competition within a market or markets in the United Kingdom.

78. This merger will therefore **not be referred for** a Phase 2 investigation by the CMA under section 22(1) of the Act.

Sheldon Mills
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9 May 2014