

Completed acquisition by VTech Holdings Limited of LeapFrog Enterprises, Inc.

Decision to refer

ME/6614/16

The CMA's decision to refer under section 22 of the Enterprise Act 2002 given on 18 August 2016. Full text of the decision published on 31 August 2016.

Introduction

1. On 4 April 2016, VTech Holdings Limited (**VTech**) acquired LeapFrog Enterprises, Inc. (**LeapFrog**) (the **Merger**).
2. On 18 August 2016, the Competition and Markets Authority (**CMA**) decided under section 22(1) of the Enterprise Act 2002 (the **Act**) that it is or may be the case that the Merger constitutes a relevant merger situation that has resulted or may be expected to result in a substantial lessening of competition (**SLC**) within a market or markets in the United Kingdom (the **SLC Decision**).¹
3. On the date of the SLC Decision, the CMA gave VTech notice of the SLC Decision pursuant to section 34ZA(1)(b) of the Act. However, in order to allow VTech the opportunity to offer undertakings to the CMA for the purposes of section 73(2) of the Act, the CMA did not refer the Merger for a phase 2 investigation pursuant to section 22(3)(b) on the date of the SLC Decision. On 18 August 2016, the CMA extended the statutory four-month period mentioned in section 24(1) of the Act by notice pursuant to section 25(4) of the Act.
4. Pursuant to section 73A(1) of the Act, if a party wishes to offer undertakings for the purposes of section 73(2) of the Act, it must do so before the end of the five working day period specified in section 73A(1)(a) of the Act. The SLC Decision stated that if no undertakings for the purposes of section 73(2) of the Act were offered to the CMA by the end of this period, ie by 25 August 2016, or VTech indicated before this deadline that it did not wish to offer such

¹ See the [VTech / LeapFrog merger inquiry case page](#).

undertakings, then the CMA would refer the Merger for a phase 2 investigation pursuant to section 22(1) and in accordance with section 34ZA(2) of the Act.

5. Pursuant to section 34ZA(2) of the Act the CMA is not prevented from making a reference under section 22 of the Act in the event that it decides that the duty to refer does not apply because it is considering whether to accept undertakings under section 73 of the Act but no such undertakings are offered or accepted.
6. No undertakings were offered to the CMA before the end of the five working day period specified in section 73A(1)(a) of the Act.

Decision

7. Therefore, pursuant to section 22(1) and in accordance with section 34ZA(2) of the Act, the CMA has decided to refer the Merger to its chair for the constitution of a group under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 to conduct a phase 2 investigation.

Kate Collyer
Deputy Chief Economic Advisor
Competition and Markets Authority
30 August 2016