

Completed acquisition by Solera Holdings, Inc. of Autodata Publishing Group Limited

Notice under paragraph 2(1) of Schedule 10 to the Enterprise Act 2002 (the Act) – consultation on proposed undertakings in lieu of reference pursuant to section 73 of the Act

ME/6626/16

Please note that [✂] indicates figures or text which have been deleted or replaced in ranges at the request of the parties for reasons of commercial confidentiality.

Introduction

1. Solera Holdings, Inc. (**Solera**), via its wholly owned subsidiary HPI Holding Limited (**HPI**), acquired Emperor 1 Ltd (**Emperor 1**), the ultimate holding company of Autodata Publishing Group Limited (**Autodata**) (the **Merger**). Solera, HPI and Autodata are together referred to as the **Parties**.
2. On 17 May 2017, 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**).
3. On 24 May 2017, the Parties offered undertakings to the CMA for the purposes of section 73(2) of the Act.
4. On 1 June 2017, pursuant to section 73A(2)(b) of the Act, the CMA gave notice to the Parties that it considered that there were reasonable grounds for believing that the undertakings offered, or a modified version of them, might be accepted by the CMA under section 73(2) of the Act and that it was considering the offer (the **In principle acceptance decision**).
5. As set out in the SLC Decision, the CMA believes that, in the absence of appropriate undertakings, it would be under a duty to refer the Merger for a

phase 2 investigation. The text of the SLC Decision is available on the CMA webpages.¹

The undertakings offered

6. Under section 73 of the Act, the CMA may, instead of making a reference, and for the purpose of remedying, mitigating or preventing the SLC concerned or any adverse effect which has or may have resulted from it or may be expected to result from it, accept from such of the merger parties concerned as it considers appropriate undertakings to take such action as it considers appropriate.
7. The SLC Decision found that the Merger gives rise to a realistic prospect of an SLC in relation to the supply of vehicle repair and maintenance information (**RMI**) platforms in the UK.
8. To address this SLC, Solera has offered to divest the E3 Technical business (the **Divestment Business**), that is currently part of CarweB Limited's (**CarweB**) UK automotive data and services business, by way of an asset purchase agreement (the **Asset Purchase Agreement**) (the **Proposed Undertakings to Divest**). The assets that Solera has offered to divest as part of the Divestment Business include:
 - (a) CarweB's proprietary E3 Technical platform, including the software required to deliver the E3 Technical platform (eg source code and all relevant user interfaces);²
 - (b) the licence from HaynesPro whereby CarweB has the right to distribute the HaynesPro technical database;³
 - (c) a helpdesk to provide RMI technical support (via phone or email);
 - (d) the code and know-how for cross-referencing and linking a Vehicle Registration Mark (**VRM**) lookup to the database;
 - (e) CarweB's employees associated with E3 Technical including business development and technical staff;

¹ [See the case page.](#)

² The software to be transferred enables the delivery of the HaynesPro database via a web portal, or (for certain larger customers) via web services, to enable integration of the database into the proprietary systems of larger corporate customers.

³ [REDACTED]

- (f) CarweB's contracts with E3 Technical customers, including CarweB's corporate customers (who integrate RMI data into their solutions or sell products via a white label platform) and workshops; and
 - (g) other intangible assets, such as the brands associated with E3 Technical.
9. The Parties have also offered to enter into a purchase agreement with a buyer approved by the CMA before the CMA finally accepts these undertakings (the **Upfront Buyer Condition**).

CMA assessment

Suitability of the proposed undertakings

10. The CMA currently considers that, subject to responses to the consultation required by Schedule 10 of the Act, the Proposed Undertakings to Divest, or a modified version of them, will resolve the SLC identified in the SLC Decision in a clear-cut manner, ie the CMA currently does not have material doubts about the overall effectiveness of the Proposed Undertakings to Divest or concerns about their implementation.⁴ This is because the Proposed Undertakings to a suitable buyer will allow a supplier of RMI platforms that is independent of Solera and Autodata to operate as an effective competitor in the UK with an established customer base and a competitive RMI platform, replacing CarweB as a competitor in the supply of RMI platforms. As such, the Proposed Undertakings to Divest would result in replacing the competitive constraint provided by CarweB on Autodata that would otherwise be lost following the Merger.
11. The CMA also considers that the Undertakings would be capable of ready implementation because the Divestment Business is a limited and readily-identifiable set of assets that is capable of being transferred to an upfront purchaser.
12. The Upfront Buyer Condition means that the CMA would only accept the Proposed Undertakings to Divest after the Parties have entered into an agreement with a nominated buyer that the CMA considers to be suitable. The CMA considers that an Upfront Buyer Condition is necessary because the CMA considers that the identity of the purchaser will affect the undertakings' ability to remedy the CMA's competition concerns by competing effectively in the supply of RMI platforms in the UK.

⁴ *Mergers: Exceptions to the duty to refer and undertakings in lieu of reference guidance (OFT1122)*, December 2010, Chapter 5 (in particular paragraphs 5.7–5.8 and 5.11). This guidance was adopted by the CMA (see *Mergers: Guidance on the CMA's jurisdiction and procedure (CMA2)*, January 2014, Annex D).

13. The Asset Purchase Agreement (APA) is subject to the CMA's approval. The CMA will have regard to the fact that Solera has committed to comply with, or procure compliance with, certain non-compete provisions for the benefit of the Divestment Business as detailed in the legally binding agreement that they have entered into.
14. These restrictions on Solera are intended to ensure the effectiveness of the Proposed Undertakings to Divest by allowing the necessary minimum period of time for the transition and integration of the E3 Technical customers. These restrictions may also be necessary, for a minimum period of time, to protect the investment of the purchaser and to enable the purchaser to consolidate its position in the RMI market.
15. If required by the purchaser, CarweB will also provide the necessary transitional services during a period of up to ~~12~~ months, consisting of CarweB's support to the purchaser in the form of an arm's length short term royalty free licence (or licences) for VRM enablement services and updates to the relevant data inputs necessary for the purchaser to develop its own VRM enablement offer. These transitional services will enable the purchaser to offer CarweB's VRM look-up data through E3 Technical on a temporary basis. During the same period, CarweB will also give the purchaser access to its Thatcham data with respect to OE parts pricing, which is currently used in the E3 Technical platform to provide quotations.
16. These transitional services seek to allow the purchaser (particularly if the purchaser does not currently provide VRM enablement services) to: (i) obtain its own VRM licence with the Driver and Vehicle Licensing Agency (**DVLA**); (ii) set up appropriate systems; (iii) cleanse and maintain the data; (iv) create and test the linkage between the DVLA data and E3 Technical.
17. The CMA currently considers that the commitments described above will ensure that the Divestment Business continues to operate as an going business.

Suitability of the proposed purchaser

18. The CMA's starting position is, without the need to undertake a detailed investigation, to seek an outcome that restores pre-merger level of competition. Therefore, in approving a purchaser, the CMA seeks to ensure that:
 - (a) the acquisition by the purchaser remedies, mitigates or prevents the SLC concerned and any adverse effect resulting from it;

- (b) the proposed purchaser is independent of and unconnected to the merging parties;
 - (c) the proposed purchaser has the necessary financial resources, expertise, incentive and intention to maintain and operate the divested business as an effective competitor in the marketplace;
 - (d) the proposed purchaser is reasonably expected to obtain all necessary approvals, licences and consents from any regulatory or other authority; and
 - (e) the acquisition by the proposed purchaser does not itself create an SLC within any market or markets in the UK.⁵
19. Solera proposed HaynesPro BV (**HaynesPro**) as the prospective purchaser. An Asset Purchase Agreement (**APA**) is currently being negotiated between Solera and HaynesPro. Any potential APA between Solera and HaynesPro to transfer the Divestment Business will be conditional upon acceptance by the CMA of the UIL, including approval of the purchaser of the Divestment Business and the terms of the APA.

HaynesPro is part of the Haynes Publishing Group, renowned worldwide for their automotive manuals. Since its launch in 1995, HaynesPro has been supplying technical information to the automotive aftermarket across Europe. From inception, this information has been delivered entirely digitally on a subscription basis working in collaboration with its distribution partners. HaynesPro has been in the UK since 2008, selling its RMI data through CarweB as its distributor. In addition, since early 2014, HaynesPro has also sold its RMI data through other UK partners.

Would the SLC be remedied, mitigated or prevented?

20. As a current supplier of RMI data to CarweB, HaynesPro told the CMA that the acquisition of the Divestment Business would enable HaynesPro to continue serving E3 Technical customers whilst expanding in the relevant RMI markets in the UK. This will include, for example, running VRM lookup and Helpdesk operations and collaborating with parts distribution partners.
21. In the SLC Decision, the CMA identified significant barriers to entry and expansion in the supply of RMI platforms in the UK, in particular: (i) customer stickiness, arising from the strong brands of the Parties and familiarity of mechanics with their products; and (ii) the time and investment required to

⁵ [OFT1122](#), paragraphs 5.25–5.30.

establish an accurate VRM matching system. The CMA considers that the acquisition of the Divestment Business by HaynesPro would facilitate the entry or expansion in the UK of an alternative supplier of RMI platforms and so would remedy or mitigate the SLC.

Independence

22. HaynesPro does not have any structural or financial links with Solera, HPI or Autodata, other than currently supplying its unedited RMI data to CarweB. This relationship will be terminated after the acquisition of the Divestment Business by HaynesPro.

Financial suitability

23. HaynesPro told the CMA that it will finance the acquisition through a combination of internal cash and a bank overdraft facility. The CMA believes that the company possesses the necessary financial resources and expertise to operate and maintain the Divestment Business.

Expertise, incentive and intention to operate as an effective competitor

24. The CMA believes that HaynesPro will be incentivised to compete with Solera because the acquisition of the Divestment Business will enable HaynesPro to grow and expand its presence in the relevant RMI market in the UK. HaynesPro considers that the Divestment Business includes the technical and staffing resources required to enable HaynesPro to compete effectively for the supply of RMI services in the UK.
25. HaynesPro has plans to work and invest to grow its position in the RMI market in the UK.
26. In addition to its expertise on RMI, HaynesPro will benefit from the experience of the CarweB's employees being transferred as part of the Divestment Business, in relation to Helpdesk, RMI, and VRM enablement services.
27. The CMA therefore considers that HaynesPro would maintain and operate the Divestment Business as an effective competitor.
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Approvals and consents

29. The Divestment Business includes all of the same licences, permits and authorisations that are necessary to carry on business in the UK in its current form. No regulatory consents or approvals are required.
30. HaynesPro intends to provide VRM enablement and effective quotation services together with its RMI platform. To do this it will need to be granted licenses from the DVLA, from the Society of Motor Manufacturers and Traders (**SMMT**) and from Thatcham Research (the **Licenses**). HaynesPro has already applied for a licence from the DVLA and from the SMMT. The Licenses are essential to enable HaynesPro to continue to create accurate VRM lookup and effective quotation services. The CMA has no reason to believe that HaynesPro will not be able to obtain the necessary licences. As mentioned above, Solera will provide to HaynesPro, for a transitional period, the inputs necessary for HaynesPro to develop its own VRM enablement offer.

Acquisition does not create an SLC

31. HaynesPro is active in the supply of RMI data in the UK. However, as noted in the SLC Decision, with regards to RMI platforms, HaynesPro has a limited presence in the UK with a share of supply of less than 5%.
32. The CMA considers that the acquisition of the Divestment Business by HaynesPro will not in itself create an SLC.

Conclusion

33. Therefore, subject to responses to this consultation, the CMA currently considers HaynesPro to be suitable purchaser of the Divestment Business.

Proposed decision and next steps

34. For the reasons set out above, the CMA currently considers that the Proposed Undertakings and the purchase of the Divestment Business by HaynesPro are, in the circumstances of this case, appropriate to remedy, mitigate or prevent the competition concerns identified in the SLC Decision and form as comprehensive a solution to these concerns as is reasonable and practicable.
35. The CMA therefore gives notice that it proposes to accept the Proposed Undertakings to Divest in lieu of a reference of the Merger for a phase 2

investigation. The text of the Proposed Undertakings is available on the CMA case page.⁶

36. Before reaching a decision as to whether to accept the Proposed Undertakings, the CMA invites interested parties to make their views known to it. The CMA will have regard to any representations made in response to this consultation and may make modifications to the Proposed Undertakings as a result. If the CMA considers that any representation necessitates any material change to the Proposed Undertakings, the CMA will give notice of the proposed modifications and publish a further consultation.⁷
37. Representations should be made in writing to the CMA and be addressed to:

Alison Trinkl
Mergers Group
Competition and Markets Authority
Victoria House
37 Southampton Row
London
WC1B 4AD

Email: alison.trinkl@cma.gsi.gov.uk

Telephone: 020 3738 6394

Deadline for comments: 20 July 2017

⁶ See the [case page](#).

⁷ Under paragraph 2(4) of Schedule 10 to the Act.