Completed acquisition by ZPG plc of Websky Limited (Expert Agent)

Decision on relevant merger situation and substantial lessening of competition

ME/6690/17

The CMA's decision on reference under section 22(1) of the Enterprise Act 2002 given on 29 June 2017. Full text of the decision published on 24 July 2017.

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

SUMMARY

1. On 28 February 2017, ZPG plc (**ZPG**) acquired Websky Limited (Expert Agent) (**Expert Agent**) (the **Merger**). ZPG and Expert Agent are together referred to as the **Parties**.

2. The Competition and Markets Authority (**CMA**) believes that it is or may be the case that the Parties' enterprises have ceased to be distinct and that the share of supply test is met. The four-month period for a decision has not yet expired. The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.

3. Through ZPG's subsidiary, Property Software Group (**PSG**), the Parties overlap in the supply of customer relationship management software for estate agents in the UK (**CRM property software**). CRM property software helps estate agents manage their businesses by organising and automating data from various sources. This covers interacting with customers, storing information on properties, marketing, tracking sales and lettings, managing let properties, and uploading property information to online property portals.

4. ZPG also owns the online property portal, Zoopla. Because CRM property software allows estate agents to upload property information to property portals, there is a vertical relationship between CRM property software (upstream) and the property portals (downstream).

5. The CMA first assessed whether the Merger may give rise to horizontal unilateral effects in the supply of CRM property software. The CMA analysed shares of supply based on revenues, examined estate agent branch penetration, assessed the relative growth rate of the Parties and their main rivals, and conducted a qualitative and quantitative analysis of the closeness of competition.

6. The CMA found that, post-Merger, a sufficient number of credible and effective CRM property software alternatives would continue to compete with the merged entity. Almost all these suppliers offer cloud-based and integrated single platform solutions, allowing estate agents to organise sales, lettings, and property management together in one package.

7. The evidence gathered by the CMA indicated that the Parties' main rivals are Reapit, Dezrez, VTUK, PropCo, CML, Qube (Aspasia), LetMC, Thesaurus, Estates IT, and 10ninety. The CMA also found that there are over 30 other CRM property software providers that compete with the Parties to some extent.

8. The CMA also found that the Parties' offerings are somewhat differentiated. PSG provides a more expensive and customisable software package, while Expert Agent provides a cheaper 'no frills' offer particularly targeted at smaller estate agents. The Parties' internal documents did not indicate that they compete particularly closely compared with their main other rivals.

9. The CMA therefore believes that the Merger does not give rise to a realistic prospect of a substantial lessening of competition (**SLC**) as a result of horizontal unilateral effects in the supply of CRM property software.

10. The CMA also analysed whether the Merger could give rise to vertical effects via input foreclosure of property portals. The CMA examined whether the merged entity could degrade the quality of the upload feed to rival property portals, such as Rightmove or OnTheMarket. The CMA found that the merged entity would not have the ability to engage in such a strategy: the large number of credible upload alternatives remaining post-Merger would render such a strategy unfeasible.

11. The Merger will therefore **not be referred** under section 22(1) of the Enterprise Act 2002 (the **Act**).

ASSESSMENT

Parties

12. ZPG provides CRM property software through its subsidiary, PSG. ZPG acquired PSG in April 2016. ZPG also owns the property portal, Zoopla, as well as other well-known brands, such as the comparison site, uSwitch. ZPG's turnover in the year ending September 2016 was £198 million.

13. Expert Agent also provides CRM property software. Expert Agent's turnover in 2016 was £4 million, all of which was generated in the UK.

Transaction

14. On 28 February 2017, ZPG acquired Expert Agent. It paid [✂]. The Merger completed on the day of signing. It was publicly announced the next day.

15. The CMA opened an own-initiative investigation into the Merger by sending an Enquiry Letter to ZPG on 13 March 2017.[1]

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[1] See *Mergers: Guidance on the CMA's jurisdiction and procedure* (CMA2), January 2014, paragraphs 6.9-6.19 and 6.59-60.

16. The Merger was considered at a Case Review Meeting.[2]

Jurisdiction

17. As a result of the Merger, the enterprises of ZPG and Expert Agent have ceased to be distinct.

18. The Parties overlap in the supply of CRM property software. Their combined share of supply based on revenues is [30-40%]. The increment from the Merger is [5-10%].[3] The CMA therefore believes that the share of supply test in section 23 of the Act is met.

19. The Merger completed on 28 February 2017. The Parties publicly announced the Merger on 1 March 2017. The four-month deadline for a decision under section 24 of the Act is therefore 30 June 2017.

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

21. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 5 May 2017. The statutory 40 working day deadline for a decision is therefore 30 June 2017.

Counterfactual

22. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual). For completed mergers, the CMA generally adopts the pre-merger conditions of competition as the counterfactual. The CMA will, however, assess the merger against an alternative counterfactual where it believes that, absent the merger, the prospect of these conditions continuing is not realistic, or there is a realistic prospect of a counterfactual that is more competitive than these conditions.[4]

23. In this case, there is no evidence supporting an alternative counterfactual. ZPG and third parties have not submitted that an alternative counterfactual should be used. The CMA therefore believes that the relevant counterfactual is the pre-Merger conditions of competition.

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[2] See *Mergers: Guidance on the CMA's jurisdiction and procedure* (CMA2), January 2014, from paragraph 7.34.
[3] See shares of supply of CRM property software in the UK based on revenues at Table 1 below.
[4] *Merger Assessment Guidelines* (OFT1254/CC2), September 2010, from paragraph 4.3.5. The *Merger Assessment Guidelines* have been adopted by the CMA (see *Mergers: Guidance on the CMA's jurisdiction and procedure* (CMA2), January 2014, Annex D).

Frame of reference

24. Market definition provides a framework for assessing the competitive effects of a merger. It involves an element of judgement. The boundaries of the market do not determine the outcome of the analysis of the competitive effects of the merger. There can be constraints on merging parties from outside the relevant market, segmentation within the relevant market, or other ways in which some constraints are more important than others. The CMA will take these factors into account in its competitive assessment.[5]

Product scope

25. The Parties overlap in the supply of CRM property software.[6]

26. CRM property software helps estate agents manage their businesses by organising and automating data from various sources. This covers interacting with customers, storing information on properties, marketing, tracking sales and lettings, managing let properties, and uploading property information to online property portals.

27. CRM software can be provided as: (i) a desktop (or on-premises) solution, where the software is loaded onto users' own hardware at their offices; or (ii) a SaaS,[7] cloud, or web-based solution (together, referred to as '**cloud-based**'), where a third-party provider hosts the software and makes it available over the Internet.

28. CRM property software can cover sales, lettings, or property management.[8] Almost all major CRM property software providers offer all three services on an integrated basis (a '**single platform solution'**); however, many estate agents choose to mix-and-match between different providers (a '**mix-and-match solution**').

29. ZPG submitted that the appropriate frame of reference is the supply of CRM software and workflow solutions for property professionals. Within this, it included generic software (such as that offered by Microsoft Outlook or Salesforce), custom-built CRM property software, desktop and cloud-based

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[5] *Merger Assessment Guidelines*, paragraph 5.2.2.
[6] The Parties also overlap in the supply of website hosting and SMS marketing to estate agents. However, Expert Agent's activities in these areas are negligible, and they are not discussed further in this decision.
[7] 'SaaS' stands for 'software as a service.' SaaS refers to a subscription-based software distribution model where a third-party provider hosts and manages applications, making them available to customers over the Internet.
[8] Property management refers to the running of a let property by the estate agent, eg collecting rent, managing repairs, and accounting. Some estate agents refer to sales and lettings as 'front-end' products (because they cover customer facing information) and property management as 'back-end' products (because they cover accounting and payment process software required for property management).

software, single platform and mix-and-match solutions, and 'other workflow apps,' which provide ancillary services to estate agents and end-consumers.

30. In the sections below, the CMA discusses possible frames of reference for its assessment of the Merger, addressing each of the points raised by ZPG in turn. The CMA also examines frames of reference for online property portals, and for the uploading of property information to property portals.

CRM property software

Generic software

31. ZPG submitted that generic software should be included in the frame of reference. According to ZPG, generic software can, in combination, accomplish the tasks performed by CRM property software. For example, Salesforce can handle customer relationship management; Microsoft Outlook can schedule appointments with customers; Sage and Xeno can organise property inventory; and Microsoft Excel and Outlook can track sales progression.

32. The CMA, however, believes that generic software is not an effective constraint on CRM property software for the following main reasons:

(a) First, the CMA's merger investigation found that generic software provides a limited constraint on CRM property software. Customers stated that either: (i) they had never considered using generic software in place of CRM property software, or (ii) if they had considered doing so, generic software was not an effective alternative to CRM property software.[9]

(b) Second, the CMA is not aware of estate agents switching from CRM property software to generic software. No customers that responded to the CMA's merger investigation stated that they had switched in this way. Out of over [1,000-2,000] estate agents, PSG's pitch data identified only [0-5 instances] of a CRM property software customer switching to generic software.[10]

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[9] 27 estate agents answered this question. 17 said they would never consider using generic solutions. Of the remaining 10, 8 said that they had considered using generic solutions (or had done so in the past) but that it was a negative experience. Only 2 estate agents considered generic software to be an effective option. Customer comments about relying on generic software included that it was a 'complete nightmare,' 'not viable,' not 'practical,' 'not an option,' 'dis-joined,' 'not cost effective,' 'disjointed and time consuming,' 'difficult,' and would require employing 'three times as many staff.'

[10] PSG's pitch data lists the previous and current CRM property software supplier for over [1,000-2,000] estate agents to which PSG has pitched in the last 24 months.

(c) Third, ZPG's internal documents that analysed the competitive landscape did not discuss generic software. Likewise, a market analysis conducted for PSG in 2014 [✂] did not discuss generic software.[11]

33. Accordingly, the CMA has not included generic software in the frame of reference.

Custom-built software

34. Some larger estate agents do not rely on CRM property software developed by third parties. Instead, they develop their own bespoke (or custom-built) software. ZPG identified [10-15] estate agents that rely on custom-built software, each of which operates between [10-20] and [500-600] branches.[12]

35. ZPG estimated that it would cost around [£200,000-£300,000] for an estate agent to develop a custom-built solution from scratch. By contrast, the average annual cost per estate agent customer for CRM property software is between £1,500-£5,000.

36. In *Oracle/Siebel,* the European Commission examined whether to include custom-built solutions in the market for CRM software. The European Commission's merger investigation found that 'the majority of respondents do not see custom-built CRM solutions as being an alternative to packaged CRM solutions.'[13] Likewise, in *Xchanging and Agencyport*, the CMA excluded custom-built solutions from the market for insurance software, primarily because of the costs and complexity in developing a custom-built solution.[14]

37. The evidence gathered through the CMA's merger investigation in the present case supports this view. The large majority of customers stated that they had either never considered developing a custom-built solution, or had considered, but rejected, this approach due to the costs, time, and complexity involved.[15]

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[11] [✂]

[12] As explained in paragraph 84 below, this accounts for a small proportion of the total number of estate agents in the UK (which is between 14,000-16,000).

[13] Case COMP/M.3978, *Oracle/Siebel*, Commission decision of 22 December 2005, paragraph 14*:* 'Even if they may offer a better fit for the customer's individual requirements, CRM bespoke solutions are not necessarily a viable option especially due to the high integration (as well as maintenance and upgrade) cost and knowledge required, compared to packaged CRM solutions.'

[14] *Xchanging/Agencyport Software Europe*, Final Report, 29 April 2015,

[15] 26 out of 27 estate agents who responded gave this answer. The one estate agent who had tried a custom-built solution noted that it did not work well; the decision to use a custom-built system came at a high price and a slow pace of development. Estate agents stated that developing a custom-built solution would be 'not viable due to cost,' 'cost and time prohibitive,' 'too complicated,' and 'costly and time consuming.' One estate agent emphasised the risks of losing data if relying on a custom-built solution.

38.   Accordingly, the CMA has not included custom-built software in the frame of reference.

Desktop and cloud-based CRM property software

39.   Desktop and cloud-based CRM property software provide the same basic features. From an estate agent's perspective, most features and functionality are the same regardless of whether the agent is using a desktop or cloud-based solution. Both types of solution allow agents to interact with customers, organise their inventory, track sales or lettings, and upload property information to property portals.

40.   For estate agents, the difference is that desktop solutions are physically loaded onto the estate agent's hardware at their premises, while cloud-based solutions are provided by a third party over the Internet. Cloud-based software can be easily used on-the-move, while remote use of desktop software requires access to a server within the office where the software is hosted.

41.   PSG's cloud-based solutions are its currently-marketed Alto and Jupix products. PSG's desktop solutions – Vebra and CFP – are legacy products that PSG no longer actively markets. Expert Agent is fully cloud-based. Other major competitors– such as Reapit, Dezrez, VTUK, and Propco – either offer both desktop and cloud-based software or are now fully cloud-based.

42.   In previous cases involving CRM software, the European Commission has found that desktop and cloud-based CRM software are substitutes.[16] At the same time, the European Commission has identified a market shift towards cloud-based software.[17]

43.   In response to the CMA's merger investigation, several customers stated that, when choosing CRM software, whether it was cloud-based was an important factor in the purchase decision. Likewise, competitors stressed that, to compete effectively today, a CRM property software provider should offer a cloud-based solution. ZPG's internal documents also note an [✂],[18] with [✂].[19]

44.   In the present case, the CMA notes that the conditions of competition and the competitor set are broadly the same whether desktop and cloud-based solutions are considered in the same frame of reference or not. All major CRM

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[16] Case COMP M.8124 *Microsoft/LinkedIn*, Commission decision of 6 December 2016, paragraph 43.
[17] *Ibid.,* paragraph 43.
[18] [✂]
[19] [✂]

property software providers offer both a desktop and cloud-based solution, or are now fully cloud-based.

45.   Accordingly, and consistent with precedent, the CMA has not segmented the frame of reference between desktop and cloud-based CRM property software.

Single platform and mix-and-match solutions

46.   Today, most CRM property software providers offer a single platform solution, providing sales, lettings, and property management together in one integrated package.

47.   In response to the CMA's merger investigation, competitors stressed the importance of offering a single platform solution. Customers stated that, when choosing CRM property software, an important factor is whether the software provides sales, lettings, and property management together in one package.[20]

48.   However, the CMA found that a material proportion of estate agents split their requirements for sales, lettings, and property management between different CRM providers.[21] The CMA investigated why these customers used different solutions. The most commonly given reason was that it was a historic choice. Although a single platform would be more convenient, customers stated that transferring data between platforms – in particular lettings data – in order to use a single platform can be costly and time-consuming.

49.   From the supply-side, the fact that almost all CRM property software providers offer sales, lettings, and property management in one package suggests a degree of supply-side substitutability. In response to the CMA's merger investigation, competitors stated that to build a lettings and property management solution on top of an already existing sales product would take between 2-5 years, at a cost of £400,000 to £10 million.[22]

50.   In practice, the CMA notes that the conditions of competition and the competitor set are broadly the same whether single platforms and mix-and-match solutions are considered separately or not, and almost all CRM property software providers today offer an integrated single platform solution.

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[20] Customers stated that a single platform solution 'avoids duplication,' 'it links the information,' doing 'everything under the one roof is easier to manage,' it is 'less confusing,' gives 'better control and stats,' 'simplifies the process,' is 'easier to train staff,' and is 'more accessible.'
[21] 6 of the 25 estate agents who answered this question stated that they split their requirements between different CRM property software providers. 12 estate agents that had requirements for sales, lettings, and/or property management used a single solution. The remaining estate agents were only active in one of sales, lettings, or property management. PSG's pitch data [✂].
[22] ZPG estimated that building a simple lettings-only platform from scratch would cost around [✂] and take [✂]. Alto (a cloud-based single platform solutions) took PSG [✂] and cost [✂] to develop.

51. Accordingly, the CMA has not distinguished between single platform and mix-and match solutions in the frame of reference.

'Other workflow apps'

52. ZPG includes in the frame of reference 'other workflow apps' that provide ancillary services to estate agents and end-consumers. ZPG named three providers of 'other workflow apps': (i) the Guild, (ii) Fixflo, and (iii) Goodlord.

53. These apps do not provide core CRM property software functionality to estate agents (eg managing appointments, organising inventory, tracking sales and lettings, and uploading property information to property portals). Rather, they offer ancillary services that can typically integrate with CRM property software.

54. Fixflo provides a repair reporting service. The Guild is a membership organisation that provides marketing and IT services to estate agents and various different services to end-consumers. Goodlord provides a lettings transaction platform for agents, tenants, and landlords.

55. The CMA's merger investigation found that these providers do not compete with CRM property software. The Parties' internal documents do not refer to these 'other workflow apps' as competitors.

56. Accordingly, the CMA has not included 'other workflow apps' in the frame of reference for CRM property software.

Property portals

57. Property portals – such as Zoopla, Rightmove, and OnTheMarket – allow users to search for information about properties to buy or let. The property portals do not charge users for this service. Instead, property portals earn revenue by charging estate agents to advertise properties on the portal (typically, a monthly subscription fee).

58. Property portals therefore operate ad-funded, two-sided platforms, bringing together users and estate agents. These customer groups are interdependent, with the portal acting as the intermediary. The portals are subject to network effects because the value of the portal to estate agents increases with the number of users (and *vice versa*).

59. On the user side, property portals allow users to search for properties. This service is not substitutable with search services focused on other types of information (eg travel or local information).

60. On the estate agent (advertiser) side, the OFT has previously examined the constraint from other types of advertising on property portals. In *Digital Property Group/Zoopla*, the OFT found that print advertising did not provide an effective constraint on property portals.[23] Likewise, other forms of online advertising (including on estate agents' websites) did not in that case form a sufficient constraint to warrant consideration as part of the competitive assessment.[24]

61. In line with the OFT's precedent, the CMA has considered a frame of reference for the supply of services to estate agents and consumers through property portals.

62. There are three main property portals in the UK:[25]

    (a) Rightmove was established in 2000. It is the largest and most visited property portal in the UK.

    (b) Zoopla was founded in 2007. Since then, it has grown its business organically and through acquisitions, including Digital Property Group, which owned another property portal, Primelocation.[26]

    (c) OnTheMarket is run by Agents Mutual Limited (**Agents Mutual**), a mutual limited company owned by its members, all of whom are estate agents. Agents Mutual was founded in 2013, with the stated aim of challenging Zoopla and Rightmove. Agents Mutual launched OnTheMarket in January 2015.

63. Together, Rightmove and Zoopla account for around 90% of the property portal market based on user visits. In 2016, Zoopla received a little under half the number of visits that Rightmove received.

Uploading property information to property portals

64. CRM property software allows estate agents to upload their properties to property portals. Although this is a core aspect of the CRM property software offered to estate agents, it also constitutes a service provided to the property portals. The contract between PSG and the property portals for uploading property information refers to [✂].[27]

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[23] Anticipated merger between The Digital Property Group Limited and Zoopla Limited, ME/5233/11, paragraphs 12-13.
[24] *Ibid.,* paragraphs 14-18.
[25] There are other property portals in the UK, but these have a very small presence compared to Rightmove, Zoopla, and OnTheMarket.
[26] *Ibid.*
[27] [✂]

65. There is therefore a vertical relationship between CRM property software (upstream) and the property portals (downstream).

66. Both PSG and Expert Agent have feed arrangements in place with Zoopla, Rightmove, and OnTheMarket that allow estate agents to upload properties to these portals.

67. PSG receives a fee from property portals for property uploads. For the main property portals (Rightmove, Zoopla and OnTheMarket), PSG has long-term contracts in place under which the portals pay PSG a relatively small fee for the upload of property information.

68. The other large CRM property software providers, including Expert Agent, do not charge the property portals (and the portals do not charge the CRM property software provider). However, CRM property software providers typically charge estate agents for property uploads. They do so through a variety of different models – including a flat fee, a charge per portal, or as part of the CRM property software subscription.[28]

69. As an alternative to using their CRM property software, estate agents can upload property information to property portals in other ways:

    (a) **Manual upload.** Estate agents can manually upload property information to property portals via an open API. The CMA investigated whether estate agents would switch to uploading property information to property portals manually in the case of a SSNIP in CRM property software. Most estate agents stated that they would not switch to manual uploading because it would be too time-consuming.[29]

    (b) **Automatic upload software.** Estate agents can upload property information to property portals via automatic upload software, such as that provided by xml2u. While different charging models are used, these upload services typically cost a similar amount to the portal upload functionality offered by CRM property software.

70. As a result, while uploading property information to property portals is part of the functionality offered by CRM property software, the competitor set is broader because there are additional players with dedicated software offering this service.

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[28] [✂]

[29] 13 estate agents stated they would not switch to uploading manually, and would instead have to pay the increased price. 6 estate agents stated that in case of a SSNIP in CRM property software, they would consider uploading manually.

71. Accordingly, the CMA has identified a separate frame of reference for uploading property information to property portals. Based on the evidence set out above, and on a cautious basis, the CMA has excluded manual uploading from this frame of reference.

Geographic scope

72. ZPG and Expert Agent provide CRM property software to estate agents across the UK, with minimal regional biases to their activities.

73. Likewise, the property portals focus on providing information about properties across the UK to users.[30]

74. Consistent with ZPG's submissions and in line with precedent, the CMA has assessed the Merger on a national basis.

Conclusion on frame of reference

75. For the reasons set out above, the CMA has considered the impact of the Merger in the following frames of reference:

    (a) the supply of CRM property software in the UK;

    (b) the supply of services to estate agents and consumers through property portals in the UK; and

    (c) automatic uploading of property information to property portals in the UK.

Competitive assessment

Competitive landscape

How competition takes place

76. Competition for CRM property software typically takes place by estate agents seeking quotes from multiple CRM property software providers, or providers pitching to estate agents. Estate agents contact several different providers (or *vice versa*) to give demonstrations and quotes. Agents pick the provider they consider will give the best value solution for their needs.

77. Both ZPG and competitors emphasised that estate agents use their negotiation skills to play different CRM property software providers off against

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[30] Anticipated merger between The Digital Property Group Limited and Zoopla Limited, ME/5233/11, paragraph 24: the OFT assessed a transaction involving the merger of two online property portals on a national basis.

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each other to get the best deal. There are bilateral negotiations on price, with CRM property software providers offering discounts off their publicly-listed prices.

78.   Prices for CRM software typically consist of an up-front fee, together with a monthly subscription fee based on the number of users or branches that take the CRM software. The price usually depends on what features of the CRM software the estate agent signs up for, eg sales, lettings, property management, or portal uploading.

79.   Estate agents told the CMA that they choose CRM property software based on the following factors: price; whether the software is cloud-based; ease-of-use; provider reputation; portal upload functionality; reliability; and whether the software offers a single platform for sales, lettings, and property management.

The main CRM property software providers

80.   There are many firms that offer CRM property software.[31]

81.   The CMA's merger investigation has found that there is a core group of CRM property software providers that includes PSG, Reapit, Dezrez, Expert Agent, VTUK, PropCo, CML, Qube (Aspasia), LetMC, Thesaurus, Estates IT, and 10ninety. Each of these competitors typically has several different software offerings, and has invested in on-going development to improve its products.

82.   Outside the core group, there is a long tail of smaller competitors. Although these competitors have a smaller presence than the core group, the CMA identified them either because they were listed in Zoopla's portal upload data,[32] they appeared in PSG's pitch data, or they were mentioned by customers in the CMA's merger investigation as credible alternatives.

83.   While CRM property software providers all offer the same basic functionality, there is considerable differentiation between product offerings based on price and the different features offered. Broadly, there is a price/features trade-off, with some providers offering a more expensive and customisable package, and some providers offering a cheaper 'no frills' package.

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[31] In Case COMP M.8124 *Microsoft/LinkedIn*, Commission decision of 6 December 2016, the EC identified that the competitive landscape for CRM software (a broadly comparable market to CRM property software) was fragmented and characterised by a large number of different providers (see paragraph 193).
[32] [✂]

The customer base for CRM property software

84.   There are around 14,000-16,000 estate agents in the UK, and approximately 22,000-25,000 branches. In each branch, there are around 4 to 5 staff members that use CRM property software. Most estate agents are single office agencies (over 80%), with a small number of multi-branch (or corporate) agencies.

85.   The contestable market for CRM property software comprises: (i) new estate agents entering the market; (ii) existing estate agents that currently have no CRM property software (ie those that use a generic solution);[33] and (iii) estate agents that want to switch away from their current CRM property software provider.[34]

Horizontal unilateral effects

86.   Horizontal unilateral effects may arise when one firm merges with a competitor that previously provided a competitive constraint. This can allow the merged firm profitably to raise prices or to degrade quality on its own and without needing to coordinate with its rivals.[35]

87.   Horizontal unilateral effects are more likely when the merging parties are close competitors. The CMA assessed whether it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC in relation to unilateral horizontal effects in the supply of CRM property software in the UK.

88.   In this section, the CMA first presents shares of supply based on revenues; second, it analyses the branch penetration of the main CRM property software providers; third, it examines the Parties' and their main rivals' relative branch growth; fourth, it discusses the closeness of competition between the Parties; and fifth, it assesses the competitive constraints that would remain post-Merger.

Shares of supply based on revenues

89.   The CMA first presents shares of supply based on revenues. The CMA gathered actual revenues from the main competitors (indicated by a * in Table

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[33] Based on ZPG's analysis of PSG's pitch data, this comprises around [5-10%] of residential sales estate agents, and [10-20%] of lettings estate agents.
[34] ZPG and competitors stated that estate agents typically review their requirements every 5-7 years (ie they review their current software and compare it with different offerings on the market, often by inviting pitches from rival CRM property software providers).
[35] *Merger Assessment Guidelines*, from paragraph 5.4.1.

1 below). Where a competitor did not respond, the CMA has relied on ZPG's revenue estimates for that competitor.

90. Table 1 lists providers of CRM property software in the UK. Consistent with the frame of reference, it excludes generic and custom-built solutions, as well as 'other workflow apps.'

91. In its estimate of the market size, ZPG also included 38 'other small CRM and workflow competitors,' with an assumed revenue for each of [✂]. The CMA was unable to verify whether all these providers compete in the frame of reference. The CMA has therefore included only those that are either (i) named in Zoopla's upload data, or (ii) appear in PSG's pitch data.[36] This results in including 31 of the 38 small CRM providers.[37]

Table 1: Shares of supply for CRM property software based on revenues

CRM Property Software Provider	2016 (£, million)	Share
PSG*	[✂]	[25-35%]
Expert Agent*	[✂]	[5-10%]
Merged entity*	**[✂]**	**[30-40%]**
Reapit*	[✂]	[10-20%]
Dezrez*	[✂]	[5-10%]
Qube SLM (Aspasia)*	[✂]	[0-5%]
PropCo*	[✂]	[0-5%]
Vision Teknology (VTUK)*	[✂]	[0-5%]
Thesaurus*	[✂]	[0-5%]
Focus Micro Systems	[✂]	[0-5%]
Eurolink	[✂]	[0-5%]
Gnomen	[✂]	[0-5%]
Acquaint CRM	[✂]	[0-5%]

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[36] If a provider neither uploads to property portals (which ZPG explained constitutes an 'integral part of the CRM service that all CRM property software providers offer') nor appears as an incumbent or current supplier in PSG's pitch data, the CMA cannot be confident that the provider competes in the frame of reference.
[37] The CMA has included the following 31 small CRM property software providers: [✂]

CRM Property Software Provider	2016 (£, million)	Share
LetMC*	[✂]	[0-5%]
CML*	[✂]	[0-5%]
Estates IT*	[✂]	[0-5%]
10 ninety*	[✂]	[0-5%]
Logic (RealCube)	[✂]	[0-5%]
31 other small CRM competitors	[✂]	[10-20%]
Total	**[40-50 million]**	**100%**

Source: Revenue data from CMA merger investigation, and ZPG estimates
*Revenue data provided by named supplier

92. Table 1 shows that PSG is the largest supplier, Expert Agent is the third largest, and there are many alternative suppliers. However, given the differentiated nature of the products, the shares of supply do not provide a strong indication of closeness of competition.

93. The CMA is also aware of limitations in the shares data. In particular, many competitors did not respond to the CMA's questions and, for those competitors, the CMA has relied on ZPG's revenue estimates. More fundamentally, the revenue shares are only instructive for historic competition and the installed base; they have less probative value for assessing current and prospective competition.

94. As a first step, the CMA therefore sought to check the revenue shares with an analysis of branch penetration. This analysis is presented below.

Branch penetration analysis

95. In its internal analysis, PSG estimated market shares based on the number of estate agent branches that use a particular CRM property software. Competitors likewise told the CMA that they calculated shares for their internal analyses by looking at branch numbers.[38]

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[38] This is because information on branches is often publicly available, while information on revenues is not. Competitors told the CMA that branch numbers provide a reasonable basis for share estimates because in each branch, there are around 4 to 5 CRM property software users.

96. However, the CMA has received mixed evidence on the total number of branches in the UK, with the number somewhere between 22,000 and 25,000.[39] Moreover, branch numbers do not allow for a calculation of shares of supply because a material proportion of estate agents use different CRM property software for sales, lettings, and property management in the same branch (see paragraph 48 above).

97. Nonetheless, the branch numbers indicate the relative branch penetration of the Parties compared to their main rivals, as shown in Table 2 below:[40]

Table 2: Branch penetration for CRM property software

CRM Provider	Total number of branches present in 2016
PSG	[7,000-8,000]
Expert Agent	[2,000-3,000]
Merged entity	**[9,000-10,000]**
Reapit	[2,000-3,000]
Dezrez	[1,000-2,000]
VTUK	[1,000-2,000]
LetMC	[500-1,000]
PropCo	[500-1,000]
Thesaurus	[500-1,000]
Qube SLM (Aspasia)	[500-1,000]
10 ninety	[0-500]
Estates IT	[0-500]
CML	[0-500]
Total	**22,000-25,000**

Source: Branch data from CMA merger investigation

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[39] [✄]

[40] The table presents a conservative estimate of the Parties' relative branch strength because it does not list all CRM property software providers (as the CMA was not able to gather branch data for all providers). In particular, the table does not include 36 CRM property software providers who either appear in Zoopla's upload data or appear in PSG's pitch data.

98. The branch penetration analysis set out in Table 2 reveals a broadly similar picture to the shares of supply based on revenues in Table 1. PSG is the largest supplier, with Reapit, Expert Agent, Dezrez, and VTUK the next largest. Combined, the Parties are present in between [30-40%] and [35-45%] of estate agent branches in the UK (with an increment from the Merger of [c.10%]).[41] Reapit is present in [0-20%] of branches, Dezrez in [0-10%], and VTUK in [0-10%].[42]

99. As with the shares of supply based on revenues, the CMA notes that the branch penetration analysis is only instructive for assessing the installed base of CRM property software, and not for assessing current and prospective competition. The CMA has therefore also undertaken an analysis of the Parties' relative branch growth compared to their main rivals.

Relative branch growth

100. The CMA requested data from the Parties and their rivals on the number of branches that have been 'newly won' as customers over the last few years. The CMA has used this data to assess the rate at which the Parties are growing compared with their rivals. The results are set out in Table 3 below.

Table 3: Branch wins data

CRM Property Software Provider	Branches 'newly won' as customers	
	2015	2016
PSG	[600-700]	[500-600]
Expert Agent	[200-300]	[300-400]
Merged entity	**[900-1,000]**	**[900-1,000]**
VTUK	[100-200]	[200-300]
Reapit	[100-200]	[100-200]
10 ninety	[100-200]	[100-200]
PropCo	[100-200]	[0-100]
Estates IT	[0-100]	[0-100]

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[41] As mentioned, the CMA considers that the [35-45%] figure is likely to overestimate the Parties' branch penetration because it is based on a lower-bound estimate for the number of branches of c. 22,000 [✂].
[42] As noted, the CMA was not able to gather branch data for the remaining 36 CRM property software providers who appear in Zoopla's upload data or PSG's pitch data.

CRM Property Software Provider	Branches 'newly won' as customers	
	2015	2016
LetMC	[0-100]	[0-100]
CML	[0-100]	[0-100]
Qube SLM	[0-100]	[0-100]
Dezrez	[0-100]	[0-100]
Thesaurus	[0-100]	[0-100]

Source: Branch wins data from CMA merger investigation

102. Table 3 shows the following:

(a) PSG and Expert Agent have added more branches than their rivals over the last two years. (PSG released its new cloud-based software, Alto, in May 2013, and acquired Jupix in July 2014, which may explain its recent success.) At the same time, many rivals have also successfully added branches in recent years (although a lower total number than PSG and Expert Agent), including VTUK, Reapit, 10ninety, and Propco.

(b) Many of the Parties' rivals have been more successful than the Parties relative to their current size (albeit from a smaller base). [✂]. [✂].

103. The CMA makes the following observations on the branch wins data:

(a) Although the larger CRM property software providers provided branch wins data, the CMA was not able to collect data for several of the smaller providers.[43] PSG's pitch data shows that [✂]. The combined share of these providers based on revenues is around 23% (as shown in Table 1), indicating that the wins data misses a material proportion of the market.

(b) The branch wins data provides a somewhat historic view of the market because it does not reflect more recent developments (ie in 2017), including new and planned releases by competitors of new products (discussed at paragraphs 126-130).

(c) ZPG provided revenue data for Expert Agent that showed that [✂]. ZPG explained that this was due to [✂]. The CMA discusses this at paragraph 109 below.

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[43] Namely, the 36 small CRM property software providers that did not provide branch data discussed in the branch penetration analysis section above.

104. Overall, the evidence on branch wins indicates that PSG and Expert Agent have added more branches over the last two years compared with their rivals. However, several alternative CRM property software providers have also been successful, with some growing their businesses at a faster rate than the Parties. The CMA also notes that several of these alternative providers have recently released new software, or will do so in the near future (see paragraphs 126-130).

Closeness of competition

105. The CMA has assessed the closeness of competition between the Parties both qualitatively and quantitatively. This assessment considers the similarity of the Parties' service proposition, their prices, the Parties' internal documents, and PSG's discount data.

106. The evidence demonstrates that the Parties' offerings are differentiated. Expert Agent provides a simple 'no frills' solution, while PSG offers more modern, advanced, and customisable software. Differentiated offerings may still place an effective competitive constraint on each other, as some customers may be willing to substitute from a high service/high price offering to a low service/low price offering.

107. Nonetheless, the evidence gathered by the CMA indicates that the Parties are not particularly close competitors. This is both due to the differentiation between their offerings and the availability of other offerings that appear to be as close – or closer – competitors to each of them.

Similarity of the Parties' service proposition

108. Both PSG and Expert Agent offer a cloud-based, single platform solution.[44] However, this is not a particular feature of closeness between the Parties as all major CRM property software providers now offer this.

109. On the other hand, there are several distinguishing features between PSG and Expert Agent:

   (a) **Customisable offering**. PSG, through its actively marketed Alto and Jupix products, offers a customisable service. For example, an estate agent can choose to take one (or all) of sales, lettings, and property management, and pay less or more as the case may be. By contrast, Expert Agent is not customisable: the estate agent pays a flat monthly fee

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[44] [✂]. Today, however, almost all major CRM property software providers have developed cloud-based and single platform solutions.

(together with the on-boarding fee) and will receive all three services together.

(b) **Strength in property management.** [✂: PSG and Expert Agent have differing strength in property management].

(c) **Customer service levels**. [✂: PSG and Expert Agent take a different approach to customer service].[45]

(d) **Training methods.** PSG provides in-person, offline training on how to use its products. A trainer will visit the estate agent's offices and demonstrate face-to-face how to use the software at the point of installation (and periodically afterwards, if required). By contrast, training on how to use Expert Agent software is conducted via online videos and webinars.

(e) **Property *versus* customer focus.** [✂: The technology underpinning PSG and Expert Agent has a different focus, with one based on views of customers and one based on views of properties.]

(f) **Technology age**. [✂: The age of the technology stack underlying Expert Agent and PSG is different.]

110. Accordingly, there are significant differences between PSG's and Expert Agent's service propositions. And, as shown in paragraphs 126-130 below, there are several rival players that offer closer alternative products to each of the Parties.

Prices

111. The difference in the service proposition between PSG's Alto and Jupix compared with Expert Agent is reflected in their respective prices:[46]

(a) Alto and Jupix cost around [✂] per user per month;

(b) Expert Agent costs around [✂] per user per month.

112. The CMA also investigated the closeness in price between PSG's legacy, desktop products – CFP and Vebra – and Expert Agent. Vebra and CFP cost

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[45] [✂]
[46] Because CRM property software is not simply priced per month, but rather as an up-front fee together with a variable monthly charge depending on the features selected to use, these estimates are based on the total revenue generated for the software, divided by the estimated number of users of the software.

around [✂] per user per month, and therefore are at a similar price point to Expert Agent.

113. However, the CMA does not believe that the similarity in price between Expert Agent's and PSG's legacy products indicates a closeness of competition between these products. This is because:

(a) PSG is no longer actively marketing its legacy products.

(b) Vebra and CFP offer a different service proposition to Expert Agent: Vebra is a desktop product, while CFP is a property management specialist.

(c) PSG's pitch data shows [✂].

(d) There remain a number of effective competitors at the lower price point, and these compete more closely with Expert Agent than PSG's legacy products (see paragraphs 126-130 below).

114. Accordingly, there is a significant price difference between Expert Agent and PSG's actively-marketed products. This reflects [✂: differences in their service offering]. As to PSG's legacy products, these are no longer marketed, and they provide a different offering to Expert Agent.

The Parties' internal documents

115. ZPG's internal documents list Reapit, Dezrez, Expert Agent, and VTUK as PSG's main competitors. Consistent with the CMA's share and branch penetration analysis, the documents identify PSG as the market leader, and Expert Agent as the third or fourth largest player.[47]

116. ZPG's documents show that [✂].[48] The Expert Agent sales memorandum and financial due diligence report from early 2017 show that [✂].[49]

117. Consistent with Expert Agent's position as providing a cheaper, 'no frills' option, the ZPG document discussing the acquisition of Expert Agent notes that [✂: Expert Agent is particularly suited for smaller estate agents].[50]

118. When discussing competitors, PSG's documents from mid-2016 state that [✂].[51] This is consistent with [✂]. Since this report, competitors have

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[47] [✂]
[48] [✂].
[49] [✂]
[50] [✂]
[51] [✂]

developed their systems and now almost all CRM property software providers now offer a SaaS or cloud-based solution.

119. Although PSG's documents mention Expert Agent, they do not identify it as a particularly close competitor. For example, customer interviews that ZPG conducted prior to acquiring PSG in April 2016 found that [✂: Reapit was a strong competitor.] They also found that, when estate agents look to change CRM property software, [✂: they often look to PSG, Reapit, and Dezrez].[52]

120. In 2016, ZPG conducted a competitor assessment of Reapit, Dezrez, and Expert Agent, which found:[53]

    (a) Reapit is highly-regarded among estate agents. [✂], it is prepared to customise its products for each client. The software is easy-to-use and has the functionality that customers require.

    (b) Dezrez offers a wide range of features, [✂].

    (c) Expert Agent keeps its software up-to-date [✂].[54] [✂].

    PSG's discount data

121. ZPG provided data on the level of discounts that PSG grants when facing different CRM property software suppliers as incumbents. ZPG submitted that [✂].

122. The CMA has analysed PSG's discount data. This analysis is set out in Tables 4 and 5 below, separately for sales and lettings:[55]

Table 4: Average PSG discounts for sales

[✂: Table 4 is redacted]

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[52] [✂]
[53] [✂]
[54] [✂]
[55] The tables list only those providers for which there are [✂]. Data points for customers where the incumbent supplier was listed as custom-built or generic software, or where the incumbent supplier was not known, were not included in the CMA's analysis of the discount data.

Source: CMA analysis of PSG discount data

Table 5: Average PSG discounts for lettings

[✄: Table 5 is redacted]

Source: CMA analysis of PSG discount data

123.   The discount data shows the following:

(a)   For sales, PSG gives greater on-average discounts when facing several CRM property software providers (ie EstatesIT, Dezrez, Domus, and Thesaurus) than when facing Expert Agent (Table 4).

(b)   For lettings, PSG gives the lowest on-average discount when facing Expert Agent as an incumbent compared to any other rival for which reasonable data is available (Table 5).[56]

124.   The CMA notes that the discount data contains simple averages that do not control for a variety of factors that could affect the results (eg the number of branches an estate agent signs up with, the features an estate agent chooses to take, or the length of contract). Nonetheless, the quantitative analysis of the discount data is consistent with the qualitative analysis on features and prices – as well as the Parties' internal documents – set out above, indicating that PSG and Expert Agent do not compete particularly closely.

Conclusion of closeness of competition

125.   Based on the evidence set out above, the CMA believes that the Parties are not particularly close competitors compared with their rivals. The CMA has found that the Parties' offerings are somewhat differentiated, with PSG providing a more expensive and customisable software package, and Expert Agent providing a cheaper 'no frills' offer particularly targeted at smaller estate agents. The Parties' internal documents did not indicate that they compete particularly closely compared with their main rivals.

Remaining competitive constraints

126.   Unilateral effects resulting from a merger are more likely where customers have little choice of alternative suppliers.[57]

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[56] As noted, the CMA's analysis excludes rivals for which there were fewer than [✄].
[57] *Merger Assessment Guidelines,* paragraph 5.4.12.

127.   In the present case, the CMA believes that, post-Merger, there will remain a sufficient number of effective alternative suppliers of CRM property software to constrain the merged entity. This includes:

(a) **Reapit**. Reapit is a long-established CRM property software provider that is highly-regarded by estate agents. Reapit's core software offering, the cloud-based RPS, competes at a higher-price point, with a customisable service particularly valued by larger, multi-branch estate agents. Reapit, however, has recently developed a streamlined version of RPS called JET. JET (which is also cloud-based) is 'tailored to smaller agencies,'[58] and priced at a similar (or slightly lower) level to PSG's Alto and Jupix. PSG's pitch data shows [✂].

(b) **Dezrez**. Dezrez started providing CRM property software in 2000, but released its new software, Rezi, in 2015-2016. Rezi is Dezrez's cloud-based sales and lettings platform; it uses an open API to allow third-party software to connect to its system. Rezi is priced at a level between Expert Agent and PSG's Alto and Jupix. Dezrez told the CMA that Rezi is winning new customers, with [✂] new branches and [✂] upgrades in 2016. PSG's pitch data shows [✂]. Dezrez also informed the CMA that [✂].

(c) **VTUK.** VTUK's Scorpio product offers a cloud-based, single platform solution. VTUK offers several different products (eg Gemini and Acquarius), which cater to different customer requirements (eg desktop, sales, or lettings and property management) at various price points. VTUK has successfully added [400-600] branches over the last three years, and describes its performance as 'strong and stable.' It is currently releasing a new product range that it has developed over the last three years.

(d) **PropCo**. Although PropCo traditionally had a focus in lettings and property management (rather than sales), it has recently released an integrated single platform solution. It offers several different software packages, most of which are cloud-based. PropCo's basic package is priced at [✂]. [✂].

(e) **CML.** CML has been providing CRM property software for the last 15 years. Its new product, Radar, offers an integrated single platform solution that estate agents can access remotely. Like PSG's Alto and Jupix, Radar is customer (and not property) focused.[59] CML describes its performance

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[58] See https://jetsoftware.co.uk/why-jet/. JET is in fact an exclusively licensed reseller RPS, see https://jetsoftware.co.uk/stage/about/
[59] http://www.cmlsoftware.com/content/pdf/cml-software-radar-brochure.pdf

as 'improving,' with increasing user, branch, and employee numbers over the last few years.

(f) **LetMC.** LetMC offers a cloud-based, integrated single platform solution. While traditionally LetMC was stronger in lettings, it has in recent years diversified into residential sales. LetMC told the CMA that [✂]. Priced at a level broadly commensurate to Expert Agent's and PSG's legacy products, LetMC has added [✂] branches over the last 3 years.

128. In addition to these core competitors, there is a long tail of other competitors. The CMA has identified 40 additional competitors for the share calculations set out in Table 1. These smaller providers appear in PSG's pitch data or Zoopla's upload data. In response to the CMA's questions, customers mentioned several of these competitors as credible alternatives. And in interviews conducted by CIL Management Consultants for PSG, customers stated that they had used these alternative options. The CMA has been unable to verify the precise extent to which these smaller suppliers constrain the Parties' activities but, based on the available evidence, these suppliers appear credible alternatives for at least some customers.

129. The CMA notes that several of the large suppliers (eg Reapit, Dezrez, PropCO, VTUK, LetMC, and CML) have all recently released new software or will do so very soon. As a result, the shares of supply, branch penetration, and branch wins analyses presented above may underestimate their competitive strength in the future.

130. Based on the evidence set out above, the CMA believes that post-Merger there are sufficient remaining competitive constraints to prevent a realistic prospect of an SLC.

Conclusion on horizontal unilateral effects

131. In conclusion, the CMA believes that the Parties' offerings are somewhat differentiated. They are not particularly close competitors compared with their rivals. Post-Merger, the Parties would continue to be constrained by many effective competitors.

132. The CMA has therefore found that the Merger does not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the supply of CRM property software in the UK.

Vertical effects

133. Vertical effects may arise when a merger involves firms at different levels of the supply chain. Vertical mergers may be competitively benign or even efficiency-enhancing. In certain circumstances, however, they can weaken rivalry, eg when they foreclose the merged firm's competitors. The CMA only regards such foreclosure to be anticompetitive where it results in an SLC in the foreclosed market(s), not merely where it disadvantages one or more competitors.[60]

134. In the present case, the CMA has considered whether the Merger may strengthen the Parties' position in the supply of CRM property software and, by extension, in property uploads to property portals. The merged entity could then degrade the quality of the upload feed from its software to rival property portals (Rightmove and OnTheMarket), or otherwise influence estate agents' choice of property portal. This would be a form of vertical input foreclosure, with the input being the supply of upload feeds to portals from estate agents.

135. The CMA's approach to assessing vertical theories of harm is to analyse (a) the ability of the merged entity to foreclose competitors, (b) the incentive of it to do so, and (c) the overall effect of the strategy on competition.[61]

Ability

136. The first stage is to assess whether the merged entity would have the ability to foreclose rival property portals by degrading the quality of the property upload feed, or otherwise to influence estate agents' choice of property portal. If the Parties sought to degrade the relative quality of uploads to rival portals to Zoopla, estate agents may respond by seeking alternative CRM property software providers with which to make uploads, or may seek alternative means of making uploads. The CMA has assessed these possibilities below.

137. Almost all CRM property software providers offer portal upload functionality, with little differentiation in this aspect of the service. There are also standalone property portal upload providers (see paragraphs 69-70).[62] Therefore, the Merger results in a small increment to the Parties' position in the uploading of property information to property portals. Estate agents could

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[60] In relation to this theory of harm 'foreclosure' means either foreclosure of a rival or to substantially competitively weaken a rival.
[61] *Merger Assessment Guidelines*, paragraph 5.6.6.
[62] In Zoopla's upload data, these alternative upload providers account for at least [20-30%] of Zoopla's unique property uploads.

switch to many alternative providers in the event of a degradation of the feed from the merged entity.

138. The following additional factors limit the ability of the merged entity to engage in a foreclosure strategy against property portals:

  (a) In 2012, the OFT found that, for estate agents, having their properties listed on Rightmove was 'essential.'[63] In the present case, the CMA's merger investigation has again found that almost all estate agents upload 100% of their properties to Rightmove. Estate agents consistently stated that listing properties on Rightmove is 'essential.'

  (b) OnTheMarket is partially[i] owned by estate agents, many of whom agree to list on OnTheMarket and only one other property portal (almost invariably Rightmove[64]) for a duration of five years.[65] This affects the ability and incentives of these estate agents to switch away from OnTheMarket.

  (c) In response to the CMA's questions, estate agents explained that, if their CRM property software stopped offering portal upload services to a particular portal, this would affect their choice of CRM property software provider.[66] Estate agents indicated that access to the property portals of their choice is more important than their choice of CRM property software provider.[67] If ZPG sought to influence estate agents' choice of portal (eg by making it more expensive or difficult to upload to rival portals), estate agents would consider switching to rival CRM property software (or use automatic portal upload software).

139. Based on this evidence, the CMA believes that the merged entity would not have the ability to foreclose rival property portals by degrading the quality of the upload feed or otherwise influencing estate agents' choice of property portal.

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[63] Anticipated merger between The Digital Property Group Limited and Zoopla Limited, ME/5233/11, paragraph 41.
[64] Of the estate agents that responded to the CMA's merger investigation, around two-thirds list on Zoopla and Rightmove, and one-third on Rightmove and OnTheMarket.
[65] [✂]. OnTheMarket's 'one other portal' rule was challenged in a trial in the Competition Appeal Tribunal in February 2017. The judgment is pending.
[66] 20 estate agents stated that they would consider switching provider if a CRM solution no longer allowed uploading to a particularly property portal, despite the costs of doing so. 3 estate agents stated that they would not switch provider and would upload manually instead.
[67] Comments included that 'it is vital that [estate agents] have access to the whole market for portals,' if 'PSG were to decide to charge to upload to portals outside of their group we would be inclined to change provider and possibly stop advertising on their portal out of principle,' and 'we would not tolerate a CRM dictating to us or preventing us uploading to all significant portals we chose.'

140. Given that the CMA believes that the merged entity would have no ability to foreclose property portals, the CMA has not had to conclude on incentive and effect.

Conclusion on vertical effects

141. As set out above, the CMA believes that the merged entity would not have the ability to implement a foreclosure strategy against property portals. Accordingly, the CMA found that the Merger does not give rise to a realistic prospect of an SLC as a result of vertical effects in relation to property portals.

Third-party views

142. The CMA contacted customers and competitors of the Parties. Around half of customers, as well as a number of competitors, raised concerns regarding the Merger. However, many of these concerns were not competition-related or merger-specific. Although some customers and competitors raised concerns about increased prices, the CMA does not believe the Merger will give rise to horizontal unilateral effects for the reasons set out in paragraphs 86-132 above.

143. A CRM property software competitor raised a concern that the merged entity might foreclose property portal uploaders (including rival CRM property software) by restricting access to property portals (ie, Zoopla). The CMA, however, does not consider that the merged entity would have the ability to foreclose property portal uploaders in this way due to the leading position of Rightmove and the presence of OnTheMarket (see paragraphs 62-63). Nor would the merged entity have an incentive to do so because ZPG earns more from Zoopla listing fees than from CRM property software subscriptions.

144. A concern was raised about foreclosure of property portals through the merged entity degrading the portal upload feed to rival portals from its software, or by packaging CRM software and portal products to foreclose portal-only services. The CMA, however, does not believe that the merged entity would have the ability to implement a foreclosure strategy against property portals, as explained in paragraphs 136-139 above.

145. Concerns were also raised about the potential bundling of PSG's existing ancillary services with PSG's and Expert Agent's core products, resulting in the exclusion of rival providers' products for these ancillary services. The CMA has found that there is no realistic prospect of an SLC based on this concern. Post-Merger, there would remain a broad range of alternative CRM property software providers with which ancillary service providers could partner.

146. Third-party comments have been taken into account where appropriate in the competitive assessment above.

Decision

147. 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 an SLC within a market or markets in the UK

148. The Merger will therefore **not be referred** under section 22(1) of the Act.

Kate Collyer
Deputy Chief Economic Adviser
Competition and Markets Authority
29 June 2017

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[i] OnTheMarket clarified that it is wholly owned by its members, all of whom are estate agents. Members agree to list with OnTheMarket.com and a maximum of one other rival portal. There is no agreement about which other portal that is.