

Completed acquisition by Electro Rent Corporation of Microlease Inc. and Test Equipment Asset Management Limited

Summary of provisional findings

Notified: 5 February 2018

1. On 19 October 2017, the Competition and Markets Authority (CMA) referred the completed acquisition by Electro Rent Corporation (Electro Rent) of Microlease Inc. and Test Equipment Asset Management Limited (Microlease) (the Merger) for an in-depth (phase 2) merger inquiry. The CMA is required to address the following questions:
 - (a) whether a relevant merger situation has been created; and
 - (b) if so, whether the creation of that situation has resulted, or may be expected to result, in a substantial lessening of competition (SLC) within any market or markets in the UK for goods or services.¹
2. Electro Rent and Microlease (together, the Parties) both supply testing and measurement equipment (TME), which is used to test and measure electronic devices in order to validate their performance. The Parties operate globally in the supply of TME for purchase, leasing and rental across sectors such as telecommunications, aerospace and defence, industrial, and information technology.
3. Electro Rent is based in the US. In the UK, it has premises in Sunbury-on-Thames but it supplies products for purchase, lease and rental to the UK market and support to its UK operations from the Electro Rent European headquarters in Belgium.

¹ Enterprise Act 2002 (the Act), section 35.

4. Microlease is based in the UK in Harrow, supplying TME for sale (either as new or used equipment), for lease and for rental. It also offers services that help customers to manage their TME stocks (known as asset management services).
5. The Parties overlap in the rental supply of TME in the UK. They also overlap in the sale of TME, but not to a significant extent.
6. As part of our phase 2 inquiry, we spoke to 45 third parties (the Parties' main customers, other rental suppliers, and original equipment manufacturers (OEMs)) and received responses to an online questionnaire from an additional 55 (mostly smaller) customers. We also received several submissions and responses to information requests from the Parties, held hearings with each of them, and carried out an extensive review of internal documents of the Parties.

Relevant merger situation

7. We have provisionally found that the Merger has created a relevant merger situation within the meaning of the Act because it has resulted in the Parties ceasing to be distinct, and they collectively supply at least one-quarter of the revenue from rental supply of TME in the UK.

Counterfactual

8. The application of the SLC test involves a comparison of the prospects for competition with a merger against the competitive situation in the absence of a merger (the counterfactual).
9. While there is evidence that Electro Rent was looking to grow its presence in the UK, through opening its premises in Sunbury-on-Thames in 2015, the effect of this expansion on competitive conditions is uncertain as the expansion was paused following the change of ownership of Electro Rent, prior to the merger with Microlease. Accordingly, we provisionally conclude that the appropriate counterfactual is the conditions of competition prevailing at the time of the Merger. The potential for the expansion of Electro Rent in the UK to affect competition is assessed in our analysis of the competitive effects of the Merger.

Market definition

10. The purpose of market definition in a merger inquiry is to provide a framework for the analysis of the competitive effects of the merger.

11. Our provisional view is that the Merger should be investigated with reference to the rental supply of TME in the UK. We considered that TME rental and other forms of TME provision (especially the purchase of new or used equipment) are likely to be close alternatives for some customers and in some circumstances. However, our provisional view is that other forms of TME provision are not sufficiently close alternatives to TME rental to be considered part of the relevant market. We have considered the competitive constraint on TME rental exerted by purchase and other forms of TME provision outside the relevant market as part of our competitive assessment.

Competitive assessment

12. Microlease is the leading supplier of TME rental in the UK and Electro Rent, although smaller in the UK, is its closest competitor. Although there is a low level of awareness of Electro Rent amongst customers of Microlease with low levels of rental expenditure, and a reluctance on the part of some customers to use Electro Rent, in part due to its less established UK presence, the Parties' internal documents consistently show that Microlease and Electro Rent compete closely to supply a significant proportion of customers in the UK. This is corroborated by the evidence received from third parties.
13. The Parties are the only two UK rental partners of some of the largest OEMs (Keysight, Viavi and EXFO). These partnerships allow the Parties to purchase the equipment of these OEMs at discounts not available to other rental suppliers, and provide other benefits, making it more difficult for other rental suppliers to compete effectively with the Parties.
14. The other rental suppliers put forward as competitors by the Parties either do not supply the same product/customer groups as the Parties or focus on narrow product segments. None of the other suppliers offers rental of TME across all of the sectors supplied by the Parties and none supplies equipment to a material extent in the UK in the segment which is the Parties' largest customer group in the UK. The evidence we have received indicates that in many situations customers would no longer have a choice between rental suppliers following the Merger.
15. In some circumstances, other forms of TME provision (such as purchase) are likely to be a close alternative to rental from the Parties. However, in our view this is not the case in a significant proportion of situations.
16. Consequently, the Merger would lead to the removal of each of the Parties' closest rental competitor in the UK and would lead to a substantial reduction in the alternatives available to a significant proportion of the Parties' rental customers. This is particularly reflected in the evidence we received in our

customer calls. Almost half of the customers we spoke to stated that purchase was not a close alternative to rental for them and viewed the Parties as their only rental options. These customers accounted for around half of Electro Rent's and around a quarter of Microlease's UK rental revenue.

17. Since the Parties negotiate prices with customers on a case-by-case basis, they are able to price discriminate across customers. Price discrimination makes an SLC more likely because the merging parties are able to increase prices selectively for those customers whose options are likely to have been significantly reduced as a result of the Merger. The evidence indicates that these customers account for a significant proportion of the Parties' rental revenues.
18. A high proportion of the customers we spoke to also expressed concerns about the Merger. The customers expressing concerns accounted for around half of the Parties' rental revenue.
19. Furthermore, there is evidence that, absent the merger, Electro Rent's decision to establish a physical UK presence may have led to Electro Rent becoming a stronger competitor in the UK in the future.

Countervailing factors

20. We considered whether new entry into the UK TME rental market, or expansion of existing rental suppliers, would be timely, likely or sufficient to mitigate or prevent an SLC.
21. We consider that to be deemed sufficient to remedy or mitigate an SLC, entry (or expansion) would have to take place in the various sectors serviced by the Parties. This could either take the form of one player, with expertise and capability in these sectors, or possibly a number of players each with expertise and capability in a single market sector.
22. Our review of the recent history of entry into the market indicated that there have been no recent examples of significant entry.
23. Although one supplier had told us it intended to continue to expand in the UK in a limited manner, none of the other TME rental suppliers we spoke to had any plans to enter the UK market or significantly expand their presence there. We also noted the leading position of the Parties and the existence of various barriers to entry, which suggested that there is limited incentive for operators to embark on a programme of sizeable entry or expansion.

24. We found no evidence of any plans for entry or expansion, nor did we consider that such entry or expansion were likely to take place on a sufficient scale to mitigate or prevent an SLC.
25. We received no evidence that buyer power or efficiencies would offset our concerns.

Provisional findings

26. We have provisionally concluded that the Merger has resulted, or may be expected to result, in an SLC for the supply of TME rental in the UK.