COMPLETED ACQUISITION BY FNZ (AUSTRALIA) BIDCO PTY LTD (FNZ) of GBST HOLDINGS LIMITED (GBST)

Summary of Final Report

Notified: 5 November 2020

Introduction

1. The Competition and Markets Authority (CMA) has found that the completed acquisition by FNZ (Australia) Bidco Pty Ltd (FNZ) of GBST Holdings Limited (GBST) (the Merger) has resulted, or may be expected to result, in a substantial lessening of competition (SLC), as a result of horizonal unilateral effects, in the supply of Retail Platform Solutions in the UK.

Background

The reference

2. On 8 April 2020, the CMA, in exercise of its duty under section 22(1) of the Enterprise Act 2002 ('the Act') referred the Merger of FNZ with GBST for further investigation and report by a group of CMA panel members (the Inquiry Group).

3. In exercise of its duty under section 35(1) of the Act, the CMA must decide:

   (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 an SLC within any market or markets in the United Kingdom for goods or services.

The Parties and transaction

4. FNZ is a global wealth management technology and investment administration services firm, set up in 2003 and headquartered in the UK since 2005.

5. FNZ is active in the supply of technology solutions in the UK, including: software to support pension and investment administration; software to support trade settlement and clearing services; transaction processing; and custody services. These solutions enable its customers to provide investment management platforms, either directly to consumers or to financial advisers and employers.

6. GBST is a financial technology company which provides software to support pension administration, investment management and stockbroking. GBST is headquartered in Australia and was listed on the Australian Stock Exchange before being acquired by FNZ.

7. GBST has two main activities in the UK:

   (a) A wealth management business that provides software to investment platforms to support the provision of pensions administration and investment management services to consumers; and

   (b) a capital markets business that provides software to stockbroking firms to enable the settlement and clearing of trades in listed securities and margin lending.

8. On 5 November 2019, FNZ acquired the whole issued share capital of GBST via a scheme of arrangement in which all GBST shares were transferred to FNZ. In this document and in this inquiry, the CMA will refer to FNZ and GBST collectively as the Parties and the post-merger business as the Merged Entity.

9. Prior to its acquisition by FNZ, GBST had been engaging in negotiations with two other parties regarding its potential acquisition and it had received bids from Bravura Solutions (Bravura) and SS&C Technologies (SS&C).

Industry background

10. The Parties are both active in the UK in the supply of Platform Solutions to Investment Platforms in the investment management sector.

11. Investment Platforms enable investors and their advisers to invest in a range of financial products. They provide services such as financial and investment advice, asset management, accounting, tax services, and retirement planning to manage a customer’s investments. Products available on these Platforms include tax-efficient investments (known as tax wrappers) such as Individual Savings Accounts (ISAs) and Self Invested Personal Pensions (SIPPs).

Investment Platform providers include UK and global banks, insurers, asset managers and wealth managers.

12. Platform Solutions are the software and services which enable Investment Platforms.

13. Investment Platforms source Platform Solutions using a range of models, including:

    (a) A software-only Platform Solution sourced from a third party which the customer combines with in-house servicing or servicing from another third party;

    (b) an integrated software and servicing Platform Solution from a single third-party provider or a partnership of third-party suppliers (known as a Combined Platform Solution); or

    (c) software and servicing provided in-house (an in-house solution).

Findings

Relevant merger situation

14. We found that the Merger has resulted in the creation of a relevant merger situation because it resulted in the Parties' enterprises ceasing to be distinct, and as a result, having a combined share of supply of at least 25% in the supply of Retail Platform Solutions in the UK.

15. In accordance with section 35(1) of the Act, we considered whether the creation of that situation has or may be expected to result in an SLC within any market or markets in the UK for goods or services.

Competitive effects

The counterfactual

16. In order to assess the effects of a merger on competition, we consider the prospects for competition with the merger against what would have been the competitive situation without the merger: the counterfactual.

17. Prior to its acquisition by FNZ, GBST had been engaged in negotiation with, and had received bids from, two other parties: Bravura and SS&C. The

evidence shows that, absent the competing offer from FNZ, an acquisition of GBST by SS&C was plausible.

18. The evidence also shows that GBST was not undergoing a distressed sale so we also consider it plausible that, absent a sale, GBST would have remained in independent ownership.

19. We do not however need to conclude on which of these two plausible scenarios was more likely for the purposes of the counterfactual. We consider that neither scenario would produce a meaningfully different competitive result to the prevailing conditions of competition:

   (a) Evidence from SS&C's internal documents indicates that it intended to continue to operate GBST on a similar basis; and

   (b) if no sale eventuated, evidence from GBST's internal documents indicates it would have remained active in the market.

20. Therefore, under either scenario, GBST would have remained as an active competitor, and there is no basis to conclude that its competitive presence would have been meaningfully different.

21. On the basis of the findings set out above, we concluded that the appropriate counterfactual is the conditions of competition prevailing prior to the contemplation of the Merger.

Market definition

22. Market definition provides a framework for assessing the competitive effects of the Merger.

Product market

23. We considered the product market for Platform Solutions in terms of the type of Investment Platform, the delivery model and the role of in-house supply of software and servicing.

Type of Investment Platform

24. We found that Retail and Non-Retail Platforms have different propositions and serve different groups of investors. Retail Platforms offer more commoditised products, with the provision of tax wrappers such as pensions being a more important element of their offer. They have a large number of investors and, therefore, are built to be highly automated. Conversely, we found that Non-

Retail Platforms offer more bespoke products and have more manual processes to serve the needs of a smaller number of wealthier investors with more sophisticated requirements.

25. The different requirements of Retail and Non-Retail Platforms have led to suppliers of Platforms Solutions tending to specialise in serving one or the other type of platform. We found that:

(a) While there has been some convergence between the two types of Investment Platforms, significant differences remain between Retail and Non-Retail Platforms and between the suppliers of Platform Solutions that they regard as close alternatives;

(b) there is limited competition in tenders for Retail Platforms from suppliers that focus on serving Non-Retail Platforms;

(c) Non-Retail Platform Solution suppliers consider that it would be lengthy and costly to adapt their offering and difficult to lower their costs to compete strongly in the supply of Retail Platforms; and

(d) Retail Platforms do not see Non-Retail Platform Solution suppliers as credible alternatives as they lack experience and a track record in serving Retail Platforms.

26. We found that suppliers of Non-Retail Platform Solutions are generally not close alternatives to Retail Platform Solution suppliers, and we have not included them within the relevant market.

Delivery model

27. We found that Software-only and Combined Platform Solutions Suppliers are part of the same product market.

28. This is because some customers consider Software-only Solutions (either alone or in partnership with servicing suppliers) and Combined Platform Solutions by a single supplier as credible alternatives.

29. Software-only suppliers and Combined Platform Solution suppliers compete with each other in a significant number of tenders for Retail Platform customers, even up to the final stage of the tender.

30. We found that some customers prefer one delivery model over another. These customers may not be affected by the Merger to the same extent as other customers (as FNZ and GBST have different delivery models). The

preferences of some customers for a specific delivery model is not enough to draw a distinction between these delivery models as part of our market definition.

In-house provision of software and servicing

31. We found that Retail Platforms consider developing software in-house to be difficult and unattractive but are more open to the servicing component being supplied in-house.

32. We therefore concluded that the relevant product market should include the supply of servicing in-house but exclude the in-house supply of software.

Conclusion on the product market

33. On the basis of the findings set out above, we concluded that the relevant product market for examining the effects of this Merger is the supply of Retail Platform Solutions, excluding the in-house supply of software.

Geographic market

34. We found that suppliers of Retail Platform Solutions must ensure that their products meet specific and complex tax and regulatory requirements in the UK and in other countries. Suppliers cannot easily and quickly enter into a new country, given these requirements, as well as the importance of experience and reputation in serving customers in a particular jurisdiction.

35. Accordingly, we concluded that the relevant geographic market for the supply of Retail Platform Solutions is the UK. We consider competition from outside of the UK, to the extent that it is relevant, as an out of market constraint within our competitive assessment.

Conclusion on market definition

36. Based on the findings set out above, we concluded that the relevant market for examining the effects of this Merger is the supply of Retail Platform Solutions in the UK excluding the in-house supply of software (Retail Platform Solutions in the UK).

37. However, we do not consider that market definition is a determinative part of our competitive assessment and we took into account differences in delivery models and out-of-market constraints including from Non-Retail Platform Solution suppliers and in-house software.

The nature of competition

38. We assessed how competition operates in the supply of Retail Platform Solutions in the UK in terms of:

    (a) The degree and ease of switching by customers;

    (b) the main parameters of competition; and

    (c) the procurement processes and contractual mechanisms employed by customers.

39. We found that switching costs are high for Retail Investment Platforms. Switching to a new supplier of Platform Solutions involves a complex, risky, lengthy and expensive migration from one system to another. Recent failures of such migrations have highlighted the risks for both customers and suppliers. The Financial Conduct Authority has recognised these risks in a letter to Investment Platforms that sets out the key harms relevant to this sector. Once a customer has switched to a new supplier, they may have little appetite to switch again for a long time. The result is that the choice of Retail Platform Solution is usually a long-term decision.

40. As a result, and because a Platform Solution is critical to enable a Retail Platform to effectively serve customers and satisfy regulatory obligations, Investment Platforms require a high degree of confidence in the capability of their chosen supplier. Established suppliers with good track-records therefore have a significant competitive advantage over others.

41. Even if customers only switch supplier infrequently, they use lengthy procurement processes to maintain competitive tension and extract the best possible terms from incumbent or potential suppliers.

Competitive assessment

42. We assessed whether the Merger removed a competitor from the Retail Platform Solutions market which previously provided a significant competitive constraint, and whether that gives the Merged Entity the ability and/or incentive to worsen or not improve its offering as much as it would absent the Merger. This is a ‘horizontal unilateral effects’ theory of harm.

43. We considered how closely the Parties compete with one another and the effect of the removal of the constraint that the Parties place on each other. As part of this assessment, we considered the competitive constraints on the

Parties from other suppliers, including those from outside of the relevant market.

Shares of supply

44. Shares of supply provide an indication of the Parties' and their competitors' position in the market, but do not necessarily indicate the level of closeness of competition between the Parties and with their competitors.

45. We found that FNZ and GBST are two of the four largest suppliers which account for the vast majority of the market. As a result of the Merger, the Merged Entity would be, by far, the largest supplier in the market, accounting for almost half of the UK market and being almost twice the size of the next largest supplier, Bravura.

Closeness of competition

46. We assessed how closely the Parties compete with each other, relative to other competitors. Generally, the more closely two firms compete, the stronger their competitive constraint is on each other. The loss of these constraints, as a result of the Merger, could give the Merged Entity the ability and/or incentive to deteriorate its offering.

47. Our assessment is based on submissions from the Parties and from third parties, analysis of tenders since 2016 and a review of the Parties' internal documents.

48. FNZ submitted that the Parties do not compete closely due to their different delivery models and GBST's competitive position, notwithstanding GBST's partnership with Equiniti to supply a Combined Platform Solution and FNZ's acquisition of Software-only Solutions supplier, JHC, in 2019. FNZ told us that it does not compete against GBST in many tenders and has only lost one small tender to it in the past ten years.

49. Third party views varied on how closely FNZ and GBST compete, but most third parties considered FNZ and GBST to be close competitors in the supply of Retail Platform Solutions in the UK. In general, only Bravura was seen by third parties to be as close a competitor to each of the Parties as they are to each other.

50. Our analysis of tender data since 2016 showed that the Parties overlapped in a significant number of Retail Platform tenders compared to their overlaps with other competitors. Qualitative evidence also showed that customers tendering for a supplier considered the Parties' solutions as close alternatives.

51. Each Party's internal documents, to the extent that they provide insight into competitive conditions, characterise FNZ and GBST as two of a limited number of significant suppliers of Retail Platform Solutions.

52. Product development is important as a parameter of competition in this market and we considered the extent to which competition between the Parties is a driver of their product development. The Parties' internal documents indicate that competition with FNZ was a key driver of GBST's product development. We did not find similar evidence relating to GBST having influence on FNZ's product development, but we found that the close constraint imposed by each Party on the other incentivises them to improve their product development in order to win customers.

53. On the basis of the findings set out above, we concluded that FNZ and GBST compete closely against each other in the supply of Retail Platform Solutions in the UK.

Competitive constraints from alternatives

54. We assessed the competitive constraint imposed by other suppliers, including out-of-market constraints, using the same evidence as we used to assess closeness of competition. As set out above, we found that Bravura is the only supplier that imposes a similar competitive constraint on the Parties to the constraint that the Parties exert on each other.

55. We assessed the constraint on the Parties from other suppliers, including smaller suppliers and suppliers that are more active in the supply of Platform Solutions to Non-Retail Platforms, and from in-house supply. We found that, in general, they offer a weak constraint, both individually and collectively.

Conclusion on competitive assessment

56. We concluded that, subject to our findings on countervailing factors, the Merger has resulted, or may be expected to result, in an SLC in the market for the supply of Retail Platform Solutions in the UK.

Countervailing factors

57. We considered whether there are any factors that may mitigate the effect of the Merger on competition: these are countervailing factors.

Entry and expansion

58. We considered whether there may be entry from new suppliers into the market or expansion by existing suppliers which might be timely, likely and sufficient to counteract the effects of the Merger.

59. We found that potential entry from suppliers of Non-Retail Platform Solutions is unlikely, based on evidence from those suppliers. We found some evidence of expansion by smaller firms in recent years. However, this expansion has been limited in nature and would not, either individually or collectively, be of sufficient scale to constrain the Merged Entity and protect customers from the SLC.

60. We concluded that entry or expansion would not be timely, likely and sufficient to outweigh the SLC.

Buyer power

61. In some circumstances, a customer may be able to use its negotiating strength to limit the ability of a merged firm to raise prices: this is countervailing buyer power.

62. We found that customers can generate competitive tension through their tender processes, and this may include using tenders to get better terms from their incumbent supplier. We found that larger customers may have more bargaining power than smaller customers.

63. However, other evidence indicates that this does not equate to countervailing buyer power over the Merged Entity. We found that Retail Platforms do not readily switch suppliers due to high switching costs and that they face a limited choice of credible suppliers which reduces their negotiating power.

64. After the Merger, customers will have lost one of the few major suppliers which could credibly provide an alternative and consequently will have reduced negotiating leverage with their suppliers. We consider, therefore, that the Parties, after the Merger, are unlikely to be prevented from worsening their offer by their customers' negotiating strength.

Rivalry-enhancing efficiencies

65. FNZ has not demonstrated that the Merger would result in rivalry-enhancing efficiencies which would off-set the adverse effects of the Merger on competition.

Conclusion on countervailing factors

66. Based on the findings set out above, we concluded that there are no countervailing factors which would mitigate the adverse effects of the Merger on competition.

Conclusion

67. We concluded that the Merger of FNZ with GBST may be expected to result in an SLC as a result of horizontal unilateral effects in the supply of Retail Platform Solutions in the UK.

Remedies

68. Having concluded that the Merger has resulted or may be expected to result in, an SLC, we are required by the Act to decide what, if any, action should be taken to remedy, mitigate or prevent that SLC or any adverse effect resulting from the SLC.

69. In deciding on the appropriate remedy, we seek remedies that are effective in addressing the SLC and its resulting adverse effects. We will then select the most proportionate remedy that we consider to be effective, having regard to the need to achieve as comprehensive a solution as is reasonable and practicable.

Remedy options

70. We considered the following remedy options:

(a) Full divestiture of GBST;

(b) partial divestiture of GBST: either of a UK Wealth Management business or a global Wealth Management business; and

(c) A source code licensing remedy, proposed by FNZ.

71. We found that full divestiture of GBST would be an effective remedy.

72. We found that neither of the partial divestiture options would be an effective remedy:

(a) The UK Wealth Management divestiture had substantial composition, asset and purchaser risks. These risks arise because the UK Wealth Management business is integrated into, and benefits from being part of,

the wider GBST group. In addition, the element of this remedy option in which FNZ would have access to the core IP of GBST's main Wealth Management product, Composer (by retaining a copy of its source code for use outside of the UK), gave rise to a significant additional risk.

(b) The global Wealth Management divestiture also had composition, asset and purchaser risks arising from its close integration with GBST's Capital Markets.

73. With both partial divestiture options, we found that, while there may be initially interested purchasers, this would not be sufficient to mitigate the asset and composition risks we found.

74. We found that the source code licensing remedy would not be effective as it would be highly unlikely to address the SLC we found and its resulting adverse effects.

75. Having found that the only effective remedy would be full divestiture of GBST, we considered whether it would be proportionate.

76. We assessed the loss of relevant customer benefits that FNZ submitted would result from the Merger. These were that GBST customers would benefit from improved product quality, lower priced access to FNZ functionality and lower-priced, faster, and less-disruptive transition to other solutions offered by FNZ.

77. We found that these claimed benefits would not be expected to accrue as a result of the Merger and that they could accrue without it.

78. We have considered whether the claimed benefits submitted by FNZ constitute RCBs for the purposes of the Act and we conclude that there are no RCBs arising from the Merger.

Decision on remedies

79. We decided that a full divestiture of GBST would be an effective and proportionate remedy to address the SLC and the resulting adverse effects that we found.