

Anticipated acquisition by West Corporation of Genesys S.A.

ME/3544/08

The OFT's decision on reference under section 33(1) given on 18 April 2008.  
Full text of decision published on 1 May 2008.

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Please note that square brackets indicate figures or text which have been deleted or replaced at the request of the parties for reasons of commercial confidentiality.

## PARTIES

1. **West Corporation** (West) is a US corporation operating mainly in the US but also with activities worldwide, including the UK. It provides, among other things, audio, video and web conferencing services on a global basis through its InterCall subsidiary.
  
2. **Genesys S.A.** (Genesys) is a French Société Anonyme (a form of limited liability stock company). It offers various audio, web and video conferencing services worldwide. Trained coordinators can additionally be hired to manage conferencing at large or high profile events. In the year ending December 2006, Genesys generated UK turnover in the amount of £[ ].

## TRANSACTION

3. West proposes to acquire Genesys by means of a public offer under French law. The parties plan on completing the transaction on or around 15 May 2008.

4. An informal merger submission was received from West on 21 February 2008 and the OFT's administrative target date to announce its decision is 18 April 2008.

## **JURISDICTION**

5. As a result of this transaction West and Genesys will cease to be distinct.
6. The parties overlap in the supply of conferencing services, namely audio conferencing, video conferencing and web conferencing services. In relation to each of audio conferencing and video conferencing services in the UK, the parties' combined share of supply exceeds 25 per cent. Therefore, the share of supply test in section 23 of the Enterprise Act 2002 (the Act) is met. The OFT, therefore, believes that it is or may be the case that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.

## **MARKET DEFINITION**

### **Product scope**

7. The parties overlap in the provision of conferencing services, which are comprised of three segments. Firstly, audio conferencing, where participants with more than two telephone end points can participate in a telephone meeting using toll or toll-free numbers. Secondly, web conferencing, which allows users to use a web browser or downloaded application to have meetings or make remote presentations over the internet. Thirdly, video conferencing, which connects two or more video conferencing end points into a conference. The parties submitted that the relevant product market comprises all conferencing services as opposed to the three individual market segments. This is because all three conferencing services respond to the same customer demand to connect meeting participants and also because there is a current trend towards convergence, such that all three technologies may be offered as an integrated package. For example, Genesys' flagship product Genesys Meeting Centre is an online multimedia platform integrating voice, web and video conferencing features. InterCall's conferencing services are currently priced separately.

8. On the basis of the evidence which it received on supply side substitutability, the OFT acknowledges the case for web and audio segments being considered within a single frame of reference. However, inconclusive evidence on demand side substitutability persuaded the OFT of the merits of also considering audio and web conferencing separately for the purposes of this particular assessment. Evidence on demand and supply side considerations indicates that a single frame of reference for video conferencing may be appropriate.
9. Overall, the OFT considers that it is appropriate to assess the competitive impact of the transaction both on the above individual market segments and on the market for conferencing services as a whole. Given the lack of competition concerns on even the narrowest basis, it is not necessary in the OFT's view to conclude any more precisely on the scope of product market in this case.
10. Consideration has been given to whether the current trend towards 'unified communications' justifies an alternative market definition. The OFT understands that unified communications is a relatively new industry trend and can be described as an integrated environment, including elements of audio, video and web conferencing, among other things, through a single interface. The parties submit that this development is likely to benefit software and equipment vendors and diminish the role of traditional conferencing services providers. The OFT acknowledges the potential future impact of unified communications on the conferencing sector, although it does not consider it necessary to draw any conclusions in this case, as it found no evidence that the transaction would have a negative impact on competition in this hypothetical product market.

### **Geographic scope**

11. The parties submitted that the relevant geographic scope may be wider than the UK. Conferencing services suppliers do not necessarily need to be physically present in a given country in order to offer services there and international customers often require communications services with global coverage.
12. Third party evidence is generally supportive of the proposition that the market is wider than national. The parties provided estimates of their market shares in each segment on a Europe-wide basis. These do not

appear to be significantly different from the parties' market shares on a UK basis. Even on the narrowest geographic basis, the OFT found no evidence of competition concerns arising and, therefore, does not consider it necessary to conclude on the precise scope of the geographic market.

## HORIZONTAL ISSUES

### Market shares

13. The parties overlap in the provision of audio conferencing, video conferencing, and web conferencing services in the UK. The principal source for the parties' estimates on market share in the various conferencing service segments is the report by Wainhouse Research LLC on the *European Collaboration Services Market – 2007* (the Wainhouse Report).
14. The parties submitted that in 2006 their combined share for the provision of conferencing services as a whole in the UK was [20-30] per cent (InterCall with [10-20] per cent and Genesys with [10-20] per cent), the largest competitor being BT with [40-50] per cent of the market. There are a number of other competitors in the market, including WebEx, Verizon, ACT Teleconferencing Ltd (ACT), Arkadin, Wire One Communications Limited (Wire One) and Microsoft, none of which has more than [0-10] per cent of the UK market for conferencing services in general. The OFT understands that the market is therefore made up of telecommunications companies and software companies, as well as dedicated conferencing services providers such as ACT, Arkadin, ConferencePlus, Inc., Premiere Global Services (Premiere), Inc., Wire One and the parties themselves. In addition, in recent years, there have been a number of specialist entrants into the audio and web conferencing services markets. The transaction therefore brings together the second and third largest UK competitors in a sector which is, with the exception of BT, relatively fragmented.
15. In relation to audio conferencing, the parties submit that there are at least 15 operators currently providing such services in the UK. On the basis of the Wainhouse Report, the parties submit that the largest of these operators is BT, with [40-50] per cent of the market. After the merged entity with a combined share of [20-30] per cent (InterCall with [10-20] per cent and Genesys with [10-20] per cent), Verizon and Premiere will be the next largest competitors with approximately [0-10] per cent and [0-10] per

cent of the market, respectively. The parties submit (and this is supported by the Wainhouse Report) that a number of other providers of audio services account for the remaining [20-30] per cent of the market.

16. The parties submit that there are at least 14 web conferencing service providers in the UK market. These include WebEx and Microsoft, with [30-40] per cent and [30-40] per cent of the market, respectively. The next largest player is BT with approximately [10-20] per cent and then the parties have a combined share of [0-10] per cent (InterCall with [0-10] per cent and Genesys with [0-10] per cent). Verizon has [0-10] per cent of the market, with a number of other providers making up the remaining [10-20] per cent. The Wainhouse Report indicates that Genesys may actually be the second largest provider of web services in the UK. Much of Genesys' conferencing service is sold as a bundle and, because the company does not provide its web conferencing volumes separately, the Wainhouse Report cannot provide an accurate indication of its market share in relation to this segment.
17. As regards video conferencing services, the parties identified at least seven providers supplying the UK market. The parties' own activities represent a combined share of [20-30] per cent (InterCall with [10-20] per cent and Genesys with [0-10] per cent). BT was the largest competitor in this segment with a share of [30-40] per cent, followed by Wire One ([10-20] per cent) and ACT ([10-20] per cent). A number of other providers, including Global Crossing and Verizon, account for the remaining [20-30] per cent of the market.
18. Customers contacted by the OFT considered that the cost of switching between conferencing service providers was not significant and certainly not such as to prevent them switching in the event of an attempted 5 to 10 per cent price rise by their current supplier. [ ]. Low switching levels do not by themselves indicate a competition concern. The evidence available to the OFT indicates that prices for conferencing services have been dropping in recent years. The OFT also obtained evidence that some customers were able to negotiate better rates from their existing provider by merely threatening to switch. [ ].
19. No third parties raised any significant concerns about the loss of choice of provider which would be caused by the transaction. Two third parties were concerned about a potential reduction in product offerings by the parties,

but the OFT considers, on the basis of the available evidence, that such a reduction is implausible.

### **Barriers to entry and expansion**

20. The parties submitted that barriers to entry into the market for the provision of conferencing services are low. They argued that the technologies required to operate these services are easily accessible from the various suppliers and that contracts with major suppliers are available on a non-exclusive basis.
21. The evidence gathered by the OFT confirms that the costs of entering the audio and web markets are low. In relation to web conferencing, providers have the option of developing their own software or re-selling a third party's web conferencing brand. The necessary telecommunications infrastructure required to provide audio conferencing is widely available on a leased basis. The parties identified at least four specialist conferencing services companies that have entered the market since 2002.
22. Evidence available to the OFT does not support the view of the parties that barriers to entry into the video conferencing market are low and the OFT has seen no evidence that new providers of video conferencing services have entered the market in the last five years. The parties suggested that the lack of entry into the video conferencing segment is due to the fierce competition between the existing providers, as well as a growing trend for in-house provision of the service. The parties submitted that the technology and infrastructure which would be required to enter this segment is readily available. The market for the provision of video services is relatively small and the OFT understands that it may not be expanding, or at least not as fast as the audio and web conferencing segments. The OFT considers that this may be a plausible explanation as to why there has been no recent entry into this market.

### **Buyer power**

23. Larger customers contacted by the OFT generally considered themselves to possess some negotiating power. Smaller customers did not consider that they had negotiating power.

## **VERTICAL ISSUES**

24. The OFT has not seen any evidence indicating that the transaction raises any vertical competition issues.

## **COORDINATED EFFECTS**

25. Evidence available to the OFT does not indicate that the transaction gives rise to any concerns for coordinated effects.

## **THIRD PARTY VIEWS**

26. The OFT contacted customers and competitors of the merging parties. Amongst the 11 customers from whom the OFT received responses, there were generally no concerns about the transaction. The OFT sought views from both large and small customers, for each of audio, web and video conferencing services. A number of customers considered that the merger will be pro-competitive. Amongst six competitor respondents, two expressed concerns over the economies of scale which will be achieved by the merged entity. Otherwise, the vast majority of third parties expressed little or no concerns with regard to the proposed transaction. Any concerns that were expressed by third parties have been addressed in the OFT's analysis.

## **ASSESSMENT**

27. The parties overlap in the provision of conferencing services, which comprise audio conferencing, web conferencing and video conferencing services. The OFT has considered the impact of this transaction on each of these segments as well as the market for conferencing services as a whole in the UK. The parties submitted that the geographic market was likely to be wider than national. Given the lack of competition concerns on even the narrow UK basis, the OFT does not consider it necessary to conclude on the exact scope of either the product or the geographic market in this case.
28. In relation to audio conferencing services, the merging parties will face competitive constraints from a significant number of alternative providers. This competition comes from telecommunications companies such as BT, Verizon and AT&T, dedicated conferencing service providers such as Premiere, Arkadin, ACT and Conference Plus, as well as a number of newer

entrants into the sector. Comments from third parties indicate that the costs of entering the audio conferencing market are not high and customers declared themselves to be willing to switch in the event of a small but significant price rise by their current supplier ([ ]). The OFT found that there had been significant entry in recent years by specialist companies such as MeetingZone, Ring2 Conferencing, Aduno Teleconferencing Services and PowWowNow.

29. In the web conferencing sector, as well as competition from telecommunications companies, established dedicated conferencing service providers and new entrants into the market, the parties also compete against large software companies including WebEx (Cisco) and Microsoft. The evidence before the OFT indicates that the costs of entering the market are not such as to deter entry and this is confirmed by the fact that there has been new entry into this sector in recent years.
30. The available evidence indicates that both audio and web conferencing services in the UK are expanding sectors and consequently will be attractive to future potential entrants. Third parties did not raise any significant concerns about the impact of the transaction on the audio and web conferencing sectors. Given the competitive constraints which the parties will face in each of the audio and web conferencing segments from existing competitors, as well as the apparent ease of entry into the market, the OFT concludes on the basis of the evidence available that no competition concerns arise in these segments as a result of this merger.
31. As regards video conferencing services, the parties will combine to form the second largest competitor in the UK market after BT. Evidence from third parties indicates that the costs of entering the market for video services may be higher than those for entering audio and web conferencing. The OFT has seen no evidence of entry into the video segment in recent years and considers that, in the absence of significant growth in this segment, it is less attractive to potential new entrants. However, the available evidence indicates that the merged entity will continue to face competition from a number of other capable video conferencing service providers, including BT, Wire One, ACT, Global Crossing and Verizon. This continuing level of competition, combined with the fact that the OFT received no indication from third parties that the transaction would have a negative impact on this sector, leads the OFT to

conclude that no competition concerns arise in relation to video conferencing as a result of this merger.

32. Consequently, the OFT does not believe that it is or may be the case that the merger may be expected to result in a substantial lessening of competition within a market or markets in the United Kingdom.

## **DECISION**

33. This merger will therefore not be referred to the Competition Commission under section 33(1) of the Act.