
Completed acquisition by InfoNXX, inc of Kandel Limited

The OFT's decision on reference under section 22 given on 21 June 2006. Full text published 7 July 2006.

Square brackets indicate details excised at the request of the parties for reasons of commercial confidentiality.

PARTIES

1. **INFONXX, INC. (InfoNXX)** is a US corporation active in the provision of directory enquiry (DQ) services. InfoNXX is active in the supply of retail telephone and online DQ services to end users in the UK through a wholly-owned subsidiary, The Number UK Limited (**The Number**), under the 118118 branded service. It has also recently launched services in France and Italy.
2. **KANDEL LIMITED (Kandel)** is an Irish holding company. Its wholly-owned subsidiary, Conduit Limited (**Conduit**), provides telephone and retail online DQ services to end-users in Ireland, Austria, Switzerland and the UK. It also provides call centre services to business customers that wish to provide retail DQ services in these countries. Kandel's turnover on a worldwide and UK basis for the year ended 31 March 2005 was approximately £40 million and £20 million, respectively.

TRANSACTION

3. On 12 April 2006, InfoNXX acquired control of Kandel's parent company InfoNXX Global Limited,¹ so that Kandel became an indirectly wholly-owned subsidiary of InfoNXX. The administrative deadline expires on 21 June 2006.

JURISDICTION

4. As a result of this transaction InfoNXX and Kandel have ceased to be distinct. The parties overlap in the supply of retail DQ services in the UK. The OFT believes

¹ A wholly-owned subsidiary of InfoNXX Global Limited had acquired the entire issued share capital of Kandel earlier that same day.

that the share of supply test in section 23 of the Enterprise Act is met in relation to telephone DQ services and, therefore, that it is or may be the case that a relevant merger situation has been created.

RELEVANT MARKET

5. DQ services can be provided in a number of formats: telephone, online, paper directories, CD-ROM,² classified directories,³ and Wireless Application Protocol (WAP)⁴.
6. The parties overlap in the supply of retail telephone and online DQ services (providing residential and business addresses and telephone numbers) and ancillary services⁵ to end users in the UK.

Product market

7. The Director General of Telecommunications (DG of T) issued a Competition Act 1998 (CA98) decision in 2003⁶ which considered the supply of non-classified paper telephone directories. It noted that other, non-telephone, number information services⁷ were very limited demand-side substitutes for number information services supplied by a hypothetical monopolist of telephone DQ services.
8. The parties submit that from a demand-side perspective, DQ services are available from a number of sources, many of which are free, and that many suppliers provide more than one type of DQ service, including the parties. They argue that the product frame of reference could be as wide as all information services.
9. Third parties have provided mixed views on the relevant frame of reference. One third party considers that non-telephone DQ services offer consumer choice but are not a constraint on telephone DQ services. Some third parties consider that non-telephone DQ services provide significant competition to telephone DQ services, as indicated by the reduction in calls to telephone DQ services while usage of online DQ services has increased. However a third party noted the

² They contain a large number of business and residential listings. BT versions are updated every quarter. These services are suitable for high volume/business users.

³ Such as Yellow Pages, are supplied free to customers and generally do not contain residential listings. Information is usually limited to a local area.

⁴ Technology which enables users to access information instantly via handheld, wireless devices, such as mobile phones. It can be used to access the internet and some online DQ services have WAP enabled websites.

⁵ For example call connection and text back of numbers.

⁶ This decision concerned a complaint about BT publishing its 118 500 DQ number on the front of the BT phonebook.

⁷ Classified paper directories; non-classified paper directories; online DQ services; and CD ROM.

advantages of telephone DQ services over other DQ services, particularly the ability to get information on-the-move.

10. The OFT considers that the appropriate frame of reference for this decision is retail telephone DQ services and, separately retail online DQ services. However, for completeness retail telephone DQ services and retail online DQ services will also be examined together.
11. Conduit is also active in the provision of wholesale call centre telephone DQ services to other DQ service providers. InfoNXX is not currently active in this area but has the ability to provide such services.⁸ The provision of wholesale call centre telephone DQ services for third party telephone DQ services will therefore be considered separately.

Geographic market

12. The European Commission has previously⁹ taken the view that the relevant market for DQ services is national. The DG of T in its decision considering the supply of non-classified paper telephone directories said that the investigation preliminarily indicated that the supply of telephone DQ services was national.
13. DQ service providers (online and telephone) get their information from the OSIS database (which contains UK-only information) which is supplied by BT. There may also be language and cost barriers that prevent UK customers from using services provided in other countries to access DQ services.
14. The evidence the OFT has found indicates that providers of telephone and online DQ services are national in scope and that DQ service providers outside the UK do not provide a competitive constraint on UK DQ service providers. The evidence the OFT has found also indicates that wholesale call centre telephone DQ services are UK suppliers of DQ services. The OFT therefore considers that the appropriate frame of reference for consideration of this transaction to be the UK.

⁸ InfoNXX provided call centre services on a trial basis in 2003 for [] and although InfoNXX has been approached by other DQ services providers (including [], [] and []) it has not bid for any of this business.

⁹ *Viag Interkom/Telenor Media*, Case No. COMP/M.1957 (2000).

HORIZONTAL ISSUES

Market shares

Retail DQ Services

15. Third parties have generally agreed with the parties that telephone DQ services mainly compete on number recognition. However, other factors that can be important are price, service offering (for example, ancillary services offered such as call connect), and service quality (for example, accuracy).
16. For telephone DQ services, the parties estimate that their combined share of supply in the UK is approximately [35-45] per cent, with an increment of approximately 5 per cent.¹⁰ There are also a large number of other suppliers including the following: BT has approximately 26 per cent share of supply; Yell has approximately 6 per cent; Directory Enquires UK has approximately 4 per cent; Orange has approximately 3 per cent; and NTL Telewest and Onetel both have approximately 2 per cent.¹¹
17. For online DQ services, the parties estimate that they have a combined share of supply in the UK of approximately [less than 5] per cent. BT is the largest supplier (with approximately 46.5 per cent share of supply in the UK) in this sector and there are a number of other suppliers (Yell at approximately 33.8 per cent share of supply; 192.com at approximately 10.4 per cent share of supply; Touchlocal at approximately 3.1 share of supply; Thomson at approximately 2.8 per cent share of supply and Simunix with approximately 0.8 per cent).¹²
18. For telephone and online DQ services combined, the parties estimate that they have a combined share of supply of approximately [5-15] per cent in the UK, with an increment of approximately [less than 5] per cent.¹³ BT and Yell also both supply telephone and online DQ services.

Wholesale Services

19. Some third parties have raised concerns about competition in the provision of wholesale call centre telephone DQ services. Although InfoNXX is not currently active in the supply of these services it was argued that it may be a potential

¹⁰ OFCOM/ICSTIS Report on Evaluation of Directory Enquiry Services, 29 March 2006 indicates that the parties have a combined share of UK Telephone DQ Reported Usage of 45 per cent (with an increment of 1 per cent)

¹¹ These figures are from the /ICSTIS Report on Evaluation of Directory Enquiry Services, 29 March 2006.

¹² These shares are parties' estimates.

¹³ Parties estimates.

competitor. The parties submit that wholesale services for telephone DQ are not limited to call centre services; as many customers also require network services which neither of the parties supply. While Conduit is one of the largest providers of third party call centre services, there are three other large providers¹⁴ of these services that also offer network connections which neither of the parties supply. As there is no current overlap between the parties in this area, and there are three other large providers, the OFT considers that the transaction does not give rise to concerns in the supply of these services.

Barriers to entry and expansion

20. The parties submit that barriers to entry to supply DQ services are low.
21. To supply online DQ services, the operator requires DQ information from the OSIS database to create its own database, a domain name and IT software and systems to link searches with the database. It would also then need to advertise to end-users to attract customers and advertisers for revenue.
22. To supply telephone DQ services, a new entrant requires a 118 prefix number from Ofcom; network and call centre services; and brand awareness. It is common for new entrants to outsource the answering of calls to an existing call centre service provider. Conduit provides this service but The Number does not. Third parties noted that The Post Office is a recent new entrant to telephone DQ services that has outsourced wholesale call centre telephone DQ services¹⁵ to Cable & Wireless.
23. One third party considers that while barriers to entry are low because it is relatively simple to obtain the data and licence needed to provide a DQ services, it considers that barriers to growth are more significant because of the required investment in advertising and promotion. It considers that it would take a minimum of six months to set up, with the cost depending on the size of the operation, but to compete with key market players it would cost several million pounds.
24. However, as no competition concerns arise it is not necessary to conclude on barriers to entry.

¹⁴ Cable & Wireless, BT and Kingston.

¹⁵ Network and call centre services.

VERTICAL ISSUES

25. One third party has raised concerns about Conduit's position as a provider of outsourced wholesale call centre services to retailers of DQ services and preferred supplier of DQ telephone services. It considers that these outsourced and preferred supplier arrangements may give the telephone DQ supplier (e.g. Conduit) the opportunity to promote its services through the retail provider (e.g. []) at a lower price than competitors and also benefit from additional marketing. This third party also considers that preferred supplier relationships enable network operators (such as []) to charge higher fees for alternative 118 numbers, and that this affects competition at the retail level.
26. Conduit understands preferred supplier agreements to refer to its agreement with []. [] has agreed only to promote 118 888 to its subscribers. However, the majority of other 118 numbers are open on the [] network, and customers can choose to call another 118 number. The price charged by Conduit to [] is determined by a competitive bid process and negotiation.
27. The OFT considers that the third party concerns regarding preferred supplier relationships are not founded as network operators such as [] and [] control the prices of the service and use their own brands. Furthermore, as the parties do not overlap in the provision of call centre services, the merger does not change Conduit's position.

THIRD PARTY VIEWS

28. Competitor third parties are generally unconcerned except as addressed above.

ASSESSMENT

29. The parties overlap in the supply of retail telephone and online DQ services and ancillary services in the UK.
30. If telephone DQ and online DQ services are taken together the parties have low combined shares of supply and there are a large number of other suppliers providing retail DQ services. The same is the case for online DQ services considered separately. If telephone DQ services is taken separately the parties' combined share of supply [35-45] per cent but the increment is modest (at 5 percent) and a number of competitors will remain. In relation to wholesale call centre telephone DQ services, there is no current overlap in this area, and there are three other large providers. Third parties are generally unconcerned.

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

DECISION

32. This merger will therefore not be referred to the Competition Commission under section 22(1) of the Act.