

COMPLETED ACQUISITION BY GTCR CANYON UK INVESTMENTS LIMITED OF GORKANA GROUP LIMITED

Notice under paragraph 2(1) of Schedule 10 to the Enterprise Act 2002 – consultation on the proposed undertakings in lieu of reference pursuant to section 73 of the Act

Introduction

1. On 27 March 2015, the Competition and Markets Authority (**CMA**) decided under section 22(1) of the Enterprise Act 2002 (the **Act**) that it believes that it is or may be the case that the completed acquisition by GTCR Canyon Investments Limited (**GTCR**) of Gorkana Group Limited (**Gorkana**) (the **Merger**) has resulted or may be expected to result in a substantial lessening of competition (**SLC**) within a market or markets in the United Kingdom (the **SLC Decision**). The text of the SLC Decision is available on the CMA's webpages.¹
2. Under section 73 of the Act, the CMA may, instead of making a reference for a phase 2 investigation, and for the purpose of remedying, mitigating or preventing the SLC concerned or any adverse effect which has or may have resulted from it or may be expected to result from it, accept from such of the parties concerned as it considers appropriate undertakings to take such action as it considers appropriate.
3. On 7 April 2015, GTCR offered an undertaking in lieu of a reference to the CMA for the purposes of section 73(2) of the Act (the **UIL**). As required under section 73A(1) of the Act, GTCR made this offer within five working days beginning the day after the CMA notified it of the SLC Decision under section 34ZA(1)(b) of the Act. The CMA gave notice on 14 April 2015, pursuant to section 73A(2)(b) of the Act, to GTCR that it considered that there were reasonable grounds for believing that the undertaking offered, or a modified version of it, might be accepted by the CMA under section 73(2) of the Act and that it was considering GTCR's offer. A copy of this Notice is available on the CMA's webpages.²

¹ See the [GTCR/Gorkana merger inquiry case page](#).

² See the [GTCR/Gorkana merger inquiry case page](#).

The undertaking offered

4. As set out in the SLC Decision, the CMA found that:
 - (a) the Merger gives rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the provision of media contact databases (**Databases**) in the UK; and
 - (b) the Merger does not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the provision of media monitoring, distribution and analysis services in the UK.
5. To address the CMA's concerns, GTCR has offered to divest its entire UK businesses of Cision UK Limited (**Cision**) and Vocus UK Limited (**Vocus**) (together, the **Divestment Businesses**) to an upfront buyer. GTCR's offer does not include the Cision and Vocus brand names, since these will remain in use by the Cision and Vocus businesses outside the UK.
6. The CMA currently considers that the proposed divestment to a suitable purchaser will create a clear-cut remedy for the identified SLC. Cision and Vocus both provide Databases and were identified by the CMA as Gorkana's closest competitors in the provision of Databases in the SLC Decision. The sale of Cision and Vocus will eliminate the overlap between GTCR and Gorkana in the UK.

Proposed purchasers for the Divestment Businesses

7. GTCR has proposed two potential purchasers of the Divestment Businesses:
 - (a) Access Intelligence plc or its group company AIMediaComms (**AIMC**) (together, **AI**), and
 - (b) Innodata Inc or its group company MediaMiser (together, **Innodata**) as the purchaser of the Divestment Businesses. Should the CMA decide that both purchasers are suitable following its public consultation process, GTCR will decide which purchaser will proceed with the acquisition. The sale and purchase agreement between GTCR and the purchaser to transfer the Divestment Businesses will be conditional only upon acceptance by the CMA of the UIL, including approval of the purchaser of the Divestment Businesses.

Suitability of the proposed purchaser

8. In approving a purchaser, the CMA's starting position is that it must be confident without undertaking a detailed investigation that the proposed

purchaser will restore pre-merger levels of competition.³ The CMA therefore seeks to ensure that:

- (a) the acquisition by the purchaser remedies, mitigates or prevents the SLC concerned;
- (b) the proposed buyer is independent of and unconnected to the merged parties;
- (c) the proposed purchaser has the necessary expertise, financial resources, incentive and intention to maintain and operate the divested business as an effective competitor in the marketplace;
- (d) the proposed purchaser is reasonably expected to obtain all necessary approvals, licences and consents from any regulatory or other authority and
- (e) the acquisition by the proposed purchaser does not itself create an SLC within any market or markets in the UK.⁴

AI

- 9. Access Intelligence plc is an AIM-listed company delivering Software as a Service (SaaS) solutions to enable companies to create and release value within their businesses by supporting the full lifecycle management of all their governance, risk and compliance activities.
- 10. Access Intelligence plc's group company, AIMediaComm's Ltd, was formed in 2009. It is a software company focusing on media relations and stakeholder interactions, and operates a platform called Vuelio.
- 11. As regards the independence of AI, the CMA notes that neither Access Intelligence plc nor any of its group companies (including AIMC) has an equity interest in or interest in any debt of GTCR or Gorkana.
- 12. There are some limited contractual relationships between Access Intelligence plc group companies and Gorkana. Specifically, AIMC signed two agreements with Gorkana in 2014:

³ *Mergers: Exceptions to the duty to refer and undertakings in lieu of reference guidance* (OFT 1122, December 2010), paragraph 5.11. The *Mergers: Exceptions to the duty to refer and undertakings in lieu of reference guidance* has been adopted by the CMA (see Annex D to *CMA2 Mergers: Guidance on the CMA's Jurisdiction and Procedure*, January 2014).

⁴ *Mergers: exceptions to the duty to refer and undertakings in lieu of reference guidance*, paragraphs 5.25–5.30.

- (a) A non-exclusive Master Service Agreement to allow AIMC to promote the Gorkana monitoring service.
 - (b) A short-form collaborative sales agreement in response to short-term changes in the market.
- 13. However, the CMA notes that these agreements are short term and non-exclusive. There could be potential for a degree of 'continuing relationship' between the Divestment Businesses and Gorkana via a media monitoring service (MMS) feed into AI's platform, Vuelio, but the CMA notes that this type of relationship is common in the industry and Vuelio is capable of ingesting content from multiple competing providers. Overall, the CMA considers that there are no material links between AIMC or AI group companies and GTCR and Gorkana.
- 14. As regards financial resources, the CMA notes that Access Intelligence plc intends to fund the transaction from its existing cash resources and, if required, has access to additional debt and equity funding.
- 15. In terms of expertise and commitment to the market, AIMC runs its Vuelio platform. Using this platform, it currently competes with Cision and Vocus providing integrated media solutions, primarily to public sector clients, and as part of which it supplies a Databases service on a non-exclusive re-seller basis (on a relatively small scale) thereby giving it experience and knowledge of the product. By adding Cision's and Vocus's Databases service to its product suite, AIMC will become a head-to-head rival with Gorkana for the provision of these services. Furthermore, AIMC has been active in this industry since 1995 (through its predecessor entities) and has demonstrated a commitment to this market through its recent significant investments in R&D and its growing pool of clients.
- 16. The CMA also notes that no consents or approvals are required to complete the acquisition and commence trading, other than CMA approval and landlord approval to the assignment of the lease to the head office of Cision and Vocus, which the CMA has no reason to believe would be withheld.
- 17. Therefore, subject to the outcome of this consultation, the CMA considers Access Intelligence plc to be a suitable purchaser of the Divestment Businesses.

Innodata

- 18. Innodata is a global digital services and solutions company. Globally, it is active in content services, data analytics and media intelligence (including

media monitoring, media analysis, and database access). In the UK it currently provides content services only.

19. As regards independence, Innodata has no equity interest in or interest in any debt of GTCR or Gorkana. There are no structural links between Innodata and GTCR or Gorkana.
20. As regards financial resources, Innodata has no bank debt and plans to finance the acquisition (including both consideration and the cost of integrating the Divestment Businesses) from its existing cash reserves.
21. In terms of expertise and commitment to the market, Innodata does not currently operate in the UK, but operates media intelligence products in North America under the names MediaMiser and Bulldog Reporter. Specifically, it operates:
 - (a) MediaMiser Enterprise, for media monitoring and analysis. MediaMiser's media monitoring products provide automated, real-time traditional and social media monitoring services, using a proprietary technology platform to monitor, aggregate, analyse and share content;
 - (b) MediaPro, a media contact database including over 100,000 journalists; and
 - (c) Bulldog Reporter and Inside Health Media, which are information products for PR and communications professionals.
22. To successfully enter the UK market, Innodata proposes to negotiate a transitional services arrangement with Gorkana for [X] months to ensure the continued availability of the existing platform while its own MediaMiser platform is adapted for the UK market. Innodata notes that in North America it currently enjoys high retention rates and levels of customer satisfaction, which it hopes to replicate in the UK in part through leveraging aspects of MediaMiser's augmentation and verification methodology and relationship management model. Innodata plans significant investment into the integrated business to ensure the success of the business going forward and deal with the challenges of adapting to the UK market.
23. Innodata notes that the opportunity to acquire the Divestment Businesses fits with its existing strategy and states that it is focused on growing its UK business across all three business segments, as shown for example by the fact that it took part in the bidding process for Gorkana that was won by GTCR.

24. The CMA notes that although it is not currently active in the UK, Innodata has experience and knowledge of Databases and has a well-developed plan to adapt its offering for the UK market. The CMA also notes that the Divestment Businesses already are fully operational suppliers of Database services in the UK and that the employees supporting these services will be part of the acquisition.
25. The CMA also notes that no consents or approvals are required to complete the acquisition and commence trading, other than CMA approval and landlord approval to the assignment of the lease to the head office of Cision and Vocus, which the CMA has no reason to believe would be withheld.
26. Therefore, subject to the outcome of this consultation, the CMA considers Innodata, or its group company MediaMiser, to be a suitable purchaser of the Divestment Businesses.

Proposed decision and process going forward

27. For the reasons set out above, the CMA considers that the proposed undertakings offered by GTCR and the purchase of the Divestment Businesses by either AI or Innodata are, in the circumstances of this case, appropriate to remedy, mitigate or prevent the competition concerns identified in the SLC Decision.
28. The CMA therefore gives notice that it proposes to accept undertakings in lieu in the form of the proposed undertakings. The text of the proposed undertakings is available for download on the [case page](#).
29. Before reaching a decision as to whether to accept the proposed undertakings, including AI or Innodata as purchaser of the Divestment Businesses, the CMA invites interested parties to make their views known.
30. Representations should be made in writing to the CMA by 11 June 2015 and be addressed to:

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Competition and Markets Authority
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Deadline for comments: by 17:00 on 11 June 2015

31. The CMA will have regard to any representations made in response to this consultation and may make modifications to the proposed undertakings as a result. If the CMA considers that any representation necessitates any material change to the proposed undertakings, the CMA will give notice of the proposed modifications and publish a further consultation.