

# Completed acquisition of Avanta Serviced Offices plc by Regus plc

## Notice under paragraph 2(1)(a) 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 10 April 2015, Regus plc (**Regus**) completed the acquisition of Avanta Serviced Office Group plc (of which Avanta Managed Offices Limited is a subsidiary) (**Avanta**) (the **Merger**). Regus and Avanta are together referred to as the **Parties**.
2. On 18 November 2015, the Competition and Markets Authority (**CMA**) decided under section 22(1) of the Enterprise Act 2002 (the **Act**) that it is or may be the case that the Merger constitutes a relevant merger situation and that this 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 CMA's decision will be available on the CMA's webpages in the near future.<sup>1</sup>
3. On 25 November 2015, Regus offered undertakings to the CMA for the purposes of section 73(2) of the Act.<sup>2</sup> The CMA gave notice to Regus on 2 December 2015<sup>3</sup> that it considered that there were reasonable grounds for believing that the undertakings in lieu offered, or a modified version of them, might be accepted by the CMA and that it was considering Regus's offer. A copy of that notice is available on the CMA's webpages.<sup>4</sup> As set out in the SLC Decision, the CMA believes that, in the absence of appropriate undertakings, it would be under a duty to refer the Merger for a phase 2 investigation.

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<sup>1</sup> See [CMA case page](#).

<sup>2</sup> As required under section 73A(1) of the Act, Regus made this offer within five working days beginning with the day after the CMA notified it of the SLC Decision under section 34ZA(1)(b) of the Act.

<sup>3</sup> Pursuant to section 73A(2)(b) of the Act.

<sup>4</sup> See [CMA case page](#).

## The undertakings offered

4. Under section 73 of the Act, the CMA may, instead of making a reference, 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 merger parties concerned as it considers appropriate undertakings to take such action as it considers appropriate.
5. The SLC Decision found a realistic prospect of an SLC as a result of horizontal unilateral effects in the supply of serviced office space in the Hammersmith, Victoria, Canary Wharf/Docklands, Euston/King's Cross, and Paddington areas of central London.
6. Regus has offered to sell Avanta's serviced office space centre in each of these areas (the **Divestment Businesses**) in order to address the competition concerns identified in the SLC Decision.<sup>5</sup> Under this proposal, Regus would sell the Divestment Businesses as going concerns, including the assignment to the buyer of all customer contracts relating to, and the transfer (under the TUPE regulations)<sup>6</sup> of all centre-level Avanta staff working at, the Divestment Businesses. In cases where a Divestment Business is owned leasehold or is operated through a management contract, that lease or management contract would be assigned to the buyer.
7. Regus submitted that the landlord of the Hammersmith Divestment Business (1 Lyric Square, W6 0NB) may serve notice to terminate the lease on or before [X], in which case the lease would come to an end [X] (if the landlord does not serve notice to terminate the lease, the lease would run until [X]). Regus submitted that, should this circumstance arise, it is unlikely that any buyer would be interested in acquiring the Hammersmith Divestment Business given the limited operation time (less than a year) that would remain under the lease. Regus has therefore proposed a behavioural undertaking that would apply for the remainder of the lease period, should the landlord serve notice to terminate the lease early in accordance with the terms of the agreement. The behavioural undertaking would apply in place of the divestment undertaking in relation to the Hammersmith Divestment Business and would limit Regus's ability to raise prices or reduce quality at the Hammersmith Divestment Business until the lease terminates.

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<sup>5</sup> The Divestment Businesses are: Hammersmith – 1 Lyric Square, W6 0NB; Victoria – 83 Victoria Street, SW1H 0HW; Canary Wharf/Docklands – 5 Harbour Exchange, E14 9GE; Euston/King's Cross – Evergreen House North, NW1 2DX; and Paddington – Merchant Square, W2 1AY.

<sup>6</sup> The Transfer of Undertakings (Protection of Employment) Regulations 2006.

8. For the reasons set out in the CMA's decision to consider undertakings offered,<sup>7</sup> and in the circumstances of this case, the CMA considers that the structural divestments and, if applicable, the behavioural undertakings in relation to the Hammersmith area, are capable of achieving as comprehensive a solution as is reasonable and practicable to the SLC identified. The CMA therefore considers that, if the undertakings offered, or a modified version of them, were accepted by the CMA they would represent a clear-cut and effective remedy.
9. Furthermore, as set out in the CMA's decision to consider undertakings offered,<sup>8</sup> the CMA considers that if it were to accept the undertakings, or a modified version of them, it would not need to include an upfront buyer provision.

## **Proposed decision and process**

10. The CMA therefore considers that the proposed undertakings offered by Regus are, in the circumstances of this case, appropriate to remedy, mitigate or prevent the competition concerns identified in the SLC Decision. The CMA therefore gives notice that it proposes to accept these undertaking in lieu of a reference for a phase 2 investigation. The text of the proposed undertakings is available on the [CMA case page](#).
11. Before reaching a decision as to whether to accept the proposed undertakings, the CMA invites interested parties to make their views known.
12. 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.

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<sup>7</sup> See [CMA case page](#).

<sup>8</sup> See [CMA case page](#).

13. Representations should be made in writing to the CMA and be addressed to:

David Little/Fotini Androulakaki  
Mergers Group  
Competition and Markets Authority  
Victoria House  
37 Southampton Row  
London  
WC1B 4AD

Email: [david.little@cma.gsi.gov.uk](mailto:david.little@cma.gsi.gov.uk) or [fotini.androulakaki@cma.gsi.gov.uk](mailto:fotini.androulakaki@cma.gsi.gov.uk)

Telephone: 0203 738 6950 or 0203 738 6773

**Deadline for comments: 23 December 2015**