

## Completed acquisition by Regus plc of Avanta Serviced Office Group plc

ME/6537/15

### Background

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**).
3. On 25 November 2015, Regus offered undertakings in lieu of reference to the CMA for the purposes of section 73(2) of the Act (the **UILs**). The CMA gave notice to Regus on 2 December 2015, pursuant to section 73A(2)(b) of the Act, that it considered that there were reasonable grounds for believing that the UIL 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 Regus's offer (the **UIL Decision**).
4. The text of the SLC Decision and the UIL Decision are available on the CMA webpages.<sup>1</sup>

### The UILs offered

5. As set out in the SLC Decision, the CMA found a realistic prospect of an SLC as a result of horizontal unilateral effects in the supply of serviced office space

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<sup>1</sup> See the [SLC Decision](#) and the [UIL Decision](#) (Notice to consider undertakings offered) on the case page.

in the Hammersmith, Victoria, Canary Wharf/Docklands, Euston/King's Cross, and Paddington areas of central London.<sup>2</sup>

6. To address the CMA's concerns, Regus offered to divest Avanta's serviced office space centre in each of these areas (the **Divestment Businesses**).<sup>3</sup> Under the UILs, Regus would divest the Divestment Businesses as going concerns. 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 the landlord serve notice to terminate, 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.
8. Regus 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. 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.

## Consultation

9. On 8 December 2015, pursuant to paragraph 2(1) of Schedule 10 to the Act, the CMA published the UILs that it was minded to accept, inviting interested parties to give their views in relation to the UILs. The relevant text from the consultation is set out in Annex 1 of this decision.<sup>4</sup>
10. The CMA received one submission from a landlord of one of the Divestment Business properties in relation to the financial implications of the UILs. The CMA considered that such matters are the preserve of Regus and the

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<sup>2</sup> [CMA case page](#).

<sup>3</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>4</sup> The full consultation text was published on the [CMA case page](#).

landlord and, in this instance, were not relevant to the scope or design of the UILs.

11. Accordingly, this third party submission did not cause the CMA to change its preliminary view that the UILs are likely to be acceptable.
12. For the reasons set out in the UIL Decision and consultation text (set out as Annex 1), the CMA considers that the UILs offered by Regus are clear cut and appropriate to remedy, mitigate or prevent the competition concerns identified in the SLC Decision.

## **Decision**

13. The CMA considers that the UILs provided by Regus are as comprehensive a solution as is reasonable and practicable and remedy, mitigate or prevent the SLC identified in the SLC Decision and any adverse effects resulting from it. The CMA has therefore decided to accept the UILs offered by Regus pursuant to section 73 of the Act. The Merger will therefore not be referred for a phase 2 investigation.
14. The UILs, which have been signed by Regus, will come into effect from today.

**Andrea Coscelli**

**Executive Director**

**Markets & Mergers Competition and Markets Authority**

**1 February 2016**

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

### The undertakings offered

1. 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.
2. 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.
3. 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.
4. 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

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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.

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.

5. 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.
6. 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**

7. 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](#).
8. Before reaching a decision as to whether to accept the proposed undertakings, the CMA invites interested parties to make their views known.
9. 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](#).