



OFFICE OF FAIR TRADING

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Your Ref OFF1C006.DOC

Our Ref CF/98/0566/E

Date 28 May 1999

Your complaint against Capita Education Services Limited (Capita)

We have now completed our enquiries into your complaint against Capita, and I am able to give you our conclusions. Our investigation has, as you know, raised a number of complex issues, and I should like to thank you for the assistance which you have given to help with our investigation of them.

Before I turn to our conclusions, however, it may be helpful if I briefly summarise that part of your complaint that the Director General is concerned about, and the concerns which Capita has expressed to us in response to your allegations.

BromcomComputers PLC (Bromcom) developed the Portable Teacher's Assistant (PTA), a hand-held electronic device designed to collect and disseminate a range of the data required in the modern management of schools and colleges. Among the many facilities which it provides, we understand that the PTA enables teachers to update attendance records after each teaching session.

It would appear that Capita has established a dominant position in the supply of the administration software which schools in the UK (except Scotland) use to operate their electronic management information systems. You explained that it was vital to Bromcom's ability to compete in the market for PTAs that its PTA product was linked with the Capita system. While the existing interface between the PTA and the Capita SIMS Dbase did allow for the transfer of data from a PTA to the SIMS database, we understand that this was possible only via a batched transfer system. Bromcom wanted to be able to integrate its product fully with the SIMS Dbase, so that PTAs could operate in real time. You alleged that Capita had denied you access to the technical data required for this purpose.

We considered that if your complaint could be substantiated, it would be a cause for concern. In particular, in view of Capita's major share of the supply of electronic school management information systems, it appeared to us that if Capita was taking steps to limit Bromcom's ability fully to integrate its PTA with the SIMS system, then it could be foreclosing a significant

proportion of Bromcom's potential market . This is something which the Director General would view seriously.

In October of last year you supplied us with a list of "Technical Documentation Requirements", setting out the information which you claimed Bromcom needed from Capita to develop its PTA. When this list was put to Capita, however, it emerged that the information, which you claimed Capita had refused to supply, had never in fact been requested by you. Dr Pukas expressed our concern in relation to this in his letter to Mr Bailey dated 23 March 1999.

In addition, Capita indicated to us that it had a number of apparently legitimate concerns to providing the information to Bromcom. In particular, Capita raised the following points.

- (a) Firstly, Capita believed that Bromcom had asked for more information than it could reasonably be expected to provide. It also claimed that some of this data could, in any event, be extracted by third-parties from publicly available information sources.
- (b) Secondly, Capita claimed that the provision of this data would be extremely costly, in terms of the time it would take to produce it.
- (c) Thirdly, Capita expressed concern that the input of data by third-parties, if not properly validated, could cause the corruption of the SIMS database.

Bromcom's allegation and Capita's reply raised a number of technical issues, which, as you know, we referred to an independent IT expert, Paul Griew. Mr Griew concluded that not all of the information which Bromcom requested was necessary for every application. In particular, he advised that Capita could only reasonably be expected to supply the following information in respect of each field which was necessary for the particular application which Bromcom (or any other third party) wished to develop:

- (a) the field name;
- (b) the field usage;
- (c) the type;
- (d) the length (and number of decimals if applicable);
- (e) any specific validation rules; and
- (f) any interactions with other fields.

Mr Griew also advised that Capita's reasonable costs in supplying the above information should be met by Bromcom (or the third party) .

Thirdly, Mr Griew concluded that Capita's concerns regarding the potential corruption of the SIMS Dbase were legitimate but could be addressed by data validation routines, which could be developed, as appropriate, either by Capita or by Bromcom (or other third parties).

Having given careful consideration to Mr Griew's advice, we accept that the development of secondary products, such as the PTA, by Bromcom and by other third parties raises legitimate concerns for Capita. However, we do not consider that these are insurmountable. In particular, it seems to us reasonable that Capita should be able to provide the information listed above, provided that its legitimate concerns are addressed along the lines suggested by Mr Griew. We firmly take the view, however, that this is best achieved by agreement between the parties and that the detailed terms of any such agreement are best left to the parties themselves. The Office is not, therefore, persuaded on the information currently before it that this is a matter in which it would be appropriate for the Director General to intervene.

We have made clear to Capita, however, that the Director General of Fair Trading would view seriously any attempt by Capita to take advantage of its market position to raise barriers to entry in secondary markets, and would expect Capita to make every reasonable effort to enable third-parties to develop secondary products, and to co-operate with such third-parties to resolve its legitimate concerns.

In conclusion, I am aware that you have not had the opportunity to comment on these findings, and if there are any points you would wish to raise on these issues I would be pleased to receive them.

Thank you again for your assistance with our investigation.

Yours sincerely

Geoffrey Kenton
Competition Policy Division 1a

