

Title: Capita Business Services Limited and Bromcom Computers plc

Complainant: Bromcom Computers plc

Complainee : Capita Business Services Limited (trading as 'Capita Education Services')

Case closed: 2 May 2003

Issue: Whether the technical method of access and terms by which Capita Business Services Limited offered interface information to access data on its Microsoft SQL Server infringed the Competition Act 1998

Relevant provision: Chapter II of the Competition Act 1998

In March 2002, the Office of Fair Trading (OFT) opened an investigation into the terms by which Capita Business Services Limited (Capita) offered interface information to third parties to provide access to data on Capita's Microsoft SQL Server and the technical method adopted for such access.

Capita's Microsoft SQL Server forms a key part of its school information management system (branded as 'SIMS') and contains various data relating to staff and pupils (such as the grades and attendance of pupils), room allocation/timetables, as well as data necessary that schools are required to keep for legal and policy reasons.

School information management systems are installed in the majority of primary and secondary schools throughout the UK, of which Capita's SIMS is by far the most prevalent. Under Capita's business model, schools license a number of 'modules', which effectively sit on top of Capita's Microsoft SQL Server, enabling schools to extract and input data which they view on a fixed network of computers within the school. For example, with Capita's attendance module, teachers can enter lesson attendance marks in their classroom, and can see the day's registration marks and previous lesson attendance, on screen by accessing attendance related data on Capita's Microsoft SQL Server. Schools using SIMS can also purchase a number of third party products which may offer improved or complementary functionality to Capita's modules.

Bromcom Computers plc (Bromcom) developed a wireless attendance product which required interface information to access the attendance related data on Capita's Microsoft SQL Server. Until Capita's decision to migrate to Microsoft SQL Server, the Bromcom had the necessary interface information, enabling it to compete with Capita's own attendance module.

Given Capita's stable and high market share in the schools information management system sector generally, the presence of entry barriers such as high switching costs for schools, the generally risk averse and financially constrained nature of schools as purchasers and the low market shares of competitors, the OFT decided it had reasonable grounds for suspecting Capita was dominant. Given that Capita was able to

control or prevent access to such data, it could potentially limit innovation and choice by excluding competition between Bromcom's products and Capita's own modules.

Bromcom alleged that Capita was abusing its dominant position by constructively refusing to supply interface information to enable access to the attendance related data by offering an interface at an unreasonable price and on inadequate terms (namely that the technical method of access was inappropriate for Bromcom's product). Bromcom further alleged that Capita sought to tie the provision of such interface information with the supply of an interface written and charged for by Capita. Bromcom predominantly focussed on interface information which accessed attendance related data on the Microsoft SQL Server. Although Bromcom had also sought relief in relation to interface information accessing such data on Capita's Microsoft SQL Server as the Complainant 'may reasonably require', Bromcom only subsequently confirmed this by widening its complaint to cover interface information which accessed the entire range of data on Capita's Microsoft SQL Server at a reasonable price and on adequate terms.

The OFT considered the appropriateness of the technical method of accessing Capita's Microsoft SQL Server used by Capita and the nature of the interface offered to Bromcom to access Capita's Microsoft SQL Server.

The OFT, assisted by an independent IT Expert, initially concluded that, whilst Capita used an appropriate technical method of access, there were competition concerns about making the availability of the necessary interface information to use this method of access conditional on the supply of an interface written and charged for by Capita.

When informed of the OFT's initial conclusions, Capita offered voluntary assurances covering the disclosure to Bromcom of interface information to enable access to data on Capita's Microsoft SQL Server, subject to the agreement of commercial terms². Following receipt of the Voluntary Assurances, the Office believes its competition concerns have been allayed and has subsequently closed its investigation.

OFT's action: Case closed
Case officer: Edward.Anderson@oft.gsi.gov.uk
Case reference: CP/01476-01

² A copy of the voluntary assurances is available on written request to the case officer.