



DETERMINATION OF MERGER NOTIFICATION M/09/023 -

Emerson /Avocent

Section 21 of the Competition Act 2002

Acquisition by Emerson Electrical Co. of Avocent Corporation

Dated 12 November 2009

Introduction

1. On 21 October 2009, in accordance with Section 18(1) of the Competition Act 2002 ("the Act"), the Competition Authority ("the Authority") received a notification of a proposed transaction whereby Emerson Electrical Co. ("Emerson"), through its wholly-owned subsidiary Globe Acquisition Corporation, would acquire sole control of Avocent Corporation ("Avocent").

The Undertakings Involved

Emerson

2. Emerson with headquarters in St. Louis, Missouri, USA, is a global diversified manufacturing company involved in the supply of a diverse range of technological products and engineering services, including in relation to information technology ("IT").
3. First incorporated in 1890 and originally a manufacturer of fans and electrical motors, Emerson now provides technological solutions to a broad range of companies in the network power, process management, industrial automation, climate technologies, and appliance and tools businesses sectors. Globally, as part of its product range, Emerson manufactures Power Distribution Units ("PDUs"), both Rack PDUs and Non-Rack PDUs and also liquid crystal displays ("LCDs"), described further below.
4. Rack PDUs are long, thin power strips mounted in the back of IT cabinets in data centres. Rack PDUs receive power from an independent source, such as an uninterruptable power supply ("UPS") or a Non-Rack PDU, distributing it to the rack mounted equipment in the cabinet via standard connection receptacles. A Rack PDU is generally expected to last for approximately 5 to 7 years.
5. The Non-Rack PDU's role in distributing power differs from that of a Rack PDU. Non-Rack PDUs are large self-contained, self-standing cabinets and typically are used to distribute power via flexible cables to cabinets in a data centre. Each of these cabinets would have internal Rack PDUs as described above. A Non-Rack PDU is generally designed to last for more than 10 years.
6. Globally, Emerson manufactures LCDs, i.e., consoles used to access servers within IT racks, which allow IT administrators to conduct

diagnostics quickly and effectively at the rack level thereby increasing productivity and efficiency.

7. Globally, Emerson is also involved to a small degree in data centre asset management software.
8. Within the State, Emerson is involved only in the supply of Non-Rack PDUs, and has no involvement in the State in Rack PDUs, LCDs or data centre asset management.

Avocent

9. Avocent is a global provider of IT infrastructure management solutions. Headquartered in Huntsville Alabama USA, and incorporated in 2000,¹ Avocent designs, manufactures, licences and sells software and hardware products for enterprise data centres, small/medium businesses and branch offices. Globally, as part of its range of products and services, Avocent manufactures and distributes Rack PDUs, and LCDs but does not manufacture Non-Rack PDUs.
10. Globally, Avocent is also involved to a small degree in data centre asset management software.
11. Within the State, Avocent is involved in the distribution of Rack PDUs and LCDs, and has no involvement in Non-Rack PDUs or data centre asset management software.

Rationale for Proposed Transaction

12. The parties submit that the proposed transaction will create significant opportunities for growth. For example, as stated by Emerson “[c]ombining Avocent’s technologies, relationships, and installed base with Emerson’s power and cooling presence allows us to offer a more compelling solution to our data centre customers’ most pressing challenge – energy efficiency.”²

Third Party Submissions

13. No submissions were received.

Analysis

14. The parties submit that the relevant sector regarding the proposed transactions is IT services and more particularly IT infrastructure,³ most obviously in relation to PDUs, and to a lesser extent in relation to LCDs and data asset management software.
15. Within the State, there is no horizontal overlap in relation to the manufacture or supply of LCDs or for the sale of data asset management software. Within the State, only Avocent is involved in

¹ Avocent was created in 2000 following a merger between Cybex Computer Products Corporation and Apex Inc.

² Avocent Press Release 6 October 2009, available on www.avocent.com/NewsRoom.

³ The parties describe the relevant sector as IT Infrastructure management. As set out in Comp M.5128 *Nordic Capital/Tietoerator* paragraphs 9-11, the European Commission, while leaving the exact delineation of the relevant product open, has considered a segmentation of the market for IT services based on (i) hardware maintenance and support, (ii) software maintenance and support, (iii) consulting, (iv) development and integration, (v) IT management, and (vi) process management.

supplying LCDs, while neither party is involved in data asset management software.

16. Globally, Emerson has world market shares of 2.5% for Rack PDUs and 50% for Non-Rack PDUs. Avocent has a world market share of 4.4% for Rack PDUs⁴ and, as noted above, does not manufacture Non-Rack PDUs.
17. Within the State, the parties submit there is no horizontal overlap between Emerson and Avocent in relation to PDUs because Emerson is involved in Non-Rack PDUs only and Avocent is involved in Rack PDUs only.
18. Alternatively, if no distinction is made between Rack and Non-Rack PDUs, the combined post transaction Emerson Avocent market share, (in relation to both Rack and Non-Rack PDUs) would be approximately 6.7%, comprising approximately 2.9% Emerson and 3.9% Avocent.
19. The parties also submit that there is a high level of worldwide competition for the supply of PDUs (both Rack and Non-Rack) with the presence of a number of multinational competitors.
20. The Authority considers that the acquisition of Avocent by Emerson is unlikely to raise any competitive concerns, within the State, with respect to the provision of IT Services, including the IT infrastructure management segment, for the following reasons:
 - There is no overlap in the activities of the parties in relation to LCDs and data asset management software;
 - If Rack PDUs and Non-Rack PDUs are in separate markets then there is no overlap in the activities of the parties;
 - If Rack PDUs and Non-Rack PDUs are part of the same market then the merged entity would account for less than 10% of that market; and,
 - With respect to both Rack PDUs and Non-Pack PDUs, there are strong alternative sources of supply from multinational suppliers such as APC-MGE, Cyberex, Eaton, Rittal and Server Technology.

⁴ Market share estimates are from Frost and Sullivan *World Power Distribution Market 2008*. Frost and Sullivan is a global consulting company whose reports have previously been used by for example the European Commission in reports and merger rulings e.g. Comp M.3347 *Schneider Electric / MGE-UPS* and Comp M.5109 *DANISCO/ABITEC*.

Determination

21. The Competition Authority, in accordance with section 21(2)(a) of the Competition Act 2002, has determined that, in its opinion, the result of the proposed acquisition of Avocent Corporation by Emerson Electrical Co. will not be to substantially lessen competition in any market for goods or services in the State and, accordingly, the acquisition may be put into effect.

For the Competition Authority

Dr Stanley Wong
Member of the Competition Authority