EUROPEAN COMMISSION

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PUBLIC VERSION

To the notifying parties

Subject: **Case M.10042 – VISTA EQUITY PARTNERS / FRANCISCO PARTNERS MANAGEMENT / SMARTBEAR SOFTWARE**
Commission decision pursuant to Article 6(1)(b) of Council Regulation (EC) No 139/2004[1] and Article 57 of the Agreement on the European Economic Area[2]

Dear Sir or Madam,

1. On 24 November 2020, the European Commission received notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which Vista Equity Partners Management, LLC ("Vista", United States of America) and Francisco Partners Management LP ("Francisco Partners", United States of America) acquire, within the meaning of Articles 3(1)(b) and 3(4) of the Merger Regulation, joint control over the whole of SmartBear Software, Inc. ("SmartBear", United States of America), currently solely controlled by Francisco Partners, by way of purchase of shares.[3]

2. The business activities of the undertakings concerned are:

   – for Vista: investment firm focused on empowering and growing enterprise software, data and technology-enabled businesses. Vista controls a number of portfolio companies that are active in the provision of IT services such as the provision of business software,

   – for Francisco Partners: private equity firm exclusively focused on investments in technology and technology-enabled businesses. Francisco Partners currently exercises sole control over SmartBear,

   – for SmartBear: active in the provision of software solutions focused on application testing, monitoring and development. SmartBear provides tools across the entire software development lifecycle, including tools for test

1 OJ L 24, 29.1.2004, p. 1 (the 'Merger Regulation'). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ('TFEU') has introduced certain changes, such as the replacement of 'Community' by 'Union' and 'common market' by 'internal market'. The terminology of the TFEU will be used throughout this decision.

2 OJ L 1, 3.1.1994, p. 3 (the 'EEA Agreement').

3 Publication in the Official Journal of the European Union No C 415, 1.12.2020, p. 33.

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automation, API lifecycle, collaboration, performance testing and test management.

3. After examination of the notification, the European Commission has concluded that the notified operation falls within the scope of the Merger Regulation and of paragraphs 5(a) and (c) of the Commission Notice on a simplified procedure for treatment of certain concentrations under Council Regulation (EC) No 139/2004.[4]

4. For the reasons set out in the Notice on a simplified procedure, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation and Article 57 of the EEA Agreement.

For the Commission

(Signed)
Olivier GUERSENT
Director-General

4 OJ C 366, 14.12.2013, p. 5.