EUROPEAN COMMISSION

Brussels, 23.10.2019
C(2019) 7719 final

PUBLIC VERSION

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus […]. Where possible the information omitted has been replaced by ranges of figures or a general description.

To the notifying party

Subject: **Case M.9460 — Capgemini/Altran**
Commission decision pursuant to Article 6(1)(b) of Council Regulation No 139/2004[1] and Article 57 of the Agreement on the European Economic Area[2]

Dear Sir or Madam,

(1) On 18 September 2019, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 by which Capgemini S.E. ("Capgemini" or "the Notifying Party", France) acquires within the meaning of Article 3(1)(b) of the Merger Regulation sole control over Altran Technologies S.A. ("Altran", France) (the "Transaction").[3] Capgemini and Altran are jointly referred to as the "Parties".

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 321, 25.09.2019, p. 2.

Commission européenne, DG COMP MERGER REGISTRY, 1049 Bruxelles, BELGIQUE
Europese Commissie, DG COMP MERGER REGISTRY, 1049 Brussel, BELGIË

Tel: +32 229-91111. Fax: +32 229-64301. E-mail: COMP-MERGER-REGISTRY@ec.europa.eu.

1 THE PARTIES

(2) Capgemini is a publicly traded European company, active in more than 40 countries, and headquartered in Paris, France. Capgemini is mainly active in IT services and to a lesser extent in engineering services. Its activities are organised around four business lines, namely (i) Consulting – Strategy and Transformation, (ii) Application Services, (iii) Technology and Engineering Services, and (iv) Other Managed Services. Capgemini is not controlled by any of its shareholders.

(3) Altran is a publicly traded joint stock company, active in more than 30 countries worldwide, headquartered in Neuilly-sur-Seine, France. Altran is active in high-tech engineering and innovation consultancy services. It provides a diverse range of engineering services, from concept to industrialisation, to customers active across a wide range of sectors. Altran also provides IT services. Considering its fragmented shareholding structure and voting rules, Altran is not controlled by any of its shareholders.[4]

2 THE OPERATION

(4) The Transaction consists of an acquisition of shares. Pursuant to a tender offer agreement ("TOA") dated 11 August 2019, Capgemini will obtain a majority of Altran's shares and voting rights[5] and will thus acquire sole control of Altran.[6]

(5) The Transaction therefore constitutes a concentration pursuant to Article 3(1)(b) of the Merger Regulation.

3 UNION DIMENSION

(6) The Parties concerned have a combined aggregate worldwide turnover of more than EUR 5 000 million (Capgemini: EUR 13.2 billion; Altran: EUR 2.9 billion). Each of the Parties generates an aggregate turnover in excess of 250 million in the Union (Capgemini: EUR […]; Altran: EUR […]). None of the Parties achieves more than two-thirds of its aggregate EU-wide turnover within one and the same Member State.

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4 Form CO, paragraphs 39-47 and footnote 27.

5 The Notifying Party indicates that, if on the closing date Capgemini does not hold a number of shares representing more than 50% of Altran's share capital or voting rights, the Transaction will become null and void and would automatically lapse. If Capgemini obtains more than 50.10% of Altran's shares and voting rights on a fully diluted basis, the proposed public tender will be considered successful. If Capgemini obtains less than 50.10% of Altran's shares and voting rights on a fully diluted basis, Capgemini may decide not to proceed with the offer or may decide to waive the acceptance threshold, being 50.10% of Altran's shares and voting rights on a fully diluted basis. Therefore, should Capgemini acquire more than 50% but less than 50.10% of shares and voting rights on a fully diluted basis the Transaction would still give rise to an acquisition of control in accordance with the Commission Consolidated Jurisdictional Notice No 139/2004.

6 On 24 June 2019, Capgemini signed separate share purchase agreements ("SPAs") with three minority shareholders for the sale of their shareholding representing 11.43% of the Target's share capital and 11.39% of the Target's voting rights. These transactions were completed on 2 July 2019. The three transactions are not related to the TOA and thus not interdependent with the notified Transaction. Considering Altran's voting rules (article 9 of Altran's bylaws), these three transactions did not confer upon Capgemini any control over Altran.

(7) Therefore, the Transaction has a Union dimension pursuant to Article 1(2) of the Merger Regulation.

4 RELEVANT MARKETS

(8) The Parties' activities overlap in the following product markets (and/or possible segments thereof): (i) IT services and (ii) engineering services.

4.1 Product market definition

4.1.1 IT services

4.1.1.1 Commission precedents

(9) In previous cases such as *Atos/Siemens IT Solutions & Services*,[7] *IBM/INF Business of Deutsche Lufthansa*[8] and *Lenovo/Fujitsu/FCCL*,[9] the Commission considered the market for IT services and its potential segments. In those cases, the Commission considered that IT services may be further segmented by (i) functionality and (ii) by industry sector based on reports by the market intelligence company Gartner.

(10) More specifically, the overall market for IT services can be segmented by *functionality* into (i) consulting; (ii) implementation; (iii) IT outsourcing; (iv) business process outsourcing; (v) software support; and (vi) hardware support[10]. In addition, the overall market can be segmented by *industry sector* into (i) banking & securities; (ii) communications, media & services; (iii) education; (iv) government; (v) healthcare providers; (vi) insurance; (vii) manufacturing & natural resources; (viii) retail; (ix) transportation; (x) utilities; and (xi) wholesale trade.[11] In previous cases, the Commission ultimately left the precise product market definition open.

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7 Commission decision of 25 March 2011, Case COMP/M.6127 Atos/Siemens IT Solutions & Services, paragraph 14.

8 Commission decision of 15 December 2014, Case COMP/M.7458 IBM/INF Business of Deutsche Lufthansa, paragraphs 15-29.

9 Commission decision of 16 April 2018, Case COMP/M.8765 Lenovo/Fujitsu/FCCL, paragraphs 23-24.

10 In its report for 2019, Gartner states that Service Level 1 refers to IT services as a whole (without further segmentation) and that Service Level 2 refers to IT services segmented into the following four categories: (i) business process outsourcing, (ii) consulting, (iii) implementation and (iv) managed services and cloud infrastructure services (Gartner Report 2019, Form CO, Annex 1.3). The Notifying Party explains that the "managed services and cloud infrastructure services" category as defined in the Gartner Report refers to (i) IT outsourcing, (ii) software support, and (iii) hardware support (Form CO, Section 6.1, footnote 82).

11 In addition, in past decisions, the Commission also considered a possible distinction between small and large customers, i.e. between the supply of IT services to large corporations or to smaller organisations. See Commission decision of 18 November 2004, Case COMP/M.3571 IBM/Maersk Data / DMdata, paragraph 13; Commission decision of 25 March 2014, Case COMP/M.6127 Atos Origin/Siemens IT Solutions & Services, paragraph 14. See also Commission decision of 13 October 2008, Case COMP/M.5301 Cap Gemini/BAS, paragraph 9. Furthermore, in past decisions the Commission considered an additional segmentation of IT outsourcing. See Commission decision of 15 December 2014, Case COMP/M.7458 IBM/INF Business of Deutsche Lufthansa, paragraph 20; Commission decision of 21 December 2016, Case COMP/M.8180 Verizon/Yahoo, paragraph 72.

4.1.1.2 The Notifying Party's views

(11) The Notifying Party submits that segmenting the IT services market both by type of service and by type of industry is not justified, and that the relevant product market is the overall market for IT services.

(12) However, in the Notifying Party's view, should the market for IT services be segmented by functionality, such segmentation should be limited to Gartner Service Level 2. The Notifying Party further submits that distinguishing between IT services along industry sectors is not meaningful as (i) most IT services providers operate across a large number of sectors and (ii) enterprise customers in different business sectors use the same kind of IT services.

(13) The Notifying Party also considers that, should the market for IT services be segmented by sector, wholesale trade does not constitute a relevant product market because such segmentation does not correspond with market reality.[12]

(14) In any event, the Notifying Party considers that the precise market definition can be left open since the Transaction does not raise concerns under any plausible market definition.

4.1.1.3 The Commission's assessment

(15) The market investigation provided mixed results as to the exact scope of the relevant product market.[13] For the purpose of the present decision, the exact product market definition for IT services (whether overall or segmented by functionality or by industry sector or both) can be left open as the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement under any plausible product market definition.

4.1.2 Engineering services

4.1.2.1 Commission's precedents

(16) In previous cases, *Caisse des dépôts et des consignations/Veolia Transdev*,[14] *EDF/CDC/RTE*[15] and *Ardian/GPS Branch of Assystem Group*,[16] the Commission

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Those distinctions were no longer considered in more recent cases: see Commission decision of 16 April 2018, Case COMP/M.8765 Lenovo/Fujitsu/FCCL, paragraphs 23-24.

12 In support of the view that the wholesale trade sector is not a relevant product market, the Notifying Party argues that the wholesale trade sector includes an undefined class of wholesalers regardless of their industry, which are artificially classified into two categories (durable and nondurable goods). Moreover, the Notifying Party submits that the size of wholesale trade sector appears to be artificially small in most countries and there is high demand-side substitutability across industries, especially between the wholesale and retail trade sectors. The results of the market investigation are mixed as to whether IT services should be segmented by industry sector (see paragraph 15). In any event, in case a segmentation by industry sector were to be relevant, no respondent considers , that wholesale trade should be further segmented depending on the durability of goods.

13 See responses to the Commission's market questionnaire Q1 to competitors, questions 3, 3.1, 4, 4.1, 5 and 5.1; responses to the Commission's market questionnaire Q2 to customers, replies to questions 3, 3.1, 4, 4.1, 5 and 5.1.

14 Commission decision in Case M.6794 Caisse des dépôts et des consignations/Veolia Transdev of 26 April 2013, paragraphs 25-26.

15 Commission decision in Case COMP/M.8270 EDF/CDC/RTE of 24 March 2017, paragraph 18.

considered a potential segmentation of the market for the provision of engineering services (i) by type of activity/engineering service; and (ii) by type of industry sector (e.g. aeronautics, transport, energy, etc.). The Commission ultimately left the precise product market definition open.

(17) Digital engineering, which is relevant to the stated rationale of the Transaction,[17] consists of the combination of engineering services and IT derived solutions. The Commission has not previously considered a separate market or market segment for digital engineering within the overall market for engineering services.

4.1.2.2 The Notifying Party's views

(18) The Notifying Party agrees with the findings of the Commission in previous cases as regards segmentation by type of industry sector. However, the Notifying Party submits that no further segmentation by type of activity/engineering service is necessary given that all major engineering services providers offer all or most types of services to their customers.

(19) The Notifying Party considers that digital engineering is synonymous with engineering services. It argues that digital engineering is a commercial term reflecting the increasing modernisation of engineering and R&D to take into account new technologies. The Notifying Party considers that digital engineering is provided across all industry sectors and that digital engineering services involve the same suppliers and customers as engineering services. Therefore, the Notifying Party states that digital engineering does not constitute a product market distinct from engineering services.

(20) The Notifying Party considers that the precise market definition can be left open in the present case as the Transaction will not raise concerns under any plausible market definition.

4.1.2.3 The Commission's assessment

(21) The market investigation provided mixed results as to the exact scope of the relevant product market for engineering services.[18]

(22) The market investigation also provided mixed views as to whether digital engineering should be considered as a distinct market.[19] A majority of competitors considered that digital engineering is not a distinct market but rather the evolution of or "state of the art" version of traditional engineering services. Other competitor respondents and the majority of customer respondents consider that digital engineering is a separate market because it requires different skills, new technical requirements and know-how and suppliers can charge higher

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16 Commission decision in Case COMP/M.8548 Ardian/GPS Branch of Assystem Group of 18 August 2018, paragraph 13.

17 The main stated rationale of the Transaction is to address the growing demand for digital engineering services by combining the Parties' respective activities in IT services (mostly Capgemini) and operational technology (i.e. engineering, mostly Altran) (Form CO, Section 3.2, paragraphs 60 to 79).

18 See Q1 – Questionnaire to competitors (providers of IT and engineering services) ("Q1"), replies to questions 6, 6.1, 7 and 7.1; Q2 – Questionnaire to customers of IT and engineering services ("Q2"), replies to questions 6, 6.1, 7 and 7.1.

19 See Q1, replies to questions 9 and 9.1; Q2, replies to questions 9 and 9.1.

prices. The market investigation also provided mixed views as to the precise definition of digital engineering and what services it comprises.[20]

(23) In light of the above, and for the purpose of the present decision, the exact product market definition for engineering services (*i.e.*, whether overall or segmented by type of activity/engineering service and by sector or both, and whether digital engineering constitutes a separate product market) can be left open as the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement under any plausible product market definition.

4.2 Geographic market definition

4.2.1 IT services

4.2.1.1 Commission precedents

(24) In its previous decisions, the Commission considered whether the geographic market definitions for IT services were EEA-wide or national in scope, but ultimately left the precise geographic market definition open.[21]

4.2.1.2 The Notifying Party's views

(25) The Notifying Party submits that the relevant geographic market for IT services is EEA-wide or possibly regional (i.e. Western Europe[22]). According to the Notifying Party, a regional geographic market definition differentiating between Western and Eastern Europe may be appropriate due to the following considerations: (i) all major IT services providers have an established presence in Western Europe, (ii) the majority of the demand for IT services originates from Western European companies, and (iii) such segmentation is supported by Gartner.

(26) In the Notifying Party's view, the precise geographic market definition with regard to IT services can be left open, since the Transaction does not raise concerns on any alternative geographic scope (i.e., national, regional, EEA-wide or global).

4.2.1.3 The Commission's assessment

(27) The market investigation provides mixed views as to the relevant geographic scope. Whereas a majority of respondents indicate that IT market participants provide IT services on a cross-border scale, possibly global, a majority also

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20 See Q1, replies to question 8; Q2, replies to question 8.

21 Commission decision of Case COMP/M.8765 Lenovo/Fujitsu/FCCL decision, paragraphs 35-36; Case COMP/M.7458 IBM/INF Business of Deutsche Lufthansa, paragraphs 30-32.

22 Based on the Gartner Report, which distinguishes between Western Europe (including countries such as Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, the United Kingdom), and Eastern Europe (including countries such as the Czech Republic, Hungary, Poland) (Gartner Report 2019, Form CO, Annex 1.3).

consider that a national presence is a key requirement for many customers when selecting IT services providers.[23]

(28) For the purpose of the present decision, the exact geographic market definition for IT services (whether national, regional, EEA-wide or global) can be left open as the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement under any plausible geographic market definition.

4.2.2 Engineering services

4.2.2.1 Commission precedents

(29) In its previous decisions, the Commission considered alternative geographic market definitions for engineering services: EEA-wide and national in scope, but ultimately left the precise geographic market definition open.[24]

4.2.2.2 The Notifying Party's views

(30) The Notifying Party submits that the relevant geographic market for engineering services is EEA-wide or possibly regional (distinguishing Western Europe and Eastern Europe[25]). According to the Notifying Party, a regional geographic market definition differentiating between Western and Eastern Europe may be appropriate because: (i) all major engineering services providers have an established presence in Western Europe, (ii) the majority of the demand for R&D and engineering services originates from Western European companies and (iii) such segmentation is supported by the engineering services market research company, Zinnov.

(31) In the Notifying Party's view, the precise geographic market definition with regard to engineering services can be left open, since the Transaction does not raise concerns on any alternative geographic market scope (i.e., national, regional, EEA-wide or global).

4.2.2.3 The Commission's assessment

(32) The market investigation provided mixed views as to the relevant geographic market definition. A majority of respondents indicated that engineering market participants provide engineering services on a cross-border scale, possibly global, but also stated that a national presence is a key requirement for many customers to select engineering services providers.[26]

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23 See Q1, replies to questions 10, 10.1 and 10.2; Q2, replies to questions 10, 10.1 and 10.2.

24 Commission decision of 26 April 2013, Case COMP/M.6794 Caisse des dépôts et des consignations/Veolia Transdev, paragraphs 36-38; Commission decision of 18 August 2018, Case COMP/M.8548 Ardian/GPS Branch of Assystem Group, paragraphs 16-18.

25 Zinnov defines "*Eastern Europe*" as including the Czech Republic, Slovakia, Poland, Hungary, Romania, Ukraine, Belarus, Lithuania, Latvia, Estonia, and Russia; and defines "*Western Europe*" as including Spain, Portugal, Italy, France, Belgium, the Netherlands, Luxembourg, Lichtenstein, Monaco, Germany, Austria, Switzerland, the United Kingdom, Ireland, Denmark, Sweden, Norway, and Finland.

26 See Q1, replies to questions 11, 11.1 and 12.2; Q2, replies to questions 11, 11.1 and 11.2.

(33) For the purpose of the present decision, the exact geographic market definition for engineering services (whether national, regional, EEA-wide or global) can be left open as the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement under any plausible geographic market definition.

5 COMPETITIVE ASSESSMENT

(34) The Parties' activities horizontally overlap in the provision of IT and engineering services. In addition, the Transaction creates a potential conglomerate relationship between Capgemini's activities in IT services and Altran's activities in engineering services.

5.1 Framework for the competitive assessment

5.1.1 Horizontal non-coordinated effects

(35) A merger may significantly impede effective competition in a market by removing important competitive constraints on one or more sellers who consequently have increased market power. The most direct effect of the merger will be the loss of competition between the merging firms. For example, if prior to the merger one of the merging firms had raised its price, it would have lost some sales to the other merging firm. The merger removes this particular constraint. Non-merging firms in the same market can also benefit from the reduction of competitive pressure that results from the merger, since the merging firms' price increase may switch some demand to the rival firms, which, in turn, may find it profitable to increase their prices. The reduction in these competitive constraints could lead to significant price increases in the relevant market.[27]

(36) The Horizontal Merger Guidelines list a number of factors which may influence whether or not significant horizontal non-coordinated effects are likely to result from a merger, such as the large market shares of the merging firms, the fact that the merging firms are close competitors, the limited possibilities for customers to switch suppliers, or the fact that the merger would eliminate an important competitive force.[28] That list of factors applies equally regardless of whether a merger would create or strengthen a dominant position, or would otherwise significantly impede effective competition due to non-coordinated effects. Furthermore, not all of these factors need to be present to make significant non-coordinated effects likely and it is not an exhaustive list.[29]

(37) Finally, the Horizontal Merger Guidelines describe a number of factors, which could counteract the harmful effects of the merger on competition, including the likelihood of buyer power, entry and efficiencies.[30]

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27 Guidelines on the assessment of horizontal mergers under the Council Regulation on the control of concentrations between undertakings ("Horizontal Merger Guidelines"), OJ C 31, 5.2.2004, p. 5, paragraph 24.

28 Horizontal Merger Guidelines, paragraphs 27 *et seq.*

29 Horizontal Merger Guidelines, paragraph 26.

30 Horizontal Merger Guidelines, paragraphs 64 *et seq.*

5.1.2 Conglomerate effects

(38) According to the Non-Horizontal Merger Guidelines, in most circumstances, conglomerate mergers do not lead to competition problems.[31]

(39) However, foreclosure effects may arise when the combination of products in related markets confer on the merged entity the ability and incentive to leverage a strong market position from one market to another closely related market by means of tying or bundling or other exclusionary practices. The Non-Horizontal Merger Guidelines distinguish between bundling, which usually refers to the way products are offered and priced by the merged entity[32] and tying, usually referring to situations where customers that purchase one good (the tying good) are required to also purchase another good from the producer (the tied good).

(40) Tying and bundling as such are common practices that often have no anticompetitive consequences. Nevertheless, in certain circumstances, these practices may lead to a reduction in actual or potential rivals' ability or incentive to compete. Foreclosure may also take more subtle forms, such as the degradation of the quality of the standalone product.[33] This may reduce the competitive pressure on the merged entity allowing it to increase prices.[34]

(41) In assessing the likelihood of such a scenario, the Commission examines, first, whether the merged firm would have the ability to foreclose its rivals,[35] second, whether it would have the economic incentive to do so[36] and, third, whether a foreclosure strategy would have a significant detrimental effect on competition, thus causing harm to consumers.[37] In practice, these factors are often examined together as they are closely intertwined.

(42) In order to be able to foreclose competitors, the merged entity must have a significant degree of market power, which does not necessarily amount to dominance, in one of the markets concerned. The effects of bundling or tying can only be expected to be substantial when at least one of the merging parties' products is viewed by many customers as particularly important and there are few relevant alternatives for that product.[38] Further, for foreclosure to be a potential concern, there must be a large common pool of customers, which is more likely to be the case when the products are complementary.[39] Finally, bundling is less

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31 Guidelines on the assessment of non-horizontal mergers under the Council Regulation on the control of concentrations between undertakings ("Non-Horizontal Merger Guidelines"), OJ C 265, 18.10.2008, paragraph 92.

32 Within bundling practices, the distinction is also made between pure bundling and mixed bundling. In the case of pure bundling the products are only sold jointly in fixed proportions. With mixed bundling the products are also available separately, but the sum of the stand-alone prices is higher than the bundled price.

33 Non-Horizontal Merger Guidelines, paragraph 33.

34 Non-Horizontal Merger Guidelines, paragraph 93.

35 Non-Horizontal Merger Guidelines, paragraphs 95 to 104.

36 Non-Horizontal Merger Guidelines, paragraphs 105 to 110.

37 Non-Horizontal Merger Guidelines, paragraphs 111 to 118.

38 Non-Horizontal Merger Guidelines, paragraph 99.

39 Non-Horizontal Merger Guidelines, paragraph 100.

likely to lead to foreclosure if rival firms are able to deploy effective and timely counter-strategies, such as single-product companies combining their offers.[40]

(43) The incentive to foreclose rivals through bundling or tying depends on the degree to which the strategy is profitable.[41] Bundling and tying may entail losses or foregone revenues for the merged entity.[42] However, they may also allow the merged entity to increase profits by gaining market power in the tied goods market, protecting market power in the tying good market, or a combination of the two.[43]

(44) It is only when a sufficiently large fraction of market output is affected by foreclosure resulting from the concentration that the concentration may significantly impede effective competition. If effective single-product players remain in either market, competition is unlikely to deteriorate following a conglomerate concentration.[44] The effect on competition needs to be assessed in light of countervailing factors such as the presence of countervailing buyer power or the likelihood that entry would maintain effective competition in the upstream or downstream markets.[45]

5.2 Assessment of possible horizontal non-coordinated effects

5.2.1 Market shares

(45) The Transaction gives rise to horizontal overlaps in IT services and engineering services. These overlaps are relatively limited since Capgemini is mostly active in IT services,[46] whilst Altran mainly focuses on engineering services.[47]

5.2.1.1 IT services

(46) The Transaction gives rise to a limited number of horizontally affected (possible) markets for IT services (segmented by functionality and by industry sector).[48]

(47) The Transaction does not give rise to any affected market in a possible global market for IT services (and possible narrower markets).

(48) At the EEA level, the Parties' combined market share in 2018 exceeded 20% only in one narrow potential market, namely the market for IT services implementation in wholesale trade (Capgemini: [20-30]%; Altran: [0-5]%).[49]

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40 Non-Horizontal Merger Guidelines, paragraph 103.
41 Non-Horizontal Merger Guidelines, paragraph 105.
42 Non-Horizontal Merger Guidelines, paragraph 106.
43 Non-Horizontal Merger Guidelines, paragraph 108.
44 Non-Horizontal Merger Guidelines, paragraph 113.
45 Non-Horizontal Merger Guidelines, paragraph 114.
46 Capgemini's engineering services only accounted for less than [0-20]% of its global revenues in 2018.
47 Altran estimates that IT services accounted for [0-20]% of its global revenues in 2018.
48 Based on the Notifying Party's submission, the Parties' market shares for 2016 and 2017 in all potential segments of the market for IT services were similar to the market shares for 2018 ([Form CO], Section 7, paragraph 175).
49 Form CO, Section 7.I.2.iii, paragraphs 204 *et seqq*.

(49) At the regional level (Western Europe), the Parties' combined market share remains well below 20% in the overall market for IT services and below 25% when combining Gartner's functionality (Service Level 2) and industry sectors. [50]

(50) At national level, when combining Gartner's functionality (Service Level 2) and industry sectors, the Parties' activities overlap in 11 EEA Member States,[51] and the Parties' combined market share in 2018 exceeded 20% in France, Austria and the Netherlands.[52]

(51) In France, the Transaction leads to the horizontally affected markets shown in Table 1 below.[53] In all affected markets where the increment is above 5%, the Parties' combined market share remains below 25%.

Table 1: IT services segmented by functionality and by industry sector (France, 2018)[54]

	Market share Capgemini	Market share Altran	Combined market share
IT services - Implementation			
Wholesale trade	[40-50]%	[0-5]%	[40-50]%
Wholesale trade and retail	[20-30]%	[0-5]%	[20-30]%
Utilities	[10-20]%	[5-10]%	[20-30]%
Manufacturing and natural resources	[20-30]%	[0-5]%	[30-40]%
Insurance	[20-30]%	[0-5]%	[20-30]%
Banking and securities	[10-20]%	[0-5]%	[20-30]%
Transportation	[10-20]%	[5-10]%	[20-30]%

Source: Gartner and Parties' estimates

(52) In Austria, there is only one affected market – IT services implementation in wholesale trade – and the Parties' combined market share is [20-30]% in 2018, with an increment below 5% (Capgemini: [20-30]%; Altran: [0-5]%).[55]

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50 Based on Gartner data, in 2018 (and similarly in 2017 and 2016), no IT services provider, including Capgemini and Altran, held a market share exceeding [5-10]% in Western Europe in the overall market for IT services. When considering narrower markets based on Gartner's functionalities (Service Level 2) in Western Europe, the Parties' combined market share remains below 20%. When combining Gartner's functionality (Service Level 2) and industry sectors in Western Europe, Capgemini's market share remains below 15%, while Altran's market share is below 10% (Form CO, Section 6.I.2, paragraph 130).

51 Austria, Belgium, France, Germany, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and Norway. This limited overlap is due to the fact that Altran is active in IT services in very few EEA Member States.

52 When assessing only the potential markets for IT services based on Gartner's functionalities (Service Level 2) at national level, the Parties' combined market share does not exceed 20% under any plausible segmentation (Form CO, Section 7.I.2.i, paragraphs 195 and 197). When assessing only the potential markets for IT services segmented by industry sector, the Parties' combined market share exceeds 20% in the wholesale trade sector in France ([20-30]%), Sweden ([20-30]%) and the Netherlands ([20-30]%) in 2018, with negligible increments (less than [0-5]%). In a hypothetical market including the wholesale trade and retail sectors, the Parties' combined market share does not exceed 20% in any of these three countries (Form CO, Section 7.I.2.ii, paragraphs 197 *et seqq*).

53 The Parties' combined market share in the potential segment for IT services managed services and cloud infrastructure services in wholesale trade in France in 2018 is ([20-30]%, but the increment is negligible ([0-5]%) (Form CO, Section 7.I.2.i, paragraph 215).

54 Form CO, Section 7.I.2.iii, paragraph 215.

(53) In the Netherlands, there is only one affected market – IT services implementation in manufacturing and natural resources – and the Parties' combined market share is [20-30]% in 2018 with a negligible increment (Capgemini: [20-30]%; Altran: [0-5]%).[56]

5.2.1.2 Engineering services

(54) The Transaction gives rise to horizontal overlaps in five Member States[57] but does not lead to a combined market share in 2018 exceeding 20% under any plausible product or geographic market definition.[58] In 2017, the Parties' combined market share in the potential segment of engineering services in the automotive sector in France was [20-30]% (Capgemini: [0-5]%; Altran: [10-20]%).[59]

(55) In a potential market for digital engineering, the Parties' combined market share in 2018 remains below 20% under any plausible geographic market definition.[60]

5.2.2 Horizontal non-coordinated effects

5.2.2.1 IT services

5.2.2.1.1 Notifying Party's views

(56) The Notifying Party submits that the Transaction is unlikely to give rise to horizontal non-coordinated effects in the market for IT services (and its possible sub-segments) for the reasons set out below.

(57) First, the Transaction results in limited increments of less than 5% under all plausible markets definitions, with the exception of the potential markets for IT services implementation in (i) utilities and (ii) transportation in France (see Table 1 above).

(58) Second, the Notifying Party considers that the overall IT market is highly fragmented, with the top […] IT service providers accounting for only [20-30]% of the market at global level.[61] The Parties face significant competitive pressure from large generalist IT service providers (such as IBM, Tata Consultancy Services, Amazon) and niche players of various sizes, as well as other much smaller local players. In the Notifying Party's view, the Parties face strong competitive constraints in France from a large number of IT service providers

55 Form CO, Section 7.I.2.i, paragraph 212.

56 Form CO, Section 7.I.2.i, paragraph 216.

57 France, Germany, the Netherlands, Spain and the UK.

58 Since the Transaction does not give rise to horizontally affected markets under the narrowest geographic market definition (at national level), it can be excluded that the Parties' combined market share would exceed 20% at regional level (e.g. in Western Europe).

59 In 2018, the Parties' combined market share in the potential segment for engineering services in the automotive sector in France was [10-20]% (Capgemini: [0-5]%; Altran: [10-20]%), based on the Parties' most conservative estimates (Form CO, Section 7.II.3, paragraph 282).

60 Reply to RFI 8 and RFI 9; Form CO, Section 6.II.2, paragraph 150. In order to determine the size of the potential digital engineering market, at the EEA-wide and national levels, the Notifying Party relies on the market research company Zinnov, according to which digital engineering represents around 24% of the overall R&D and engineering spend in 2018. The Parties estimate their market shares by relying on internal estimates and revenues derived from digital engineering services.

61 The Notifying Party considers that […] IT providers represent [70-80]% of the global IT services market.

(such as Accenture, IBM, Sopra Steria), including in the potential markets for IT services implementation in (i) utilities and (ii) transportation, where the increments brought about by the Transaction exceed 5%, and in the potential market for IT implementation in wholesale trade in France, where the Parties' combined market share reaches almost [40-50]%.

(59) Third, the Notifying Party submits that customers in the IT services markets, which are mostly large global companies or governmental institutions, have significant countervailing buyer power. According to the Notifying Party, IT services contracts are awarded via bidding processes and are of limited duration (3 years, with a possible renewal for two additional one-year periods), which ensures intense competition between suppliers. In addition, customers increasingly multi-source and use their ability to self-supply IT services to negotiate better prices with IT service providers.[62]

(60) Fourth, the Notifying Party indicates that low barriers to enter the French market for IT services (and possible sub-segments) enable global tendering processes. The Notifying Party notes increasing competitive constraints and cost pressure from players operating in lower cost regions (e.g. India and Morocco).[63]

5.2.2.1.2 Commission's assessment

(61) The Commission considers that, for the reasons set out below, the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement as a result of possible horizontal non-coordinated effects in the market for IT services (and possible narrower markets).

(62) First, the Transaction would only result in very small increments in most affected markets, regardless of the precise product or geographic market definition. In the market for IT services implementation in wholesale trade in France, where the Parties' combined market share almost reaches [40-50]%, the increment is negligible (below [0-5]%).[64]

(63) Furthermore, the Parties' combined market shares would remain limited in most affected markets. With regard to the market for IT services (and possible narrower markets) assessed at a regional level, the Parties' combined markets share does not exceed 25% under the narrowest plausible market definition. At the national level, in the markets for IT services implementation in (i) utilities and (ii) transportation in France, where the increments are above 5%, the Parties' combined market share also remains below 25%.

(64) Second, the results of the market investigation indicate that Capgemini and Altran are not close competitors with regard to the affected IT service markets (and potential narrower markets) in France, Austria or the Netherlands. A majority of respondents to the market investigation consider that the Parties do not address

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62 The Notifying Party specifies that customers active in banking, financial services, insurance, telecom/utilities, private manufacturing and public administrative sectors have in-house IT services capacities.

63 The Notifying Party submits that several Indian operators have successfully entered the IT services European markets over the past years such as Tata Consulting Services, Infosys or HCL, which aggressively compete on costs with the Parties.

64 Form CO, Section 7.I.2.iii, paragraph 215.

the same customers' needs and that competition between the Parties in relation to IT services is limited given the market is highly fragmented with many competitors offering similar offerings.[65]

(65) Third, the market investigation results show that the market for IT services (and potential narrower markets) is fragmented.[66] Therefore, there will remain sufficient alternative IT services providers in all affected markets, which will continue to exert a competitive constraint on the economic entity resulting from the Transaction ("merged entity") post-Transaction. In France, respondents to the market investigation refer to Accenture, Sopra Steria, IBM, CGI and SAP as the Parties' main competitors in relation to the provision of IT services.[67]

(66) With regard to the market for IT services implementation in wholesale trade in France, based on the Notifying Party's submission and the results of the market investigation, the alternative IT services providers include Accenture (with a market share of [5-10]%), IBM ([5-10]%) or Orange ([0-5]%) and a number of smaller providers that collectively account for [30-40]% of the potential segment.[68]

(67) With regard to the market for IT services implementation in utilities in France, based on the Notifying Party's submission and the results of the market investigation, the alternative IT services providers include Sopra Steria ([10-20]%), Accenture ([5-10]%) or CGI ([5-10]%) and a number of smaller providers that collectively account for around [40-50]% of the potential segment.[69]

(68) With regard to the market for IT services implementation in transportation in France, based on the Notifying Party's submission and the results of the market investigation, the alternative IT services providers include Orange ([10-20]%), Sopra Steria ([10-20]%) or Accenture ([0-5]%) and a number of smaller providers that collectively account for around [40-50]% of the potential segment.[70]

(69) With regard to the market for IT services implementation in wholesale trade in Austria, based on the Notifying Party's submission, the alternative IT services providers include IBM ([10-20]%), SAP ([5-10]%), Accenture ([5-10]%) and a number of smaller providers that collectively account for [40-50]% of the potential segment.

(70) Furthermore, the market investigation results indicate that a majority of the Parties' competitors (as well as the Parties themselves) provide a wide range of IT services across a number of different industries.[71] Given the large number of players in the affected markets that provide IT services comparable to the Parties' offering, the Commission considers that a sufficient number of credible alternative players would remain post-Transaction.

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65 See Q1, replies to questions 16, 16.1, 18 and 18.1; Q2, replies to questions 15, 15.1, 17 and 17.1.
66 See Q1, replies to question 28.1.1; Q2, replies to question 26.1.1.
67 See Q1, replies to questions 17 and 17.1; Q2, replies to questions 16 and 16.1.
68 See Q1, replies to questions 17 and 17.1. Form CO, Section 7.I.2.iii, paragraph 215.
69 See Q1, replies to questions 17 and 17.1. Form CO, Section 7.I.2.iii, paragraph 215.
70 See Q1, replies to questions 17 and 17.1. Form CO, Section 7.I.2.iii, paragraph 215.
71 See Q1, replies to questions 1, 26 and 26.1. Form CO, Section 7.I.2.iii, paragraph 212.

(71) Fourth, the market investigation results show that procurement for IT services is competitive. A majority of respondents to the market investigation indicate that customers regularly multi-source and sometimes even within the same project.[72] The market investigation results also indicate that customers regularly procure IT services through competitive tender processes through which several suppliers are invited to bid for the relevant project. In a smaller number of circumstances (e.g. with existing suppliers) bilateral negotiations are used instead of tender processes.[73]

(72) Fifth, a majority of respondents to the market investigation expressed the view that the Transaction will have a neutral impact in any of the affected markets within the overall market for IT services.[74]

(73) Based on the above, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement as a result of possible horizontal non-coordinated effects in the market for IT services (and its potential narrower markets) at global, EEA, regional, or national level.

5.2.2.2 Engineering services

5.2.2.2.1 The Notifying Party's views

(74) The Notifying Party argues that the Transaction is unlikely to give rise to horizontal non-coordinated effects in the market for engineering services for the same reasons as in relation to IT services.

(75) First, the Parties' combined market share does not exceed 20% under any plausible product or geographic market definition. With regard to the potential market for engineering services in the automotive sector in France, where the Parties' combined market share almost reached 20% in 2018, Capgemini's increment is very limited ([0-5]%)[75] and the merged entity will continue to face competitors with strong market positions.[76]

(76) Second, customers have strong countervailing buyer power since contracts are awarded through competitive tender processes with frequent renewals (usually every 3 years) and switching costs are low. Furthermore, some companies put their internal engineering departments in competition against external service providers during tenders to enhance the competitive dynamic.

(77) Third, low barriers to entry on the French engineering market enable global tendering processes. The Notifying Party notes an increasing competitive constraint by Indian and Eastern European competitors on Western European players.

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72 See Q1, replies to questions 13 and 13.1; Q2, replies to questions 13 and 13.1.

73 See Q1, replies to questions 12, 12.1 and 12.2; Q2, replies to questions 12, 12.1 and 12.2.

74 See Q1, replies to questions 28.1 and 28.1.1; Q2, replies to questions 26.1 and 26.1.1.

75 Based on the Parties' most conservative estimates.

76 These include Akka (10-20%), Alten (8-15%) or Expleo (5-10%) (Form CO, Section 7.II.3, paragraphs 282 *et seqq.*)

(78) Fourth, when considering a specific market for digital engineering, the Parties' combined market share remains below 20% in 2018 at the EEA-wide level and at the national level. Furthermore, all major engineering suppliers provide digital engineering and are therefore able to address the customers' needs in that matter.

5.2.2.2.2 Commission's assessment

(79) The Commission considers that, for the reasons set out below, the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement as a result of horizontal non-coordinated effects in the market for engineering services (and potential narrower markets).

(80) First, the Parties' combined market share does not reach 20% under any plausible market segmentation. Nevertheless, the Commission has assessed the likely impact of the Transaction in France, where the Parties' combined market share would be almost 20% on the French engineering services market in the automotive sector.[77] In that potential market, the merged entity would face significant competitors, such as Alten, Akka, Assystem and Segula.

(81) Second, the market investigation confirms that Capgemini and Altran are not close competitors with regard to engineering services (and potential narrower markets.[78]

(82) Third, the market investigation results indicate that, similarly to IT services, customers of engineering services procure those services through competitive bidding processes. According to the results of the market investigation, customers regularly multi-source and procure engineering services through competitive tender processes.[79] Moreover, according to the results of the market investigation, the Parties' competitors, and the Parties themselves, provide a range of engineering services across a number of industries.[80] Therefore, given the large number of alternative engineering services providers, the Commission considers that customers will have access to a sufficient number of credible alternative players post-Transaction.

(83) Fourth, when considering a potential market for digital engineering, the market investigation indicates that, due to the increasing digitalisation of the customers' needs, all major engineering services providers, such as Alten, Accenture, Bertrandt, T-Systems or Genpact, offer digital engineering services.[81] The merged entity would thus face several large competitors post-Transaction.

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77 The merged entity would have a market share of [10-20]% in the market for engineering services in the automotive sector in France, based on the Parties' most conservative estimates, Form CO, Table 45.

78 See Q1, replies to questions 23 and 23.1; Q2, replies to questions 21 and 1.1.

79 See Q1, replies to questions 19, 19.1, 19.2, 20 and 20.1; Q2, replies to questions 18, 18.1, 18.2, 19 and 19.1.

80 See Q1, replies to questions 21 and 21.1.

81 See Q1, replies to questions 8, 9 and 9.1; Q2, replies to questions 8, 9 and 9.1.

(84) Fifth, similarly to IT services, a majority of respondents to the market investigation expressed the view that the Transaction will have a neutral impact on the engineering services markets.[82]

(85) Based on the above, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement as a result of possible horizontal non-coordinated effects in the market for engineering services (and potential narrower markets).

5.3 Assessment of possible conglomerate effects

5.3.1 Market shares

5.3.1.1 IT services

(86) With regard to IT services, the Transaction leads to non-horizontally affected markets only when segmenting IT services both on the basis of Gartner's functionalities (Service Level 2) and industry sectors, as shown below:

i. implementation in wholesale trade in the Netherlands ([40-50]%);

ii. implementation in wholesale trade in Norway ([40-50]%);

iii. business process outsourcing ("BPO") in wholesale trade in Norway ([30-40]%);

iv. implementation in wholesale trade in Sweden ([40-50]%);

v. BPO in wholesale trade in Sweden ([40-50]%);

vi. implementation in wholesale trade in Finland ([40-50]%);

vii. BPO in wholesale trade in Finland ([30-40]%);

viii. implementation in wholesale trade in France ([40-50]%) (see Table 1).

ix. Implementation in manufacturing and natural resources in France ([30-40]%) (see Table 1).

5.3.1.2 Engineering services

(87) With regard to engineering services, the Parties' combined market share remains below 30% under all plausible product or geographic market definitions.

5.3.2 Conglomerate effects

5.3.2.1 Notifying Party's views

(88) The Notifying Party submits that the Transaction will not give rise to conglomerate concerns for the following reasons.[83]

[82] See Q1, replies to question 28.2; Q2, replies to question 28.2.

(89) First, the Notifying Party argues that the Parties will have no ability to engage in anticompetitive foreclosure post-Transaction because the merged entity does not have market power in the market for IT services (and potential narrower markets). Furthermore, the Notifying Party submits that Capgemini's individual market share remains limited and exceeds 30% only when considering unduly narrow potential markets.

(90) Second, the Notifying Party argues that the merged entity will have no incentive to engage in anticompetitive foreclosure post-Transaction, due to limited demand for purchasing IT and engineering services together. The Notifying Party states that different departments within the same company typically purchase IT and engineering services such that the duration of contracts and the purchasing cycles may differ between the two types of services. Due to the Parties' lack of market power and customers' countervailing power, the Notifying Party submits that a hypothetical foreclosure strategy post-Transaction would probably result in decreased sales of the merged entity.

(91) Third, the Notifying Party states that a foreclosure strategy would have no effect, since a possible bundled offering of IT and engineering services by the merged entity would easily be replicated by rival competitors, either alone or by partnering with an engineering or IT services provider.

5.3.2.2 Commission's assessment

(92) The Commission considers that for the reasons set out below, the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement as a result of possible conglomerate effects.

(93) First, the merged entity will likely lack the ability to foreclose competitors through a tying or bundling strategy to customers. As set out in Table 1, the Parties' combined market share exceeds 30% only in a few potential IT services markets in France. The Commission considers that, with regard to these segments, the same arguments hold as for the assessment of possible horizontal non-coordinated effects (small increments, limited market shares, and a number of alternative IT providers, see Section 5.2.2). Furthermore, the merged entity's market share (owing to Capgemini's market share) would exceed 30% in several potential markets in the Netherlands, Norway, Sweden and Finland (see paragraph (86)).

(94) The Commission considers that the merged entity does not hold market power in these potential markets as it would, post-Transaction, continue to face competition from many market participants, active at the EEA or the national level.

(95) With regard to the potential market for IT services implementation in wholesale trade in Norway, Sweden and Finland, based on the Notifying Party's submission,

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[83] The Notifying Party explains that there is a limited vertical relationship between the Parties. […] The Commission considers that similar considerations would apply in the context of an assessment of vertical effects as those set out in Section 5.3.2 for the assessment of the potential conglomerate effects of the Transaction.

the alternative IT services providers include SAP, IBM, Infor Global Solutions, Cisco, DXC, Accenture and Alten.[84]

(96) With regard to the potential market for BPO in wholesale trade in Norway, Sweden and Finland, based on the Notifying Party's submission, the alternative IT services providers include Automatic Data Processing, DXC, Concentix, IBM, Accenture and Alten. [85]

(97) With regard to the potential market for IT services implementation in wholesale trade in the Netherlands, based on the Notifying Party's submission, the alternative IT services providers include Cognizant, SAP, Tata Consultancy Services, and CGI.[86]

(98) Second, it is unlikely that the merged entity would have an incentive to engage in a tying or bundling strategy given that a majority of customers responding to the market investigation indicate that they do not currently purchase bundles of IT and engineering services.[87]

(99) In any case, a tying or bundling strategy is unlikely to have a significant detrimental effect on effective competition. The market investigation indicates that, even if the merged entity were to offer bundled provisions of IT and engineering services post-Transaction, many market participants would be able to replicate such types of offers alone or in partnerships.[88] A very small number of competitors that responded to the market investigation consider that in view of the trend towards digitalisation, the Parties' ability to offer bundles of IT and engineering services may attract customer demand.[89] However, the results of the market investigation indicate that bundles of IT and engineering services cannot only be provided by competitors active in both markets, but also by market participants active in one of the markets through partnerships with companies specialised in the other market.[90]

(100) In view of the above, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement as a result of possible conglomerate effects.

6 CONCLUSION

(101) For the above reasons, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with

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84 See Notifying Party's reply to RFI 10 of 18 October 2019. In addition, alternative IT services providers in the potential market for IT services implementation in wholesale trade are (i) in Norway: Paychex and Concentrix (ii) in Sweden: HPE; (iii) in Finland: BCG, SalesForce, Oracle, Microsoft.

85 See Notifying Party's reply to RFI 10 of 18 October 2019. In addition, the Notifying Party also submits that Tata Consultancy Services and Wipro are also active in IT services implementation and BPO in Norway, Sweden and Finland.

86 Form CO, paragraph 216.

87 See Q1, replies to questions 25 and 25.1; Q2, replies to questions 23 and 23.1.

88 See Q1, replies to questions 26 and 26.1; Q2, replies to questions 24 and 24.1.

89 See Q1, replies to questions 28 and 28.1.

90 See Q1, replies to questions 26 and 26.1; Q2, replies to questions 24 and 24.1.

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)
Margrethe VESTAGER
Member of the Commission