



Determination of the Competition Authority

Determination No. M/04/033 of the Competition Authority, dated 15 June 2004, under Section 21 of the Competition Act, 2002

Notification No. M/04/033 – The proposal by Network General Corporation to acquire certain assets of Networks Associates, Inc. (“the proposed acquisition”)

Introduction

1. On 28 May 2004 the Competition Authority, in accordance with Section 18 (1) of the Competition Act, 2002 (“the Act”) was notified, on a mandatory basis, of a proposal whereby Network General Corporation (“NGC”) would acquire certain assets of Networks Associates, Inc. (“Networks Associates”), which assets constitute the latter undertaking’s entire Sniffer Technologies business (“the proposed acquisition”).
2. The proposed acquisition is international in scope and has been notified to the competition authorities of the United States, Brazil and Germany.

The Parties

3. NGC, a company registered in the United States, was formed specifically for the purpose of the proposed acquisition. NGC is owned by several private equity investment firms whose main business activity is financial investment in a range of businesses. It was submitted that such undertakings operate at arms’ length and are self-financing. The private equity investment firms which own NGC, and their respective shareholdings, are:

TPG Partners IV, L.P.	[CONFIDENTIAL]%
T3 Partners II, L.P.	[CONFIDENTIAL]%
TPG Partners III, L.P.	[CONFIDENTIAL]%
Silver Lake Partners	[CONFIDENTIAL]%
Integral Capital Partners	[CONFIDENTIAL]%
4. Network Associates, a public company registered in the United States and traded on the New York Stock Exchange, operates worldwide in the manufacture and supply of computer security solutions that prevent intrusions on networks and protect computer systems from attacks and threats. The company supplies large enterprises, governments, small and medium sized businesses, and consumers. It offers two product portfolios: McAfee System Protection Solutions (securing desktops and servers); and McAfee Network Protection Solutions (securing corporate computer networks). These two product portfolios incorporate Network Associates’ three product lines: McAfee System Security Technologies, McAfee Network Security Technologies and Sniffer Technologies (“Sniffer”). Only Sniffer is subject to the proposed acquisition.



The Proposed Acquisition

- 5. Under the proposed acquisition NGC, for consideration of about US\$[CONFIDENTIAL], would acquire Network Associates’ principal assets relating to its Sniffer business. Those assets include technology, intellectual property rights, inventory, leasehold interests, permits, goodwill and customer list.
- 6. Sniffer operates worldwide in the design, development and supply of a range of integrated hardware and software products and support services for management, maintenance and optimisation of complex IT networks. These products and services are described in the notification as the “network availability” sector.
- 7. [CONFIDENTIAL]. This is the main commercial rationale of the proposed acquisition.

Analysis

- 8. Sniffer’s main customers include Verizon, IBM, and the United States Air Force. The parties state that Sniffer has no physical presence in the State, and that total sales into Ireland for 2003 (through distributors and other indirect channels) were about US\$[CONFIDENTIAL], a minor amount compared to total worldwide sales of about US\$[CONFIDENTIAL] for the same period.
- 9. The notification provides sales and sector share data for 2002, for the leading worldwide horizontal competitors in the “network availability” sector:

Undertaking	Total Sales (US\$)	Sector Share %
IBM/Tivoli	[CONFIDENTIAL]	[CONFIDENTIAL]
HP Openview	[CONFIDENTIAL]	[CONFIDENTIAL]
Sniffer	[CONFIDENTIAL]	[CONFIDENTIAL]
Agilent	[CONFIDENTIAL]	[CONFIDENTIAL]
Lucent	[CONFIDENTIAL]	[CONFIDENTIAL]
Micromuse	[CONFIDENTIAL]	[CONFIDENTIAL]
Computer Associates	[CONFIDENTIAL]	[CONFIDENTIAL]

- 10. The undertakings in the table above are all large corporations with global presence. Further, they are believed by the parties to be active in the network availability sector in Ireland. The parties state that Sniffer’s exact share of the sector in Ireland is not known, but is estimated at [CONFIDENTIAL].
- 11. TPG Partners IV, L.P., T3 Partners II, L.P. and TPG Partners III, L.P., three of the investment firms that own and control NGC, identified each of their portfolio companies, none of which operates in the same sector as Sniffer or in any upstream or downstream sector. Silver



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Lake Partners focuses exclusively on technology and related growth industries, while Integral Capital Partners operates a family of partnerships that invests in expansion-stage private and growth-stage public companies in the IT and life sciences industries.

12. The proposed acquisition constitutes an investment by certain undertakings in accordance with their normal business activities. There would appear to be no horizontal or vertical overlap between any business that forms part of the portfolio of the undertakings that own and control NGC, and the business of Sniffer. The absence of overlap indicates that the proposed acquisition does not raise any competition concerns.
13. Further, the present structure of the sector does not indicate that the proposed acquisition would result in the creation of market power, as a sufficient number of alternative suppliers would remain to ensure effective competition.

Determination

The Competition Authority, in accordance with Section 21(2) of the Competition Act, 2002, has determined that, in its opinion, the proposed acquisition by Network General Corporation of certain assets of Networks Associates, Inc., which assets constitute the latter undertaking's Sniffer business, will not result in a substantial lessening of competition in any markets for goods and services in the State and, accordingly, that the acquisition may be put into effect.

For the Competition Authority

Edward Henneberry
Member of the Competition Authority