



Case C-011

Proposed acquisition of CPA Global Group Holdings Limited  
and CPA Global Limited by Clarivate Plc

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Decision

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Jersey Competition Regulatory Authority  
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## SUMMARY

1. Clarivate Plc (the **Purchaser**) proposes to acquire the entire share capital of CPA Global Group Holdings Limited and CPA Global Limited (the **Targets**). The transaction has been notified to the Jersey Competition Regulatory Authority (the **Authority**) for approval pursuant to Article 21 of the Competition (Jersey) Law 2005 (the **2005 Law**).
2. The Authority has determined that the proposed acquisition will not lead to a substantial lessening of competition in any relevant market and hereby approves the notified transaction.

## THE NOTIFIED TRANSACTION

3. On 19 August 2020, the Authority received an application from the Purchaser for the proposed acquisition of the entire share capital of the Targets by Camelot UK Bidco Limited and Clarivate IP (US) Holdings Corporation, each a subsidiary of the Purchaser. The Authority registered the application on its website with a deadline for comments of 3 September 2020. No submissions were received.

## THE PARTIES

4. The Purchaser is publicly listed on the New York Stock Exchange and headquartered in London, company number 128050. It provides critical data, structured information, insights and analytics and supplies data and analytics tools and related services. Customers include universities, non-profits, funding organisations, publishers, corporations, government organisations and law firms. Its offering can be grouped into science and intellectual property content. The Purchaser is not active in Jersey.
5. The Targets, company numbers 104390 and 93743 respectively, control the share capital of CPA. CPA is active in the legal support services sector, more specifically in patent renewal and related services. CPA manages and undertakes on behalf of its clients the regular renewal of patents in relevant jurisdictions. Clients transfer details regarding their patent portfolios to CPA and CPA undertakes the necessary renewal formalities. CPA offers similar renewal services for trademarks, internet domain names and registered designs and is active in other related ancillary business areas (e.g. data management). CPA is active in Jersey.

## REQUIREMENT FOR AUTHORITY APPROVAL

6. Under Article 2(1)(b) of the 2005 Law, a merger and acquisition (**merger**) occurs where a person who controls an undertaking acquires direct or indirect control of the whole or part of another undertaking. On completion of the notified transaction, the Purchaser will acquire all the engagements and control of the Target. The notified transaction therefore constitutes a merger as defined by the 2005 Law.
7. According to Article 20(1) of the 2005 Law, a person must not execute certain mergers or acquisitions except with and in accordance with the approval of the Authority. Article 4 of the

Competition (Mergers and Acquisitions) (Jersey) Order 2010 (the Order) provides that where one or more of the parties to the proposed merger has an existing share of 40% or more of the supply or purchase of goods or services of any description supplied to or purchased from persons in Jersey, and if neither of the two exceptions apply, then the merger must be notified to the Authority for approval under Article 20(1) of the 2005 Law.

8. According to information provided by the parties, CPA has a greater than 40% share of international patent renewals in Jersey. The notified transaction therefore requires the approval of the Authority prior to its execution.

## MARKET DEFINITION

### Approach

9. Under Article 22(4) of the 2005 Law, the Authority must determine if the merger would substantially lessen competition in Jersey or in any part of Jersey.
10. As an initial step, the Authority will identify the markets which are likely to be affected by the merger since market definition provides a framework within which the competitive effects of a merger can be assessed. However, the boundaries of the market do not necessarily determine the outcome of the analysis of the competitive effects of the merger. This is because there can be constraints on the merging parties from outside the relevant market, segmentation within the relevant market or other ways in which certain constraints are more significant than others. The Authority will, where appropriate, take these factors into account in its assessment.
11. When defining a market, the Authority may take note of its own previous decision making practice and/or market definitions applied by other competition authorities. However, these previous decisions are not precedents and are not binding, either on the merging parties or on the Authority. Competition conditions may change over time, changing the market definition. Market definition will always depend on the prevailing facts<sup>1</sup>.

## Views of the Parties

### *Product Market*

12. As the Purchaser is not active in Jersey the parties consider only CPA's provision of patent renewal services is relevant. Within this market there are two potential segments:
  - I. Domestic patent renewals (patent filings or renewals involving patents registered in Jersey itself); and

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<sup>1</sup> This approach is consistent with that taken under EU law – see, for example, Joined Cases T-125/97 and T-127/97 [2000] ECR II-01733, paragraphs 81-82. Article 60 of the 2005 Law requires the Authority to attempt to ensure that so far as possible questions arising in relation to competition are dealt with in a manner that is consistent with the treatment of corresponding questions arising under European Union law in relation to competition within the European Union.

- II. International patent renewals (patent filings or renewals involving patents registered in jurisdictions outside Jersey).
13. The parties consider CPA's provision of international patent renewals is the only possible product market segment capable of attributing to CPA a market share of 40% or more in Jersey.

#### *Geographic Market*

14. Notwithstanding the above, the parties consider the correct geographic market is global, i.e. including both domestic and international business, as:
- I. Companies active in this product market generally market their services on a global basis;
  - II. CPA's client base is international; and
  - III. CPA competes with providers with operations in a number of other jurisdictions as well as with competitors in Jersey.

## Authority Consideration

15. The Authority considers the precise market definitions, for example between domestic and international business, can be left open. This is because, as outlined below, the proposed merger would not result in a substantial lessening of competition on any market considered. The Authority notes this is consistent with the evidence provided by the parties and with its previous decision on market definition when considering the patent renewals market<sup>2</sup>.

## EFFECT ON COMPETITION

### Approach

16. After defining the relevant market, the Authority considers the respective market shares of the competitors in that market, both before and after the proposed transaction. These shares can be used as an indication of the overall level of market concentration which will be brought about as a result of the merger.
17. The analysis will consider whether the merger creates or enhances the ability or incentive to exercise market power, either unilaterally or in co-ordination with competitors, and whether other market forces (such as the entry of new competitors or countervailing power of customers) will eliminate this risk. The assessment will also consider any pro-competitive effects or efficiencies that may result from the merger.
18. For horizontal mergers, the Authority can assess two potential types of anti-competitive effects – unilateral effects (i.e. the ability of the merged entity to raise prices unilaterally) and co-ordinated effects (i.e. the ability of the merged entity to raise prices either the implicit or explicit co-operation of other competitors). For vertical or conglomerate mergers, the Authority's focus will be on assessing whether the merged entity would have the ability or incentive to foreclose the

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<sup>2</sup> See Case M1327L, Proposed Acquisition by Leonard Green & Partners of CPA Global: Decision, October 2017

market to competitors, either by denying access to important inputs upstream, or by denying access to 'routes to market' downstream.

19. When assessing horizontal and non-horizontal mergers, the Authority will have regard to the guidelines produced by the European Commission. It may also consider the substantive merger guidelines applied by the Competition and Markets Authority in the UK, as well as those of other competition authorities.

## Authority Consideration

20. CPA estimates it has a market share of less than [25-35]% of domestic patent renewals and approximately [50-65]% share of an international patent renewals provided to Jersey based companies. The Purchaser is not active in Jersey.
21. There is no horizontal overlap between the activities of the parties on Jersey and no horizontal effects. Further, the acquisition will not give rise to anti-competitive foreclosure in Jersey as neither party is active in a market upstream or downstream of a market in which the other is active.
22. The notified transaction will therefore not give rise to a substantial lessening of competition on any reasonable basis.

## DECISION

23. Based on the preceding analysis, the Authority concludes that the acquisition will not substantially lessen competition in Jersey or any part of Jersey; and the merger is therefore approved under Article 22(1) of the 2005 Law.

**16 September 2020**

**By Order of the Jersey Competition Regulatory Authority**