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European Commission to Investigate Acquisition of Sun Microsystems by Oracle

EC Slowdowns Sun-Oracle Transaction

by Anton Shilov

09/03/2009 | 10:38 PM

The European Commission has opened an in-depth investigation under the EU merger regulation into the planned acquisition of U.S. hardware and software vendor Sun Microsystems by Oracle Corporation, a U.S. database and application software company. The Commission's initial market investigation indicated that the proposed acquisition would raise serious doubts as to its compatibility with the Single Market because of competition concerns on the market for databases.

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“The Commission has to examine very carefully the effects on competition in Europe when the world's leading proprietary database company proposes to take over the world's leading open source database company,” said competition commissioner Neelie Kroes.

The EC's preliminary market investigation has shown that the Oracle databases and Sun's MySQL compete directly in many sectors of the database market and that MySQL is widely expected to represent a greater competitive constraint as it becomes increasingly functional. The Commission's investigation has also shown that the open source nature of Sun's MySQL might not eliminate fully the potential for anti-competitive effects. In its in-depth investigation, the Commission will therefore address a number of issues, including Oracle's incentive to further develop MySQL as an open source database.

Oracle is active in the development, manufacture and distribution of company software, including middleware (i.e. software that connects software components applications), database software and business application

http://www.xbitlabs.com/news/other/print/20090903223904_European_Commission_to_In... 9/24/2009

software and related services.

Sun offers computing infrastructure, including server and storage solutions and middleware and database software.

The proposed transaction would bring together two major competitors in the market for databases. The database market is highly concentrated with the three main competitors of proprietary databases – Oracle, IBM and Microsoft – controlling approximately 85% of the market in terms of revenue. Oracle is the market leader in proprietary databases, while Sun's MySQL database product is the leading open source database.

The decision to open an in-depth inquiry does not prejudice the final result of the investigation. The Commission now has 90 working days, until 19 January 2010, to take a final decision on whether the concentration would significantly impede effective competition within the European Economic Area (EEA) or a substantial part of it.

“The Commission has an obligation to ensure that customers would not face reduced choice or higher prices as a result of this takeover. Databases are a key element of company IT systems. In the current economic context, all companies are looking for cost-effective IT solutions, and systems based on open-source software are increasingly emerging as viable alternatives to proprietary solutions. The Commission has to ensure that such alternatives would continue to be available,” added Ms. Kroes.

