

NON-SENSITIVE VERSION

**EMAP PLC /
ABI BUILDING DATA LTD**

**Submission to
the Competition Commission**

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1. Introduction and Executive Summary

Introduction

- 1.1 This Submission relates to the completed acquisition by Emap plc (**Emap**) of ABI Building Data Ltd (**ABI**) from ICW Publications Limited, part of the Springer Science & Business Media group owned by Cinven and Candover (the **Acquisition**).
- 1.2 Emap entered into a share purchase agreement with (inter alia) ICW Publications Limited in relation to the Acquisition on 4 May 2004.¹ Completion also took place on 4 May 2004.
- 1.3 The rationale for the Acquisition was essentially as follows:
- (a) Emap believes it will enable it to improve the quality of the products currently offered by Glenigan² and ABI separately. Emap believes that it can improve the service provided to ABI's customers by providing project information and contact data (**PICD**) more quickly, for more projects in total and with more information per project. Through the Acquisition, Emap will also gain access to data (previously supplied exclusively to ABI) which provides more information on contracts tendered and on who is tendering, which will be of value to Glenigan's existing customers;
 - (b) this will help Emap to focus on the provision of bespoke solutions for individual businesses via its bespoke products supplied under the *Tailored* label, and hence enable it to "add value" relative to the other options available to customers.³ Emap wishes to increase its focus on its *Tailored* products as ongoing developments in the publication of information and construction projects by local authorities (with the development of the PARSOL (Planning and Regulatory Services Online) Project⁴ and Planning Portal⁵ as part of the "e-government" initiative) are further increasing the exposure of the business to new entry and self-supply; and
 - (c) the Acquisition will permit Emap to achieve cost savings, in particular in eliminating duplicate head office costs and in combining the Emap/ABI databases. This will allow for higher levels of investment in customer service and product development, enabling Emap better to meet the changing needs of the construction industry through cost savings following the Acquisition. The need for more investment stems from the fact that customers now place more emphasis on information that would assist them in building longer-term relationships rather than requiring *ad hoc* information about specific projects. The shift in perspective mirrors the growth in the use by specifiers of "preferred suppliers" and "approved product lists", placing a greater emphasis on

¹ A copy of the share purchase agreement was provided to the Commission on 9 July 2004. All documents sent to the Commission on 9 July 2004 were provided as part of Emap's off-the-shelf material.

² "Glenigan" is defined in paragraph 2.4 below.

³ Glenigan's general strategy is to create value for its customers, and to this end it has over the last year successfully expanded the scope of its *Tailored* service by adding marketing and competitor intelligence, *Customer Relationship Management (CRM)* software and free access to an information hotline.

⁴ <http://www.parsol.gov.uk>; see paragraph 4.34 below.

⁵ <http://www.planningportal.gov.uk>; the aim of this scheme is to ensure that every individual has access to planning applications via the web; currently, around 40 per cent. of local authorities contribute to the Planning Portal. Although the Planning Portal is an initiative driven by local authorities, it is intended that third parties will have access (i.e. it will be citizen-facing).

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securing ongoing preferred status with specifiers rather than speculative approaches based around an individual project.

- 1.4 the key source of value expected by Emap from the transaction was a reduction in costs (which accounted for per cent. of expected value). The other source of value expected from the transaction was by improving the products offered to customers (by combining elements of the products offered by Glenigan and ABI) and migrating customers to more expensive packages (this accounted for the remaining per cent. of the expected value).
- 1.5 The transaction did not fall to be assessed under the EC Merger Regulation because Emap and ABI do not have a combined turnover exceeding euro 5 billion and ABI's turnover is substantially below the euro 100 million threshold. The Office of Fair Trading (**OFT**) did not have jurisdiction to investigate the transaction on the basis of the turnover test in section 23(1)(b) of the Enterprise Act 2002 (**Enterprise Act**), as ABI's UK turnover for the year to December 2003 was only some £5.4 million. However, on a very narrow sub-segment of the relevant market (namely the provision of PICD for the construction industry) Emap estimated that the parties together would account for a share of supply in the UK of around per cent., and, without prejudice to Emap's principal submission as to the relevant economic market, Emap therefore recognised that the OFT had jurisdiction to review the transaction. The transaction did not fall within the jurisdiction of, and was not notified to, the competition authorities of any country other than the UK.
- 1.6 Emap gave initial undertakings to the OFT under section 71 of the Enterprise Act on 4 June 2004 to keep ABI as a separate going concern.
- 1.7 On 1 July 2004, the OFT announced that it had decided to refer the Acquisition to the Commission for investigation.

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- 1.8 The OFT's decision to refer the Acquisition to the Commission (the **OFT Decision**) (paragraph 37) states the OFT's belief that "it is or may be the case" that the Acquisition has resulted or may be expected to result in a substantial lessening of competition (**SLC**) within a market or markets in the UK (which Emap takes to mean PICD and/or construction sales and marketing information services (**CSMIS**)). Yet the OFT's assessment of the competitive effects of the Acquisition (paragraph 36 of the OFT Decision) appears to indicate significant uncertainty in the OFT's mind as to the likelihood of an SLC actually occurring. The OFT notes that the parties "appear to be" each other's closest substitutes; that "there may not be sufficient rivalry to constrain the merged entity" from price-discriminating against certain customers; that the possibility of entry or self-supply "does not appear sufficiently certain or viable" to off-set these concerns; and that the merged entity "may therefore be able to" raise prices, reduce service levels/quality and may have fewer incentives to innovate.
- 1.9 Although the OFT indicates (paragraph 22 of the OFT Decision) that Emap's ability to price discriminate "may be strengthened" once the parties' databases are combined, nowhere in the OFT Decision is this assertion substantiated. Emap's view is that the OFT Decision fails to demonstrate any credible risk that the Acquisition would enable Emap to price discriminate. Even if (which Emap does not accept) such concerns might have justified the OFT in referring the Acquisition to the Commission, it is clear that they fall a long way short of the

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standard of proof for the Commission to find an SLC. As the Commission's own guidelines⁶ make clear, in order to find an SLC

“it will not be sufficient for the Commission to believe that an SLC is possible: for the Commission to reach an adverse decision either the merger must have resulted in an SLC or the Commission must expect such a result. The Commission will usually have such an expectation if it considers it is more likely than not that the SLC will result.”

- 1.10 Furthermore, the OFT Decision is inconsistent with previous OFT decisions in the business-to-business (**B2B**) sector, where mergers giving rise to relatively high market shares have been cleared unconditionally by the OFT. In the *DMG/Sitescope* case,⁷ the OFT found that the merged entity would have a 58 per cent. market share in the provision of environmental risk reports (increment 22 per cent.). Concerns were expressed by third parties about the fact that in order to compete in this market it was necessary to have access to historical mapping and landfill data. DMG (the B2B information division of DMGT which is the owner of Landmark) and Sitescope both owned historical mapping and landfill databases; thus, it was argued, the merger would reduce choice in terms of access to such databases. The OFT noted that entry costs were estimated at less than £1 million and that it would take between one and two years to create a database from scratch. The OFT found that there were few existing competitors to the parties, but noted that the Environment Agency had recently developed a product which was expected to compete with the parties' reports. The OFT also added:

“In addition, environmental data is publicly available and there appear to be no barriers to a new entrant setting up its own database of historical information and distributing its product either directly or indirectly to end users.”

Very similar considerations apply in the present case.

- 1.11 The *UBM/Aprovia* merger⁸ was also cleared by the OFT notwithstanding high market shares. The OFT found (inter alia) that the merged entity would have a market share of 50 to 60 per cent. in the supply of architecture magazines, although the OFT also noted that the parties faced a “constraint from the other firms active within the wider sector for the provision of media and information services to firms operating in the ‘construction’ industry” (paragraph 20). Costs of entry were estimated at around £1 million for a monthly title, or four to five times this figure for a weekly, including losses projected for the first two years. The OFT noted that “costs of entry would be lower for an existing publisher, particularly one in the construction sector, due to synergies and economies of scale” (paragraph 27). Again, very similar considerations apply in the present case.
- 1.12 Thus, Emap submits that there is no basis for the Commission to conclude either that the Acquisition has resulted in an SLC or that it may be expected to do so. In summary:
- (a) The relevant product market is that for construction sales and marketing services (**CSMS**), as there are a range of alternative means by which construction companies

⁶ *CC2 Merger References: Competition Commission Guidelines*, June 2003 at paragraph 1.19.

⁷ Anticipated acquisition by DMG Information Limited of Sitescope Limited, cleared by the OFT on 11 September 2003.

⁸ Completed acquisition by United Business Media of Aprovia UK Ltd, cleared by the OFT on 14 November 2003.

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and material and service suppliers can gain or develop sales leads and market intelligence (other than through the provision of CSMIS);

- (b) switching data (calculating customer switches between Glenigan and ABI) demonstrates that there is a low switching rate between the two companies despite both suppliers having high churn rates;
- (c) the high levels of churn experienced by Glenigan and ABI show that PICD products are not “must have” products for any distinct group of customers, but instead are “nice to have” products, and suggest that customers use methods other than buying contract data and sales leads to gain business. Moreover, since Glenigan experiences high rates of churn across its whole customer base, Emap firmly refutes the suggestion that it has or will have the ability to price discriminate against any group of customers; and
- (d) barriers to entry are low; there are many firms which could easily enter the CSMIS segment, and more particularly, the PICD segment, especially those with existing B2B activities in neighbouring product areas.

1.13 All these factors serve to ensure that Emap will not have any ability to raise prices above competitive levels as a result of the Acquisition. In particular, Emap has a strong commercial incentive to minimise the endemic churn rate affecting PICD products, which in turn creates a strong incentive to continue providing high levels of service and to innovate.

1.14 The remainder of this Submission is organised as follows:

- Section 2 comprises background information on Emap, its activities and the Acquisition; it also contains some information on ABI.
- Section 3 analyses the market definition in relation to CSMS and, more particularly, CSMIS, including PICD products. It also gives information on Emap, ABI and their competitors’ market shares in the different market segments.
- Section 4 discusses the effects of the Acquisition on competition in the CSMIS segment by addressing the issues raised by the OFT in the OFT Decision.

2. Background Information

Emap's Company Structure

2.1 Emap is a media company headquartered in London whose business activities focus around four main areas:

- (a) Consumer media (**Emap Consumer Media**) – publishing of consumer magazines specifically targeting defined audiences (e.g. “automotive”; “young”; “women”; “men”; and “entertainment”);⁹
- (b) Performance (**Emap Performance**) – the operation of 18 UK local analogue stations and a digital radio network; the operation of seven digital music TV channels; and the publication of music magazines;¹⁰
- (c) B2B (**Emap Communications**) – the organisation of events and conferences for businesses and the publication of B2B magazines in the UK, principally in the areas of healthcare, public sector, media, retail, and construction;¹¹ and
- (d) Emap France – publishing of consumer magazines in France specifically targeting defined audiences; it publishes 44 titles in the consumer magazine market.¹²

2.2 In the year ended 31 March 2004, Emap had a turnover of £1,050 million.¹³ In the same year, Emap Consumer Media accounted for 34 per cent., or £355 million, of Emap's turnover; Emap Performance accounted for 15 per cent., or £160 million, of Emap's turnover; Emap Communications accounted for 20 per cent., or £213 million, of Emap's turnover; and Emap France accounted for 31 per cent., or £322 million, of Emap's turnover.

2.3 Emap company structure charts were provided to the Commission on 9 July 2004.

2.4 In the B2B construction sector, Emap Communications operates through its Construction Network division, which includes Emap Glenigan (**Glenigan**). Glenigan is active in one segment of the CSMS market, namely the provision of CSMIS. Glenigan provides the following CSMIS products:

- (a) the publication of PICD in the form of both standard/off-the-shelf products (sold under the *Bulletin* label) and bespoke products (sold under the *Tailored* label); such information is used by customers to seek to win new construction business and/or for market intelligence; as the OFT states in paragraph 5 of the OFT Decision:

“A provider of PICD products maintains a database of information on construction projects for which planning consent has been sought (which can be in a very detailed or more basic form) and contact details of parties

⁹ Emap Consumer Media comprises the majority of the group's consumer magazine portfolio in the UK and overseas with the exception of France. It publishes over 65 titles in the UK such as *heat*, *FHM*, *Closer*, *Empire*, *Max Power*, *Angling Times* and *Today's Golfer*.

¹⁰ Some key brands include *Kiss FM*, *Magic 105.4*, *Smash Hits!*, *Kerrang!*, *Q* and *Mojo*.

¹¹ Leading titles include *Retail Week*, *Broadcast*, *Construction News*, *Nursing Times* and *Health Service Journal*.

¹² Titles include *Télé Star* and *Télé Poche*.

¹³ A copy of Emap's 2004 Annual Report was provided to the Commission on 9 July 2004.

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associated with the project (such as the architect, construction company, etc.). A sophisticated information provider such as Emap will gather a wide range of details about ongoing construction projects and can cut its database by various criteria (e.g. area, project type, size of project) to provide client-specific data;”

- (b) the publication of static contact lists such as lists of architects, designers, contractors, etc.; the products in this category overlap to a substantial extent with those in (a), but are used by clients to establish general (rather than project-specific) relationships with customers;
 - (c) the publication of marketing and competitor intelligence, namely news and analysis relevant to companies seeking to win new construction business (e.g. news relating to specific construction projects, construction activity generally and key project specifiers, such as architects); and
 - (d) the provision of CRM¹⁴ software designed specifically for prioritising, tracking and marketing to sales prospects in the construction sector.¹⁵
- 2.5 In practice, the four types of products significantly overlap, with customers using them interchangeably, not least because Glenigan provides an almost infinite variety of its *Tailored* products which are produced to a customer-specific design.
- 2.6 Examples of Glenigan’s products within the CSMIS segment were provided to the Commission on 9 July 2004.

Emap – Brief History

- 2.7 Emap was formed in 1947 as a local newspaper company and was listed on the London Stock Exchange on 4 September 1947 (Symbol: EMA). Today, Emap is a media company which provides entertainment and information through consumer magazines, B2B, radio and TV in the UK, France and around the world. Its first big consumer title, *Smash Hits!* was launched in 1978 together with other consumer magazines. In 1984, Emap formed an exhibition arm and business division with the acquisition of recycling and plastics information products. By subsequently acquiring London radio station *Kiss FM* in 1990, Emap entered the radio market and expanded its presence in this market through the acquisition of *Radio City* in 1991 and *Melody FM* (now *Magic 105.4*) in 1998; it also acquired *SMG*’s 28 per cent. stake in *Scottish Radio Holdings* for £92 million in 2004.
- 2.8 The 1990’s/early 2000’s were dominated by a number of acquisitions and divestments, which included amongst others:
- acquisition of *For Him Magazine* (which was renamed *FHM*) in 1994;
 - Emap increased its B2B involvement with the acquisition of, amongst others, *Heating and Ventilating News* in 1992 and *Maclean Hunter* in 1995;
 - sale of Emap’s newspaper and print division to *Johnston Press* for £200 million in 1996;

¹⁴ Defined in note 3 above.

¹⁵ Glenigan does not supply CRM software other than as part of a bundled package.

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- acquisition of *Construction News* in 1995;
- acquisition of Glenigan from Thomson Corp in 1996;
- in 1997 and 1998, Emap expanded overseas with its acquisition of *Mason Stewart and Bounty Services* in Australia and *Petersen Publishing* for £1 billion in the USA;
- sale of Emap's German B2B operations in 2000;
- sale of Emap's American operations (apart from *FHM*) to *Primedia* for £366 million in 2000;
- acquisition by Emap Communications of *Agor SAS* (exhibition business serving the domestic retail sector in France) in 2003. In 2004, Emap agreed to acquire the outstanding 50 per cent. of *Interbuild*, the UK's largest construction exhibition;
- Emap also entered into a joint venture with *Bayard Presse* (a French company) in 1998 and extended its operations in France by acquiring the remaining 50 per cent. stake in *Media Nature* from *Bayard Presse* in 2001. In 2003, Emap France announced the acquisition of *Exelsior Publications SA* for £62 million;
- planned B2B launches for 2004/2005 include.

Emap Company Ownership

2.9 Emap's share register is dominated by institutional investors. At present, the top three investors, which are all financial institutions, account for just over 19.6 per cent. of the shares. The three largest shareholders as at the end of June 2004 were:.

Emap Financial Structure

2.10 As at 31 March 2004, Emap had an ordinary share capital of £343.2 million, of which £256.6 million was allotted, called-up and fully paid. Total borrowings as at 31 March 2004 were £306 million, of which £121 million was sterling denominated and £185 million euro denominated.

ABI

2.11 ABI is a private company with its headquarters in Neston, South Wirral. It was founded in the 1930's and used to be part of Springer Science & Business Media (one of the largest publishing groups in the world) before being sold to Cinven and Candover.

2.12 ABI's Directors' report and financial statements for the year ended 30 December 2003 and for the year ended 30 December 2002 were provided to the Commission on 9 July 2004.

2.13 ABI is also active in the CSMS market. Its *MarketingServices* product is the best example of a product within the CSMS market which defies categorisation along narrower lines (see Appendix 2 for an example of the *MarketingServices* product). It comprises a package of services designed for customers to find and exploit business contacts generally. Specifically, ABI is active in the CSMIS segment. Its principal products comprise: *MarketingFocus Databuild* ("tailored" PICD); *SitedataSelect* (PICD with limited tailoring); and *SiteData*

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(PICD in “bulletin” form). It supplies each of the four categories mentioned in paragraph 2.4 (a) to (d) above (and, in particular, supplies CRM software on an unbundled basis).

- 2.14 Examples of ABI’s products within the CSMIS sector were provided to the Commission on 9 July 2004.

Background to the Acquisition

- 2.15 Following Cinven and Candover’s purchase of the Springer Science & Business Media group (formed by the merger of Bertelsmann Springer with Kluwer Academic Publishers in 2004), The transaction was signed and completed on 4 May 2004.

- 2.16 The main legal agreements (all dated 4 May 2004) relating to the transaction are:

Copies of these agreements were provided to the Commission on 9 July 2004.

Relationship between Emap and ABI

- 2.17 Emap and ABI did not have any business relationship prior to the Acquisition.

Purpose of and Reason for the Acquisition

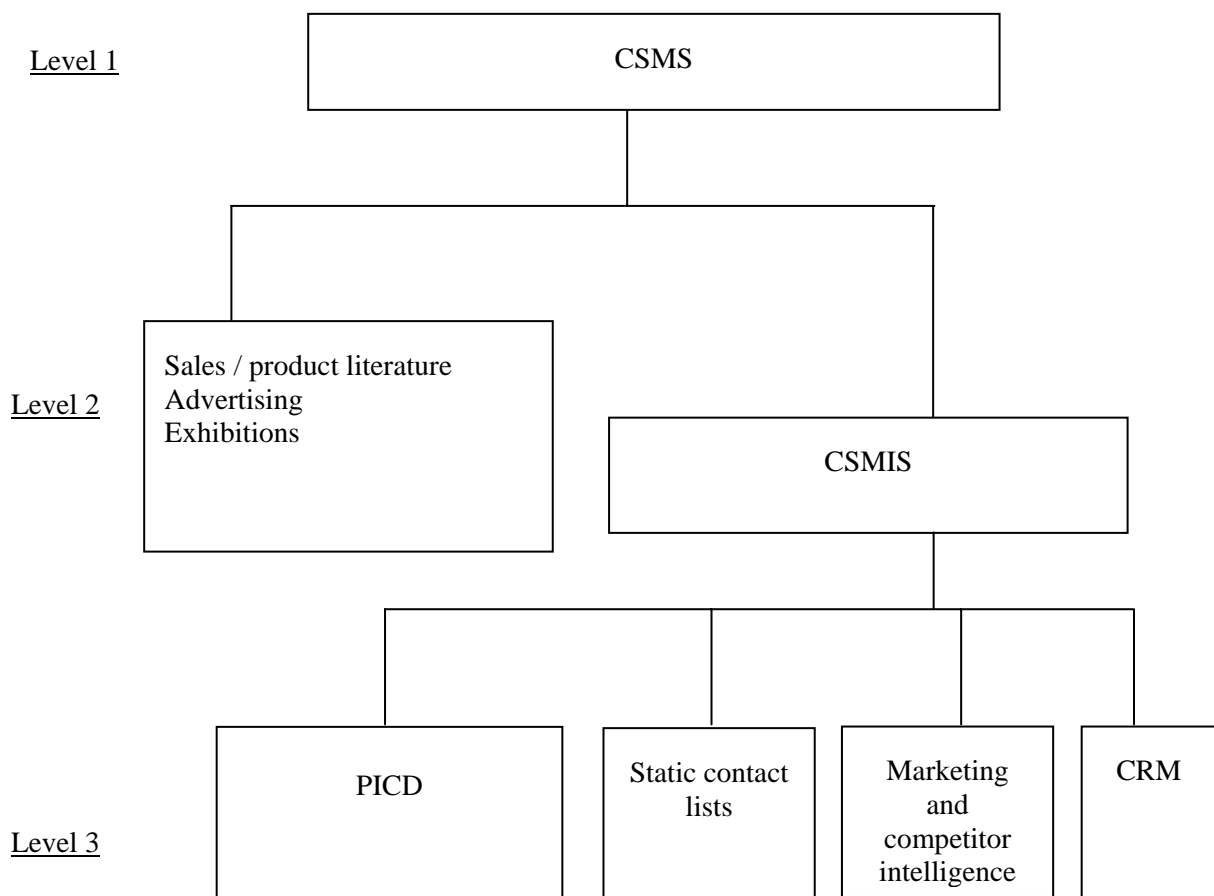
- 2.18 See paragraphs 1.3 and 1.4 above.

3. Market Definition

Product Market

3.1 In analysing the relevant product market, it is useful to distinguish three “levels” as shown in Figure 1 below.

Figure 1
The CSMS Market

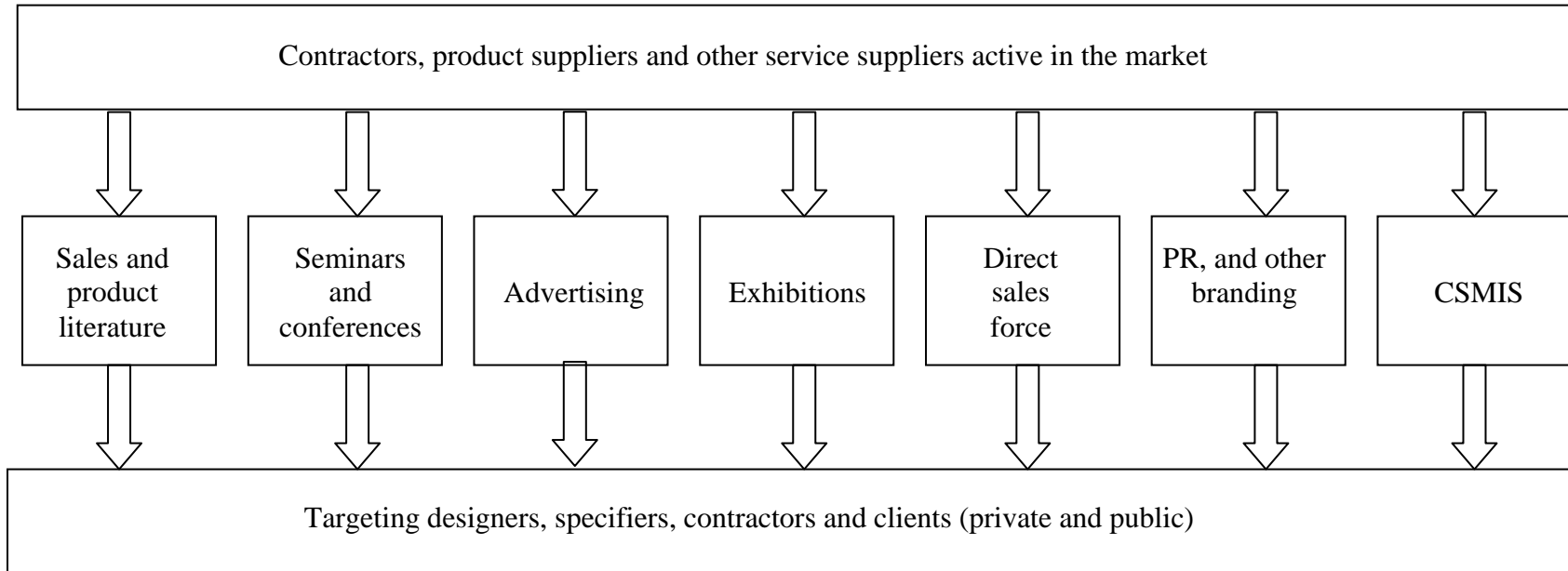


Note: for an explanation of the terms used, please refer to the glossary in Table 1 below.

3.2 From a customer’s perspective, the sources of information above are interchangeable in seeking to win new business by targeting main contractors, architects and other specifiers as illustrated in Figure 2 below.

Figure 2

Interchangeable Sources for new Business Acquisition



3.3 Table 1 below comprises a glossary of the terms used in this Submission:

Table 1
Glossary of Terms

Term	Definition
CSMS	CSMS comprise a range of means of generating new business, including sales/product literature, advertising, presence at exhibitions, CSMIS and others.
CSMIS	CSMIS comprises the provision of <i>information</i> for the purposes of generating new business and monitoring market developments and comprises PICD, static contact lists, marketing and competitor intelligence and CRM software.
PICD	Details of current construction projects and contact information of the specifiers involved in such projects (e.g. architects).
Static contact lists ¹⁶	Lists of contact information organised by project specifier (architects, designers, contractors etc.). Such lists are very similar to products in the PICD sub-segment, the marginal difference being that static contact lists tend to be prepared without reference to specific construction projects.
Marketing and competitor intelligence	News and analysis relevant to companies seeking to win new construction business (e.g. news relating to specific construction projects, construction activity generally and key project specifiers (such as architects)).
CRM software	Software designed specifically for prioritising, tracking and marketing to sales prospects in the construction sector.

¹⁶ “Static contact lists” in this context are lists that are rented or sold as a “one-off” package, rather than contact data sold by way of subscription.

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CSMS

- 3.4 Emap considers that the relevant market in which both Glenigan and ABI compete is the market for CSMS, which is shown as Level 1 in Figure 1. This is because contractors, product suppliers and other service suppliers active in the construction market seek to win new business by targeting architects, contractors, sub-contractors, quantity surveyors, engineers and other clients which specify and award contracts, and thus there is a need for CSMS as a source of new business. CSMS is a means to an end, and there are many other ways of achieving that end, which is obtaining work.
- 3.5 On the demand-side, contractors, product and other service suppliers have a wide range of sources to help generate new business. In particular, new business can be generated by the following sources, as well as by the purchase of CSMIS (see Level 2 in Figure 1):
- (a) own marketing, including print, electronic and internet publication of sales/product literature and the employment of direct sales forces;
 - (b) presence at exhibitions;
 - (c) advertising;
 - (d) corporate hospitality;
 - (e) provision of sample products;
 - (f) sponsorship;
 - (g) PR;
 - (h) personal contacts; and
 - (i) own market research.
- 3.6 From a customer's perspective, the sources of sales opportunities mentioned above are interchangeable because each is a method of achieving the ultimate aim of winning new business.¹⁷ Customers' perceptions that other sources of CSMS services are a substitute for the products provided by Glenigan and ABI is discussed in section 4 below.

CSMIS

- 3.7 For the reasons stated above, Emap submits that a relevant product market defined as the provision of CSMIS (Level 2 in Figure 1) is too narrow and ignores the competitive constraint posed by other CSMS solutions which are ultimately highly interchangeable.
- 3.8 CSMIS comprises the following information:

¹⁷ The pre-eminent focus on the part of customers of winning new business is demonstrated by the results of a client survey carried out by Glenigan in February 2002 (provided to the Commission on 9 July 2004), to which 414 customers replied. When asked "what do you aim to achieve from your subscription?", per cent. of respondents replied "more business."

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- PICD (i.e. information about current or forthcoming construction projects based, for example, on applications for planning permission, details of new civil projects,¹⁸ details of refurbishments or planned relocations¹⁹ or public procurement tenders);²⁰
- static contact lists (lists of contact information by specifier; there is an ongoing shift from the awarding of contracts on a project-by-project basis to the building of longer-term relationships and the increasing use of static contact lists reflects this);
- market and competitor intelligence (which is used to obtain information relevant to the winning of new business); and
- the provision of CRM software (to facilitate new business prospecting).

No further segmentation of CSMIS market segment

3.9 It is not appropriate to identify separate markets for the four products which form part of CSMIS because:

- (a) the products serve the same purpose, namely the provision of information which is used by customers to seek to win new construction business;
- (b) the products overlap and the distinctions between them are largely arbitrary; this is particularly so as regards the distinction between PICD and static contact lists. But in addition, marketing and competitor intelligence often provides closely comparable information to PICD. Thus, there is a continuous chain of substitution between the products, and it is difficult to identify subdivisions within the CSMIS segment and conclusively determine that different products exist. Indeed, Glenigan generally sells the products bundled together (and does not sell CRM software on an unbundled basis); and
- (c) there is supply-side substitutability between PICD, static contact lists and marketing and competitor intelligence as the skills and information necessary to produce one of the types of product can readily be applied to produce the others. To a large extent the four segments identified are simply different ways of presenting different aspects of the same data.

3.10 Similarly, there are no grounds for identifying separate markets for products such as Glenigan's *Tailored* versus its *Bulletin* products, or for products delivered in hard copy versus electronic format:

- (a) The nature of the offerings of Glenigan and ABI, based on the availability of comprehensive databases searched by engines, makes it possible for the provider of

¹⁸ Civil projects (e.g. road, rail, harbours, etc construction) do not go through the same public process.

¹⁹ Details of planned relocations (also referred to as "movers" information) provide opportunities to win new business for providers of fit-out and similar services. "Movers" data is also bought separately by removal and telecoms companies although around 50 per cent. of Glenigan's sales of "movers" data relate to data which is sold bundled with other PICD.

²⁰ Commonly, information about the project will be sourced from information in the public domain (e.g. applications for planning permission or the EC Official Journal) but the supplier of CSMIS will supplement that information by its own research to provide additional details about the project and contact information to enable purchasers to solicit new business arising from the project.

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the information in a “bulletin” format easily to produce bespoke information. Depending on the customers’ preferences, information can be tailored in different ways, e.g. by the different planning stages at which a project may be; or by type of project (e.g. building of “schools”); or by geographic location. The frequency with which customers receive information can also be standard (publications such as *Keyspecifier* are published quarterly), or tailored and in this case the customers’ preferences determine the frequency of publication. The pricing of *Tailored* products is then a function of the options chosen by the relevant customers; or

- (b) products delivered over the internet and those published in hard copy format are ready substitutes from both a customer’s and a supplier’s perspective, i.e. each is simply a delivery mechanism for information. In fact, the two means of delivery are simply another way to tailor the product. Publications and regular updates exist in e-format and on paper and the personal preference of the customer determines the chosen method of delivery. Some customers, for example, will subscribe to both.

- 3.11 There is an almost infinite variety of products which can be acquired as a tailored service offered by Glenigan or ABI (and their competitors). The relevant product offerings are based on the sourcing of information to be inserted in a comprehensive database and on the development of sophisticated searching engines and tools in order to be able to offer a product which is as tailored as possible to the areas of interest of the particular customer. Not unlike other technology-driven services such as telecommunications services, more and more often competition in this market takes place by way of service differentiation. To an ever-increasing extent, service differentiation takes place “*in the intelligence of the network, i.e. in the software which controls it*”.²¹ The software makes it possible for the data to be divided in many different ways and for customers to select the criteria preferred when selecting the required information. “Old-world” differentiations along “channel-by-channel” lines, based on the “type” of service to be provided are less and less meaningful. Rather, what is important is the *end* or the *purpose* that a customer intends to achieve by using particular services.

Geographic Market

- 3.12 The geographic area of coverage for CSMS and CSMIS is relevant both in terms of product market definition (e.g. the provision of national versus regional data) and geographic market definition (i.e. the areas in which suppliers of data face competition from other suppliers). Many customers are active only on a regional basis and therefore have no interest in sales leads outside the region in question.²² Further, the geographic area in which a particular project is carried out is a relevant factor for customers seeking to prioritise sales leads.²³ However, some customers require information on a national basis.
- 3.13 Emap believes that the market should be examined nationally because some products are marketed on a national basis and there is no clear division between the regions within Great

²¹ See the European Commission *Draft Guidelines on Market Analysis and the Calculation of Significant Market Power*, COM (2001) 175, paragraph 58.

²² This is reflected by the fact that bulletins published by Emap, ABI and their competitors are available in regional editions.

²³ In a February 2002 client survey carried out by Glenigan (provided to the Commission on 9 July 2004), per cent. of the respondents indicated that the geographic area of a project was the criterion for prioritising sales leads (although note that per cent. indicated that the *project type* was the decisive factor).

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Britain (creating a continuous chain of substitution). Moreover, the OFT's geographic focus in its analysis has also been national.²⁴

- 3.14 In any event, the dynamics of the market and the emphasis on customer requirements explain why in this sector the geographic element of the market definition has a limited importance, whether in terms of product or geographic market definition. Distinctions along geographical lines are simply another method by which the data can be "cut". In the same way in which, on the product market side, customers select criteria by, e.g. type of construction project (e.g. "schools"), so customers can with the same ease select projects in a specific region (and specific projects in specific regions, e.g. "schools" in "Kent"). Similarly to the position in other sectors, such as the telecommunications sector, in the absence of regulatory barriers, a market encompasses all providers of services fulfilling the requirements of a particular customer group. The sophistication of the software used by the various providers of services is, again, the key factor – it is relatively easy for modern software tools to be able to search a database by geographic area/type of project/stage a project has reached.

Market Shares

CSMS

- 3.15 The total value of the CSMS market is substantial; there are approximately 287,000 potential customers in the market, and the parties' combined share of such a market is *de minimis* (less than five per cent.).
- 3.16 Since the parties' market shares are so low in the CSMS market, Emap submits that the transaction does not give rise to an SLC even though the parties are close competitors in a segment (the provision of CSMIS) of this wider differentiated product market. Accordingly, the market share analysis below focuses on the CSMIS segment of the CSMS market.²⁵

CSMIS

- 3.17 Table 2 comprises Emap's estimates of the parties' shares of the CSMIS segment.
- 3.18 In calculating the sales of competitors, Emap has identified those companies which are active only in the CSMIS segment and has used their reported turnover data (or best estimates) to estimate that part of their turnover which can be attributed to the CSMIS segment.
- 3.19 In Table 2, all businesses referred to are national. Emap estimates that the enlarged group's sales of CSMIS on a regional basis are the same as those on a national basis. Both parties are national players without any significant regional variations. Although there are some regional suppliers, those suppliers are distributed across the UK.

²⁴ See paragraph 10 of the OFT Decision.

²⁵ without prejudice to Emap's principal argument relating to market definition.

Table 2

Estimated shares of the CSMIS segment

Supplier	Sales (£m)	Share (%)
Glenigan		
ABI		
Dun & Bradstreet		
Barbour Index		
Reed Elsevier (EGi and Mardev)		
Experian		
Thomson		
Market Location		
BiP		
Others		
TOTAL		

Source: Emap estimates (note that estimating sales in this area is very difficult).

Sub-segments of CSMIS

- 3.20 Tables 3 to 6 below provide information on the parties' share of supply of the four products which make up the CSMIS segment.²⁶ It is difficult to break down the turnover of the companies that are active in more than one segment into discrete categories.²⁷ In addition, major companies such as Taylor Nelson and BRMR International, or, for CRM software, suppliers like Microsoft, also offer services in competition with the parties. However, as mentioned above (paragraph 3.9), it is difficult to identify any specific sub-divisions within the CSMIS segment and to estimate the percentage of these companies' turnover in each category identified. Such companies have therefore not been included in the calculations below.
- 3.21 Neither Glenigan nor ABI provides information on planning applications as a separate product, as planning information for both companies is part of a package including added value in the form of telephone numbers, contact names, e-mail addresses, additional companies involved, construction materials to be used and detailed descriptions of the proposal and size (floor areas, number of units, storeys etc). Glenigan in particular seeks to add information about how the contracts will be procured and when and by whom. Emap has estimated the share of supply of this broader bundled product grouping in Tables 3 to 6 below. Since planning application data is not supplied separately from contact data by Glenigan or ABI, it is not possible to estimate shares of supply and there is no available data on the provision of planning applications as a separate segment. Whilst Glenigan, ABI, EGI,²⁸ Contact Information Services²⁹ (CIS) and Contract Data Services³⁰ (CDS) base their project information and contact data on applications for planning permission, there are numerous

²⁶ See paragraphs 2.4 and 3.8 above.

²⁷ Where Emap was unable to attribute a supplier's turnover as between the four categories, it allocated the turnover to the principal product in issue.

²⁸ http://www.egi.co.uk/property_research.asp

²⁹ <http://www.salesleads.co.uk/about.html>

³⁰ http://contractdataservices.co.uk/tenders_4.html#2

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other sources of such information (e.g. Official Journal tenders, magazines etc.) and these are used by the other suppliers listed in Tables 3 to 6 as sources for their rival services.

- 3.22 In Tables 3 to 6, all businesses except DataServe Direct (South East only) and Newmarket (Ireland) are exclusively national providers.

Table 3

Estimated shares of PICD segment

Supplier	Sales (£m)	Share (%)
Glenigan		
ABI		
EGi*		
BiP*		
Builders Conference		
Protel Projects*		
Barbour Index		
Contract Data Services*		
Qualified Sales Leads (QSL)*		
CityOffices.net*		
Geo-UK Ltd*		
BDS Marketing & Research*		
DataserveSirect*		
Commercial Information Company Ireland		
Newmarket Information		
Focal Research*		
Contact Information Services*		
WIN Contracts*		
Lead-In Research*		
UTL Research*		
Wendover Corporation*		
Maritime Contracts Journal		
TOTAL		

Source: Emap estimates (note that estimating sales in this area is very difficult).

Note: minor inconsistencies in addition are due to roundings.

* Of the 22 suppliers identified above, 15 have entered the market since 1990. These have been identified with an asterisk.

- 3.23 In Table 4 below, all suppliers provide nationwide static contact lists.

Table 4

Estimated shares of Static Contact Lists segment

Supplier	Sales (£m)	Share (%)
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Glenigan		
ABI		
Dun & Bradstreet		
Experian		
Thomson		
Market Location		
CorpData		
Mardev		
Conduit		
Blue Sheep		
Other		
TOTAL		

Source: Emap estimates (note that estimating sales in this area is very difficult).
 Note: minor inconsistencies in addition are due to roundings.

Table 5

Estimated shares of Marketing and Competitor Intelligence segment

Supplier	Sales (£m)	Share (%)
Glenigan		
ABI		
Barbour Index		
RIBA		
Building Services Research and Info Association		
Lychgate		
Wilmington		
Consult GB		
Leading Edge		
Wedgwood Markham		
Construction Markets		
Construction Forecasting and Research		
AMA Research		
Market and Business Development		
Key Note		

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Supplier	Sales (£m)	Share (%)
MSI Marketing Research for Industry		
TOTAL		

Source: Emap estimates (note that estimating sales in this area is very difficult).
Note: minor inconsistencies in addition are due to roundings.

Table 6

Estimated shares of CRM Software Services for the construction industry

Supplier	Sales (£m)	Share (%)
ABI		
KMS		
Project Data Base		
PSA		
Cabis		
TOTAL		

Source: Emap (note that estimating sales in this area is very difficult).
Note: Glenigan does not sell CRM software services on an unbundled basis and its sales have therefore been treated as nil.

4. Effects of the Acquisition on competition in the CSMIS segment of the CSMS market

- 4.1 Emap submits that the Acquisition has not resulted, and may not be expected to result, in an SLC in the CSMIS segment of the CSMS market for the reasons set out below.
- 4.2 In analysing the effects of the Acquisition on competition in the CSMIS segment, Emap has also considered (and responded to) the arguments raised by the OFT in the OFT Decision. The main thrust of the OFT Decision (paragraph 36) is that the parties are each other's closest substitutes in the supply of PICD products. From this, it is argued that there may not be sufficient rivalry with the remaining existing products to constrain the merged entity from price discriminating against certain (presumably captive) customers. The possibility of new entry, expansion or self-supply is discounted by the OFT as being insufficiently certain or viable. Thus, the OFT concludes that the merged entity may be able to increase prices, reduce service levels or the quality of information provided to "these" (presumably captive) customers. It is also suggested that the merger may reduce incentives to innovate. In Emap's view, these concerns are speculative and not borne out by closer examination of the relevant facts.

Definition of Product Market

- 4.3 Firstly, Emap does not agree with the OFT's conclusions on market definition. It submits that the relevant product market is that for CSMS rather than CSMIS (or indeed some narrower categorisation, such as PICD) and considers the products and services within CSMS to be demand-side substitutes, which constrain its pricing.
- 4.4 The potential customer base for project/planning data and contract lead data comprises about companies including material suppliers, contractors and construction service providers. Currently, less than of that potential customer base subscribe to Glenigan or ABI, resulting in a combined annual turnover of just over £10 million in 2003. In other words, around per cent. of customers manage without the services provided by the parties.
- 4.5 The construction industry uses a variety of means other than contract leads to generate orders and incoming sales (e.g. advertising, exhibitions, direct mail³¹). Independent research conducted by Wedgwood Markham Consultancy in 2000³² found that an average of only £2,000 (representing 1.3 per cent.) out of around £154,000 of a company's marketing budget is spent on contract leads systems as opposed to £42,000 (representing 27.3 per cent.) on literature, £32,000 (representing 20.8 per cent.) on advertising, and £14,000 (representing 9.1 per cent.) on exhibitions and trade shows. These other routes to market show that, however the relevant market is defined, customers have other choices. They clearly do not rely on contract leads service providers such as Emap.

Supply-side substitutability

- 4.6 Although Emap concedes that Glenigan and ABI are close competitors in the supply of CSMIS, it rejects the argument that there is currently no available substitute sufficiently close to constrain Emap from raising prices. Without prejudice to Emap's submission in relation to

³¹ Brochures and product literature mailed to prospects gathered internally or brought in.

³² "The Marketing Communications Mix: Targeting the Specifier" provided to the Commission on 9 July 2004.

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the product market, Emap submits that there is supply-side substitutability in the CSMIS segment of the CSMS market (and, specifically, within PICD).

- 4.7 There are a number of alternative providers of PICD on the CSMIS market. See Appendix 3 for extracts of sample competitor materials which show the similarities between the products of Glenigan/ABI and their competitors. Appendix 4 sets out key similarities between Glenigan, ABI, EGi, CDS and CIS (all of which provide national planning data).³³
- 4.8 Competitors such as EGi, CDS and CIS use the same national planning application and tender data as Glenigan and ABI.³⁴ Using very similar databases and research methodologies, each of these suppliers seeks to differentiate its service and attract customers (e.g. EGi focuses on property services; CDS provides rationed leads; and CIS provides a number of monthly leads to each customer). Similarly, other competitors apply the same skills and identical or similar core data to target niche segments (e.g. BiP provides details of public sector projects; Maritime Contracts Journal details maritime projects including leads; BDS Marketing and Research provides information on planning applications for retail stores). Each of these companies could easily seek to position its product in a different way in response to customer demand and market developments without incurring a significant increase in its cost base. In fact, the merger may provide an incentive for these companies to do so. Emap itself is constantly searching for opportunities to meet customer demand in contiguous markets.
- 4.9 In view of the existence of these other competitors and their ability either to reposition their products or launch new products, Emap rejects the hypothesis, advanced in paragraph 36 of the OFT Decision, that it would be able profitably to raise prices post-merger without providing a corresponding benefit to customers. Clearly, Emap might choose to differentiate further its own service by adding layers of value in order to retain and attract customers. It may indeed seek to price such an enhanced product at a higher level if it finds that there is demand for a premium offering. Indeed, given the intensity of pressure on margins in the construction industry and the alternative means that customers have of marketing their business, the only opportunity for price rises in the sector derives from product improvement and innovation.

Glenigan and ABI: Closest substitutes?

- 4.10 If Glenigan and ABI were the closest substitutes and customers had limited alternatives to them, then one would expect to find evidence that customers switched frequently between these two suppliers.
- 4.11 Extensive analysis of switching data undertaken by Emap prior to the making of the reference to the Commission (and provided by Emap to the OFT in response to specific information requests from the OFT) shows that only a small percentage of customers terminating their subscription with Glenigan switch to ABI and vice-versa. Emap believes that it has captured

³³ Examples of Glenigan and ABI products within the CSMIS segment were provided to the Commission on 9 July 2004.

³⁴ EGi provides data from across the UK on commercial/industrial projects over 500 square metres, residential projects of over ten units (five in London) and telecommunication masts over ten metres high. EGi has a powerful searchable database with 500 new records input each week. CDS has data from across the UK on 50,000 commercial projects and 100,000 domestic projects a year and about 3,000 projects a week. It provides leads which are rationed so that each lead goes only to one company in any particular field. There is a good range of search criteria. CIS had detailed information on residential, commercial, industrial and public projects in England, Scotland and Wales. It provides ten leads a month for £495 a year, i.e. it is not a searchable database.

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all true switches between Glenigan and ABI (including companies who e.g. subscribed to Glenigan, switched to ABI and then re-subscribed to Glenigan or vice-versa).³⁵

- (a) Of the customers which left Glenigan in the last three years, (representing per cent.) became customers of ABI within three months of cancellation and a total of (representing per cent.) became customers of ABI within the three years reviewed;
 - (b) applying the same methodology in reverse, of the customers which left ABI in the last three years, (representing per cent.) became customers of Glenigan within three months of cancellation and a total of (representing per cent.) became customers of Glenigan within the three years reviewed.
- 4.12 The Commission will find attached as Appendix 5 a spreadsheet of the raw data used as the basis of Emap's analysis (in electronic form)³⁶ and a document showing a list of identified switches made by companies from Glenigan to ABI and vice-versa.
- 4.13 Of the customer switches identified, all were in the PICD category (see Table 3 above) or the marketing and competitor intelligence category (see Table 5 above). In relation to the static contact lists sub-segment (Table 4 above), information on switching is not available, as such lists are generally requested on a one-off basis.³⁷ With regard to Table 6 ("Estimated shares of CRM Software Services for the construction industry"), switching data cannot be obtained since Glenigan does not sell these services on an unbundled basis.
- 4.14 It can be seen that the behaviour of a number of the identified switching companies shows concurrent subscriptions to Glenigan and ABI; some companies will choose to subscribe to Glenigan and ABI to receive the same data. It should be noted that for these companies the merger would reduce the cost of duplicate subscriptions.³⁸
- 4.15 The OFT states in paragraph 18 of the OFT Decision that Emap's switching data is inconsistent with switching information obtained by the OFT. It bases this on interview surveys commissioned by Emap which indicate higher levels of switching.³⁹ Emap acknowledges that the proportion of customers indicating that they had moved or intended to move to ABI is higher than suggested by the switching data in paragraph 4.11, but Emap's

³⁵ The work undertaken has been an exhaustive and comprehensive analysis of switching behaviour between Glenigan and ABI which Emap firmly believes captures the true extent of the minimal transfers between Glenigan and ABI. However, if the Commission requires any further clarification of the analysis undertaken, Emap would be happy to oblige.

³⁶ Emap has added a visual indicator of the length of subscription for ABI (represented by "A" for each month of ABI subscription) and Glenigan (represented by "G" for each month of Glenigan subscription) which also shows the history in time of companies' subscriptions; this will provide a simple method of verifying the exact subscription behaviours of any company who has cancelled a Glenigan or ABI subscription over the last three years.

³⁷ A micro-analysis of each product and customer would be required in order to determine how, why and when a customer dealt with Glenigan or ABI.

³⁸ In an analysis pre-acquisition (as part of the due diligence process) the proportion of distinct current Glenigan customers who also subscribed to ABI was independently verified as companies (representing per cent). Note that for the purposes of this analysis, Emap has determined as a switch any company who has concurrent subscriptions to Glenigan and ABI which overlap by six months or less. This has the potential to include customers who have cancelled a complementary subscription to either company and therefore could be argued not to be true switching behaviour; nevertheless, Emap has included these on a conservative basis to capture all switching behaviour.

³⁹ Customer cancellation researches undertaken by Emap were provided to the Commission on 9 July 2004.

switching data is more accurate than the interview surveys as it analyses *actual* customer behaviour rather than self-reported behaviour/ intentions of a very small number of ex-customers.⁴⁰

- 4.16 Further, Emap would suggest that the interrogation of actual switching data on nearly customers has far greater evidential value than the comments made by 20 or so customers to the OFT by telephone in the context of a merger investigation, particularly when many of those customers may have ulterior motives for making such comments.
- 4.17 Emap acknowledges that the threat of switching to ABI may have been used by some customers (amongst other techniques) in price negotiations. However, this does not weaken in any way the reality that very little switching between Glenigan and ABI takes place in practice. This fact calls into question the OFT's assertion that Emap and ABI are the closest competitors to one another. Instead, given the high churn rates that Glenigan and ABI experience, it suggests that customers have other alternatives available to them, and these alternatives combined with the very high churn rate will continue to constrain Emap's behaviour post-merger.

Buyer Power/High Churn Rates

- 4.18 The competitive choices and alternative routes to market enjoyed by Glenigan's and ABI's customers place a considerable competitive constraint on Glenigan and ABI, and will continue to do so post-merger. It is in the nature of information-based markets such as this that customers will only pay for services that they consider to be good value. If customers do not find a service or product to be providing value for money, they will stop using the service or product. As the high churn rates which Emap and ABI encounter across the whole of their customer bases show, a significant proportion of Emap's customers each year decide that Emap's products or services are not offering them value for money and hence they stop purchasing the service and use other alternatives to generate new business, and this pattern of behaviour does not differ for longer-term customers who demonstrate comparable churn rates to short-term customers.
- 4.19 The CSMIS segment is characterised by high churn with per cent. of current customers subscribing to Glenigan or ABI for less than two years (see Appendix 6 for an analysis on the proportion of Glenigan's customers by various categories and age) and approximately per cent. of customers not renewing their subscriptions in any year. These high rates of churn affect all of Glenigan's customer base, though it is significant that churn rates for *Tailored* (per cent.) are higher than for *Bulletin* (per cent.). This also points against there being customers for whom these products are "must have", since the *Tailored* product is a higher added value offering. The fact that churn rates for *Tailored* are higher than for *Bulletin* indicates that even the more bespoke products are apparently not regarded as essential by customers. Moreover, even with long-standing customers the churn rate is high: per cent. of Glenigan's customers subscribe for more than five years, but only per cent. subscribe for more than ten years. And, as demonstrated above, very few ex-customers switch from Glenigan to ABI; the vast majority choose not to purchase another project/planning and contract lead data product.

⁴⁰ For example, in an ex client survey dated December 2003 (provided to the Commission on 9 July 2004), after six months, only out of of those customers who said they would move to ABI actually switched.

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- 4.20 These high churn rates place a significant competitive constraint on Emap. In particular, if Emap's services fail to provide customers with value for money, then it faces the very real possibility that its churn rates will increase still further. Since this is an industry with high fixed costs, Emap has a very strong commercial incentive not to take any actions (such as increasing prices) that might increase its churn rates. Emap's internal modelling (attached as Appendix 7) shows that a one percentage point increase in its churn rate would reduce its EBIT by per cent. in the first year, per cent. in the second year, per cent. in the third year, per cent. in the fourth year, per cent. in the fifth year and per cent. in the sixth year. A two percentage point increase in the churn rate would in Emap's EBIT.
- 4.21 Moreover, since Emap cannot price discriminate between customers (since it is unable to identify any category of customers for whom its products are "must have") this constraint applies across all its customers – this is discussed further in the following section.

A distinct group of customers for whom Emap products/services are "must have?"

- 4.22 The OFT suggests in paragraph 21 of the OFT Decision that there are two distinct groups of customers for PICD products. For the first group (those seeking more straightforward products on a narrow geographic basis), the OFT accepts that the parties' products can be substituted easily by other products so that the merged entity would not be well placed to increase prices. For the second group of customers, the OFT states that it appears that Glenigan/ABI are the sole providers of a product with few close substitutes. The OFT further suggests that for these customers, Glenigan/ABI products are "must have" products against whom price discrimination could be practised by the merged entity.
- 4.23 There are four facts which make the argument that Emap's products/services are "must have" services unsustainable:
- (a) the majority of potential customers in the sector do not use Glenigan or any other provider of similar services;
 - (b) Glenigan's business suffers from a high churn rate across its whole customer base;
 - (c) the majority of ex-customers do not switch to an alternative provider of such services; and
 - (d) there is no identifiable category of customers who do not have the option of choosing not to buy a service of this kind.
- 4.24 Even if certain customers have argued that this is a "must have" service for them, Emap does not understand how these customers are characterised and hence is unable to identify them and price discriminate against them. The OFT has acknowledged in the OFT Decision that these "must have" customers appear to be from across a wide variety of sectors with no obvious unifying feature.⁴¹ Emap has been unable to identify any category of customers for whom its service is a "must have." In fact, Glenigan faces high churn rates in every category of customer, whether by size of customer, order value, sector or age (see Appendix 6). There is no prospect of being able to price discriminate as such a strategy would increase churn,

⁴¹ "Although there does not appear to be one single criteria [Sic] on which Emap could identify such a group [of customers], it does seem plausible that it could identify such customers based on a range of characteristics (e.g. customers wanting national, sophisticated, up-to-date data submitted electronically" (paragraph 22 of the OFT Decision).

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something that a fixed-cost base business has every incentive to keep to a bare minimum. Emap would therefore not be able to price discriminate against such “must have” customers (if they do indeed exist), and any strategy which sought to raise prices across its customer base would simply accelerate churn and adversely impact on Emap’s profits.

4.25 Only about per cent. of Glenigan’s subscribers choose to receive UK national data. Price discrimination against these customers would not be feasible because of:

- the difficulties in identifying this class of customer (customers could only be identified after a reference period e.g. 12 months during which one or more of a certain type of “national” search, e.g. covering 90 per cent. of counties, had been carried out);
- the significant alternatives available to such customers (i.e. competing providers or other routes to market) which will increase as self-provision and new entry are facilitated by the drive towards local authorities making available planning data free online by 2005 (through the PARSOL project⁴²).

4.26 As shown in paragraph 4.4 above, the low penetration rate into the CSMIS market segment indicates that this is not a “must have” product. In fact, per cent. of potential customers manage without its services which indicates that they use a variety of other means to generate orders and incoming sales.

4.27 Moreover, the assertion in paragraph 22 of the OFT Decision that Emap may have greater ability to price discriminate post-merger once the parties’ databases are combined is not substantiated. The ability to engage in price discrimination depends on the ability to identify captive customers, and it is hard to see why the mere combination of databases has any bearing on this assessment.

4.28 In summary:

- The high churn rate demonstrates that customers have other options and can “take the service or leave it” – if the price and quality of the product is right they will buy it; if it is not, they will find other ways of meeting their needs, whether by self-supply of sales leads or by finding other routes to market;
- the challenge faced by Glenigan in retaining customers (thus avoiding sales costs) and increasing its poor market penetration is that, no matter how the product/service is developed and tailored to meet customers’ needs, it will always be a “nice to have” rather than a “must have” service;
- Glenigan is not currently constrained to any significant degree by the threat of customers switching to ABI and the merger does not change the key competitive constraint on Glenigan (which is that the decision to take the service is a marginal decision for the majority of customers) and the endemic churn rate which directly results from it;
- if there are some customers for whom this is a “must have” product, then Emap is unable to identify them and price discriminate, so they are not captive.

New Entry

⁴² See paragraph 4.34 below.

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- 4.29 Emap estimates that the cost of entry at the simplest level is about £ and decreasing as planning data becomes more freely available. Whilst entry could take place on a larger scale (at a cost of around £), such a new entrant would not incur incremental fixed costs comparable to those of Glenigan as it would be likely to be a business with a fixed cost base in the information sector which was looking for revenue generation opportunities in neighbouring areas (e.g. a publisher already active in a neighbouring market which has the expertise and infrastructure for collecting project and planning data).
- 4.30 Emap submits that entry barriers are low for the following reasons:
- National planning data is publicly available,⁴³ and, similar to the *DMG/Sitescope* case mentioned in paragraph 1.10 above, a new entrant could set up its own database of planning information;
 - the cost of the raw planning data, at about £ for England plus the personnel cost of inputting the data into a database (about £) does not represent a significant barrier to entry; this cost will be further reduced as the PARSOL project is rolled out;
 - planning data for councils in Scotland and Wales is available at a total price of £ and £ respectively; also, there are competing regional providers in Northern Ireland;
 - entry can take place at a number of levels; Emap estimates that the cost of such entry could vary between £ and £ according to the scale of the operation. It is implausible to suggest that entry costs of £ (or even higher than this depending on market share aspirations) for an established information provider in the construction sector, such as, is an impediment to entry; and
 - the basic research skills needed to add value to the raw data can be acquired with a minimum of two weeks' training and there are no brand or technology barriers to the market.
- 4.31 Emap submits that the merger is likely to lead to market entry to fill any market gap that may be perceived by some customers to emerge. Such entry would be the inevitable result if the merged entity were to seek to raise prices above competitive levels. However, even in the absence of an attempt by the merged entity to raise prices, Emap believes that new market entry is probable particularly given the low penetration of the largely untapped customer base.
- 4.32 Emap believes that the following companies have the resources, expertise and assets to launch a similar service to Glenigan/ABI:
- Reed Elsevier (which owns EGi and publishes Contract Journal);
 - McGraw Hill (which owns Dodge, the leading US contract leads provider);
 - UBM (which owns Builder Group and Barbour Index);
 - DMGT (which owns Landmark); and

⁴³ Through the PARSOL project; see paragraph 4.34 below.

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- Docu Group (whose owner used to own ABI and is understood by Emap to be actively considering entry in the UK).

4.33 A note summarising the threat posed by these potential entrants is attached as Appendix 8. For contact details of Glenigan's/ABI's competitors see Appendix 9.

Self-Supply

4.34 Appendix 10 highlights the main features of the PARSOL project which is part of the "e-government" initiative. One of the priorities of the UK Government in the context of this initiative to have all planning applications published on the internet by local authorities and available free of charge to all interested parties by 2005.⁴⁴ The Office of the Deputy Prime Minister identified this as a priority and funded the PARSOL project to help local authorities put in place the framework and processes for an effective planning service online, including the necessary technical toolkits for the local authorities. The PARSOL project has adopted the Government's aim of having all planning applications online by 2005. Since 2001, the number of local authorities publishing details of planning applications online increased from about 30 to the current level of around 240,⁴⁵ and this is increasing steadily. As a result, the need to purchase applications from those local authorities which do not yet make these available for free online is decreasing.

4.35 It is clear that the cost of self-provision of planning data is decreasing and it has become significantly easier to obtain the basic planning data.⁴⁶ It is clearly up to individual companies what they do with that data. Some will have resources that they can use to supplement the raw data with the sales leads that they require to market their business. For others, they may supplement the set of business contacts that they use to market their business. There will be others who would choose to buy the services of a company such as Glenigan which can supplement and present this data in a tailored way to the customer.

Allen & Overy LLP
MWF/SSMM
16 July 2004

⁴⁴ <http://planningoffice.co.uk> (this service is searchable by application date and sometimes by parish within the district and contains historic data, usually going back several months).

⁴⁵ See note 47.

⁴⁶ Once the PARSOL project has achieved its objective by 2005 of having information of all English councils online, even if no further Scottish or Welsh councils go online over the next year, only 25 UK councils (representing 5.6 per cent.) will not be available online – all except two of which provide planning lists for a combined cost of just £ per annum. The remaining two councils require a physical visit to view the planning register.

APPENDIX 2: ABI *MARKETING SERVICES* PRODUCT

**APPENDIX 3: EXTRACTS OF SAMPLE COMPETITOR MATERIALS WHICH SHOW
THE SIMILARITIES BETWEEN THE PRODUCTS OF GLENIGAN/ABI AND THEIR
COMPETITORS**

APPENDIX 4: TABLE WHICH SETS OUT KEY SIMILARITIES BETWEEN GLENIGAN, ABI, EGI, CDS AND CIS (ALL OF WHICH PROVIDE NATIONAL PLANNING DATA)

**APPENDIX 5: ELECTRONIC FORM OF RAW SWITCHING DATA AND DOCUMENT
SHOWING LIST OF IDENTIFIED SWITCHES FROM GLENIGAN TO ABI AND
VICE-VERSA**

(The raw switching data has not been included in the hard copy of the Submission but has been submitted to the Commission by email).

**APPENDIX 6: EMAP CUSTOMER ANALYSIS - DATA ON THE PROPORTION OF
GLENIGAN'S CUSTOMERS BY VARIOUS CATEGORIES AND AGE**

APPENDIX 7: EMAP'S INTERNAL MODELLING

**APPENDIX 8: NOTE SUMMARISING THREAT POSED BY POTENTIAL ENTRANTS OF
THE CSMIS SEGMENT**

APPENDIX 9: COMPETITOR CONTACT DETAILS

APPENDIX 10: PARSOL PROJECT OVERVIEW