Summary of Commission Decision
of 20 December 2012
relating to a proceeding under Article 102 of the Treaty on the Functioning of the European Union
and Article 54 of the EEA Agreement
(Case COMP/D2/39.654 — Reuters Instrument Codes (RICs))
(notified under document C(2012) 9635)
(Only the English text is authentic)
(Text with EEA relevance)
(2013/C 326/04)

On 20 December 2012, the Commission adopted a decision relating to a proceeding under Article 102 of the Treaty on the Functioning of the European Union. In accordance with the provisions of Article 30 of Council Regulation (EC) No 1/2003 (1), the Commission herewith publishes the names of the parties and the main content of the decision, including any penalties imposed, having regard to the legitimate interest of undertakings in the protection of their business secrets.

(1) On 30 October 2009, the Commission decided to open proceedings against Thomson Reuters Corporation and companies under its direct or indirect control, including Reuters Limited (‘Thomson Reuters’) for alleged abuse of dominance in the worldwide market for consolidated real-time datafeeds. A preliminary assessment was adopted by the Commission on 19 September 2011 pursuant to Article 9(1) of Regulation (EC) No 1/2003 (2), and notified to Thomson Reuters on 20 September 2011.

(2) Thomson Reuters is a global provider of financial information for professionals in the financial services sector. According to the preliminary assessment, Thomson Reuters is dominant in the worldwide market for consolidated real-time datafeeds. Thomson Reuters may have abused its dominant position by imposing certain restrictions as regards the use of Reuters Instrument Codes (RICs). RICs are short, alphanumerical codes developed by TR that identify securities and their trading locations.

(3) Thomson Reuters prohibits its customers from using RICs to retrieve data from consolidated real-time datafeeds of other providers and prevents third parties from creating and maintaining mapping tables incorporating RICs that would allow the systems of Thomson Reuters’ customers to interoperate with consolidated real-time datafeeds of other providers. The Commission has reached the preliminary conclusion that these practices create substantial barriers to switching datafeed providers and constitute an abuse of a dominant position under Article 102 of the Treaty and Article 54 of the EEA Agreement.

(4) Thomson Reuters disagrees with the Commission’s preliminary assessment, but has nevertheless offered commitments pursuant to Article 9(1) of Regulation (EC) No 1/2003 (3) to address the Commission’s competition concerns. On 8 November 2011, Thomson Reuters submitted a first commitments proposal to address the concerns raised by the Commission in its preliminary assessment. On 14 December 2011, the Commission published a notice in the Official Journal of the European Union in accordance with Article 27(4) of Regulation (EC) No 1/2003, summarising the case, the commitments and inviting third parties to submit comments on Thomson Reuters’s proposal (4). In response to the observations received, Thomson Reuters submitted a revised commitment proposal on 27 June 2012. On 12 July 2012, the Commission launched a second market test and published the amended commitments (5).

(5) On 7 November 2012, Thomson Reuters provided revised commitments (‘proposed commitments’). The proposed commitments consist of the offering of a licence (an ERL) to customers that, at the time of applying for the ERL, are subscribed to a TR consolidated real-time datafeed Service and will cover all applications licensed under the TR consolidated real-time datafeed service. This includes

server-based applications and associated downstream individual user applications (View Charge Interface) for the purpose of viewing, validating and manipulating distributed data. In the case of global datafeed licences, the proposed commitments relate to all internal applications (including any desktop-based applications) licenced under such a global datafeed licence. The proposed commitments do not cover the use of real-time market data licensed for individual use as part of a Thomson Reuters packaged desktop service (1).

(6) The ERL gives customers the possibility to license additional RIC symbology usage rights for the purpose of switching providers of consolidated real-time datafeeds. This license allows them, for a monthly licence fee, to use RICs to retrieve real-time financial data from consolidated real-time datafeeds sourced from Thomson Reuters' competitors for the purpose of switching some or all of their server-based applications and desktop-based applications to alternative consolidated real-time datafeed providers.

(7) In addition, under the proposed commitments, Thomson Reuters will provide ERL licensees with regular and timely updates of the relevant RICs including, where applicable, the necessary cross-referencing information linked to the RIC, for example: relevant trading venue, source, official code, currency or description. These updates will be made available with the same frequency as updates provided to Thomson Reuters' customers.

(8) The proposed commitments cover customers that will switch away from Thomson Reuters consolidated real-time datafeeds to an alternative consolidated real-time datafeed (full switch); and customers that will subscribe to a third party consolidated real-time datafeed in addition to the TR consolidated real-time datafeed service without switching away from the latter (partial switch). Customers will not be obliged to subscribe or to continue to subscribe to any Thomson Reuters data or other services after subscribing to the ERL.

(9) The ERL will be available for subscription to Thomson Reuters' customers for a period of five years from the commencement date (2). Instead of subscribing to the ERL within the initial five-year period, a customer may purchase, for USD 150 per month, an option to subscribe to the ERL. This option can be exercised within two years after the initial five-year period. Thus, under the proposed commitments, Thomson Reuters' customers will essentially have a seven-year period in which to subscribe to the ERL. Upon subscription, the ERL is granted to customers in perpetuity, subject to payment of the relevant fee.

(10) The proposed licence can be used worldwide provided that the customer has genuine business operations in the EEA.

(11) The proposed commitments allow third party developers to develop and maintain a switching tool. Subject to a monthly license fee, third party developers can use and keep RICs in the switching tools they develop. The third party developer rights are set out in a separate license which is included in Annex II to the proposed commitments. Third party developers may obtain support from alternative vendors of consolidated real-time datafeeds in mapping to that vendor's symbology and may engage in information sharing (with the exclusion of RICs) and close cooperation in relation to the design, build, maintenance, selling and advertising of the switching tool.

(12) Eligible third party developers exclude any vendor, re-seller or re-distributor of market data that requires symbology for identification and navigation as well as any developer that is directly or indirectly controlling, controlled by or under common control with such a vendor, re-seller or re-distributor of market data.

(13) Thomson Reuters will appoint, subject to approval by the Commission, a monitoring trustee to monitor Thomson Reuters' compliance with the proposed commitments, for a period of seven years from the commencement date.

(14) The Commission considers that the proposed commitments are sufficient to address the identified competition concerns. In its Decision of 20 December 2012 pursuant to Article 9(1) of Regulation (EC) No 1/2003 the proposed commitments were made binding on Thomson Reuters. The Decision also finds that in view of the commitments, there are no longer grounds for action by the Commission.

(1) Any commercial offering which entitles the customer to individual use of content including (without limitation) market data in addition to the use of an associated desktop software package (irrespective of whether the customer chooses to use some or all of the content of the consolidated real-time datafeed, or some or all of the desktop software package). Thomson Reuters licenses packaged desktop services under separate commercial and usage restrictions from the TR consolidated real-time datafeed services such as: (i) 3000Xtra; (ii) Eikon; (iii) Trader; (iv) Station; (v) Thomson One along with their variants and associated licences; and (vi) remaining licences of the legacy Thomson Reuters 2000 or 3000 service to the extent not licensed on a substantially similar basis to the RT service.

(2) The date which is no longer than six months from the date on which Thomson Reuters is notified of the European Commission's final decision under Article 9 of Council Regulation (EC) No 1/2003.
(15) On 26 November 2012, the Advisory Committee on restrictive practices and dominant positions was consulted. On 29 November 2012, the Hearing Officer issued his final report.