

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: Jon Leibowitz, Chairman
William E. Kovacic
J. Thomas Rosch
Edith Ramirez
Julie Brill

_____)
In the Matter of)
)
The Dun & Bradstreet Corporation.) Docket No. 9342
)
_____)

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Clayton Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Respondent The Dun & Bradstreet Corporation’s (“D&B”) acquisition of the assets of Quality Education Data, (“QED”), a division of Scholastic, Inc. (“Scholastic”), violated Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues its Complaint, stating its charges as follows:

I. SUMMARY

1. Market Data Retrieval (“MDR”), a company of D&B, is the leading provider of data for marketing to kindergarten through twelfth-grade teachers, administrators, schools and school districts (“K-12 data”) in the United States. K-12 data includes but is not limited to contact, demographic and other information relating to K-12 educators. K-12 data is sold or leased to customers that use the data to market products and services to educators. In early 2009, D&B acquired the assets of QED, MDR’s primary competitor. As a result of the acquisition, MDR now holds over 90% of the relevant market, with only a small fringe consisting of two firms accounting for the remainder. This transaction is in practical effect a merger-to-monopoly and, if allowed to remain, would likely allow MDR unilaterally to exercise market power in various ways, including increasing prices and reducing product quality and services to K-12 data customers.

II. RESPONDENT D&B

2. Respondent D&B is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business at 103 JFK Parkway, Short Hills, New Jersey 07078. D&B is the ultimate parent entity of and includes Dun & Bradstreet, Inc.

3. D&B is the world's leading supplier of commercial information and insight on businesses. D&B's global commercial database contains more than 140 million business records. In 2008, D&B's revenue exceeded \$1.7 billion.

4. MDR, a company of D&B and a division of Dun & Bradstreet, Inc., is the leading United States provider of K-12 data. MDR has its office and principal place of business at 6 Armstrong Road, Suite 301, Shelton, Connecticut 06484. MDR also has offices in Chicago, Illinois, and San Francisco, California.

5. MDR's products and services include direct mailing lists, e-marketing solutions, sales solutions, and market research.

III. QED

6. Up until on or about January 28, 2009, QED was a division of Scholastic, with its office and principal place of business at 1050 17th Street, Suite 1100, Denver, Colorado 80265. Scholastic is a global children's publishing, education and media company, and the world's largest publisher and distributor of children's books as well as a leading developer of educational technology products.

7. QED had supplied K-12 data products and services in competition with MDR.

IV. THE ACQUISITION

8. On or about January 28, 2009, Dun & Bradstreet, Inc. and Scholastic entered into an Asset Purchase Agreement (the "Agreement").

9. Pursuant to the Agreement, Dun & Bradstreet, Inc. acquired substantially all of the assets of QED for approximately \$29 million (the "Acquisition").

V. JURISDICTION

10. D&B and Scholastic are, and at all times relevant herein have been, corporations as "corporation" is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44. At all times relevant herein, D&B and Scholastic have been, and are now, engaged in commerce as "commerce" is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. § 12, and are corporations whose business is in or affects commerce as "commerce" is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

VI. RELEVANT PRODUCT MARKET

11. The relevant product market in which to assess the effects of the Acquisition is kindergarten through twelfth grade educational marketing data, including but not limited to, contact, demographic and other information relating to teachers, administrators, schools, and individual school districts, that is sold or leased to customers. Other relevant markets may also exist that consist of certain categories of customers or categories of K-12 data.

VII. RELEVANT GEOGRAPHIC MARKET

12. The relevant geographic market in which to analyze the effects of the Acquisition is the United States.

VIII. STRUCTURE OF THE MARKET

13. The K-12 data market is highly concentrated.

14. Prior to the Acquisition, MDR and QED were the only two significant competitors in the K-12 data market. MDR was the nation's largest provider and QED was the nation's second largest provider. As a result of the Acquisition, MDR now holds over 90% of the K-12 data market. There is a small and competitively insignificant fringe consisting of two firms, MCH, Inc. ("MCH") and Agile Education Marketing ("Agile").

15. Neither MCH nor Agile possess a database with the size, breadth, and scope of coverage comparable to that held by either MDR or QED prior to the Acquisition.

16. The Acquisition substantially increased concentration in the already highly concentrated K-12 data market.

IX. COMPETITIVE EFFECTS

17. The Acquisition may substantially lessen competition in the relevant market by, among other things:

- a. Eliminating actual, direct, and substantial, competition between MDR and QED;
- b. Reducing the number of significant competitors from two to one, creating a virtual monopoly, and giving MDR substantial market power;
- c. Facilitating the ability of MDR to exercise unilateral market power;

- d. Reducing MDR's incentives to improve service or product quality or to pursue further innovation; and
- e. Allowing MDR, unconstrained by effective competition, to increase prices.

X. ENTRY CONDITIONS

18. Entry into the K-12 data market would not be timely, likely, or sufficient to prevent or defeat the anticompetitive effects of the Acquisition.

19. New entry or fringe firm expansion at the scale necessary to restore the competition lost as a result of the Acquisition, or to create a competitively significant firm, is unlikely. A new entrant or expanded fringe firm would need an up-to-date database with the size, breadth and scope of market coverage comparable, at a minimum, to that held by QED prior to the Acquisition. Any such entry or fringe firm expansion would take more than two years and require substantial sunk costs, which are high relative to the size of a profit stream that the new entrant or fringe firm might anticipate.

20. Even if a new entrant or fringe firm could develop a database comparable to that held by QED prior to the Acquisition, it would face significant difficulty marketing its products and services to customers of MDR because its brand is unlikely to have the important reputation for quality that customers require. It would likely require any new entrant or fringe firm at least several years to acquire the necessary reputation for quality to become a potential competitive constraint.

XI. VIOLATIONS CHARGED

21. The Agreement constitutes a violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45.

22. The Acquisition may substantially lessen competition or tend to create a monopoly in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45.

XII. NOTICE

Notice is hereby given to the respondent that the sixth day of January, 2011, at 10:00 a.m., is hereby fixed as the time and Federal Trade Commission offices, 600 Pennsylvania Avenue, NW, Washington D.C. 20580, as the place when and where a hearing will be had before an Administrative Law Judge of the Federal Trade Commission, on the charges set forth in this complaint, at which time and place you will have the right under the Federal Trade Commission and Clayton Acts to appear and show cause why an order should not be entered requiring you to cease and desist from the violations of law charged in the complaint.

You are notified that the opportunity is afforded you to file with the Commission an answer to this complaint on or before the fourteenth (14th) day after service of it upon you. An answer in which the allegations of the complaint are contested shall contain a concise statement of the facts constituting each ground of defense; and specific admission, denial, or explanation of each fact alleged in the complaint or, if you are without knowledge thereof, a statement to that effect. Allegations of the complaint not thus answered shall be deemed to have been admitted.

If you elect not to contest the allegations of fact set forth in the complaint, the answer shall consist of a statement that you admit all of the material allegations to be true. Such an answer shall constitute a waiver of hearings as to the facts alleged in the complaint and, together with the complaint, will provide a record basis on which the Commission shall issue a final decision containing appropriate findings and conclusions and a final order disposing of the proceeding. In such answer, you may, however, reserve the right to submit proposed findings of fact and conclusions of law under § 3.46 of said Rules.

Failure to file an answer within the time above provided shall be deemed to constitute a waiver of your right to appear and to contest the allegations of the complaint, and shall authorize the Commission, without further notice to you, to find the facts to be as alleged in the complaint and to enter a final decision containing appropriate findings and conclusions and a final order disposing of the proceeding.

The Administrative Law Judge shall hold a prehearing scheduling conference not later than ten (10) days after an answer is filed by the respondent. Unless otherwise directed by the Administrative Law Judge, the scheduling conference and further proceedings will take place at the Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington DC 20580. Rule 3.21(a) requires a meeting of the parties' counsel as early as practicable before the prehearing scheduling conference, and Rule 3.31(b) obligates counsel for each party, within five days of receiving respondent's answer, to make certain initial disclosures without awaiting a formal discovery request.

XIII. NOTICE OF CONTEMPLATED RELIEF

Should the Commission conclude from the record developed in any adjudicative proceeding in connection with this matter that the Agreement violates Section 5 of the Federal Trade Commission Act, as amended, or the Acquisition violates Section 7 of the Clayton Act, as amended, or Section 5 of the Federal Trade Commission Act, as amended, the Commission may order such relief against Respondent D&B as is supported by the record, including, but not limited to:

1. The divestiture with appropriate updates, of all assets necessary to restore the lost competition between MDR and QED, and in a manner that creates two or more distinct, separate, viable, and independent businesses in the relevant market(s), each with the full incentive, ability, and assets needed to offer the kinds of products and services that MDR and QED prior to the Acquisition had been offering, or had planned to offer.
2. A requirement that D&B divest and not retain all data obtained from QED.
3. A requirement that D&B provide prior written notice to the Commission of all acquisitions, mergers, consolidations, or other combinations of its K-12 data business or assets with any other company providing K-12 data.
4. A requirement to file periodic compliance reports with the Commission.
5. Other relief appropriate to correct or remedy the anticompetitive effects of the Acquisition, or to ensure the creation of one or more viable, competitively significant, independent new entities, able to compete in all significant respects against D&B.

THEREFORE, the Federal Trade Commission on this sixth day of May, 2010, has issued this Complaint against Respondent The Dun & Bradstreet Corporation.

By the Commission, Commissioner Rosch dissenting.

Donald S. Clark
Secretary

SEAL: