Statement of Issues

9 September 2021

Turnitin, LLC – proposed acquisition of Ouriginal Group AB

Purpose

1. Turnitin, LLC (**Turnitin**), via Turnitin UK Ltd., proposes to acquire Ouriginal Group AB (**Ouriginal**).

2. This Statement of Issues:

   - gives the Australian Competition and Consumer Commission's (**ACCC**) preliminary views on competition issues arising from the proposed acquisition,

   - identifies areas of further inquiry, and

   - invites interested parties to submit comments and information to assist our assessment of the issues.

3. Statements of Issues do not refer to confidential information provided by the parties or other market participants and therefore may not fully articulate the ACCC's preliminary position.

Overview of ACCC's preliminary views

4. In considering the proposed acquisition, the ACCC applies the legal test set out in section 50 of the *Competition and Consumer Act 2010* (the **CCA**). In general terms, section 50 prohibits acquisitions that would have the effect, or be likely to have the effect, of substantially lessening competition in any market.

5. The ACCC divides its preliminary views into three categories, 'issues of concern', 'issues that may raise concerns' and 'issues unlikely to raise concerns'. In this Statement of Issues there are two issues that may raise concerns.

Issues that may raise concerns

- Turnitin is the dominant provider of anti-plagiarism software (**APS**) to Australian higher education institutions, supplying a large majority of universities, and Ouriginal is one of its two main competitors. By removing one of the only competitive constraints on Turnitin, the proposed acquisition may lead to higher prices and/or lower service levels for Australian higher education institutions who acquire APS.

- The proposed acquisition may lead to reduced global innovation that results in reduced product innovation and lower product quality for Australian higher education customers of APS.

Making a submission

6. The ACCC invites submissions from interested parties.

7. Interested parties should provide submissions by 5pm on 27 September 2021. Responses may be emailed to mergers@accc.gov.au with the title: Submission re: Turnitin/Ouriginal. If you would like to discuss the matter with ACCC staff or have any questions about this Statement of Issues, please contact Steven Lee on (02) 6243 1347 or Sidd Sharma on (02) 9102 4011.

8. The ACCC anticipates making a final decision on 18 November 2021, however, this timeline can change. To keep up with possible timing changes and to find relevant documents, interested parties should visit the [Mergers Register on the ACCC's website](#).

Confidentiality of submissions

9. The ACCC will not publish submissions regarding the proposed acquisition. We will not disclose submissions to third parties (except our advisors/consultants) unless compelled by law (for example, under freedom of information legislation or during court proceedings) or in accordance with section 155AAA of the CCA. Where the ACCC is required to disclose confidential information, the ACCC will notify you in advance where possible so that you may have an opportunity to be heard. Therefore, please identify any confidential information that is provided to the ACCC. Our *Informal Merger Review Process Guidelines* contain more information on confidentiality.

About ACCC 'Statements of Issues'

10. A Statement of Issues is not a final decision about a proposed acquisition. A Statement of Issues outlines the ACCC's preliminary views and identifies further lines of inquiry.

11. A Statement of Issues provides an opportunity for all interested parties (including customers, competitors, shareholders and other stakeholders) to ascertain and consider the primary issues identified by the ACCC. It is also intended to provide the merger parties and other interested parties with the basis for making further submissions should they consider it necessary.

The parties

12.   Turnitin is based in the US and provides software solutions aimed at the educational sector, including plagiarism detection, grammar-checking, grading and online exam proctoring. Turnitin operates in many countries including Australia, through its subsidiary Turnitin Australia Pty Ltd.

13.   Ouriginal is based in Sweden and is an educational technology provider offering anti-plagiarism software. It focuses on providing APS and does not have as broad a range of products and other assessment and feedback tools as Turnitin.

Industry overview

14.   APS is designed to detect plagiarism in its various forms. In Australia APS is primarily used in the education sector to address risks of plagiarism and thereby assist in maintaining academic integrity.

15.   Typically, APS detects plagiarism by comparing a piece of work against sources held in databases (such as academic journal articles or works submitted by students) and/or public sources (such as internet web pages). APS providers are also developing more sophisticated tools to respond to increasingly diverse forms of plagiarism, such as contract cheating or ghost writing, which requires detection and analysis of changes in writing styles.

16.   Most higher education customers in Australia require APS that integrates with their learning management system (**LMS**), which is a platform used to manage course material, assessments and feedback. In Australia, key LMS providers include Moodle, Blackboard, Canvas and D2L.

17.   Turnitin, Ouriginal and Blackboard (with its product SafeAssign) are the main providers of APS to higher education institutions in Australia.

Relevant market

18.   The ACCC's starting point for considering which markets will be affected by the proposed acquisition is to identify the areas of overlap between the products actually or potentially supplied by the merger parties. The ACCC then considers other actual or potential suppliers of those products, as well as other products that constitute sufficiently close substitutes to provide a significant source of constraint on the merged entity.

19.   The area of overlap between Turnitin and Ouriginal is the supply of APS to educational and corporate institutions. However, the ACCC understands that there is only limited use of APS by the corporate sector, and the focus of the ACCC's review is on the education sector.

20.   There are also APS products targeted at students and other writers, to enable them to check that they have appropriately referenced their work before submission. For example, Grammarly provides writing assistance software that incorporates an APS tool. Market feedback indicates that student-facing APS, such as that supplied by Grammarly, is not substitutable at present for the institution-facing APS supplied by the parties, including because it does not integrate with leading LMS. However, the ACCC will consider whether suppliers

of student-facing APS are well placed to begin supplying APS to educational institutions.

21. Despite the close links between APS and other educational software (such as LMS), and the fact that Turnitin also supplies non-APS products, the ACCC's preliminary view is that the product market is limited to the supply of APS to educational institutions because:

- most Australian customers do not acquire APS from their LMS provider (Turnitin and Ouriginal do not supply LMS), and LMS and other types of non-instructional education software (for example, grading and feedback tools) are not substitutable for APS from a customer's perspective, and

- while LMS providers may appear to be well-placed to expand into APS, market feedback indicates that it would likely take significant time and investment for an LMS provider to develop a competitive APS product.

22. The ACCC considers that the market may be further limited to the supply of APS to higher education institutions,[1] due to their specific requirements for APS (in particular, the importance of a cross-institution database of student papers) and suppliers' ability to price discriminate effectively between secondary and higher education customer groups.

23. However, the ACCC will continue to consider:

- similarities and differences between the needs of secondary schools and higher education institutions in relation to APS, and

- whether there are APS suppliers currently only supplying secondary schools who are well placed to begin supplying higher education institutions.

The ACCC invites comments from market participants on the above characterisation of the relevant area of competition. In particular, market participants may wish to comment on the following:

- How easy or difficult would it be for providers of LMS (or other educational software such as grading or feedback tools) to begin supplying APS?

- Would it be viable for educational institutions to use a student-facing APS, such as Grammarly, for academic integrity purposes? Why or why not?

- What changes would a provider such as Grammarly need to make to their software for it to be a viable alternative to Turnitin or Ouriginal?

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1 Higher education customers includes all institutions registered by the Tertiary Education Quality and Standards Agency (TEQSA). There are approximately 180 institutions with active TEQSA registration. The ACCC understands that VET providers and other training organisations (overseen by the Australian Skills Quality Authority, or ASQA) typically do not use APS due to most assessments being practical in nature.

- Do higher education customers and K-12 customers have different requirements for APS? Please explain why and outline the key differences in APS functionality and capability needed to serve each group of customers.

- How important are each of the following features of APS to higher education and secondary education customers, respectively:

  - the ability to search against a cross-institution database of previously submitted student works

  - the ability to search against an extensive range of academic journal articles

  - local customer support based in Australia

  - storage of any databases in Australia as opposed to overseas, and

  - the reputation of the APS provider, including the extent to which it is already being used by other educational institutions.

- How easy or difficult would it be for APS suppliers to expand from supplying the K-12 sector (for example, secondary schools) to supplying higher education customers in Australia?

Issue that may raise concerns: increased prices/decreased service levels for Australian higher education customers

24. Turnitin is the dominant provider of APS to higher education institutions in Australia and Ouriginal, although much smaller, is one of its two main competitors. The ACCC's preliminary view is that the proposed acquisition may substantially lessen competition by removing one of few competitive constraints on Turnitin, which may lead to increased prices and/or decreased service levels in the supply of APS to Australian customers compared to a counterfactual in which Ouriginal remains independent.

25. The ACCC understands that Turnitin, Ouriginal and Blackboard's SafeAssign are the main APS products used by Australian higher education customers. However, Turnitin is the largest by a significant margin.

26. Turnitin obtained a significant first-mover advantage by being the first provider of APS to Australian universities, in the early 2000s. Turnitin supplies the vast majority of universities in Australia and the majority of higher education customers generally. Turnitin has large databases that contain over 1.4 billion student papers, 91 billion current and archived web pages and 82 million scholarly subscription articles.[2]

27. Ouriginal is much smaller than Turnitin in Australia. Currently, Ouriginal has only a small number of university customers in Australia and substantially fewer higher education customers than Turnitin, despite having supplied Australian customers for nearly 10 years (through its predecessor companies). Some

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2   Turnitin, 'The Turnitin Difference: the largest and fastest growing database' available at: https://www.turnitin.com/about/content.

market participants consider Ouriginal's lower price point an advantage over Turnitin, and some consider Ouriginal's products to be more innovative than Turnitin's. Other market participants noted Turnitin has a more comprehensive database and more user friendly interface than Ouriginal. Some market feedback suggests Ouriginal's lack of local Australian support is an issue. The ACCC is still considering the extent to which Ouriginal does, and is likely to, provide a significant competitive constraint on Turnitin absent the proposed acquisition.

28. SafeAssign is an APS product offered by Blackboard that is integrated into Blackboard's LMS product. While a number of Australian higher education customers may use SafeAssign, the ACCC understands that it is not an option for many higher education customers at present as it does not integrate with leading LMS products. Some market participants considered that SafeAssign was not as effective as Turnitin's APS.

Likelihood of entry

29. The ACCC understands there are a number of overseas-based APS providers that have limited or no presence in the supply of APS to higher education institutions in Australia at present, but which may be able to enter or expand into this market. These include Copyleaks, Copy Killer, Strike Plagiarism, Viper and Proctorio. The ACCC is considering how likely these providers are to enter or expand into supplying APS to Australian higher education institutions.

30. In addition, Google and Microsoft have developed APS features as part of other software commonly used by the education sector. Google Originality Reports is a tool included in Google Classroom and Google Assignments (both available through Google Workspace for Education) that compares works against public sources using Google Search and can also search against the school's own repository of previous submissions. Similarity checker is a tool in Microsoft Word that assists with citations using Bing Search.

31. The ACCC is considering how likely it is that Google or Microsoft will expand their APS businesses and begin supplying higher education institutions in competition with Turnitin. They both have the resources to develop new products and existing customer links in the growing education technology sector. However, APS for higher education institutions is a relatively niche product and may not have sufficient links with other markets to make it attractive to Google or Microsoft. Furthermore, the network effects discussed below give rise to significant barriers, even for very large technology companies. The ACCC is not aware of any information that suggests Google or Microsoft have plans to expand their presence in APS.

32. The ACCC's preliminary view is that there are significant barriers to entry or expansion into the relevant market, that all of the potential entrants referred to above would face (to differing degrees). These include the following:

- *Network effects due to private databases*—the size of an APS provider's database, against which submitted works can be checked for plagiarism, increases when customers choose to contribute their students' works. At the same time, for many higher education customers in Australia, an APS product increases in value as its private database of student works grows in size. To the extent that higher education students plagiarise work submitted by students attending different institutions, a larger cross-

institution database is more likely to detect copying or collusion by students.

- *Reputation/customer stickiness*—related to network effects, some institutions may prefer an established or proven APS product due to concerns that use of new or lesser-known products may be seen as a compromise on academic integrity. Further, contracts are typically several years in length and it appears many customers do not go to tender, making it difficult for a new entrant to quickly obtain scale.

- *Economies of scale associated with subscriptions to academic journal databases*—many higher education customers in Australia value APS products that can check for plagiarism against a large database of journal articles. The high fixed costs associated with procuring and managing subscriptions with a large number of publishers may deter entry unless a prospective APS supplier is confident of being able to rapidly capture a sufficient customer base.

- *Switching difficulties for customers*—the ACCC understands that higher education customers are generally reluctant to switch APS providers. While the monetary costs of switching to a new APS provider may not be particularly high, market feedback suggests there may be significant costs associated with training staff and students to use new software. Some customers also raised concerns that they may be unable to download their previous student submissions and transfer them to another APS provider. However, the ACCC understands that typically an institution would be able to access its previous student submissions via its LMS and submit them to their new APS provider.

ACCC's preliminary views

33. In summary, the ACCC is concerned that Turnitin's acquisition of Ouriginal may result in an increased ability for Turnitin to raise prices and reduce service levels, by removing one of its only competitive constraints in Australia.

The ACCC invites comments from market participants on its concerns in relation to Turnitin's ability to raise prices/decease service levels in the supply of APS to Australian higher education customers. In particular, market participants may wish to comment on the following:

- Please list the APS providers you consider are suitable options for Australian higher education institutions, and explain why.

- Which companies not currently supplying APS to Australian higher education institutions are best placed to begin doing so and why? What steps would they need to take to be successful?

- Please provide your views on the significance of, and the difficulty of overcoming, the following barriers to entry and expansion in the relevant market:

  o the need to build cross-institutional databases and the number of institutions' materials that needs to be included

o the importance of product reputation and the transferability of reputation earned in overseas jurisdictions to the Australian market

o access to a comprehensive subscription-based academic journal database and the annual cost of inaugurating and maintaining such a database

o customer switching costs and difficulties, and

o any other potential barriers not listed above (please describe them).

Issue that may raise concerns: Turnitin's reduced incentive to innovate

34. The ACCC is considering whether, by removing a significant global innovative competitor and in the presence of significant barriers to entry, the proposed acquisition may lead to reduced incentives for Turnitin and other APS providers to improve and update their products. Generally, a key way in which software firms compete is through product innovation. As innovation typically requires firms to incur up-front costs for uncertain returns, firms will often have weaker incentives to engage in innovation if they face less actual and potential competition. The ACCC is concerned that removal of Ouriginal as an actual or potential competitor may result in less product innovation globally and therefore lower product quality for Australian customers than would be the case without the acquisition.

35. The incentive for Turnitin to innovate is likely to be driven by a broader range of competitors than those it faces in Australia. The ACCC understands that decisions by APS providers about how much to invest in product innovation, and which aspects to prioritise, are likely to be made at the global level, taking into account the full range of competitors that the provider faces, or may face, across the different countries in which it competes or is likely to compete.

36. The ACCC's preliminary view is that the proposed acquisition has the potential to lead to reduced innovation globally on the basis that:

- Ouriginal may be a particularly innovative competitor, and

- there may be a lack of other competitors globally who are likely to innovate (and thereby incentivise Turnitin to innovate).

37. The ACCC understands that APS providers generally do not develop specific products for different countries, so APS products are largely the same across jurisdictions. If the proposed acquisition were to lead to reduced innovation in APS globally, it would be detrimental to Australian customers because they would miss out on the benefits that the lost innovation could have created.

38. The ACCC will continue to investigate the number and significance of other APS providers globally to better understand the nature and level of innovation they are likely to engage in directly as well as the impetus to innovate they are likely to provide to their competitors.

The ACCC invites comments from market participants on its preliminary concern that the proposed acquisition may reduce Turnitin's incentive to innovate. In particular, market participants may wish to comment on the following:

- The extent to which Ouriginal is a particularly innovative APS provider, and

- Whether there are other actual or potential competitors who are likely to drive innovation in APS.

ACCC's future steps

39. As noted above, the ACCC invites submissions from market participants on each of the issues identified in this Statement of Issues and on any other issue that may be relevant to the ACCC's assessment of this matter. Submissions should be emailed to mergers@accc.gov.au by no later than 27 September 2021.

40. The ACCC will finalise its view on this matter after it considers submissions invited by this Statement of Issues.

41. The ACCC intends to publicly announce its final view by 18 November 2021. However the anticipated timeline may change in line with the *Informal Merger Review Process Guidelines*. A Public Competition Assessment explaining the ACCC's final view may be published following the ACCC's public announcement.