

Simplified notification of a concentration

cf. the Norwegian Competition Act section 18 first paragraph and Regulation on the Notification of Concentrations section 3 first paragraph item 3

Concerning the establishment of a full-function joint venture
between

Aker Capital AS

and

Cognite AS

and

Telenor Norge AS

Oslo, 2 May 2022

Confidential
Contains business secrets

1. The Notifying Parties

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AND

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AND

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The Parties' representative

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2. Description of the transaction

- (1) According to the Investment Agreement (the “**Agreement**”) between Telenor Norge AS (“**Telenor**”) Aker Capital AS (“**Aker Capital**”) and Cognite AS (“**Cognite**”) (together, the “**Parties**”) dated 1 May 2022, the Parties will establish a jointly owned Norwegian limited liability company with the ambition to develop and sell a security platform that provide a digital representation of physical processes and infrastructure to industrial companies, to be named Omny AS (“**Omny**” or the “**JV**”).
- (2) The Parties have complementary experience and product portfolios, as Aker Capital has industrial know-how and its subsidiary Cognite has relevant experience with industrial OT (operational technology) software development and deployment, whereas Telenor has knowledge and know-how regarding IT-security, safety monitoring, risk analysis and incident response.

- (3) The JV will be established by Aker Capital acquiring a newly incorporated off-the-shelf Norwegian limited liability company. Telenor will own 50% of the issued shares in the JV by Aker Capital, while Aker and Cognite will own 50% combined. [REDACTED]

[REDACTED] The establishment of the joint ownership in the JV as described above is hereinafter referred to as the “Transaction”. The Transaction’s completion is subject to obtaining the relevant consents and clearances from the relevant merger control authorities.

2.1 The Transaction’s rationale

- (4) The Parties have identified a market opportunity to jointly create a value proposition that provides industrial companies with a security platform [REDACTED] bridging the safety- and security gap between IT and OT. The JV is established for the purpose of developing, selling and deploying OT security software and services. The JV will be a greenfield establishment that will develop and commercialise its own technology and services, based on the development by [REDACTED] Cognite [REDACTED]. A more detailed description of Cognite is included below.

- (5) The goal of the Parties is to develop the JV to become a global industrial OT security software company that offers [REDACTED]

3. The JV will constitute a full-function joint venture

- (6) The Parties submit that the JV will be a full-function joint venture performing on a lasting basis all the functions of an autonomous economic entity, which will, following the development of its target products, offer said products independently on the relevant market.
- (7) The JV will have the requisite setup and organization required to operate as an independent economic entity, including a management dedicated to the operation of the company and a sufficient number of employees. [REDACTED]

- (8) The JV will operate as an independent market player within the scope of the business purpose of the JV, i.e. as a developer and deployer of OT security software and services. [REDACTED]

[REDACTED]

The JV will develop a new technology platform alongside a few, large and motivated customers in Norway, [REDACTED] before a global initiative. The business plan [REDACTED]

(9) The Parties have complementary experience and product portfolios, as Cognite will provide the relevant experience with OT software and development. In addition, Omny's software will be based on Cognite's Industrial DataOps platform, Cognite Data Fusion ("CDF") [REDACTED].² Aker has wide experience from developing industrial companies and Telenor has knowledge and know-how regarding IT security, safety monitoring, risk analysis, incident response and will in addition contribute with the administrative resources. The employees will contribute to the planning and development of the JV's product.

(10) The JV shall [REDACTED]

(11) In addition to the equity, the Parties will contribute the following assets to the JV:

- Cognite will contribute in kind, the IPR for the OT-security software developed so far. In return, Cognite will receive shares [REDACTED]

(12) The net value of the contributions made by the Parties, is therefore [REDACTED]

(13) On the basis of the above, the Parties submit that the JV will have sufficient management, staff, finances and assets so as to operate independently on the market for the JV's products in the long term.

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]

- (14) Accordingly, the Transaction constitutes an establishment of a full-function joint venture in accordance with Section 17 of the Norwegian Competition Act.
- (15) Implementation of the Transaction will be conditional upon the consent of the Norwegian Competition Authority and the Danish Consumer and Competition Authority.

4. Applicability of a simplified notification

- (16) The Parties are not active in the same markets in Norway, and consequently there are no horizontal overlap between them. Further, the Parties do not have horizontal overlap with the activities of the contemplated JV, as the JV will be a greenfield establishment that will develop and commercialise its own technology and services.
- (17) As Telenor provides telecommunication services, Telenor will have a potential vertical relationship with any kind of businesses, including the JV. Although Telenor has market shares exceeding 30% for certain telecommunication services in Norway, this will not bring the Transaction outside the criteria for a simplified notification, as telecommunication services will not constitute an important⁴ input to the products and services to be provided by the JV.⁵
- (18) Further, there is a vertical overlap between Aker's subsidiary Cognite and the JV. Given that the JV is a greenfield establishment and Cognite has a market share well below 30% in the market for Industrial DataOps technology, the simplified procedure is applicable. This will be further explained and assessed below in 7.
- (19) Based on the above, the Transaction qualifies for a simplified notification in accordance with the Regulation on the Notification of Concentrations section 3 first paragraph, item 3, litra a and c.

5. The involved Parties' structure and area of business

5.1 Telenor Norge AS and Telenor ASA

- (20) Telenor Norge is a Norwegian telecommunications operator, wholly owned by Telenor ASA. Its service portfolio includes fixed and mobile telephony, broadband and data communication services for residential and business customers, as well as a broad range of wholesale

⁴ Cf. the definition of a vertical relationship in footnote 10 of the Commissions Notice on a simplified procedure for treatment of certain concentrations under Council Regulation (EC) no 139/2004. There is only a vertical relationship when the service in question is an important input: "A vertical relationship normally presupposes that the product or service of the undertaking active in the upstream market in question constitutes an important input to the product or service of the undertaking active in the downstream market: see the Commission's Guidelines on the assessment of non-horizontal mergers under the Council Regulation on the control of concentrations between undertakings (OJ C 265, 18.10.2008, p. 6), paragraph 34."

⁵ There are potential verticals between the JV and companies that belongs to the same group as Aker Capital as potential future customers of the JV. The potential sales from the JV to these companies will however not constitute an important input to these companies' provision of products and services, and as a consequence there will not be any vertical relationships of relevance for the applicability of the simplified procedure.

services. Telenor Norge also offers a range of cyber security products to residential and business customers.

- (21) Telenor ASA (“**Telenor**”) is a telecommunications operator, based in Norway. Telenor is listed on the Oslo Stock Exchange and is controlled by the Norwegian State. Telenor provides mobile and fixed telecommunications services and TV distribution services in Norway, Sweden, Denmark, and Finland. Outside the EEA, Telenor provides mobile telecommunications services in Asia.
- (22) Telenor Group has approximately 188 million customers and employs approximately 16,000 people globally. In 2021, Telenor generated worldwide revenue of approx. [REDACTED].
- (23) For an overview of Telenor’s subsidiaries, please see the Annual Report 2021 p. 164 - 166.⁶ For more information about Telenor, see www.telenor.com

5.2 Aker Capital and Aker ASA

- (24) Aker Capital is Aker ASAs (“**Aker**”) wholly owned investment company. Aker has ownership interests mainly in oil and gas, renewable energy and green technology, maritime assets, marine biotechnology and industrial software.
- (25) Aker is ultimately controlled by The Resource Group TRG AS (“**TRG**”) where Mr. Kjell Inge Røkke owns 96.495% of the shares. In 2021, companies controlled by Aker had a global sales revenue of ca. [REDACTED].⁷
- (26) A brief description of key Aker-controlled group companies in business areas of relevance to the Transaction follows below. For a more comprehensive overview, with brief presentation of Aker’s subsidiaries and investments, please advise Aker’s Annual Report 2021.⁸ Further information on the Aker Group is available at www.akerasa.com.

5.2.1 Cognite

- (27) Cognite is an industrial software company owned 50.46% by Aker through Aker Capital. Cognite had a global turnover of NOK 639 million in 2021.
- (28) Cognite enables companies in heavy-asset industries to improve their operations by delivering software and solutions through data collection and sharing. The company’s main product, CDF, collects, processes and facilitates big data continuously for its industry customers. The system collects data from machinery, sensors and facilities, and interpret

⁶ Telenor’s Annual Report 2021 is available here: <https://www.telenor.com/binaries/investors/reports-and-information/annual/annual-report-2021/Telenor%20Annual%20Report%202021.pdf>

⁷ The turnover includes Aker Solutions, which Aker ASA controls, even with control of 39,41% of the shares, on *de facto* grounds, due to attendance on the General Meeting.

⁸ Available here: <https://akerasa.ams3.cdn.digitaloceanspaces.com/annual-reports/Aker-ASA-Annual-report-2021.pdf>, especially page 16-24. Since the publication of the annual report, Aker ASA have acquired shares in Aker Solutions, resulting in a holding of 39,41%. Mitsui & Co has acquired 27.5% of the shares in Aker Mainstream Renewable AS and Aker Horizons has sold Rainpower to Aker Solutions.

and systemise it, making the data available for use. The data can be used to supervise, increase efficiency or manage different processes.

(29) Further information about Cognite is available at www.cognite.com.

5.2.2 Aize Holding AS

(30) Aize Holding AS (“Aize”) is an industrial software developer established in 2020, owned 73% by Aker Capital. Aize develops software with an ambition to accelerate the industrial sector’s digital transition by offering a digital interface that integrates and visualises the customer’s data in a digital twin of major installations. Aize’s products are built on top of CDF, but the product itself differ from the product of the JV and of Cognite. Aize had a turnover of MNOK 352 in 2021.

5.3 The Joint Venture

(31) As explained above the JV will have as its purpose the development and deployment of OT security software systems and solutions, and sale of such systems to large and medium sized customers globally. OT security software is software that prevents cyber-attacks and ensures operational activities and critical infrastructure e.g., oil- and gas production, power supply and hospitals.

(32) The JV will develop a software that ensures [REDACTED] surveillance of potential threat of attacks. This ensures that the customer can focus on what is important to them, while preventing cyber-attacks, downtime and stop in production. The OT security software will be fully developed and owned by the JV. The software will be built on top of CDF, an Industrial DataOps platform owned and developed by Cognite. [REDACTED]

(33) The market for OT security software is relatively new, but some large companies and corporations are already established in the market, including Armis, Claroty, Cisco (Sentryo), Darktrace, Dragos, Honeywell, and Microsoft (acquired CyberX in 2019).

6. Turnover

		Turnover in Norway 2021 (MNOK)
Aker ASA		[REDACTED]
Telenor ASA		[REDACTED]

7. No markets are affected by the Transaction

7.1 No horizontal overlap

(34) None of the Parties are active in the market for OT software security prior to the establishment of the JV, and no horizontal markets are affected by the transaction. Although the Parties do hold vertical relations with the JV, the products and services of the JV does not constitute an important input to the product or service of the undertaking active in the

downstream market or their markets shares in the upstream or downstream markets are below 30%. Consequently, there are no markets affected by the concentration.

7.2 The Parties' vertical links

(35) The Notifying Party have identified vertical relations along the following dimensions:

7.2.1 Cognite as a supplier of Industrial DataOps platform

(36) Aker Capital, through its subsidiary Cognite, is a developer and supplier of the Industrial DataOps platform Cognite Data Fusion ("CDF").

(37) Industrial DataOps is about optimizing the availability and usability of industrial data, generated in heavy asset industries including oil and gas, power and utilities, manufacturing and shipping.

(38) The JV's OT security software will be developed and built with the CDF platform as its foundation, [REDACTED]
Therefore, there is a vertical link between Cognite and the JV.

(39) The Parties submit that the narrowest possible relevant product market is the market for consultation, development, deployment, service and support of Industrial DataOps. The solutions are built with and for the customer on a case-by-case basis, tailored to the customers architecture requirements. As providers in the market for Industrial DataOps may develop solution to any customer based on the customer's needs and requirement or may do so in a short amount of time without substantial investments, the Parties submit that no further segmentation by customer type is necessary.

(40) The Parties further submits that the relevant geographic market is at least EEA-wide, but most likely global. The inherent nature of the services provided makes it possible to offer the services to any customer anywhere in the world. Cognite's geographical presence is an indication of this, as they have revenue in all parts of the world, from Europe to the USA, Africa and Asia. From a demand point of view, it is not necessary to be in geographical proximity to the supplier of Industrial DataOps.

(41) The Parties nevertheless submits that the exact market definition can be left open, as the Transaction does not raise serious doubts as to its compatibility with the Norwegian Competition Act.

(42) It is challenging to establish with any kind of certainty the exact size of the market, but the players in the market are large global companies, such as AVEVA, ElementAnalytics, C3.ai, HighByte, MachineMetrics, Palantir, PTC ThingWorx, SparkCognition, Symphony Industrial AI and Uptake. The market for Industrial DataOps is estimated to have an annual turnover of several billion dollars, and Cognite's estimated marked share is well below 30%.

7.2.2 Telenor as a potential provider of telecommunications services to the JV

(43) As mentioned in 4, Telenor is a potential supplier to the JV, as Telenor may offer mobile and internet services to the JV. However, the Parties submit that the upstream

telecommunication services in question do not constitute an important input to the product or service of the undertakings active in the same market as the JV.

- 7.2.3 Desaisive as a potential provider of OT security software systems to companies in the same group as Aker Capital
- (44) As mentioned above, several of the companies controlled by Aker are potential customers of the JV. This applies especially to Aker BioMarine, Aker Solutions and Aker Horizons subsidiaries Aker Offshore Wind, Aker Carbon Capture, Aker Clean Hydrogen and Mainstream Rainpower. This will however not establish any vertical relationship between the JV and the relevant Aker companies, as the services offered by the JV will not constitute an important input to the products or services offered by any of the relevant Aker companies.

8. Annual reports

- (45) The 2021 annual reports of Telenor and Aker ASA is publicly available on the URLs in footnote 6 and 8.

9. Other

- (46) The Transaction will be notified to the competition authorities in Denmark in addition to Norway.

10. Confidentiality

- (47) The notification contains business secrets. Text containing business secrets are highlighted in **green colour**.
- (48) An explanation for confidentiality is set out in Appendix 1, and a proposal for confidential version of this notification is set out in Appendix 2.

Yours sincerely,
for Advokatfirmaet BAHR AS



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