

Regulatory Policy Institute Annual Conference

Session 3: 2pm Tuesday 12 July

MOCK MERGER HEARING

STATEMENT OF FACTS

1. Scenario

The year is 2007 and the UK media and communications landscape has developed considerably. Most television viewers now receive digital services, by satellite, cable or terrestrial platforms. Digital radio penetration has risen rapidly. The date for switchover from analogue to digital, releasing large amounts of spectrum for more efficient broadcasting or communications use, is definitively fixed for both television and radio within five years. Broadband internet penetration, delivering both information and entertainment services to the home, has continued to grow and with it online shopping. Mobile devices able to deliver an increasing array of audiovisual services are rapidly replacing 2G mobile phones. The press, both national and local, has responded by investing in online content and advertising, but physical circulation has fallen significantly.

2. Mergers under Investigation

Global Inc has put its UK press and television interests (British Media) up for sale. Competing offers have been received from Press Holdings and Cable World. Global Inc has accepted Press Holding's offer, but Cable World remains interested in buying British Media. Both proposed mergers have been referred to the Notional Competition Authority ("NCA"). The Secretary of State has decided not to intervene in relation to either merger on the basis of the media public interest considerations set out in the Communications Act 2003, with the result that the NCA have only to consider whether each merger may be expected to result in a substantial lessening of competition within any market or markets in the UK.

3. The Parties

British Media comprises a national daily newspaper (The Clarion), a free TV broadcaster with a valuable archive (Mercia TV), local newspapers in Birmingham (The Courier Group) and an internet service provider (Web Demon).

Press Holdings owns a national daily newspaper (The Sentinel), a pay-TV channel provider (Leisure TV) and local radio stations overlapping with British Media's local papers (West Midlands Radio, WMR).

Cable World includes a cable platform operator (CableCo), a pay-TV channel provider (with long term contracts for premium content) (Sports TV), a mobile phone operator (Ozone) and local newspapers overlapping with British media's local papers (Black Country Press, BCP).

Any other interests of Global Inc, Press Holdings and Cable World can be disregarded. Global Inc is highly geared. It is in breach of its borrowing covenants and, under pressure from its lenders, must sell British Media in order to remain solvent. Although Global Inc's desire to sell British Media is widely known in the market, no-one else has offered to buy it.

The Relevant Markets

National Newspapers

Eight national daily newspapers are still published in the UK, by five different publishers. The Clarion is a relatively successful up-market title, which has maintained its circulation against a trend of falling circulation in the market as a whole and now has 10% of total national daily circulation. The Sentinel, published by Press Holdings, which is also an up-market title and often regarded as a close substitute for the Clarion, has suffered badly in recent years and now has only 5% of national circulation. The other three publishers all have titles representing at least 20% of the market, but their titles have traditionally been regarded as mid-market or popular newspapers. Both the Clarion and the Sentinel have well-developed web-sites, as do their competitors. However, due to its stronger financial position, the Clarion has been able to invest heavily in its web-site, from which it now derives significant subscription and advertising revenue. The Sentinel, on the other hand, remains almost wholly dependent on circulation revenue.

Television Broadcasting

Mercia TV is a heritage terrestrial free TV broadcaster which, over many years, has accumulated a valuable archive of popular programmes which it has produced for the network. Neither Press Holdings nor Cable World has any interests in free TV in the UK. Press Holdings' Leisure TV produces several thematic channels on travel and other leisure pursuits, which form part of the basic package on both satellite and cable pay-TV platforms. Cable World's Sports TV has become the leading premium sports broadcaster, supplying several premium sports channels to satellite and cable operators and owning key rights, such as Premier League Football and Cricket Test matches for the next three years. Television advertising spend is now split 60:40 between free TV and pay TV. Mercia commands 50% of total TV advertising spend, Press Holdings 2% and Cable World 15%.

Local Media

The Courier Group (British Media) is the leading local newspaper publisher in the Birmingham area, with a daily title paid for title and several weekly titles, all of which are now free and a share of circulation of 75%. All advertising in the newspapers is sold bundled with the Courier Group's web-site and market research suggests that advertisers attribute at least 50% of the value of the package to the internet. WMR (Press Holdings) is the leading local radio broadcaster in the Birmingham area. However, the growth of digital broadcasting has led to several new players entering the market locally and WMR's audience share, which was 70% two years ago, is now only 50%. The overlap between Courier Group and the newspapers of BCP (Cable World) is confined to Walsall, where no other local newspapers circulate. Several other publishers have titles circulating in adjoining areas and several local non-newspaper publications, produced by other publishers, are distributed there. The services of seven different local commercial radio broadcasters are received in Walsall.

Broadband Internet Services

This remains a competitive market. Web Demon (British Media) is one of many suppliers and purchases content from, among others, The Clarion and Mercia TV (both British media) and Sports TV (Cable World), with whom it has an exclusive deal.

Mobile Telephony

Four operators remain in the market and Ozone (Cable World) has a 30% market share. Sports TV (Cable World) and Ozone have negotiated jointly with sports rights owners and now Ozone has long term exclusive 3G rights to those major sports events for which Sports TV holds exclusive pay TV rights.