NON-CONFIDENTIAL VERSION

PRESS HOLDINGS/BRITISH MEDIA

MERGER INQUIRY

SUBMISSION TO THE

NOTIONAL COMPETITION AUTHORITY

7 JULY 2005

BM LLP

ANONYMOUS SUBMISSION TO THE NOTIONAL COMPETITION AUTHORITY

IN THE PRESS HOLDINGS / BRITISH MEDIA MERGER INQUIRY

1. INTRODUCTION

1.1 This submission is made by [ ] to the Notional Competition Authority (the "NCA") in relation to the NCA's merger inquiry into Press Holdings proposed acquisition of British Media. In summary, the proposed merger will give rise to a substantial lessening of competition ("SLC") and should be prohibited for the following reasons:

(a) The proposed merger will give rise to unilateral effects (single firm market power) in the supply of upmarket national newspapers in the UK. Press Holdings (*The Clarion*) and British Media (*The Sentinel*) supply the only two upmarket national newspapers in the UK. Upmarket newspapers are in a distinct market from other papers due to price, editorial quality and readership demographics. Further, barriers to entry are high: it would be difficult for a third party to reposition a lower quality newspaper into this market segment. Therefore, potential competition is not an effective competitive constraint.

(b) Even if the NCA considers the market to be all national newspapers in the UK, or at least including mid quality publications, there will be a SLC:

- the merger will reduce the number of competitors from 5 to 4. In the absence of the merger, *The Sentinel* would have to compete aggressively against *The Clarion* and others in order to regain market share. Post merger, there will either be co-ordinated effects (an anti-competitive oligopoly/collective dominance) or the only 'maverick' (*The Sentinel*) will have reduced incentives to compete aggressively.

- if the market is narrower, e.g. just upmarket and mid-market titles (as opposed to tabloids) the concerns are increased with the (smaller) number of competitors being reduced by one.

(c) The proposed merger will also give rise to a SLC in the market for local advertising in the Birmingham area. West Midlands Radio (Press Holdings) is the major local radio broadcaster in the Birmingham area, with an audience share of 50% and a strong internet division. The Courier Group (British Media) is the dominant local newspaper publisher in Birmingham, with a share of circulation of 75%. Local radio and local newspapers are alternate methods of advertising locally. Allowing the main players in each channel to be under the control of the same entity is likely to lead to a rise in local advertising prices.

1.2 There are no remedies which would address these concerns. As such, the proposed merger should be prohibited.

2. REQUEST FOR CONFIDENTIALITY

2.1 [ ] requests that this submission remain anonymous. In particular, [ ] requests that any use made by the NCA of the information contained within this submission does not readily identify [ ]. [ ] makes this request on the basis of the commercially sensitive nature of the information within this submission and because of its position as a customer of the merging parties. [ ] is concerned that removal of its anonymity could harm its legitimate business interests and its business relationships with the merging parties, whether now or in the future.

3. RELEVANT MARKETS

The market for upmarket national daily newspapers

3.1 The merging parties overlap in the supply of national newspapers, in particular upmarket national newspapers ("upmarket papers") in the UK.

3.2 National daily newspapers are distinct from both local newspapers and weekly newspapers, as well as other forms of media in terms of news coverage.

3.3 Customers acquire national newspapers for their coverage and editorial comment. Prices, content and the nature of the readership reflect this. In particular:

(a) **Price -** The average newsstand price of the upmarket papers is Monday to Friday: 57.5p and Saturday: £1.05, whilst the average newsstand price of the popular dailies is Monday to Friday: 35p and Saturday: 50p.[1] Therefore, there is a significant difference in price between the Press Holdings and British Media national newspapers on the one hand, and the daily newspapers of the other three publishers on the other. Furthermore, there is no price correlation over time.

(b) **Content -** The content of upmarket papers both in terms of news and advertising is considerably different to that of the popular newspapers.[2] In particular, upmarket papers provide specialist coverage of news, events and information through supplements, as well as far more detailed international coverage in comparison to popular national dailies whose coverage is more main-stream and UK-centric. Customers of upmarket papers (the former broadsheets) are unlikely to switch to the tabloids (the "popular" national papers) and vice versa due to the nature of the publication

(c) **Readership by Demographic -** The average daily readership of the upmarket papers is 1,383,500 whilst for the 'popular' national dailies the average is 5,378,000.[3] Of these, readership of upmarket papers is generally in the ABC demographic while readers of other newspapers are primarily in the XYZ demographic.

The market for advertising in national daily newspapers and online newspaper advertising

3.4 The merging parties also overlap in the market for national (upmarket) newspaper advertising. Advertisers generally regard different forms of media as distinct, given they reach different audiences. As such, they regard national papers as a distinct channel.

3.5 The prices of advertising in the different media (national TV, papers and radio) reflect this.

The market for local advertising

3.6 The merging parties also overlap in local advertising in Birmingham. Advertising in the Birmingham area is sold by British Media through the Courier Group local newspaper, and by Press Holdings through West Midlands Radio.

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1 Source: ABC

2 NCA Report on the proposed newspaper merger between Independent News PLC and Holy Trinity plc: Appendix 4.2, paragraph 2

3 Source: NRS

3.7 While advertisers generally regard different media as distinct when viewed on a national basis, the position is different for local media. Consumers are exposed to local radio and local newspapers on a continuing basis. There is significant overlap in terms of audience/readership. Hence, businesses wishing to reach this customer base through advertising make no distinction in terms of media. Larger advertising agencies are generally not utilised by local businesses.

3.8 As such, local radio and local papers are much closer substitutes than national radio and newspapers and may be regarded as part of the same market.

4. SLC IN THE NEWSPAPER SECTOR

SLC in the market for upmarket national newspapers

4.1 The proposed merger will give rise to a SLC, indeed a monopoly, in upmarket newspapers. There are no other publishers operating in the upmarket national daily newspapers market.

4.2 While there are six other national daily newspapers published in the UK, by three different publishers, the remaining three publishers operate within the market for popular or mid-market newspapers. For the reasons set out above, there are not substitutable for upmarket publications.

4.3 It is universally accepted by customers and competitors alike that Press Holdings and British Media publications are each other's closest competitors. No alternative supplier can provide the necessary degree of sophistication and content. Even if they were able to attract the journalists, they would still not have the entrenched reputation and public perception of supplying such a product. Given the long-history of *The Clarion* and *The Sentinel*, it would be extremely difficult for any third party to move into this segment and act as a competitive constraint. As such, barriers to entry are high.

4.4 The publishers that are best placed to break into that market are those that presently supply popular national dailies. However even these, entry is not a viable option:

(a) *They lack a significant specialist workforce* - the range of specialist topics covered, and international coverage would entail considerable more investment in labour in terms of researchers, journalists and support staff;

(b) *They lack the worldwide support infrastructure* - specialist know-how and contacts across the world with local correspondents on all continents is needed to be credible. This takes time to establish.

(c) *No reputation as an upmarket publication* - This an almost insurmountable barrier. While good reputations can be easily lost, they are very difficult to obtain. Despite the fact that the press has, arguably, lost much of its quality in general terms in recent years, with the "dumbing down" of media in general and even the upmarket papers taking an interest in such puerile matters like "Big Sister", there is still a clear distinction in reputation.

SLC even if the market is for <u>all</u> national newspapers

4.5 Even on a wider market definition, namely all national daily newspapers (to include both up-market and 'popular' titles) the proposed merger would result in a SLC. The merger would reduce the number of publishers operating in the market from 5 to 4. This would result in the creation of an anti-competitive oligopoly i.e. coordinated effects or, alternatively, eliminate the 'maverick' player likely to drive competition in the future i.e. non-coordinated effects.

4.6 The reduction in the number of competitors from 5 to 4 will result in coordinated effects (also referred to as collective dominance). Each player will have similar market shares (15-20%). It is also likely that the costs of production will be similar. While there is some product differentiation, if the NCA has decided that there is a wider market, this will not be significant. Moreover barriers to entry are high - it is rare to launch a national daily newspaper. Although publisher's of local or regional newspapers would be best placed to break into the national market, the barriers to entry would be too high to make it a viable option, including:

(a) The presence of well-established players and the high level of costs which would need to be incurred;

(b) The lack of a sufficient national workforce - in both popular and national dailies, the range of topics covered, including international, national and business news (and regional editions - Scottish or Northern Ireland for instance - or temporal editions - such as morning and evening editions), would entail considerable investment in terms of researchers, journalists and support staff;

(c) Infrastructure and technology - the size of the printing operations both in publication and circulation terms is significantly greater than for regional and local newspapers, and publishers who are not active in the national market would not have, and would therefore have to invest in, the necessary technology and equipment for publications with such large operations;

(d) Advertising and industry contacts - national dailies attract more sophisticated, more successful and higher profile advertisers than regional or local newspapers. As a significant proportion of revenue is through advertising, any potential entrant will have to invest significantly in marketing (and will have to prove the success of the publication) before they can generate advertising revenue which matches that of the five major publishers. In the intervening, period a new entrant would need significant capital to sustain losses, whilst advertising revenue is gained; and

(e) Distribution network - regional and local publishers would not have the contacts and specialist know-how to distribute the publication nationally, and it may take considerable time and investment to establish a successful distribution network.

4.7 As such, the market conditions suggest that there will be collective dominance as a result of the merger.

4.8 Even if there are no coordinated effects, there will be a SLC as a result of the merger. *The Sentinel* is likely to drive competition in the future as it seeks to regain market share. *The Clarion* has maintained its levels of circulation, being 10% of total national daily circulation, against a trend of falling circulation in the market as a whole. Conversely, *The Sentinel,* published by Press Holdings, has seen a decline in its national circulation to 5% of market share. It is likely that *The Clarion* has benefited from *The Sentinel*'s decline, and absorbed some of *The Sentinel*'s falling readership. Currently, *The Sentinel* is motivated to turn this position around, possibly at the expense of *The Clarion*. The proposed merger will eliminate or reduce Sentinel's incentives in this regard, giving rise to adverse unilateral effects (and falling in the 'mind the gap' category referred to by John Vickers).

No matter what market definition is adopted, the proposed merger will be adverse to consumer interests

4.9 In addition to the likely price rises, the strong incentive to compete aggressively on quality, content and promotions that currently exist are likely to be removed or reduced. The merged entity will be well aware that it can afford to slow down quality development, supplements, and promotional programmes in the knowledge that no other national newspaper publisher is in the near future able to compete with the merged entity on quality. For example, the merged entity may choose to reduce spending on its supplements (including, collectively, travel, finance, sport, business, science, health & well-being, jobs, arts and education) in order to reduce costs, which would in turn affect the quality, content and value of upmarket dailies. This is detrimental to competition and consumers.

5. SLC IN THE NATIONAL DAILY NEWSPAPERS ADVERTISING MARKET

5.1 All of the concerns arising in relation to the merger of the newspapers are reflected in the market for advertising in national newspapers. This is a market distinct from advertising other media. The concerns raised in relation to the newspaper sector, namely single firm dominance, 'collective dominance' or SLC by eliminating the maverick, are also the concerns that arise in relation to advertising in national newspapers.

6. ADVERSE IMPACT ON THE LOCAL ADVERTISING MARKET IN BIRMINGHAM

6.1 The proposed merger will also give rise to a SLC in the market for local advertising in the Birmingham area. West Midlands Radio (Press Holdings) is the major local radio broadcaster in the Birmingham area, with an audience share that remains at 50%, despite the development of new digital channels.

6.2 The Courier Group (British Media) is the dominant local newspaper publisher in Birmingham, with a share of circulation of 75%.

6.3 Given local radio and local newspapers are alternate methods of advertising locally, allowing the main players in each channel to be under the control of the same entity is likely to lead to a rise in local advertising prices. This will be detrimental to local businesses without countervailing buyer power.

7. CONCLUSION

7.1 As a customer, [ ] holds strong concerns about the competitive impact of the merger between Press Holdings and British Media. There are no remedies that can address the concerns raised. The development of broadband internet, 3G mobile and the like does not alter the position, despite there being a reduction in circulation in the newspapers. As such the merger should be prohibited.

7 July 2005