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To: Competition Commission – Cineworld/City Screen Merger Inquiry

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### FDA Response to Provisional Findings

Film Distributors' Association, the trade body for theatrical film distributors in the UK, attended a session before the Merger Inquiry panel on 24 May 2013.

From the published Provisional Findings we note that the Commission's focus has been on retail ticket prices, especially in the identified areas (Aberdeen, Bury St. Edmunds, Cambridge) where Cineworld and Picturehouse sites face limited competition. We would like to reiterate our view that there are *other* areas of market activity that may be affected by this merger and would urge the Commission to probe them further. (In any case, for the substantial numbers of customers possessing a Cineworld Unlimited card, the ticket prices as advertised may *not* in any event be of primary importance).

**FDA has concerns about the access to market for film distributors and, consequently, the diversity of choice available to consumers.** The Cineworld/City Screen merger has the potential to impact adversely on both, which may particularly disadvantage the distributors of British, 'specialised' and cultural films. The Government's lead agency for film, the British Film Institute, is tasked with investing public funds to increase audiences for exactly these kinds of film.

Cinema ticket prices tend to vary more by the selected experience (such as IMAX, 3D or 2D, premier or standard seating) than by location. We struggle to recognise the Commission's assertion that 'much of the competitive process takes place at local level'. Operational matters tend to be decided *centrally* as the number of people employed in cinemas, now practically all digitised, has fallen dramatically since the 35mm era. In today's world, screenings and systems are often remotely controlled, rather than being managed by technicians on site.

The reality of the largest (by market share) multiplex circuit acquiring the largest independent circuit is, of course, to build a greater concentration of screens under one corporate ownership. By adding to the heavy concentration of screens controlled by the 'big three' UK circuits (Cineworld, Odeon Vue), this may reduce the access to market for distributors of 'niche' titles. What commitments has the Commission secured that this will not be the case?

We have a further concern about programming services. We are unsure precisely what the Commission means when it describes the Picturehouse programming service as '*advisory*'. In practice, such business services are *commercial*: they select and schedule films, often many months in advance of release, and negotiate contractual terms with a small individual distributor on behalf of an independent exhibitor(s). Distributors are *completely* reliant upon the film booker's

decision regarding each individual title: in order to achieve a viable, competitive release, specialised films in particular need access to screens in appropriate catchment areas around the UK. Films that are not booked at this 'gateway' stage will not appear on client cinema screens and have no opportunity to play to public audiences. We believe there is the potential for this merger to lessen the diversity of films actually booked for local cinema exhibition, so **we ask the Commission to consider strongly whether Picturehouse, under Cineworld ownership, should divest itself of programming services for other cinema operators.** This would be our preference.

Thank you for your further consideration.

Yours sincerely,

*Mark Batey*

Mark Batey  
Chief Executive