

Anticipated merger between The Digital Property Group Limited and Zoopla Limited

**ME/5233/11**

The OFT's decision on reference under section 33(1) given on 16 April 2012. Full text of decision published 26 April 2012.

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**Please note that the square brackets indicate figures or text which have been deleted or replaced in ranges at the request of the parties or third parties for reasons of commercial confidentiality.**

**PARTIES**

1. **The Digital Property Group** (DPG) is a wholly owned subsidiary of A&N Media, which is in turn wholly owned by the Daily Mail & General Trust plc (DMGT). DPG wholly owns and operates the property advertising websites findaproperty.com, primelocation.com and findanewhome.com.<sup>1</sup> DPG's turnover in 2010 was £[ ].
2. **Zoopla** was founded in 2007, and its main property advertising website, zoopla.co.uk was launched in January 2008. Zoopla has grown its business organically and through a number of acquisitions.<sup>2</sup> Zoopla also powers the property search features of a number of third party websites, including MSN, Yahoo, Homes 24, News International and AOL. It is a privately owned company, whose major shareholders are private equity investors and management. Its largest shareholders are Atlas Venture and Octopus Ventures and [ ]. Zoopla's UK turnover in 2010 was £[ ].

<sup>1</sup> A&N Media also jointly owns the property advertising website Globrix.com, but this site is not included in the transaction. DMGT also owns mouseprice.com, a website which provides property pricing information; this is not included in the transaction either.

<sup>2</sup> In 2009, Zoopla acquired the PropertyFinder Group from News International (including propertyfinder.com, hotproperty.co.uk and UK Property Shop websites). It also acquired thinkproperty.com from Guardian Media Group in the same year. In January 2011, it acquired houseprices.co.uk. All of these websites have been migrated to a single property platform after their acquisition. Each of the sites is now directed to the zoopla.co.uk domain.

## **TRANSACTION**

3. The parties have stated that while the transaction will formally be undertaken through the acquisition of DPG by Zoopla, in substance it represents the merger of the businesses of Zoopla and DPG. Following completion the merged entity will be owned 55 per cent by A&N Media and 45 per cent by Zoopla's existing shareholders. Consequently following the transaction A&N Media will have legal control of the merged entity.

## **JURISDICTION**

4. As a result of this transaction Zoopla and DPG will cease to be distinct for the purposes of Section 23(1) of the Enterprise Act 2002 (the Act). The parties overlap in the provision of property portal websites in the UK, where they have a share of supply of over 25 per cent, based on share of on-line property advertising revenues and website visits (see table 1 at paragraph 30).<sup>3</sup> The share of supply test in section 23(2) of the Act is therefore met. The OFT therefore believes that it is or may be the case that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.

## **RATIONALE**

5. The parties submitted that the rationale for the transaction was to enable the parties to compete more effectively with Rightmove, the leading property portal. The parties submitted that they are finding it increasingly difficult to compete effectively and profitably in a market dominated by Rightmove and see the transaction as the only means of achieving sufficient scale to compete with Rightmove. This argument is explored further in paragraphs 46-58.

<sup>3</sup> In addition, the OFT considers that the share of supply test is likely to be met on the basis of either national property portal advertising revenues or on a narrower basis on-line property advertising revenues in London where DPG has a stronger presence than the UK as a whole.

## **MARKET DEFINITION**

6. The purpose of market definition is to provide a framework for the OFT's analysis of the competitive effects of the merger. The OFT's approach is to consider whether narrow candidate product frames can be widened through substitution on the demand-side in each of the product categories in the first instance, and then, if appropriate, to consider if substitution on the supply-side allows the frame to be widened or aggregated.
7. The parties overlap in the provision of online property advertising through property portals. These are used by house hunters on the one side to search for property to buy or rent, as well as being used by estate agents on the other side to advertise the properties on their books.
8. Property portals are therefore a two-sided platform with two principal customer groups – estate agents and prospective home buyers or renters. These customer groups are interdependent, with the portal acting as an intermediary. Property portals are therefore said to be subject to 'network effects', with the value of a portal to customers on one side of the platform increasing with the number of customers on the other side. A key impact of network effects for this case, discussed further below, is that a larger portal (in terms of number of customers on both sides of the platform) will generally be seen as more valuable to both estate agents and house-hunters than a smaller one.

## **PRODUCT SCOPE**

9. The parties submitted that property portals or property aggregators are internet sites that aggregate property listings from multiple estate agents and/or letting agents. Such sites allow viewers to search the aggregated inventory of property listings by using particular criteria such as location, price or number of bedrooms.
10. As is common in the industry, both parties operate a monthly fee pricing structure for estate agent customers, which can vary based on factors such as number of properties, property value, location, and whether the listings are sales or lettings. In addition, Zoopla also operates a pay-per-lead model, although the majority of its customers choose to pay a monthly fee. Both parties also offer additional services on top of the core-listings, such

as 'premium listings' which increase the visibility of an agents' brand and/or individual property listings.<sup>4</sup>

11. As well as property portals, estate agents use a range of other online and print advertising in seeking to sell/rent properties on their books. In deciding what advertising mix to use, estate agents have to consider how much exposure will be generated to both encourage property vendors or landlords to use them as an agent, as well as help to sell or rent the current properties on their books.

### **Constraint from print media**

12. The parties argued that all property advertising could be included in the relevant product market – based on demand side substitutability for both agents and consumers. However, they conceded that, on a cautious basis, it may be appropriate to only consider online advertising for the competitive assessment of the proposed transaction.
13. This view was supported by the OFT's third party enquiries, with estate agents stating that an online presence was very important, given the high proportion of people who now start their property search online. The majority of estate agents that responded to the OFT's market inquiry did not consider print media to be a feasible alternative to online property portals. Therefore, on the basis of the available evidence in this case, the OFT does not consider that print property advertising provides a sufficient constraint on online property portals to be considered as part of the competitive assessment.

### **Constraint from other online advertising**

14. The parties argued that all online advertising serves a similar purpose in making consumers aware of the properties that are on the books of estate agents. Therefore an agent with a finite advertising budget will have to decide how best to allocate the budget across the different online sources and will commonly switch spending between them. In particular the parties argued that estate agents' own websites were substitutes for property portals.

<sup>4</sup> The other main model used in the industry is 'free-to-list', whereby portals do not charge agents to list on their site and generate revenue from associated services, such as display advertising or software provision.

15. The OFT's market inquiry raised doubts as to the substitutability of other online advertising options available to estate agents. Whilst different forms of online advertising, for example estate agents own websites, may serve the same basic purpose – to provide exposure for estate agents' properties – the value that different forms provide for an estate agent varies. The advantage that property portals have over individual agent's websites is that they display a much wider range of properties for any given area. Portal websites typically also have better functionality than the agents' own sites since they have a larger budget to spend on developing and maintaining the site. On top of this, different types of online advertising may appeal to different audiences.
16. The majority of estate agent respondents to the OFT's third party enquiries considered that their own websites were not substitutes for property portals, but were used alongside portals. Respondents generally said that portals generated too many enquiries to switch away from them, and that doing so would have a detrimental effect on their ability to gain clients. This confirmed the findings arising from an OFT Market Study in this area, which found that almost 40 per cent of agents generate over half of their leads from portals; while only around 15 per cent of agents reported that less than 20 per cent of their sales originated from property portals.<sup>5</sup> This market study found that access to property portals was the third most important factor in attracting sellers, according to a survey of estate agents, ranking portals above 'local knowledge of the market', 'competency of staff', and 'own website'.<sup>6</sup>
17. Estate agents also submitted that, for the same reasons, online advertising other than their own websites could not be thought of as a viable alternative to using property portals.
18. The OFT therefore does not currently consider other forms of on line property advertising to form a sufficient constraint on property portals to warrant consideration as part of the competitive assessment.

<sup>5</sup> Survey of Estate Agents, Home Buying and Selling Market Study, February 2010

<sup>6</sup> *ibid*

## Different types of property portals

19. The parties argued that both generalist and specialist property portals<sup>7</sup> should be considered together for the competitive assessment. However, the parties also argued that the size of a portal – in terms of the number and length of visits, and number of subscribed agents – is vital for the competitive position of the portal. As estate agents want maximum exposure to potential buyers or renters in order to increase demand for the property on their books, they will be prepared to pay more for a portal which attracts more viewers. In turn, consumers want to view a portal with the greatest amount of property that might be of interest in an area they want to move to, and so in general will prefer the portal with the greatest number of estate agents signed up in that area.
20. The OFT has taken account of the impact of these specialist portals where relevant and where there is sufficiently compelling evidence of a competitive constraint to the parties as part of the competitive assessment.

## GEOGRAPHIC SCOPE

21. Estate agents' branches will generally list properties only in their local area; similarly, house-hunters search for property in a narrow geographic area. Therefore for these potential house buyers and local estate agents there is very little geographic demand-side substitutability for property portals.
22. Supply side substitutability is also limited. One of the key factors in the success of a property portal is consumer awareness among house-hunters and estate agents, and the relationships it has between estate agents and house-hunters and the portal. While neither of these can be readily transferred from one region to another, the majority of property portal activity is at a national level. Although, for a portal operating in a particular region, there may be some spill over of consumer awareness into neighbouring regions, a significant amount of marketing spend would still be required in order to increase consumer awareness, and then build up the customer bases on both side of the platform in order to compete with existing portals.

<sup>7</sup> Those portals that tend to focus on listings for a particular type of housing, for example new build, or high value property.

23. The parties overlap in the supply of national portals. There are significant sunk costs involved in raising the brand recognition of portals through advertising, and it is most effectively done at a national level, largely because of the ability to advertise on national television. This means that a regional portal will struggle to obtain similar levels of brand recognition as a national portal, even within the area in which they operate.<sup>8</sup> Despite this, there are a number of regional portals which operate within the UK. These are generally very small and do not appear to provide a significant constraint on national portals, apart from in Scotland and Northern Ireland where some of the regional portals have stronger positions. In addition, some of the national portals vary in competitive strength between different regions.
24. The OFT notes that there may be some constraint from regional competitors, national providers' share of supply may vary across regions to some extent, and competition (and prices) may differ regionally or locally. As a result, it may be appropriate to consider local or regional issues separately. However, in this case, the OFT does not consider such distinctions would materially affect the competitive assessment and has, therefore, assessed the transaction on the basis of the supply of services to estate agents and consumers through national online property portals.<sup>9</sup>

## COUNTERFACTUAL

25. The OFT assesses the competitive effects of a merger by comparing the prospects for competition with the merger against the competitive situation absent the merger.<sup>10</sup> The description of the latter, the counterfactual, is affected by the extent to which events or circumstances are foreseeable. The OFT considers the effect of the merger compared with the most competitive counterfactual providing that it considers that situation to be a realistic prospect. The OFT will consider an alternative where, based on the

<sup>8</sup> Although this argument could be made in many instances, it is particularly pertinent for property portals as, unlike many businesses which supply locally or regionally, and which require recognition among the public to operate, portals do not have physical outlets to make them visible among potential customers

<sup>9</sup> There was no evidence received to suggest that the geographic scope ought to be wider with one exception: one estate agent stated that Primelocation.com has better reach abroad for attracting house-hunters at the very high end of the property market, suggesting a small proportion of competition may take place internationally. However, this accounts for a very small proportion of house-hunters for property in the UK.

<sup>10</sup> See *Merger Assessment Guidelines*, section 4.3.

evidence available, it considers that the prospect of prevailing conditions continuing is not realistic. The OFT may still consider the effects of the merger in the context of an event or circumstance occurring even if that event or circumstance is not sufficiently certain to include in the counterfactual.

26. The parties submit that, absent the merger, adopting prevailing conditions as the counterfactual is not appropriate since if the merger does not go ahead Rightmove, currently the main player in the online property portal market, will continue to pull ahead of the parties. Instead, they argued that a situation in which the parties' constraint on each other and Rightmove will reduce is appropriate. This is because the parties will be unable to sustain their current level of spend on marketing which will impact on their ability to attract house hunters and provide an attractive product to agents. The parties further argued that network effects will create a 'tipping point' for property portals, whereby once Rightmove has captured a certain proportion of supply it will be impossible for other portals to catch up, and an increasing share of customers will solely use Rightmove. Whilst not arguing for an exiting firm counterfactual, the parties submitted that if Rightmove were able to gain more ground in this market then, as a result of these dynamics, one or both of the parties may be forced or choose to exit.
27. The OFT considers that, given it would require departing from the most competitive counterfactual, there was insufficient evidence to suggest that a continuation of prevailing conditions of competition is not realistic. In particular, the parties' internal documents provided little commentary on the potential of them diminishing in competitiveness. The OFT therefore adopted the prevailing conditions of competition as the relevant counterfactual in this case.

## **UNLIATERAL EFFECTS**

28. Unilateral effects can arise in a horizontal merger when one firm merges with a competitor that previously provided a competitive constraint, allowing the merged firm to profitably raise prices on its own and without needing to coordinate with its rivals.
29. The parties are the second and third largest property portals, behind Rightmove. Below we first take an overview of property portals, before



considering the closeness of competition between the parties. We then examine the competitive constraint on the parties from Rightmove; since the parties argue that this is the greatest constraint each of the parties face.

### **Market shares**

30. The parties overlap in the supply of services to estate agents and consumers through online property portals. From data provided by the parties their combined share of online property advertising revenue is 24.3 per cent. This, however, is likely to be an underestimate of the parties combined share of revenue solely arising from property portals, since online advertising by local newspapers and trade magazines is also included. This view is supported by an internal DPG document from June 2011 that states: '[ ]'.<sup>11</sup>

<sup>11</sup> [ ]

**Table 1: major portals' share of supply**

	Shares of revenue from all online property advertising	Share of visits	Share of page views
DPG <sup>12</sup>	[15-25]%	17.8%	7.7%
Zoopla	[0-10]%	11.9%	6.2%
<b>Combined</b>	<b>[20-30]%</b>	<b>29.7%</b>	<b>13.9%</b>
Rightmove	[45-55]%	46.8%	74.1%
Vebra.com	-	3.1%	1.0%
Globrix	-	2.2%	0.7%
Nestoria	-	1.9%	0.3%
Mouseprice.com	-	1.5%	0.4%
Homes On View	-	1.1%	1.0%
Trovit UK Homes	-	1.0%	0.2%
Others	[20-30]%	12.7%	8.4%

Source: Hitwise; Enders Analysis

31. There is a tail of smaller property portals, including Vebra.com, Globrix,<sup>13</sup> Nestoria and Mouseprice.com.<sup>14</sup> The OFT does not have revenue data on these smaller portals, but as can be seen they attract considerably lower levels of site visits and page views than the three largest portals. This is supported by the parties' internal documents. For example, a DPG board meeting document from June 2011 states that [ ].<sup>15</sup>
32. Because of the network effects described in paragraph 8, these smaller portals are generally seen as less valuable by estate agents in terms of creating exposure for properties on their books, suggesting that individually they provide little constraint on the parties. The parties and third parties supported this point, with competitors conceding that they were unable to effectively constrain the parties.
33. There are two reasons the OFT considers that the tail of smaller competitors cannot act as a collective constraint on the three largest

<sup>12</sup> Shares for DPG do not include Globrix or Mouseprice.com. These sites are not be part of the transaction, but are ultimately owned by DMGT which will have a 55 per cent share in the merged entity. Mouseprice.com provides property pricing information rather than acting as a property portal. The OFT does not believe that A&N's ownership of Globrix will have a material impact on the competitive effects of the transaction so does not consider it further.

<sup>13</sup> See footnote 12.

<sup>14</sup> See footnote 12.

<sup>15</sup> [ ]

portals. First, a proportion of the site visits and page views, and resulting leads, generated by these sites will be duplicated from the same house hunter, meaning that simply adding together their individual share of supply may significantly overestimate their actual competitive constraint. Second, third parties stated that when vendors are selecting an agent one factor they take in to account is which property portals they advertise on. As vendors are generally also house-hunters, they will want estate agents to use portals that they have used or heard of themselves. Since the bigger portals have much wider recognition among vendors then it is these that they will check that estate agents are on, and are therefore unlikely to accept an agent using the smaller portals collectively as opposed to Rightmove, DPG or Zoopla.

34. The OFT therefore concluded that the smaller portals are unlikely to represent a meaningful constraint on the parties (or Rightmove). The remainder of the competitive assessment therefore focuses on the competition between Rightmove, DPG and Zoopla.

#### **Closeness of competition between the parties**

35. Where products are differentiated, for example by branding or quality, unilateral effects are more likely where the parties' products compete more closely.<sup>16</sup>
36. The parties acknowledge that Zoopla and DPG do compete with each other and that the transaction will inevitably lead to a loss of this competition. However, they also argued that Rightmove is the biggest competitive constraint on both parties currently, and will remain the biggest constraint post merger.
37. Third party views on the extent of competition between the parties were mixed. Some respondents stated they did compete, with comments including that the parties currently compete for the 'number two' spot behind Rightmove; that they provide a similar offering to each other in terms of exposure and functionality of website; and that agents have previously switched from one to the other, or used the price of one when in negotiations with the other. A number of third parties also highlighted that they have become closer competitors recently due to Zoopla's recent growth. However, other third parties noted both vertical and horizontal

<sup>16</sup> Merger Assessment Guidelines, paragraph 5.4.6

differentiation between the parties, suggesting that competition between the parties is more limited. A number stated that DPG was more effective than Zoopla, providing both more and better quality leads. Other comments included that Zoopla is used more as a price comparison website by house hunters, meaning that its site visits and page views figures overestimated the value it provides to estate agents and a proportion of the viewers do not actually use it to find properties. Others commented that Zoopla is good for powering property searches within third party sites (such as News International and MSN), whilst DPG's Primelocation is good for the upper end of the market and Findaproperty is good for lettings. Such horizontal differentiation could mean that they appeal to different groups of agents, or that they are seen as complements to each other rather than substitutes.

38. The parties' relative prices provide support for there being vertical differentiation between their portals. DPG's ARPA<sup>17</sup> was £[ ] in H1 2011, whilst Zoopla's was only £[ ]. The fact that agents are willing to pay more for DPG than Zoopla suggests that DPG has a superior offering. This is backed up by other indicators of a portal's value to estate agents. As can be seen in Table 1, DPG attracts more site visits and page views from house-hunters than Zoopla, creating more exposure for properties that estate agents list on the portals, as well as more exposure for estate agents' brands (and as stated in paragraph 37, these metrics may overestimate the value that Zoopla provides for estate agents). DPG is also well ahead of Zoopla in terms of the number of telephone and email leads from house-hunters about specific properties which it generates for estate agents: in H1 2011 DPG generated [ ] leads compared with [ ] generated by Zoopla.
39. Table 2 estimates the combination of the biggest three portals which estate agents use, in order to examine the extent to which the parties compete for the number two portal spot behind Rightmove.<sup>18</sup> It suggests that only [ ] estate agents used Zoopla as a second portal to Rightmove, compared with [ ] which used DPG. [ ] of Zoopla's customers are agents which list with all three portals; the figure accounts for [ ] of DPG's customers. Whilst this pattern of usage could partly be down to the level of complementarity between the portals, it suggests that Zoopla is seen as

<sup>17</sup> ARPA – Average Revenue Per Agent

<sup>18</sup> This data derives from software which 'scrapes' the listings on portals to analyse which estate agents currently have listings on them.

more of a 'third portal', as opposed to an alternative to DPG as a second portal behind Rightmove.

**Table 2: breakdown of use of DPG, Zoopla and Rightmove by estate agents**

	DPG		Zoopla	
	No.	% of	No.	% of
Used alone	[ ]	[15-25]%	[ ]	[10-20]%
Used alongside Rightmove only	[ ]	[30-40]%	[ ]	[10-20]%
Used alongside DPG/Zoopla only	[ ]	[0-10]%	[ ]	[5-15]%
Used alongside Rightmove and DPG/Zoopla	[ ]	[30-40]%	[ ]	[50-60]%
Total customers	[ ]	100.0%	[ ]	100.0%

Source: DPG data

### **Pre-merger competition with Rightmove**

40. The parties submitted that their biggest constraint is Rightmove. They argued that because Rightmove is seen as a 'must have' by estate agents, only that share of wallet not taken by Rightmove is contestable by other portals. Rightmove's price increases (see paragraph 42) further reduce estate agents' available spend for the parties to target, and that it is this which is the major constraint on the parties' prices.

41. Third parties almost unanimously perceived Rightmove as being essential, as there is no other portal comparable in reach to Rightmove. Vendors often request or check that an estate agent is on Rightmove before selecting their agent, doing so much less for the parties.<sup>19</sup> As the majority of estate agents are on Rightmove, if one chooses not to list on it they are likely to miss out on business as vendors will go to competitors which do list on Rightmove. Indeed, some third party respondents stated that they had tried to leave Rightmove but returned because of the impact it had on their business.

<sup>19</sup> A DPG survey of portal visitors found [65-75] per cent of respondents would ask their estate agent to list on Rightmove, compared with [20-30] per cent for Findaproperty and [15-25] per cent for Zoopla.

42. In terms of the impact of the importance of Rightmove to estate agents, a number of third parties supported the parties' arguments, stating that Rightmove's price increases was putting pressure on their available budget for other portals. Some specifically stated that a key reason for them not listing on one of the parties was the cost of listing on Rightmove. The parties submitted that they had received consistent feedback from agents that the biggest factor for choosing not to sign up, or to cancel their subscriptions with the parties was Rightmove's price increases. DPG's internal documents also supported this point, with a risk assessment in board meeting packs recording '[ ]' as a key risk to DPG.<sup>20</sup> [ ].<sup>21</sup>
43. Some respondents indicated that they would have to increase their overall spend on portals following price increases from Rightmove, rather than reduce their spend on the parties' or other portals. Although this suggests that estate agents' portal budgets are not entirely fixed at a given point in time, the OFT does accept that there may be a ceiling on the amount they will be able and willing to spend on portals, and that, according to third parties, many estate agents' budgets are already stretched. The OFT also considers that the evidence points clearly towards the perception among estate agents that Rightmove is extremely important to their business, such that estate agents currently have little choice but to list on the portal.
44. Although the OFT is generally sceptical that such an income effect would provide a significant constraint on the parties, a number of third parties supported the proposition. Even in the absence of such an effect, Rightmove is likely to provide a strong constraint on the parties because estate agents can achieve significant exposure through listing with Rightmove, and it is generally only Rightmove which vendors request an agent to list on. The parties need to provide a very competitive offering in order to convince estate agents to list on them, given that they are getting a comprehensive service from Rightmove. Given this, the OFT considers that Rightmove does and will continue to provide a significant competitive constraint on the parties.

<sup>20</sup> DPG's internal documents

<sup>21</sup> [ ]

## Conclusions on pre-merger competition

45. Although the parties do compete with each other to some extent, evidence provided to the OFT suggests there is vertical and horizontal differentiation between their portals suggesting that the parties provide only a limited constraint on each other. At the same time, a number of third parties suggested that the large share of wallet taken by Rightmove is indeed a strong constraint on the parties' prices, with some stating that even at prices which are considerably lower than Rightmove they still have insufficient budget to list on the parties after committing spend to Rightmove. The OFT therefore concluded that whilst some competition will be lost as a result of the merger, this is likely to be limited. Furthermore, the strongest constraint on both parties, Rightmove, will continue to constrain them post-merger.

### Increased rivalry to Rightmove<sup>22</sup>

46. Whilst mergers may harm competition, they can also be pro-competitive, and the OFT considers any merger in terms of its effect on rivalry over time in the market.<sup>23</sup>
47. The parties submit that the merger will, for the first time, create a credible competitor to Rightmove. As can be seen in Table 1, Rightmove is the clear leader on page views and site visits; it also generates many more leads than the parties ([ ] in H1 2011, compared with DPG's [ ] and Zoopla's [ ]).<sup>24</sup> In addition, it also has a greater number of estate agents listing than the parties – [ ] agents, compared with [ ] on DPG and [ ] on Zoopla – as well as having greater consumer awareness.<sup>25</sup>
48. As described in paragraph 8, property portals are subject to strong network effects: estate agents want to use the portal viewed by the most house hunters, and house hunters want to use the portal which lists the most properties. This creates a feedback effect between the two customer groups: increasing (decreasing) numbers of customers on one side of the

<sup>22</sup> The parties argued that the increased rivalry to Rightmove created by the merger were not as a result of efficiencies. The OFT disagreed, considering that rivalry would be enhanced primarily through network effects, a type of supply side efficiency (see Merger Assessment Guidelines, paragraph 5.7.16).

<sup>23</sup> Merger Assessment Guidelines, paragraph 4.1.3

<sup>24</sup> Source: DPG, Zoopla, and Rightmove public information

<sup>25</sup> Parties submission dated 29 December 2011

platform will increase (decrease) the value of the portal to customers on the other side, leading to more (fewer) customers signing up on that side, and so on. Moreover, because network effects mean that the value of a portal is directly related to its size, it can be difficult and costly for a smaller portal to catch a significantly larger one.

49. The impact of network effects on portals is further strengthened by the fact that estate agents, as two sided platforms themselves, are also subject to network effects: house hunters are attracted to estate agents that list the most property, and vendors are attracted to agents which are used by the most house hunters. This means that estate agents are very wary of losing vendors’ business, as this could lead to fewer house hunters using them which in turn could lead to further lost business from vendors. Therefore where there is a clear property portal leader, agents will be strongly drawn towards this portal since not listing on it could lead to significant lost business as vendors go to competitors which do use the portal.
50. Rightmove’s strong advantage over other property portals has allowed Rightmove to increase prices significantly over recent years. As shown in Table 3, with the exception of 2009, Rightmove has been able to put through double digit price increases since 2005;<sup>i</sup> generally greater than 20 per cent. However, because ARPA just takes in to account the overall sales which portals make to estate agents, this price rise could at least partly reflect additional services provided by Rightmove which estate agents choose to subscribe to. It could also reflect the greater level of exposure that Rightmove provides to estate agents (see Figure 1 below).

**Table 3: Rightmove’s ARPA increases**

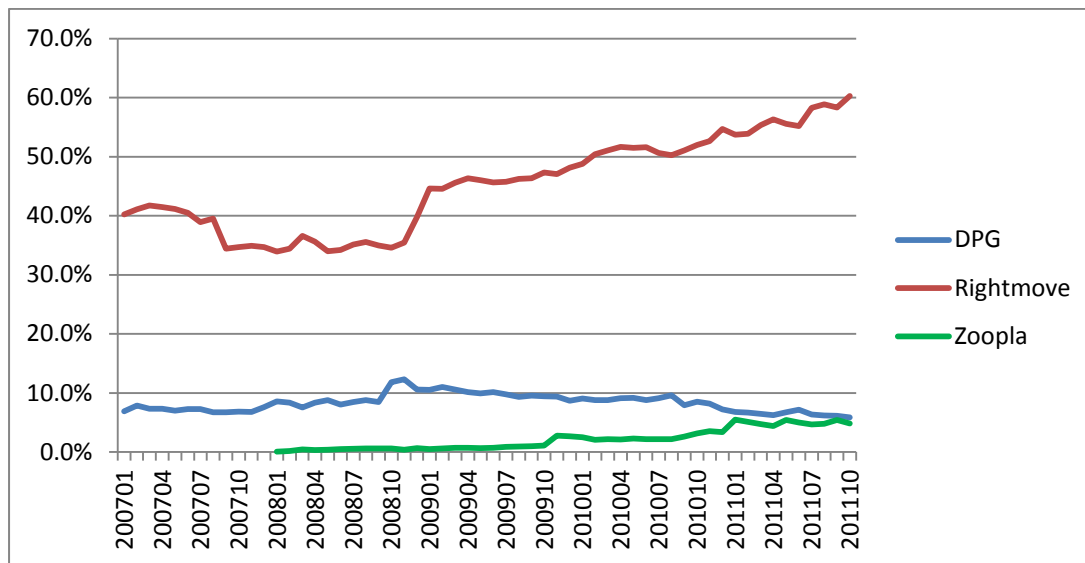
Year	Annual ARPA growth
2005	26%
2006	24%
2007	33%
2008	26%
2009	0%
2010	23%
2011	17%

Source: Rightmove annual results statements



51. Third party responses also pointed towards a lack of effective competition to Rightmove. Estate agents reported that they felt unable to leave Rightmove despite these price increases because there is no viable alternative that they could switch to. The power that Rightmove has over estate agents is indicated by several estate agents, which reported that Rightmove responded to agents' threat of leaving by saying that if an agent left and tried to come back, they would charge them an even higher rate than they did initially.
52. The parties argued that not only would the merger create a competitor to Rightmove, but that it was the only way of doing so. They argued that despite the large amounts of marketing spend both parties were engaging in, and that their ARPAs were considerably lower than Rightmove's, they were still losing ground to Rightmove.
53. Figure 1 shows Rightmove's page views increasing strongly from 2009 onwards, whilst, aside from initial growth from Zoopla (driven in part by acquisitions), the parties' page views stagnate. Without being able to match Rightmove in terms of house-hunter-use statistics such as page views, a portal will not be seen as a viable alternative to Rightmove by estate agents. According to the parties, this means that even the second and third most successful portals are unlikely to grow organically to a size which would rival Rightmove. Given that other portals are considerably smaller than the parties and that barriers to entry appear to be high (see paragraph 64); it does indeed appear unlikely that Rightmove will face a strong competitor in the foreseeable future if the merger did not go ahead.

Figure 1: Rightmove, DPG and Zoopla share of page views of all property websites, Jan 2007- Oct 2011



Source: Hitwise

54. The parties submitted that post merger, they [ ]. The parties submitted that the merger would, for the first time, create a competitor to Rightmove. Adding together the parties estate agent bases and taking account of duplicates would give them [ ] agents; slightly higher than Rightmove’s corresponding figure of [ ] as of September 2011.<sup>26</sup> The merger would [ ]. Furthermore, the parties submitted that the merger would allow marketing [ ], which would increase its efficiency. The parties argued the extra value provided as a result of the merger would attract more customers on both sides of the platform, further increasing the strength of the portal.
55. Some third party responses, however, stated that the merger would not necessarily create a portal comparable in size to Rightmove. [ ], noted that the merged firm could face technical problems moving all agents on to a single platform. Other third parties believed it could take a while for the merged party to increase consumer awareness and change vendors’ perception that Rightmove was the portal that agents should list on.
56. By merging to create a larger portal, the parties submitted that there would be increased competition as estate agents would have a viable alternative they could switch to on leaving Rightmove. Third parties generally indicated that they believed that the merged firm would increase competition to Rightmove, and that overall the price of property portals would fall. A number of estate agents specifically said that they would

<sup>26</sup> Parties’ submission dated 19 December 2011

switch away from Rightmove following the merger, suggesting that Rightmove would face customer attrition unless it improved its competitive offering. Some third parties, however, stated that they believed they would have to advertise with both Rightmove and the merged portal post merger, which would therefore indicate that they may be complements rather than substitutes. If this did occur the merger would not significantly enhance rivalry, as there would be a lack of switching between the portals.

57. Further evidence of the impact of the merger on competition is provided by looking at property portal pricing in London. Because Findaproperty and Primelocation both initially focused on London (and the South East), DPG is stronger in London than the rest of the country, and has marginally more estate agents listed in London than Rightmove ([ ] v [ ]).<sup>27</sup> DPG is also much closer to Rightmove in terms of site visits in London. The parties submitted that this served to constrain Rightmove's pricing. Because of higher house prices in London than the rest of the UK, leads generated by property portals were more valuable on average to estate agents in London, meaning that, all else being equal, portals should be able to charge more to estate agents in London. However, the parties submitted that Rightmove had an 'Inner London' pricing brand which is lower than the rest of the country. [ ] suggests that the presence of DPG in London reduces Rightmove's prices given estate agents' greater willingness to pay in London. Data on London estate agents portal listings further supports the proposition that estate agents would be willing to switch away from Rightmove if there were a strong second portal. In London, [25-35] per cent of estate agents list on DPG but not Rightmove, compared to only [15-25] per cent nationwide. This suggests that where there are two strong portals, agents are able to choose to use one or the other rather than having to use both.
58. Even where agents choose to list on both Rightmove and the merged entity, the two portals would still compete with each other to sell additional services on top of the core listing, such as premium listings (which increase the visibility of estate agents' properties or brand), and analytical services, on the housing market for example.
59. Some third parties were concerned that the merged firm would be able to put its prices up post-merger. Whilst this may be the case, by increasing the level of exposure that the merged firm would be providing to estate

<sup>27</sup> Parties' submission dated 7 November 2011

agents, the OFT considers that the increase in quality of the product would outweigh any price increase. The parties' internal documents supported their arguments that the merger would be pro-competitive and lead to better value for money for estate agents. In the post merger business plan, the parties forecast their cost per lead to be £[ ] in 2012, [ ] in 2013 and £[ ] in 2014; compared to DPG's 2011 cost per lead of £[ ] and Zoopla's of £[ ]. The parties submit that all of their customers will see an improved offering: those that currently advertise with both parties will benefit from greater volumes of leads at no additional cost; those who currently advertise with one or the other will benefit from the additional traffic as a result of the consolidation at an increased cost that is lower than the percentage uplift in lead volumes.

### **Conclusion on unilateral effects**

60. Whilst there is likely to be some loss of competition between the parties as a result of the merger, the OFT considers this will be limited. This is both because of differentiation between the parties, and because Rightmove, the key competitive constraint on both the parties, will remain. Given that estate agents' budgets are already stretched, and that attrition of estate agents would be extremely damaging to the parties at a time when they are attempting to rival Rightmove, it is unlikely they would be able to increase prices over and above that justified by quality enhancements.
61. In addition, the OFT considers that the merger is likely to have pro-competitive effects that are strongly supported by third parties. By creating a portal that can rival Rightmove in size, the merged entity is likely to be able to provide a stronger constraint on Rightmove than the parties were able to separately. The reverse constraint, that of Rightmove on the parties, is also likely to increase as the parties reduce the vertical differentiation between Rightmove and themselves. Whilst there were some third party comments that indicated uncertainty around the ability of the merger to create a portal as large as Rightmove, the OFT considers that, even if the merged entity is not as large as Rightmove, the increase in size will still provide a significantly larger constraint on Rightmove than currently. Furthermore, whilst some third parties were concerned that they would have to use Rightmove and the merged firm, rather than being able to switch between them, such respondents were in the minority. The OFT considers that the willingness of the majority of agents to switch would be sufficient to constraint Rightmove's pricing. The OFT therefore found no

realistic proposition of an SLC arising from unilateral effects as a result of the merger.

## **BARRIERS TO ENTRY**

62. The parties submitted that barriers to entry, and expansion by smaller portals, were high. Because of the market's network effects, a property portal with few viewers is of little value to estate agents and conversely a property portal is unlikely to attract many viewers while it only has a small property inventory. To overcome this problem a portal would have to spend significant amounts on marketing in order to increase consumer awareness, while providing free or cheap listings to agents in order to increase property inventory. However, because the transaction does not give rise to competition concerns, the OFT did not need to conclude on the extent of barriers to entry.

## **COORDINATED EFFECTS**

63. The OFT has considered whether there is a realistic prospect that the merger will lead to coordination between the merged firm and Rightmove. The OFT considers that coordination is only possible if, along with other conditions, the firms (in this case, Rightmove and the merged entity) are able to monitor the terms of coordination.<sup>28</sup>

64. The OFT does not consider there to be a realistic prospect of price coordination because the prices which portals charge to individual estate agents are not transparent.

65. The OFT does not consider there is a realistic prospect that the merger could lead to any other forms of coordination. The OFT therefore finds no realistic proposition of the merger leading to an SLC as a result of coordination.

## **THIRD PARTY VIEWS**

66. Third parties' comments have been considered, where appropriate, above. The OFT also received a number of unsolicited responses largely in favour of the transaction following its invitation to comment, and overall the

<sup>28</sup> Merger Assessment Guidelines, paragraph 5.59

majority of third parties that commented were in favour of the deal seeing the merger as a positive reaction to Rightmove's position in the market.

## ASSESSMENT

67. The parties overlap in the supply of online property portals, and are the second and third largest portals, some way behind Rightmove, the current number one.
68. Although the parties argued that the counterfactual adopted by the OFT should be one in which the competitive constraint provided by the parties on each other and on Rightmove diminishes, the OFT did not in this case consider there to be sufficient evidence to depart from the prevailing conditions of competition.
69. Whilst the OFT received some evidence to suggest that the parties compete with each other, third party comments on the lack of substitutability between the parties, as well as data suggesting that Zoopla is mainly used as a 'third' portal, suggested this competition was not particularly strong. The competitive constraint imposed on the parties by Rightmove will remain post-merger.
70. The OFT considered that the merger is likely to have a pro-competitive impact by creating a portal that can rival Rightmove. At present, Rightmove is by far the biggest portal in terms of exposure to house-hunters. Estate agents have little choice but to list on Rightmove, allowing it to increase prices significantly in recent years. The merged portal will significantly reduce the difference in quality between the parties and Rightmove, which the OFT considers is likely to lead to a stronger constraint on Rightmove's pricing.
71. Consequently, the OFT does not believe that there is a realistic prospect that the merger will result in a substantial lessening of competition within a market or markets in the United Kingdom.

## DECISION

72. This merger will therefore **not be referred** to the Competition Commission under section 33(1) of the Act.

<sup>i</sup> Paragraph 50 should read:

'Rightmove's strong advantage over other property portals has allowed Rightmove to increase prices significantly over recent years. As shown in Table 3, with the exception of 2009, Rightmove has been able to increase its ARPA through double digit increases since 2005; generally greater than 20 per cent. However, because ARPA just takes in to account the overall sales which portals make to estate agents, this rise could at least partly reflect additional services provided by Rightmove which estate agents choose to subscribe to. It could also reflect the greater level of exposure that Rightmove provides to estate agents (see Figure 1 below).'