

Anticipated acquisition by Odeon Cinema Holdings Limited of assets of Reel Cinemas (UK) Limited

ME/5141/11

The OFT's decision on reference under section 33(1) given on 6 October 2011. Full text of decision published 13 October 2011.

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. **Odeon Cinema Holdings Limited (Odeon)** is a wholly owned subsidiary of Odeon & UCI Cinemas Group Limited, which operates 225 cinemas across Austria, Germany, Ireland, Italy, Portugal, Spain and the UK. In the UK Odeon currently operates 104 cinemas. Odeon is also a joint venture partner in Digital Cinema Media, together with Cineworld plc, which provides cinema screen advertising services to cinemas and sells advertising space to advertising agencies.
2. **Reel Cinemas (UK) Limited (Reel)** is a family owned company which operates 19 cinemas in the UK.
3. **The Target business** comprises of four operational cinemas in Newark, Loughborough, Andover and Crewe (**Target cinemas**) which trade under the Reel cinema brand and three pipeline opportunities to open cinemas in Llanelli, Swadlincote and West Bromwich (**Target opportunities**).¹ The UK turnover of the Target cinemas for the year ended 1 July 2010 was [REDACTED].

¹ Reel has an agreement for leases for three pipeline opportunities to open cinemas. The cinema in Swadlincote is under construction and is due to open in October 2011. Construction of the development in Llanelli is expected to begin on site shortly, with the cinema due to open in late 2012 or early 2013. In West Bromwich, Tesco (the developer) is due to start construction shortly, and the cinema is scheduled to open in Spring 2013.

TRANSACTION

4. Odeon proposes to acquire the Target business from KC Suri and his family. A sale and purchase agreement was signed on 15 July 2011.
5. The parties notified the transaction to the OFT on 11 August 2011. The administrative deadline for the OFT to decide whether to refer the transaction to the Competition Commission is 7 October 2011.

JURISDICTION

6. As a result of this transaction Odeon and the Target cinemas will cease to be distinct. The parties overlap in the supply of cinema film exhibition services and the share of supply test in section 23 of the Enterprise Act 2002 (the Act) is 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.

MARKET DEFINITION

7. The parties overlap in the supply of 2D and 3D film exhibition services. Given that the Target cinemas currently offer limited 3D film exhibition services and there is minimal overlap in relation to these services between the parties, the OFT concluded not to consider this segment any further in its competitive assessment.

Product scope

Film Exhibition Services

8. In previous CC and OFT decisions, it has been found that film exhibition was in a separate market from film distribution.² It was also noted that film exhibition was not found to be part of a wider market for the supply of leisure activity services and that visiting a cinema is not part of a wider

² The Competition Commission's report on the completed acquisition by Vue Entertainment Holdings (UK) Ltd of A3 Cinema Limited, 24 February 2006. OFT decision on the anticipated acquisition by Cineworld Group plc, through its subsidiary Cine-UK Limited, of the cinema business operating at the Hollywood Green Leisure Park, Wood Green (Cineworld/Hollywood Green Leisure Park), 17 March 2008, ME.3390.07. OFT decision on the completed acquisition by Cineworld Group plc of the cinema business operating at the O2, London, Me 4650.10, 9 November 2010.

market including viewing films on television screens, either from a video cassette or DVD or from free-to-view or pay television.

9. Based on previous decisions and on the fact that no evidence from third parties suggested departing from the previous conclusions adopted by the CC and the OFT, the OFT concludes that for the purposes of this case the product market is taken as the supply of film exhibition services.

Multiplex versus one-screen cinema

10. In previous cases, the exact definition of a multiplex cinema has pointed specifically to cinemas with at least three screens and around 700 seats.³ The size of the cinema has been considered as a key determinant of its effectiveness as a competitive constraint. The closest constraint on a multiplex cinema is considered to be another multiplex cinema. A smaller cinema would provide a more limited competitive constraint on a multiplex given the limitations in number of films, show times, and choice more generally.
11. In addition, the OFT noted that not all cinemas, irrespective of number of screens, will show the same mix of films. Cinemas will focus to varying degrees on mainstream films, foreign-language films, low budget or independent films, Bollywood films, or older classic films, which can depend, amongst other things, on the customer groups around the cinemas.
12. For the purposes of this case, the OFT has been able to consider the competitiveness of the other cinemas on a case-by-case basis as part of the competitive assessment, irrespective of their size and the film types shown.

Geographic scope

13. Previous cinema merger decisions have considered competition in both national and local markets. This is because competition takes place

³ OFT decision on the anticipated acquisition by Cineworld Group plc, through its subsidiary Cine-UK Limited, of the cinema business operating at the Hollywood Green Leisure Park, Wood Green (Cineworld/Hollywood Green Leisure Park), 17 March 2008, ME.3390.07. OFT decision on the completed acquisition by Cineworld Group plc of the cinema business operating at the O2, London, Me 4650.10, 9 November 2010.

predominantly at the local level through price, content and facilities varying to meet local conditions, but certain parameters of competition for national chains (for example, negotiations with distributors for access to film content and for screen advertising fees and branding) are determined at a national level.

HORIZONTAL ISSUES

National level

14. At a national level, the increment in share of supply is less than two per cent (based on screens, seats and box office revenue), giving a post-merger UK share of supply for Odeon of around [20-30] per cent. Given the minimal increment at a national level, the OFT did not consider it necessary to analyse any further the impact of the merger at a national level and instead it focussed on local issues only.

Local level

15. In relation to local markets, a 20-minute drive-time isochrone around the acquired cinema has formed the basis for the competitive assessment in previous cases with sensitivity analysis using a 30-minute drive-time isochrone and considering the closeness of competition between the parties. There has also been a focus on population overlaps - the proportion of people within a 20-minute drive-time - based on customers tending to visit their local cinema.

Target cinemas

16. The isochrone based assessment of local competition, as mentioned above, indicated that there are no overlaps between any of the four Target cinemas and an Odeon cinema on the basis of a 20-minute drive-time isochrone.
17. In addition, on a 30-minute drive-time isochrone, applied as a sensitivity check, Odeon does not overlap with the Target cinemas in Newark and Loughborough. In these two local areas the OFT's investigation showed that Odeon and the Target cinemas are not each other closest competitors and there are a number of other competitors operating in both areas.

18. As regards Andover, when centred on the Odeon cinema, the closest competitor is a Vue cinema in the same town and there are multiple cinemas within or on edge of a 30-minute drive-time isochrone. When centred on the Target cinema in Andover there is a reduction in fascia from four to three based on a 30-minute drive-time isochrone. However the Odeon cinema is not the closest competitor in terms of distance and type of cinema as there is an Everyman cinema of a similar size to the Target cinema located closer and only [0-10] per cent of the population in the 20-minute drive-time isochrone will experience a reduction in their choice of fascias below four.
19. Finally in Crewe, centred on the Odeon cinema, the closest competitors are the two cinemas located in the same town rather than the Target cinema which is outside the 20-minute drive-time isochrone. When centred on the Target cinema, there is a reduction in fascia from two to one based on a 30-minute drive-time isochrone. However, as mentioned above, there are two other cinemas in the same town as the Odeon cinema, which are just outside the 30-minute drive-time isochrone, including a large Vue cinema. In addition the OFT's assessment showed that only [0-10] per cent of the population in the 20-minute drive-time isochrone will experience a reduction in their choice of fascias below four.
20. Therefore, based on the evidence available to it, the OFT concluded that there is no realistic prospect of a substantial lessening of competition in any of the four local areas where the parties currently supply film exhibition services.

Target opportunities

21. As set out above, in addition to the four Target cinemas there are three Target opportunities which form part of the proposed transaction. The parties argued that given that these cinemas are not yet operational, the proposed transaction will not reduce competition in these local areas. In addition, the parties argued that even if the Target opportunities were to be considered to be potential competitors in the local markets in which they are located, any competitive constraint exercised by the Target opportunities on Odeon cinemas would only arise if and when entry occurs.

22. In this respect, the OFT adopted a conservative approach and considered the Target opportunities as potential competitors to Odeon for the purposes of this transaction.
23. In West Bromwich there is no overlap based on a 20-minute drive-time isochrone with both cinemas having at least four other competing fascia based on a 30-minute drive-time isochrone.
24. In Swadlincote, around the Odeon cinema the closest competitors in terms of drive time are an Empire cinema and a large Showcase cinema (12 screens and 3600 seats) which are within a 20-minute drive-time isochrone. On the wider 30-minute drive-time isochrone a number of additional cinemas in Birmingham are included together with the Target opportunity cinema in Swadlincote which will have five screens and 437 seats.
25. When centred on the Target opportunity at Swadlincote there is a Cineworld cinema within a 20-minute drive-time isochrone but no overlap with the Odeon cinema. There is a reduction in fascia from three to two based on a 30-minute drive-time isochrone. However, there are two Showcase cinemas on the edge of this isochrone and the Odeon cinema is nearly double the drive time of the Cineworld cinema mentioned above.
26. Finally, in Llanelli evidence provided to the OFT indicated that the Carmarthenshire County Council will withdraw from commercial cinema operations once the new commercial cinema is established. When centred on the Odeon cinema the closest competitor is a Vue cinema (with 12 screens and 1700 seats) in the same town, Swansea, with the next closest being the Apollo cinema located in Port Talbot (with six screens and 1000 seats), which falls within a 30-minute drive-time isochrone. In addition, the Target opportunity is on the edge of the 30-minute drive-time isochrone and will be a six-screen, 400-seat cinema.
27. When centred on the Reel cinema in Llanelli there is no overlap based on a 20-minute drive-time isochrone. On a wider 30-minute drive-time isochrone there is a reduction in fascia from three to two. However there are two Apollo cinemas on the edge of the 30-minute drive-time, one each to the west and east of Llanelli.

28. Therefore, based on the evidence available to it, the OFT concluded that there is no realistic prospect of a substantial lessening of competition in any of the three local areas where the Target Opportunities will be supplying film exhibition services.

THIRD PARTY VIEWS

29. The OFT received a number of third party comments in relation to the transaction. Third parties had no concerns in relation to the supply of film exhibition services by the parties at a national level.
30. The OFT received comments from two competitors in relation to competition at a local level. In particular, one third party stated that Odeon would have a dominant position in many of the local markets and in particular in Birmingham. Another third party stated that in the area around Llanelli (including an additional Odeon cinema further east of Port Talbot in Bridgend which is outside of the 30-minute isochrones discussed above) Odeon's market share pre merger was between [40-55] per cent and that the merger would create competition concerns both east and west of Swansea.
31. The OFT considered carefully the relevant third party comments and dealt with them in its competitive assessment above.

ASSESSMENT

32. The parties overlap in the supply of film exhibition services in the UK.
33. The OFT's approach on geographic market definition follows previous cinema merger cases considered by the OFT and the CC. In relation to local markets, a 20-minute drive-time isochrone around the acquired cinema has formed the basis for the competitive assessment with sensitivity analysis using a 30-minute drive-time isochrone and considering the closeness of competition between the parties. There has also been a focus on population overlaps - the proportion of people within a 20-minute drive-time - based on customers tending to visit their local cinema.
34. Based on the above local analysis, the OFT identified that the parties do not overlap in any local area on a 20-minute drive-time isochrone. In addition, although the OFT identified a number of overlaps between the parties on a 30-minute drive-time isochrone, the OFT considered that the

parties were not each other closest competitors in these local areas and a number of other competing cinemas were imposing a stronger competitive constraint due to their distance from the parties' cinemas and due to their number of screens and seats.

35. Consequently, the OFT does not believe that it is or may be the case that the merger may be expected to result in a substantial lessening of competition within a market or markets in the United Kingdom.

DECISION

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