OFFICE OF FAIR TRADING

Completed acquisition by United Business Media of Aprovia UK Ltd

The OFT's decision on reference under section 22 given on 14 November 2003

PARTIES

1 **United Business Media** (UBM) provides business information services to a variety of sectors. UBM has a professional media division CMP Information Group Ltd (CMPi). CMPi's products and services include the publication of magazines and directories and the organisation of a number of conferences targeted at professionals and businesses in the building and construction industries.

2 **Aprovia UK Ltd** (Aprovia) is the parent company of Barbour Index Ltd (Barbour) and the Builder Group Ltd (Builder). Through Builder and Barbour, Aprovia is active in the publishing of magazines and specialist directories aimed at professionals and businesses in the building and construction industries. In addition it organises certain award ceremonies and ad hoc conferences as a marketing activity to support its publishing operations. In the year ending 31 December 2002, Aprovia's UK turnover was £32.3 million.

TRANSACTION

3 UBM through its wholly owned subsidiary, Hirecorp Ltd[1] has acquired the entire issued share capital of Aprovia, which is now a part of CMPi. The transaction was completed on 18 July 2003.

4 The transaction was notified by UBM on 29 August 2003. The statutory deadline expires on 17 November, before the administrative deadline.

JURISDICTION

5 As a result of this transaction UBM and Aprovia have ceased to be distinct. The parties overlap in the supply of media and information services to the construction industry and the share of supply test in section 23 of the Enterprise Act 2002 (the Act) is met. A relevant merger situation has been created.

RELEVANT MARKET

Product market

[1]Factual correction – UBM notes that Hirecorp is not legally a wholly-owned subsidiary, but rather a company consolidated within the United Business Media group of companies.

6 The parties submit that they provide a broad portfolio of media and information products to firms in the 'construction' industry. This definition includes revenue related to magazine titles, conferences and other specialist information sources such as directories and on-line databases within a variety of sectors[2]. The parties argue that for competition purposes the relevant market is much narrower, since each individual product type (e.g. publications) is aimed at a relatively specific customer sector (e.g. architects). On this basis, the only direct areas of overlap as a result of this transaction would be in the publication of magazines for the architecture and construction sectors.

7 With regard to publications, directories and conferences the provider receives revenue from two sources, referred to here as 'advertising clients' and 'product customers'. Advertising clients pay the media firm for space advertising in magazines (whether display, recruitment or classified), for technical entries in directories and for marketing opportunities (including exhibition spaces) at conferences. Product customers are the purchasers of these magazines and directories and also the attendees of conferences. Where titles are distributed free of charge[3] and exhibitions are free to attendees, then advertising may be the only source of revenue. However the appeal of the product to customers is still important as this determines the amount advertisers are willing to pay for the advertising opportunities.

Demand-side substitutes

8 For the **product customer** there is little substitution between the media targeted at the different sectors within the 'construction' industry, for example, for the reader, a publication aimed at health and safety managers is not substitutable for a publication aimed at architects. There is also likely to be little demand-side substitution between the various media for a given industry niche. The specific characteristics of each product (e.g. magazine, directory or conference) imply that for such customers the alternatives are primarily complementary in nature.

9 For the **advertiser**, the key purpose of advertising is to ensure its message reaches its potential customer base as economically as possible. Hence for some advertisers there may be some substitutability across sectoral publications, for example where fittings could be specified by either an architect or a construction manager, there will be a degree of substitution between advertising in architecture and construction titles.

10 There is also likely to be some substitutability across different media types for a given sector. Some advertisers appear to vary spend on different media as their marketing strategy evolves. However the alternatives appear to be more complementary than substitutable, as substantial differences in cost per advertising opportunity, as submitted by the parties, make conferences and space advertising imperfect substitutes. One third party has also indicated that they see advertising in the Barbour compendium as being complementary to their adverts in publications, as the entry in Barbour is of a factual nature.

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[2] These sectors include architecture, glass, construction, property, building services, electrical and mechanical contracting and social housing.

[3] These are called 'controlled circulation' titles and account for over half the titles in the 'construction' industry.

Supply-side substitutes

11 Many media groups are active in a variety of sectors within the broad 'construction' industry, implying that there are synergies to be exploited from operating in a range of product sectors. There are two types of supply-side substitutability to be considered. Firstly the provision of a wider range of products or services to the same client groups, and secondly providing your existing range of product types to a broader range of client groups, for example if a media group published a magazine title for architects, they could expand to publishing titles for health and safety managers. For the first, the firm would already have a relevant advertising client base, a customer contact list and an established reputation. However, if a magazine publisher, for example wished to expand into conferences then they may need to hire additional competencies. That said the diversified nature of many in the industry suggests that such expansion may have occurred in the past.

12 The second type of substitution appears to be less likely as, a media group publishing health and safety titles diversifying into architecture titles, for example, would only be able to extract very limited benefit from its existing advertising and circulation lists, suggesting this might almost be akin to new entry.

13 The above discussion suggests that there are likely to be constraints acting between providers of media services to different sectors of the construction industry, such that a firm supplying a specific product to a certain range of customers will face some constraint from competitors in the broader construction media industry. This constraint is likely to be strongest from competitors in neighbouring sectors, who would be able to diversify most rapidly.

14 Further segmentation of the market into the three major types of display advertising, classified and recruitment was considered on the basis of differing demand-side substitutes for each type of advertising. However as supply-side substitutability is implied by the ability of the publisher to change the size and content of its advertising sections within a publication at little cost, this distinction does not appear to be appropriate. The possibility of segmentation between controlled circulation magazines and those paid for was also considered, but rejected in the light of consistent third party opinion that from the advertisers' point of view these magazines are direct substitutes.

15 The presence of, in particular, possible supply-side substitution indicates that the provision of an individual media product targeted at a given sector is unlikely to constitute a separate economic market. However, it is not clear where the boundaries of any economic market in the general provision of media to firms in the 'construction' industry would fall. Given the uncertainty regarding the strength of the various constraints the impact of the transaction will be considered on both a narrow and broad basis.

Geographic market

16 The majority of the various products offered by the parties contain advertisements and product information relating to UK firms and are distributed in the UK only. Hence the UK appears to be the appropriate frame of reference for this case.

HORIZONTAL ISSUES

17 As discussed, there are difficulties in determining the appropriate delineation of the market. The combined share of supply figure for the parties based on the narrowly defined sector of overlaps for architecture magazines is [50-60] per cent[4] (increment [20-30] per cent[5]) and for construction magazines [25-35] per cent[6] where the increment is less than 3 per cent[7]. In both of the narrow sectors of overlap the parties face competitive constraint from a combination of other, large publishing houses and smaller independent publishers. The parties argue that the data provided here will overstate their position as Neilsen research does not include the smallest publishers. Also, the RIBA Journal was established in the architect sector through a joint venture between Aprovia and the Royal Institute of British Architects, where both parties have the right to dissolve the agreement if they wish.

18 The parties argue that for each publication they are not each other's closest competitor. Despite all publications competing for advertising revenue, the closest competing magazine is the one that has the same publication frequency and a similar balance between editorial and 'advertorial' (advertising based) features. When customers of the parties were asked which title was the closest alternative to their current choice they tended to cite titles from outside the merged group. However, in those cases where the closest alternative was said to be one of the merged firm's other titles, in each case the titles came from one each of the 'architecture' and 'construction' publication segments as defined by the parties, for example if the original publication was from the 'architecture' segment, then the closet alternative cited was from the 'construction' segment.

19 These customer comments and the degree of supply-side substitutability suggest that the architecture and construction publication sectors could be viewed together. To the extent that any competition concerns as a result of such an amalgamation will not be more substantial than those for the architecture sector alone (aside from portfolio effects discussed below), such a distinction will not be considered explicitly here.

20 The parties also face a constraint from the other firms active within the wider sector for the provision of media and information services to firms operating in the 'construction' industry. On this broader basis the combined shares of supply for the parties would be approximately 30 per cent, again competing with large and small firms.

21 The parties argue that despite their shares of supply in both the broader and narrow sectors, they are operating in a highly competitive marketplace. This is partly a result of reduced advertising spend by clients over the past few years[8].

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[4] Actual figures replaced by a range at the parties' request for reasons of commercial confidentiality.
[5] See footnote 4.
[6] See footnote 4.
[7] These figures were adapted from Nielsen Media Research Information on the number of advertising pages and circulation figures provided by CMPi.
[8] Details excised at the request of the parties for reasons of commercial confidentiality.

The profitability post-merger of a price rise by the merged firm would be limited by the potential for clients to decide not to increase their advertising budget in line with price rises, thus reducing their total purchase of advertising space.

22 There is the possibility for firms to use direct mailing to contact their clients if the cost of advertising through publications were to rise. Both parties have some limited activity in the sale of such contact lists, but they are only minor players in this sector and purchase their own lists from trade associations and other publicly available sources. There also appear to be increasing opportunities to advertise over the internet. This is primarily applicable to recruitment advertising, where a large number of recruitment agencies have their own websites advertising jobs as well as advertising in magazines. Recruitment advertisers are also able to use local and national press which act as a further constraint.

23 On balance, whether the product market is defined at its narrowest or more broadly, constraints remain on the behaviour of the merged firm.

Portfolio Issues

24 A number of third party competitors have raised concerns regarding the ability of the merged firm to take advantage of its broad range of products to offer portfolio discounting to the detriment of smaller players. To date the parties have used such cross-range discounting to a very limited extent.

25 The parties argue that their ability to make use of such portfolio selling is very limited. They argue that the addition to the existing Aprovia portfolio of publications is insignificant and so unlikely to be sufficient to enable the firm to begin profitably offering any tied discounts, although one third party stated that the merged firm's portfolio was more attractive to the customer. The parties also argue that bundling of different products such as conferences and space advertising is not practical because customers buy different types of advertising separately. As a result individual sales functions have evolved for each product area making the administration costs of bringing these together too high and therefore financially unviable. This was supported by a third party with respect to its own business.

26 Despite these arguments it would seem reasonable that these internal divisions could be rearranged if this were to generate profitable returns. However, more importantly it appears that the merged firm will not have market power in any one product area, and therefore will not be able to leverage any such power into other sectors through the use of bundling. Thus it may be profitable for the merged firm to offer volume-related discounts to customers choosing to buy a range from their portfolio, but it would not be profitable to force customers to buy certain titles in order to gain access to others.

Barriers to entry and expansion

27 As the direct overlap between the parties is in publishing of magazines, costs of entry are considered on this basis. One third party estimated the cost of launching a title to be around £1m for a monthly title, or four to five times this figure for a weekly. This includes launch costs of £0.25m, a loss of £0.5m in year one and £0.25m in year two. These losses would be anticipated even if the launch were a

success as advertising schedules and budgets are set annually, and it takes time to win new business. Costs of entry would be lower for an existing publisher, particularly one in the construction sector, due to synergies and economies of scale. The value of advertising in architect's magazines is estimated at around £7m annually, and the value of advertising in construction magazines is estimated by the parties at £24m per year.

28 There have been no recent launches into the immediate sectors of overlap, though recently 'Intra' a new title aimed at the design and interior design sectors, was launched by CMPi at a cost.[9]

29 These factors tend to indicate that barriers to entry into new segments are not insurmountable, especially for an existing operator already active in publishing. This also appears to apply to a certain extent to firms not currently active in publishing for the 'construction' industry, but active in the publication of business to business magazines generally.

Buyer power

30 Individual buyers of magazines and directories are unlikely to have buyer power. Major buyers of advertising space appear to be large agencies, and may possess some power to constrain prices, for example through their knowledge of inter-sectoral prices.

VERTICAL ISSUES

31 The vertical link between the parties and competing direct response advertising has been discussed above.

THIRD PARTY VIEWS

32 Third party views were mixed. The concerns stated were that the merged firm would become very large and have a high share of the advertising revenues and readership in magazines for the architecture and construction sectors. Also that the merged firm would be able to offer portfolio discounts, making it more difficult for smaller competitors to compete. However there were no customer concerns.

ASSESSMENT

33 The parties overlap specifically in the supply of advertising in architecture and construction publications. However this distinction does not appear to be an appropriate basis on which to consider the merger due to both supply and demand side substitution between publications in the narrowly defined sectors.

34 The merged firm will continue to face competition from a variety of competitors, as well as additional constraints from outside the 'construction' media sector. Advertisers have the ability to cut their advertising budget, thus reducing the profitability of any price increase, and to switch to other mediums such as direct mail campaigns and internet advertising if the price offered by the merged firm is

[9] See footnote 8.

not good value for money. Portfolio issues do not appear likely to arise due to the merged firms lack of market power in any one product area.

35 Barriers to entry to the industry do not appear to be insurmountable and there are a number of firms active in business to business publishing that would be well placed to expand their product range if the offer of the merged firm were to deteriorate as a result of the merger.

36 The OFT does not believe, therefore, that it is or may be the case that the creation of the relevant merger situation has resulted or may be expected to result in a substantial lessening of competition within a market or markets in the United Kingdom for goods or services.

DECISION

37 This merger will therefore **not be referred** to the Competition Commission under section 22(1) of the Act.