

Completed acquisition by AMC (UK) Acquisition Limited of Odeon and UCI Cinemas Holdings Limited

Decision on relevant merger situation and substantial lessening of competition

ME/6644/16

The CMA's decision on reference under section 22(1) of the Enterprise Act 2002 given on 8 December 2016. Full text of the decision published on 17 January 2017.

Please note that [X] indicates figures or text which have been deleted or replaced in ranges at the request of the parties for reasons of commercial confidentiality.

SUMMARY

1. On 30 November 2016, AMC (UK) Acquisition Limited, a wholly owned subsidiary of AMC Entertainment Holdings, Inc (together **AMC**) acquired the entire issued share capital of Odeon and UCI Cinemas Holdings Limited (**Odeon**) (the **Merger**). AMC is a wholly-owned subsidiary of the Dalian Wanda Group Co. Ltd (**Dalian Wanda**). AMC and Odeon are together referred to as the **Parties**.
2. The Competition and Markets Authority (**CMA**) believes that it is or may be the case that the Parties' enterprises have ceased to be distinct and that the turnover test is met. The four-month period for a decision has not yet expired. The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.
3. The Parties overlap in the supply of cinema exhibition services in Manchester where, pre-Merger, AMC operated one 16 screen multiplex¹ cinema (**the AMC Great Northern**), and Odeon operated several multiplex cinemas, including

¹ A multiplex cinema has previously been defined by the OFT as being a cinema with at least three screens and 700 seats (see for example: [ME/1858/05 – Completed acquisition by Vue Entertainment International Limited of Apollo Cinemas Limited](#), OFT, 24 August 2012, paragraph 41).

the Odeon Printworks. The CMA therefore assessed whether the Merger gives rise to a realistic prospect of a substantial lessening of competition (**SLC**) as a result of horizontal unilateral effects in the supply of cinema exhibition services in Manchester.

4. The CMA considered a broad range of evidence in its competitive assessment to determine the extent to which the Parties compete and the significance of the competitive constraints that the merged entity would face post-Merger, including:
 - (a) Diversion ratios, based on evidence from a customer survey conducted by the CMA (the **Survey**), which indicated that two of the Parties' cinemas, the AMC Great Northern and Odeon Printworks are each other's closest competitors.
 - (b) Evidence on the Parties' customers' locations and customer transport preferences collected by the Survey which indicated that the AMC Great Northern and Odeon Printworks attract customers from similar areas in Manchester.
 - (c) Estimated gross upward pricing pressure indices (**GUPPI**) which indicated that AMC would have a significant incentive to raise prices post-Merger.
 - (d) Evidence indicating that there would be insufficient competition remaining post-Merger from alternative cinema operators to constrain the merged entity at the AMC Great Northern and the Odeon Printworks.
5. The CMA believes that this evidence, when considered together, indicates that two of the Parties' cinemas, the AMC Great Northern and the Odeon Printworks, are each other's closest competitors in Manchester, and that the competitive constraint between these two cinemas that would be lost as a result of the Merger in Manchester would be substantial.
6. The CMA also found that expansion or new entry by other cinema operators could not be relied on to provide an effective constraint on AMC in Manchester post-Merger.
7. The CMA therefore believes that the Merger gives rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in the supply of cinema exhibition services in Manchester.
8. The CMA is therefore considering whether to accept undertakings under section 73 of the Enterprise Act 2002 (**the Act**). AMC has until 15 December 2016 to offer an undertaking that might be accepted by the CMA. If no such

undertaking is offered, then the CMA will refer the Merger pursuant to sections 22(1) and 34ZA(2) of the Act.

ASSESSMENT

Parties

9. AMC is a US-headquartered cinema group which operates 386 cinemas, all but one of which are located in North America. It is a wholly-owned subsidiary of Dalian Wanda. AMC's only cinema outside of North America is the AMC Great Northern located in Manchester. The turnover of AMC in the financial year ending 31 December 2015 was around €2.7 billion worldwide and around £[§] million in the UK. AMC comprises all of Dalian Wanda's cinema exhibition services in the UK. Dalian Wanda is also active in film production and distribution in the UK via its subsidiaries Legendary Entertainment² and Open Road Films.³
10. Odeon is one of the three largest cinema operators in the UK, operating 114 cinemas nationwide. Odeon also owns 50% of Digital Cinema Media Limited (**DCM**), a joint venture with Cineworld Group plc, which is one of two major cinema screen advertising service providers in the UK (the other being Pearl & Dean).⁴ Pre-Merger, DCM supplied screen advertising services to Odeon, whilst Pearl & Dean supplied AMC. The turnover of Odeon in the financial year ending 31 December 2015 was around €1.0 billion worldwide and around £[§] million in the UK.

Transaction

11. On 30 November 2016, AMC acquired the entire issued share capital of Odeon and certain issued shares of Odeon and UCI Cinemas Group Limited from Monterey Capital II, a holding company owned by private equity funds managed by Terra Firma Investments 2. The transaction had a net value of £921 million.

² Legendary Entertainment is a major US-based producer of films, however the CMA found that it possesses neither: (i) a significant market share in film production; nor (ii) a direct distribution channel to cinemas in the UK (as its films are distributed through Universal Studios in the UK). The CMA did not find any indication that Dalian Wanda's ownership of Legendary Entertainment would give rise to vertical effects from the Merger.

³ Open Road is a film distribution company specialising in small film releases. It carries out no distribution activities and generates no revenue in Europe.

⁴ DCM currently has a share of supply of approximately [70-80]%, and Pearl & Dean has a share of supply of approximately [20-30]%, in cinema screen advertising. However, given AMC's very small ([0-5]%) pre-Merger share in the national supply of cinema exhibition services, the CMA believes that the effect of the Merger on the supply of cinema screen advertising will be negligible.

Jurisdiction

12. The Merger met the thresholds under the Council Regulation (EC) 139/2004 (**EUMR**) for review by the European Commission (**Commission**). The Parties made a reasoned submission under Article 4(4) of the EUMR to the Commission, requesting pre-notification referral to the CMA of the UK specific parts of the Merger on 16 September 2016. The CMA informed the Commission that it agreed with the referral request and considered the UK specific aspects of the Merger capable of being reviewed in the UK under the Act. On 18 October 2016, the Commission announced its decision to refer the Merger to the CMA for review.
13. The preliminary assessment period of the Merger under section 34A(4) of the Act began on 18 October 2016 and the statutory 45 working day deadline for a decision is 22 December 2016.
14. The non-UK aspects of the Merger were reviewed by the Commission and cleared on 16 November 2016.

Counterfactual

15. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual). For completed mergers the CMA generally adopts the pre-merger conditions of competition as the counterfactual against which to assess the impact of the merger. However, the CMA will assess the merger against an alternative counterfactual where, based on the evidence available to it, it believes that, in the absence of the merger, the prospect of these conditions continuing is not realistic, or there is a realistic prospect of a counterfactual that is more competitive than these conditions.⁵
16. In this case, there is no evidence supporting a different counterfactual, and the Parties and third parties have not put forward any submissions in this respect. Therefore, the CMA believes the pre-Merger conditions of competition to be the relevant counterfactual.

Frame of reference

17. Market definition provides a framework for assessing the competitive effects of a merger and involves an element of judgement. The boundaries of the

⁵ [Merger Assessment Guidelines](#) (OFT1254/CC2), September 2010, from paragraph 4.3.5. The [Merger Assessment Guidelines](#) have been adopted by the CMA (see [Mergers: Guidance on the CMA's jurisdiction and procedure](#) (CMA2), January 2014, Annex D).

market do not determine the outcome of the analysis of the competitive effects of the merger, as it is recognised that there can be constraints on merger parties from outside the relevant market, segmentation within the relevant market, or other ways in which some constraints are more important than others. The CMA will take these factors into account in its competitive assessment.⁶

Product scope

18. The Parties overlap in the supply of cinema exhibition services in Manchester, where AMC operates one 16 screen multiplex cinema (the AMC Great Northern) and Odeon operates several multiplex cinemas, including the Odeon Printworks, the Odeon Trafford Centre and the Odeon Warrington. Both Parties' cinemas primarily exhibit popular, mainstream films.
19. The CMA considered whether it is appropriate to segment the supply of cinema exhibition services to differentiate between different types of cinema for the purpose of its assessment of the Merger.
20. The Parties submitted that the relevant product frame of reference is the overall supply of cinema exhibition services, with no differentiation between cinema type on the basis of the nature and format of showings or size. The Parties submitted that previous decisional practice of both the Competition Commission (**CC**) and the Office of Fair Trading (**OFT**) supported this view.
21. The CMA notes that previous CC and OFT merger investigations in the cinema sector considered the appropriate product frame of reference to be the supply of cinema exhibition services and did not consider it appropriate to segment the market according to cinema type (eg multiplex, art-house or luxury). In its decision on *Cineworld/City Screen*, the OFT noted that: 'while a smaller-sized cinema may provide a weaker competitive constraint than a larger-sized cinema on other large sized cinemas...this does not preclude a smaller-sized cinema from competing with a larger cinema.'⁷
22. In the present case, no third party suggested that the appropriate frame of reference was narrower than cinema exhibition services.
23. For these reasons, the CMA believes that the appropriate frame of reference for its assessment of the Merger is the overall supply of cinema exhibition

⁶ *Merger Assessment Guidelines*, paragraph 5.2.2.

⁷ ME/5877/12 Completed acquisition by Cineworld Group plc of City Screen Limited, OFT, 30 April 2013 paragraph 27.

services. However, the CMA has taken into account the differences between cinemas, including in their relative sizes, in its competitive assessment.

Geographic scope

24. Given the importance of location on customer choice, competition between cinema exhibitors takes place predominately at the local level. Therefore, the CMA has considered the effects of the Merger on a local basis.⁸
25. The Parties submitted that the CMA should identify the relevant local frame of reference using 20-minute drive-time isochrones around the relevant acquired cinemas, with 30-minute drive-time isochrones being used as a sensitivity check. It said that this approach had formed the starting point for the competitive assessment of previous mergers in the UK cinema sector as these isochrones have been found generally to represent the catchment areas within which 80% of a cinema's customers may be located.
26. In the present case, given that the Parties' overlap in the Manchester city centre area⁹ (where both the AMC Great Northern and Odeon Printworks are located), the CMA questioned whether drive-time isochrones based on customer home locations are an appropriate basis on which to define the relevant geographic frame of reference.
27. Some of the additional evidence arising from the Survey on the time that customers travelled, customers' home locations, and the mode of transport used to visit the relevant cinema,¹⁰ indicated that the local frame of reference may be narrower than that implied by 20 or 30 minute drive-time isochrones. However, the CMA noted that a narrower, city-centre focused approach may fail to capture the constraint between the AMC Great Northern and other Odeon Cinemas, in particular the Odeon Trafford Centre, with which drive-time isochrones indicated an overlap.
28. Therefore, on a cautious basis, the CMA used 20 and 30 minute drive-time isochrones as a starting point for identifying the relevant overlaps between the Parties in its assessment. Given that, in this case, the only overlaps of

⁸ As recognised in the [CMA's Commentary on Retail Mergers](#) (OFT1305/CC2 com 2) and previous decisional practice, although competition may take place predominantly at a local level, reflecting the fact that price, content and facilities may be set by cinema managers locally and partly in response to local conditions, certain competitive parameters may also be determined at a national level (eg negotiations with distributors for access to film content, screen advertising fees and branding). However, as the Merger only results in an increment of less than [0-5]% in the Parties' combined share of supply of cinema exhibition services on a national level, the effect of the Merger on a national level has not been considered further by the CMA.

⁹ The CMA notes that 'Manchester city centre' or 'Central Manchester' is generally defined as being the area located within the Manchester Inner Ring Road.

¹⁰ According to the results of the Survey, for both the AMC Great Northern and the Odeon Printworks, around [30-40]% of customers travel to/from the cinema by car. For the Odeon Trafford Centre, around [90-100]% of customers travel to/from the cinema by car.

possible concern arose in relation to one AMC cinema (the AMC Great Northern), the CMA did not find it necessary to define a precise geographic frame of reference. Rather, having identified the potential overlaps between this cinema and all Odeon cinemas in the Manchester area using the 20 and 30 minute drive-time isochrones, the CMA considered each overlap and assessed the impact of the Merger overall.

Conclusion on frame of reference

29. For the reasons set out above, the CMA has considered the impact of the Merger on the supply of cinema exhibition services in Manchester.

Competitive assessment

Horizontal unilateral effects

30. Horizontal unilateral effects may arise when one firm merges with a competitor that previously provided a competitive constraint, allowing the merged firm profitably to raise prices or degrade quality on its own and without needing to coordinate with its rivals.¹¹ Horizontal unilateral effects are more likely when the merger parties are close competitors. The CMA assessed whether it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC in relation to horizontal unilateral effects in the supply of cinema exhibition services in Manchester.
31. As explained above, the AMC Great Northern overlaps with the following Odeon sites in Manchester on the basis of 20 and 30 minute drive-time isochrones centred on this AMC cinema:
- (a) Odeon Printworks (10 minutes' drive time from the AMC Great Northern).
 - (b) Odeon Trafford Centre (16 minutes).
 - (c) Odeon Warrington (28 minutes).
 - (d) Odeon Rochdale (30 minutes).
32. In addition to the Odeon cinemas, the AMC Great Northern overlaps with two other multiplex cinemas (Vue The Lowry and Showcase Manchester), and the HOME Cinema,¹² on the basis of a 20 minute drive-time isochrone. It overlaps

¹¹ [Merger Assessment Guidelines](#), from paragraph 5.4.1.

¹² HOME Cinema does not meet the criteria of a multiplex cinema described in footnote 1, as it has three screens but only 526 seats.

with a further seven multiplex cinemas and two smaller independent cinemas¹³ on the basis of a 30 minute drive-time isochrone.

33. Given the relative proximity of the AMC Great Northern, the Odeon Printworks and the Odeon Trafford Centre, and in the context of evidence indicating a potentially narrower catchment area (see paragraph 27), the CMA focused its assessment on the constraint between and on these three cinemas.
34. The CMA has used the following evidence to assess the constraint between these cinemas,¹⁴ and the constraint on these cinemas from other cinemas:
 - (a) First, the CMA assessed how closely the Parties currently compete, using (i) diversion ratios from the three relevant cinemas to other cinemas in the Manchester area, calculated using the Survey evidence; (ii) the extent of the geographic overlap between the Parties' sites based on evidence of actual customer locations and customer transport preferences collected from the Survey; (iii) the Parties' internal documents; and (iv) third party views on the closeness of competition between the Parties.
 - (b) Second, the CMA calculated an approximate measure of the incentive of AMC to increase prices following the Merger based on an illustrative Gross Upward Pricing Pressure Index (GUPPI) analysis.
 - (c) Third, the CMA assessed the strength of the competitive constraints that would remain post-Merger on these three cinemas, using evidence regarding: (i) the number and proximity of remaining cinema operators in the area; (ii) the extent to which those operators offer a similar proposition to the Parties' cinemas; (iii) third party evidence on the attractiveness of those alternative providers; and (iv) estimates of the possible diversion to those remaining operators based on the results of the Survey.
35. The discussion below begins with some preliminary comments on the Survey and the extent to which the CMA has relied on evidence drawn from it, before proceeding to discuss the three elements of the CMA's competitive assessment set out above.

¹³ The further multiplex cinemas are five operated by Cineworld (in Didsbury, Ashton-under-Lyne, Stockport, Bolton and Leigh) and two operated by Vue (in Bolton and Altrincham); the independent cinemas are the Savoy Cinema in Heaton Moor and the Plaza in Stockport.

¹⁴ In this case, the CMA did not consider shares of supply to be a useful indicator of the Parties' market power in Manchester as the catchment areas vary significantly by cinema, and because there are a limited number of local overlaps affected by the Merger.

The Survey

Sampling methodology and questionnaire design

36. The CMA conducted an online survey of customers of the Parties.¹⁵ The CMA targeted its questions at customers who had visited either the AMC Great Northern or the Odeon Printworks or the Odeon Trafford Centre in the last six months. There were 1,477 responses from Odeon customers (of which 668 related to Odeon Printworks and 809 related to Odeon Trafford Centre) and 426 responses from AMC customers.¹⁶
37. For the purposes of gathering evidence on alternative choices, the Survey asked customers what they would have done if, hypothetically, the AMC Great Northern, the Odeon Printworks or the Odeon Trafford Centre (dependent on which of these the customer had most recently visited) had been closed for refurbishment for a period of one year the last time they visited (ie a 'forced diversion' question).¹⁷ Customers were given three options: 'chosen not to go to the cinema'; 'gone to another cinema'; or 'don't know'. Customers who responded that they would have visited a different cinema were then asked which other cinema they would have visited. All of these customers were also asked how many visits they had made to either the AMC Great Northern, the Odeon Printworks or the Trafford Centre cinemas in the past six months.
38. Customers were also asked to provide some background on their last visit including: (i) how long it had taken them to travel to the cinema; and (ii) the transport method used.

Assessment of the Survey evidence

39. It is usual in local retail mergers for evidence to be gathered on alternative choices using a 'forced diversion' question.¹⁸ Nevertheless, there are two points relating to the interpretation of this question that need to be taken into account in assessing the extent to which its results can be relied on for the purposes of determining diversion. First, the questions are hypothetical and customers may have responded differently from what their actual behaviours would have been in practice. Second, the 'forced diversion' question asks

¹⁵ The Parties' emailed a link to the Survey to those customers for whom they held email addresses. For Odeon, these were customers who had an account with Odeon's Premiere Club membership scheme, and for AMC these were customers who had provided a contact email address when purchasing tickets online for the AMC Great Northern.

¹⁶ These responses represented 6.1% (Odeon) and 2.4% (AMC) of the customers to whom emails were sent.

¹⁷ See: [Good practice in the design and presentation of consumer survey evidence in merger inquiries](#), CC2com1 / OFT1230, 1 March 2011, Adopted by the CMA board April 2014 (**Survey Design Guidelines**), paragraphs 3.39 to 3.42.

¹⁸ See Survey Design Guidelines.

about closure of the relevant cinema rather than a small but significant price increase (**SSNIP**).

40. The CMA believes, that the first point above can be regarded as a limitation inherent with any survey of this nature and the CMA believes that the Survey still provides a good source of evidence for its competitive assessment, when considered in conjunction with other available evidence.
41. With regards to the second point, the CMA believes that in principle, responses to the two types of question (a SSNIP or forced diversion) could be different. However, as noted in its Survey Design Guidelines,¹⁹ the CMA does not generally expect this to be the case. In addition, in *Cineworld/City Screen* the CC found that diversion ratios derived from forced diversion questions were similar to those derived from SSNIP questions.²⁰ As such, the CMA believes that responses to this diversion question can provide a meaningful basis on which to assess diversion.
42. Although the Survey received a high number of actual responses, the CMA noted that response rates were relatively low, particularly for AMC customers (see footnote 16), which could mean that the results are not representative of the overall customer population. In addition, the CMA notes that the Survey was only sent to AMC customers who had booked tickets online and Odeon customers who had an Odeon Premiere Club account, who may not be representative of all customers. For these reasons, the CMA has treated the evidence gathered by the Survey with caution. However, the CMA notes that the actual number of responses in the Survey from both sets of customers was relatively high. The CMA believes that the Survey evidence overall, particularly when considered in conjunction with the other available evidence, including from the Parties' internal documents, responses from third parties and that found on remaining competitive constraints in Manchester (all described below), provides useful information for its competitive assessment.

Closeness of competition

Diversion ratios

43. Diversion ratios estimate the degree of substitution between one provider of a product or service and a potential substitute.²¹ The CMA used evidence from

¹⁹ Ibid, from paragraph 3.42.

²⁰ [ME/5877/12 Completed acquisition by Cineworld Group plc of City Screen Limited, OFT, 30 April 2013](#), Appendix D, paragraph 8.

²¹ [Merger Assessment Guidelines](#), from paragraph 5.2.15.

the Survey to calculate diversion ratios for the AMC Great Northern, the Odeon Printworks and the Odeon Trafford Centre.²²

44. Table 1 shows the CMA's estimated diversion ratios for the AMC Great Northern, the Odeon Printworks and the Odeon Trafford Centre using evidence from the Survey.

Table 1: Estimated diversion ratios from Parties' cinemas

	<i>Total diversion from Parties' cinemas by cinema</i>				<i>Total diversion from Parties' cinemas by cinema operator</i>		
Individual cinemas	<i>AMC Great Northern</i>	<i>Odeon Printworks</i>	<i>Odeon Trafford Centre</i>	Cinema Operator	<i>AMC Great Northern</i>	<i>Odeon Printworks</i>	<i>Odeon Trafford Centre</i>
AMC Great Northern	-	[50-60]%	[5-10]%	AMC	-	[50-60]%	[5-10]%
Odeon Printworks	[40-50]%	-	-	Odeon (all cinemas)	[50-60]%	-	-
Odeon Trafford	[10-20]%	-	-	Cineworld (all)	[10-20]%	[10-20]%	[20-30]%
HOME	[5-10]%	[0-5]%	[0-5]%	HOME	[5-10]%	[0-5]%	[0-5]%
Vue The Lowry	[5-10]%	[0-5]%	[20-30]%	Vue (all)	[5-10]%	[5-10]%	[30-40]%
Cineworld Didsbury	[5-10]%	[5-10]%	[10-20]%				
Cineworld Ashton	[0-5]%	[5-10]%	[0-5]%				
Other (excluding own-brand)	[5-10]%	[5-10]%	[20-30]%	Other (excluding own-brand)	[0-5]%	[0-5]%	[0-5]%
Chosen not to go to the cinema	[10-20]%	[10-20]%	[20-30]%	Chosen not to go to the cinema	[10-20]%	[10-20]%	[20-30]%
Total	100%	100%	100%	Total	100%	100%	100%

45. These diversion ratios indicate that the AMC Great Northern and the Odeon Printworks compete closely. The Survey found that [40-50]% of the AMC Great Northern's sales would divert to the Odeon Printworks in the event of closure of the AMC Great Northern, and [50-60]% of the Odeon Printworks' sales would divert to the AMC Great Northern in the event of closure of the Odeon Printworks.

²² In calculating these diversion ratios, the CMA has: (i) weighted the response to the forced diversion question by the number of times that respondent had visited a cinema in the last six months; (ii) allocated respondents who indicated that they would have gone to another cinema somewhere else in response to the forced diversion question but answered 'don't know' in response to which cinema they would have visited proportionally across all of the other options; (iii) in line with its usual cautious approach in Phase 1 merger investigations, excluded own party diversion (ie diversion ratios for Odeon cinemas were calculated excluding diversion to other Odeon cinemas).

46. The AMC Great Northern and the Odeon Trafford Centre appear to compete less closely. The Survey found that [10-20]% of the AMC Great Northern's sales would divert to the Odeon Trafford Centre in the event of closure of the AMC Great Northern, and [5-10]% of the Odeon Trafford Centre's sales would divert to AMC Great Northern in the event of closure of the Odeon Trafford Centre.

Customer mode of transport

47. Evidence from the Survey indicated that customers of the AMC Great Northern and the Odeon Printworks use broadly similar modes of transport to reach these cinemas. Around [30-40]% of both cinemas' customers said that they travelled by car on their most recent visit, whilst around [60-70]% of both cinemas' customers said either that they walked or took public transport.²³ For comparison, [90-100]% of the Odeon Trafford Centre's customers said that they travelled by car on their last visit, while only [0-5]% walked and only [0-5]% travelled by bus.²⁴ This would suggest that the AMC Great Northern and the Odeon Printworks are competing more closely than the AMC Great Northern and the Odeon Trafford Centre.

Catchment areas and geographic overlap of the Parties' cinemas

48. The Parties submitted that they do not compete closely because the customer catchment areas of the Odeon Printworks and the AMC Great Northern are different, with the Odeon Printworks drawing more of its customers from the north of Manchester and the AMC Great Northern drawing more of its customers from the south of Manchester. The Parties submitted that some of their marketing activities were targeted at customers on this basis.
49. Using information provided by Survey respondents regarding their home postcodes,²⁵ the CMA was able to calculate an estimate of the correlation of customer home locations between the AMC Great Northern, the Odeon Printworks and the Odeon Trafford Centre.²⁶ Based on these estimates, the CMA found that the customers of the AMC Great Northern and the customers of the Odeon Printworks come from similar areas of Manchester, with a strong

²³ On their last visit to the AMC Great Northern: [20-30]% of customers walked; [20-30]% travelled by tram; [10-20]% travelled by bus and [0-5]% travelled by train. On their last visit to the Odeon Printworks: [20-30]% of customers walked; [20-30]% travelled by tram; [20-30]% travelled by bus and [5-10]% travelled by train.

²⁴ These calculations were also weighted by the number of visits the relevant respondent had made to the cinema in the past six months.

²⁵ Evidence from the Survey indicated that a high proportion of customers for all three cinemas travelled to the cinema from their own home, such that using home postcodes was a reliable starting point for the catchment analysis. Specifically, [80-90]% of Odeon Trafford Centre customers, [80-90]% of Odeon Printworks customers and [70-80]% of AMC Great Northern customers said that they travelled from their own home on their last visit.

²⁶ These calculations were also weighted by the number of visits the relevant respondent had made to the cinema in the past six months.

correlation between their respective customers' home locations.²⁷ The CMA also found some similarity between the home locations of customers of the AMC Great Northern and the Odeon Trafford Centre, but the correlation was significantly weaker than that between the AMC Great Northern and the Odeon Printworks.²⁸ The correlation between the Odeon Printworks and Odeon Trafford Centre was weaker still,²⁹ indicating that these cinemas had more differentiated catchment areas.

50. The CMA believes this evidence is indicative of close competition between the AMC Great Northern and the Odeon Printworks.

Internal documents

51. Internal documents submitted by the Parties to the CMA provided some further evidence to indicate the degree to which the Parties considered each of the Odeon Printworks and the Odeon Trafford Centre to compete with the AMC Great Northern (and vice versa). These documents indicated that, in particular, [REDACTED]:

(a) [REDACTED];

(b) [REDACTED];

(c) [REDACTED]; and

(d) [REDACTED].

52. The CMA believes this evidence is also indicative of close competition between the AMC Great Northern and the Odeon Printworks.

Third party comments

53. Almost all competitors which responded to the CMA's investigation stated that the Parties were close competitors in the Manchester area. These responses noted that the Parties' cinemas had a large number of screens and offered a wide and similar selection of films and other content to cinemagoers. Only two competitors distinguished between the Odeon Printworks and the Odeon Trafford Centre in terms of their competitiveness with the AMC Great Northern, both indicating that the Odeon Printworks competed with the AMC Great Northern more closely.

²⁷ $\rho_{\text{AMC, Printworks}} = [0.60-0.70]$.

²⁸ $\rho_{\text{AMC, Trafford}} = [0.20-0.30]$.

²⁹ $\rho_{\text{Printworks, Trafford}} = [0.10-0.20]$.

54. Third parties also confirmed the finding from the Survey that the AMC Great Northern and the Odeon Printworks overlap to a significant degree in their customer base. In particular, competitors told the CMA that these two cinemas had the same catchment area and competed for the same customers. They highlighted that the short walking distance between these two cinemas was clearly indicative of this.
55. The CMA believes this evidence is also indicative of close competition between the AMC Great Northern and the Odeon Printworks.

Conclusion on closeness of competition

56. On the basis of this evidence, the CMA believes that the AMC Great Northern and the Odeon Printworks are each other's closest competitor. In addition, the Odeon Trafford Centre imposes some competitive constraint on the AMC Great Northern and vice versa.

Pricing pressure analysis

57. Using the diversion ratios from the Survey³⁰ and estimates of the Parties' variable profit margin on sales,³¹ the CMA sought to estimate the GUPPI effect of the Merger. This measure illustrates the Parties' incentive to increase prices following the Merger as a result of the internalisation of 'lost' profit, with the CMA's concerns being greater where the GUPPI value is higher.
58. The CMA calculated GUPPI values of 32% for the AMC Great Northern and 21% for the Odeon Printworks.
59. The CMA believes that these values are consistent with the observations on closeness of competition above and indicate that the merged entity would have a significant incentive to raise prices post-Merger at these two cinemas.

Competitive constraints

60. The Parties submitted that, post-Merger, within a 20-minute drive time of the AMC Great Northern, there would remain 14 multiplex cinemas and five competing fascia; and within a 20-minute drive time of the Odeon Printworks there would be eight multiplex cinemas and five competing fascia.

³⁰ As noted above, in line with its usual cautious approach in Phase 1 merger investigations, the CMA has estimated GUPPI for Odeon cinemas using diversion ratios excluding own-party diversion.

³¹ Calculated using information on gross box office revenues, gross profits and ticket prices provided by the Parties, and a break-down of ticket sales provided by Odeon.

61. Due to differences between the software used by the Parties and the CMA to calculate drive-times, the CMA identified only three competing cinemas (and fascia) within a 20-minute drive time of both the AMC Great Northern and the Odeon Printworks. These are HOME cinema, Showcase Manchester and Vue The Lowry.
62. Given the city centre location of both the AMC Great Northern and the Odeon Printworks, and the evidence the CMA has gathered on these cinemas' relative catchment areas and customers' preferred mode of transport, the CMA places less weight on drive times to competitors as a possible indication of competitive constraint. The Survey evidence also indicates that cinemas located outside Manchester city centre (such as Showcase Manchester and Vue The Lowry) exert a limited competitive constraint on either the AMC Great Northern or the Odeon Printworks.
63. The CMA also notes that HOME Cinema, which is located in central Manchester, is likely to provide a limited constraint on the AMC Great Northern and the Odeon Printworks as:
- (a) HOME is significantly smaller than the AMC Great Northern and the Odeon Printworks, with only five screens and 526 seats (compared with AMC Great Northern's 16 screens and 3,230 seats, and Odeon Printworks' 23 screens and 4,472 seats).
 - (b) HOME shows a very different programme of films to either of the Parties' cinemas, with a greater mix of 'specialist' films.
 - (c) The CMA's calculated diversion ratios to HOME from the AMC Great Northern and the Odeon Printworks were only [5-10]% and [0-5]% respectively.
64. On the basis of this evidence, the CMA believes that the other providers of cinema exhibition services in the Manchester area provide a limited competitive constraint on the AMC Great Northern and the Odeon Printworks.

Conclusion on horizontal unilateral effects

65. As set out above, the CMA believes that the AMC Great Northern and the Odeon Printworks are each other's closest competitor in the supply of cinema exhibition services in Manchester, with other providers of cinema exhibition services imposing a limited competitive constraint on them.
66. Accordingly, the CMA believes that the Merger gives rise to significant competition concerns as a result of horizontal unilateral effects in relation to the supply of cinema exhibition services in Manchester.

Barriers to entry and expansion

- 67. Entry, or expansion of existing firms, can mitigate the initial effect of a merger on competition, and in some cases may mean that there is no SLC.
- 68. In the present case, the Parties did not make any submissions regarding entry or the expansion of existing firms which were relevant to the CMA's competitive assessment, and the CMA has not received any evidence from third parties regarding potential entry or expansion.
- 69. The CMA also notes the requirement to obtain planning permission for a new cinema development and, typically, significant construction time.
- 70. For these reasons, the CMA believes that entry or expansion would not be sufficient, timely, or likely to prevent a realistic prospect of an SLC as a result of the Merger.

Third party views

- 71. The CMA contacted competitors of the Parties asking them to complete a questionnaire. The CMA also contacted customers of the AMC Great Northern, the Odeon Printworks and the Odeon Trafford Centre cinemas via the Survey.
- 72. Three competitors raised concerns regarding the impact of the Merger on competition and on consumers' choice of cinema exhibition suppliers in the Manchester area. One of these competitors told the CMA that, post-Merger, price rises would be likely, in particular at the AMC Great Northern where prices are currently lower than at either the Odeon Printworks or the Odeon Trafford Centre.
- 73. Third party comments have been taken into account where appropriate in the competitive assessment above.

Conclusion on substantial lessening of competition

- 74. Based on the evidence set out above, the CMA believes that it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC. This is as a result of horizontal unilateral effects in relation to the supply of cinema exhibition services in Manchester, arising from the loss of competition between the AMC Great Northern and the Odeon Printworks.

Decision

75. Consequently, the CMA believes that it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC within a market or markets in the UK.
76. The CMA therefore believes that, according to section 22(1) of the Act, it is under a duty to refer the Merger for a phase 2 investigation. However, the duty to refer is not exercised³² whilst the CMA is considering whether to accept undertakings³³ instead of making such a reference. AMC has until 15 December 2016³⁴ to offer an undertaking to the CMA.³⁵ The CMA will refer the Merger for a phase 2 investigation³⁶ if AMC does not offer an undertaking by this date; if AMC indicates before this date that it does not wish to offer an undertaking; or if the CMA decides³⁷ by 22 December 2016 that there are no reasonable grounds for believing that it might accept the undertaking offered by AMC, or a modified version of it.
77. The statutory four-month period mentioned in section 24 of the Act in which the CMA must reach a decision on reference in this case expires on 30 March 2016. For the avoidance of doubt, the CMA hereby gives AMC notice pursuant to section 25(4) of the Act that it is extending the four-month period mentioned in section 24 of the Act. This extension comes into force on the date of receipt of this notice by AMC and will end with the earliest of the following events: the giving of the undertakings concerned; the expiry of the period of 10 working days beginning with the first day after the receipt by the CMA of a notice from AMC stating that it does not intend to give the undertakings; or the cancellation by the CMA of the extension.

Sheldon Mills
Senior Director, Mergers
Competition and Markets Authority
8 December 2016

³² Section 22(3)(b) of the Act.

³³ Section 73 of the Act.

³⁴ Section 73A(1) of the Act.

³⁵ Section 73(2) of the Act.

³⁶ Sections 22(1) and 34ZA(2) of the Act.

³⁷ Section 73A(2) of the Act.