

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

Decision on acceptance of undertakings in lieu of reference

ME/6644/16

Introduction

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. On 8 December 2016, the Competition and Markets Authority (**CMA**) decided under section 22(1) of the Enterprise Act 2002 (the **Act**) that it is or may be the case that the Merger constitutes a relevant merger situation¹ that has resulted or may be expected to result in a substantial lessening of competition (**SLC**) within a market or markets in the UK (the **SLC Decision**). The text of the SLC Decision is available on the CMA webpages.²
3. On 9 December 2016, AMC offered undertakings in lieu of reference to the CMA for the purposes of section 73(2) of the Act (the **UILs**). The CMA gave notice to AMC on 22 December 2016, pursuant to section 73A(2)(b) of the Act, that it considered that there were reasonable grounds for believing that the undertakings offered, or a modified version of them, might be accepted by the CMA under section 73(2) of the Act and that it was considering AMC's offer (the **UILs Provisional Acceptance Decision**).

¹ Pursuant to section 25(4) of the Act the four-month period mentioned in section 24 of the Act is extended while the CMA is seeking undertakings in lieu of reference.

² See <https://www.gov.uk/cma-cases/amc-uk-odeon-and-uci-cinemas-merger-inquiry>.

4. The text of the SLC Decision and the UILs Provisional Acceptance Decision are available on the CMA webpages.³

The undertakings offered

5. As set out in the SLC Decision, the CMA found a realistic prospect of an SLC as a result of horizontal unilateral effects in the supply of cinema exhibition services in Manchester.
6. As set out in the UILs Provisional Acceptance Decision AMC offered to divest the Odeon Printworks cinema together with the relevant leases, licences, assets and employees as permitted by law (the **Printworks Divestment Business**), as set out in more detail in the text of the consultation in Annex 1 below (the **UILs**).
7. AMC also offered to enter into an agreement for the sale and purchase of the Divestment Business with an upfront buyer, before the CMA accepts the UILs. AMC proposed Vue Entertainment Limited (**Vue**) as the upfront buyer.

Consultation

8. On 2 February 2017, pursuant to paragraph 2(1) of Schedule 10 to the Act, the CMA published the proposed UILs, inviting interested parties to give their views on the UILs. The relevant text from the consultation is set out at Annex 1 of this decision.⁴ For the reasons set out in the UILs Provisional Acceptance Decision, the CMA's preliminary view was that the UILs would resolve the SLC identified in the SLC decision in a clear-cut manner, ie without giving rise to material doubts about the overall effectiveness of the UILs or concerns about their implementation.⁵
9. The CMA received one submission during the consultation period. This submission was supportive of divestment of the Odeon Printworks cinema. Accordingly, this did not cause the CMA to change its preliminary view that the UILs would be acceptable.
10. The CMA therefore considers that the UILs offered by AMC are clear-cut and appropriate to remedy, mitigate or prevent the competition concerns identified in the SLC Decision and that Vue is a suitable purchaser of the Printworks

³ See <https://www.gov.uk/cma-cases/amc-uk-odeon-and-uci-cinemas-merger-inquiry>.

⁴ See <https://www.gov.uk/cma-cases/amc-uk-odeon-and-uci-cinemas-merger-inquiry>.

⁵ *Mergers: Exceptions to the duty to refer and undertakings in lieu of reference guidance (OFT1122)*, December 2010, Chapter 5 (in particular paragraphs 5.7–5.8 and 5.11). This guidance was adopted by the CMA (see *Mergers: Guidance on the CMA's jurisdiction and procedure (CMA2)*, January 2014, Annex D).

Divestment Business.

Decision

11. For the reasons set out above, the CMA considers that the UILs provided by AMC are as comprehensive a solution as is reasonable and practicable and will remedy, mitigate or prevent the SLC identified in the SLC Decision and any adverse effects resulting from it. The CMA has therefore decided to accept the UILs offered by AMC pursuant to section 73 of the Act. The Merger will therefore not be referred for a phase 2 investigation.
12. The undertakings, which have been signed by AMC and will be published on the CMA webpages,⁶ will come into effect from the date of this decision.

Sheldon Mills
Senior Director, Mergers
Competition and Markets Authority
19 April 2017

⁶ See <https://www.gov.uk/cma-cases/amc-uk-odeon-and-uci-cinemas-merger-inquiry>.

Annex 1

Notice under paragraph 2(1) of Schedule 10 to the Enterprise Act 2002 (the Act) – consultation on the proposed undertakings in lieu of reference pursuant to section 73 of the Act

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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.

Introduction

13. 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**.
14. On 8 December 2016, the Competition and Markets Authority (**CMA**) decided under section 22(1) of the Enterprise Act 2002 (the **Act**) that it is or may be the case that the Merger constitutes a relevant merger situation⁷ that has resulted or may be expected to result in a substantial lessening of competition (**SLC**) within a market or markets in the UK (the **SLC Decision**). The text of the SLC Decision is available on the CMA webpages.⁸
15. On 9 December 2016, AMC offered undertakings in lieu of reference to the CMA for the purposes of section 73(2) of the Act.
16. On 22 December 2016, the CMA gave notice to AMC, pursuant to section 73A(2)(b) of the Act, that it considers that there are reasonable grounds for believing that the undertakings offered, or a modified version of them, might be accepted by the CMA under section 73(2) of the Act and that it is considering AMC's offer (the **UIL Provisional Acceptance Decision**).

⁷ Pursuant to section 25(4) of the Act the four-month period mentioned in section 24 of the Act is extended while the CMA is seeking undertakings in lieu of reference.

⁸ See <https://www.gov.uk/cma-cases/amc-uk-odeon-and-uci-cinemas-merger-inquiry>.

The undertakings offered

17. As set out in the SLC Decision, the CMA found a realistic prospect of an SLC as a result of horizontal unilateral effects in the supply of cinema exhibition services in Manchester.
18. As set out in the UIL Provisional Acceptance Decision, to address the SLC identified by the CMA AMC has offered undertakings to divest either the AMC Great Northern cinema together with the relevant leases, licences, assets and employees as permitted by law (the **Great Northern Divestment Business**) or the Odeon Printworks cinema together with the relevant leases, licences, assets and employees as permitted by law (the **Printworks Divestment Business**). The text of the proposed undertakings is available on the CMA webpages (the **Proposed Undertakings**).⁹
19. AMC has offered to enter into an agreement for the sale and purchase of the Great Northern Divestment Business or Printworks Divestment Business with an upfront buyer before the CMA finally accepts the Proposed Undertakings. AMC has proposed either Empire Cinemas Group Limited (**Empire**) or Vue Entertainment Limited (**Vue**) as the upfront buyer. This agreement will be conditional on acceptance by the CMA of the Proposed Undertakings, including approval of either Empire or Vue as the buyer of the Great Northern Divestment Business or Printworks Divestment Business.

CMA assessment

20. The CMA currently considers that, subject to responses to this consultation, the Proposed Undertakings will resolve the SLC identified in the SLC Decision in a clear-cut manner, ie the CMA currently does not have material doubts about the overall effectiveness of the Proposed Undertakings or concerns about their implementation.¹⁰ This is because the Proposed Undertaking would result in the AMC Great Northern and the Odeon Printworks being owned by different cinema operators, as was the situation pre-Merger. The Proposed Undertakings would thereby result in replacing the competitive constraint provided by the AMC Great Northern on the Odeon Printworks, and vice versa, that would otherwise be lost following the Merger. The CMA also considers that the Proposed Undertakings would be capable of ready

⁹ See <https://www.gov.uk/cma-cases/amc-uk-odeon-and-uci-cinemas-merger-inquiry>.

¹⁰ *Mergers: Exceptions to the duty to refer and undertakings in lieu of reference guidance (OFT1122)*, December 2010, Chapter 5 (in particular paragraphs 5.7–5.8 and 5.11). This guidance was adopted by the CMA (see *Mergers: Guidance on the CMA's jurisdiction and procedure (CMA2)*, January 2014, Annex D).

implementation, because the AMC Great Northern and the Odeon Printworks are stand-alone businesses.

Suitability of the proposed purchaser

21. In approving a purchaser, the CMA's starting position is that it must be confident without undertaking a detailed investigation that the proposed purchaser will restore pre-merger levels of competition. The CMA therefore seeks to ensure that:
- (a) the acquisition by the purchaser remedies, mitigates or prevents the SLC concerned and any adverse effect resulting from it;
 - (b) the proposed purchaser is independent of and unconnected to the merging parties;
 - (c) the proposed purchaser has the necessary financial resources, expertise, incentive and intention to maintain and operate the divested business as an effective competitor in the marketplace;
 - (d) the proposed purchaser is reasonably expected to obtain all necessary approvals, licences and consents from any regulatory or other authority; and
 - (e) the acquisition by the proposed purchaser does not itself create an SLC within any market or markets in the UK.¹¹

Empire

22. Empire is a cinema operator founded in 2005 which is active solely in the UK, where it operates 13 multiplex cinemas at various locations nationwide. In 2014, it generated turnover of £[~~8~~] in the UK. Empire submitted that it was interested in acquiring the Great Northern Divestment Business or Printworks Divestment Business.
23. Empire's management team has significant experience in the cinema sector and the company has a track record of developing cinema sites. The CMA is therefore confident that Empire has the necessary expertise, incentive and intention to operate the Great Northern Divestment Business or Printworks Divestment Business in competition with AMC and other competitors in the market.

¹¹ [OFT1122](#), paragraphs 5.25–5.30.

24. With respect to independence, Empire has no current links with either of the Parties.
25. With regard to consents and other approvals, the CMA understands that landlord consent is required for assignment of either lease. Based on the evidence available, Empire can be reasonably expected to obtain such consents.
26. The CMA is confident that Empire's acquisition of the Great Northern Divestment Business or Printworks Divestment Business would not in itself create a realistic prospect of an SLC within any market or markets in the UK as Empire does not currently operate a cinema in Manchester city centre and its other sites are sufficiently geographically distant to not exert a substantial constraint on the Great Northern Divestment Business or Printworks Divestment Businesses.¹²
27. Therefore, subject to the outcome of this consultation, the CMA considers Empire to be a suitable purchaser of the Great Northern Divestment Business or Printworks Divestment Business.

Vue

28. Vue operates 84 cinemas with 798 screens in the UK and is the third largest cinema operator nationally. In 2016, it generated turnover of £[redacted] in the UK.¹³ Vue submitted that it was interested in acquiring the Printworks Divestment Business. Vue's management team has significant experience in the cinema sector and has made a number of acquisitions of UK cinemas in the past.
29. The CMA is confident that Vue has the necessary expertise, incentive and intention to operate the Printworks Divestment Business in competition with AMC and other competitors in the market.
30. In terms of independence, [redacted]. With respect to independence, the CMA therefore has no concerns regarding Vue.
31. With regard to consents and other approvals, the CMA believes that Vue can be reasonably expected to obtain such consents.
32. The CMA is confident that Vue's acquisition of the Printworks Divestment Business would not in itself create a realistic prospect of an SLC within any market or markets in the UK. Although Vue operates one cinema within 20-

¹² The CMA notes that [redacted].

¹³ From November 2015 to November 2016

minutes' drive time of Manchester city centre at Salford Quays (the Vue Lowry), evidence available to the CMA from its investigation of Odeon's acquisition by AMC indicates that the Vue Lowry does not impose a substantial constraint on the Odeon Printworks. The CMA found the Great Northern and Printworks sites to be each other's closest competitors by a significant margin.

33. Therefore, subject to the outcome of this consultation, the CMA considers Vue to be a suitable purchaser of the Printworks Divestment Business.

Proposed decision and next steps

34. For the reasons set out above, the CMA currently considers that the Proposed Undertakings and the purchase of the Great Northern Divestment Business or Printworks Divestment Business by Empire or the purchase of the Printworks Divestment Business by Vue are, in the circumstances of this case, appropriate to remedy, mitigate or prevent the competition concerns identified in the SLC Decision and form as comprehensive a solution to these concerns as is reasonable and practicable.
35. The CMA therefore gives notice that it proposes to accept the Proposed Undertakings in lieu of a reference of the Merger for a phase 2 investigation. The text of the proposed undertaking is available on the CMA web pages.¹⁴
36. Before reaching a decision as to whether to accept the Proposed Undertakings, the CMA invites interested parties to make their views known to it. The CMA will have regard to any representations made in response to this consultation and may make modifications to the Proposed Undertakings as a result. If the CMA considers that any representation necessitates any material change to the Proposed Undertakings, the CMA will give notice of the proposed modifications and publish a further consultation.¹⁵
37. Representations should be made in writing to the CMA and be addressed to:

¹⁴ See <https://www.gov.uk/cma-cases/amc-uk-odeon-and-uci-cinemas-merger-inquiry>

¹⁵ Under paragraph 2(4) of Schedule 10 to the Act.

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Deadline for comments: 17 February 2017