

***Case No COMP/M.5051 -
APW / GMG / EMAP***

Only the English text is available and authentic.

**REGULATION (EC) No 139/2004
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION
Date: 07/03/2008

***In electronic form on the EUR-Lex website under document
number 32008M5051***



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 07/03/2008

SG-Greffe(2008) 201015

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus [...]. Where possible the information omitted has been replaced by ranges of figures or a general description.

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying parties:

Dear Sir/Madam,

**Subject: Case No COMP/M.5051 - APW/ GMG/ Emap
Notification of 01/02/2007 pursuant to Article 4 of Council Regulation
No 139/2004¹**

I. INTRODUCTION

1. On 01/02/2008, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ("the EC Merger Regulation") by which two investment funds controlled by Apax Partners Worldwide LLP ("APW", United Kingdom) and the undertaking Guardian Media Group plc ("GMG", United Kingdom) acquire within the meaning of Article 3(1)(b) of the Council Regulation joint control of the undertaking Emap plc ("Emap", United Kingdom) by way of purchase of shares. APW, GMG are together referred to below as "the parties" or "the notifying parties".

II. THE PARTIES

2. **APW** is a UK limited partnership which provides private equity fund advisory and management services to funds investing in a variety of industry sectors essentially in Europe. Two of its portfolio companies are engaged in activities in a broadly defined

¹ OJ L 24, 29.1.2004 p. 1.

publishing sector: Incisive Media ("**Incisive**"), a business information provider that generates most of its turnover [(65-75%)] in the [...], and Trader Media Group ("**TMG**"), jointly controlled by APW and GMG² and mainly active in the United Kingdom for the provision of automotive classified advertising. APW is not controlled by any individual or entity.

3. **GMG** is a UK-based multimedia group with interests in national newspapers (e.g. the Guardian and the Observer), regional newspaper, magazines, radio and internet businesses. GMG is wholly owned and solely controlled by the Scott Trust.
4. The target, **Emap**, is traded on the London Stock exchange and its activities comprise the Communication Division³ which includes the group's business to business (B2B) media services delivered through multiple platforms, namely print and online publications, events organization and online information products. The target is not controlled by any undertaking.

III. THE CONCENTRATION

5. The transaction concerns the acquisition of joint control by APW and GMG over the company Emap and it involves the acquisition, via the vehicle Eden Bidco, of 100% of the share capital in the target. Pursuant to the "Subscription and Shareholders' Agreement", following the concentration, APW and GMG will acquire respectively 66.3% and 33.7% of ordinary shares of the target. APW and GMG will each control half of the board, and will be able to block key strategic decisions of the target company.
6. Thus, the transaction constitutes a concentration within in the meaning of Article 3(1)(b) of the Merger Regulation.

IV. COMMUNITY DIMENSION

7. The undertakings concerned have a combined aggregate world-wide turnover for the year 2007 of more than EUR 5 billion⁴ (APW: EUR [...], GMG: EUR [...], Emap: EUR [...] million). Each of APW, GMG and Emap has a Community-wide turnover in excess of EUR 250 million (APW: [...] EUR million, GMG: EUR [...] million, Emap: EUR [...]), without achieving more than two-thirds of their aggregate Community-wide turnover within one and the same Member State⁵.

² [...]

³ The target has now completed the sale of its Consumer Media Division to Heinrich Bauer Verlag KG (Bauer), and is currently in the process of disposing of its UK Radio Division to Bauer. The target also disposed of its Irish Radio division to Communicorp Group Ltd.

⁴ Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Notice on the calculation of turnover (OJ C66, 2.3.1998, p.25).

⁵ Both GMG and Emap achieved more than two-thirds of their Community-wide turnover in 2006-2007 in the UK. However, APW did not generate more than two-thirds of its 2006 Community-wide turnover in the UK or in any other Member State.

8. Therefore the concentration has a Community dimension under Article 1(2) of the EC Merger Regulation.

V. COMPETITIVE ASSESSMENT

9. The concentration will give rise to one affected market due to a vertical link between the target and TMG. The latter currently buys business data on vehicle specifications from the target, which TMG incorporates in classified vehicle advertising published online through its own website. The transaction also gives rise to horizontal overlaps between the target and GMG in relation to recruitment advertising and organisation of events. However these overlaps do not give rise to any affected markets.

A. MARKET DEFINITION

1) RELEVANT PRODUCT AND GEOGRAPHIC MARKETS

10. The target and Incisive and to a lesser extent GMG and TMG are active in a broadly defined media services sector through the provision of business information. This activity mainly involves the supply of market intelligence, information and data to businesses through a number of platforms. According to the parties, business information products can be divided into different industry sectors (retail, construction etc.) and also according to the platform or medium through which the business information is delivered.
11. For the purpose of the proposed transaction, the notifying parties consider separate market categories for the provision of business information through: (i) magazines and other publications; (ii) databases and directories; (iii) the organization of events; and (iv) the sale of advertising space in magazines, newspaper and online space.

a) Magazines and other publications

12. APW through its portfolio companies Incisive and TMG, GMG and the target are active in the market for publication. Commission precedents in the publishing sector indicate that the written press is divided into a number of distinct national or regional product markets based on the type of publication (i.e. newspaper and magazines) and on the content of the publications involved and the identity of the target audiences⁶. Further segmentations also potentially occur due to other factors such as periodicity, style, presentation, and price⁷. The parties take the same view as the Commission's precedents described above.
13. In relation to news press, the Commission has in previous investigations found the geographic market to be national or infra-national, in light of linguistic considerations and the relevance of the material involved to particular Member States/regions⁸. The

⁶ See Commission decision in Case IV/M.1401 – Recoletos/Unedesa of 1 February 1999; Commission decision in Case COMP/M.3420 – GIMD/Socpresse of 16 June 2004.

⁷ See Commission decisions in Case COMP/M.3178 Bertelsmann/Springer and COMP/M.3197 Candover/Cinven/Bertelsmann-Springer.

⁸ See Commission decision in Case COMP/M.1401, Recoletos/Unedesa.

parties are of the view that for the types of press concerned in the present transaction (business information magazines and newspapers) the relevant markets are likely to be national for the same reasons.

14. In any event, regardless of how broadly or narrowly the product and geographic markets are defined, the transaction does not give rise to any competition concerns.

b) Provision of business data through datasets and directories

15. According to the parties' submission, there is also a broad category of product markets consisting of the provision of business data through directories and databases, which in the view of the parties can also be divided, like the market for magazines and other publications described above, according to the content and the identity of the target audience.
16. The parties are active in the business data provision in different industries/sectors. In relation to the automotive industry, the target provides automotive data (including value, equipment, and technical data on car models) to companies in the retail, fleet, finance and insurance sectors of the automotive industry. These automotive data comprise data on vehicle valuation ("valuation data") and data on vehicle specifications ("datasets"). The automotive data represents sometimes an upstream input in respect of the provision of vehicle advertising, which is therefore situated downstream in the value chain. In fact TMG employs - at the downstream level - the target's datasets for one of its websites⁹ to enable users who wish to sell their vehicles through this platform to automatically populate required information fields¹⁰. TMG sells this advertising space to final consumers.
17. According to the notifying parties, the type of datasets provided by the target forms part of a separate product market for datasets, i.e., datasets containing manufacturer, model and derivative information of cars. In respect of this market for automotive data the market investigation provided a mixed indication with regards to whether it represents a single market or whether it could be further sub-divided in valuation data and datasets. On the one hand it has shown that most suppliers offer both valuation data and datasets. Customers often purchase both upstream products, valuation data and datasets, and do so by purchasing from the same upstream supplier. On the other hand, according to some respondents, valuation data and datasets serve different customer needs and are of rather complementary nature. Furthermore some respondents to the market investigation have indicated that valuation data and datasets are procured from different competing upstream suppliers, respectively. For the purpose of the proposed transaction, the exact definition of this product market can be left open, since the assessment would not change under any alternative.
18. The parties consider the relevant geographic market for business data through directories and databases to be generally national in scope mainly because the

⁹ www.autotrader.co.uk

¹⁰ In addition, the target also provides data for valuation for vehicles through the "Black Book" and "New Car Monitor". The latter is a guide to the future used values of today's new cars. The former instead is published monthly and is used by customers who seek an estimate of the values of a used car, for instance dealers, leasing and fleet companies. In other words valuation data in the Black Book and the New Car Monitor help customers benchmark the value of their vehicles against an independent guide.

activities of the target and Incisive in such markets are essentially limited to the UK¹¹. However, there are certain online products aimed at global audience and which have a wide non-UK customer base.

19. In any event, regardless of how the relevant product and geographic markets are ultimately defined, the transaction does not give rise to any competition concerns.

c) Organization and management of business events

20. According to the notifying parties, the market for organization and management of business events should be divided, similarly to the other markets described above, according to content/target audience. The parties consider that markets for different types of events – exhibition, conferences, seminars, festivals or award shows - can also be distinguished on the basis of mode of financing and general content/structure of the event. In the parties' view, the geographic market for the organisation of events would be generally national, however, in some cases also global or regional depending on the target audience.

21. In any event, regardless of whether the market for organization and management of events other than exhibitions is further divided, the transaction does not give rise to any competition concerns.

d) Advertising

22. In the Commission's practice, advertising markets, similar to publishing markets, are divided according to the medium (newspaper, magazines, online, etc.) and commonality of content, as well as the target audience¹². For each type of publication, the Commission has also indicated that the sale of advertising space constitutes a separate market¹³. The markets were found to be national in scope, due to the scope of distribution and linguistic factors.

23. Moreover, the parties also consider three broad areas of advertising which are relevant to the present case: (i) recruitment advertising ("recruitment advertising"); (ii) classified vehicle advertising ("classified vehicle advertising") and (iii) advertising in business information publications and in relation to business data databases and directories ("business data advertising").

24. As regards recruitment advertising the parties identify two alternative approaches to market definition, one including both the individual industrial/professional sector and medium¹⁴ (newspaper, magazines, online, etc.), the other one only the industrial/professional sector including all media.

¹¹ This approach is also confirmed by relevant UK precedents: Competition Commission report on Emap plc/ABI Building Data Ltd, January 2005; OFT decision on VNU Entertainment Media UK Ltd/Book Data Ltd.

¹² See Commission decision in Case COMP/M.3420 – GIMD/Socpresse of 16 June 2004.

¹³ See Commission decision in Case COMP/M.3420, GIMD/Socpresse.

¹⁴ Commission precedents consider a further subdivision according to in national papers, regional papers, magazines and online.

25. For classified vehicle advertising, the parties consider the relevant market to be an overall market for classified vehicle advertising in magazines and specialist titles, regional press, free ads, national press and related websites. The parties argue that these different types of publications could be brought into the same relevant product market on the basis that customers (general motor dealers) choose to advertise their vehicles in any of these media and may switch between them in response to variation in price.
26. As regards the delineation of classified vehicle advertising according to media used, the alternative market definitions could be i) classified vehicle advertising through all media, hence online and offline, or ii) online classified vehicle advertising.
27. Although the market investigation has shown that online and offline advertising compete to a certain extent, online advertising could be seen as a separate market¹⁵. As opposed to offline advertising, online advertising is considered to be capable of reaching a more targeted audience in a more effective way.
28. Furthermore, on the basis of third party market reports, e.g. Jupiter and IAB, online advertising could be divided in three main categories: search¹⁶, non-search¹⁷ and classified. Classified advertising is grouped within specific websites under headings classifying the product or service being offered. However, even assuming the narrowest market definition, the market for online classified vehicle advertising only, the proposed transaction does not give rise to any competition concerns. The exact product market definition can therefore be left open for the purpose of the proposed transaction, since the outcome would not change under any alternative.
29. The market investigation has confirmed that the advertising markets are national in scope.
30. In any event, there is no need to define such markets because under any product or geographic market definition, the transaction will not raise serious doubts as to its compatibility with the common market.

e) Dealer Management Software

31. Some respondents to the market investigation have also identified a separate market for dealer management software ('listing tools'). Listing tools are required to provide online advertising services as they are the interfaces between advertising websites and advertisers, in particular car dealers. Listing tools are software packages used as the electronic conduit for the relationship between providers of online classified vehicle advertising and car dealers, and allow car dealers to upload information electronically onto advertisers' websites. The code to access to a specific upstream supplier of valuation data or datasets can be embedded in the listing tools thereby creating a link

¹⁵ In previous decisions the Commission has also established a distinction between online and offline advertising. See Commission decisions in cases IV/JV.1 – Telia/Telenor/Schibstedt of 27 May 1998, IV/M.1439 Telia/Telenor of 3 October 1999 and IV/M.0048 Vodafone/Vivendi/Canal Plus of 20 July 2000

¹⁶ Search advertising appears next to the results of search queries entered by internet users into internet search engines. They are selected on the basis of the search keywords chosen by the user.

¹⁷ Non-search advertising can appear on any web page and they can either be contextual advertising, selected according to the content of the page on which they appear, or non-contextual advertising.

between the listing tool and an upstream supplier of datasets. According to the parties, listing tools do not represent a separate market as they have no independent functionality, but rather form an integral part of the provision of online classified vehicle advertising. The market investigation has largely confirmed that listing tools are normally an ancillary service to the provision of online classified vehicle advertising and every provider of online classified vehicle advertising operates his listing tool. However, the market investigation has also shown that in some instances listing tools can be an additional source of revenue for the owner of the listing tool (usually the supplier of online classified vehicle advertising), if an owner's listing tool is used to place classified vehicle advertising on a third party's website.

32. For the purpose of the proposed transaction, there is no need to define whether listing tools represent a separate market, because under any product or geographic market definition, the transaction will not raise serious doubts as to its compatibility with the common market.

B. COMPETITIVE ASSESSMENT

Horizontal effects

33. The proposed transaction gives rise to horizontal overlaps between the target and GMG only in relation to (i) online recruitment advertising (in particular in the sector of building/construction, hospital and medical, and planning and housing) and (ii) organization of events (in the public and media sector). However, under any plausible market definition, the combined market shares of the parties' activities in these markets are below 15% and therefore do not give rise to any affected markets or competition concerns.

Vertical effects

34. The proposed transaction furthermore gives rise to primarily¹⁸ one vertical link between the target upstream and TMG downstream as concerns the provision by the target of datasets to TMG for the use in online classified vehicle advertising. The target's market share of the upstream market for automotive data assuming a broader market definition including both valuation data and datasets in the United Kingdom is [25-35%]. Under the narrower market definition comprising only the market for datasets in the United Kingdom the target's upstream market share is [45-55%].
35. TMG's and GMG's combined¹⁹ market share of the downstream market for classified vehicle advertising in the United Kingdom, assuming the broader market definition which includes all media for classified vehicle advertising, amounts to [25-35%]. Under the narrower market definition TMG has a share of [70-80%] of the market for online classified vehicle advertising in the United Kingdom. Therefore, independently

¹⁸ In addition, there is a potential vertical link between the target and TMG as TMG provides printing services and the target purchases such services. However, in view of TMG's limited presence on the UK market [(0-5%)] and the target's limited demand [(0-5%)] of total market demand in the United Kingdom, it does not raise any competition concerns.

¹⁹ TMG and GMG are active in the provision of vehicle advertising. TMG provides both online and offline vehicle advertising, whereas GMG only provides offline vehicle advertising. However, regardless of the precise market definition, the horizontal overlap is not brought about by the proposed transaction, as TMG is already jointly controlled by GMG and APW.

of the product market definition, the vertical link gives rise to vertically affected markets, the upstream market for valuation data and datasets and the downstream market for classified vehicle advertising.

36. The Commission investigated the impact of this vertical link on competition and concluded that it does not give rise to any competition concerns specific to the proposed transaction for the following reasons.
37. Input foreclosure is only feasible where it concerns an important input for the downstream market and the vertically-integrated firm will have a significant degree of market power in the upstream market. While some respondents to the market investigation have argued that datasets increase convenience for advertisers, the market investigation has confirmed that datasets are not a critical input to the provision of online classified vehicle advertising. Although datasets assist advertisers and contribute to the accuracy of classified vehicle advertising, they do not fundamentally change the classified vehicle advertising. Furthermore typing the information manually would be an alternative way of feeding online classified vehicle advertising to generating the information electronically through datasets.
38. The market investigation has indicated that datasets do not represent a significant portion of overall cost of publishing online classified vehicle advertising. According to the parties the cost for purchasing datasets in the case of TMG account for less than [0-5%] of its overall cost for operating its online vehicle advertising. Furthermore the market investigation has shown that datasets are not a significant source of product differentiation among providers of online classified vehicle advertising.
39. Based on the market investigation there are alternative suppliers on the upstream market for datasets in the United Kingdom. These are IDS with a market share of approximately [(20-30%)], Eurotaxglass [(10-20%)] and Jato Dynamics [(5-10%)]. While some respondents to the market investigation pointed out that the target provides the most complete datasets on the upstream market, the market investigation has also indicated that these competing suppliers are able to provide similar datasets. To this regard, the market investigation has shown that one of the most significant competitors of TMG on the downstream market does not purchase data from the target at all, but from one of its competitors. Therefore, even if the target stopped supplying TMG's competitors, alternative upstream suppliers would still remain to serve these customers. Moreover, due to the electronic nature of the product, alternative suppliers would not be capacity-constrained and additional demand could be met.
40. According to the market investigation post-merger new entry in the upstream market would also be possible since no significant barriers to entry would prevent supply-side substitutability. In fact, although the market investigation has pointed to the existence of limited switching costs, customers would have the possibility to switch to alternative suppliers of datasets. Therefore, despite the target's substantial share of a narrowly defined upstream market, the vertically-integrated firm would not have the ability to foreclose downstream competitors' access to input.
41. The vertically-integrated firm would have an incentive to foreclose rivals' access to inputs only if it anticipated increased revenues in the downstream market for classified vehicle advertising capable of compensating for the loss of upstream revenues for valuation data and datasets. Although margins tend to be higher in the downstream market, the market investigation has confirmed that rivals in the downstream market would continue to have access to existing or potential alternative suppliers. Therefore

the proposed transaction would not allow the vertically-integrated firm to yield increased revenues in the downstream market and would thus not provide an incentive to foreclose rivals' access to input.

42. As the market investigation has indicated that the upstream provision of datasets will remain competitive, the merged entity would not, even by restricting access to its own upstream product, be able to limit the availability of datasets. Therefore total input foreclosure would not adversely affect competition. Even if the firm had the ability and incentive to partially foreclose rivals, any price effect would be minimal, as the cost of the input only represents a small part of the overall cost of operation. Therefore a price increase would have a negligible impact on the cost structure and hence on competition in the downstream market.
43. As regards listing tools, even if a separate market for listing tools should exist, competition concerns would not arise in this market based on input foreclosure. While some respondents to the market investigation are concerned that TMG's listing tool 'Dealer Edit' could be used to foreclose rivals access to the target's upstream datasets, the market investigation has shown that alternative listing tools exist. Most car dealers are multi-homing as they use several competing listing tools at the same time. The market investigation has also shown that alternative listing tools exist, which use datasets but which do not depend on the target's datasets. Therefore even if a separate market for listing tools existed and TMG's Dealer Edit had a strong market position amongst the listing tools, it would not give rise to any concerns about input foreclosure specific to the proposed transaction.
44. Customer foreclosure can also be excluded as a result of the proposed transaction. The market investigation has confirmed that valuation data and datasets, such as those supplied by the target, are bought by a range of customers including retail, fleet, finance and insurance companies of the automotive industry as well as consumers. The existing vertical link between the target and TMG concerned sales of approximately [...] in 2007. This represents approximately [0-5%] of the total market demand for datasets and approximately [0-5%] of the total demand for valuation data and datasets in the United Kingdom. Therefore the vertically-integrated firm would have no ability to engage in a strategy of customer foreclosure.
45. The merged entity would only have an incentive to foreclose if it anticipated increased revenues in the upstream or downstream market. Given the small portion of demand controlled by the merged entity, competing upstream suppliers would continue to have access to substantial demand. A customer foreclosure strategy would also not allow the merged entity to raise prices downstream. Consequently, it would have no incentive to engage in a strategy of customer foreclosure. Any transfer of TMG's demand to the target would have negligible impact on competition. Furthermore, independently of the proposed transaction, [...].
46. Given the presence of alternative suppliers of valuation data and datasets and the limited size of TMG's demand for datasets, the merged firm is unlikely to have the ability and incentive to foreclose its competitors whether upstream or downstream due to the proposed transaction. Furthermore, the competitive impact of such behaviour would be negligible. Consequently, the vertical link between the target and TMG does not give rise to any competition concerns specific to the proposed transaction.

VI. CONCLUSION

47. For the above reasons, the Commission has decided not to oppose the notified operation and to declare it compatible with the common market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of Council Regulation (EC) No 139/2004.

For the Commission
signed
Neelie KROES
Member of the Commission