



EUROPEAN COMMISSION

DG Competition

***Case M.8177 – AMC UK  
/ Odeon and UCI  
Cinemas***

Only the English text is available and authentic.

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

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Article 4(4)

Date: 18.10.2016



EUROPEAN COMMISSION

Brussels, 18.10.2016  
C(2016) 6821 final

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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

To the notifying party

To Competition and Markets Authority

Dear Sir/Madam,

**Subject: Case M.8177 – AMC UK / Odeon and UCI Cinemas  
Commission decision following a reasoned submission pursuant to Article 4(4) of Regulation No 139/2004<sup>1</sup> for referral of the case to the United Kingdom and Article 57 of the Agreement on the European Economic Area.<sup>2</sup>**

**Date of filing: 16 September 2016**

**Legal deadline for response of Member States: 7 October 2016**

**Legal deadline for the Commission decision under Article 4(4): 21 October 2016**

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<sup>1</sup> OJ L 24, 29.1.2004, p. 1 (the "Merger Regulation"). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ("TFEU") has introduced certain changes, such as the replacement of 'Community' by 'Union' and 'common market' by 'internal market'. The terminology of the TFEU will be used throughout this decision.

<sup>2</sup> OJ L 1, 3.1.1994, p. 3 (the "EEA Agreement").

## **I. INTRODUCTION**

1. On 16 September 2016, the Commission received by means of a Reasoned Submission a referral request pursuant to Article 4(4) of the Merger Regulation with respect to the case cited above. AMC (UK) Acquisition Limited (the "Notifying Party") requests the concentration to be examined, as regards the United Kingdom part of the concentration ("United Kingdom Transaction"), by the competent authorities of the United Kingdom.
2. According to Article 4(4) of the Merger Regulation, before a formal notification has been made to the Commission, the parties to the transaction may request that their transaction be referred in whole or in part from the Commission to the Member State where the concentration may significantly affect competition and which presents all the characteristics of a distinct market.
3. A copy of this Reasoned Submission was transmitted to all Member States on 16 September 2016.
4. By letter of 6 October 2016, the Competition and Markets Authority ("CMA"), as the competent authority of the United Kingdom, informed the Commission that the United Kingdom agrees with the proposed referral.

## **II. THE PARTIES**

5. AMC (UK) Acquisition Limited is a wholly owned subsidiary of AMC Entertainment Holdings, Inc (together, "AMC"), which is a member of the Dalian Wanda Group (China). AMC is a US-headquartered cinema group operating 386 cinemas, of which only one is located outside of the United States, in Manchester in the United Kingdom. The Dalian Wanda Group has three areas of activity: commercial properties, a financial group and a cultural industry group (which includes AMC) and is ultimately owned and controlled by its chairman Mr. Wang Jianlin.
6. Odeon and UCI Cinemas Holdings Limited and Odeon and UCI Cinemas Group Limited (together, "Odeon") are currently owned by Monterey Capital III S.à r.l., a holding company owned by certain private equity funds managed by Terra Firma Investments (GP) 2 Limited. Odeon operates 242 cinemas in the United Kingdom, Ireland, Spain, Portugal, Italy, Germany and Austria.

## **III. THE CONCENTRATION**

7. On 12 July 2016, Odeon and AMC (together, the "Parties") entered into a share purchase agreement whereby AMC will acquire the entire issued share capital of Odeon and UCI Cinemas Holdings Limited and certain issued shares of Odeon and UCI Cinemas Group Limited (the "Proposed Transaction"). As a result of the Proposed Transaction, Odeon and its subsidiaries will ultimately be wholly owned by AMC, and in turn by the Dalian Wanda Group.
8. The Proposed Transaction is therefore a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

## **IV. EU DIMENSION**

9. The combined aggregate worldwide turnover of all the undertakings concerned is more than EUR 5,000 million (Dalian Wanda Group: EUR [...]; Odeon: EUR 1,029 million; combined EUR [...]).

10. The aggregate Community-wide turnover of each of at least two of the undertakings concerned is also more than EUR [...] (Dalian Wanda Group: EUR [...]; Odeon: EUR 1,029 million).
11. Furthermore, there is no EU Member State in which both Parties achieve more than two-thirds of their EU turnover.
12. The Proposed Transaction therefore has an EU dimension within the meaning of Article 1(2) of the Merger Regulation.

## **V. ASSESSMENT OF THE REFERRAL REQUEST**

### **A. Relevant product markets**

13. With regard to cinema exhibition services, the Commission has considered, but ultimately left open, whether cinema exhibition services constitute a separate product market.
14. The OFT has considered that cinema exhibition services constitute a separate market from film distribution. The OFT considered that the closest constraint on a multiplex cinema is another multiplex cinema and that other cinemas should be considered on a case-by-case basis. The OFT also considered that 2D and 3D formats might be considered as separate frames of reference.<sup>3</sup>
15. In the Reasoned Submission, the Notifying Party considers that the relevant product market is that for cinema exhibition services but with no differentiation between 2D, 3D or IMAX films.
16. With regard to cinema screen advertising, the Commission has considered, but ultimately left open, whether cinema screen advertising constitutes a separate product market, or whether it is part of a wider market for display advertising as it does not offer any unique characteristics that cannot be replicated by other media, such as television and the internet.<sup>4</sup>
17. The OFT has not found it necessary to reach a final determination on whether cinema screen advertising should be considered as part of the broader market for display advertising, but has conducted its analysis on the narrowest possible definition of the market, that is cinema screen advertising.<sup>5</sup>
18. In the Reasoned Submission, the Notifying Party considers that the relevant product market is that for cinema screen advertising, but that it could form part of the broader product market for display advertising.

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<sup>3</sup> Case COMP M.6977 - *OMERS/ AIMCo/ Vue*, decision of 25 July 2013, paragraph 9; Completed acquisition by Vue Entertainment International Limited of Apollo Cinemas Limited, 24 August 2012.

<sup>4</sup> Case COMP M.6977 - *OMERS/ AIMCo/ Vue*, decision of 25 July 2013, paragraph 12.

<sup>5</sup> No. ME/3632/08 – Anticipated acquisition by Odeon Cinemas Limited and Cineworld Cinemas Limited of Carlton Screen Advertising Limited, paragraph 19

## **B. Relevant geographic markets**

19. With regard to cinema exhibition services, the Commission has considered, but ultimately left open, whether such a market is national or whether there could be a series of local markets.<sup>6</sup>
20. The OFT has considered that competition primarily takes place at the local level through price, content and facilities varying to meet local conditions; it has undertaken its assessment on the basis of series of local markets based on 20 minute drive-time isochrones around the acquired cinema, with 30 minute drive-time isochrones used as a sensitivity analysis.<sup>7</sup>
21. In the Reasoned Submission, the Notifying Party argues that the market for cinema exhibition services is local in scope.
22. With regard to cinema screen advertising, the Commission has considered, but ultimately left open, whether such a market is national and whether there could be a series of local markets.<sup>8</sup>
23. The OFT has considered the cinema screen advertising market on a national basis but has not found it necessary to conclude on the precise geographic market.<sup>9</sup>
24. In the Reasoned Submission, the Notifying Party argues that the market for cinema screen advertising is national in scope.

## **C. Assessment**

25. For the reasons set out below, the Commission has decided to refer the United Kingdom Transaction to the CMA.

### *Article 4(4) of the Merger Regulation*

26. First, the Proposed Transaction may significantly affect competition in the market for the supply of cinema exhibition services in the Manchester area of the United Kingdom. In that market, the Parties had a combined market share of [40-50]% in 2015.
27. Second, the market for the supply of cinema exhibition services in the Manchester area of the United Kingdom presents all the characteristics of a distinct market. The OFT has previously considered the product market for cinema exhibition services as being distinct from other product markets related to film distribution and cinema advertising. With regard to the geographic market, the OFT has previously found that competition takes place at the local level and undertaken its assessment on the basis of 20 minute isochrones around the acquired cinema.

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<sup>6</sup> Case COMP M.6977 - *OMERS/ AIMCo/ Vue*, decision of 25 July 2013, paragraph 10.

<sup>7</sup> ME/5141/11 - Anticipated acquisition by Odeon Cinema Holdings Limited of assets of Reel Cinemas (UK) Limited, 6 October 2011, paragraph 13; Completed acquisition by Vue Entertainment International Limited of Apollo Cinemas Limited, 24 August 2012, paragraph 61

<sup>8</sup> Case COMP M.6977 – *OMERS / AIMCo / Vue*, decision of 25 July 2013, paragraph 13.

<sup>9</sup> No. ME/3632/08 – Anticipated acquisition by Odeon Cinemas Limited and Cineworld Cinemas Limited of Carlton Screen Advertising Limited, paragraph 22

### *Additional factors*

28. Third, the CMA is well placed to examine the United Kingdom Transaction since it has extensive experience in assessing concentrations regarding cinema exhibition services,<sup>10</sup> in particular in the Manchester area.<sup>11</sup> Moreover, the CMA is currently reviewing another concentration regarding cinema exhibition services in the United Kingdom.<sup>12</sup>
29. Fourth, the Commission previously referred a case to the relevant competition authority of the United Kingdom regarding cinema exhibition services in the United Kingdom.<sup>13</sup>

## **VI. REFERRAL**

30. On the basis of the information provided by the Notifying Party in the Reasoned Submission, the case meets the legal requirements set out in Article 4(4) of the Merger Regulation in that the concentration may significantly affect competition in a market within a Member State which presents all the characteristics of a distinct market. The Commission notice on case referral in respect of concentrations<sup>14</sup> (point 17) indicates that, in seeking a referral under Article 4(4), “*the requesting parties are ... required to demonstrate that the transaction is liable to have a potential impact on competition on a distinct market within a Member State, which may prove to be significant, thus deserving close scrutiny*”, and that “*such indications may be no more than preliminary in nature [...]*”. The Commission considers, on the basis of the information submitted in the Reasoned Submission, that the principal impact on competition of the concentration is liable to take place on distinct markets in the United Kingdom, and that the requested referral is consistent with point 20 of the notice.

## **VII. CONCLUSION**

31. For the above reasons and given that the United Kingdom expressed its agreement with respect to the United Kingdom Transaction, the Commission has decided to refer the United Kingdom Transaction to be examined by the United Kingdom. This decision is adopted in application of Article 4(4) of the Merger Regulation, Article 6(1) of Protocol 24 to the EEA Agreement and Article 57 of the EEA Agreement.

*For the Commission*

*(signed)*  
**Johannes LAITENBERGER**  
*Director-General*

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<sup>10</sup> Case ME/5877/12 – Completed acquisition by Cineworld plc of City Screen Limited and ME/6194/13 – Completed acquisition by Cineworld Group Plc of the Glasgow Science Centre IMAX.

<sup>11</sup> Completed acquisition by Vue Entertainment International Limited of Apollo Cinemas Limited, 24 August 2012, paragraph 76.

<sup>12</sup> Acquisition by Cineworld Group PLC of the following cinemas owned by Empire Cinemas Limited: Empire Leicester Square, Empire Basildon, Empire Hemel Hempstead, Empire Poole, Empire Bromley.

<sup>13</sup> Case COMP M.5076 – *Odeon / Cineworld / CSA JV*, decision of 25 August 2011.

<sup>14</sup> [http://europa.eu.int/comm/competition/mergers/legislation/consultation/case\\_allocation\\_tru.pdf](http://europa.eu.int/comm/competition/mergers/legislation/consultation/case_allocation_tru.pdf)