[GB] Competition Authorities Approve Major Broadcasting Merger

IRIS 2003-10:1/13

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The British Secretary of State for Trade and Industry has accepted a recommendation from the Competition Commission that a merger between the two major UK broadcasters on ITV (Channel 3), Carlton and Granada, should be permitted to go ahead, subject to conditions relating to advertising sales (for the reference of the merger to the authorities see IRIS 2003-4: 9). The effect will be to create a single company owning ITV in England (although in Scotland separate ownership will remain). This was one of the last mergers to be referred under the Fair Trading Act 1973, which places the final decision in the hands of the Secretary of State. Future mergers will be dealt with by the Commission itself under the Enterprise Act 2002, which depoliticises the system by leaving the final decision in the Commission's hands, although cases involving media concentration may in some cases be subject to intervention by the minister under the Communications Act 2003 (see IRIS 2003-8: 10). The latter Act also cleared the way for the decision by permitting the single ownership of ITV for the first time. Previously it had been organised as a system of regional licensees offering a common network, although considerable consolidation has already taken place.

The Competition Commission concluded that the proposed merger would not operate against the public interest in the areas of programme production, the availability of studio facilities, or the future competition for ITV licences. However, in relation to the sale of advertising, the merger would have an adverse effect on future competition and so might be expected to operate against the public interest. Despite a decline in ITV's advertising share, the other channels are not yet sufficiently close substitutes for it, especially given the special advantages of ITV such as its unique ability to attract big audiences and its consistently high audience share in the evening peak. The Commission considered requiring the companies to divest their sale houses, but by a majority of 4 out of its 5 members decided not to recommend this remedy. Instead it required a contract rights renewal remedy. This gives all existing advertisers the option to renew the terms of their 2003 contracts without change for the duration of the remedy, except where a contract specified a share of broadcast, when it would vary in direct proportion to ITV's commercial impacts. The system will be overseen by an independent adjudicator or panel, and will last for at least three years. As such a remedy could be put into operation, the Commission considered that to ban the merger would be disproportionate. Further measures would also be required to

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protect the other remaining ITV licensees.

The Secretary of State implemented the recommendations without any change, and required them to be put in place by the end of the year. The conditions were less demanding than expected, and negotiations are now taking place to bring the merger into effect, subject to difficult discussions on the identity of the Chairman of the new company.

"Competition Commission's Findings on Carlton/Granada Merger", Department of Trade and Industry Press Release of 7 October 2003

http://www.wired-gov.net/EDP8203R7W/WGArticle.asp?WCI=htmArticleView&WCU=ARTCL%5FPKEY%3D20115

"Carlton Communications Plc and Granada Plc: A Report on the Proposed Merger", Competition Commission Report, October 2003

http://www.competition-commission.org.uk/rep_pub/reports/2003/482carlton.htm

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