[GB] Competition Authorities Clear Multi-Media Mergers

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Two multi-media mergers in the UK have been cleared by the Office of Fair Trading, at the first stage of the assessment under the Enterprise Act 2002, of whether the merger may be expected to result in a substantial lessening of competition. This means that the mergers can go ahead without a full investigation by the Competition Commission. Both mergers relate to the emergence of Digital Subscriber Line (DSL) as an alternative means to provide `triple play', i.e. pay-TV, internet and telecommunications services.

The first merger is the acquisition by BSkyB Broadband Services Limited of Easynet Group Plc. This will enable Sky to offer triple play for the first time. Although competition between the companies was insignificant at the time of the merger, third parties had raised concerns that Sky might be able to block the supply of pay-TV content to its emerging DSL rivals given its market power in premium content provision and its significant buyer power in non-premium content. However, the Office decided that Sky already has the power to do this and that the merger does not materially alter its incentives in this area.

The second merger is that between ntl and Telewest, now the only two remaining UK cable operators. However, their local networks do not overlap geographically and where there is overlap in other markets (wholesale telecommunications services and narrowband internet) they will still face significant competitors. However, they are both buyers of pay-TV content and Telewest owns a supplier of such content, Flextech. Concerns had been expressed to the Office that the merged company could cease to provide Flextech content to DSL rivals, or use its buyer power to block the supply of third-party pay-TV content to its rivals by obtaining exclusivity over such content.

According to the Office, the first concern was undermined by Flextech's relatively low share of viewers (10-15% of viewing on non-premium pay-TV channels) and the availability of alternative content, so that failure to offer Flextech content would not impede growth. The second concern was not shared by most potential competitors, and the Competition Commission had in 2000 accepted a similar level of buyer power when considering an earlier merger of cable companies. Further concerns that the merged ntl/Telewest could refuse to buy content which competed with Flextech was also not supported by other content providers, and contradicted the concern that they would seek to gain exclusivity over the supply of pay-TV content.

Office of Fair Trading, `OFT Clears Multi-Media Mergers - BSkyB/Easynet and NTL/Telewest, Press Release 235/05 of 30 December 2005

http://www.oft.gov.uk/News/Press+releases/2005/235-05.htm