[GB] Video on Demand Project Ruled “Anticompetitive”

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BBC Worldwide (BBCW), ITV plc and Channel 4 Television Corporation (UKVOD) entered into a joint venture to offer video on demand content online. The working title was Project Kangaroo. It was intended to offer primarily UK-originated television content.

On 30 June 2008, the Office of Fair Trading (OFT) referred the anticipated joint venture to the Competition Commission for investigation and report, under section 33(1) of the Enterprise Act 2002: the OFT may refer completed or proposed mergers which create or enhance a 25 per cent share of supply in the UK (or a substantial part thereof) or where the UK turnover associated with the enterprise being acquired is over GBP 70 million.

The Competition Commission had regard to the fact that the participants in the venture “controlled the vast majority of [the] content.” In December 2008, the Competition Commission published its provisional findings setting out possible remedies to avoid a “substantial lessening of competition.” Proposed remedies included: controlling the way that content would be offered to other providers; making material modifications to the terms of the joint venture; and removing the joint venture’s ability to withhold “combined with measures to prevent the exchange of commercially sensitive information.”

In its ruling of the 4 February 2009 on the competition aspect of the project, the Competition Commission declared that “After detailed and careful consideration, we have decided that this joint venture would be too much of a threat to competition in this developing market and has to be stopped.”

Competition Commission, “Anticipated Joint Venture between BBC Worldwide Limited, Channel Four Television Corporation and ITV PLC: Final report”, 4 February 2009

http://www.competition-commission.org.uk/rep_pub/reports/2009/fulltext/543.pdf

Competition Commission, “Project Kangaroo’—Provisional Findings”, 2 December 2008

http://www.competition-commission.org.uk/press_rel/2008/dec/pdf/37-08.pdf

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