

COMPLETED ACQUISITION BY GLOBAL RADIO HOLDINGS LTD OF GMG RADIO HOLDINGS LIMITED (NOW REAL AND SMOOTH LIMITED)

Statement of issues

21 November 2012

The reference and our issues statement

1. On 11 October 2012, the Office of Fair Trading (OFT) referred the completed acquisition by Global Radio Holdings Ltd (Global) of GMG Radio Holdings Limited (GMG Radio) (collectively 'the parties') to the Competition Commission (CC) for investigation and report.¹
2. The Secretary of State for Culture, Media and Sport had issued a public interest intervention notice on the acquisition on 2 August 2012.² The Secretary of State subsequently received the advice of the OFT, on jurisdictional and competition issues, and Ofcom, on public interest issues with regard to the plurality of the media. On 11 October 2012, the Secretary of State decided not to make a reference to the CC under section 45 of the Enterprise Act 2002 (the Act) on the ground that no public interest consideration was relevant to the consideration of the relevant merger situation. The OFT's reference to the CC was made under section 22(1) of the Act.
3. We must decide:
 - (a) whether a relevant merger situation has been created; and
 - (b) if so, whether the creation of that situation has resulted, or may be expected to result, in a substantial lessening of competition (SLC) within any market or markets in the UK for goods or services.
4. In this statement we set out the main issues that we are likely to consider in reaching our decision and on which we invite submissions and comment. This does not preclude the consideration of any other issues that may be identified during the course of our investigation.

Background

5. The parties operate commercial radio stations on analogue and digital platforms across the UK. Global's radio brands include Heart, Capital, Choice, Xfm, LBC, Gold and Classic FM. GMG Radio operated stations under the Real, Smooth and Real XS brands.
6. Global acquired the entire issued share capital of GMG Radio on 24 June 2012. GMG Radio was renamed Real and Smooth Limited (RSL) following the acquisition.
7. A list of the stations owned by the two parties and the areas they cover are appended to this statement (see the [Annex](#)).

¹ See www.oft.gov.uk/news-and-updates/press/2012/90-12.

² See www.culture.gov.uk/news/news_stories/9267.aspx.

The markets in which the parties operate

8. Commercial radio is generally considered to be a ‘two-sided’ product; that is, radio stations compete for both advertisers and listeners. A particular feature of UK radio is that the commercial radio stations also compete for listeners with BBC radio stations which do not carry advertising. Commercial radio stations may also compete for advertisers with other media such as the Internet, local press and outdoor advertising.
9. The focus of our inquiry is likely to be the potential effect of the acquisition on competition for advertising. We note, however, that this is linked to competition for listeners because the number of listeners to a particular radio station is an important factor in its attractiveness to advertisers. We will also consider any potential effects on listeners.
10. Our initial view is that, in considering the geographic market, competition for radio advertising occurs on a national, regional and local basis.
11. Our initial analysis suggests that radio advertising can broadly be divided into three segments:
 - (a) ‘Contracted’ airtime—this refers to advertising sold via annual or longer contracts usually between media buying agencies and radio stations or groups of stations. Generally, these contracts set the price of advertising (measured in £ per thousand impacts) and advertising spots are booked by the agency on behalf of its clients during the course of the contract.
 - (b) ‘Non-contracted’ airtime—this refers to advertising bought on a campaign-by-campaign basis³ direct from a radio station either by the advertiser or via a small agency. In this segment, the advertiser (or small agency on behalf of its client) agrees both when the advertising will be placed and the cost of those advertising spots.
 - (c) Sponsorship and promotion of radio programmes by advertisers, which may be purchased through media-buying agencies or directly by the advertiser.
12. Global and RSL operate in each of these segments. Global sells, on RSL’s behalf, contracted airtime purchased by national advertisers booking directly or indirectly through large London/South-East-based media buying agencies. This is pursuant to a national sales agreement which pre-dates the acquisition. Real and Smooth stations otherwise sell airtime (including non-contracted airtime) and sponsorship and promotion through their own sales teams.
13. We will also consider any further evidence on market segmentations that comes to our attention and that may be relevant to our assessment.

Counterfactual

14. We will assess the likely effects of the acquisition on competition compared with the competitive situation without the merger (ie the counterfactual).
15. In relation to the counterfactual, the main questions we are presently considering are:

³ We note that some advertisers buying direct from a radio station will do so under a contract for a specified period.

- whether GMG Radio would have been bought by another party or would have continued to operate as an independent supplier of commercial radio; and
 - the implications of the pre-existing national sales agency agreement between GMG Radio and Global (see paragraph 12) in this respect including whether it would have been likely to have continued in the same form.
16. We will consider any other questions on the counterfactual that come to our attention and are relevant to our assessment.

Theories of harm

17. We develop theories of harm to provide the framework for assessing the effects of a merger and whether or not it could lead to an SLC or the expectation of an SLC.
18. Our initial view is that there are broadly two ways in which the acquisition could give rise to an SLC as outlined below. We may revise our theories of harm as our assessment of the acquisition progresses. The identification of a theory of harm does not preclude an SLC being identified on another basis following further work by us or the receipt of additional evidence.

Theory of harm 1: Horizontal unilateral effects

19. Unilateral effects can arise in a merger when one firm merges with a competitor that previously provided a competitive constraint, allowing the merged firm profitably to raise prices on its own (or to reduce innovation or quality) and without the need to coordinate with its rivals.
20. Our initial view is that in considering potential horizontal unilateral effects we will assess the potential effect on customers in each of the three segments we have identified above in paragraph 11.
21. In considering the effects on customers in the non-contracted airtime segment, our current view is that we will consider all areas where the total survey areas (TSAs) of Global and RSL overlap. These are:
- (a) Central Scotland;
 - (b) Glasgow;
 - (c) North Wales;
 - (d) South Wales;
 - (e) Cardiff;
 - (f) North-West;
 - (g) North-East;
 - (h) Yorkshire;
 - (i) South Yorkshire;
 - (j) East Midlands;

- (k) West Midlands; and
 - (l) London.
22. We will also consider any effects arising from the combined ownership of stations across Great Britain including areas where the parties do not currently overlap. That is, we will consider the potential effects of the merged company controlling a relatively large number of different stations and licences across Great Britain. This will include an assessment of the implications at both a national and regional level of any potential rebranding of stations and the potential creation of quasi-national stations.
23. Third parties have suggested that the merger may have an adverse effect on the profitability or viability of other radio stations and we will also consider whether any resulting effect on competition might occur and be to the long-term detriment of advertisers and listeners.
24. Our assessment of this theory of harm will include consideration of the closeness of competition between Global and RSL prior to the merger, including the extent of any differentiation between the parties' stations in terms of demographics, geography and any other relevant characteristics. We will also consider the competitive constraint from other radio stations and other forms of advertising, such as print media, the Internet, outdoor advertising and television.

Theory of harm 2: Possible foreclosure issues—digital multiplexes and industry bodies

25. We propose to consider whether the acquisition is likely to result in adverse effects as a result of consequential changes in the ownership and/or control of, or likely changes in the extent of influence over, digital multiplexes and industry bodies. Specifically, we will look at any potential effects of:
- (a) the change in ownership of MXR Digital (prior to the acquisition Global had 51 per cent and GMG Radio 37 per cent). MXR Digital is responsible for digital infrastructure and holds the digital multiplex licences in a number of regions. We will assess the potential effect of the acquisition on the ability or incentives of Global to foreclose access to digital multiplex assets;
 - (b) the increase in Global's shareholding of RadioCentre. RadioCentre jointly owns, with the BBC, Radio Joint Audience Research (RAJAR), the company which measures radio audiences in the UK. RAJAR figures are used by commercial radio stations, among other things, to negotiate prices with advertisers. We will consider whether the acquisition affects the incentives or ability of Global to influence RAJAR's strategy to the detriment of other stations; and
 - (c) the increase in the airtime inventory controlled by Global for pooling into Newslink, which sells advertising around radio news bulletins, and the Big Top 40 chart show, a syndicated Sunday afternoon programme. We will assess whether this would affect the incentives or ability of Global to increase the level of commission it extracts as sales agent for other radio companies and/or vary the rebate terms offered.

Other potential theories of harm

26. Coordinated effects may arise when firms operating in the same market recognize that they are mutually interdependent and that they can reach a more profitable

outcome if they coordinate to limit their rivalry.⁴ Coordination may be easier after a merger because any tacit agreement requires involvement from one fewer firm. Our initial view on the basis of the evidence we have received to date is that coordinated effects are not likely as a result of this acquisition and we do not propose to consider this further unless we receive additional relevant evidence.

27. Global is vertically integrated into artist management giving rise to the possibility that it could use its position as a radio owner to give more airtime or beneficial terms to the artists that it manages and that its ability and incentives to do so might increase post-acquisition. Our initial view is that such an adverse impact of the merger is unlikely since Global's share of artist management is very small and radio only accounts for a small share of artists' revenue. We do not therefore propose to consider this issue further unless we receive additional relevant evidence.

Countervailing factors

28. The CC will consider whether the following countervailing factors would counteract any loss of competition arising from the acquisition:
 - (a) *Entry/expansion.* We will consider whether entry to the market or expansion of existing radio interests would be timely, likely and sufficient to prevent any SLC that might otherwise arise. Our initial view is that entry other than by acquisition of existing radio assets is very difficult because of the limited availability of the (FM) spectrum for stations with a similar geographic scope and scale to those owned by Global and RSL.
 - (b) *Buyer power.* The evidence we have seen so far indicates that prices in all three segments of the market are negotiated between radio stations and advertisers (or their media buying agencies). We will assess whether the merged entity's customers have countervailing buyer power that would enable them to resist any increases in negotiated prices or other effects that may arise as a result of the acquisition.
 - (c) *Efficiencies.* The CC will examine any evidence submitted in relation to efficiencies arising from the acquisition and will consider, in particular, whether these are rivalry-enhancing efficiencies that can be expected to offset the effects of any loss of competition arising from the acquisition.
29. We are not currently aware of any other countervailing factors that are likely to be relevant to our analysis of the competitive effects of this acquisition.

Possible remedies and relevant customer benefits

30. Should we conclude that the merger may be expected to result in an SLC, we will consider whether and, if so, what, remedies might be appropriate, and will issue a further statement.
31. In any consideration of possible remedies, we would take into account whether any relevant customer benefits might be expected to arise as a result of the acquisition and, if so, what these benefits are likely to be and which customers would benefit.

⁴ Coordination can be explicit or tacit.

Responses to the issues statement

32. Any interested party is invited to respond to this issues statement, in writing, by no later than 5pm on 10 December 2012. To submit evidence, please email: Global-GMG@cc.gsi.gov.uk or write to:

The Inquiry Manager (Global/GMG inquiry)
Competition Commission
Victoria House
Southampton Row
LONDON
WC1B 4AD

Stations owned and areas covered

Global Radio stations

Classic FM

- National coverage

Capital

- Birmingham
- East Midlands
- London
- Manchester
- North-East
- Scotland
- South Coast
- South Wales
- Yorkshire

Heart

- Cambridgeshire
- East Anglia
- Essex
- Gloucestershire
- Hertfordshire
- Home Counties
- Kent
- London
- North-West
- South Coast (Solent)
- South-West
- Sussex and Surrey
- Thames Valley
- Wales
- West Country
- West Midlands
- Wiltshire

LBC

- London

Xfm

- London
- Manchester

Choice FM

- London

Gold (AM)

- Bedfordshire

- Berkshire
- Bradford
- Bristol and Bath
- Buckinghamshire
- Cambridgeshire
- Cheshire
- Dorset
- East Midlands
- Essex
- Gloucester
- Hampshire
- Hertfordshire
- Kent
- London
- Manchester
- Northamptonshire
- Norfolk
- North Wales
- Plymouth
- South Wales
- Suffolk
- Surrey
- Sussex
- Wiltshire

Real and Smooth stations

Real

- North-East
- North-West
- Scotland
- Wales
- Yorkshire

Real XS

- North-West
- Renfrewshire

Smooth

- North-West
- London
- West Midlands
- North-East
- Scotland
- East Midlands