

Emap/ABI Merger Inquiry

Note from Emap plc

Relating to matters raised at the CC hearing on 2 September 2004

The purpose of this note is to elaborate on a point made at the hearing on 2 September 2004 concerning the use of market definition as a tool for analysing the competitive effects of this merger. On page 40 of the transcript the Chairman indicated that the CC would like to carry out a SSNIP experiment to test for market definition. Emap's view is that market definition, particularly as the CC appears to be applying the concept, is not a productive way to analyse this case because the CSMIS/PICD products of each supplier are highly differentiated. This makes it very difficult accurately and reliably to define the relevant product market.

The thrust of the CC's line of questioning appears to be that (1) Glenigan's and ABI's products look very similar; (2) they provide a level of coverage (i.e. in terms of national planning application data) that other PICD products do not; (3) Glenigan and ABI are the only two suppliers of products offering precisely these characteristics; (4) it therefore follows that Glenigan and ABI are the only two suppliers in this 'market'.

Emap's view is that this approach to market definition is logically flawed, for the following reasons:

- First, to define a market purely in terms of the characteristics of the product concerned is circular. It assumes that the market should be defined by reference to what the products look like and ignores the fundamental question of what customers use the products for, and therefore, what alternatives are available to customers in the event of an increase in price. It is the usage to which the products are put that determines the potential for demand-side substitution. The issue is whether there are alternative products, which may have different characteristics, that customers might switch to if prices were to increase. In the case of PICD products, nearly all customers use them as a means of generating sales leads on construction projects, and Emap's view is that there are many other alternative products/services available to customers of Glenigan and ABI that allow customers to do this, both from other suppliers of PICD products, and from suppliers of other types of CSMS/CSMIS products.
- Second, this approach leads to absurd results: in this case, it would tend to suggest that each supplier of a PICD product is a monopolist in the supply of its own, highly differentiated, product. In other words, it implies that each supplier of a PICD product with unique characteristics is operating in a market defined by reference to that product. But such a conclusion is nonsensical, because it suggests that suppliers of PICD products do not face competitive constraints that would prevent them from increasing prices above competitive levels. Yet if the CC is minded to define the market in which Glenigan and ABI compete purely by reference to the characteristics of the products they supply, it would be inconsistent not to adopt the same approach in relation to the products of other PICD suppliers.

In summary, Emap's view is that to define a market purely by reference to the characteristics of the product is analytically unsound. Emap's view is supported both by the European Commission's approach to market definition, and by a recent speech given by John Vickers.

In its Notice on market definition, the European Commission states¹ that:

¹ Commission Notice on the definition of relevant market for the purposes of Community competition law (OJ C372, 9.12.97, p.5), at paragraph 36.

“...differences in product characteristics are not in themselves sufficient to exclude demand substitutability, since this will depend to a large extent on how customers value different characteristics.”

Similarly, a recent speech by John Vickers² sounds a note of caution in reaching conclusions on market definition:

“Pitfalls of market definition occur if its purpose is forgotten. Then substantive conclusions can turn hazardously on definitions. For example, consider the statement: “the merger lessens competition if the market is defined as widgets, but not if it is defined to include blodgets too”. Literally, this is nonsense. How people define the market has no effect on the competitive reality, just as whether or not they wear glasses has no effect on the weather. But the statement could be attempted shorthand for: “whether the merger lessens competition depends on whether or not blodgets are good substitutes for widgets”. (Note this is an empirical, not definitional question.) Better to put it this way in the first place.

A second pitfall is the ‘zero-one’ fallacy – the tendency, once ‘the market’ is defined, to think of all products within it as extremely substitutable for the products at the centre of concern, and those beyond the boundaries as irrelevant. In reality matters are of varying degree, and the useful tool of market definition must be employed with this in mind.”

Emap submits that to define a market purely in terms of the PICD products of Glenigan and ABI is to fall into the ‘zero-one’ trap alluded to by John Vickers. The question that customers³ should be asked is not “who else supplies a product with the same characteristics of Glenigan and ABI?”, but rather: “what other types of products or services would you consider switching to in order to generate sales leads, in the event that the enlarged group were to increase prices by 5-10%?” Emap’s view is that there are many such alternatives available to customers, as evidenced by the endemic churn rates suffered by Glenigan (this shows that many customers use alternative means – i.e. methods other than leads services – to generate sales leads), and the fact that very few customers appear to switch between Glenigan and ABI (this shows that Glenigan and ABI are not particularly close substitutes for most customers). It is the existence of these many alternative methods of generating sales leads that constrains the prices that Glenigan can currently charge, and that will constrain the enlarged group if this merger is approved by the CC.

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² *Competition economics and policy*, 3 October 2002, available on the OFT’s website (<http://www.of.gov.uk>).

³ In this connection, Emap notes that the market research questionnaire prepared for the CC focuses only on existing customers of Glenigan and ABI, and ignores companies that have either been customers in the past, or who might potentially consider becoming customers in the future. Emap may wish to submit further comments on this point to the CC once the results of this market research have been made available.