

**MARKET INVESTIGATION INTO SUPPLY OF CLASSIFIED DIRECTORY
ADVERTISING SERVICES**

**Notice of possible remedies under Rule 11 of the
Competition Commission Rules of Procedure**

Introduction

1. On 5 April 2005 the Office of Fair Trading (OFT) referred the supply of classified directory advertising services (CDAS) in the UK to the Competition Commission (CC) for investigation. The reference was made under the provisions of section 131 of the Enterprise Act 2002 (the Act).
2. In its Notice of Provisional Findings on this reference published on 13 June 2006 the CC has provisionally found that there are features of the market for the supply of major CDAS, either alone or in combination with each other, that prevent, restrict or distort competition in this market. There is, therefore, a provisional finding of an adverse effect on competition (AEC) within the meaning of section 134(2) of the Act. The provisional findings summary identifies those features and the detrimental effect on customers which may be expected to result from the AEC.
3. This Notice invites comments on the actions which the Group considers might be taken by the CC, or recommended for implementation by others, for the purpose of remedying, mitigating or preventing the AEC concerned or any resulting detrimental effect on customers.

Criteria

4. In choosing appropriate remedial action, the Group will have regard to the need to achieve as comprehensive a solution as is reasonable and practicable to the AEC and any detrimental effects resulting from it as set out in section 134(6) of the Act. When deciding on what is an appropriate remedy, the Group will consider the effectiveness of different possible remedies and their associated costs and will have regard to the principle of proportionality. Between two remedies which the Group considers equally effective, it will choose that which imposes the least cost or restriction.

Possible remedies on which views are sought

5. The various measures that are being considered by the Group, in isolation or in combination, as possible remedies to the AEC and the expected detrimental effect on customers identified in the provisional findings, and on which views are sought, are set out below.
6. The CC has provisionally found that Yell has market power arising from very high levels of market share which it has had for a number of years. This is supported by high barriers to entry including significant network effects. It has provisionally concluded that, in general, Yell's prices are not constrained by those of its competitors and that Yell does not compete on price in any significant way. The CC has provisionally concluded, on this basis, that Yell may be expected, in the absence of

remedial action, to set prices at levels that are higher than they would be in a well-functioning market.

7. The Group has considered a number of possible remedies to address the AEC including compulsory licensing of the Yellow Pages brand to other CDAS providers; possible restrictions on Yell's consumer advertising; limits on the proportion of addresses to which Yell could distribute directories in any particular area; a break-up option, for example into regional entities. However, the Group does not consider that any of these possible remedies is likely to be effective and/or proportionate in addressing the AEC or the resulting detrimental effect on customers. Accordingly, the Group is not minded to give further consideration to these remedies at present but invites comments as to whether such measures may be appropriate.
8. The CC is considering the use of a price cap to address the exercise by Yell of its market power, our finding that Yell does not compete on price in any significant way and the customer detriment of higher prices that is expected to result from the AEC. The CC therefore invites comments on the most appropriate structure and parameters of a price cap in order for this measure to be an effective and appropriate remedy.
9. Yell is currently subject to undertakings which include a price cap. Comments are requested on whether current price cap arrangements should continue, or whether, in future, there are more appropriate structures and parameters concerning, in particular:
 - (a) the reference point of a price cap — for example, whether a price cap should be set with reference to a basket of products (for example, advertisement types) rather than individual products;
 - (b) the scope of a price cap—for example, how new products, such as new or rescoped directories, should be incorporated within the price cap arrangements ;
 - (c) the level of price-cap constraints in relation to the general level of retail price inflation including whether there should be any adjustment to particular prices or premiums by way of a one-off or glide path adjustment; and
 - (d) whether there are any other measures that would be needed to ensure the effective application of a price cap remedy.

Other possible remedies

10. The Group is willing to consider any practical alternatives to the possible remedies outlined above that the parties to the inquiry or other persons would like to propose which they consider would appropriately address the AEC identified or resulting detrimental effect.

Duration of the remedies

11. In its provisional findings, the CC has considered the future prospects for competition in the CDAS market. It concluded that it appears likely that BT will become a stronger competitor, but the pace of its future growth is unclear and the extent to which its future presence will become a significant constraint on Yell's prices is uncertain. The CC has stated that it expects that advertising on the Internet will increase in the future, and CDAS advertising may decrease. In these circumstances, it may be appropriate to recommend that a review of any remedies which are applied is undertaken by the OFT. The Group invites comments on whether it is desirable to

recommend a review of remedies after a specified period or rely on the OFT's general duty to monitor remedies and review their application in the light of changing circumstances. Comments are also invited regarding the appropriate duration of any period to review.

Action by others

12. At this stage the Group considers it unlikely that it will recommend the taking of action by others for the purposes of remedying, mitigating or preventing the AEC or any detrimental effect on customers resulting from the AEC.

Relevant customer benefits

13. The Group will also have regard to the effects of any remedial action on any relevant customer benefits within the meaning of section 134(8) of the Act arising from the feature or features of the market concerned. Such benefits comprise lower prices, higher quality or greater choice of goods and services or greater innovation in relation to such goods and services. The Group welcomes views on the nature, scale and likelihood of any such benefits and the potential impact on such benefits of possible remedies.

Next steps

14. A copy of this Notice will be posted on the CC's website. The parties to this inquiry and any other interested persons are requested to provide any views in writing, including any additional or alternative remedies they wish the Group to consider, by 14 July 2006 (see note below).



(signed) DIANA GUY
Group Chairman
13 June 2006

Notes:

1. This Notice of possible actions to remedy the AEC and any resulting detrimental effects is given having regard to the CC's Notice of Provisional Findings published on 13 June 2006. The parties to the inquiry or other interested persons have until 14 July 2006 to respond to those provisional findings. In the light of any responses by the parties, or by other interested persons, the CC's findings may alter and the CC may consider other possible remedies, if appropriate.

2. A copy of the Yell undertakings will be annexed to the CC's provisional findings report to be published on 20 June.