

Terms of reference and conduct of the inquiry

Terms of reference

1. On 21 August 2006 the OFT sent us the following reference:
 1. Whereas in exercise of its duty under section 33(1) of the Enterprise Act 2002 (“the Act”) to make a reference to the Competition Commission (“the CC”) in relation to an anticipated merger the Office of Fair Trading (“the OFT”) believes that it is or may be the case that—
 - (a) arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of one or more relevant merger situations in that:
 - (i) enterprises carried on by or under the control of Hamsard 2786 Limited (“Hamsard”) Live Nation (Music) UK Limited (“Live Nation”) and Gaiety Investments Limited (“Gaiety”) will cease to be distinct from enterprises carried on by or under the control of Academy Music Holdings Limited (“Academy”); and
 - (ii) as a result the condition specified in section 23(4) of the Act will prevail or will prevail to a greater extent with respect to the ownership and management of indoor live music venues in London with a capacity of over 1000 people; and
 - (b) the creation of that situation or situations may be expected to result in a substantial lessening of competition within any market or markets in the United Kingdom for goods or services including the ownership and management of indoor live music venues in London.
 2. The OFT, in exercise of its duty under section 33(1) of the Act hereby refers to the CC, for investigation and report within a period ending on 2 February 2006¹, the following questions in accordance with section 36 of the Act—
 - (a) whether arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of one or more relevant merger situations; and
 - (b) if so, whether the creation of that situation or situations may be expected to result in a substantial lessening of competition within any market or markets in the United Kingdom.
 3. In relation to the question whether one or more relevant merger situations will be created, the CC shall exclude from consideration one of the subsections (1) and (2) of section 23 of the Act if it finds that the other is satisfied.

(signed) **John Fingleton**
Chief Executive Officer
Office of Fair Trading
21 August 2006

¹ The date should read “2007”

Conduct of the inquiry

2. We placed a notice inviting interested parties to submit evidence to the CC in *Music Week*. In addition, we sought evidence from other venue operators, promoters, artists' agents, trade associations, trade unions, and appropriate government departments.
3. The administrative timetable for the inquiry was published on the CC website on 7 September and amended on 14 November.
4. Members of the Group, accompanied by staff, visited the Brixton Academy and the Hammersmith Apollo on 25 September.
5. We sent questionnaires to third parties, ie competitors and customers. Submissions were also received from some of these. We held 13 hearings with third parties. Non-sensitive versions of submissions received and summaries of oral hearings can be found on the CC website.
6. We published an issues statement on 3 October.
7. We received joint written evidence from Hamsard, Live Nation, Gaiety, and Academy, and separate questionnaire replies. A non-sensitive version of the joint evidence was published on the CC website. We held two hearings with Live Nation and Gaiety jointly, and a separate hearing with Academy. Summaries of the hearings have been published on the CC website.
8. In the course of our inquiry we sent the parties some working papers [and a draft of the provisional findings report.]
9. We would like to thank all who assisted in our inquiry.