6 Views of other parties

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Introduction

6.1. In this chapter we summarize the evidence put to us by third parties in written and oral submissions.

Bodies representing libraries

The Consortium of University Research Libraries

6.2. CURL is an independent company and charity designed to support research undertaken in universities in the British Isles through the provision of library and information services. It currently has 21 universities in membership—20 in Great Britain and Trinity College Dublin. There are also several associate members.

6.3. CURL was opposed to the merger. Its major concern was about the potential effect on the part of the scholarly communication process that was concerned with STM publications. The acquisition of Harcourt as a whole, including the sale of its worldwide STM division or any of its individual companies, would, in CURL's view, contribute to the continued concentration of STM publishers. Elsevier Science and AP, in particular, published a significant number of the most highly-esteemed and quality titles which libraries needed.

6.4. CURL said that scientific publications had always been more expensive than those in other fields and inflationary increases year on year were disproportionately high. In universities with multi-disciplinary responsibilities an increasing proportion of library budgets was spent on STM journals. As library budgets increased, if at all, by no more than the current annual rate of inflation, this could have serious implications for other areas of expenditure such as book purchase.

6.5. CURL stated that prices of STM journals published by the commercial sector (where shareholder interests were paramount) tended to be more expensive than those published by not-for-profit learned society and association publishers. There were a number of studies, for example by Professor Mark McCabe, the University of Wisconsin and Cornell University, which illustrated this fact. It was CURL's view that commercial companies had raised prices at a rate disproportionate to any increases in costs or quality. In the early 1990s, inflation for Elsevier Science titles had been between 15 and 20 per cent a year. SPARC, an initiative in the USA, was aimed (in a limited way) at introducing competition into the scholarly communication process. One aspect of this activity (the Alternatives programme) encouraged and supported projects that represented a direct and strong competitive alternative to existing high-priced titles in important established STM fields. CURL said it was interesting to note that, when *Organic Letters* was launched by SPARC and the American Chemical Society in 1999 in competition with *Tetrahedron Letters* (published by RE), the rate of increase in the price of *Tetrahedron Letters* declined (from 8.4 per cent in 1999 to 2 per cent in 2001). Other research by Professor McCabe suggested that price increases had been substantial, and that past mergers had been a contributory factor.

6.6. It was a primary function of CURL's members to provide information to their university communities in order to facilitate learning and research activities. Academics were under enormous pressure to publish and this was the primary means by which their research was made available to the community. Publications were a measure of status and contributed towards promotion. They were also a crucial performance indicator within the RAE carried out every five years, which had direct consequences for institutional funding and revenue streams. Libraries were therefore under tremendous pressure to provide access to the literature in which their academic communities published.

6.7. CURL said that decisions on purchases had traditionally been and remained primarily in the hands of the academic staff who used the publications: a library would not take a decision on its own. If economies had to be made, these would normally result from a series of trade-offs between subject areas or individuals. It was common practice for the publishers to telephone academics directly to seek to persuade them that they needed new titles, in an effort to undermine CURL's common approach.

6.8. CURL said that it was aware of few significant overall attempts to quantify the utility of purchased journals, although some had been done on certain aspects, such as citation frequency or library usage.

6.9. On electronic format, CURL told us that there were relatively few genuinely electronic-only peer-reviewed journals available, and these were typically in the arts and social sciences areas. Most of the electronic journals provided were parallel to the printed versions and these were bundled by publishers as an aggregate, essentially on a take-it-or-leave-it basis. This was unsatisfactory and CURL said that its members wanted to have the ability to select electronic journals in the same way as they did with printed journals, and that they should be priced in a way which reflected usage. This should be easier with electronic format than with printed versions.

6.10. CURL believed that another undesirable aspect of the present charging system for access to electronic format was that it was based entirely upon the historic print spend of the user. This had resulted in anomalies: a user with a small print spend had similar access to electronic titles as one with a spend ten times greater. CURL believed that the publishers adhered to this model because they knew it preserved their profit margins; while any change in the direction of unbundling might be risky to them, they might doubt that their investment could be recovered. RE and AP were also trying to introduce multi-year deals, understandable from their own point of view, but very difficult for institutions with annual budgets.

6.11. Part of the problem of negotiating a better charging regime was down to the uncooperative attitude of some STM publishers, especially AP and to some extent RE. The senior management of AP appeared to be very reluctant to meet customers to discuss charging questions. CURL believed that both RE and AP had treated it with disdain. RE had declined to give any reasonable explanation as to why STM journals cost as much as 20 times those in arts and humanities.

6.12. CURL accepted that buyers had been weak in attempting to use cooperative power. Efforts were now being made to raise awareness of the problems among editors, editorial boards and academics, but hope of a concerted approach remained slim. The best way forward appeared to be a piecemeal one directed, among other things, at persuading publishers that there were better alternative systems. If the proposed merger went ahead, however, this way would be more difficult.

6.13. CURL told us that the STM market was a global one: publications were not addressed to national markets, nor, generally, was it subdivided between disciplines. It would not be easy to discover sales or purchases figures for any one national market, although figures for purchases in higher education alone were available. It would be difficult to find figures for printed information separately from that of electronic: they were regarded as interchangeable.

6.14. It should also be borne in mind that there was a large direct commercial market, distinct from that of higher education and research, well able to afford the high cost of STM, and that the existence of this undoubtedly had an effect on the prices charged.

6.15. CURL said that the problem of VAT on electronic titles was a significant inhibitor of the introduction of a more rational system, but that this could only be progressed at the EC level.

6.16. In CURL’s view, the merger would operate against the public interest. Its members had been severely affected by publishers’ price increases over the past decade, and were concerned about any developments that might further contribute to price increases, including mergers. Scientific publishing, in particular, was increasingly dominated by a small number of large commercial publishers, with many core titles under the same imprint. The net effect of the sale of Harcourt would be continued erosion of libraries’ ability to provide all the information resources their institutions required. CURL was also concerned that the merger would be likely to restrict alternative pricing and delivery models in the emerging electronic market. Much of the original funding in STM publications had arisen from public sector funding. It was clearly not in the public interest that this content could not be widely disseminated within the sector because institutions were unable to buy back the content.

6.17. On the question of remedies, CURL said that divestment of any parts of the companies outside the STM market (for example, the recent sale of Bowker announced by RE) would have no impact on this market; divestment of AP was the only significant entry suitable for divestment in Harcourt. A remedy based on the idea of divestment of titles, or groups of titles, would be difficult to achieve. More generally, CURL believed that the present market structure was unsustainable, and it was pursuing a number of other strategies designed to facilitate the development of alternative pricing structures.

Standing Conference of National and University Libraries

6.18. SCONUL represents the directors of library services in all the universities of the UK and the directors of the UK's major national libraries. (It also represents their counterparts in Ireland.)

6.19. SCONUL said that the proposed merger was against the public interest because the dominant position of the merged company would be likely to lead to unnecessarily high prices in the publication of research results in STM, to the detriment of the research process.

6.20. SCONUL said that normal market forces did not apply in the publication of research findings. Each scientific paper was copyright and was for that reason a monopoly product. A publisher of scientific papers had extreme latitude in pricing policy, because customers could not obtain the product from another source. Periodicals publishing was almost unique in commerce in that customers paid for the product in advance, normally during the year prior to its delivery.

6.21. The results of research constituted a major output of universities and had to be published in order to be tested, replicated or otherwise seen to be valid. Furthermore, because most university research was publicly funded, there was a compelling reason for it to be publicly available. Apart from the two ancient English universities, no UK university undertook substantial publishing activity. SCONUL said that publishing required capital and the use of universities' capital funds was very constrained. University researchers therefore generally arranged for their results to be published by non-university enterprises. This was satisfactory provided that the publisher charged a reasonable amount for the value added in the publication process and made a reasonable profit.

6.22. SCONUL said that commercial publishers recognized that in scholarly publishing customer demand was strong and inelastic. Profits did not need to be kept within normal bounds. Even more lucrative activity was now possible because the same material could be sold twice in different formats—once in print and again in electronic form so that researchers could retrieve the same material from a database under the publisher's control. Such databases, which were protected by database rights as well as copyright, represented a new threat to the dissemination of research if access to them was artificially expensive.

6.23. SCONUL said that RE had developed a strategy of acquiring publication rights in journals whose subscriptions were likely to be maintained at almost any cost by customers. The STM fields were the most attractive in this regard because researchers in those fields often required scholarly papers quickly (and therefore needed the journal on their premises). In addition, such researchers were sometimes employed by well-resourced industrial concerns.

6.24. SCONUL highlighted a number of points of significance to its view of the proposed merger. These were:

(a) RE's highly profitable journal publishing activities;

(b) RE's existing dominant market share, which SCONUL believed to be well over 25 per cent by value among the universities most active in research; and

(c) the prospect of further restriction in the dissemination of research results through the inclusion of scientific papers in electronic databases.

6.25. If the prices of scientific journals were driven unnecessarily high, as appeared to be happening in the case of those published by RE, SCONUL believed that the following outcomes would be against the public interest:

(a) universities would be unnecessarily constrained in the information they could afford to buy, with the result that the research process would be inhibited;

(b) publicly-funded institutions would spend unnecessary money on information produced by themselves and by other publicly-funded institutions; and

(c) publicly-funded institutions would be distracted from their core purpose as they sought elaborate means of slowing down unnecessarily steep price rises in scientific journals.

6.26. SCONUL emphasized the key role taken by research staff in universities in the selection of journals to be purchased. Decisions were taken on the basis of need rather than any assessment of the cost in relation to usage.

6.27. On the question of electronic versus traditional form, SCONUL believed that the printed journal would become wholly obsolete within a matter of years. Already about 10 to 20 per cent of journal content was held in electronic form. The development of electronic publishing was, however, confused by tax differences between the printed form and the electronic in the UK and taxation differences within Europe. Efforts were in train to standardize treatment in a way which would encourage the use of electronic publication without adding to the tax burden.

6.28. On the question of copyright, SCONUL said that publishers insisted that work published by them could not be published elsewhere. SCONUL believed that dealing with this was one of the keys to unlocking the monopoly situation enjoyed by the STM publishers. Efforts were in progress aimed at making it possible for academic staff to publish material, for instance, on a university web site, but progress was slow.

6.29. On electronic databases in general, SCONUL told us that the major STM publishers were putting much effort into developing these. They wished to encourage the use of their own database gateways, rather than those of their competitors, and especially independent competitors, such as the subscription agents. Some databases, such as RE's ScienceDirect, had more key titles than others and libraries found subscription to them more necessary. The databases worked in different ways, but they usually provided details of all relevant publications and full-text access to their own, with, in some cases, abstracts from texts in other databases included in a basic price. Full-text access was not normally possible without paying a subscription to the database owning the title.

6.30. SCONUL did not see the move towards increasing electronic format as likely to reduce the cost of publications to users.

6.31. SCONUL believed that one undesirable result of the proposed merger would be that Harcourt titles would simply be absorbed into ScienceDirect, giving this yet more dominance and, in addition, making it impossible to isolate any electronic price increases resulting from decreased competition. Printed price increases should, however, still be obvious. SCONUL would expect these to rise substantially in the medium term following a merger.

6.32. SCONUL told us that, although it would appear in the interests of the academic users to act together as buyers in an effort to influence the prices charged by the STM suppliers, in practice the many conflicting interests prevented this from happening.

6.33. On the question of divestment or other conditions should the merger be allowed to proceed, SCONUL believed that interests in AP and Harcourt Medical should be the minimum divestment required in addition to the unbundling of services, especially electronic services, and some sort of price control on resultant pay-per-item offers.

Higher education institutions in the UK

The University of Birmingham

6.34. The University of Birmingham Library (Birmingham) was strongly opposed to the merger, which it believed was likely to be highly prejudicial to the interests of UK creators and consumers of information contained in scholarly STM journals. It supported the views submitted by CURL (see paragraphs 6.2 to 6.17).

6.35. Birmingham is a large, research-led civic university and is a member both of the Russell Group of universities in the UK and of Universitas 21, a global consortium of research-led universities in the USA, Europe, Asia and Australasia. It told us that it had a long-established reputation for carrying out research at international and national levels, and this received peer and independent validation in a variety of ways. Although it researched and taught in a broad spectrum of disciplines, STM subjects were disproportionately important to its revenue portfolio. In reflection of its standing in the STM area, it—like other Russell Group institutions—contributed a large number of authors and editors to the leading STM journals. For example, about 40 members of its academic staff served as editors of Elsevier Science journals at any one time.

6.36. Birmingham said that the subscription prices of STM journals overall had been subject to relentless year-on-year inflation, often in double digits, and in most cases not easily explained (at least to those outside the industry) by underlying increases in editorial and publishing costs or by investment in new technologies. For example, journal subscription prices for 2000 had increased by 15 per cent for medicine and 9 per cent for science and technology over 1999 prices. UK universities had been subjected in recent years to almost uninterrupted reductions in their unit of resource, and to consequent 'efficiency gains'. The end result had been a substantial collapse in library purchasing power, which had threatened the basis for both research and teaching in UK higher education. There had been widespread cancellation of journal subscriptions, particularly in the STM fields, and a major shift by university libraries from the purchase of monographs to the purchase of journals in a vain attempt to hold on to long-established journal titles. This had been to the detriment of writers, users and publishers of monographs. Cancellation of journal subscriptions typically meant that publishers had to recover their costs from a smaller print run. They therefore raised prices still further, which triggered a further wave of cancellations, and thus the downward spiral continued.

6.37. A large number of STM journals were published around the world. Birmingham said that not all of them were of the same quality or enjoyed the same standing with researchers. The differential impact of individual journals could be seen and measured in a number of ways, including the bibliometric measures developed by the ISI. There was a fairly clear 'pecking order' of journals in most STM disciplines, which might be established by longevity of the publication, the composition and standing of the editorial board, the reputation of the publisher and the perceived quality of the content. Scholars who had undertaken high-quality research were keen to publish in the most prestigious journals and to see their institutional libraries subscribe to such journals. Over time, RE and Harcourt had (quite legitimately) acquired control of a disproportionate number of the most prestigious titles. Given that it took a relatively long time for most STM journals to establish a brand image for quality and impact, there was a considerable reputational barrier to entry to the market.

6.38. Birmingham said that RE and Harcourt titles accounted for 28 per cent of its institutional STM journal subscriptions by number and no less that 42 per cent by value. If learned society and other non-commercial STM publishers were excluded, then the percentage institutional share for those two publishers would be even higher.

6.39. Birmingham's concerns about the proposed merger were heightened by three further factors. First, both the publishers involved had established a reputation within higher education for imposing seemingly excessive and unjustifiable levels of inflation for subscriptions, on top of unit costs per title already considerably above the norm for STM journals as a whole, and restrictive (some might argue anti-competitive) packages for access to the electronic versions of their journals. Their pricing behaviour was widely seen to be unreasonable. Despite repeated efforts, for example through NESLI and CURL, to negotiate satisfactory pricing and access arrangements for their electronic portfolios, neither publisher had yet offered the research-intensive end of the higher education spectrum a satisfactory deal. Indeed, many CURL libraries had had to reject the publishers' bundled offerings as being unaffordable. There were fears that the merged entity, operating in a market where the buyer was weak, would be even less subject to price checks and balances. Secondly, Birmingham was aware that RE was seeking to extend its ScienceDirect suite of electronic STM products to encompass navigators (bibliographic databases) and a portal as well as digital full-text journal collections, thus potentially further extending its market penetration in the STM area. Thirdly, RE and Harcourt mostly acquired the scholarly content of their journals free of charge from the authors and their employing institutions, usually on condition of explicit assignment of copyright to the publishers. Thus scholarly research, frequently publicly-funded, was being handed over to publishers without charge, which then sold it back to institutions at prices which seemed well in excess of any value the publishers had added to the product.

6.40. The Government had repeatedly committed itself to maintaining and improving the STM base in the UK, and to keeping the country at the leading edge of international scientific research. To that end it had invested heavily in a variety of initiatives, most recently through the Strategic Research Infrastructure Fund. Birmingham said that scientific research of international and national quality could be undertaken only if it were underpinned by equally high-quality library and information provision, especially in the form of STM journals. In Birmingham's view the Government's commitment would be jeopardized if control of an excessive proportion of the STM journal market in the UK were concentrated in the hands of a single supplier.

6.41. In summary, Birmingham said that the proposed merger would give RE undue power in the UK market. This would be likely to disadvantage competitors that might be expected to encourage reasonable pricing behaviour and stimulate innovation, including the development of alternative business and delivery models. The merger would therefore operate against the public interest. If, however, it were allowed to proceed, then an appropriate divestment undertaking would be necessary. Any divestment would need to be in the STM area itself: divestment of marginal non-STM assets or of smaller Harcourt STM companies (for example, Mosby, Churchill Livingstone or W B Saunders) would not address Birmingham’s concerns. It suggested divestment of AP, as a minimum.

The University of Cambridge

6.42. Cambridge University Library (Cambridge) was strongly opposed to the proposed merger. It said that the growing cost of journals essential to research in the STM area was a matter of increasing concern to the whole scientific community. Cambridge had one of the largest budgets in the UK academic sector for STM journals, currently spending over £720,000 a year on journals published by either RE or Harcourt.

6.43. Although in terms of numbers of titles the two companies’ combined market share of the STM sector in the UK would be approximately 15 per cent, the position was completely different if the true market share in financial terms was considered. Cambridge estimated that its central scientific periodicals and medical libraries received 2,286 current titles, of which 316 (14 per cent) were published by RE or Harcourt. However, the total value of journals received by these libraries in the year 1999/2000 was estimated to be approximately £1.146 million, of which £417,000 (36 per cent) was accounted for by RE or Harcourt, both of which charged extraordinarily high prices. The impact of the proposed merger on Cambridge’s journal holdings would, therefore, be to concentrate some 36 per cent of the total value in the hands of one publisher, for what was only a 14 per cent share of the number of titles purchased. Cambridge said that RE had historically taken advantage of its position as a publisher of highly-ranked specialist research journals by increasing subscriptions year on year far in excess of the rate of inflation.

6.44. Cambridge said that the sale of Harcourt as a whole, including the sale of its worldwide STM division or any of its individual companies, would contribute to the growing concentration of major journals in the hands of a smaller group of STM publishers. Cambridge believed that divestment of any element of the companies outside the STM market would have no impact on this market. As Elsevier Science and AP, in particular, had a significant number of the most highly-esteemed, quality titles, divestment of one or more of these would be beneficial. Otherwise, the net effect of the merger would be a continued erosion of libraries’ ability to provide the information resources their scientists required, despite the fact that much of the original content had arisen from public sector funding of the work of those scientists.

6.45. Cambridge said that the concentration of a large number of core periodical titles in the hands of a single publisher threatened its ability to provide cost-effective electronic information to its STM clientele. UK universities, through their participation in NESLI and cooperation with the SPARC initiative in the USA, had sought to establish a framework of costing models and licences for affordable electronic journal access, thereby protecting public investment in UK research. Both RE and Harcourt had separately resisted close collaboration with these initiatives and had continued to promote electronic licences to multi-year all-inclusive packages with charges linked to an institution’s existing gross periodical expenditure. Cambridge had refused to accept these licences on the grounds that, if it were to agree to them, it would effectively be forced to cancel other titles to meet the recurrent costs, thereby further increasing RE/Harcourt’s share of its total acquisitions budget. There were no fixed agreed costing models for electronic journals at present, but a merger of two powerful publishers at this time could disastrously imbalance the scholarly communication chain, and in consequence threaten UK research productivity.

The University of Durham

6.46. The University of Durham Library (Durham) was opposed to the proposed merger. It believed that it would be against the public interest for an increasing proportion of serial publishing nationally, especially in the fields of STM, to operate within a commercial environment that was less diverse and less subject to market forces and competition. Durham knew of no likely commercial benefits to the consumer from consolidation within this market. Previous mergers had not led to benefits, such as lower subscription prices and more modest annual increases, which might have been expected from economies of scale in a larger organization.

6.47. Durham said that it was vital for the development of the UK knowledge-based economy that the STM disciplines flourished in universities. However, institutions that were responsible for the creation of such knowledge saw it published commercially, and increasingly they were unable to buy it back in the form of 'must have' titles, and provide access to it, because of increases in subscription charges which, year on year, were well in excess of normal inflation rates. For example, for those participating in the full electronic ScienceDirect service RE had set the cap on inflationary increases to underlying print subscriptions at 6.5 per cent, with a higher rate for those not taking up the full service. There was no expectation in the library community that RE would levy anything other than a 6.5 per cent increase, or greater, across the board for print subscriptions.

6.48. Subscriptions to RE and Harcourt titles represented 26 per cent of Durham's estimated serials expenditure in 2001; yet, in number, these subscriptions represented only 4 per cent of the titles it took in print. Durham believed that this powerful and influential position in the marketplace for academic serials must raise doubts as to whether it was appropriate to restrict competition and place RE in an even more powerful position.

The University of Edinburgh

6.49. Edinburgh University Library (Edinburgh) was strongly opposed to the merger. It fully supported the views expressed by CURL and made the following additional points:

(a) Although the market should, in theory, provide a corrective in the form of increased competition, the necessarily conservative nature of academic assessment meant that there was a long lead-in time between appreciation of a problem and the chance to do anything seriously about it. Peer group review in academic assessment was heavily dependent upon long-term recognition of impact factors and significance criteria. Citations of articles, value judgements of editorial boards and the longer-term merit of individual journal titles did not make it easy to challenge established publishers quickly. The success of SPARC in taking on RE directly with the publication of competing journals and winning the fight with two new titles was impressive, but that very success had illustrated the enormous effort required to challenge the existing order and the barriers in the way of competition. In general, individual successful journal titles were monopolies in their particular discipline, giving the established publishers considerable control of the market.

(b) RE had made matters worse in recent years by bundling its journal titles into a single electronic service. Edinburgh believed that the aim was to tie the user into the publisher more comprehensively and make it even more difficult to reduce costs by cancelling journal titles. RE had made it a condition of subscription that there would be no cancellations beyond certain limits.

(c) RE's charges could seriously threaten the ability of UK universities to purchase the output of UK learned societies and other bodies which were less able to play the market.

(d) 30.48 per cent of the total cost of Edinburgh's print journal subscriptions was accounted for by purchases from RE, though only 7.13 per cent of its total journal titles were from RE and Harcourt. The situation was even more extreme within the STM disciplines, where RE and Harcourt products were concentrated. From Edinburgh's total expenditure (covering books and journals) on STM materials, subscription to RE and Harcourt journals amounted to some 45 per cent. No other publisher came anywhere near that degree of dominance.

The University of Glasgow

6.50. Glasgow University Library (Glasgow) said that it was concerned that the merger would significantly increase the market share of a single company in the provision of research journals, which were essential for the functioning of research activities within the university. In terms of title numbers, Glasgow subscribed to over 5,000 journal titles in total, with RE accounting for 5.8 per cent and Harcourt 1.9 per cent. However, when expenditure was examined, a different picture emerged, because of the high average price of RE and Harcourt journals. During the financial year 1999/2000, Glasgow had spent more than £1.1 million on journal subscriptions: RE accounted for 27.1 per cent and Harcourt for 7.4 per cent of that expenditure. These were figures for Glasgow's journal subscriptions as a whole. In the STM sector, where the publications of RE and Harcourt were concentrated, the figures were different again: by volume (title numbers), RE accounted for 15.0 per cent and Harcourt for 5.1 per cent; and by value (expenditure), RE for 33.0 per cent and Harcourt for 9.2 per cent.

6.51. For Glasgow’s holdings, the average price of an STM journal published by RE was about £1,080, and for a Harcourt equivalent it was around £880, whereas the average price for all STM journal subscriptions was about £490. However, these figures did not take account of differences in journal size and content.

6.52. Articles in research journals were the basic building blocks of scientific research and development, vital for continuing economic growth and continuing improvement in, for example, medical care. Glasgow was under constant pressure from academic staff to maintain current journal subscriptions, and indeed to expand its collections as more research was undertaken. It said that inflation in journal subscriptions had averaged around 10 per cent over several years and commercial publishers such as RE and Harcourt had consistently charged higher prices than journals published by learned societies. Glasgow believed that mergers such as the one proposed tended to increase monopoly power available and enhance the ability of the larger company to maintain and extend its existing pricing structure. Individual journals already held a quasi-monopoly position and, in general, it was not possible to substitute one journal for another. Particular journals were needed by researchers who insisted on their acquisition or retention and it was unlikely that the proposed merger would lead to savings from closure or merging of titles, as each served a particular market.

6.53. The arrival of electronic publishing had increased Glasgow’s caution about the proposed merger. Both RE and Harcourt had successfully developed electronic versions of most of their journals. These had proved very useful to researchers by increasing access and providing greater flexibility. However, Glasgow believed there were dangers which would increase with the extent of market dominance. Both RE and Harcourt wished to sell libraries ‘bundles’ of their entire journals output. Although this was not necessarily the most advantageous option for individual libraries, these companies had priced their publications so as to make it very difficult to provide electronic access, much desired by researchers, to individual titles only. RE and Harcourt also imposed strict restrictions on the cancellation of subscriptions, if libraries wished to provide electronic access. Glasgow feared that the larger company resulting from the merger would be in an even stronger position to impose terms on the market, given the continuing demand for online access.

Imperial College of Science, Technology and Medicine

6.54. The Central Library of Imperial College (Imperial) expressed concern about the proposed merger. It said that STM publications were fundamentally important to Imperial’s work because of its position as a world leader in academic research and teaching in the STM disciplines. Its members were major contributors to, and consumers of, scientific publishing and scholarly journals were the primary means by which their research findings were disseminated. In the UK, publication was a crucial performance indicator within higher education research.

6.55. Imperial said that academic publishers were either not-for-profit learned societies or commercial enterprises. Whilst the interests of the learned societies focused on the research process, commercial publishers were concerned, first and foremost, with shareholder interests and healthy profits. Academic scientific publications had always been expensive in relation to similar publications in other disciplines, but the costs of STM journals published commercially were significantly more expensive than those produced by learned societies. Inflation rates for the commercial sector over the past 10 to 15 years had been running substantially ahead of the rate of inflation. For example, in 2001/02 Imperial was having to budget for an increase of 7 per cent for RE titles—an improvement on the 15 to 20 per cent levels it had experienced in the early 1990s, but nonetheless well ahead of the RPI. Yet most university library budgets would not increase each year, if at all, above the prevailing annual rate of inflation.

6.56. Imperial's journal purchasing was almost exclusively in STM. Of its current periodicals subscriptions, 23 per cent of titles taken were published by RE and Harcourt, with expenditure on these holdings accounting for 27.8 per cent of its total periodicals budget (25 per cent of this was for RE publications). Imperial suspected that there would be a greater discrepancy between these two percentage figures for libraries collecting across a wider spread of disciplines. For such libraries, it would expect the percentage spend on RE and Harcourt to be much higher in relation to their market share of a library's total subscriptions. A significant number of RE's and Harcourt's titles were, in Imperial's view, highly-regarded, quality journals. Many of them would be regarded as 'must have' titles for university libraries.

6.57. Imperial said that scientific publishing was becoming increasingly dominated by a small number of commercial publishers. It believed that the proposed merger would further increase the concentration of STM publishing. It was worried about the effect that growing market dominance would have on future pricing.

The University of Leeds

6.58. Leeds University Library (Leeds) said that its expenditure on periodicals, especially in the STM area, was a constant cause for concern. Academic journal prices had increased year on year at a higher rate than book prices, which themselves had increased at a rate well above general inflation and university funding. Researchers needed access to current literature, principally in the form of journals, as input to their work. Scholarly communication put great emphasis on publication in highly-respected conventional journals, as a measure of individual and institutional success. RE and Harcourt published a large number of these highly-respected titles, and Leeds believed that the merger would result in a single group controlling an unhealthily large proportion of this essential market.

6.59. Titles published by either RE or Harcourt represented approximately 25 per cent of Leeds's total expenditure on periodicals. This was unevenly distributed across the subject areas; in the STM area these figures were even higher. In the core science and engineering subjects, titles from these publishers represented 17 per cent of the number of subscriptions and 38 per cent of expenditure. Leeds said that these were very high proportions of its expenditure, and left this vital area of scholarly communication vulnerable to the commercial pressures of a single player in an increasingly narrow field.

6.60. As Leeds was a publicly-funded body dedicated to excellence in research and teaching, any additional threat to its ability to provide its staff and students with access to an adequate supply of published research literature was against the public interest. It believed that the proposed merger was such a threat.

The University of Newcastle

6.61. The Robinson Library, University of Newcastle (Newcastle), believed that the merger of the STM publishing activities of RE and Harcourt was against the public interest for the following reasons:

(a) It would result in the concentration of ownership of high-quality published content. At the simplest level, any scope for competition between RE and Harcourt would be eliminated. In addition, the nature of scientific publishing, which required establishment of a journal's reputation over several years, would make it difficult for new competitors to emerge.

(b) There seemed to be evidence (for example, recent research by Professor Mark McCabe) that increased concentration of ownership had led to higher journal prices.

(c) The parties to the acquisition had stated that their combined global market share was 22.8 per cent. At Newcastle, RE and Harcourt titles represented 14 per cent numerically of the total journals portfolio, but 38 per cent of the cost of that portfolio. Newcastle's journal holdings covered all disciplines represented at the university, including arts and social sciences. Since RE and Harcourt primarily operated within the STM disciplines, the percentage figures for Newcastle's STM journal numbers and costs must by definition be even higher.

(d) Prices of journals in the UK had risen over the past 15 years at a rate which was much higher than the RPI. As a result, HEIs and others had had to pay more for such journals and at the same time had had to cancel subscriptions, so that they now paid more for this content and obtained less. Consequently, less research had been made available to researchers and students in these institutions. Any price increases resulting from the proposed merger would exacerbate the situation.

(e) The dominant means of publication for STM research in the future would be electronic. Both RE and Harcourt had made their journals available electronically. Elsevier Science and AP titles currently represented 31 per cent of Newcastle's electronic titles but 86 per cent of its electronic journal costs. The merger, given the restrictions imposed by the current bundling and licence arrangements, might tend to pre-empt cancellation decisions in favour of retention of Elsevier Science and AP titles and against other publishers.

(f) Much of the research published in STM journals was publicly funded and provided free to publishers by researchers and their institutions. Any increase in prices caused simply by the merger would therefore mean that the public funds used by these institutions to buy back the information from publishers would be inefficiently used. The same point could be made in respect of commercial bodies that both originated and purchased research findings.

(g) Whilst it might be theoretically true that competition was still possible and could happen on a small scale, for example on the lines of the SPARC initiative, practical experience suggested that this might have only small-scale effects. Research journals had different reputations and impact factors, and Elsevier Science and AP Journals had many well-established reputations. It was unrealistic to expect significant competition to emerge across a major part of the range of such titles.

6.62. Newcastle added that the journals market was not competitive in the normal sense. It was one where some journals came to be seen as essential, and where, as a result, there was unusual inelasticity and the market power of publishers in relation to their purchasers was strengthened. The proposed merger was likely further to tilt the balance against purchasers (who were in many cases also the original producers of the journals' content).

The University of Nottingham

6.63. Nottingham University Library (Nottingham) said that it strongly opposed the proposed merger. It fully endorsed the submission by CURL (see paragraphs 6.2 to 6.17).

6.64. Nottingham said that the merger would reduce competition between academic publishers and would tend to cause prices to rise unchecked. This would seriously damage the ability of even well-founded institutions such as Nottingham to maintain essential purchasing levels in support of research of national and international importance, especially in the fields of STM.

6.65. Nottingham said that approximately 12.5 per cent of all its current journal subscriptions was with RE and Harcourt but those two publishers accounted for 28.6 per cent of its total spending on journals. For STM publications only, the figures were 25 per cent of all current subscriptions and 41.6 per cent of total spend. It believed that these figures illustrated clearly its dependence on journals produced by RE and Harcourt, the disproportionate prices charged, especially in STM, and the grave danger to academic research and communication posed by the proposed merger.

The University of St Andrews

6.66. St Andrews University Library (St Andrews) argued that the proposed merger would operate against the public interest, for the following reasons:

(a) Scientific research at St Andrews was heavily dependent on easy access to the high calibre and respected journals published by RE. Access had been seriously weakened by a disproportionate inflation rate in subscription costs over two decades, which had resulted in recurrent journal cancellation exercises. Since 1980, the number of research staff and postgraduates at St Andrews

had roughly doubled, but the number of journal subscriptions paid for by the library had fallen by around 20 per cent.

(b) Much of the research published in RE journals was the work of research staff employed by universities. RE continued to make very generous profits from recycling research information back to universities in its journals. Its consistent record of increasing subscription costs by up to three times the increase in the RPI had had a marked financial effect on higher education in the UK. It would be against the public interest to see that pricing policy extended to the publications of Harcourt.

(c) In common with all large commercial publishers, RE was committed to the delivery of journals electronically over the Internet. This was greatly welcomed by higher education libraries and researchers, especially since electronic delivery could be expected to widen access and improve service standards. But RE's pricing policy suggested that these improvements would be offered only at a significantly higher price, beyond what was affordable to much of UK higher education. The full exploitation of the Internet's potential for delivery of research information might consequently be delayed and undermined.

The University of Sheffield

6.67. The University of Sheffield Library (Sheffield) said that it shared the views expressed by CURL (see paragraphs 6. 2 to 6.17). Libraries in HEIs in the UK and abroad had seen price increases for serials over the past 10 to 15 years that were substantially in excess of the general level of inflation. Sheffield feared that further consolidation of suppliers of research journals would make it easier for them to sustain such real-terms price increases in the future, with the result that research-led universities would be able to gain access to a diminishing part of the global knowledge base.

6.68. In terms of market share, Sheffield said that just under 7 per cent of its total subscriptions in 2000 were for RE and Harcourt titles, which represented 24.5 per cent of its total costs. It said that the disparity between the number of RE and Harcourt titles and their cost reflected the fact that they were expensive but important titles.

6.69. Sheffield was also concerned about the new models that were emerging to provide HEIs with access to the electronic full-text versions of research journals. Both RE and Harcourt were offering electronic access to their entire list of titles, but with conditions that included the maintenance of current or recent levels of subscription expenditure, and above-RPI increases in price. Many HEIs, whilst welcoming the availability of electronic full text, found these conditions onerous. Sheffield had no evidence about the likely effects of the proposed merger in this area, as the market for electronic journals was volatile and immature; but bringing more titles within the control of a single commercial entity might put pressure on libraries to pre-empt increasingly large sums of money from their budgets, thereby limiting flexibility and closing out smaller publishers.

6.70. Sheffield said that, if the proposed merger were found to be against the public interest, one possible remedy would be to require the enlarged company to accept non-exclusive licences for the publication of primary research papers, rather than requiring the outright transfer of copyright in perpetuity as at present. This would open the way to self-archiving of research papers.

University College London

6.71. University College London (UCL) associated itself with the views of CURL (see paragraphs 6.2 to 6.17) and said that it had great concerns about the proposed merger.

6.72. UCL's expenditure on both RE and Harcourt printed and electronic journals in the calendar year 2000 was around 39 per cent of total spend for each format. For academics, electronic access from their desktop was essential. In 2000 RE/AP/IDEAL electronic titles accounted for 45.8 per cent of all the e-journals to which UCL had access. It was clear from these figures that the proposed merger would give the new publisher grouping an unhealthy predominance in the market, particularly in an electronic environment. In UCL's view, this would not be to the benefit of publicly-funded HEIs.

6.73. Referring to the DGFT's advice to the Secretary of State on the proposed merger (14 February 2001), which made the point that, in the face of large international publishing houses, HEIs were in a weak position and had a 'lack of buyer power', UCL said that publishing groups such as RE and Harcourt provided a substantial proportion of high-impact scholarly journals, particularly in the STM area. For UCL, the average price of a paper RE journal in 2000 was £1,353—an enormous sum that was a testimony to the quality and academic importance of the product.

6.74. UCL commented that the normal response to the high price of any product was to seek to provide an alternative at a lower cost. There was, however, as the DGFT had stated, a 'reputational barrier to entry to the market'. In other words, Harcourt and RE titles were in themselves so important that it was difficult for universities to counter by publishing their own titles in competition, or by investing in high-quality alternatives. SPARC journals were certainly lower in cost, but as a whole could not match the academic quality and content of journals published by commercial publishers. UCL believed the merger would increase these difficulties as the merged group would dominate the market, especially in STM.

The University of Sussex

6.75. The University of Sussex Library (Sussex) considered the proposed merger to be against the public interest, given that RE and Harcourt were two of the most important publishers of academic journals.

6.76. Sussex gave us information from a review of its periodical subscriptions in the summer of 1999. The overall annual inflation rate of periodicals subscriptions was running then at about 16 per cent, with 64 of its RE subscriptions having price rises between 10 and 62 per cent. Sussex compiled a list of potential cancellations for each subject and asked members of the university's academic staff to find substitutes of the same value if they did not want to lose the proposed titles. Of the 100 or so titles that Sussex originally proposed for cancellation, 21 were RE publications and the average inflation of those titles was 29.5 per cent. Ultimately, the academics agreed to cancel nine of them and substituted 21 other RE titles to cover the cost of the 12 RE titles which they felt it was essential to retain. The average inflation rate of these 30 RE titles was 18 per cent. The 30 titles represented only 18 per cent of the 168 titles finally cancelled but accounted for 48 per cent of Sussex's financial savings. This confirmed Sussex's view of RE's market dominance and high prices.

6.77. Sussex said that the hoped-for relief from the introduction of electronic journals had not so far materialized. Electronic journals had been technically viable for over five years, and electronic distribution of information had flourished on government and official web sites during that period. The same could not be said of commercially-published academic journals. Following the price rises of 1999, RE had offered the UK higher education sector a deal on electronic journals through NESLI which, while promising a cap on price rises, obliged participants to agree not to cancel titles or reduce their spend on RE periodicals. In a period of static or contracting budgets, this would effectively have secured RE's market position at the expense of other publishers. Similarly, a NESLI quote from Harcourt of \$122,054 for access to its electronic journals was far above what Sussex had paid in the past and was outside its price range.

6.78. Sussex stated that, in four out of the last five years, the periodicals industry had delivered an annual inflation rate of over 9 per cent in an environment where the general inflation rate had been around 2 to 3 per cent. This was not sustainable and threatened the entire academic communications process, with ensuing adverse effects for innovation, competitiveness and economic growth.

The University of the West of England

6.79. The University of the West of England, Library Services (UWE), was opposed to the merger on the grounds that not only would it create a monopoly with financial implications for academic library services but it would also represent a monopoly on knowledge in the field of STM journals. In recent years such mergers had impinged on the market and on the pricing of journals both in print and in electronic formats. Universities were being held back from developing electronic access due to high prices and lack of flexibility; RE's ScienceDirect was an example of this. Although a valuable collection, it was expensive and did not allow libraries flexibility for budgeting. For example, it did not permit cancellations during the period of contract.

6.80. UWE said that to give RE an even larger share of the market would allow it greater freedom to control the e-journal market and limit the accessibility of this valuable resource to students and researchers. It would also be counter to the Government's aims of widening access to learning.

Another university

6.81. This university said that both RE and Harcourt were major players in the field of publication of scientific and other academic research, and hence their products were of considerable importance to university communities. In 2000/01, approximately 38 per cent of its total journals expenditure was going to RE and Harcourt. It was therefore concerned about the increasing concentration of scholarly publishing in the hands of fewer enterprises, which in turn would reduce price competition.

6.82. The university said that for many years journal prices had increased by many times the general rate of inflation. Published figures showed that the annual rate of price increase for STM journals had averaged 12 per cent over the past 20 years. This had been caused by several factors, including fluctuations in exchange rates and increasing size of journals, in terms of number of papers published. However, publishers' monopoly in the supply of the individual articles for their journals, secured through the transfer of authors' copyright to them, gave publishers excessive power when determining prices. The university considered that RE's journals were relatively expensive. For printed journals only, RE accounted for 37 per cent of the university's journals expenditure but for 13 per cent of the titles purchased. The proportion in terms of articles would be higher, but articles could only be purchased from publishers in the fixed-price packages which titles represented.

6.83. The university said that in the past exceptionally high increases in the price of RE journals had forced it to cancel subscriptions in order to contain costs, thereby cutting off the supply of this information (which was mainly generated by publicly-funded research) to its academic community. In 1999 the average price increase of the RE journals which it cancelled was 33 per cent compared with the previous year, whereas the overall inflation rate for STM journals that year was 10 per cent. RE had since announced a policy of limiting price increases to a maximum of 10 per cent, but this was still several times the UK general inflation rate.

6.84. The university added that university librarians were concerned that the proposed merger would further concentrate the supply of academic information in the hands of a company that already had a disproportionate share and that had high price levels and a history of high annual price increases.

Higher Education Funding Councils

Research Assessment Exercise

6.85. The RAE told us that its main purpose was to enable the higher education funding bodies to distribute public funds for research selectively on the basis of quality. Institutions conducting the best research received a larger proportion of the available grant so that the infrastructure for the top level of research in the UK was protected. The RAE said that it assessed the quality of research in universities and colleges in the UK on a periodic basis. This took place every four to five years and the latest was taking place in 2001. About £5 billion of research funds would be distributed in response to the results of the 2001 RAE.

6.86. The RAE provided quality ratings for research across all disciplines. Panels used a standard scale to award a rating for each submission, and ratings were awarded according to how much of an institution's research was judged to have reached national or international standards of excellence.

6.87. The RAE said that it examined all types of research outputs submitted to it and that articles in journals represented the largest single body of material, an average of 62 per cent for the last exercise, conducted in 1996. The figure for 2001 was expected to be at about the same level or higher, possibly

70 per cent. Figures varied according to discipline, ranging from 50 or 60 per cent for engineering to 95 per cent for medicine.

6.88. The RAE said that it did not discriminate between types of research output, although its criteria for reaching views on relative merit varied. In the case of peer-reviewed journal articles, the research concerned would generally be regarded as reaching a certain level, but the RAE would be guided by its knowledge of the editorial standards and refereeing processes of a particular journal or publishing house. The converse, the RAE emphasized, was not the case: there was no presumption that research submitted otherwise than in the form of a journal article did not reach any particular standard. It would be much more carefully read and assessed by the Panel.

6.89. The RAE told us, however, that many universities regarded publication in peer-reviewed journals as a 'gold standard' to be achieved.

6.90. Asked about the use of citation indices as a criterion of research quality or quantity, the RAE told us that it had made use of ISI figures in conducting a study in 1998 looking at the quality of research in England. The ISI listing was intended to cover the top journals in the field based on the use made of material in those journals by researchers internationally. The method used had been to look at the citation of work by researchers in journals in the ISI data set and other journals. The intention had been to obtain independent verification of the results of the RAE. For the 2001 review, the RAE intended to extend the use of bibliometric matching to include actual verification of the existence of the research output claimed. The RAE emphasized that citation-based analysis was not used as part of its assessment process.

6.91. The RAE pointed out that citations were not an infallible indication of quality and that an inferior piece of work could be cited more frequently than a good one.

6.92. On the emergence of new journals, the RAE said that these frequently arose, especially in new areas. Nursing was an example. These could become quickly established, but they would take much longer to carry weight equivalent to that of long-established journals. The RAE was unable to cite any instances of new journals ousting longer-established ones.

6.93. Asked about the basis of a publishing house's reputation, the RAE said that it was individual journals which held a reputation rather than their publishers. The reputation of a publishing house was more important in book publication. In both cases, however, reputations of publishers were more likely to be of interest to librarians than to academics.

6.94. On the question of the buying power of users of STM, the RAE said that purchasers were in the hands of the academics, who wished to maintain lengthy 'must have' lists, because easy access to up-to-date research literature was essential in the learning/teaching field as well as in the research process. Buying consortia did exist, but the RAE understood that they were not yet very effective.

6.95. The RAE did not feel it would be appropriate to comment on any advantages or disadvantages that might arise from the proposed merger.

National Electronic Site Licence Initiative

6.96. NESLI was established, and is funded, by the Joint Information Systems Committee (JISC) of the HEFCs in the UK. NESLI is designed to promote the widespread delivery and use of electronic journals in the UK higher education and research community. It was set up to address the many issues which hindered the most effective use, access and purchase of electronic journals in the academic library community. NESLI succeeded an earlier pilot site licensing initiative (PSLI) led by the HEFC for England (HEFCE) but, unlike the PSLI, it planned to be self-financing and without government funding for publishers. A fundamental aim of NESLI was to offer libraries the choice to purchase electronic journals as a separate product from the traditional print journal: a different emphasis from that of the PSLI.

6.97. The contract for NESLI began on 1 May 1998 and journal delivery started in January 1999, for three years. The approach to developing electronic journal delivery is based on negotiating appropriate access arrangements and support mechanisms with individual publishers that offer deals to the client as represented by NESLI. The day-to-day operation of NESLI is in the hands of a managing agent, a role held jointly by Swets Blackwell and Manchester Information and Associated Services at Manchester University. The managing agent, among other things, coordinates the delivery of the electronic material and undertakes negotiations with publishers. It reports to JISC via a NESLI Steering Group and is advised by a NESLI Advisory Board.

6.98. The NESLI Steering Group told us that the vast majority of UK universities currently obtained most of their electronic journals through NESLI deals, simply because they were deals negotiated nationally with publishers. Libraries did not have the time or the expertise to negotiate individually with large numbers of publishers so national negotiation was of great benefit to them in dealing with the complexities of licensing etc that they would otherwise have to organize individually. Certain libraries had not, however, taken up any NESLI deals either because they were not appropriate for their particular circumstances or because they could not afford them.

6.99. NESLI had certainly gained momentum over the three years that it had been in existence. Over the last year, and particularly since the contract with the managing agent had been up for renewal, it had been consulting widely about the way forward. An interim evaluation carried out by Loughborough University in the spring of 2000 had found that there were many different preferences: bundled deals did not suit all libraries, nor did ‘cherry picking’ deals suit all of them. It was clear that NESLI needed to achieve more flexibility for libraries to obtain deals that met their specific requirements.

6.100. The managing agent, often under the direction of the NESLI Steering Group, was in ongoing negotiations with a number of publishers about various offers. Negotiations with Elsevier Science for a NESLI agreement were lengthy and difficult, particularly on some basic features of NESLI agreements, which NESLI had been able to agree with most other publishers. There was an unwillingness on Elsevier Science’s part to aggregate its journals into SwetNet, and it insisted that NESLI went direct to the Elsevier Science server. That was still the current position.

6.101. NESLI said that the Blackwell deal was one of the most popular with the best take-up, and it had the simplest economic model. The deal provided libraries with access to all Blackwell titles for the same price as that for printed journals, and with the facility to cancel print subscriptions.

6.102. NESLI said that a merger between RE and Harcourt would mean that fewer publishers were available from which to obtain even greater numbers of journals, access to which was very precious to academics. It believed that the bigger the publisher became, the more difficult it would be to negotiate favourable deals for libraries, as the publisher would be in a much stronger negotiating position.

6.103. Asked about the way in which the electronic access fees had been arrived at with publishers, NESLI said that there had been no standard method: every deal negotiated had been different. As to why publishers had decided to base electronic access so rigidly upon the print order baseline, NESLI replied that it believed this was because they were concerned about their continuing profitability. Originally purchasers had hoped that the electronic format would be cheaper and that the overall price of STM purchases would be reduced over time, but the publishers had taken a route which had resulted in things changing very little. They had succeeded in holding on to a profitable model and moving it into the electronic environment. Publishers continued to act in a manner that was not in the best interests of the users.

6.104. As an instance of this, they established their own portals to their own journals and sought, for obvious commercial reasons, to establish these to the exclusion of competitors. Users, on the other hand, wanted access to everything available in their fields, including the journals on the subject published anywhere, databases, image collections and videos. They often did not fully appreciate that in using a single commercial portal they did not have access to the full literature. But no commercial publisher wished to provide this: it was left to aggregator portals, run by independent organizations. The UK higher education sector was working to create a model aggregator portal to meet the real needs of researchers and other users with public funds, but it would be much better if it could work in collaboration with the commercial sector in some way.

6.105. On the subject of payment by usage, NESLI said that so far all its deals had been on the basis of a central payment, with access by end-users free of charge at the point of delivery. Any system of payment for immediate access to an article by an individual user would be very difficult for a library to monitor.

6.106. NESLI was unaware of the pricing policy of publishers, or the real costs that they incurred. RE's price increases in particular had been extraordinarily high, and it was difficult to predict what impact the merger would have on future price increases.

6.107. NESLI believed that it would be extremely difficult for a new entrant to establish itself in the journal publishing market, unless it was outside the STM area. It thought that any new entrants were likely to be in the electronic arena, and that these were likely to come from the academic or research communities.

6.108. NESLI could not see any benefits for consumers arising from the merger of RE and Harcourt.

6.109. On the question of possible remedies should the merger be allowed to proceed, NESLI agreed that conditions could usefully be attached, including a prohibition on some of the less desirable contract conditions, such as: preventing the cancellation of journal orders and basing electronic access on past print orders; price controls on the supply of journals and publishing services; collaborative funding of aggregator access portals; and freer access to electronic versions of journals. NESLI also believed libraries would agree that no further mergers in the STM area should be permitted.

Academics

Dr M M A La Manna

6.110. Dr La Manna, Reader in Economics at the University of St Andrews, wrote in his capacity as an economist with an academic interest in the economics of journal publishing and also as the organizer of the Electronic Society for Social Scientists (ELSSS), an initiative aimed at remedying the 'highly-inefficient and unfair' current state of affairs in the economic journal market. Dr La Manna provided background information on economic journals, demonstrating the dominance of RE and Harcourt in high-impact titles and also the relatively high price of their journals.

6.111. Dr La Manna stressed that the academic journal market was highly segmented and that aggregate figures of the overall market share of RE and Harcourt grossly underestimated the preponderance of these two publishers in the highly-specialized prestige journal subsector. It was no coincidence that the highest subscription prices were to be found in this sector of the market. In his view, it was inconceivable that the proposed merger, if allowed to proceed, would not result in a marked deterioration in an already extremely bad state of affairs in academic publishing. He could see no reason why the proposed merger would not follow the pattern of previous similar groupings. All the factors that had led to price increases following the Elsevier/Pergamon and the Lippincott/Wolters Kluwer mergers applied to the proposed RE/Harcourt merger. Dr La Manna said that, by any definition, RE had significant market power in the STM market. Even at a very basic level, the operating margin of its STM activities in 2000, amounting to 36.4 per cent of turnover (in a business with one of the lowest degree of risk), by itself suggested a massive degree of market power.

6.112. An additional aspect of RE's pricing policy was particularly relevant in assessing the likely impact of the proposed merger on the UK academic community and the public purse, namely its increasingly vigorous promotion of bundling deals. Apart from the obvious anti-competitive effect on existing competitors of deals that effectively tied libraries to the purchase of entire portfolios of RE journals (at prices that left few resources for the purchase of titles from other publishers), bundling had a pernicious effect on potential competitors, by adding an enormously high barrier to entry. This was because if a library decided to discontinue a single RE title that was part of a bundle, in order to substitute a new title, the saving would not amount to the full subscription price of the discontinued title but would be a much lower figure—in some cases as little as 10 per cent of the full price.

6.113. It was Dr La Manna's firm belief, supported by statistical and economic analysis, that the proposed merger:

(a) would lead to a significant rise in prices which, coming on top of a persistent trend of significant price inflation by the major commercial STM publishers, would put UK university libraries, and hence the UK academic community, at an even more pronounced disadvantage compared with the generally more generously-endowed US HEIs;

(b) would lead to a marked increase in the proportion of highly-cited journals under the control of the already dominant publisher, RE;

(c) extrapolating from the recent experience of mergers in the STM market, would strengthen even further RE's market power;

(d) would almost certainly lead to price rises in the 'must have' journals controlled by RE/Harcourt and, given the stringent controls on expenditure by UK universities, would inevitably result in the cancellation of other titles (including a fair proportion of journals published by UK non-profit and commercial publishers) with a highly detrimental effect on the flow of scholarly communication; and

(e) would act as a powerful barrier to entry to potential titles, thereby stifling the efforts of organizations such as SPARC and ELSSS to introduce new journals based on principles of fairer and more efficient academic publishing. In this respect, the practice of bundling would be particularly damaging to new entrants.

6.114. Dr La Manna added that not only should the proposed merger be prohibited but the whole area of pricing and supply of journals to UK libraries ought to be referred to the OFT. There was a strong prima facie case that some commercial publishers, even if not allowed to merge, were already engaged in practices that operated against the public interest.

Dr J G Thornton

6.115. Dr Thornton, an academic clinician and Reader in Obstetrics and Gynaecology at the University of Leeds, said that he had been co-Editor of the *European Journal of Obstetrics and Gynaecology and Reproductive Biology*, published by RE, for the past eight years, and had recently been appointed its Editor-in-chief. He had also been an editorial board member of the *British Journal of Obstetrics and Gynaecology* for five years until January 2001.

6.116. Dr Thornton said that he would support the merger, on the assumption that the owners of both companies were the best judges of their own interests. He had seen no evidence of RE using its position to inhibit competition. In all his dealings with the company, its staff had been extremely professional and had provided him with a high-quality service.

Professor P D Wall

6.117. Professor P D Wall, who had been the editor of a journal published by RE and a textbook published by Harcourt, said that he had no objections to the proposed merger.

Professor A J Zuckerman

6.118. Professor A J Zuckerman was Principal and Dean of the Royal Free and University College Medical School from 1989 to 1999 and is currently Director of the WHO Collaborating Centre for Reference and Research on Viral Diseases. He is Editor-in-chief of the *Journal of Medical Virology*, published by Wiley, and of the *Journal of Virological Methods*, published by RE. He is also the author and editor of textbooks published by RE, Harcourt and several other publishers. Professor Zuckerman said that he strongly supported the merger for the following reasons:

(a) The fierce competition that existed between publishers covering the medical sciences had led to a proliferation of journals with identical aims and objectives. They also had very similar, and therefore confusing, titles. The result was that a number of such journals published poor-quality papers and manuscripts, which had been rejected by prestigious editorial boards and better peer review. This was to the detriment of the advancement of knowledge.

(b) Duplication was not in the interest of the academic community, and the escalating cost to university and other libraries and individual subscribers resulting from the multiplicity of journals was an important consideration.

(c) Poor publications were not in the public interest.

(d) Intense commercial interests among publishers had led to a proliferation of electronic services of dubious quality and value, particularly electronic publications without peer review. Such information was often unreliable and might be misleading.

6.119. Professor Zuckerman said that the proposed merger would ensure the highest quality of journals and textbooks in the STM disciplines; would not adversely affect competition; and would result in an enhanced service to scholars.

6.120. Professor Zuckerman said that he believed the reputation of a journal depended primarily on the editor, the editorial board and a rapid and excellent peer review. The quality of a publishing house was important in that it could, if inefficient, damage a journal's reputation.

6.121. On the question of impact value of journals, Professor Zuckerman had major reservations as to its value. First, allowance had to be made for the habit of authors of referring to their own articles. Secondly, reviews tended to be referred to more frequently than original work, because this was so much easier. Thirdly, it was open to manipulation by publishers and even authors. The unreliability of impact factors was compounded by a tendency of heads of department and others in positions of responsibility to judge the quality of the researcher by the impact value of the journal in which he published. To be of any use it was also essential that impact values be reviewed annually, since they varied widely year by year. In all, Professor Zuckerman did not consider them particularly important, and regretted that there was nothing better.

6.122. Professor Zuckerman said that, while journals published by societies tended to have a fairly even circulation, those published commercially could rapidly suffer and fail entirely if their quality was perceived to be falling.

6.123. Professor Zuckerman told us that it had not been the practice of editorial boards to concern themselves with the price of the journals concerned: he was unaware of the issue ever having arisen. He believed that the omission should be rectified and felt that the boards would be in a strong position to influence matters, but only where they had a sufficiently high point of contact within a publishing house.

6.124. Professor Zuckerman had no difficulty with the practice of publishers in requiring the transfer of copyright from authors. This was in the interests of authors as well as publishers: responsibility for, and the costs generally of, publishing and all the risks associated with it did not have to be borne by the author.

6.125. On the subject of electronic publication, Professor Zuckerman said that, although *The Lancet* and the *British Medical Journal* (BMJ) advocated it, there were clear dangers in non-peer-reviewed publication on the web. He did not have any difficulty with the electronic dissemination of articles originally published in print: several publishers had good systems apart from RE, such as Wiley, *The Lancet* and the BMJ online. It would be an advantage to have one universal portal, but Professor Zuckerman doubted that this could come about.

6.126. On the proposed merger, Professor Zuckerman said that he saw benefits in terms of the quality of publications, speed of publication and scope for title rationalization. He believed that there was obvious duplication among these, and cited his own field of clinical virology. RE and Harcourt competed with each other in some areas of the discipline. He rated RE as one of the best STM publishers, considering RE's performance to be better than that of Harcourt. He emphasized that this was based purely on personal experience. He saw no disadvantages in the proposed merger.

Learned societies

The Association of Learned and Professional Society Publishers

6.127. The Association of Learned and Professional Society Publishers (ALPSP) represents not-for-profit publishers of all sizes. Its associate members include commercial publishers, among them both RE and Harcourt.

6.128. The ALPSP believed, on the one hand, that the merger would significantly increase the existing market dominance of a single company. Such a reduction in competition would be bad for the business and for customers; there was research evidence that previous publishing mergers had led to steeper price increases. Both companies' method of selling their journals to libraries (as a single package) tended to reduce the amount available to spend on other publishers' journals. This was particularly damaging when library budgets were already overstretched. The ALPSP believed this effect would be intensified as a result of the merger.

6.129. On the other hand, there was a growing tendency among many academic authors and purchasers of journals to discriminate in favour of more reasonably-priced titles, particularly those published by not-for-profit organizations. The ALPSP thought that the merger might be expected to add impetus to this trend, which would be likely to benefit learned society publishers and university presses. The ALPSP also believed that the emergence of new start-up companies might also be stimulated, as had been observed in the past, by the creation through merger of a single dominant large company.

The Linnean Society of London

6.130. The Linnean Society of London (Linnean Society) was concerned at the potential impact of the merger on the cost and quality of scientific journals. Scientific journals differed from other kinds of books in two different ways: first, issues were published at intervals each year for periods extending over many decades (the Linnean Society had published continuously since the late eighteenth century). This put considerable pressure on university and institute librarians not to break journal runs even when journal prices rose excessively and expenditure on other books had to be curtailed. Secondly, scientific journals were by far the most important vehicle for reporting new observations and research results, so it was essential to the progress of science that they were easily available. This added further pressure on librarians to continue to purchase them.

6.131. The Linnean Society said that a scientific journal represented a very secure income stream for the publisher and since sales could be accurately predicted its costs could be kept to a minimum. When (as had happened in recent decades in other countries) a publisher of scientific journals achieved a monopolistic position and then exploited its captive clients by excessive price rises, publicly funded scientific research was harmed in a variety of ways.

6.132. The Linnean Society said that it had no direct evidence that excessive price rises would result from the proposed merger. However, it was seriously worried that this might happen for several reasons. It had found that charges to learned societies for advertising in journals published by RE were exorbitantly high. The Linnean Society understood that the current reputation of RE was such that at least one UK university (Liverpool) intended to cease purchasing its journals, and those published by Harcourt, if the merger went ahead.

6.133. If the proposed merger were to proceed, the Linnean Society would wish to see permanent safeguards against unreasonable future price increases for scientific journals published by RE and Harcourt.

Publishers

Blackwell Science Ltd

6.134. Blackwell Science told us that it was one of a number of interconnected companies, including Blackwell Publishers and Blackwell Ltd. The intention was to reorganize the companies, which were under common ownership, so as to make Blackwell Science a truly independent publishing company, which would then merge with Blackwell Publishing. The resultant company would have a turnover of about £150 million. Blackwell Science said that it published about 350 STM journals. Blackwell Science was essentially a publisher of societies' own journals, amounting to about two-thirds of its total. This contrasted with about 5 per cent in the case of RE.

6.135. On the question of the alleged high price of STM journals generally, Blackwell Science said that this was increasingly becoming an issue among some academics as well as among librarians, with certain publishers, including RE, under attack. Some of this arose from US sources and might be nationalistically biased.

6.136. Blackwell Science said that it was to be expected that buying consortia should be organized in response to the concentration of publishing power, and believed that increased pricing discrimination might result. Blackwell Science sought to package journals for members in different ways. Other publishers looked more for bulk deals with the institutional market.

6.137. On the question of the wide range of prices of journals, Blackwell Science said that this often reflected circulation: prices rose where circulation dropped. Another significant factor was non-subscription revenue. For journals with high advertising content, such as the *British Journal of Urology*, subscription rates could be kept low. In small, specialist journals rates might be eight or nine times higher per page. The need for a particular profit level, or none, was also a powerful factor, as was the question of whether a journal was run for a society and the degree of that society's control. Since most of Blackwell Science's journals were run for societies, it was particularly familiar with this aspect of pricing. Quite different considerations applied in the case of journals owned by publishers and run purely for profit. In the past they had developed and used their profits largely to launch new products.

6.138. On the question of 'bundling', Blackwell Science said that it remained common practice to charge for printed product, and to offer unlimited access to electronic versions at a relatively small additional premium. One reason for 'bundling' with print price in the UK was the avoidance of VAT. The situation in Continental Europe, with many different VAT rates, was chaotic. Systems allowing access to individual articles at reasonable cost existed in both Europe and the USA, but they were not as developed as users wanted, nor were common technical systems used. There was evidence that publishers resisted the idea because they feared it would damage their present charging method if users were more easily able to access exactly what they wanted, rather than paying large sums in advance for material they might not want. Blackwell Science pointed out that this question was bound up with the wider question of electronic-only subscriptions or even electronic-only articles and the similar question of access to past articles. Libraries feared the prospect of not having archives under their control. All these questions had yet to be resolved.

6.139. Blackwell Science believed that about 90 per cent of subscriptions were channelled through subscription agents. However, these were slowly being squeezed out in favour of direct buying by major users. Blackwell Science said that subscription agents' commission rates had fallen from 15 per cent to less than 5 per cent over the last 30 years.

6.140. On the question of electronic databases, Blackwell Science said that the developing picture was confused, with many different types on offer. Some databases were offered by publishers, which might give access only to their own journals, or might include those of other publishers. Some, notably HighWire, were not-for-profit organizations. Among publishers' databases, some offered minimal information, in one case amounting to no more than a title and an author, while others provided the full texts of articles. Among the latter, also, the manner of operating the database varied widely, from undirected access at one extreme to one guiding the enquirer primarily to one publisher's wares at the other. There were signs that databases were slowly developing a common system and this, allied to the fact that the price of the technology was dropping, suggested that a much better and more user-oriented service could result in due course. Blackwell Science believed that within two or three years most of the usage, at least in its own case, would be electronic, with pricing done on the basis of the number of users or size of institutions, the printed versions becoming more of a convenience.

6.141. On barriers to entry, Blackwell Science said that it had not found these to be high, particularly the recruiting of editorial boards. Generally, the reputation of a journal depended upon that of its editorial board rather than that of the publisher. New journals arose usually in new areas of research: it was rare for one to be launched as a direct competitor of an existing title. One reason for this was the conservative nature of the market.

6.142. On the proposed merger, Blackwell Science believed that it would add to the convenience of users to have fewer sources, but there would be a disadvantage in that control would be centralized. Blackwell had no views on possible remedies, should the merger not be approved, apart from believing that behavioural remedies would be difficult to enforce. Blackwell Science would not be in favour of any finding that future mergers should not be permitted.

Geometry & Topology Publications

6.143. Geometry & Topology Publications at the University of Warwick (GTP) was opposed to the merger because it would effectively end healthy competition in the most dynamic area of scientific publication.

6.144. GTP said that academic scientific communication had been transformed in the computer age. Most scientific papers were openly distributed on the worldwide web as pre-prints, either on individual web sites or on one or several free pre-print archives. In an effort to offer the certification advantages of peer review and selective editing, a substantial number of free electronic journals had been founded. GTP published two such journals in mathematics.

6.145. All academic publishing concerns had been trying to adjust to this situation, which threatened to reduce greatly their role in scientific publication. RE and Harcourt had both moved aggressively into the electronic archiving business and sold their respective products (ScienceDirect and IDEAL) to libraries at a price designed to maintain their current profit margins.

6.146. GTP said that RE and Harcourt controlled the entire for-profit sector of the science and engineering electronic journal archive business. There had been significant competition between them for the right to archive journals for other publishing houses. The merger would result in a monopoly situation in an area that was the unique growth point in scientific publishing. It would represent an attack on the competition offered by small and independent operations such as GTP.

Oxford University Press

6.147. OUP said that it was a department of Oxford University and not a separate legal entity. The OUP's role was the dissemination of scholarship and educational materials worldwide, which it published in different formats. Any profits were reinvested by OUP or used by the university to promote its general aims.

6.148. On STM journals business, OUP told us that it published about 75 journals in the science and medical area, approximately two-thirds of which were for societies, the remainder being owned by OUP itself. STM journals publishing amounted to about 7 per cent of OUP's total turnover.

6.149. OUP said that about 50 per cent of its circulation went to individuals, although they accounted for only about 10 per cent of subscription revenue. Around 90 per cent of subscription revenue arose from sales to institutions. On the institutional side almost 100 per cent of subscriptions came through subscription agents; individual sales were almost all direct.

6.150. On the question of electronic format, OUP said that it published all its STM titles online, the price being bundled with the print price paid and access available to the print titles subscribed to. Separate online access was also available to individual libraries and to groups of libraries, some of which did not wish to obtain the printed versions. Libraries could select what titles they wished to buy, and large-volume discounts were available to consortia on individual title prices. OUP believed that these consortia discounts were becoming standard among publishers. It believed that the cost of maintaining an electronic database was generally of the same order as the print costs. OUP said that it believed it was becoming increasingly difficult for smaller publishers to offer acceptable electronic access, except on a cooperative basis, and accepted that the market was likely in due course to become concentrated among those larger-scale publishers which could do so.

6.151. OUP said that it offered access to its electronic database through a variety of different routes and intermediaries. It also collaborated with a group of other not-for-profit publishers in supplying material through HighWire. This not-for-profit organization was able to offer a high level of service at economic rates.

6.152. More generally, OUP believed that the strategy of most STM publishers was to move all their titles online and to provide services that were possible with an online environment. The main requirement of users was access to a large collection of journals, and this gave those publishers which could offer it a big competitive advantage. Size was more important in the case of electronic databases than with printed journals. Although the use of the latter might decline in the future, print remained a more robust medium for archive preservation.

6.153. On alternative publishing methods, OUP said that online publishing had been available for many years and was used in many ways, but it had not so far been a substitute for peer-reviewed publication. If, however, technology were to be developed to permit its search and retrieval, peer-reviewed personal or university article publication could be important in future.

6.154. OUP believed STM publishing to be a global market, although there were a few regionally-based particular subject areas. There was no UK market as such.

6.155. OUP agreed that STM journals were relatively expensive. This was partly because the publications were physically bigger and had more submissions to deal with, resulting in higher reviewing costs. Photographs and colour printing added to costs. Non-society journals tended to be more expensive because of their lower circulations and because of the profit margin sought by publishers. OUP saw signs of price resistance among librarians, who were becoming more vociferous because an increasing part of their budgets was being devoted to STM journal purchases. Price increases had steadied over the last two years. Any increase in prices brought about by the proposed merger could damage competing publishers if budgets remained static. Medium to small publishers would suffer most, particularly the learned society publishers. The merger would also be likely to weaken the position of buyers in relation to the merged company, since it would necessarily reduce the numbers of suppliers.

6.156. On the question of purchasers' buying power, OUP agreed that librarians had to respond to the needs of their users but felt that they could take the initiative more often in cancelling little-used journals. In general, however, they were heavily constrained because an increasing proportion of their budget was likely to be spent on large collections of online journals. The starting up of new journals had rarely posed any threat to existing ones for many years.

6.157. OUP believed that there was genuine competition among STM publishers. They competed for the best research and the best material. The main competition was for the best authors. Publishers also competed to some extent on price. Although authors were sometimes paid for articles outside the primary research field, there were no signs that payment would be made for research articles. Editors and editorial boards were frequently paid expenses, and sometimes received an honorarium.

6.158. As to the proposed merger, OUP believed that it would strengthen RE's position in the marketplace, both in terms of print, where a wider range of material would be available, but especially electronically, with the uniting of ScienceDirect and Ideal. Although this would reduce competition, it would also provide a convenience to users. OUP said that at present RE and Harcourt were among the top five or six commercial publishers and they competed with each other and with OUP. OUP did not feel threatened by the merger, but expected it to have an effect on its customers through an improved offering in competition for relatively fixed purchaser budgets.

6.159. OUP had no view on a prohibition of the merger or an any divestment conditions should it be allowed to proceed. However, it felt that a condition relating to journal prices might be useful for the market generally if it could be made effective.

The Thomson Corporation

6.160. Thomson told us that it was a global e-information and solutions company in the business, professional and educational marketplace. Total turnover was currently £4.5 billion, of which £350 million came from UK sales. The businesses within Thomson are as follows:

(a) *Thomson's Legal and Regulatory Group* is a provider of information and software-based solutions to law, tax, accounting, human resources and other corporate professionals.

(b) *Thomson Financial* provides information services and software-based solutions to the worldwide financial community.

(c) *Thomson Learning* is a provider of lifelong learning information (including higher education textbooks and related material) to individuals, learning institutions and companies.

(d) *Thomson's Scientific, Reference and Healthcare Group* provides high-value information and services to researchers and other professionals in the academic, scientific, government and healthcare marketplace.

6.161. Thomson told us that it had signed a sale and purchase agreement with RE on 27 October 2000, on the basis of which RE had agreed to sell to Thomson Harcourt's Higher Education business and part of Harcourt's Corporate & Professional Services Group.

6.162. Thomson said that the delay caused by the reference of the proposed merger was expected to have adverse effects in the following areas:

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Details omitted. See note on page iv.

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6.163. Thomson said that, if the merger were not allowed to proceed, the significant sums of money and the efforts of large numbers of employees invested in the preparation of the integration plan would be wasted, and other acquisition opportunities forgone. [*Details omitted. See note on page iv.*]

6.164. Thomson was of the opinion that, since most of the effects of the proposed merger would be felt in the USA, the CC should not substitute its views for those of the US competition authorities.

6.165. Thomson told us that it had acquired the ISI some nine years previously, and that it had sold its STM publishing business to Wolters Kluwer in 1998 and now had no STM business. At the time of the sale Thomson had been the seventh or eighth largest STM publisher.

6.166. Thomson outlined the way in which the ISI service functioned. It was the ISI's aim to be able to service its customers from a single platform, having not only its own databases, but access for its customers to competitors' databases by agreement. The ISI aimed to provide as seamless a service as possible, capturing a title, abstract of the article, and citations within the bibliography. Access to other publishers' content had been achieved over a period of time by negotiation, driven by customer demand. Only one publisher still categorically denied access to its content. Some 1,400 customers worldwide subscribed to the ISI database.

6.167. Thomson agreed that STM publishing was a global market. There were some specialized local markets, but these did not affect the overall picture. Thomson told us that some 6 per cent of its database content and about 3 per cent of its revenues originated from the UK. [*Details omitted. See note on page iv.*]

6.168. Thomson agreed that there was little scope for users to move from one journal to another: it was a simple fact that articles were unique and could appear in only one journal. Purchasers might review collections of journals within a particular discipline.

6.169. On the relative cost of STM journals as against journals in other disciplines, Thomson said it recognized that there were differences in business model between different fields and different publishers, and that the more urgent requirements of the science disciplines over, say, literary criticism could be a relevant factor. As to above-inflation rate price increases, Thomson thought that this was due to several factors, including the substantial increase in the numbers of papers published, the increased frequency of publication, allowance for subscription cancellations and currency movements. There were signs that consumer resistance, led by librarians, would moderate future price increases. These might also be moderated in future years as publishers came to understand better what the increasing use of electronic format meant for their finances. It was partly the uncertainty about this that had led to electronic access being based on past print purchases.

6.170. On future charging models, Thomson pointed out that there were a variety of ways of obtaining articles other than subscribing to a journal, including purchases from libraries and inter-library transfers. Thomson believed it likely that charging would increasingly move to a more sophisticated usage charge and that the electronic format would facilitate that. Thomson told us that it had made its database available over the Internet and was continuously refining a system of better charging for the rate of usage. It was planned that the database would be available for individual subscribers or by Intranet within institutions. Thomson emphasized, however, that there were forces which would resist changes to a system of charging for actual usage in favour of the traditional model of paying in advance for the option to use.

6.171. Thomson said that it did not believe the increased use of the electronic format would necessarily mean the demise of smaller publishers. It also believed that in practice barriers to entry were low and new journals were constantly being brought into being by small groups, operating in some cases without peer review. Funding was sometimes available for alternative models. Thomson believed that the inevitable move from STM print to electronic format would result in the development of a multitude of different delivery forms, and that these would have to develop in response to user demand.

6.172. Thomson reiterated its objection to any prohibition of the proposed merger, and saw no need for divestment or other remedies.

Journal editors

Animal Behaviour

6.173. The Executive Editor of *Animal Behaviour*, a scientific journal published by Harcourt, wrote to us on behalf of the editorial board, the Association for the Study of Animal Behaviour, which owned the journal, and the Animal Behaviour Society in North America, which co-edited it.

6.174. The view of all three parties was that the proposed merger was undesirable for *Animal Behaviour* and for scholarly science as a whole. Journal pricing was already putting pressure on the ability of financially-constrained academic libraries to maintain an adequate stock of titles. This affected not only the health of academic disciplines within universities but also that of academic societies that relied on library subscriptions to keep their journals afloat and themselves financially viable.

6.175. RE’s track record in this respect was alarming. For example, the annual library subscription for *Animal Behaviour* was currently £486. This compared with £1,823 for *Physiology & Behaviour,* a broadly comparable journal published by RE. Should the merger be allowed to proceed, it would place an uncomfortably large number of important scientific journals under RE’s control. A consequence of this would almost certainly be further erosion of library subscriptions and impoverishment of provision for research and education.

British Medical Journal

6.176. The Editor of the BMJ, who is also Chief Executive of the BMJ Publishing Group, said that he opposed the merger, as it would be bad for science, medicine, and ultimately the care of patients and the promotion of the public health system.

6.177. The academic community, particularly in the USA, had become steadily more unhappy with the performance of publishers like RE and Harcourt. The researchers felt that the publishers were exploiting scientific research, most of which was funded with public money, and were steadily reducing access to information. Considering the value chain associated with, for example, the publication of a randomized controlled trial in medicine, it was easy to understand these views. Some big trials might cost perhaps £20 million and well over 99 per cent of the value of a scientific article reporting the results of a trial lay in the research itself. The academic community also did the work of editing the journals, peer reviewing the research and storing it after publication in academic libraries. The publishers printed and distributed journals but their critics maintained that these activities added minimal value and were becoming unnecessary in the age of the Internet. Yet the publishers had since the 1980s increased their prices well above inflation. The budgets of libraries had not increased sufficiently, and the result had been that most academic libraries were paying more for less. In other words, the academic community was having its access restricted to work that it was mostly producing.

6.178. The BMJ said the arrival of the worldwide web was rapidly changing the economics of the journal business. The academic community hoped to pull back the value extracted by the publishers, and there were many initiatives in the academic community to take over the publishing of scientific research. The publishers were clearly threatened by these moves, and one response was to try to increase market share and power. That was why RE wanted the merger with Harcourt.

6.179. Publishers like RE had put all their journals on to large electronic databases. They then made offers to academic libraries that might start by subscribing to perhaps 40 per cent of their journals. The publishers offered these libraries electronic access to 100 per cent of their titles if they would pay a percentage more than they were paying to subscribe to 40 per cent. In addition, they might lock the libraries into a three-year deal with a stipulated increase in price for each of the three years. This might seem like a good deal for the academic institutions in so far as it broke the cycle of paying more for less. Libraries were, however, paying for poor-quality journals that their users did not want and, worse, were being forced to make cuts elsewhere to pay for them. The result was that they had to cut subscriptions to journals produced by smaller publishers, most of them owned by learned societies.

6.180. One of the problems with scientific publishing was that there were too many low-quality journals. In a truly competitive market these would be shaken out and only high-quality journals that added substantial value would remain. Interestingly, the high-quality journals were substantially cheaper than many of the journals owned by publishers like RE and Harcourt. The proposed merger would get in the way of this true competitiveness.

6.181. The merger would be bad for smaller publishers like the BMJ but more importantly it was bad for science and medicine. Information was quite different from a commodity like a banana, which if eaten by one person could not be eaten by anyone else. In contrast, once an idea was passed on, two people then had the idea and the more people that were given ideas and information, the more the value of those ideas and information increased. Publishers had impeded access to information for too long, particularly in the developing world, and anything—like the proposed merger—that made the situation worse should be opposed.

Subscription agents

The Association of Subscription Agents and Intermediaries

6.182. The ASA was of the view that the market for the supply of scholarly and research journals should operate in a competitive and free environment such that libraries were free to purchase their journals through the supplier of their choice, or to go direct to the publisher if they so wished. Subscription agents and intermediaries should be free to offer their services to both libraries and publishers in return for payment. [

Details omitted. See note on page iv.

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6.183. The ASA stressed that it and its members currently enjoyed good relationships with RE and Harcourt, and that both these publishers also provided ASA members with good terms of business. [

Details omitted. See note on page iv.

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Details omitted. See note on page iv.

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6.184. [

Details omitted. See note on page iv.

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6.185. The ASA told us that it had an international membership of 45. Only four of its members were based in the UK. Members were required to have a turnover of at least £1 million. The aim of the ASA was to promote best practice and to establish good relations with publishers and librarians and to act as representative of its members. The traditional role of subscription agents as middlemen between publishers and users had changed somewhat because of the coming of electronic formats. The most typical new activity undertaken was that of providing gateway services, in which a library or user could be linked to all the material that the library subscribed to electronically. Some agents offered publishers the service of mounting their printed journals electronically. Others provided bibliographic information and full text through electronic linkage. Discounts given for the traditional services were typically 5 per cent.

6.186. Asked its views on the price of STM journals, the ASA said that these were originally expensive to produce partly because of the typesetting requirements of mathematics and foreign scripts. This aspect no longer applied, with the most important factor more recently being that of the number of subscribers. Because of the number of journals covering specific aspects of a discipline, a journal could have as few as 100 subscribers, while a society journal covering a whole discipline, such as chemistry, might have 50,000 or 60,000, with basically similar production costs. [✄]

[*Details omitted. See note on page iv.*]

6.187. The ASA told us that there was a multiplicity of services available and of methods of charging for them, as the market was in a state of flux. It believed that three main types of system would survive. These would be: the large-scale agreements between purchasing consortia and publishers, with or without agents' involvement; the continuation of subscription methods where it was cheaper or more effective to take a journal that way; and the development of an article delivery system as soon as the appropriate business models were developed and copyright problems solved.

6.188. The ASA believed that the STM publishing market was global, although it might be more restrictive in certain subjects, such as high energy physics, where it was restricted to a few countries. There were also certain areas where rules might be different, such as clinical medicine and mathematics.

6.189. On the question of customers' buying power, the ASA shared the view that this was limited by the multiplicity of 'must have' titles and the fact that there was little or no substitutability among journals. The appearance of buying consortia affected the situation to some extent but their buying power was inhibited by their inability in the last resort to strike off the whole range of a publisher's journals. On the other hand, declining circulations were leading some publishers to make deals with consortia for defensive purposes.

6.190. [*Details omitted. See note on page iv.*]

6.191. [*Details omitted. See note on page iv.*]

Government departments

Department of Trade and Industry

6.192. The Communications and Information Directorate of the Department of Trade and Industry (DTI) said that it was in favour of the proposed merger, in particular because it viewed it within a global context. The merger would provide RE, a large successful Anglo-Dutch company with its headquarters in the UK, with the opportunity of becoming a stronger world-class player in an increasingly competitive environment, dominated by publishing/media giants such as Bertelsmann Springer. The DTI thought that Harcourt was likely to be acquired by another company if the RE bid proved unsuccessful.

Others

John Fuller Taxation Consultancy

6.193. John Fuller Taxation Consultancy (Fullers) said that it was a consumer of technical publications. Fullers had enjoyed a good relationship with Tolley Publishing for many years until it was acquired by Butterworth, a division of RE. From that point, the standard of Tolley's Electronic Library seemed to deteriorate and ultimately, after extensive correspondence with each company, Fullers came to the conclusion that the only way forward was to transfer to Butterworth's electronic system. Fullers acknowledged that the Butterworth system was of a high standard but, in its opinion, it was of no better standard at that time and in fact had certain shortcomings in comparison with the Tolley version. The episode had cost Fullers a great deal in time and administration, as well as reducing the number of alternative suppliers to whom it could turn for suitable technical publications.

6.194. Before the Butterworth/Tolley merger, Fullers had considered that there were only three substantial quality companies providing the essential taxation publications that it needed to maintain its practice. These were Tolley, Butterworth and CCH. There were other suppliers but in Fullers' view they were not providing complete library systems of sufficient quality. Fullers said that now the choice for its particular needs was between only two publishers it was in a considerably more vulnerable position than before the merger.

6.195. Fullers said that its fears had proved well founded as the cost of its subscription to Butterworth's Electronic Library Services for the year 2001 had increased by 51 per cent for the direct tax service and 78 per cent for the indirect tax service. As a result, Fullers had been obliged to notify clients who, in the past, had consulted it on indirect tax matters that it could no longer justify the library costs in this area and would accept no further instructions. As to the cost of the direct tax service, Fullers said that it would have to bear the cost of the increase as its clients would not accept a 51 per cent increase in their fees while inflation and interest rates were so low. Fullers suggested that one of the reasons why RE considered it necessary to increase its charges by such substantial amounts was to pay for the many administrative errors that had occurred at Butterworth.

6.196. Fullers hoped that the CC would look closely at the proposed acquisition for the sake of others who might suffer similar consequences to those it had experienced.

Stanford University

6.197. Stanford University Libraries, California (Stanford), said that the focus of its concern was the business practices of the major STM publishers, especially with regard to the pricing of electronic access. This was not a comment on the merits or otherwise of the proposed RE/Harcourt merger. However, Stanford believed that the regulatory authorities in both the UK and the USA should be sensitive to the possible disadvantages arising from the increasing concentration of content in the hands of a few publishers, which it believed had been a bad thing for university and other large research libraries and for the academic process.

6.198. Stanford believed that the following areas needed examination:

(a) publishers' use of various forms of bundling in pricing access to the electronic versions of their academic journals;

(b) publishers' practice of entering into contracts with academic editors and learned societies to prohibit them from launching competitive journal products;

(c) publishers' possible use of dominant market positions to frustrate the launch of new titles by third parties, or to circumvent the difficulties of establishing brand and reputation by bundling new journals with existing 'must have' titles in tied pricing schemes; and

(d) the correlation between mergers and acquisitions in academic journal publishing and major increases in the price of journals marketed by for-profit publishers.

A T CLOTHIER *(Chairman)*

H SHOVELTON

J D S STARK[1]

R FOSTER *(Secretary)*

24 May 2001

[1]Subject to his supplementary note following Chapter 2.