

# **Public interest test on the completed acquisition by Daily Mail and General Trust plc of JPI Media Publications Limited and thus the ‘i’ newspaper**

Guidance note

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**GUIDANCE:**

Publication date: 22 January 2020

# 1. Background and Ofcom's role

- 1.1 On 21 January 2020, the Secretary of State made a statement to Parliament concerning the acquisition by Daily Mail and General Trust plc ("DMGT") of JPI Media Publications Limited ("JPI Media Publications"). The assets of JPI Media Publications include the 'i' UK national newspaper and website. This acquisition was made public on 29 November 2019.<sup>1</sup>
- 1.2 The Secretary of State has issued a Public Interest Intervention Notice ("PIIN")<sup>2</sup> in relation to the transaction under section 42(2) of the Enterprise Act 2002 (the "Act") specifying the following public interest consideration as potentially relevant to the acquisition:
  - the need for, to the extent that it is reasonable and practicable, a sufficient plurality of views in newspapers in each market for newspapers in the United Kingdom or a part of the United Kingdom ("plurality ground").<sup>3</sup>
- 1.3 Ofcom is now required to report to the Secretary of State under section 44A of the Act. The PIIN states that Ofcom's investigation and report must be completed by midnight on 13 March 2020.
- 1.4 This document outlines how we will proceed.
- 1.5 Our role is to conduct an initial investigation into the public interest consideration and to provide advice and recommendations on the Secretary of State's decision on whether she should refer the case to the Competition and Markets Authority ("CMA") for further analysis. We will focus on the effects of the acquisition on the consideration specified by the Secretary of State and will not deal with competition issues. These fall within the jurisdiction of the CMA. Our report to the Secretary of State will also include a summary of any representations about the case that we receive.
- 1.6 It is for the Secretary of State to decide whether to refer the case to the CMA for further investigation in the light of our report.

## 2. Process guidance

- 2.1 Our process is divided into two main parts:
  - a) information gathering and analysis; and
  - b) preparing our advice to the Secretary of State.

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<sup>1</sup> [DMGT announcement](#), 29 November 2019.

<sup>2</sup> The PIIN follows the [publication of a 'minded-to' letter](#) on 9 January.

<sup>3</sup> Section 58(2B) of the Act.

## Information gathering and analysis

### Publication of the invitation to comment

- 2.2 We [published an invitation to comment](#) on our website on **22 January 2020**. This document outlines the matters on which we are seeking input and explains how to make representations to Ofcom on this issue. We invite written responses, supported by evidence, to be submitted no later than **5 February 2020**. Due to timescales set by the Secretary of State, we may not be able to fully consider responses submitted after this date.
- 2.3 Please note that if any person provides information to us in this context, which is false or misleading in a material respect, it is an offence which, on conviction, may be punished by a fine and/or two years' imprisonment.<sup>4</sup>

### Engagement with the parties to the merger

- 2.4 Ofcom intends to request information from the parties to the merger. Soon after the requests are made, they should discuss with Ofcom the availability of the requested data and the form in which it will be made available. Ofcom may also wish to discuss points raised in their submissions and any other associated questions.

### Engagement with third parties

- 2.5 Ofcom may also request information from third parties where appropriate and as allowed within the timescale set by the Secretary of State.
- 2.6 Ofcom strictly observes confidentiality in all aspects of its operations. We will give the Secretary of State all relevant submissions (including confidential ones) to enable her to make her decision. We will also provide information to the CMA where appropriate. We will require a full non-confidential version of any confidential submissions, together with reasons why information should be treated as confidential.

### Internal analysis

- 2.7 Ofcom's analysis will draw as appropriate from stakeholders' submissions as well as information that we already have available in-house, and any other sources we deem relevant.

### Preparing our advice to the Secretary of State

- 2.8 As soon as practicable we will consolidate the results of our internal analysis and the points raised by stakeholders to reach a provisional position on our recommendation to the Secretary of State.

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<sup>4</sup> Section 117 of the Enterprise Act 2002.

- 2.9 If our provisional position were that this case raises potentially material public interest issues we would send an *issues letter* to the parties to the merger, setting out the core arguments and evidence in the case. If appropriate and practicable, the letter would include the offer of an *issues meeting* where the parties could discuss our draft position and the analysis underpinning it.
- 2.10 Ofcom will finalise its report and send it to the Secretary of State by midnight on **13 March 2020**, together with any other material that may be relevant to her decision.
- 2.11 The Secretary of State will then decide whether the case should be referred to the CMA for further analysis. The Secretary of State will publish her decision and our report simultaneously.
- 2.12 If the Secretary of State makes a reference to the CMA, Ofcom will make all relevant information in its possession available to the CMA to allow it to conduct its analysis.