

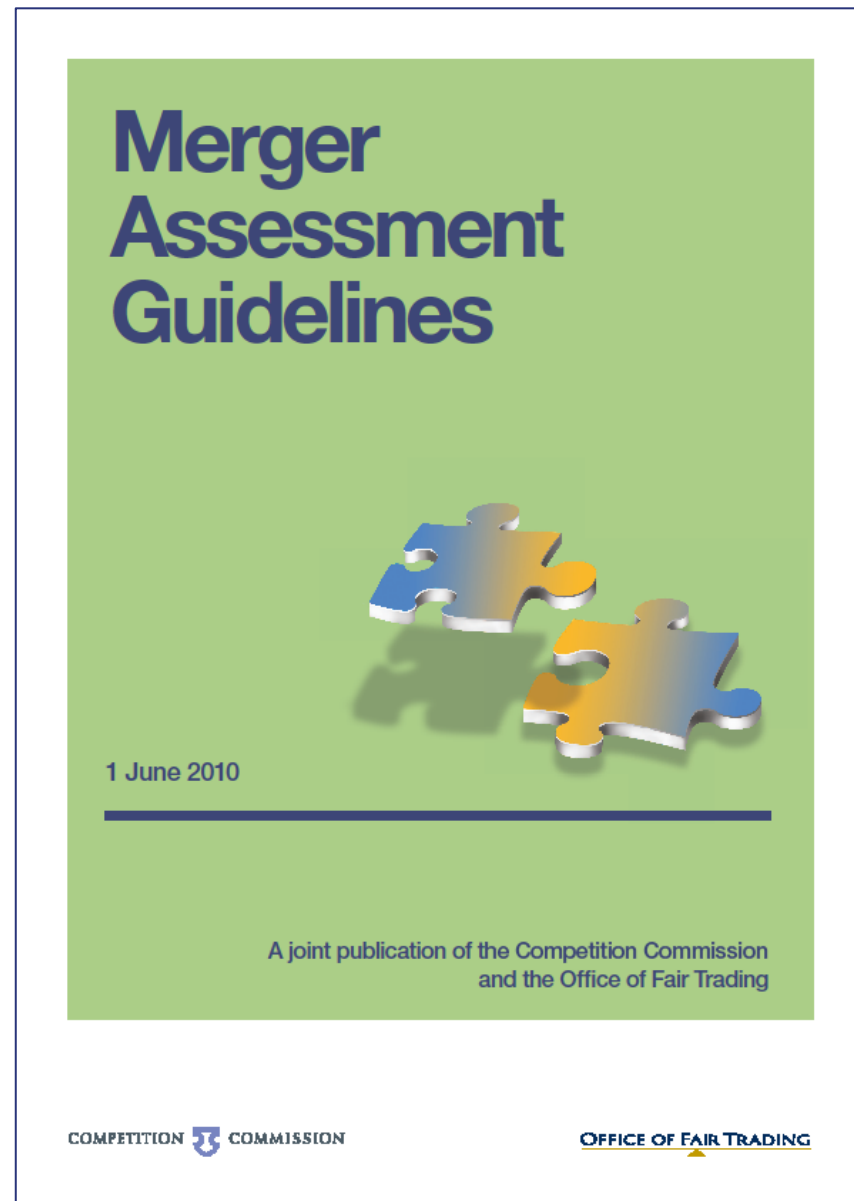
Merger policy: non- horizontal theories of harm

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Views are mine only

Introduction

- Approach to non-horizontal ToHs clarified in new Merger Assessment Guidelines
- Discussion of some cases
 - EC
 - Orange/T-Mobile
 - UK
 - Ticketmaster/Live Nation



Recent EC non-horizontal mergers

- **Four EC Phase II cases opened since start of 2008**
 - 15 Art 6.1(c) in period
 - Other horizontal mergers with vertical effects (e.g. STX/Aker Yards)
- **Binary outcomes**
- **Orange/T-Mobile**
 - UK Article 9 request
 - conditionally cleared at Phase I
 - horizontal & non-horizontal ToHs

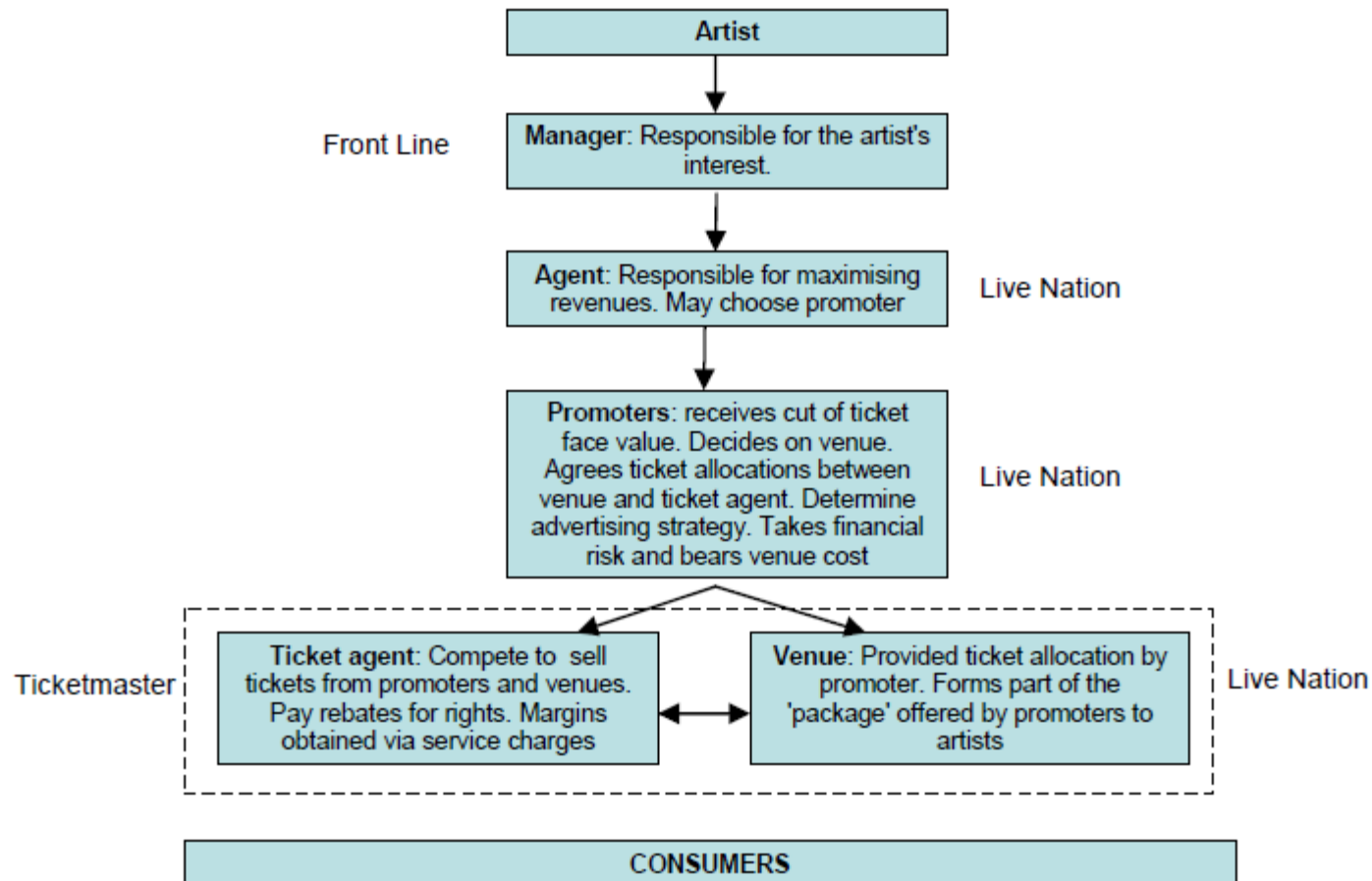
Case	ToH	Market(s)	Outcome
DSV/ Vesterhavet/ DFDS	Vertical	RoRo shipping & freight forwarding (Baltic)	Abandoned
Bonnier/ Schibsted/ Retriever Sverige	Vertical	Newspapers & media databases (Sweden)	Abandoned
Itema/ Barcovision	Vertical	Sensors & textile machines (EEA)	Cleared
Nokia/Navteq	Vertical	Digital maps & mobile phones (global)	Cleared

Recent UK non-horizontal mergers

- **Five UK Phase II cases opened since start of 2008**
 - 15 references in the period
- **Vertical effects of largely horizontal mergers**
- **Ticketmaster/Live Nation**
 - Phase III
 - Change in emphasis in approaches of OFT and CC

Case	ToH	Market(s)	Outcome
BOC/ Ineos Chlor	Horizontal & vertical	Packaged chlorine	Blocked
Project 'Kangaroo'	Horizontal & vertical	VoD	Blocked
Nufarm/ A H Marks	Horizontal & vertical	Herbicides	Remedied
Brightsolid/ Friends Reunited	Horizontal & vertical	Online genealogy	Cleared
Ticketmaster/ Live Nation	Vertical	Live music	Cleared

Ticketmaster/Live Nation



Other thoughts

- **'Portfolio effects' cases at OFT Phase I (all clearances)**
 - Coca Cola/Innocent (2009), C&C/Gaymers (2009), Ambassador Theatres/Live Nation Theatres (2010)
 - EC in Kraft/Cadbury?
 - Horizontal leveraging ToH pre-supposes market definition in a way that horizontal unilateral effects ToH does not
- **FTC in Google/AdMob characterizing 'diagonal' merger as horizontal 3-to-2? (WSJ 4 May)**
 - 'Mobile in-application advertising market'

Thank you

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