

6 Conclusions

6.1. We are required by section 59(3) of the Fair Trading Act 1973 (the Act) to report whether the proposed transfer of 40·67 per cent of the voting shares (together with the transfer of 38·18 per cent of the non-voting shares) of T R Beckett Ltd (Beckett) from the Eastbourne Health Authority (EHA) to EMAP PLC (EMAP) may be expected to operate against the public interest taking into account all matters which appear in the circumstances to be relevant, and in particular the need for accurate presentation of news and free expression of opinion.

Circumstances of the application for consent to transfer of the shares

6.2. We have been told by Beckett and EMAP that the EHA wishes to sell this holding in order to apply the proceeds towards patient care and staff amenities. Over 50 per cent of the total voting shares are held by members of a family of which the present Chairman is a member (the family). The family therefore controls Beckett and EHA has played no active part in running the company. Beckett was prepared to purchase the EHA shares, but EMAP has offered a price which the family and Beckett were not prepared to match.

6.3. It is, we believe, common ground that, in view of the provisions of sections 57 and 58 of the Act, EMAP was bound to seek the consent of the Secretary of State to this transfer. EMAP applied on 31 October 1988¹ for such consent, and requested that consideration be given during the inquiry to its declared intention to acquire 100 per cent of the Beckett shares in due course. It is provided, in section 58(2) of the Act, that, except in certain circumstances which do not arise here, the Secretary of State's consent shall not be given until after he has received a report on the matter from the Commission and the matter was referred to us on 22 November 1988.

6.4. Bearing in mind both the limited nature of the current transfer and the intention to which we have referred in the preceding paragraph, we have considered carefully the proper scope of this inquiry. We are advised and believe that, for the purpose of section 59(3) of the Act (see paragraph 6.1 above), it is the current transfer which we have to consider – but that the matters which we may take into account, in determining whether the transfer may be expected to operate against the public interest, include the likelihood of the resulting holding leading to the acquisition of management control of Beckett by EMAP and the public interest issues which would arise in that context. This approach appears to us the more appropriate, bearing in mind EMAP's own request and, more generally, the fact that (so we are advised and consider) it is not open to the Secretary of State, on the true construction of sections 57 and 58 of the Act, to make a newspaper merger reference in respect of a further acquisition by EMAP of shares in Beckett.

¹Subject to a slight amendment, as to the titles concerned in a letter of 21 November 1988.

The offer from EMAP

6.5. EMAP told us that, because there is considerable competition for the acquisition of local newspaper titles, it has had to offer a high price of £3.4 million to acquire the EHA-owned shares in Beckett (a price/earnings ratio of 19.31¹). It said that a growing domestic economy, buoyant advertising volumes and noticeable overseas interest in the acquisition of local newspapers have all been factors in pushing up prices.

6.6. EMAP recognises that it will not gain immediate management control, but has made clear to all concerned its wish to do so at some future date and that it is prepared to take a long-term investment interest for the time being. Whilst the Board of Beckett is confident that its existing shareholders will not wish to transfer shares which would enable EMAP to acquire over 50 per cent and thus exercise control, it opposes the present transfer. The Board told us that it does not welcome a situation where another rival newspaper group is taking a stake in its business. On the other hand, we have been told that EMAP is happy to continue with its shareholding until such time as more voting shares became available to enable it to acquire control. (EMAP explained to us that it has the experience of a minority shareholding in Home Counties Newspapers Holdings PLC, the bulk of which it has held since 1986.)

6.7. Both main parties appear to be agreed that the transfer of the shareholding from EHA to EMAP will have no effect on the family's ability to maintain complete management control as it has done in the past, even though the acquisition of the substantial minority shareholding by a competitor might not be a comfortable situation for the Board of Beckett. In the meantime the immediate prospects for Beckett are unchanged. In paragraph 4.4 we mention that Beckett had given us a detailed explanation of its strategic plan for the coming years.

6.8. We have noted that the family controls 51.69 per cent of the voting shares. Whilst it would be possible for the remaining 7.64 per cent of non-family shareholders to sell to EMAP and thereby increase its stake from 40.67 per cent to 48.31 per cent, we are satisfied that even in those circumstances the family would be able to maintain effective control of the affairs of Beckett. On the other hand we conclude that there is a reasonable likelihood in the foreseeable future that some part of the family shareholding would become available for EMAP to purchase, thus bringing its holding to over 50 per cent. EMAP's declared intention is to increase its stake should such shares come on the market. We also note that EMAP was prepared to offer a high price for the EHA holding with that objective in view. Whilst it is the present intention of the family holders not to sell shares, it seems to us that continued family control depends on a slim margin over 50 per cent which could disappear, reinforcing the need to take into account the public interest issues that would then arise.

The issues

6.9. It appears to us that the main issues which would arise from control by EMAP are:

- (a) concentration of ownership: competition between local newspapers and between newspapers and other types of media;
- (b) accurate presentation of news and free expression of opinion; and
- (c) local employment.

¹This calculation assumes that the voting and non-voting shares are of equal value.

6.10. Control by EMAP would raise a number of competition issues which were not evident in the two previous inquiries involving EMAP.¹ First there are areas of overlap between some of the Beckett and EMAP titles; and secondly, in some local areas the resultant degree of concentration could be taken to high levels. These are identified in Chapter 3.

6.11. We have mentioned Beckett's objections to this particular transfer. The directors told us that, in making their initial submission, they had not considered in any detail the issues raised by EMAP acquiring control. Their assumption was that no control will pass at this or any future time as long as the family interests have a majority of voting shares. We were able, however, to put a number of questions to them about the effects of control by EMAP. We have also heard from a variety of commercial concerns and organisations, both local and national, commenting on the effect that EMAP's control of the Beckett titles would have. The views of a number of organisations are summarised in Chapter 5. Varying degrees of concern were expressed over the potential effects of concentration of the local press if EMAP were to gain control of Beckett.

6.12. In Chapter 3 we have examined the national, regional and local markets for local newspapers and also compared them with other media, some of which may compete with local newspapers for readers and advertisers. We comment on competition with other media in paragraph 6.18. At the national level concerning competition between groups publishing local newspapers we conclude that there would be little effect on concentration since a number of other newspaper groups would continue to provide strong competition to EMAP. Its share of the total aggregated local newspaper market would increase from 5.9 per cent to 6.3 per cent.

6.13. At the regional level of Kent and Sussex, EMAP has already extended its coverage in Kent by its recent acquisition of Parrett & Neves. The current transfer would not affect Kent, but the adjacent area of Sussex would be affected. Should EMAP acquire control of Beckett the concentration of circulation of paid-for newspapers in Sussex would increase from 23 per cent to 35 per cent; and if the two dailies, the *Evening Argus* and *The News* (a PSN daily paid-for newspaper), are excluded the resulting concentration of paid-for weeklies would increase from 31 per cent to 47 per cent.

6.14. At the local level in Sussex there are some areas where there is no overlap with existing Beckett titles. However, we are concerned at the levels of concentration in Hastings, Bexhill, Eastbourne and Seaford. In Hastings and Bexhill, EMAP already has a dominant position with well over 90 per cent of circulation of paid-for weekly titles. This share would be taken to 100 per cent if EMAP took control of the Beckett titles from adjacent centres, which have some circulation in those two areas. In Eastbourne, the combined EMAP/Beckett share of circulation of all titles would amount to 70 per cent. It is, however, questionable to what extent the other participants, Pearson with its *Evening Argus*, and Friday-Ad with its free newspaper, effectively compete with local paid-for newspapers. The *Evening Argus* is a daily paid-for newspaper which is essentially regional rather than local both in its editorial and in the nature of advertisements that it carries and the *Friday-Ad* carries only advertisements and no editorial. By excluding the *Evening Argus* from the circulation figures the EMAP/Beckett share would be 84 per cent or 100 per cent if the *Friday-Ad* is also excluded as well. In Seaford the combined EMAP/Beckett share of all titles would be 46 per cent, but the share would be 60 per cent if the *Evening Argus* is excluded and 100 per cent if the *Friday-Ad* is also excluded. We note that EMAP would extend its position further along the Sussex coast.

¹Cm 120 - *A report on the proposed transfer of Courier Press (Holdings) Ltd to EMAP PLC*, dated 6 March 1987.

Cm 454 - *A report on the proposed transfer of nine newspapers and certain assets used in their publication owned by Parrett & Neves Ltd to EMAP PLC*, dated 22 July 1988.

6.15. On the other hand, there are some parts of the Sussex coast where EMAP could provide a greater degree of competition than currently exists and EMAP drew our attention to the Brighton area where Pearson, with the *Evening Argus* and the *Brighton and Hove Leader*, accounts for virtually 100 per cent of circulation.

6.16. In addressing the effects of concentration we have taken into account the relationship between advertising rates and local concentration, the competition provided by other media, and the degree of competition between paid-for and free newspapers.

6.17. As to advertising rates, we have received evidence that in areas of high concentration the rate card costs per thousand readers are higher than in those areas where competition is freer. When we asked EMAP to comment on this evidence (to which we refer to in paragraph 3.12) we were told that whilst the figures quoted were accurate, care must be taken over their significance, and it was very difficult to draw any meaningful interpretation of the market from them. We feel that the figures are clear enough to show that in those areas where EMAP has a dominant position advertising rates for paid-for titles are higher than the rates of comparable titles of other newspaper groups. Whilst this cannot be viewed as conclusive evidence, we are satisfied that there is sufficient evidence for potential concern.

6.18. We have compared advertising expenditure in television, local radio and national and regional newspapers with the local newspaper market in Chapter 3. The degree to which other media can compete with local newspapers is varied. We recognise that national newspapers and some large regional newspapers compete with television for advertising revenue, but these media are not directly appropriate for readers wanting local news or for local advertisers who must be selective in their geographical coverage. We see radio as a closer competitor, particularly if the development of community and truly local independent stations continues, but even it cannot compete for classified advertising which is peculiar to local press.

6.19. As to competition between paid-for and the rapidly expanding free newspapers, we note that some free newspapers carry very little, if any, local news or editorial comment and that they do not in all respects compete with paid-for titles. We recognise that local advertisements are often a welcome source of information for readers and that free and paid-for newspapers compete for advertising revenue. Their respective values as advertising media may, however, be based on different considerations. The advertiser must weigh up the merits of a newspaper which readers have chosen to buy and are therefore almost certain to read against the merits of guaranteed delivery to a specified number of households of a free-sheet with little or no editorial to involve readers.

6.20. Taking into account the considerations in paragraphs 6.16 to 6.19, we considered whether the effects of control of Beckett by EMAP and the consequent higher levels of concentration would operate against the public interest in terms of competition. It is necessary to examine the particular circumstances of each location taking into account not only the total circulation of paid-for and free newspapers, but also, and perhaps more importantly, the degree to which paid-for newspapers in a particular area can compete with other paid-for newspapers. Running a paid-for newspaper requires relatively high overhead costs and where there are two major competitors a market share in the region of 40 to 50 per cent may be necessary in order to be profitable.

6.21. We do not consider that the small increase in concentration in the total circulation of local newspaper groups (paragraph 6.12) is a matter for concern; nor do we feel that the increase in market share in Sussex as a whole (paragraph 6.13) would necessarily lead to a reduction in competition although we note that EMAP/Beckett would have a dominant position in the circulation of weekly paid-for newspapers in the area. We are, however, concerned with the effects of concentration in particular areas of Sussex.

6.22. We have referred (paragraph 6.14) to the high market share by EMAP in Hastings, Bexhill, Eastbourne and Seaford. As to Hastings and Bexhill we do not believe that a marginal enhancement of market share from Beckett titles in adjacent centres would be against the public interest. The situation in Eastbourne, however, gives rise to concern because EMAP would have all four local weekly paid-for newspapers. As we state in paragraph 6.14 the degree to which the regional daily *Evening Argus* competes with local weekly paid-for newspapers is limited. Without the *Evening Argus* EMAP's share of circulation would increase from 33 per cent to 84 per cent. If we exclude *Friday-Ad* as well, whose ability to compete with paid-for weeklies is questionable, the share would increase to 100 per cent. As for weekly paid-for newspapers, the opportunity for new titles appearing in competition with four weekly paid-for newspapers under one ownership would be even less than they are at present with EMAP running its single title in competition with Beckett's three titles. We conclude that control of Beckett would lead to a reduction of competition in the Eastbourne area. The situation in Seaford whereby control of Beckett's single title passed to EMAP would provide the latter with a 100 per cent share of paid-for weeklies and would also lead to a reduction of competition in that area.

Accurate presentation of news and free expression of opinion

6.23. EMAP confirmed, as it has done in the previous reports mentioned in paragraph 6.10, that editorial freedom had always been the group's policy. Its editors were allowed a 'free hand in their respective areas' and the only common policy was that they 'avoid anything obscene or vulgar' and in politics and religion they should give a 'fair balance to everyone'. Editors are given the authority and responsibility for their newspaper editorial and EMAP told us that its view is that newspapers must stay in tune with the needs of readers and advertisers to maintain circulation and that editors are best placed to ensure that this happens. As a result we have no reason to doubt EMAP's statement of the extent of editorial freedom within the EMAP group, which has not been contested by any third party. Indeed some of the objectors referred to in paragraph 6.11 have told us that they have no worries in this regard. We would not expect that control of the Beckett titles would be likely to lead EMAP to change its policy of allowing its editors a high degree of editorial independence.

Employment

6.24. EMAP suggested that there would be opportunities for employment prospects consequent upon a full acquisition. Against that, some parties suggest that redundancies could arise from it. On the evidence placed before us, we have no reason to believe that full acquisition would result in redundancies. EMAP prints most of its own newspaper titles and it would not therefore be likely to contract out the printing of those titles currently printed by Beckett.

Conclusion

6.25. In paragraph 6.7 we expressed our acceptance that, under present circumstances, the family's control of 51·69 per cent of Beckett voting shares was sufficient to enable it to maintain management control. On the other hand the transfer of 40·67 per cent of Beckett voting shares from EHA to EMAP would create for the latter a very substantial minority holding which, as EMAP has indicated, would be a high base from which to acquire control when the opportunity arose. In those circumstances there would be a reduction of competition in Eastbourne and Seaford. On this ground we find that the transfer of 40·67 per cent of Beckett voting shares may be expected to operate against the public interest.

6.26. By virtue of section 61(2) of the Act, it is the duty of the Commission, following such a finding, to consider whether any (and, if so, what) conditions might be attached to any consent by the Secretary of State to the transfer in question and the Commission may include, in their report, recommendations as to such conditions. We therefore recommend that the transfer from EHA to EMAP should be allowed to proceed only on the condition that EMAP did not in the future acquire a further holding of Beckett voting shares which would give it control without the further consent of the Secretary of State. We also suggest that, in the circumstances of a proposal for an acquisition which would enable EMAP to acquire control of Beckett, the Secretary of State should consider, as a condition of granting such further consent, requiring EMAP to divest one or more titles in Eastbourne and Seaford so that its share of the circulation of paid-for newspapers in those areas did not exceed 60 per cent. We recognise that circumstances may change with time and we suggest that in considering such a further consent the Secretary of State should take into account our comments set out in paragraph 6.20.

D G RICHARDS (*Chairman*)

P K R MANN

D CHURCHILL

J CLEMENT JONES

R HALSTEAD

S N BURBRIDGE (*Secretary*)

19 January 1989