

2 Conclusions

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The reference

2.1. Under the reference (see Appendix 1.1) dated 10 December 2002, made under section 59 of the Fair Trading Act 1993 (the Act), we were required to investigate and report on whether the transfer to Gannett of three newspapers of SMG—*The Herald*, the *Sunday Herald* and the *Evening Times*—may be expected to operate against the public interest. Under section 59 of the Act, we are required to take 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.

The parties

SMG

2.2. SMG is incorporated in Scotland and is listed on the London Stock Exchange. Its interests include Scottish Television and Grampian Television, the publication of newspapers and magazines, local and national radio production and broadcasting, outdoor and cinema advertising, and internet services.

2.3. In terms of newspapers, SMG publishes only the three titles specified in the terms of reference—*The Herald*, the *Sunday Herald* and the *Evening Times*—to which we refer as ‘the SMG titles’. All three titles circulate in Scotland. Its publishing division also includes magazines and online services, but these are not included in the reference to us.

2.4. The financial performance of SMG and its publishing division are summarized in Chapter 4. In 2001, SMG’s earnings before interest, taxation, depreciation and amortization (EBITDA) were £62.1 million: a margin of about 22 per cent on turnover of £280.8 million. However, after depreciation and goodwill amortization of £30.7 million, exceptional items of £70.3 million, interest of £27.1 million and other non-trading items it made a pre-tax loss of £64.2 million. In the same year, the publishing division’s margin of EBITDA on turnover was [*Details omitted. See note on page iv.*]. As shown in Table 4.7, this ratio [$\frac{\text{EBITDA}}{\text{Turnover}}$] in 2002 [$\frac{\text{EBITDA}}{\text{Turnover}}$]. As shown in Table 4.6, SMG’s net debt increased from £29 million in December 1998 to almost £394 million in December 2001, with a gearing ratio in December 2001 of 4. Interest cover declined over the period from 15.8 to –1.4 based on operating profit, or 21 to 2.3 based on EBITDA.

The Herald

2.5. *The Herald* describes itself as Scotland’s top-selling quality broadsheet daily newspaper. Based in Glasgow, together with its printing plant, it has a circulation of about 90,000 a day. Established in 1783, it is one of the oldest English-language daily newspapers in the world. It includes Scottish, national and international news and has offices in Edinburgh, London, Aberdeen and Inverness. About 38 per cent of its page space is devoted to advertising.

2.6. Although available and sold throughout Scotland, 80 per cent of its circulation is in the Strathclyde area and a further 11 per cent in the Lothian/Borders area (see footnote to paragraph 5.12). Over 80 per cent of its readers are in the ABC1 socio-economic groups.

Evening Times

2.7. The *Evening Times* is Glasgow’s only evening newspaper, and focuses mainly on local and Scottish news. It was originally launched in 1877. It is published from Monday to Saturday

and has a circulation of almost 100,000. About 37 per cent of its page space is devoted to advertising.

2.8. Approximately 98 per cent of the circulation of the *Evening Times* is in Strathclyde. Only a minority of its readers—some 43 per cent, significantly different to that of the other two titles—are in the ABC1 socio-economic category.

Sunday Herald

2.9. The *Sunday Herald* was launched only in February 1999. It has a circulation of approximately 60,000. As with *The Herald*, it includes Scottish, national and international news. About 27 per cent of page space is devoted to advertising.

2.10. About 68 per cent of its readership is within the Strathclyde region. Over 80 per cent of its readership is in the ABC1 category.

2.11. As was to be expected, the *Sunday Herald* [Details omitted. See note on page iv.] According to SMG, a principal reason for the launch of the title was to protect *The Herald's* advertising revenues from the ability of other publishers (including *The Scotsman* and *Scotsman on Sunday*) to offer 7-day pan-Scotland advertising packages. SMG estimated that without the *Sunday Herald*, its other titles could lose substantial advertising revenues.

Gannett

2.12. Gannett is a wholly owned subsidiary of the US company Gannett Co., Inc. (Gannett Co Inc). The primary activities of Gannett Co Inc are the publication of newspapers and operation of television channels. It publishes 94 US daily newspapers, including *USA TODAY*, the largest selling daily newspaper in the US. Gannett Co Inc is listed on the New York Stock Exchange.

2.13. As noted in Chapter 4, the turnover of Gannett Co Inc in 2001 was around £4.4 billion, with EBITDA of around £1.4 billion, or 32 per cent of turnover. Although debt has also increased over the last four years, the gearing ratio of Gannett Co Inc in 2001 was 0.9 and interest cover ratio 7.2 based on EBIT.

2.14. Gannett Co Inc, through Gannett, acquired Newsquest plc (Newsquest), in 1999 and News Communications & Media plc (Newscom) was acquired in 2000. Newsquest is now the UK's third largest publisher of regional and local newspapers (see Chapter 3). Gannett has more than 300 newspapers, including one paid-for daily morning newspaper (the *Northern Echo*), and 14 paid-for daily evening newspapers. It estimates that advertising content typically accounts for some 40 per cent of the space in its paid-for daily/Sunday publications, and somewhat more in free sheets.

2.15. Newsquest's management accounts for the year ended 2001 show turnover of £513 million, with EBITDA of £172 million, or 33.5 per cent of turnover. The acquisitions of Newsquest and Newscom were funded by way of intercompany loans from Gannett Co Inc: consequently Gannett's statutory accounts for the year ended 31 December 2001 show net debt of £1.1 billion, a gearing ratio of 2.3 and interest cover of 1.7.

The transfers

2.16. SMG announced the sale of its publishing division in September 2002. At that time it said it was valuing the publishing division at around £200 million, within a range of valuations.

The main reasons for SMG wishing to sell its publishing division were to reduce its considerable debt and to focus SMG on its other media businesses which operate in national (rather than Scottish) advertising markets. SMG received over 30 expressions of interest in acquiring the publishing division, interest being reported from newspaper groups already prominent in Scotland (such as the owners of *The Scotsman*), other newspaper groups and venture capital groups. Eight second-round bids came forward, from which Gannett emerged as the preferred bidder at £216 million. SMG and Gannett entered into a conditional sale agreement on 23 December 2002.

2.17. We note in Chapter 4 that as part of the transaction, SMG and Gannett would enter a three-year mutual advertising agreement worth about £3 million a year to each party. This agreement would continue the current arrangements for the advertising of the SMG titles in other SMG media, and vice versa. It was suggested to us that the *Sunday Herald* had benefited significantly from the previous arrangement, but the provision in the transaction in effect only continues for three years an arrangement that would have continued to exist had SMG not sold the three titles.

2.18. There are also provisions concerning pensions (see paragraph 4.74). One of the companies being purchased is the principal employer under a pension scheme in significant deficit. SMG is to become the principal employer under the scheme and assume responsibility for all existing and future liabilities in respect of the scheme. Gannett has agreed to offer publishing division employees who were members of that and other SMG final salary pension schemes membership of an occupational pension scheme with broadly comparable benefits to these schemes. All employees of the publishing division who are not currently members of the SMG final salary schemes would be offered membership of the Newsquest pension scheme, a defined benefit scheme, on similar terms to the rest of the Newsquest group (see paragraph 4.77).

Newspapers in Scotland

2.19. As we discuss in Chapter 5, we consider Scotland to be a separate geographical region in respect of the supply of newspapers. It is a country within the UK, with a distinct cultural identity, and now with its own parliament. It was suggested to us that Scottish consumers have a higher propensity to buy newspapers than consumers in the UK generally. A number of morning daily newspapers are published and edited in Scotland and circulate only in Scotland, providing coverage of local, Scottish, UK and world news, including the SMG titles themselves, The Scotsman Publications Ltd (Scotsman Publications) titles, and other titles in particular areas such as Dundee and Aberdeen. Although UK national newspapers also circulate in Scotland, those which have been most successful are those with a Scottish edition and/or greater Scottish content than their titles elsewhere in the UK, such as the Scottish editions of *The Daily Mail*, *The Daily Express* and *The Sun*.

2.20. Within Scotland, SMG is based in Glasgow, and we have noted above that the majority of its sales are within the wider Strathclyde area. In contrast, *The Scotsman* is based in Edinburgh, which is its primary circulation area. Other regional papers, such as the *Aberdeen Press & Journal* (Aberdeen) and *Courier & Advertiser* (Dundee) also have a strong presence in their main areas of operation.

2.21. Local daily titles (especially the Saturday editions) and Sunday titles have similarities of content, distribution and readership. Within the Scottish newspaper market, we believe it appropriate, as with previous reports, to continue to distinguish them from weekly titles, which differ in each of those respects.

2.22. As evidenced in Chapter 5, the SMG titles account for about 13.5 per cent of total newspaper sales or distribution of daily and Sunday Scottish papers in Scotland (excluding UK

national titles and their Scottish editions)—but only about 8.5 per cent if all UK national titles and their Scottish editions were also included. As apparent in Table 5.1, the titles with the largest circulation or distribution in Scotland are the *Daily Record*, *The Sun*, *The Daily Mail*, *The Metro* and *The Evening Times*, all tabloids, accounting for half of all newspapers circulated in Scotland. Within Strathclyde, however, the SMG titles account for about 25 per cent of circulation of daily and Sunday Scottish newspapers, and about 16 per cent if UK national titles were also included, *The Daily Record* and *The Sun* also having the largest number of sales in Strathclyde.

2.23. Also as discussed in Chapter 5, in previous Commission¹ reports national newspaper markets have usually been taken to be a separate economic market from those relating to regional/local titles because of marked demand-side differences with respect to both readers and advertisers. Although there are some regionalized editions of national newspapers, the nationals in most parts of the UK provide far more nationwide and international news than those regional/local titles, and also serve a largely different segment of the advertising market.

2.24. In Scotland, however, *The Herald* and *Sunday Herald* provide a greater coverage of UK and international news (as does *The Scotsman*, published in Edinburgh) than most regional/local newspapers elsewhere in the UK, as well as coverage of Scottish and local news. We have also noted above that the largest selling national titles (for example, *The Daily Mail* and *The Sun*) have Scottish editions which carry a considerable amount of Scottish news and sports coverage, as well as Scotland-focused advertising, as does *The Times*. These Scottish editions of national newspapers may, to varying degrees, be considered at least partial substitutes for some of the Scottish papers, including the three SMG titles.

2.25. Table 5.1 shows, however, that among the broadsheets, *The Herald* and *The Scotsman* have significantly greater market shares than the other UK broadsheets, even where they have Scottish editions; and even though the *Sunday Herald* is a relatively new newspaper, its sales are above those of newspapers such as *The Sunday Times*, *Scotland on Sunday* and *The Observer* in Strathclyde. Hence, although the Scottish editions of UK national newspapers in Scotland overlap with the Scottish newspapers, the SMG titles are in a strong competitive position particularly in Strathclyde and Glasgow. SMG, in the Information Memorandum issued to a number of potential purchasers, described *The Herald* and *Evening Times* as ‘the clear market leaders’ in their respective newspaper markets in the West of Scotland.

2.26. Other parties also stressed the important role of the editorial content of the SMG titles—in particular *The Herald* and *Sunday Herald*—in the Scottish newspaper market. Particularly valued were the focus on Scottish news and opinion, including coverage of the Scottish Parliament and Executive. Indeed, one definition of ‘Scottishness’ offered to us was detailed and knowledgeable coverage of the new institutions of Scottish Government. This would be supplemented by the wider coverage of UK and international news from a Scottish perspective. But also valued were the editorial freedom under SMG’s ownership and the liberal, pro-devolution viewpoint, independent of any political party, of the SMG titles. Hence, despite the concentration of readers of those titles and the other Scottish daily and Sunday titles in particular areas (which we were told was reducing over time), the diversity of views offered, particularly by the SMG titles on the one hand and *The Scotsman* on the other, were regarded as important.

2.27. The implications for diversity of opinion were one factor underlying the considerable concern about the possibility of a bid for the SMG titles from the owners of *The Scotsman*. In part, that concern related to the risk that the editorial stance of the SMG titles could be discontinued. But some third parties stressed to us that they would have been equally concerned

¹We use the term ‘Commission’ to refer to the Monopolies and Mergers Commission (MMC) and to the Competition Commission (CC). The CC replaced the MMC on 1 April 1999.

had there been a bid from SMG to merge its titles with those of *The Scotsman*, which would threaten the current diversity of views offered by the two separate groups.

2.28. One third party (see paragraph 7.54 *et seq*) suggested to us that over the longer term the Scottish market might not be large enough to support both the SMG titles and *The Scotsman* as separate newspaper groups of high quality needing to compete with the much larger UK titles. Both, however, are long established and have a high penetration in their main areas of operation, and both are currently profitable. Accordingly, we do not see the transfer of the SMG titles to Gannett as materially affecting prospects for *The Scotsman*, at least in the short to medium run.

Main issues

2.29. The main concerns that were expressed to us were that the sale by SMG to Gannett, with the loss of Scottish ownership of the titles which that would entail, could jeopardize their editorial freedom, content, quality and stance. Some third parties suggested conditions concerning the future operation of the titles: but it is only open to us to recommend conditions if we conclude that a transfer might operate against the public interest.

2.30. In our issues statement published on 29 January 2003 (see Appendix 2.1), we focused on the following main issues relevant to our consideration of whether the transfers may be expected to operate against the public interest:

- (a) the effect of the transfers on competition;
- (b) the effect of the transfers on editorial content (including editorial freedom); and
- (c) financial and organizational issues arising from the transfers.

Effect on competition

Concentration of ownership

2.31. As noted in a previous report,¹ in view of the importance of diversity of ownership in the media, concentration in the regional/local newspaper sector is a matter of particular concern and needs to be monitored (although most of our previous reports have been more concerned about increases in local rather than national market shares). As shown in Table 3.1, the effect of this acquisition would be to increase Gannett's share of regional/local newspapers in the UK from 13.7 to 15.4 per cent and it would remain the third largest publisher behind Trinity Mirror plc (23.7 per cent) and Daily Mail and General Trust plc (DMGT) (22.2 per cent). Its share of daily and Sunday titles would increase from 8.6 to 11.6 per cent; its share of weekly titles would be unchanged at 20.2 per cent. This increase in Gannett's market share would be unlikely to give rise to concern, even if the relevant market in this case were regarded as being that of the UK as a whole.

2.32. The share of the UK regional and local newspapers accounted for by the leading four publishers would increase from 71.9 to 73.6 per cent as a result of the transfer. This is a high degree of concentration by any standard, but the transfer has little effect on it.

2.33. As noted in Chapter 5, there are other indicators that the existing structure of the UK industry may not be fully competitive. There have been various exchanges of titles between the

¹*Newsquest Media Group Limited and Westminster Press Limited: a report on the proposed transfer to Newsquest Media Group Limited of the newspapers of Westminster Press Limited*, The Stationery Office, Cm 3485, November 1996.

major players to assist in building up regional clusters of titles; there was a joint bid at one point for Regional Independent Media Holdings plc (RIM); there has been joint investment in Internet facilities such as Fish4 (see glossary); there is use of each others' printing and distribution facilities; and there is an apparent tendency to avoid each others' operating areas when launching new titles. We are also aware of allegations of anti-competitive behaviour (a case involving DMGT in Aberdeen is currently before a Competition Commission appeals tribunal). Newsquest believed that competition was nevertheless vigorous, but, taken together with the current high degree of concentration, we believe that the structure of the local newspaper market in the UK could be of concern in the future.

2.34. Gannett currently has no activities within Scotland and the transfer does not alter the structure of the market within Scotland. The overall level of concentration of the Scottish market would not be affected by the transfer, although it would extend the concentration of the four main publishers in the UK market as a whole into Scotland. We have noted in paragraphs 5.29 to 5.33 and Appendix 5.2 that there are already linkages between the 'Big 4' in Scotland, which would be extended by the transfer. For example, DMGT—the largest supplier of daily/Sunday titles in the UK—currently has a joint venture/franchise arrangement with Trinity Mirror (second largest) with respect to the Scottish Metro title. It also has [
Details omitted. See note on page iv.

].

2.35. We also considered whether Gannett's ownership could jeopardize the position of other regional/local newspapers in Scotland, in particular in Glasgow/Strathclyde where there are a small number of independent publishers of local weekly newspapers.

2.36. It was suggested to us that free weeklies are relatively undeveloped in Glasgow, Strathclyde and Scotland more generally, giving the opportunity for Gannett to expand into the sector. Gannett's strong position in weekly papers elsewhere in the UK gives it experience and expertise in this field, and there is considerable spare printing capacity in SMG's new printing works. Gannett would also be able to cross-sell advertising between different titles.

2.37. However, the third party publisher that expressed most concern about possible future competition in Scotland from the largest UK newspaper groups had no complaint about Newsquest's behaviour elsewhere in the UK, nor any objection to the current transfer. Use of the spare printing capacity to develop free sheets may be sensible and, depending on the manner in which it may be done, it may increase competition rather than reduce it.

2.38. The transfer is, therefore, in our view unlikely adversely to affect competition between newspapers in Scotland. Indeed, competition could be enhanced by the acquisition of the titles by Gannett, an experienced newspaper publisher not subject to the current debt burdens of SMG.

Editorial content

2.39. Section 59 (3) of the Act requires the CC to consider in a newspaper reference 'the need for accurate presentation of news and free expression of opinion', in addition to other public interest matters.

2.40. As regards accurate presentation of news, no one suggested that the transfers would have any adverse effect in this respect and we shall not discuss it further.

2.41. As regards free expression of opinion, in previous newspaper merger inquiries the Commission had focussed on editorial independence as the key factor in its assessment. We noted above the particular concerns after the sale of the SMG titles was announced about the effect of any acquisition by the owners of *The Scotsman* on editorial content of the SMG titles,

and in particular loss of diversity between the editorial approach of *The Herald* and that of *The Scotsman*. There was much less opposition to any sale to Gannett, but there was nonetheless some concern both in evidence to us and reported in the press about prospects for editorial independence under any change in ownership.

2.42. Concerns were not only about editorial freedom as such but also editorial stance, content and quality. Among such concerns were that Gannett may not fully appreciate the ‘Scottishness’ of those titles, the difference between those titles and Newsquest’s current local titles, or the need to maintain the editorial stance of those titles. Concerns were also expressed that management and editorial functions may cease to be located inside Scotland and that this might undermine their Scottish orientation. There were also some concerns that, following the transfer, only one paid-for daily title circulating in Scotland (the *Courier*) would be in the hands of a Scottish company based in Scotland. Most concerns, however, were less about Scottish ownership in itself than with the maintenance of the current editorial approach with its coverage of, and appreciation of, Scottish issues, which we discuss below. We also do not believe that Scottish ownership is necessary for the Scottish readership to be adequately served: nor would Scottish ownership be any guarantee of a successful Scottish newspaper.

2.43. There have been four recent Commission inquiries into Newsquest/Gannett, two of which post-date the Gannett acquisition of Newsquest. In those reports, Gannett had consistently referred to its editorial policy as being that, to appeal to local readership, local newspapers should reflect local views and concerns; hence each local editor had complete freedom to exercise discretion subject to reflecting local views. In each case the Commission found no reason to conclude that Gannett did not follow a policy of editorial independence. The Commission also acknowledged that to attract and retain readers editors must be free to make decisions on content and on the line to take on local issues.

2.44. We have considered this issue afresh and in the context of the current acquisition—of a paid-for daily newspaper with significant international, UK, Scottish and local news and editorial content—which is different from the previous acquisitions by Newsquest and Gannett considered by the Commission of local newspapers involving primarily local editorial issues. We have therefore to consider SMG’s approach to editorial content and editorial freedom of the SMG titles and whether Gannett might be expected to adopt a different approach.

SMG and Gannett’s approach to editorial content and editorial freedom

2.45. SMG told us that its editorial policy, content and positioning on news issues on a day-to-day basis for each of the newspapers was a matter for the individual editor. No form of preapproval from SMG management was required to determine the position of any individual newspaper on any particular topic or issue of the moment. However, were a more substantial long-term change of policy to be considered by the editor, for example a change in position on the question of devolution or independence, the political or commercial significance of the decision would be discussed in advance with the senior management of SMG. The final decision would be taken either at divisional level or at group level before the full board, taking into account views and recommendations of the editorial staff, and where appropriate the results of market research as to the likely reaction of readers or advertisers. We were told that in practice there had never been any occasion for any decision to be taken in this way during SMG’s ownership of the titles.

2.46. SMG told us that in considering the bids of prospective purchasers, it was mindful of the requirement that any proposed transaction should not impede the accurate presentation of news and free expression of opinion in Strathclyde or Scotland. It believed that Gannett would maintain and give the same high priority as itself to editorial independence at the SMG titles, thereby ensuring the same degree of emphasis on Scottish issues. SMG said that Gannett had indicated that its policy of editorial independence would apply to the titles, in particular that it

was committed to reflecting the views of the local communities which was achieved by conferring autonomy on local editors. It believed that Gannett was very conscious of the particular need accurately to represent Scottish issues and opinions in the SMG titles, and that it intended to maintain the quality and level of Scottish coverage in those titles. This was consistent with its commercial interests. SMG had no reason to doubt these statements and believed that Gannett's intentions, in addition to its track record of responsible newspaper proprietorship and commitment to editorial independence, meant that the transfer would not result in any diminution of editorial independence at the SMG titles.

2.47. Gannett reaffirmed to us that it was acutely aware of the fact that any attempt by a publisher to impose a uniform style of approach would only risk a loss of readership and reduced advertising revenues. It said that it was not therefore in Newsquest's commercial interest for its editorial policy to interfere with the autonomy of local editors, nor would its policy allow it to do so. Gannett was committed to maintaining the autonomy of local editors, as outlined in the previous investigations. It did not issue any formal editorial guidance either in the UK or the USA. It looked to the people in the business and their sense of ownership of the content in the newspapers as a main safeguard and was neutral as to the political stance its editors might take.

2.48. Gannett said that it regarded its businesses as primarily local businesses. For example, planning and budgeting started with local management teams before being subject to dialogue with Newsquest centrally and with Newsquest then subject to similar dialogue with Gannett Co Inc—there was no imposition of central profit or performance targets uniformly across the group. It was also local management's responsibility to get the balance between editorial and advertising space right.

2.49. Gannett told us that it was sensitive to the SMG titles being different from most of its portfolio given, for example, the different political structure and cultural issues in Scotland, and the national as well as regional aspects of their markets. It was conscious of a particular need to ensure accurate representation of Scottish issues and to preserve the expression of the diversity of opinions on these and other issues. Gannett believed that its role as a purchaser of SMG's titles incorporated a requirement to ensure that those titles continued to represent local views and, in particular, to provide a forum for the debate of issues which were close to the heart of their readers. It believed that, in the post-devolution climate, it was crucial that Scottish issues continued to be aired and debated. Gannett said that it was aware of the press debate leading up to SMG's choice of Newsquest as its preferred bidder, and of the strength of readership and political feeling on this issue. Quite apart from this, Gannett said that it would be entirely detrimental to the business prospects of these titles in Scotland for this to be ignored. Gannett therefore had no intention of reducing the level of Scottish coverage. Nor did it consider that the transfer would result in any adverse effect on reader choice or product quality.

2.50. It was also the policy of Gannett Co Inc to give complete editorial freedom without interference from the US management. Hence, Newsquest did not envisage any impact on the Scottish titles involved in the transaction arising from ownership by its parent company of titles in the USA, nor did it believe that the proposed transfer would lead to any loss of independence of the local editors or remoteness from local communities.

2.51. We did note two claims brought against Gannett Co Inc in the US involving allegations concerning journalistic and editorial freedom. One is still pending. The other was settled with an agreed severance payment. However, we did not detect any consistent pattern of disputes; and we have also noted that Gannett Co Inc does not interfere on a day-to-day basis with the management of Gannett. Hence, given the apparent circumstances of the cases, even if the history of events set out in the court papers filed by the claimants were accurate, we doubt if it would have led us to expect that Gannett would interfere with editorial freedom on the three newspapers that are being transferred.

2.52. We raised with Gannett its lack of clear internal policy statements on editorial freedom or safeguards such as editorial boards. Gannett argued that it did not need formal statements of editorial freedom, since it observed the principle anyway, its approach had worked effectively, and any such statements could be inflexible to changing circumstances. Similarly, while it currently found it difficult to understand the value of the *Sunday Herald's* editorial board, it would enthusiastically embrace any operations at the SMG titles if they worked well.

2.53. We sought comments from both Gannett and SMG on a statement based in part on an extract from an old Commission report¹ (coincidentally, of an acquisition involving Outram, then the owner of *The Herald* and *Evening Times*) setting out various criteria for editorial freedom. We suggested that editorial independence includes the obligation to provide leadership as well as to reflect views and that this, in turn, requires the appointment and support of high-calibre editors steeped in good professional journalistic standards. We therefore put to them a number of further considerations relevant to the resources available to editors, the pressures from which they should be free, and their independence in the operation of newspapers and to pursue various courses of action (see Appendix 2.2).

2.54. Neither SMG nor Gannett were uncomfortable with any of those criteria and said that they mostly applied to the way they ran their businesses. SMG considered that any such set of conditions might still fail to encompass all the attributes necessary for editorial freedom, including, as SMG put it, the respective nature and character of owners. For example, it believed that editorial freedom was enhanced if the parent company or owner concentrated on commercial performance. Gannett said it strongly believed that the editorial rights and freedoms we identified were firmly enshrined within its group's editorial *modus operandi*. However, it suggested that by attempting too closely to define freedom, there was a risk of constraining freedom given the difficulty of envisaging all circumstances that might arise and thereby focusing on particular rights and freedoms to the detriment of others which might not have been included.

Assessment

2.55. We accept that—as both SMG and Gannett policy implies—it is difficult fully to encompass in any form of words the attributes of editorial freedom. Nonetheless, we regard the criteria in Appendix 2.2 as necessary if not sufficient conditions for ensuring that such freedom is maintained. The attitudes of owners, managers and editors are also relevant. We also accept that editorial freedom is unavoidably subject to commercial considerations, and commercial considerations themselves may help to safeguard the interest of readers. Readers of newspapers themselves might prefer a particular editorial stance to be maintained rather than editors to be free to change it. However, even if it is reasonable for proprietors or even managers to set broad editorial guidelines, consistent with the predilections of their readers and/or for commercial reasons, the manner and frequency in which they do so might give rise to concern.

2.56. There are in our view four main reasons why the transfer may not be expected to put at risk either editorial freedom or the current editorial stance, content or quality of the SMG titles.

2.57. First, notwithstanding the lack of a formal written policy of editorial independence we have noted Gannett's reputation for preserving editorial freedom and not interfering on a day-to-day basis in the editorial content of titles, given its view that it should be for local editors to appreciate the editorial content that would most appeal to their readers. We find very little

¹*The Observer and George Outram & Company Limited: a report on the proposed transfer of The Observer, a newspaper of which Atlantic Richfield Company is a proprietor, to George Outram & Company Limited, a subsidiary of Scottish and Universal Investments Ltd whose parent company is Lonrho Limited, HC 378, June 1981.*

difference between the SMG and Gannett line on editorial independence. Editorial independence was clearly not untrammelled even under SMG ownership, but subject to commercial considerations. Both SMG and Gannett detailed for us cases in which editors had been dismissed, primarily for poor commercial performance, but in neither case did it seem to us that these actions were inconsistent with their claims of editorial independence. Further, it would seem that the merger changes little in this respect.

2.58. We also noted the local focus of Gannett's management structure. Consistent with this, Gannett plans to manage the titles in Scotland as a separate regional division, with its own managing director. We were reassured by these plans and regard them as important organizational safeguards. In its regional operations wherever practical it encouraged such managers to be based where the business was.

2.59. Second, commercial considerations are themselves likely to deter Gannett from taking too different an approach to that taken by SMG to these titles, particularly given the risk of undermining the basis of the SMG titles' appeal to their readership and earning an adequate return on its investment. As one third party said to us, the selling point of a Scottish newspaper is to be Scottish in nature and adequately represent the Scottish point of view—it would be 'commercial suicide' for Gannett to change this. Similarly, it was suggested to us that, were the SMG titles to change their editorial stance, their readership would 'go through the floor'.

2.60. Similarly, we consider that it would make commercial sense for Gannett to maintain management and editorial functions in Scotland, and we expect it to do so. We think that it is likely that this will ensure that it maintains the quality and Scottish focus of its titles. Maintenance of the SMG titles in a separate division, as it intends, is likely to have much the same effect. The background of the Newsquest personnel involved also suggests that they will be well aware of the need to maintain the 'Scottishness' of these titles.

2.61. Third, in this case such commercial considerations are reinforced by the pressure of competition within Scotland. We consider that, if the titles fail to maintain their appeal to their readers, there is a risk of significant loss of circulation either to *The Scotsman*, or to the Scottish editions of UK titles. The success of *The Herald* and *Sunday Herald* against *The Scotsman* and *Scotsman on Sunday* itself shows the importance of representing their readers' views. Further, it seems to us that the 'Scottishness' of the UK national titles which circulate in Scotland could easily be expanded were the titles to lose the interest or confidence of their readers, and that this competitive threat will help to ensure that the new owner of the titles maintain their orientation and quality.

2.62. A fourth and final consideration is the risk to Gannett's reputation should it fail to maintain not only editorial freedom but also editorial stance, content and quality. We believe Gannett will wish to prove its ability to operate the SMG titles, which are of a different character to its other titles in the UK, and without putting their quality at risk. Furthermore, however, Gannett and Newsquest have expanded on the basis of a series of acquisitions, and may continue to do so. The Commission has carried out four inquiries into Newsquest, and Gannett will be aware that in any future inquiries into newspaper acquisitions the competition authorities are likely to be alert to its record in operating the SMG titles.

2.63. For those four reasons, we do not therefore expect the transfer adversely to affect accurate presentation of news or free expression of opinion, editorial freedom, the current editorial stance of the titles or other positive aspects of the editorial content of the newspapers.

Financial issues

2.64. We considered whether the purchase price paid or any aspect of Gannett's financial management of its newspapers may be expected to jeopardize the resources available to editors

and thereby editorial content. Among concerns which we were expressed to us were: that the purchase price was excessive and would force Gannett to make significant cost reductions; that Gannett's main objective was to improve financial performance rather than editorial quality; and the possibility that Gannett might be more willing than SMG to close the *Sunday Herald* or downgrade it.

2.65. We refer in Chapter 4 both to the projections for the SMG titles in the Information Memorandum, and to Gannett's own appraisal of the potential acquisition. We refer in paragraph 4.85 to Gannett's projected rate of return and pay-off period for the acquisition, which it regarded as reasonable. We note in paragraph 4.94 that Gannett plans to improve the EBITDA margin. However, it is assuming a lower EBITDA margin than SMG believed might be available. There is therefore no reason to infer that Gannett would require or attempt to bring about a higher operating margin than would otherwise be the case.

2.66. Underlying some of the concern expressed to us was a view that there was scope for improved efficiency in the SMG titles, and that Gannett and Newsquest were aggressive in cutting costs of other newspapers. Improvements in efficiency, if there is scope to do so, are likely to enhance the prospects for the titles as long as they are not at the expense of editorial quality. On the scope for such improvements, we received a variety of evidence. SMG has itself improved efficiency by the modernization of its printing facilities, and [*Details omitted. See note on page iv.*]. Some parties from whom we heard believed that there was little scope for further efficiency, given the high editorial quality being achieved by newspapers of only limited circulation compared with the UK national papers.

2.67. The three titles taken as a whole are profitable, showing the value to readers of the current editorial content. [*Details omitted. See note on page iv.*], the transfer to Gannett is unlikely in our view to increase pressures for improved efficiency in such a way as to risk jeopardizing editorial content. Gannett said that it would be for local management to identify scope for cost savings, or the need for any additional resources. [

Details omitted. See note on page iv.

]

2.68. We have seen nothing therefore in the financial projections of Gannett and SMG to suggest that the titles would necessarily be put under any greater cost pressure by Gannett than were they to remain in SMG's ownership.

2.69. There was also concern about the future of the *Sunday Herald*. [
Details omitted. See note on page iv.

] Gannett told us that it regarded the work done on *The Herald* as both ambitious and well executed, and it shared SMG's view that there was growth potential for *The Herald* and *Sunday Herald* combined. [*Details omitted. See note on page iv.*] However, we have also noted the benefits to the other titles of maintaining the *Sunday Herald*. We have no evidence to make us believe that Gannett would be less conscious of these benefits than SMG, or that there would be any more likelihood of closure of the *Sunday Herald* under Gannett's ownership than under the ownership of SMG.

2.70. In its appraisal of the transfer, Gannett also referred to possible development of free sheets, but no allowance was made for any such gains in the appraisal. In this respect, its appraisal may well prove cautious, suggesting that the SMG titles should not be under undue financial pressure which could put editorial quality at risk.

2.71. Gannett's bid was not significantly different from that of some of the other bidders or SMG's own valuation of the business. Given the pressures on SMG to sell, together with the

significant interest of a wide range of other publishers to buy the titles, the continued ownership of the titles by SMG would appear unlikely. Hence, any risks that might arise with Gannett could apply equally to other bidders, some of which, without existing newspaper interests, would be unlikely to have been referred to us.

2.72. We do not therefore expect the transfer to result in undue financial pressure on the titles acquired such as to reduce editorial quality.

Conclusion

2.73. We have therefore concluded that:

- (a)* The transfer is unlikely adversely to affect competition between newspapers in Scotland (see paragraph 2.38).
- (b)* We do not expect the transfer adversely to affect editorial freedom, the current editorial stance, content or quality of the SMG titles, accurate presentation of news or freedom of expression (see paragraph 2.63).
- (c)* Nor do we expect the transfer to result in undue financial pressure on the titles acquired such as to reduce editorial quality (see paragraph 2.72).

We therefore conclude that the transfers may not be expected to operate against the public interest.