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Competition policy issues in the media and telecom sector

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Efficiency defence

- Efficiency defence is often not accepted because not merger related, not demonstrable or no pass-on due to market power resulting from the merger
- But in two-sided media markets some recent evidence that efficiency defence is possible
- Assessing merger related efficiencies is a balancing act of benefits and (potential) reduction of competition
- The ultimate question in weighing pro's and con's is if on balance advertisers and consumers are better off with the merger or without the merger

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Some characteristics of media markets

- Most media markets two-sided, i.e. firms need to get advertisers and consumers (readers, listeners, viewers)
- Advertisers seek audience for their message, consumers seek information, entertainment etc.
- Media firms need to attract consumers to attract advertisers
- Media use of advertisers often complementary – purpose is to best reach targeted audience (ie firms look for the optimal 'bundle')

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Dutch directory case

- Merger of the two main directory ('yellow pages') firms in the Netherlands. Cleared by the NMa on 29 August 2008 after second phase inquiry. Combine share on narrow market for directories >95%
- Main reasons for clearance:
 - Limited competition between the parties
 - Variety of remaining competitive constraints (including on-line)
 - Benefits for advertisers

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Directories merger: benefits to advertisers

- Merger will reduce advertisement expenditure of overlap customers whilst reach/usage of advertisement for these advertisers unaffected. Cost savings will compensate these revenue reductions
- Non-overlap advertisers will benefit from very significant increase in usage
- Survey and other evidence suggests that price increases to outbalance those benefits are unsustainable
- No risk of decreasing quality

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UK radio merger case

- Merger of two owners of radio stations (Global Radio/GCap), cleared by OFT on 8 August with remedies.
- In London area, where parties' combined market share around 50%, no remedies necessary:
 - Prima facie unilateral effects concerns (overlap)
 - Efficiencies sufficient to "tip balance"

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UK radio merger case – benefits to advertisers

- Radio stations of the merging firms complementary, merger creates (larger) bundle giving scope to Cournot effect (internalising double marginalisation). Cournot effect is pro-competitive
- Merged party has incentive to reposition brands (radio stations) to better focus target audiences and avoid cannibalisation. Leading to benefits to advertisers and listeners.
- Cost savings will pay for repositioning

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Common themes

- In both cases the efficiencies are not only merger specific but inherent to (purpose of) the transaction
 - Enhance product offering
 - Increase reach of consumers and hence improve offer to advertisers
- Since efficiencies inherent, relatively easy to verify (e.g. internal documents), and pass-on likely
- Happy advertisers

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