



Public Competition Assessment

16 April 2014

iSentia Pty Limited - proposed acquisition of assets of Australian Associated Press Pty Limited's media monitoring business

Introduction

1. On 20 February 2014, the Australian Competition and Consumer Commission (**ACCC**) announced its decision not to oppose the proposed acquisition of the assets of Australian Associated Press Pty Limited's media monitoring business (**AAP**) by iSentia Pty Limited (**iSentia**) (**proposed acquisition**).
2. The ACCC decided that the proposed acquisition would be unlikely to have the effect of substantially lessening competition in any market in contravention of section 50 of the *Competition and Consumer Act 2010* (**the Act**).
3. The ACCC made its decision on the basis of the information provided by the parties to the acquisition (the **parties**) and information arising from its market inquiries. This Public Competition Assessment outlines (subject to confidentiality considerations) the basis on which the ACCC has reached its decision on the proposed acquisition.

Public Competition Assessment

4. To provide an enhanced level of transparency in its decision making process, the ACCC issues a Public Competition Assessment for all transactions reviewed by the ACCC where:
 - an acquisition is opposed;
 - an acquisition is subject to enforceable undertakings;
 - the parties to the acquisition seek such disclosure; or
 - an acquisition is not opposed but raises important issues that the ACCC considers should be made public.
5. This Public Competition Assessment has been issued because the proposed acquisition is considered to raise issues of interest to the public.
6. By issuing Public Competition Assessments, the ACCC aims to provide the public with a better understanding of the ACCC's analysis of various markets and the associated merger and competition issues. Public Competition Assessments can

also alert the public to circumstances where the ACCC's assessment of the competition conditions in particular markets is changing, or likely to change.

7. Each Public Competition Assessment is specific to the particular transaction under review by the ACCC. While some transaction proposals may involve the same or related markets, it should not be assumed that the analysis and decision outlined in one Public Competition Assessment will be conclusive of the ACCC's view in respect of other transaction proposals, as each matter will be considered on a case-by-case basis.
8. Public Competition Assessments outline the ACCC's principal reasons for forming views on a proposed acquisition at the time the decision was made. As such Public Competition Assessments may not definitively identify and explain all issues that the ACCC considers arise from a proposed acquisition. Further, the ACCC's decisions generally involve consideration of both non-confidential and confidential information provided by the parties and market participants. In order to maintain confidentiality, Public Competition Assessments do not contain any confidential information nor identify its sources.

The parties

The acquirer: iSentia Pty Limited

9. iSentia (formerly Media Monitors) is a privately owned media intelligence company with operations in Australia, New Zealand and Asia. It provides media intelligence services to over 6,000 clients in the Asia Pacific region by collecting and analysing information from publicly available print, online news, social media and broadcast sources. iSentia has more than 1,400 employees across 15 countries.

The target: the media monitoring business of Australian Associated Press Pty Limited

10. Founded in 1935, AAP is Australia's national news agency distributing independent news and information to the Australian media and the private and public sectors. AAP is owned by Fairfax Group, News Group, Seven West Media Limited and Associated Newspapers Ltd. AAP has over 800 employees worldwide. AAP currently provides media monitoring services to clients through its Newscentre division.

Other industry participants

11. At the time of the ACCC's decision, there were no other providers of comprehensive print, online and broadcast monitoring in Australia. However, the following providers supplied online media monitoring services, or could be used to search online media outlets.

Meltwater

12. Meltwater offers a range of services that help companies monitor, analyse and manage their brand online. Meltwater provides online media monitoring through its Meltwater News service that searches all freely available web content in Australia and globally for client's keywords. Meltwater also provides social media monitoring and analysis through its Meltwater Buzz service.

Google News

13. Google News is a free online news aggregator that searches thousands of online publications to present the most relevant and up-to-date information on its homepage. Google News includes news articles that have been published within

the previous 30 days and users can search by using keywords. An additional service called Google News Alerts allows users to set-up keyword ‘alerts’, where articles containing these keywords will be emailed to the user.

The proposed transaction

14. iSentia proposed to acquire the assets of AAP’s media monitoring division, Newscentre. The assets principally comprised AAP’s media monitoring contracts with its monitoring clients. iSentia planned to integrate AAP’s media monitoring business with its own.
15. The proposed acquisition was publicly announced on 29 October 2013 and was subject to ACCC approval.
16. AAP publicly stated that the rationale for the proposed transaction was that it would “enable AAP to focus on and expand its core editorial business to meet the challenges of the changing media landscape in Australia.”¹ iSentia stated that the addition of AAP’s media monitoring business would allow iSentia “to continue to invest in (its) services and remain the region’s leading service company in the media intelligence space.”²

Review timeline

17. The following table outlines the timeline of key events in this matter.

Date	Event
29 October 2013	ACCC commenced review under the Merger Review Process Guidelines.
20 November 2013	Closing date for submissions from interested parties.
19 December 2013	ACCC published a Statement of Issues outlining preliminary competition concerns.
31 January 2014	Closing date for submissions relating to Statement of Issues.
20 February 2014	ACCC announced it would not oppose the proposed acquisition.

Market inquiries

18. The ACCC conducted market inquiries with a range of industry participants and interested parties, including customers, suppliers of online media monitoring or media intelligence services and other interested parties.

Statement of Issues

19. The ACCC published a Statement of Issues on 19 December 2013. In the Statement of Issues the ACCC expressed a preliminary view that the proposed acquisition was likely to raise competition concerns in the market for the supply of media monitoring services. In particular, the ACCC expressed concern that the proposed acquisition would result in:

- the removal of iSentia’s closest competitor in the supply of these services;

¹ AAP media release dated 29 October 2013 “iSentia to purchase AAP’s media monitoring business.”

² AAP media release dated 29 October 2013 “iSentia to purchase AAP’s media monitoring business.”

- there being no other supplier of media monitoring services in Australia which monitors all forms of media on a national basis, including print and broadcast media; and
- the loss of competitive constraint for iSentia in supplying media monitoring services to 'Major Customers' which have more extensive media monitoring requirements, having no competitive alternative to iSentia.

Areas of overlap

20. AAP and iSentia overlapped in the provision of media monitoring services. The ACCC noted that the parties both offered media monitoring services in relation to print, broadcast and online media.
21. AAP and iSentia also overlap in the provision of media intelligence services. However, AAP's media intelligence business is not subject to the proposed acquisition and AAP intends to continue to supply such services in competition with iSentia following the proposed acquisition.

Market definition

22. The ACCC assessed the impact of the proposed acquisition in the context of the following markets:
- the national market for the supply of media monitoring services, and
 - the national market for the supply of media intelligence services.

Media monitoring services

23. The ACCC noted that there are three main forms of media which are the subject of media monitoring activities:
- **print** - physical newspapers and magazines,
 - **broadcast** - television and radio stations
 - **online** - content available on the internet, including from news outlets, blogs, social media and other outlets.
24. In 2006, the ACCC reviewed the acquisition of Rehome Australia Monitoring Services by iSentia (then known as Media Monitors). At the time, the ACCC concluded that there were separate markets for the supply of print and broadcast monitoring. However, having regard to the growth of online media content, the apparent convergence of news media being delivered through multiple channels (print, broadcast and online) and preferences of customers to choose a customised media monitoring service from a comprehensive suite of media channels, the ACCC's market inquiries indicated that it may no longer be appropriate to define the product market according to the separate forms of media (print, broadcast and online).
25. While the ACCC does not consider that monitoring of print, broadcast and online media are necessarily substitutable from a demand or supply side perspective, the ACCC considered that a substantial segment of customers will prefer to monitor two or more channels of media and therefore prefer a tailored, bundled offering of print, broadcast and online media monitoring services.
26. For the purpose of the present review, the ACCC considered it is appropriate to consider the proposed acquisition in the context of a single product market for the supply of media monitoring services. However, the ACCC observed that customers of media monitoring services have a range of preferences in relation to the breadth

of media that they require a monitoring service provider to monitor and considered that suppliers of media monitoring services vary considerably in the level of customisation and breadth of monitoring that they are capable of providing. The ACCC observed that some suppliers of media monitoring services only compete for customers which have limited media monitoring requirements, such as only online media content.

27. Both iSentia and AAP offered media monitoring services on a national basis. A number of media monitoring or media analysis companies provide services on a more limited state-wide or regional basis, however the ACCC's market inquiries indicated that such services are not substitutable for a significant proportion of media monitoring clients, including companies that operate nationally and federal government departments or agencies. The ACCC did not find evidence that such customers would be willing to acquire media monitoring services from multiple providers servicing different geographic regions. The ACCC therefore considered it was appropriate to consider the impact of the proposed acquisition in the context of national markets for the supply of the relevant services.
28. Information obtained by the ACCC indicated that there are a significant number of corporate and government organisations which require a broad spectrum of print, broadcast and online media to be monitored in order for them to be adequately informed about how their organisation is publicly perceived or issues which are of interest to them (**Major Customers**). Other organisations, particularly smaller businesses, have more specific or more limited requirements in relation to the breadth of media which they seek to monitor (**Smaller Customers**). The ACCC considered that these different customer preferences, and customer preferences more generally, had important implications for the ACCC's analysis of the competitive effects of the proposed acquisition, as outlined below.

Media intelligence services

29. Media intelligence services are services which analyse selections of disseminated media (often provided by a media monitoring service provider) in order to provide customers with information about how their organisation is being reported in the media, or which summarises information about that organisation's coverage in the media. Media intelligence services are often considered to be a complementary, or value-added, service to media monitoring services.
30. Although AAP's media intelligence services are not subject to the proposed acquisition, the ACCC considered that due to the complementary nature of media intelligence and media monitoring services, the proposed acquisition may impact competition in the market for media intelligence services. The ACCC considered the potential for iSentia to leverage its market power in the media monitoring market post-acquisition by bundling these services with intelligence services, to the competitive detriment of competing providers of media intelligence services.

Future with and without the acquisition

31. Section 50 of the Act prohibits mergers or acquisitions that would have the effect or be likely to have the effect of substantially lessening competition in any market. In assessing a proposed acquisition pursuant to section 50 of the Act, the ACCC considers the effects of the acquisition by comparing the likely future competitive environment post-acquisition if the acquisition proceeds (the "with" position) to the likely future competitive environment if the acquisition does not proceed (the "without" position) to determine whether the proposed acquisition is likely to substantially lessen competition in any relevant market.

The viability of AAP's media monitoring business

32. AAP submitted evidence to the effect that, in the event that the proposed acquisition did not proceed, AAP would cease to offer a media monitoring service in Australia.
33. The ACCC conducted market inquiries and carefully considered publicly available information, as well as extensive confidential information provided by the parties and by other interested parties to test this submission.
34. The ACCC formed the view that AAP would be highly likely to cease to offer media monitoring services in the foreseeable future irrespective of the proposed acquisition.
35. This conclusion is critical to the ACCC's assessment of this matter. Having reached this conclusion, the relevant test is whether the future with the proposed acquisition would constitute a substantial lessening of competition when compared with the likely future without the proposed acquisition (in which AAP would be highly likely to exit the media monitoring market).
36. As stated in the ACCC's Merger Guidelines, mere speculation that a target firm is failing and will exit the market in the near future, or evidence of a recent decline in a target firm's profitability, is not sufficient to establish that parties to an acquisition would not continue to be competitors in the future without the acquisition.
37. The ACCC critically examines claims that, absent the acquisition, a firm would be likely to fail and therefore exit the relevant market. By way of example the ACCC is unlikely to accept claims that a firm will exit the relevant market simply based on documents created since the relevant acquisition has been in contemplation. This is particularly so where the financial performance of the firm has been sound having regard to the particular circumstances prevailing at the time of the review.
38. In general, to demonstrate that an acquisition would not substantially lessen competition due to the prospective failure of one of the parties, it is necessary to show that:
 - the relevant firm is in imminent danger of failure and is unlikely to be successfully restructured without the acquisition; and
 - in the absence of the acquisition, the assets associated with the relevant firm, including its brands, would leave the relevant market.
39. Even if it is considered likely that the firm would exit the market if it is not acquired, the acquisition of that firm may still result in a substantial lessening of competition if, in the absence of the acquisition, the remaining market participants would be more likely to compete to win the failed firm's customers.
40. In the present case, the ACCC formed the view that AAP would be highly likely to cease operating its media monitoring business and there were no credible alternative purchasers of its media monitoring assets and customer contracts. In forming this view, the ACCC has had particular regard to:
 - The sustained losses incurred by AAP's media monitoring business throughout the life of its operation and the detrimental impact this has had on AAP's financial performance;
 - Evidence of attempts made by AAP to restructure its media monitoring business prior to the proposed acquisition by iSentia; and

- The absence of an alternative credible purchaser of AAP's media monitoring business.

AAP's media monitoring business has sustained losses throughout its operation

41. AAP commenced providing full-scale print and broadcast monitoring in 2010, following the launch of its broadcast-only monitoring service in 2008. Since that time, AAP's media monitoring business has been making unsustainable losses. The ACCC had regard to information and internal documents provided by AAP evidencing the unsustainable financial performance of its media monitoring business.

AAP made attempts to restructure its media monitoring business

42. The ACCC had regard to information and internal documents provided by AAP evidencing unsuccessful attempts by AAP to restructure its media monitoring business in conjunction with other business partners.

An alternative buyer for AAP's media monitoring business appeared unlikely

43. Having concluded that AAP was unlikely to continue to operate its media monitoring business, the ACCC considered whether AAP, absent the proposed acquisition would be likely to sell its media monitoring business to another buyer.
44. The ACCC examined whether, absent the proposed acquisition, another party would be likely to acquire AAP's media monitoring business assets (or take on its client contracts) such that it would assist in the entry or expansion by a new or emerging competitor for the provision of media monitoring services, particularly to Major Customers. Based upon its assessment of all the relevant information the ACCC concluded that this was not likely.
45. The ACCC considered that no other potential acquirer of AAP's media monitoring business assets had the necessary infrastructure or copyright licences with major metropolitan broadcasters and print media publishers to provide the breadth of media monitoring services demanded by Major Customers of AAP (and iSentia).
46. Based upon its assessment of all the relevant information the ACCC concluded that AAP was highly likely to close its media monitoring business irrespective of the proposed acquisition and was unlikely to find an alternative buyer to iSentia for the sale of its media monitoring business assets and customer contracts. Therefore, the ACCC considered that the proposed acquisition was unlikely to substantially lessen competition in the national market for the supply media monitoring services as the likely future without the proposed acquisition was not materially distinguishable from the likely future with the proposed acquisition.

Competition Assessment

47. Absent the conclusion that AAP would be likely to exit the relevant market without the proposed acquisition, the ACCC considered that the proposed acquisition raised significant competition concerns.
48. In particular, the ACCC held significant concerns that the proposed acquisition would result in iSentia acquiring its only competitor for the provision of media monitoring services to Major Customers.

49. The ACCC considered that for a significant number of Major Customers, including companies that operate nationally and federal government departments or agencies, which require a broad and comprehensive media monitoring service:
- iSentia and AAP were the only large-scale national providers of print and broadcast media monitoring services. Customers value the breadth of print and broadcast media outlets covered by these organisations and no other companies provided a comparable service. The proposed acquisition would result in the removal of the only viable competitive alternative to iSentia;
 - AAP has been a strong price competitor to iSentia and many market participants considered that its entry into the market constrained iSentia's prices;
 - Online-only media monitoring services are not substitutable for print monitoring services and a substantial segment of customers do not consider that they are likely to be in the foreseeable future;
 - It is not practical or commercially viable to self-supply a comprehensive range of media monitoring services.

Barriers to entry

50. The ACCC considered that there were significant barriers to entry in supplying a media monitoring service which monitors a broad range of media, including print and broadcast media.
51. The fundamental issue identified by potential suppliers of media monitoring services is the economies of scale associated with the market. To provide an effective media monitoring service to Major Customers, it is necessary to monitor all, or nearly all, media outlets in Australia. Establishing a competitive, comprehensive media monitoring service involves significant, up front, fixed, and to some extent sunk, costs. Once a monitoring operation has been established across all of the relevant media, the service provider faces low and decreasing marginal costs as the number of customers served increases.
52. Industry participants noted the requirement by most large corporate and government clients for very wide, if not complete, coverage of major media outlets throughout Australia. This includes metropolitan, suburban and regional newspapers as well as metropolitan and regional radio and television broadcast media. Some customers also require coverage of magazines.
53. The costs associated with such a wide range of coverage are considered to include:
- The infrastructure required to capture television and radio broadcast feeds digitally. Generally, in order to monitor regional stations throughout Australia, numerous hubs of recording infrastructure are required. Additional infrastructure required includes the computer systems and licensed software required to 'cut up' and disseminate both print and broadcast media for customer use;
 - The employee costs, particularly associated with broadcast media monitoring which require active listening, which become significant as multiple news outlets in a range of locations are covered; and
 - Copyright fees generally involving a royalty payment of 10-40% of the amount that is charged to customers for each press or broadcast clip with some licence holders requiring a minimum up-front fee to be paid, ranging from \$10,000 to up to \$500,000. Aggregating minimum up-front fees across

the numerous media outlets monitored by a comprehensive media monitoring service results in a substantial up-front, sunk cost for potential new entrants. A number of potential new entrants have also reported difficulties in establishing cooperative engagement with a number of media providers.

54. The ACCC considered that potential new entrants face a significant asymmetry compared to incumbents which is likely to deter new entry. In order to commence supply, new entrants must make a significant investment, the majority of which is sunk. By entering the market, the new entrant will substantially increase the amount of capacity in the market which is likely to have the effect of significantly reducing the expected returns from such investment.
55. The ACCC considered that, having regard to the barriers to entry, the likelihood or threat of new entry could not be relied upon to competitively constrain iSentia in the foreseeable future for the provision of media monitoring services to Major Customers.

Potential new entrants

56. Through the course of market inquiries, the ACCC identified a small number of companies with plans to attempt entry into the market for the provision of media monitoring services. These potential new entrants considered the barriers to providing media monitoring coverage to the extent that iSentia does as commercially unviable for a new entrant lacking the scale and established customer base that iSentia has.
57. The ACCC considered that there are significant doubts as to whether any of these companies would be successful in their efforts to offer a media monitoring service that would be competitive with iSentia for Major Customers in the foreseeable future. The ACCC considered that successful entry by these companies, and their ability to compete for Major Customers, is likely to be dependent on both securing copyright licensing with the major metropolitan broadcasters and print media publishers as well as a shift in the preferences of a substantial segment of Major Customers away from demanding monitoring of suburban and/or rural print and broadcast media.

Conclusion

58. On the basis of the information supporting the view that AAP would be highly likely to exit the relevant market if the proposed acquisition did not proceed, and there being no credible alternative acquirers of AAP's media monitoring business, the ACCC formed the view that the proposed acquisition of AAP's media monitoring business by iSentia would not be likely to result in a substantial lessening of competition in the market for the provision of media monitoring services in Australia in contravention of section 50 of the Act. The ACCC therefore did not oppose the proposed acquisition.