BIICL

Conceptual and Empirical issues in the Analysis of Local Competition:
Challenges for the merging parties

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Markets considered recently

OFT/CC approach in sample cases

<table>
<thead>
<tr>
<th>Markets</th>
<th>Scope</th>
<th>Fascia Test</th>
<th>Market Shares</th>
<th>Initial Detriment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pharmacies</td>
<td>1 mile</td>
<td>✓</td>
<td>X</td>
<td>3 to 2</td>
</tr>
<tr>
<td>Cinemas</td>
<td>20 min drive time</td>
<td>✓ (OFT)</td>
<td>✓ (CC)</td>
<td>[Nearby cinema]</td>
</tr>
<tr>
<td>Betting shops</td>
<td>400m + 800m</td>
<td>✓</td>
<td>X</td>
<td>2 to 1 + 3 to 2 (400m)</td>
</tr>
<tr>
<td>Funerals</td>
<td>1 or 2 miles (inner London/outer London); 5 miles 1.5 and 2 mile sensitivities</td>
<td>X</td>
<td>Share of deaths/ funerals</td>
<td>&gt;25%</td>
</tr>
</tbody>
</table>

Linklaters
Challenges in formulating the issue

- Interaction of national/local
- Market delineation
  - methodology
  - extent of market
- Market measurement
  - market share/number of outlets
  - fascia

Challenges in formulating the issue

- Measuring the detriment
- Quantitative assessment
- Qualitative factors
  - nature of competitors
  - location of competitors
  - geography
- Barriers to entry

Challenges in making the case

- Shaping approach – reliance on precedent?
- Data collection/interrogation
- Focussing on the “at issue” markets
- The lure of undertakings-in-lieu
C/Should uncertainty be reduced?

– Commoditisation of local market analysis: can there be a bright line test?
– Guidelines on the underlying principles?
– Hypothetical discussions?