ANALYSIS OF AGREEMENT CONTAINING CONSENT ORDER TO AID PUBLIC COMMENT

In the Matter of The Dun & Bradstreet Corporation, Docket No. 9342

I. Overview

The Federal Trade Commission ("Commission") has accepted for public comment an Agreement Containing Consent Order ("Consent Agreement") with Respondent The Dun & Bradstreet Corporation ("D&B"), and has issued a final Decision and Order ("Order") that resolves an administrative Complaint issued by the Commission on May 7, 2010. The Complaint alleges that the $29 million acquisition by Market Data Retrieval ("MDR") (a division of D&B) of Quality Educational Data ("QED") (a division of Scholastic, Inc.) in February 2009 eliminated its closest rival and created a near monopoly in the United States K-12 data market, in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

The Commission issued the administrative Complaint because it had reason to believe that MDR and QED were the only significant U.S. suppliers of kindergarten through twelfth-grade educational marketing data ("K-12 data"), which is used by customers for their direct mail and email marketing efforts. The K-12 data that companies like MDR and QED sell include contact, demographic, and other information that allow their customers to market to teachers, administrators, schools, and individual school districts. MDR, QED, and Mailings Clearing House ("MCH") were the only companies prior to the acquisition that provided that data. Other sources of marketing data, such as teacher association membership lists, are not close substitutes because of their more limited coverage, reduced functionality, and less frequent updating. Customers indicated that they would not shift their purchases toward these alternatives in response to a small but significant nontransitory increase in price.

According to documentary evidence and customers, competition from QED had constrained MDR's pricing and spurred MDR to improve product quality, including the development of new product features. Customers viewed MDR and QED as offering the most comparable products and were able to obtain better terms by the threat of turning to the other company. By contrast, MCH lacked a K-12 database comparable to MDR or QED's, generally served a different customer base, was not viewed by many MDR and QED customers as capable of meeting their needs, and had a very small share of the K-12 data market. MDR's near-monopoly position in the K-12 data market after the transaction is protected in part by significant barriers to entry, including the time and cost to develop a database with market coverage and accuracy comparable to MDR or QED's pre-merger databases and the need to obtain a reputation for data quality. A small firm that has begun to offer K-12 data is unlikely to be able to replace the lost competition resulting from the acquisition of QED for at least several years.

One of MDR's primary defenses to the acquisition was that MDR's purportedly high margins created a disincentive to raise prices post-merger. The Bureau of Economics and the Bureau of Competition were not persuaded by this critical loss argument because, as set forth in Section 4.1.3 of the 2010 Merger Guidelines, it failed to account for the possibility that high margins might also imply highly inelastic demand and thus fewer lost sales f

IV. Terms of the Order

A. MCH is the Acquirer.

MCH is a privately held company with offices located at 601 E. Marshall Street, Sweet Springs, Missouri 65351. The Commission believes that MCH is an appropriate acquirer of the assets to be divested,weet

[1] The Commission normally will issue an order for public comment but not issue a final order until it considers all comments received during the comment period. Here, however, consistent with the provisions of Commission Rule 2.34(c)(2), 16 C.F.R. § 2.34(c)(2), the Commission has issued the final Order in advance of the comment period. The Commission took this step because it believed it was important to enable MCH expeditiously to acquire the divested assets and begin to compete during the upcoming back-to-school selling season. After the public comment p/g