

Competition - Israel

Antitrust Authority requires divestiture in shopping centre merger

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Introduction

On September 5 2010 Melisron Ltd and British Israel Investments Ltd, two of Israel's leading shopping centre firms, announced their plans to merge. The Antitrust Authority reviewed the merger, which would create Israel's largest shopping centre firm, for several months. The authority finally granted approval earlier this year, subject to the divestment of several shopping centres to a third party.

The authority's decision affords vital insight into how it analyses mergers between shopping centres and, although not directly addressed, how it treats 'two-sided platform' markets.

Two-sided platform market

Shopping centres are physical platforms in which sellers and customers meet. In order to succeed, shopping centres must offer high-quality services and an attractive set of stores to consumers. On the other hand, in order to sign favourable contracts for attractive stores, shopping centres need to attract large crowds. Typically, shopping centres charge no fees to visitors (parking fees excluded), and often launch marketing initiatives aimed at increasing footfall (eg, live concerts, discount sales).

Striking the right balance between the two sides of the platform - stores and consumers - makes the decision-making process more complex than in 'regular' markets. Firms operating in two-sided markets must address two relevant interrelated demand curves. While a hypothetical monopoly sets prices based on the predicted reaction of its consumers, a two-sided market monopoly needs to take into account not only such reaction, but also the effect that it may have on demand at the other side of the platform.

Assume that a shopping centre monopoly considers raising visitor parking fees from \$1 to \$1.20 a day. Assume also that such an increase will reduce the number of visitors from 100 a day to 90 a day. A 'regular' monopoly would probably go ahead and raise prices, since its total income would increase from \$100 a day to \$108 a day. A two-sided market monopoly, however, will need to factor in the effect that the reduced traffic will have on its income from stores, which will likely decline, as less traffic means lower demand for store space.

The profit maximising point of a two-sided platform monopoly is therefore different from that of a regular monopoly, suggesting that a different analysis of unilateral effects in shopping centre mergers is appropriate. The complexities of two-sided platform pricing seem even more relevant to the analysis of coordinated effects, since they pose great challenges in both to reaching a focal point and to maintaining it.

Decision

The authority's decision followed several months of in-depth investigation. During this period, leading retailers publicly expressed concern that if the merger was approved, they would be faced with a monopoly or duopoly that would increase rent prices, which in turn would inflate the prices they charged their customers.

The authority's press release does not directly reveal what role such concerns played in its decision; nor does it disclose whether the special characteristics of a two-sided

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market were taken into account. However, the remedies imposed by the authority indicate that it was attentive to the concerns raised by retailers.

While the authority identified antitrust concerns only in northern Israel, it crafted a divestiture remedy that included key shopping centres located further away, in the heart of Israel. Moreover, the authority offered the merging parties several alternative compositions of shopping centres in central Israel, which they could divest. These compositions included shopping centres placed in different locations, but roughly of the same total revenue. The authority further instructed that none of the divested assets could be acquired by the Azrieli Group - Israel's biggest shopping centre firm prior to the merger.

It therefore appears reasonable that the remedies aimed to ease retailers' concerns by capping the market shares of the two leading firms in the market in an attempt to minimise the risk for unilateral or coordinated effects vis-à-vis the retailers.

Comment

A few weeks after its decision, the authority withdrew its initial sweeping objection to the sale of the divested assets to Azrieli. The authority did not publicly explain its decision. It seems unlikely, though, that in the very short period that passed since its initial decision, the authority came to realise that there were no other viable buyers. It is more likely that the authority realised that a sweeping objection to the acquisition of the divested assets by Azrieli was meritless.

The economic analysis of such an acquisition is far from simple and requires a multifactor analysis - one that takes into account, among other things, the unique characteristics of two-sided platform markets.

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