

**REFERENCE RELATING TO THE ANTICIPATED ACQUISITION BY SERVICE
DISPENSE EQUIPMENT LIMITED OF THE TECHNICAL SERVICES FUNCTION
OF COORS BREWERS LIMITED**

**Notice of Possible Remedies under Rule 11 of the Competition Commission
Rules of Procedure**

Introduction

1. On 29 September 2004, the Office of Fair Trading, in exercise of its duty under section 33 of the Enterprise Act 2002 (the Act) and its power under 36(5) of the Act, referred to the Competition Commission (CC) the anticipated acquisition by Serviced Dispense Equipment Limited (SDEL) of the technical services function of Coors Brewers Limited (Coors).
2. In its provisional findings on the reference notified to SDEL and Coors (the main parties) on 5 January 2005, the CC inquiry group (the Group) concluded provisionally that the anticipated acquisition of the Coors technical services function (the proposed merger), if carried into effect by the main parties, would result in the creation of a relevant merger situation; and that the creation of that situation might be expected to result in a substantial lessening of competition (SLC) in the markets for the supply of technical services (TS) and technical services equipment (TSE) in Great Britain.
3. This notice sets out the actions that the Group considers might be taken by the CC, including any recommendations it might make for action on the part of others, for the purpose of remedying the SLC and any resulting adverse effects identified in the provisional findings and invites comments on possible remedies (see note (i)).

Possible remedies on which views are sought

4. The Group invites views on the prohibition of the proposed merger as an appropriate remedy for the expected SLC in this case.
5. The Group also invites views on whether a package of other remedies would be effective in addressing the expected SLC. This package of remedies might include some or all of the following:
 - a requirement that SDEL place no more than, say, 50 per cent of its TS business with Innserve, coupled with a requirement not to place more than 20 per cent of its business with any one other TS provider;
 - a detailed set of rules that would allow third party TS providers access to SDEL's TSE and govern TS provision and TSE replacement arrangements;
 - a set of rules that would allow the sale of SDEL's TSE at a 'fair market value' (with regard to the age and condition of the TSE) to the retailers, the retailer's independent TSE/TS providers or to other third parties;
 - a code of conduct for SDEL in its dealings with third party TS providers to ensure the continuation of a healthy TS subcontractor market;

- commitments from the parties to the merger on the price and quality of its TS and TSE;
 - a set of rules regarding the transparency of the cost for TS and TSE to retailers; and
 - the appointment of an adjudicator, who would make final decisions on any dispute in relation to all of the above, paid for by the parties.
6. In considering whether a package along these lines (outlined in paragraph 5) would be likely to be effective in addressing the SLC and its adverse effects, the Group will take into account, inter alia:
- the complexity of this remedy and any consequent problems of monitoring compliance and enforcement;
 - the duration of the remedy that would be necessary to ensure its effectiveness;
 - uncertainties of effect, given the nascent nature of competition in the markets.
7. The Group would of course also be willing to consider any practical alternative remedies—structural or behavioural—that the main parties or other persons would like to propose to address the expected SLC.

Criteria

8. In choosing appropriate remedial action, the Group will have regard to the need to achieve as comprehensive a solution as is reasonable and practicable to remedy the SLC and any adverse effects resulting from it. When deciding on an appropriate remedy, the Group will consider the effectiveness of different possible remedies and their associated costs and will have regard to the principle of proportionality. Between two remedies that the Group considers equally effective, it will choose that which imposes the least cost or restriction.

Relevant customer benefits

9. The Group will also have regard to the effects of any remedial action on any relevant customer benefits within the meaning of section 30 of the Act arising from the merger situation. Such benefits might comprise lower prices, higher quality or greater choice of goods or services or greater innovation in relation to such goods or services.
10. It has been suggested to the Group that this merger, if carried into effect, would result in the following benefits, which might be relevant customer benefits within the meaning of section 30 of the Act:
- cost synergies that would be passed on to customers in the form of lower prices for TS and TSE;
 - improved quality of TS; and
 - improved quality and higher levels of innovation in generic TSE due to ownership of more equipment and continuity of ownership by SDEL.
11. The Group welcomes views on the nature of any relevant customer benefits and on the scale and likelihood of such benefits.

Next steps

12. The parties are requested to provide any views in writing, including any alternative remedies they wish the Group to consider, by 25 January 2005 (see note (i)).
13. A copy of this notice will be posted on the CC's web site. Other interested parties are requested to provide any views in writing, including any alternative remedies they wish the Group to consider, by **25 January 2005** (see note (ii)).

Paul Geroski
On the behalf of the Group
4 January 2005

Notes

- (i) This notice of possible actions to remedy the SLC and any resulting adverse effects is given having regard to the Group's provisional findings notified to the main parties on **5 January 2005**. The main parties have until 24 January 2005 to respond to those provisional findings. In the light of any responses by the main parties, or by other interested or affected third parties, the Group's findings may alter, in which case the Group may consider other possible remedies, if appropriate.
- (ii) As noted in the SDEL/Coors inquiry administrative timetable published on the CC's web site, the final deadline for all parties' submissions and responses is **18 February 2005**.