Issues statement

At this stage, the Competition Commission (CC) is focusing on three key issues:

1. the extent to which, in the UK prior to the merger, Bucher Industries AG (Bucher) was a potential competitor to Johnston Sweepers Limited (Johnston);

2. what Bucher would have done in the UK if it had not acquired Johnston; and

3. the competition effects in the UK were the merger to proceed.

The CC also intends to look at the issues set out below and, taking account of all the points raised, will reach a finding on whether the completed merger may be expected to result overall in a substantial lessening of competition in the supply of goods and services in the relevant market(s).

Assessment of the competitive effects of the merger

The Group would like to explore the competitive effects of the merger within the economic markets (the relevant market(s)) identified, in particular the following points:

The parties prior to the merger

(a) how, and to what extent, Johnston and Bucher (which is sometimes referred to as Schörling or Bucher-Schörling, and whose products were distributed previously in the UK by Jack Allen) competed in the relevant market(s) prior to the merger;

(b) to what extent Bucher and Johnston were potential competitors in the relevant market(s) prior to the merger;

Competition and developments in the market(s)

(c) to what extent existing suppliers in the relevant market(s) face actual and/or potential competition from other suppliers based in the UK or abroad;

(d) whether there are barriers to entry, or to expansion by existing suppliers. Examples of barriers might include technical or regulatory requirements, current market structure, after sales markets, reputation, research and development, customer relationships and inertia or economies of scale. Further, to what extent entry or expansion is possible by firms not currently active in all the relevant markets or in all parts of the relevant market (for example, producers of one type of sweeper, producers from different geographic areas, or producers of goods similar to sweepers);

(e) whether there are identifiable trends in the development of sweepers (for example, trends in demand, technological or product development) which might affect competition in the foreseeable future;

(f) the extent to which any customers have buyer power in the relevant market(s);

Effects of the merger

(g) whether the merger may be expected to create or increase market power and lead to a rise in prices, or a reduction in choice or quality of products or services for some or all customers, or a reduction in innovation in the market(s);

(h) whether the merger increases the likelihood of coordination between suppliers in the relevant market(s);

(i) whether the merger gives rise to efficiency gains, and if so whether these will increase competition in the relevant market(s) or have other benefits.

The counterfactual

The Group would like to explore what would have happened in the absence of the merger (the counterfactual). In particular, the Group would like to identify:

(a) the likely alternatives to the merger as completed (in particular, would Johnston have been sold to another party, and if so who and how would this have affected competition), and

(b) what Bucher would have done had it not merged with Johnston, focussing on:

- (i) whether, and under what arrangements, Bucher would have sold or sought to sell sweeper products in the UK; and
- (ii) whether Bucher would have provided effective competition to the Johnston business in the relevant market(s).

Market definition

The Group would like to identify the relevant market(s) affected by the merger, exploring in particular the following areas.

Product market

(a) A number of categories of sweepers has been put to us, including:

- (i) pedestrian sweepers (with an operator walking or on a seat behind);
- (ii) sub-compact sweepers (sweepers with a cab for the driver, with a small (below $2m^3$) capacity hopper for holding waste and weighing less than 3.5 tonnes);
- (iii) compact sweepers (with a hopper capacity below $2m^3$ and weighing more than 3.5 tonnes);
- (iv) mid-size sweepers (essentially large compact sweepers with a hopper capacity typically between 2 and $5m^3$ and weighing between 7.5 and 12 tonnes); and
- (v) truck-mounted (or chassis-mounted) sweepers (where the sweeper is fitted on a third-party chassis instead of having a purpose-built integral chassis); and
- (vi) specialist truck mounted sweepers (high-performance truck-mounted sweepers made to order for customers for special purposes).

The Group would like to explore whether these categories are useful definitions and, if so, what are the levels of substitutability between them; and

(b) whether after-sales services, such as the supply of servicing, warranties, spare parts and/or second-hand sales, form separate product or services market(s).

Geographical market

(c) The Group would like to explore the geographical scope of the product or services markets. It has been suggested that the market is the UK. We will consider, among other factors, the importance or otherwise for suppliers outside the UK of having a distribution, sales and after-sales service based in the UK.

Remedies

If the Group concludes that the merger may be expected to result in a substantial lessening of competition, it will consider whether and, if so what, remedies might be appropriate, and will issue a further statement at a later date.

Relevant customer benefits

In deciding the question of remedies, should this be necessary, the Group may have regard to any relevant customer benefits. The Group would therefore like to explore whether any customer benefits might arise as a result of the merger, and if so what these benefits are likely to be, which customers they will benefit and the significance of those benefits.