

REFERENCE RELATING TO THE COMPLETED ACQUISITION BY SOMERFIELD PLC OF 115 STORES AND OTHER ASSETS FROM WM MORRISON SUPERMARKETS PLC

Notice of possible remedies under Rule 11 of the Competition Commission Rules of Procedure

Introduction

1. On 23 March 2005, the Office of Fair Trading (OFT), in exercise of its duty under section 22 of the Enterprise Act 2002 (the Act), referred to the Competition Commission (CC) the acquisition by Somerfield plc (Somerfield) of 115 stores and other assets from Wm Morrison Supermarkets plc (Morrisons).
2. In its provisional findings on the reference notified to Somerfield on 25 July 2005, the CC inquiry group (the Group) concluded provisionally that the acquisition had resulted in the creation of a relevant merger situation; and that the creation of that situation may be expected to result in a substantial lessening of competition (SLC) within certain local markets for grocery retailing in the UK.
3. This notice sets out the actions which 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 substantial lessening of competition 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 divestiture of stores in the relevant local markets as an appropriate remedy for the expected SLC in each case. It is envisaged that divestiture would involve the following elements:
 - (a) the stores to be divested in the relevant local markets will be those stores acquired from Morrisons unless the Group considers that the divestiture of alternative stores would satisfactorily restore competition in the local markets concerned;
 - (b) each store will be divested to a suitable purchaser that is independent of Somerfield and has the resources, expertise and incentive to maintain and develop the divested store as a viable and active competitor to the stores in the relevant local market, and would not be likely to recreate the expected adverse effects as a result of the divestiture; and
 - (c) the CC will specify a period within which divestiture must occur (the initial divestiture period) and will consider using a divestiture trustee to divest any stores not divested within the initial divestiture period.

5. The Group is not, at this stage, proposing other remedies for discussion as no others appear to be appropriate. However, the Group remains willing to consider any practical alternative remedies to divestiture that Somerfield or other persons would like to propose which they consider would address the expected SLC effectively in each market concerned.
6. At this stage, the Group considers it unlikely that it will recommend that remedial action should be taken by others.

Criteria

7. 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 substantial lessening of competition and any adverse effects resulting from it. When deciding what is 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 which the Group considers equally effective, it will choose that which imposes the least cost or restriction.

Relevant customer benefits

8. 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 and services. The Group welcomes views on the nature, scale and likelihood of such benefits.

Next steps

9. Somerfield is requested to provide any views in writing, including any alternative remedies it wishes the Group to consider, by 8 August 2005 (see note (i)).
10. 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 8 August 2005 (see note(i) and (ii)).



Christopher Clarke

Group Chairman

25 July 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 Somerfield on 25

July 2005. Somerfield has until 16 August 2005 to respond to those provisional findings and comments are also welcomed by that date from other interested parties. In the light of any responses by Somerfield, 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 'Somerfield/Morrisons inquiry' Administrative Timetable published on the CC's web site, the final deadline for all parties' submissions and responses is 16 August 2005.