

SVITZERWIJSMULLER A/S/ADSTEAM MARINE LIMITED INQUIRY

Issues statement

The Competition Commission (CC) intends to focus on four key issues:

1. the extent to which the merger will reduce head-to-head competition between SvitzerWijismuller (Svitzer) and Adsteam in the Liverpool port area;
2. the extent to which the merger removes a potential entrant into ports where one of the merging parties is currently providing towage services, and the extent to which the merging parties are acting as a competitive constraint on each other at ports where only one of them is present;
3. the extent to which the merged entity would have the ability and incentive to discriminate between customers in favour of the Maersk Line (which is controlled by AP Moller-Maersk, the parent company of Svitzer) in those ports where Maersk is a significant user, for example by providing a higher quality of service to Maersk Line ships than ships owned by Maersk's competitors or by charging higher prices to other ship-owners; and
4. the extent to which Svitzer and Adsteam are currently constrained by other competitors and by the threat of entry and the likely impact of the merger on any such constraints.

In considering these issues, the CC will also consider the further more detailed issues set out below. Then, taking account of all of the information gathered during the course of the inquiry, the CC will reach a finding as to whether the proposed merger may be expected to result overall in a substantial lessening of competition within any market or markets in the UK for goods or services.

Assessment of the competitive effects of the merger

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

Competition and developments in the market(s)

- (a) the extent to which Svitzer and Adsteam compete against each other for customers in Liverpool;
- (b) the extent to which Svitzer and Adsteam are, or are perceived to be, potential alternative suppliers of towage services at other ports;
- (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, into the relevant market(s). Examples of barriers might include: the availability of experienced qualified crew; the availability of long-term contracts with ship owners; the response of current incumbents; customer technical specifications; regulatory requirements; current market structure; reputation; customer relationships; and inertia or economies

of scale within a port. 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;

- (e) whether there are identifiable trends in the development of tugs (for example, trends in demand, technological or product development) which might affect competition in the period relevant to the inquiry;
- (f) whether there are any identifiable trends in the port sector (for example, the rationalization of ports served by ship owners, innovation in ship design and future demand for port services, development of the 'hinterland' and support services applying to different ports), including whether these might affect different types of vessel and cargoes in different ways, that might affect competition in the period relevant to the inquiry;
- (g) the extent to which any customers have buyer power in the relevant market(s);

Effects of the merger

- (h) 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 relevant market(s); and, if so, which types of customer might be most affected;
- (i) whether the merger increases the likelihood of coordination between suppliers in the relevant market(s);
- (j) 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 for customers.

The counterfactual

The Group will explore what might happen in the absence of the merger (the counterfactual). In particular, the Group intends to identify:

- (a) the likely alternatives to the merger and how would these would affect competition;
- (b) the likely UK strategies of both Svitzer and Adsteam in the absence of the merger; and
- (c) what would happen to the operations of both Svitzer and Adsteam in Liverpool if the merger does not take place.

Market definition

The Group will identify the relevant market(s) affected by the merger, exploring in particular the following areas:

Product market

- (a) A classification of towage services into a number of different categories has been suggested to us, as follows:
 - (i) harbour towage;

- (ii) terminal towage, which it has been suggested to us is composed of two types of towage contract:
 - 1. contracts where the towage operator contracts with the ship operators. This has been labelled 'customer terminal towage'; and
 - 2. contracts where the towage operator contracts with the owner of the terminal. This has been labelled 'owner terminal towage';
- (iii) ocean towage; and
- (iv) salvage.

The Group would like to explore whether this classification is useful and appropriate and, if so, what are the levels of substitutability between them; and

- (b) whether separate product markets exist for the towage of different types of vessel and for different types of goods (for example, container traffic, ro-ro goods, liquid bulk goods) or whether they form part of a single product market.

Geographical market

- (c) The Group will explore the geographical scope of the product or services markets. It has been suggested to us that the markets for harbour towage and customer terminal towage are local, and that the markets for owner terminal towage, ocean towage and salvage are international. We will focus on whether those markets which are not international are national, regional or local in scale and whether there are separate markets within port areas. We will also look at the scope for ship owners to switch operations between ports in response to competitive conditions.

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.