

TESCO/CO-OPERATIVE GROUP STORE MERGER INQUIRY

Statement of Issues

Background to the reference

1. On 19 April 2007, the Office of Fair Trading (OFT) referred to the Competition Commission (CC) a merger which involved the acquisition by Tesco plc (Tesco) of a store at Uxbridge Road, Slough from the Co-operative Group (CWS) Limited (the Co-op site) on 10 October 2003.
2. The Group is required to determine the following questions in accordance with section 35 of the Enterprise Act:
 - whether a relevant merger situation has been created; and
 - if so, whether the creation of that situation has resulted, or may be expected to result, in a substantial lessening of competition (SLC) within any market or markets in the UK for goods or services.
3. In its decision of 2 February 2004 the OFT considered that the parties overlapped in the supply of groceries. The OFT suspended its duty to refer whilst it sought to negotiate undertakings with Tesco in lieu of making a reference to the CC. The OFT subsequently decided on 19 April 2007 to refer the merger to the CC.
4. On the basis of the reference and the evidence we have received to date the issues which the Group intends to consider are set out in the following paragraphs.

Market definition

5. The Group will consider the appropriate definition of the economic market or markets affected by the merger (the relevant markets). The current thinking of the Group on market definition is set out in its working paper on market definition published on 23 May 2007.¹ In this paper, the Group sets out its views on the extent of the product and geographic market, including:
 - (a) the extent to which stores of different sizes compete with each other, including the asymmetric nature of the constraint between larger and smaller grocery outlets;
 - (b) the extent to which different grocery retailers compete with each other; and
 - (c) the localized nature of competition between grocery outlets.
6. The Group welcomes any comments in relation to the matters set out in this paper or any other matter relevant to market definition.

¹Available on the CC website at <http://www.competition-commission.org.uk/inquiries/ref2007/tesco/index.htm>

The Counterfactual

7. The Group will need to compare the expected effects of the merger against the situation which is most likely to have occurred had the merger not taken place and in particular:
 - (a) what would have happened to the Co-op site if Tesco had not acquired it and whether it would have been used for grocery retailing, general retailing or an alternative use; and
 - (b) what would have happened to the Tesco store at Brunel Way if Tesco had not acquired the Co-op site.

Assessment of the competitive effects of the merger

8. The Group will need to consider the effects of the merger and in particular:
 - (a) the existence of other fascia and the level of competition in the local area prior to the transaction;
 - (b) the changes in market structure in the local area since 2003;
 - (c) whether there has been, is or is likely to be a deterioration in the retail offer² in the local area as a result of the merger;
 - (d) the operation of the planning regime and how it affects grocery retailing, or any conduct by grocery retailers, including the acquisition, disposal, development or use of land, in the local area; and
 - (e) whether there are any other barriers to entry to grocery retailing in the local area, and whether these vary depending on the scale or format of potential entry.

Relevant customer benefits

9. The Group will explore whether any relevant customer benefits have arisen or may be expected to arise as a result of the merger, the nature of any such benefits, and those customers most likely to receive those benefits.

Possible remedies

10. Should the Group consider that the merger has resulted, or may be expected to result, in a SLC, it will consider whether remedies are appropriate and what remedies would effectively address the SLC. If so, the Group will issue a further statement at the appropriate stage.

² The retail offer encompasses factors such as price, quality, range and service.

Comments

11. Anyone wishing to comment on any of the issues raised is requested to do so by 20 June 2007 by email to tesco.slough@cc.gsi.gov.uk or in writing to:

Tesco/Co-op Inquiry
Inquiry Secretary
Competition Commission
Victoria House
Southampton Row
London WC1B 4AD

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