

**REFERENCE RELATING TO THE ANTICIPATED ACQUISITION BY LINDE AG,  
THROUGH ITS SUBSIDIARY BOC LIMITED, OF THE PACKAGED CHLORINE  
BUSINESS AND ASSETS CARRIED ON BY INEOS CHLOR LIMITED**

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

**Introduction**

1. On 29 May 2008, the Office of Fair Trading, in exercise of its duty under section 33 of the Enterprise Act 2002 (the Act) and its power under section 36(5) of the Act, referred to the Competition Commission (CC) the anticipated acquisition by Linde AG, through its subsidiary BOC Limited (BOC), of the packaged chlorine business and assets carried on by Ineos Chlor Limited (Ineos Chlor).
2. In its provisional findings on the reference notified to BOC and Ineos Chlor (the main parties) on 16 September 2008, the CC inquiry group (the Group) concluded provisionally that the anticipated acquisition, if carried into effect, 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 distribution of packaged chlorine in cylinders and drums in the UK, leading to higher prices and/or lower service levels than in the absence of the merger.
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 SLC and any resulting adverse effects identified in the provisional findings and invites comments on possible remedies.

**Criteria**

4. 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 which have resulted or may be expected to result from the SLC. 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.

**Possible remedies on which views are sought**

5. The Group invites views on prohibition of the proposed merger transaction as an appropriate remedy for the expected SLC in this case. The Group is not, at this stage, proposing behavioural remedies for discussion as it considers that behavioural remedies are unlikely to be effective in addressing the SLC and its resulting adverse effects. Notwithstanding this, the Group remains willing to consider any practical alternative remedies to prohibition that the main parties or other persons would like to propose which they consider would address the expected SLC effectively.
6. The Group also considers it unlikely that it will recommend that remedial action should be taken by others to remedy the SLC.

## **Relevant customer benefits**

7. 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**

8. The main parties are requested to provide any views in writing, including any alternative remedies they wish the Group to consider, by 30 September 2008.
9. A copy of this notice will be posted on the CC website. Other interested parties are requested to provide any views in writing, including any alternative remedies they wish the Group to consider, by 30 September 2008.

Diana Guy  
*Group Chairman*  
16 September 2008

*Note:* This notice of possible actions to remedy the SLC and any resulting adverse effects is given having regard to the provisional findings notified to the main parties on 16 September 2008. The main parties have until 7 October 2008 to respond to the provisional findings published on 16 September 2008. 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.