



News Release

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CC PROVISIONALLY CLEARS STILTON MERGER

The Competition Commission (CC) has provisionally cleared the completed acquisition by Long Clawson Dairy Limited (Long Clawson) of the Millway business of Dairy Crest Group plc (Millway).

In its provisional findings report, published today at www.competition-commission.org.uk, the CC has concluded that, without its sale to Long Clawson, the Millway business, which has been loss making for many years and has recently lost a number of its most significant customers, would have been closed by Dairy Crest.

Compared with this alternative outcome, the loss of competition caused by the merger is likely to be small and so the CC does not believe that it will lead to a substantial lessening of competition for the supply of Blue Stilton cheese in the UK.

Chairman of the inquiry group, Diana Guy, said:

After a thorough investigation, and on the basis of the evidence we have seen, we believe it is clear that Millway was failing and faced closure without this acquisition. We spoke not only to the parties, but to other suppliers and customers, and to potential entrants to the market. We also asked an independent expert to assess the prospects for Millway as a stand-alone business.

Not only had Millway been loss making for many years and dependent on the support of its parent company, it had lost many of its most significant customers, principally due to recurring problems with the quality and consistency of its product.

Dairy Crest had made significant attempts over a number of years to resolve Millway's production problems, but had decided that if it didn't sell the business to Long Clawson then it would close the business. We were satisfied that, such are the scale of its difficulties, any further attempts to restructure the business to allow it to survive independently would have failed.

If the business had been allowed to close, Millway's remaining customers would have been split between Long Clawson and the other Stilton suppliers. However the volume of sales to these customers is small, and the absence of long-term

contracts makes switching relatively easy, so the loss in competition caused by the merger is small.

We require a high level of proof to conclude that a firm is failing and it is unusual for us to do so. Therefore, this decision should not be seen as setting a precedent. However, we believe that the evidence we have seen so far in this case does meet the high level of proof required and it shows that, in the appropriate circumstances, we can be flexible and quick in coming to a decision.

The merger was referred by the Office of Fair Trading (OFT) on 8 October 2008 and the CC is required to publish its final report by 24 March 2009, although it expects to do so much earlier.

Comments on the CC's provisional findings are now invited from interested parties and should be made in writing by 9 January 2009 by email to Stilton@cc.gsi.gov.uk or in writing to:

Inquiry Manager (Stilton merger inquiry)
Competition Commission
Victoria House
Southampton Row
LONDON
WC1B 4AD

Notes to editors

1. The Enterprise Act 2002 empowers the OFT to refer to the CC completed or proposed mergers for investigation and report which create or enhance a 25 per cent share of supply in the UK (or a substantial part thereof) or where the UK turnover associated with the enterprise being acquired is over £70 million.
2. The Long Clawson/Millway (Stilton Cheese) inquiry group consists of four members: Diana Guy (Group Chairman), Ian Jones , Peter Stoddart and Robert Turgoose.
3. The CC has a 24-week period in which it is required to publish its report, which may be extended by no more than eight weeks if it considers that there are special reasons why the report cannot be published within that period.
4. Further information on the CC and its procedures, including its policy on the provision of information and the disclosure of evidence, can be obtained from its website at: www.competition-commission.org.uk.
5. Media enquiries should be directed to Rory Taylor on 020 7271 0242 (email: rory.taylor@cc.gsi.gov.uk).