

**REFERENCE RELATING TO THE ANTICIPATED ACQUISITION BY
FIRSTGROUP PLC OF THE SCOTTISH PASSENGER RAIL FRANCHISE
CURRENTLY OPERATED BY SCOTRAIL RAILWAYS LIMITED**

**NOTICE OF PROVISIONAL FINDINGS MADE UNDER RULE 10.3 OF THE
COMPETITION COMMISSION'S RULES OF PROCEDURE**

1. On 13 January 2004, 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 ("the Commission") the anticipated acquisition by FirstGroup plc of the Scottish passenger rail franchise currently operated by ScotRail Railways Limited.

Provisional findings

2. The Commission inquiry group ("the Group") appointed to consider this reference has made the following provisional findings on the statutory questions it has to decide pursuant to section 36(1) of the Act ("the statutory questions"):
 - a) arrangements are in progress or in contemplation which, if carried into effect by FirstGroup, will result in the creation of a relevant merger situation; and
 - b) the creation of that situation may be expected to result in a substantial lessening of competition within particular markets for point-to-point public transport journeys, mainly in the Glasgow and Edinburgh areas; and in wider public transport network markets in the SPTE area, Edinburgh and the Lothians, and Scotland as a whole.
3. The Group's reasons are set out in full in the provisional findings report, which is attached to this notice, and are summarised in the executive summary of the provisional findings report (see note (i) below).

The next steps

4. FirstGroup is now invited to provide the Group with their reasons in writing as to why these provisional findings should not become final (or, as the case may be, should be varied).
5. These reasons in writing should be received by the Group no later than Wednesday 19 May 2004.
6. The Group will have regard to any such reasons provided by FirstGroup in making its final decisions on the statutory questions and actions.
7. The group is also sending to FirstGroup and publishing a notice of the actions which it considers might be taken by the Commission to remedy the substantial lessening of competition and the adverse effects provisionally identified.

Signed
Professor Paul Geroski
Group Chairman
28 April 2004

Notes

(i) A copy of this notice and the executive summary of the provisional findings report will be placed on the Commission's website on 28 April 2004. The published version of the provisional findings report, which it is intended to place on the Commission's website on 30 April 2004, shall not contain any information which the Group considers should be excluded from the report, having regard to the three considerations set out in section 244 of the Act.