

COMPLETED ACQUISITION BY NAPIER BROWN FOODS PLC OF JAMES BUDGETT SUGARS LTD

Terms of reference

1. Whereas in exercise of its duty under section 22(1) of the Enterprise Act 2002 ("the Act") to make a reference to the Competition Commission ("the CC") in relation to a completed merger the Office of Fair Trading ("the OFT") believes that it is or may be the case that-
 - (a) a relevant merger situation has been created in that:
 - (i) enterprises carried on by or under the control of Napier Brown Foods plc have ceased to be distinct from enterprises carried on by or under the control of James Budgett Sugars Ltd; and
 - (ii) the value of the turnover in the United Kingdom of the enterprises carried on by or under the control of James Budgett Sugars Ltd exceeds £70 million; and
 - (b) the creation of that situation has resulted, or may be expected to result, in a substantial lessening of competition within any market or markets in the United Kingdom for goods or services, namely the supply of sugar to industrial users in the United Kingdom.
2. Now, therefore, the OFT, in exercise of its duty under section 22 of the Act, hereby refers to the CC, for investigation and report within a period ending on **28 March 2005**, the following questions in accordance with section 35 of the Act-
 - (a) whether a relevant merger situation has been created; and
 - (b) if so, whether the creation of that situation has resulted, or may be expected to result, in a substantial lessening of competition within any market or markets in the United Kingdom for goods or services.
3. In relation to the question whether a relevant merger situation has been created, the CC shall exclude from consideration one of the subsections (1) and (2) of section 23 of the Act if they find that the other is satisfied.

Vincent Smith
Director of Competition Enforcement, Office of Fair Trading
12 October 2004