

Competition Commission Release of Undertakings No. 1 of 2005

**IN THE MATTER of a reference to the Competition Commission dated
12 October 2004 concerning the acquisition by Napier Brown Foods plc
of James Budgett Sugars Ltd**

Whereas on 12 October 2004 the Office of Fair Trading made the reference to the Competition Commission ("the CC") under section 22 of the Enterprise Act 2002 ("the Act") set out in the Annex hereto in connection with the completed acquisition of James Budgett Sugars Ltd by Napier Brown Foods plc:

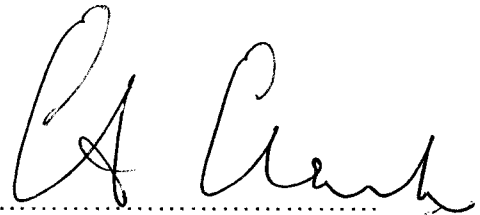
And whereas on 22 November 2004 the CC accepted undertakings from Napier Brown Foods plc under section 80(2) of the Act:

And whereas the reference has not been finally determined:

And whereas the CC no longer considers the undertakings to be necessary for the purpose of preventing pre-emptive action (that is to say action which might prejudice the reference or impede the taking of any action under Part 3 of the Act which may be justified by the CC's decisions on the reference):

Now the CC, in exercise of the powers conferred on it by section 80(5) of the Act, hereby releases the undertakings.

Signed by authority of the Competition Commission



Christopher Clarke
Deputy Chairman
8 March 2005

**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