

Consent for the Sale of the HP 'Ethnic Foods Business' to ABF

Whereas HJ Heinz Company Limited and HJ Heinz Company (Heinz) completed the acquisition of HP Foods Limited, HP Foods Holdings Limited and HP Foods International Limited and their subsidiaries (HP) on the 16 August 2005 (HP acquisition):

And whereas, on 26 October 2005, the Office of Fair Trading (OFT) made the reference to the Competition Commission (CC) under section 22 of the Enterprise Act 2002 (the Act) concerning the HP acquisition:

And whereas the reference has not been finally determined in accordance with section 79(1) of the Act, nor has the CC come to any conclusion about any of the product markets concerned and without prejudice to the CC's determination of the reference under section 35 of the Act or duty to remedy the effects of any substantial lessening of competition arising from the HP acquisition under section 41 of the Act:

And whereas on 20 October 2005 Heinz entered into a conditional sale agreement concerning the sale by HP of certain assets and liabilities relating to HP's UK ethnic food business and the sale by HP of the whole of the issued share capital of B E International Foods Limited (B E International Foods) and subsidiaries (together these assets and liabilities and B E International Foods form the HP 'Ethnic Foods Business'¹) to members of the group of Associated British Foods plc, ABF Grain Products Limited and ABF Holdings Limited (together ABF) (the divestment):

And whereas in addition to the divestment and pursuant to the conditional sale agreement ABF will be appointed as distributor for certain HP products in the UK to ethnic wholesalers and direct to the ethnic restaurant trade (the ethnic channel):

And whereas a statement was included in the inquiry Issues Statement published by the CC on 7 December 2005,² seeking views on whether there were any reasons that the CC should not give its consent to the divestment and the CC did not receive any such reasons:

And whereas this consent is without prejudice to the OFT's statutory duty to make references to the CC under sections 22 and 33 of the Act where the OFT believes that a relevant merger situation has been, or will be, created that has resulted, or may be expected, to result in a substantial lessening of competition within any market or markets in the UK for goods or services:

In accordance with paragraphs 1 and 2(e) of the Interim Undertakings given by Heinz and accepted by the CC on the 13 December 2005³ (the Undertakings), pursuant to section 80 of the Act and without prejudice to the generality of paragraph 1 of the Undertakings, the CC hereby gives the following consent:

¹The definition and activities of the HP Ethnic Food Business are outlined in Annex 1.

²http://www.competition-commission.org.uk/inquiries/ref2005/heinz/issues_statement.pdf.

³http://www.competition-commission.org.uk/inquiries/ref2005/heinz/acceptance_interim_undertakings.pdf.

Sale of the HP 'Ethnic Foods Business'

1. Heinz shall be permitted to conclude the conditional sale agreement of the 20 October 2005 concerning the divestment of the HP 'Ethnic Foods Business' to ABF.

A handwritten signature in black ink, appearing to read 'R Turgoose', written in a cursive style.

Robert Turgoose
Group Chair

On behalf of the CC

12 January 2006

Consent

The HP 'Ethnic Foods Business', comprised of the separate stand-alone business unit within HP Foods Limited and B E International Foods (the holding company for the overseas operations of the ethnic foods business unit), is engaged in the following activities in the UK and Europe:

- (a) The packaging of Rajah products.
- (b) The marketing, sale and distribution of Rajah, Green Dragon, Lotus, Cathay, Dynasty and Maharaja branded ethnic food products in any trade channel.
- (c) The distribution of Danone's Amoy branded ethnic food products in the ethnic food channel.
- (d) The distribution of certain ethnic food products sourced from third parties including Tsing Tao (beer), Vitasoy (soya milk), Aji Nomoto (MSG), Jimmy's (satay), Great Wall (wine), Kara (coconut products) and Mount Elephant (water chestnuts and pineapples).
- (e) The distribution of certain HP products in the UK ethnic channel.