

## **LSE MERGERS INQUIRY**

### **New Remedy Option – Interoperable Central Counterparties**

1 September 2005

As you know, in its provisional findings published on 29 July 2005, the Inquiry Group reached the view that it expected the acquisition of LSE by either DBAG or Euronext to result in a substantial lessening of competition (SLC). The SLC would result from the ability and the incentive of DBAG or Euronext, as appropriate, to foreclose entry or expansion to other providers of trading services by denying or providing disadvantageous access to clearing services. Also on 29 July 2005, we issued a notice of possible remedies designed to address the SLCs and resulting adverse effects.

We have received various submissions in response to the remedies notice and have held hearings with various parties. In the course of this information gathering process a new remedy option has come to light, on which we are seeking your views.

This new remedy option could address the SLCs by removing the dependence of a new entrant or expanding provider of trading services on the incumbent central counterparty (CCP), thereby removing the ability of the incumbent CCP effectively to foreclose that entry or expansion. It could do this by ensuring that:

- there are no exclusive arrangements for the provision of CCP services to LSE;
- CCP services are provided to LSE by at least two CCPs that can inter-operate between themselves (i.e. have adequate technical and risk management arrangements in place to support and deliver margin fungibility between them and across trading platforms);
- the selected CCPs are not hindered in any way in their ability to offer settlement netting across the trading platforms they serve;
- LSE members have the ability to choose one of the selected CCPs as their preferred provider; and
- access to post-trade facilities is not conditional upon the execution of trade on the associated trading platform.

We are seeking your views on the effectiveness of this remedy in addressing the SLCs and on its practicability. In particular, we would appreciate your views on the following questions:

- Is there a viable business case for a second CCP? How could the continued viable coexistence of two or more CCPs be maintained? Would the second CCP have sufficient credibility among users? Who would be likely to respond to this opportunity?
- Would it be sufficient to facilitate the conditions for entry of a second CCP in order to facilitate entry or expansion by another exchange or would that second CCP need already to be functioning in order to provide the basis for entry or expansion by another exchange?

- Precisely what would be needed to ensure interoperability between the two CCPs and in what ways could these prerequisites be frustrated by interested parties ? Would the two CCPs themselves need to be fully fungible or would they merely need to facilitate full fungibility of trades on the competing exchanges?
- Would there be any adverse effects for exchanges or users from having two CCPs?
- How would compliance with such a remedy best be monitored? How would disputes over non-compliance best be decided?
- Could such a remedy be applied both in relation to DBAG's proposed acquisition of LSE and in relation to Euronext's proposed acquisition of LSE?

The CC now invites views on this remedy option by **Thursday 8 September**. Comments should be made in writing to:

Alan Shearman  
Secretary to the LSE mergers inquiry  
Competition Commission  
Victoria House  
Southampton Row  
LONDON  
WC1B 4AD

Or email: [alan.shearman@competition-commission.gsi.gov.uk](mailto:alan.shearman@competition-commission.gsi.gov.uk).