

Terms of reference and conduct of the inquiry

Terms of reference

1. On 9 August 2007 the OFT sent to the CC the following 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 the case that—
 - (a) a relevant merger situation has been created in that:
 - (i) enterprises carried on by or under the control of Games Station Limited¹ (Games Station) have ceased to be distinct from enterprises carried on by or under the control of The GAME Group plc (GAME); and
 - (ii) the value of turnover in the United Kingdom of the enterprise acquired 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 and services including the supply of specialist gaming retail services.
 2. Now, therefore, the OFT in exercise of its duty under section 22 (1) of the Act, hereby refers to the CC, for investigation and report within a period ending on 23 January 2008 on the following questions in accordance with section 35 of the Act.
 - (a) whether a relevant merger situation has been created; and

¹The original terms of reference are reproduced with a slight amendment here, to reflect the fact that the acquired company is Games Station Limited (rather than Game Station Limited).

(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.

(signed) **Simon Pritchard**
Office of Fair Trading
9 August 2007

Conduct of the inquiry

2. A notice inviting written views was posted on the CC website on 9 August 2007. The administrative timetable for the inquiry was published on 28 August 2007 and revised on 9 October 2007, and on 7 and 26 November 2007.
3. We wrote letters requesting evidence from competitors, suppliers, publishers and other interested parties. Oral hearings with several parties were held, as well as telephone conversations with a number of others. Non-sensitive versions of the submissions we received from third parties, including several individual consumers, and agreed summary records of hearings and telephone conversations can be found on the CC website.
4. We published an Issues Statement on 18 September 2007.
5. Members of the Group, accompanied by staff, visited GAME, Gamestation and competitors' stores in Leeds and York and Gamestation's distribution centre in York.

6. The CC commissioned BMRB, a market research agency, to conduct a survey among consumers who had purchased and traded-in gaming products. A report of the survey has been published on the CC website.
7. We received written evidence from Gamestation and GAME and held hearings with them, jointly and independently. A non-sensitive version of the main submission from GAME and Gamestation can be found on the CC website.
8. In the course of this inquiry we sent to GAME and Gamestation working papers on various subjects and received their comments on them.
9. On 14 August 2007 we adopted the interim undertakings agreed by the OFT with GAME for the purpose of preventing pre-emptive action. The Group had ongoing concerns regarding possible integration of the merged businesses which led to the initial undertakings being replaced by interim undertakings, given by GAME and Gamestation on 18 October 2007. Both the interim undertakings and revised undertakings were published on the CC website.
10. A non-sensitive version of this provisional findings report has been placed on the CC website.
11. We would like to thank all those who have assisted in our inquiry.