



News Release

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CC SETS OUT CASE FOR COMPETITION TEST

The competition test for grocery retailers will bring lasting benefits for consumers, the Competition Commission (CC) has provisionally concluded in a report published today at www.competition-commission.org.uk.

The CC has been carrying out further analysis on the benefits and costs of the test following a ruling by the Competition Appeal Tribunal (the Tribunal). The test would block supermarket developments by retailers already powerful in a local area, in order to make room for competing stores from rival retailers.

Peter Freeman, Chairman of the CC and Chairman of the Groceries Inquiry Group, said:

What we were asked to do by the Tribunal was to prove the case for the competition test and show that it would have the intended effect—to help bring in competition where it is lacking and to stop individual retailers consolidating their position in local areas to the detriment of consumers.

Our detailed analysis has shown that the test is likely to have a positive effect over time for consumers by ensuring that they benefit from greater competition and choice between retailers in their local areas.

The CC's final report into the UK groceries market, published in April last year, concluded that action was needed to improve competition in a number of local markets and so included a recommendation for the inclusion of a competition test in planning decisions on larger grocery stores.

In March this year, an appeal by Tesco to the Tribunal against the test was upheld on two grounds—that the CC had not properly assessed the economic costs of the test and that it had failed sufficiently to address the test's proportionality and effectiveness. Although the Tribunal did not dispute the justification for the test itself, it remitted the matter back to the CC for further consideration, particularly on the costs and benefits of the test.

The CC's analysis estimated the benefits to consumers that would result from increased competition, with retailers already powerful in a local area no longer being able to shut out rivals from those areas and with the test also stopping areas from being dominated by individual retailers in the first place.

The analysis compared these benefits against the costs from any delay between the powerful retailer's development being blocked and a rival's alternative taking its place. The analysis concluded that over the longer term, the benefits to consumers would outweigh any such initial costs.

The CC is now inviting responses to the provisional decision by 29 July 2009 and will assess these before publishing its final decision by 5 October 2009.

For further details on the Groceries report, please see: www.competition-commission.org.uk/press_rel/2008/apr/pdf/14-08.pdf.

Notes for editors

1. The CC is an independent public body, which carries out investigations into mergers, markets and the regulated industries.
2. Enquiries should be directed to Rory Taylor (email rory.taylor@cc.gsi.gov.uk) on 020 7271 0242.
3. Under the test the Office of Fair Trading (OFT) would provide advice to local planning authorities (LPAs) on whether a particular retailer would pass the competition test. Applications would pass the test if within the area bounded by a 10-minute drive-time of the development site; the grocery retailer that would operate the new store was a new entrant to that area; or the total number of fascias in that area was four or more; or the total number of fascias in that area was three or fewer and the relevant grocery retailer would operate less than 60 per cent of groceries sales area (including the new store).
4. In order for this to happen, the CC had recommended that the Department of Communities and Local Government (CLG), the Scottish Executive, the Welsh Assembly Government and the Northern Ireland Executive should take such steps as are necessary to make the OFT a statutory consultee to LPAs on all applications for planning permission, whether submitted by a grocery retailer or a third party, for development of a grocery store (including new stores and extensions) where that store had, or after the proposed scheme has been implemented will have, a net sales area in excess of 1,000 sq metres.
5. The Tribunal's judgment is available at:
www.catribunal.org.uk/files/Judg_1104_Tesco_04032009.pdf.