

CARL ZEISS/BIO-RAD

Provisional findings

The Competition Commission (CC) has provisionally approved the proposed acquisition by Carl Zeiss Jena GmbH of the microscopy business of Bio-Rad Laboratories Inc.

The CC published its provisional findings today, which conclude that the acquisition will not lead to any substantial lessening of competition in any market or markets in the UK. Interested parties now have a chance to comment on the provisional findings before any final conclusions are reached.

Both companies supply advanced 3D light microscope systems in the UK. These are typically used for biological and medical research, for example into cell structures. They are also used for materials science purposes. These systems typically use lasers combined with fluorescence techniques to build their images which are then manipulated and displayed using computers. They include 'multiphoton' systems on which there is specific patent protection

Chairman of the inquiry and Deputy Chairman of the CC, Peter Freeman, commented:

“Our provisional view in this case is that product innovation and specification are extremely important in these particular markets and that customers are well informed and knowledgeable.

“We feel that factors such as these will help maintain competitive pressure on the merged business and that other players will continue to provide effective competition in the markets we have identified.”

The Group considered that within advanced 3-D microscopy, optical sectioning systems constituted a separate market and that within the optical sectioning systems market, multiphoton systems were also in a separate market—mainly because of the limitations caused by intellectual property rights.

The Group looked at the likely consequences of the merger and found that the market for optical sectioning systems and multiphoton systems would continue to be competitive. The remaining players would place a significant competitive constraint on the merged firms and innovations would continue to be introduced by research institutions and by firms operating outside the relevant markets. The Group compared this with the situation if the merger were not to take place and concluded in particular that Bio-Rad would still sell its microscopy business and that any other purchaser would be in much the same position as Zeiss would be after the merger. Its provisional view was, therefore that the merger with Zeiss would not lead to less competition than the sale of the business to another player.

The Group noted that Zeiss offered a number of assurances about what it would do should the merger be permitted, including assurances with regard to servicing, research and development and sub-licensing.

The proposed acquisition was referred to the CC by the Office of Fair Trading (OFT) on 30 December 2003. The CC is required to publish its final report by 14 June 2004.

The provisional findings report is published on the CC's web site along with the provisional findings notice—www.competition-commission.org.uk.

Anyone wishing to comment on the provisional findings is invited to provide the Group with their response in writing, including any reason why these provisional findings should not become final. Written comments must be received by the Group no later than Thursday 15 April 2004. Comments should be made in writing to:

Mary Peretz, Inquiry Secretary, Zeiss/Bio-Rad
Competition Commission
Victoria House
Southampton Row
London
WC1B 4AD

or by email to: mary.peretz@competition-commission.gsi.gov.uk.

Notes for editors

1. The Enterprise Act 2002 empowers the OFT to refer to the CC completed or proposed mergers for investigation and report which create or enhance a 25 per cent share of supply in the UK (or a substantial part thereof) or where the UK turnover associated with the enterprise being acquired is over £70 million.
2. The CC has a 24-week period in which it is required to publish its report, which may be extended by no more than eight weeks if it considers that there are special reasons why the report cannot be published within that period.
3. The Zeiss/Bio-Rad inquiry group consists of four members—Peter Freeman (Deputy Chairman of the CC), Nigel Macdonald, Professor David Parker and Richard Rawlinson—who are supported by the CC's staff.
4. Further information can be obtained from the CC's web site at: <http://www.competition-commission.org.uk>.
5. Enquiries should be directed to Francis Royle, Press Officer, on 020 7271 0242, or Rory Taylor on 020 7271 0488/rory.taylor@competition-commission.gsi.gov.uk.