

Terms of reference and conduct of the inquiry

1. On 19 March 2003 the DTI sent the following references to the CC:

Whereas it appears to the Secretary of State that it is or may be the fact that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a merger situation qualifying for investigation, as defined in section 64(8) of the Fair Trading Act 1973 (“the Act”), in that:

- (a) enterprises carried on by or under the control of Wal-Mart Stores, Inc (at least one of which is carried on in the United Kingdom) will cease to be distinct from enterprises carried on by or under control of Safeway plc; and
- (b) the value of the assets to be taken over exceeds £70 million.

Now, therefore, the Secretary of State in exercise of her powers under sections 64, 69 (2) and 75(1) of the Act, hereby refers to the Competition Commission (“the Commission”) for investigation and report within the period ending on 12 August 2003, the following questions:

- (i) whether arrangements are in progress or in contemplation as described in paragraph (a) above which, if carried into effect, will result in the creation of a merger situation qualifying for investigation;
- (ii) if events so require, whether the actual results of those arrangements are the creation of such a situation; and
- (iii) if so, whether the creation of that situation operates, or may be expected to operate, against the public interest.

In relation to the question in paragraph (i) above the Commission shall exclude from consideration one of the paragraphs (a) and (b) of section 64(1) of the Act if they find the other is satisfied.

19 March 2003

(signed) PAT SELLERS
An official of the
Department of Trade and Industry

Whereas it appears to the Secretary of State that it is or may be the fact that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a merger situation qualifying for investigation, as defined in section 64(8) of the Fair Trading Act 1973 (“the Act”), in that:

- (a) enterprises carried on by or under the control of Tesco plc (at least one of which is carried on in the United Kingdom) will cease to be distinct from enterprises carried on by or under control of Safeway plc; and
- (b) the value of the assets to be taken over exceeds £70 million.

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- (a) enterprises carried on by or under the control of J Sainsbury plc (at least one of which is carried on in the United Kingdom) will cease to be distinct from enterprises carried on by or under control of Safeway plc; and
- (b) the value of the assets to be taken over exceeds £70 million.

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- (a) enterprises carried on by or under the control of Wm Morrison Supermarkets PLC (at least one of which is carried on in the United Kingdom) will cease to be distinct from enterprises carried on by or under control of Safeway plc; and
- (b) the value of the assets to be taken over exceeds £70 million.

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- (i) whether arrangements are in progress or in contemplation as described in paragraph (a) above which, if carried into effect, will result in the creation of a merger situation qualifying for investigation;

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19 March 2003

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An official of the
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2. On 12 August, we obtained from the DTI a six-day extension to 18 August.
3. The composition of the Group of members responsible for this inquiry and report is indicated in the list of members in the preface.
4. Notices inviting interested parties to submit evidence were placed in: *The Daily Mail*; *Retail Week* and *The Grocer*.
5. In addition, we sought evidence and views from multiple grocery retailers; consumer bodies; wholesalers; trade associations and other organizations; government organizations; suppliers; and trade unions. We received some 250 written submissions from these parties and private individuals.
6. We also received responses to questionnaires sent to large suppliers and commissioned NOP Business to conduct a survey of small and medium suppliers. The results of those surveys are set out in Chapter 5.
7. During the inquiry, CC members visited stores belonging to Safeway, Sainsbury's, Asda, Tesco and Morrisons.
8. We held an open meeting on 30 April 2003, and private hearings with the main parties and a number of third parties.
9. On 8 May 2003, the CC published an Issues Statement setting out the issues which had been identified by the Group for consideration (see Appendix 2.1). On 24 June 2003, the CC published a statement on current thinking and remedies (see Appendix 2.2). These documents were made available on the CC's web site and by written request.
10. Some of the evidence obtained in the course of our inquiry was of a confidential nature and our report contains only such information as we consider necessary for a proper understanding of our conclusions.
11. We should like to thank all those who helped us in our inquiry and particularly the companies principally involved.