

Issues Statement

The Competition Commission has sent an issues letter to the main parties, Arla Foods amba and Express Dairies plc, in its inquiry into the merger in contemplation between the two companies.

The Commission has identified a number of issues that it wishes to consider, arising from information received to date from Arla Foods and Express Dairies, from other interested parties and from other sources. Analysis of these issues—and any others that may be identified as the inquiry proceeds—will help the Commission reach conclusions on the question whether the potential merger may be expected to operate against the public interest.

An issues letter is always sent to main parties before the Commission has reached any conclusions and is designed to highlight those matters which have been identified by the investigating group for further consideration, and to ensure that nothing significant has been missed. The purpose of making the statement of issues public is to inform all interested parties and give them an opportunity to raise any further points with the Commission. The Commission would be grateful to receive any written views that interested parties may wish to put forward by 15 August.

The issues the Commission has identified are set out below.

Market definition

In its consideration of issues that may be relevant to the definition of the **product market** in this case, the Group would like, in particular, to explore whether there are distinct market segments, perhaps based on different customer requirements, different purchasing practices, and/or supplier costs.

In this regard, the Group would like to discuss the extent to which national supermarkets, middle ground customers and doorstep delivery constitute distinct market segments. The Group would also like to explore the definitions of these segments in light of the relevant factors given above.

The Group's provisional view is that the relevant **geographic markets** are no wider than Great Britain because neither party has a presence in Northern Ireland. However, the Group would like to consider further whether there are separate geographical markets within Great Britain for any distinct market segment.

Public interest issues

Against this background, the group would like to explore the following issues:

- (a) Whether the reduction in the number of major suppliers from four to three would cause a substantial lessening of competition in supply to national supermarkets.
- (b) Whether, on the other hand, the national supermarkets would retain considerable buyer power, eg because of:
 - Spare capacity in fresh milk processing
 - Ease of expansion by existing suppliers
 - Ease of entry by new suppliers if fostered by customers
 - Own label sales facilitating switching suppliers.

- (c) Whether there are parts of Great Britain in which the number of suppliers able to meet the requirements of national supermarkets would reduce from three to two; if so, whether this would cause a substantial lessening of competition.
- (d) Whether the reduction in the number of major suppliers would lead to an increased probability of coordinated behaviour among the three remaining suppliers.
- (e) Whether the merger would lead to a substantial lessening of competition in supply to middle ground and doorstep customers in all or any part of Great Britain.
- (f) Whether the merger's effect on competition in the supply of processed milk would have consequences for farm-gate prices, wholesale prices and/or quality.
- (g) Whether the merger would enable efficiency improvements to be achieved which could not be achieved in the absence of the merger, and if so, to what extent those savings would be passed on to customers and the final consumer.

Hypothetical remedies

On the hypothesis that the Commission might conclude that the merger is against the public interest because of some or all of the possible adverse effects listed above, the Group would like to explore the following points in relation to possible remedies:

- Whether any adverse effects could be remedied fully by the divestment of one or more dairies and/or distribution depots.
- If not, whether there are any other possible remedies or whether the merger should be blocked.