

## Terms of reference and conduct of inquiry

1. On 3 August 2004 the OFT sent us the following reference:
  1. Whereas in exercise of its duty under section 33(1) of the Enterprise Act 2002 (the "Act") to make a reference to the Competition Commission (the "Commission") the Office of Fair Trading (the "OFT") believes that it may be the case that—
    - (a) arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation in that:
      - (i) enterprises carried on by or under the control of Arriva Plc will cease to be distinct from enterprises carried on by or under the control of Sovereign Bus and Coach Company Ltd; and
      - (ii) as a result, the condition specified in section 23(4) of the Act will prevail or will prevail to a greater extent, with respect to the supply of bus services in Hertfordshire; and
    - (b) the creation of that situation 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 within the market for the supply of bus services in Hertfordshire.
  2. Now, therefore, the OFT, in exercise of its duty under section 33 of the Act, hereby refers to the Commission, for investigation and report within a period ending on 17 January 2005, the following questions in accordance with section 36 of the Act—
    - (a) whether arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation; and
    - (b) if so, whether the creation of that situation 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 will be created, the Commission 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.

### 3 August 2004

## Conduct of inquiry

2. We placed a notice inviting interested parties to submit evidence to the CC in the *Evening Standard*, *Transit Magazine*, *Bus & Coach Professional*, *Hertfordshire and Lea Valley Star*, *Watford Observer*, *St Albans & Harpenden Observer*, *Herts Advertiser*, *Hemel Hempstead Herald Express*, *Hertfordshire Countryside*, *Hertfordshire Mercury* and *Comet* (Hitchin/Stevenage). In addition, we sought evidence from competitors, local authorities, parish councils, consumer organiz-

ations, trade associations and other interested parties, including appropriate government departments.

3. The administrative timetable for the inquiry was published on the CC web site together with details of the Group members conducting the inquiry.
4. Non-sensitive written submissions that we received from third parties can be found on the CC's web site, together with summaries of third party key arguments and views.<sup>1</sup> We held hearings with five third parties. We also sent out questionnaires to bus operators in and around Hertfordshire and the major national bus companies.
5. Members of the Group, accompanied by staff, toured Arriva and Sovereign bus operations and routes in Hertfordshire including Sovereign's Stevenage depot and its depot premises in Hatfield.
6. We received written evidence from Arriva and Sovereign. Non-sensitive versions of their main submissions can be found on the CC's web site. In addition, the companies each attended two hearings.
7. In the course of our inquiry, we sent Arriva and Sovereign, and published on the CC web site at the relevant time, a Statement of Issues, a number of working papers, a Notice of Provisional Findings and the non-sensitive version of our provisional findings report. We received and considered comments on the provisional findings report from Hertfordshire County Council, which were published on our web site.
8. We should like to thank all those who assisted in our inquiry.
9. A copy of this report has been placed on the CC web site.

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<sup>1</sup>[www.competition-commission.org.uk](http://www.competition-commission.org.uk).