

Terms of reference and conduct of the inquiry

Terms of reference

1. On 28 June 2006 the OFT sent to the CC the following reference, as set out below:
 1. Whereas in exercise of its duty under section 22(1) of the Enterprise Act 2002 (“the Act”) to make a reference to the Competition Commission (“the Commission”) in relation to a completed merger the Office of Fair Trading (“the OFT”) believes that it is or may be the case that:
 - (a) a relevant merger situation has been created in that:
 - (i) enterprises carried on by or under the control of Stericycle International LLC have ceased to be distinct from enterprises carried on by or under the control of Sterile Technologies Group Limited; and
 - (ii) as a result, the condition specified in section 23(4) of the Act prevails or prevails to a greater extent with respect to the supply of healthcare risk waste treatment and disposal in the United Kingdom.
 - (b) the creation of that situation has resulted, or may be expected to result, in a substantial lessening of competition within any market or markets in the United Kingdom for goods or services, namely within the market for healthcare risk waste treatment and disposal in the United Kingdom.
 2. Now, therefore, the OFT, in exercise of its duty under section 22 of the Act and its power under section 35(6) of the Act, hereby refers to the Commission, for investigation and report within a period ending on 12 December 2006, the following questions in accordance with section 35 of the Act:
 - (a) whether a relevant merger situation has been created; and
 - (b) if so, whether the creation of that situation has resulted, or may be expected to result, in a substantial lessening of competition within any market or markets in the United Kingdom.
 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.

(signed) **Vincent Smith**
Director, Competition Enforcement Division
28 June 2006

Conduct of the inquiry

2. A notice inviting interested parties to submit written evidence to the CC was placed on the CC website on 28 June 2006. An administrative timetable for the inquiry was published on 10 July 2006.

3. We sent questionnaires to competitors and customers. Summaries of the responses are available on the CC website. Oral evidence was obtained from competitors, customers, regulatory and other bodies at hearings. Evidence was also obtained through telephone contacts and through further written requests.
4. Non-sensitive versions of the evidence, provided to us by third parties in response to our invitation to comment, and summaries of oral hearings can be found on the CC website.
5. Members of the Group, accompanied by staff, made visits to Stericycle/STG sites at Hillingdon and Reading, and to Newham and Great Ormond Street hospitals.
6. We published an issues statement on 10 July 2006.
7. We received written evidence from Stericycle/STG and held a hearing with them. A non-sensitive version of the main submission from Stericycle/STG can be found on the CC website, as well as a summary of the hearing.
8. In the course of this inquiry we showed the parties a number of working papers and a draft of the provisional findings report.
9. A Notice of Provisional Findings, a non-sensitive version of our Provisional Findings Report and a Notice of Possible Remedies were placed on the CC website on 24 October 2006. We received and considered comments from Stericycle/STG on the provisional findings; the executive summary of their response can be found on the CC website.
10. As the merger was completed before it was referred to the CC, the CC made an interim order on 18 July 2006 to ensure that the parties did not take action pending final determination of the reference which might prejudice the reference or impede the taking of any action by the CC. At the same time the CC directed the parties to appoint a monitoring trustee. On 25 August, the CC issued a further set of directions requiring the parties to put in place certain organizational arrangements and to appoint a hold separate manager for STG. The parties applied to the Competition Appeal Tribunal for judicial review of the CC's interim order and 25 August directions. The parties' application was dismissed on 19 September 2006. Relevant documents can be found on the CC website.
11. A non-sensitive version of this report was placed on our website on 12 December 2006.
12. We would like to thank all those who assisted in our inquiry.