



Competition Commission Audit Services Market Inquiry

19 June 2013

Deloitte's response to the Competition Commission's Notice of a Further Possible Remedy

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1. Introduction

1.1 Deloitte is grateful for the opportunity to respond to the Notice of a Further Possible Remedy (the **Notice**) published by the Competition Commission (the **CC**) – specifically in relation to the proposal that the Financial Reporting Council (the **FRC**) should be given a “secondary duty” to promote competition between firms providing audits to FTSE 350 companies.

1.2 In summary:

- (a) there is good evidence that the FRC is already well-placed to take appropriate account of competition issues in pursuit of its wider objectives; but
- (b) if the CC considers that it requires additional comfort, then the measure proposed by the CC should be effective.

2. The FRC's existing role with respect to competition

2.1 As the CC is aware¹, the FRC has a range of roles with respect to the conduct of statutory audit (as well as wider responsibilities for corporate governance)². Its primary focus in relation to the conduct of statutory audit is in relation to audit quality, and this is reflected in its corporate objects:

“to promote and maintain investor, market and public confidence in the integrity, competence and transparency of corporate governance and corporate reporting systems and in the auditing, accounting and actuarial professions in the United Kingdom.”³

2.2 It is important to note that, in pursuit of these corporate objects, the FRC has not shied away from taking account of, and where necessary positively pursuing, competition issues. In particular:

- (a) the FRC jointly commissioned (together with the Department for Trade and Industry) the Oxera report on “Competition and Choice” in the audit market in 2006; and
- (b) it conducted an in-depth “Audit Choice” project over the period from 2006 to 2010, which had competition issues at its heart⁴.

2.3 The FRC has made this point directly to the CC, at its hearing with the CC in October 2012:

“As a regulator, its responsibility was to promote high-quality audits across companies but in particular with respect to public listed companies. The interrelation between competition and quality was important to it.”⁵

¹ See further Appendix 8 to the Provisional Findings, paragraph 145 *et seq*

² Its roles include, for example, the provision of codes and standards with respect to auditing, monitoring audit quality, acting as the independent disciplinary body for the audit profession, and oversight of the regulation of the accountancy profession by professional accountancy bodies

³ Clause 3(a) of the FRC's Articles of Association

⁴ See further <http://www.frc.org.uk/Our-Work/Headline-projects/Audit-Choice/Reports-and-Publications.aspx>

⁵ Summary of the FRC's hearing with the CC, 26 October 2012, paragraph 3

2.4 Deloitte is therefore confident that the FRC has taken and will continue to take appropriate account of competition issues even without an additional secondary objective as proposed in the Notice.

3. Additional comfort afforded by such an objective

3.1 However, should the CC consider that it requires additional measures to ensure that the FRC will appropriately take account of competition in the pursuit of its wider objectives. Deloitte considers that the CC's proposal would provide such reassurance.

3.2 In particular, the Notice contemplates that such a secondary objective would contribute to remedying the alleged AEC⁶ by:

- (a) increasing the transparency of AQR reports;
- (b) increasing a company's bargaining power outside a tender process; and
- (c) making a company more likely to switch auditors, thereby increasing rivalry.

3.3 The Notice omits to mention, though, that such an objective would also have an important role in "future-proofing" the CC's decision on remedies. This role has a particular resonance in the context of the FRC's recent reforms to tendering of audits by FTSE 350 companies and also in the context of whether mandatory tendering should or should not be on a "comply or explain basis". Specifically:

- (a) such a subsidiary objective could give the CC comfort that if the FRC's recent reforms do not have the effect envisaged, the FRC would have an additional impetus to consider further action on the basis of its competition objective;
- (b) this is particularly relevant in the context of the significant changes to tendering behaviour that are already evident in the market. As Deloitte has explained in detail to the CC, its internal strategy materials indicate its expectation that those changes will progress quickly and will have a very material effect⁷. This is already strong evidence that further intervention would be disproportionate and unnecessary⁸. The addition of a secondary competition objective for the FRC could give additional comfort without overstepping the bounds of proportionality⁹; and
- (c) should further change occur in the market, this additional objective would be an additional spur to taking any necessary action.

4. Conclusion

4.1 The evidence shows that the FRC already takes account of competition in pursuing its wider objectives. Deloitte has confidence that it will continue to do so, meaning that an additional subsidiary objective is not likely to be necessary.

4.2 However, should the CC feel that additional measures would be beneficial, Deloitte considers that this would be a proportionate remedy – in particular to provide reassurance that the expected effect of the 2012 FRC reforms will be as predicted by Deloitte.

⁶ Deloitte disputes the existence of the alleged AEC as it explained in its response to the Provisional Findings

⁷ See Deloitte's submission in response to the CC's questions on tendering, dated 18 June 2013

⁸ See further Deloitte's response to the Remedies Notice

⁹ Deloitte notes the CC's preference to implement this remedy by way of a change to the FRC's corporate objects. While this is necessarily less powerful than implementation by way of statutory objective, Deloitte considers that the mechanism proposed by the CC has the merit that it can be implemented quickly and should generate a similar incentive effect on FRC action