

FAO Mr. John Doyle – Inquiry C-coordinator

Competition Commission  
Victoria House  
Southampton Row  
London  
WC1B 4AD

4<sup>th</sup> November 2011

Dear Sirs

**Ref. Proposed joint venture between Lafarge & Anglo American**

I write to confirm the concerns that we, the Board of Directors of a small private Company, have with respect to the joint venture that has been proposed between Lafarge and Anglo American. We have been working in the construction industry for many years and purchase large quantities of building materials (across the entire range) on a regular / ongoing basis. Generally these concerns fall into two areas i.e. material availability and price

We normally operate within a geographic area that extends from Leicester to York and from the Pennines to the East Coast and work on a contract by contract basis. The nature of our business usually entails us entering into contracts on a fixed term basis and especially with respect to overall price. Increases and applications for additional work(s) are by prior agreement only i.e. we are not normally in a position to secure random and often unjustifiable price increases.

The consolidation that this particular sector has experienced over the last twenty years has, in our opinion reduced the level of genuine competition to the degree that the major five companies have been allowed to dominate our market place unfairly and especially when one appreciates the additional problems caused by the vertical integration across product lines that these Company's have been allowed to create.

Over time, as small independent localised businesses have been swallowed up by these five major corporate Company's, we have regularly experienced the availability of certain key products becoming immediately restricted as key high value materials are retained in house for use within their respective vertically integrated businesses and accordingly we have seen and experienced prices immediately escalating irrespective of previous trading relationships and contractual obligations that our Company had in place at the particular time.

Further operational problems have been experienced with respect to these five companies attitude to credit control and as a consequence further restrictions of trade have been experienced (e.g. reduced credit limits) as trading relationships with individuals have been lost to the faceless society of the corporate world whose call centered cultures have no interest in building meaningful working relationships.

With the number of suppliers reducing over time, our buying options have reduced dramatically and sadly as a consequence our trading performance in respect of turnover and profit impacted badly. The days of choice and free trade have over time sadly been removed and especially with respect to the procurement and use of cement, concrete and tarmac.

In respect of our buying options for highways approved aggregates and quality sand and gravel products, these have always proven to be difficult and expensive to procure with our options often limited to using Anglo American and / or Lafarge as none of the other majors have a presence of any significance and contrary to belief, there are insufficient independent suppliers and /or approved recycled products available to produce sufficient quantities to satisfy quality and demand that in turn allow them to be considered as a viable alternative to the primary products that are offered by Anglo American and / or Lafarge. It is only in the extreme north and south of our operating area that other suppliers come into competitive play. This is not the case when we are in the market for general fill materials whereby we find a multitude of sources available and who are able to supply large quantities of acceptable material at very competitive rates.

Therefore, should the proposed joint venture be allowed to proceed, it will result in the immediate removal of the only level of competition that currently exists and one that which we currently enjoy and or exploit within the majority of our operating region. The harsh reality of such an action being allowed to evolve is the creation of a one company market specific dominance that comes to fruition without actually offering / bringing any obvious benefits to the consumer, indeed the opposite! It is inevitable that as a direct consequence of such a miscarriage of justice being allowed to occur, that prices on the majority of highway approved materials together with quality sand and gravel products that we currently purchase and use, will increase dramatically as no other viable / alternative supplier exists and especially one that could supply the required volumes and quality of such materials given that the costs of transport and distribution prevent alternative companies that are located outside of our operating area from competing and offering viable alternatives.

With respect to the other main products that are supplied by both Anglo American and Lafarge there will in our opinion remain sufficient alternative choices for us to consider when placing orders going forward although it has to be said such choices will always be dominated and therefore impacted by the major five companies given the industries consolidation that we have seen evolve over time. However with the obvious exception of cement there are sufficient independent suppliers to ensure that we are always in a position to operate and procure competitively.

My second concern centers around the already acknowledged price control that such consolidation and vertical integration allows. All of the major five Companies operate within their respective Joint Ventures and / or inter trade with each other on both a National and Regional basis. Therefore as a consequence of dealing with each other as both Customers and Competitors they are able to exchange information and or strategies openly simply through quotations and / or invoices...

Please find enclosed copies of price increases that we have received in respect of a proposed price increase that is to be applicable from 1<sup>st</sup> January 2012. (Cemex's letter has yet to be received however it will no doubt land in the next few days and will rest assured mirror the contents of these particular letters)

Please note that this is the fourth application that these Companies have made in the last 12 months. Copies of these letters can be made available if required.

What is more interesting is that these letters are usually circulated within a few days of each other, are nearly always applicable from the same implementation date and are always within a few pence of each other. The actual letters are often worded along the same lines although some of the five majors include all products within one letter whilst others chose to send separate letters on a product by product basis.

Usually we are told that these increases are not open for negotiation although after spending considerable time renegotiating we sometimes manage to secure a reduction albeit small

As stated before the majority of building contracts are secured on a fixed priced basis and increases of this frequency and magnitude cause everyone a great deal of anxiety and financial pain and certainly introduces difficulties in securing continuity of work in an open and unrestricted market place.

Inevitably such regular applications leave us with no choice but to ask all of our suppliers to resubmit their most competitive quotations for ongoing future supply. This process takes time and especially when ones considers that each price increase application covers all building materials i.e. aggregates, tarmac, concrete and cement and as such incurs Companies like us with considerable and unrecoverable costs as excessive management time is eaten up in an effort to maintain the status of lowest cost denominator.

The issue with this approach to price increases that has been adopted by the major five Company's is nothing new and indeed since the 1<sup>st</sup> January 2009 i.e. the time when the recession began to impact on new build these Company's have applied for and secured no less than eight different increases.

Your enquiry into both the proposed joint venture together with your previously announced review into the building materials sector is most welcomed and certainly much needed. The dominance already achieved by the five largest Companies has to be addressed and the opportunity for small Companies like us to openly compete within our particular market place actively encouraged.

However within our operating area the individual dominance of Anglo American and Lafarge is already a major concern in what should be a free trading society. Allowing this proposed joint venture to proceed will in our opinion leave our Company in a very vulnerable commercial position by simply removing our current choice of supply for certain materials from two down to one. How could this scenario ever be considered legal and fair and in the best interests of our sector and / or the construction industry overall?

I trust that you will having read and appreciated the nature and depth of our concerns that we are not in a position to disclose our identity as inevitably such sensitive commercial information could restrict our operations even further than they already are today.

Yours sincerely

A very concerned Board of Directors