

Anglo American PLC/Lafarge S.A. merger inquiry

Mr S. Jones - Response to Notice of possible remedies

Dear Sirs

I am interested in the above matter, and make the following observations on your Notice.

1. Your "Notice of Possible Remedies" identifies various potentially problematic overlaps in relevant markets, but does not provide any background context against which the seriousness of any overlap can be assessed. No information is given about the individual parties' market shares in relevant markets.
2. No information is provided about the expected quantum of any effect on local markets, e.g. in terms of potential percentage increases in prices.
3. I believe that in the course of their original discussions with the OFT about this matter, the parties offered to undertake a series of divestments of sites where an overlap was thought likely to give rise to difficulty. No information is given in your Notice about the proposals offered by the parties or, more importantly, the extent to which your proposals differ from those initially offered by the two parties. To put it another way, it is not easily possible to see whether your inquiry into this matter will produce a result significantly different to that offered by the parties, nor why it has done so if that is the case. It is important to discern whether the CC inquiry into this matter has produced a result appreciably different from that offered by the parties, or whether the exercise has effectively been a waste of scarce public resources.
4. In the cement market, Tarmac operate only one plant, at Tunstead. They supplied some 6% to 8% of the cement market nationally before the economic downturn. Although Lafarge have a relatively higher proportion of the market nationally, the addition of the Tarmac percentage is unlikely to have a serious effect on prices or availability in the national cement market. The parties will be very aware, given the history of competition law infringements in the cement market in Europe as a whole, of the risks of manipulating the market in an unlawful manner.
5. In the ready mix concrete market, although the Notice identifies the risk of overlap as a potentially serious issue, Table 4 identifies only six plants with potential overlap. Again there is no background information to put this in context, e.g. to illustrate how many plants the parties operate nationally. I suspect that these six plants represent an insignificant proportion of the overall total.
6. In the asphalt market, only two potential overlaps are identified, although no indication is given about the extent of the radial area used to measure possible overlap. Again there is no background information to put this in context, e.g. to illustrate how many plants the parties operate nationally. I suspect that these two plants represent an insignificant proportion of the overall total.
7. In the general primary aggregates market, 23 potential local overlaps are identified, but in almost every case there are already a number of other sites belonging to either or both parties within the radial, and it is therefore not clear that a combination of ownership in these areas would have a significant effect on competition. In some cases the sites named are currently mothballed owing to a low level of demand in the market. The overlaps are likely to be genuinely local in character, since it is not

economic to transport general construction aggregates for any significant distance by road.

8. The potential overlap in specialist aggregates (rail ballast and specialist limestones) is noted. It would be relatively easy for the parties to dispose of one of their operations in this respect. It is worth noting however that Cliffe Hill is operated by Midland Quarry Products, which operates its own commercial policy as a Joint Venture between Tarmac and Hanson.
9. Generally, the aggregates industry is struggling at present with very low volumes. 2010 production was around 160 million tonnes, the lowest figure for some years. Crushed rock volumes fell some 3% year on year in 2011, and although year on year increases in sand and gravel (5%), ready mixed concrete (9% and asphalt (4%) volumes were reported (by the Mineral Products Association), these were from historically low levels in the previous year. The industry is one of the few remaining UK industries processing basic raw materials into added value products on any significant scale, and the government should be doing all it can to support this industry, not becoming involved in industry restructuring at this difficult time unless absolutely necessary.
10. It is my view that the remedies proposed are disproportionate to the perceived possible effects on the market arising from the proposed joint venture, and that the joint venture should be permitted to proceed, with remedies limited to disposal of one of the rail ballast operations and one of the specialist limestone operations.

To explain my interest, I am a solicitor in private practice, but worked for Tarmac from 1990 until 2007. I am a Fellow of the Institute of Quarrying, and my firm is an Associate Member of the Mineral Products Association. The views expressed in this note however are my own, and do not represent the views of any other party.

Yours faithfully

Stuart Jones
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