

ANGLO AMERICAN/LAFARGE MERGER INQUIRY

Summary of hearing with The Asphalt Works Limited held on 12 October 2011

Background

1. The Asphalt Works Limited (TAW) explained that it was a small family-run surfacing contractor based in Whalley, Lancashire, and had been operating for about ten years. It had a variety of mainly private sector customers and, although it did not take on work directly for local authorities, it sometimes subcontracted for companies that did. Its major customers included G&J Seddon, Ennis Construction and Eric Wright Civil Engineering.
2. TAW was profitable, with an annual turnover of £3 million. It competed on quality and service rather than price. Turnover was slightly down last year on the previous year, but this was likely due to the sizes of the jobs, given that much of TAW's turnover was affected by the amount of materials it had to use.
3. It was difficult to forecast business over the next couple of years given the current market. TAW believed that the major factor affecting businesses overall appeared to be the downward trend in available work and the increase in material prices possibly affecting people's spending.

Relationship with the parties

4. For the last ten years TAW had purchased significant quantities of asphalt from Tarmac in TAW's core business area (Lancashire, Manchester, Merseyside and Cheshire). TAW said that Tarmac had the best coverage for supply in the areas where TAW was active and being able to source from one supplier across the areas increased negotiating power. TAW did, however, purchase asphalt from different suppliers in other areas (such as Bardon Asphalt (Aggregate Industries) and Cemex, along with small amounts of a specialist product from Hanson as specified by customers). TAW also purchased aggregate and concrete from Tarmac and other suppliers.
5. TAW said that, in other areas of operation, it purchased asphalt. It had stopped sourcing from Lafarge a few years ago as, although the price of materials was good, delays in supply meant that it faced increased costs through having to be on the job site longer.

Purchasing process

6. TAW's choice of supplier was based on price, service and quality of product. Ensuring that the supplier was able to reliably fulfil the order on the terms it required was paramount. Orders were normally placed each day for the following day or on a forward programme for the following week and then adjusted daily. The need to make spot purchases was necessitated by the nature of the industry. For example, even if a job had been tendered three months in advance, TAW would perhaps find out that it would be working on the job only a week before work was to begin. It would then ring up two or three of the suppliers in that area to ask for a price based on that job as prices did vary a little, though not by much, in different areas.

7. Even in areas where the major suppliers were operating, TAW had in the past purchased from smaller independent suppliers where its requirements were met. However, the need to have a good credit facility with a supplier sometimes made it harder to switch to new suppliers, as such facilities tended to be based on length of relationship. Further, in a number of areas, the choice of suppliers was often limited to the larger companies (for example, in central and east Lancashire the only options were Tarmac and Bardon Aggregates).
8. Negotiations were usually made with the account manager in the area in which TAW was based, particularly with Tarmac as a good working relationship had been established over the years. If TAW required a quote from Tarmac for a job in a different area, that account manager would approach the account manager in the other area.
9. Given the nature of sport purchases, prices had to be discussed every time, although there was little scope for negotiation (more so for asphalt than RMX, due to the low quantities of RMX required), and TAW said that it tended to check the price offered against two or three other suppliers with whom it had relationships. Prices and input costs were fairly transparent and people generally knew what competitors were offering because margins were fairly tight. One of the main problems was that very little notice, perhaps a month, was given for price rises. This caused problems where a job had been priced for a customer before the price rises, requiring the need to renegotiate with the customer.
10. TAW noted that price rises which appeared to be linked to the price of oil not only resulted in price rises for asphalt, but also for aggregate and concrete, neither of which depended on oil save for machinery fuel.
11. TAW had experienced situations where it had found it difficult to get the supplies it needed, although this was likely due to periods of peak demand. It had also experienced refusals to quote, or quotes given at a poor rate, but said that this was likely due to the supplier favouring a more valuable customer within its local area with which it might have a long-standing relationship and expectations of future business. It was in the interest of the supplier to look after its own customer base.

Market definition

12. TAW currently purchased materials from the major suppliers which contained about 10 per cent of recycled products (for example, asphalt material containing asphalt planings from other road surfaces). While it would be happy to use 100 per cent recycled aggregates, it could, however, use recycled aggregates only where the relevant technical requirements for each job allowed. It did not have the facility to create its own recycled products and so had to obtain them from its regular suppliers.
13. Volumetric trucks could be used to supply concrete for smaller jobs, but TAW believed that RMX was of higher quality. Volumetric trucks were normally supplied by independent companies providing materials to smaller customers and therefore prices were a little higher in comparison with that charged by the major suppliers.
14. TAW said that mobile asphalt plants were suitable only for really large jobs (eg motorway work or airport work) and it did not really use them. Access to asphalt plants that operated 24/7 was essential for about 20 per cent of its work. However, the cost of asphalt from such plants could be at least 50 per cent higher.

15. TAW would try to recoup any price increases in the cost of asphalt from its customers, although this was difficult as customers would try to resist any price rises by playing off different contractors.
16. TAW preferred to source materials where delivery could be made within an hour because otherwise there was less chance to alter orders if needed. In addition, RMX would begin to perish after an hour.

Barriers to entry/expansion

17. TAW believed it was not feasible for a new asphalt supplier to enter the market, as the only way to do so successfully would be to have a quarry and a plant within that quarry in order to be able to fully source the required aggregates. This would require a large amount of money and planning permission, but in addition most of the quarries with appropriate types of aggregates for asphalt were already owned by the major companies. While it was possible just to set up a plant and buy-in aggregates, this would put the supplier at a cost disadvantage compared with the vertically integrated companies.

Counterfactual

18. TAW said that absent the joint venture, Tarmac and Lafarge would continue to operate as they do now.

Views on the joint venture

19. TAW noted that the vertically integrated major companies appeared to have a cost advantage when bidding for jobs. In particular, the local authorities it dealt with published the winning bid, which was often at a level much lower than TAW could afford to price a job. The joint venture would not necessarily make this worse given that Tarmac did not currently operate a contracting division in the local area, although the fact that the joint venture would own more asphalt plants may not help matters.
20. In addition, TAW said that in other areas where both Tarmac and Lafarge were viable supply options for customers, the joint venture might lead to less competition.