

AGGREGATES, CEMENT AND READY-MIX CONCRETE MARKET INVESTIGATION

Notice of provisional findings made under Rule 10.3 of the Competition Commission's Rules of Procedure

1. On 18 January 2012, pursuant to section 131 of the Enterprise Act 2002 (the Act), the Office of Fair Trading referred to the Competition Commission (CC) for investigation and report the supply or acquisition of aggregates, cement and ready-mix concrete (RMX) in Great Britain (GB).

Provisional findings

2. The Group appointed to consider this reference has provisionally found that there are features of the GB cement markets that, either alone or in combination, prevent, restrict or distort competition such that there are adverse effects on competition (AECs).
3. The Group has provisionally identified the following structural and conduct features as relevant features of the cement markets:

Structural features

- (a) high market concentration;
- (b) transparency of sales and production shares, wins and losses and customer–supplier relationships;
- (c) high barriers to entry (including limits to the constraint imposed by imported cement);
- (d) homogeneity of product;
- (e) customer characteristics and behaviour (in particular, regularity of purchases, purchases at fixed locations, concentration of customer base and single sourcing for a particular job site); and
- (f) vertical integration from cement into downstream operations.

Conduct features

- (a) a strategic focus on maintaining market stability between the members of the coordinating group, frequently manifested in a focus on maintaining existing (or returning to pre-existing) relative shares of sales;
- (b) price announcement behaviour (which facilitates price leadership and price following, and softens customer resistance to price increases);
- (c) tit-for-tat behaviour used to balance shares and for retaliation;
- (d) use of cross-sales as a mechanism for transparency, signalling and, on occasion, share balancing and retaliation; and
- (e) attempts to target importers beyond normal competition on price and service.

4. These structural and conduct features combine together to give rise to an overarching feature in the GB markets, namely coordination among Cemex, Hanson and Lafarge.
5. We also found that one Major's exclusive agreements with the GB steel producers for the production of granulated blast furnace slag (GBS), and another Major's exclusive long-term contract with the GBS-producing Major for the purchase of GBS to produce ground granulated blast furnace slag (GGBS—which can be used as a partial substitute for cement), in combination with both these Majors' participation in the GB cement markets, were further features that gave rise to an AEC in the GB cement markets.
6. The likely effect of these features is higher cement prices in GB than would otherwise be the case for all GB cement users, whether this cement is ultimately sold through independent RMX and concrete producers, independent merchants or through the downstream businesses of the Majors.
7. The Group's reasons are set out in full in the report of its provisional findings. A summary of the report is attached to this notice. A full copy of the provisional findings will be published on the CC website (see note below).

Next steps

8. The Group now invites interested parties to submit reasons in writing as to why these provisional findings should not become final (or, as the case may be, should be varied).
9. These reasons should, save as provided in the Notice of intention to open a data room published alongside this notice, be received in writing by the Group no later than **Wednesday 12 June 2013**.
10. The Group will have regard to any such reasons in making its final decision in this investigation.
11. The Group is today also publishing a Notice of possible remedies which it considers might be taken by the CC to remedy the adverse effects provisionally identified, comments upon which should also be received in writing by no later than **Wednesday 12 June 2013**.

(signed) PROF MARTIN CAVE OBE
Group Chairman
21 May 2013

Notes:

- (i) A copy of this notice and the summary of the provisional findings report will be placed on the CC website on 21 May 2013. The CC proposes to publish the provisional findings report on its website in the next few working days. The published version of the provisional findings report will not contain any information which the Group considers should be excluded from the report, having regard to the three considerations set out in section 244 of the Act.
- (ii) In the provisional findings report, we use the term 'Majors' to refer to the five largest heavy building materials producers in GB.

(iii) Comments should be made in writing to:

Inquiry Manager
Aggregates market inquiry
Competition Commission
Victoria House
Southampton Row
London
WC1B 4 AD

or by email to aggregates@cc.gsi.gov.uk.