

**Aggregates, Cement and Ready - Mix Concrete Market Investigation. Updated Statement of Issues 26 November 2012**

We would like to raise our concern about several references made about the Mineral Products Association (MPA) in the Updated Statement of Issues.

The references are:

*Paragraph 71*

*"There are some structural features of aggregates supply in GB which may be conducive to coordination. These include:*

- structural links between the Major aggregates suppliers, including joint ventures and membership of a common trade association (The Minerals Products Association(MPA))"*

*Paragraph 81*

*"The GB cement industry appears to have several structural features that may be conducive to coordination. These include:*

- Structural links between the GB cement producers in the form of joint ventures with each other (although many of these relate to aggregates) and membership of the same trade association, the MPA;"*

In our view, these statements - that membership of the MPA may be "conducive" to coordination - are unjustified and do not reflect the operation of the association. Membership of the MPA is an entirely normal and conventional step for any company in the sectors which the MPA represents (in the same way that membership of other trade associations serves other industries). A trade association, such as the MPA, delivers all manner of legitimate benefits (better regulation, best practice, improved standards, innovation etc) for those involved and those (such as Government bodies, suppliers, customers and consumers) dealing with them or who are the ultimate beneficiaries of regulatory and/or industrial improvements brought about by its activities.

Further, the MPA is very conscious of its responsibility to avoid facilitating any coordination of commercial behaviour (or any other potentially anti-competitive outcome), and takes its responsibility very seriously indeed. As we have evidenced to the Office of Fair Trading and Competition Commission, the MPA has rigorous rules and procedures to ensure that the meetings and activities of the MPA are conducted in accordance with competition law. All MPA staff comply with the "MPA Competition Act Procedures Manual" and meetings between members are subject to strict competition-

law-compliant rules of engagement. These procedures have been developed by our competition lawyers over a lengthy period, and representatives of member companies are also fully aware of their responsibilities through company compliance procedures and MPA guidance. It follows that membership of the MPA should not, absent other strong justification, be categorised as something with the potential to harm competition or which facilitates coordination, even if this is only the Competition Commission's provisional view. On the contrary, MPA membership should be seen as a wholly positive issue; partly because of our vigorous compliance procedures and focus on legitimate industry and regulatory issues; partly because we represent the interests of many different industry players - large and small - and are therefore a fully representative body.

You may also be aware that there has been long term encouragement from Government and most notably from the industry's "sponsoring" Department, BIS, for industry associations to rationalise so that Government can work with identifiable and representative industry bodies. The recent Heseltine Review confirmed that Government wishes to liaise with sector "leading" associations. As a result, the MPA has worked to develop an association which is representative of the mineral products sector and has brought together various product specific organisations. As a consequence the membership of the MPA and affiliated organisations includes 465 and it is neither surprising nor unreasonable that this membership includes the largest sector firms as well as over 460 SMEs.

In these circumstances, we are deeply concerned that the Competition Commission has suggested that membership (and, possibly by inference, the operation) of the MPA may be "conducive to coordination". While we understand that, in theory, an organisation which includes and/or represents industry firms could behave in an anti-competitive manner or facilitate market coordination, we do not accept that there is any evidence or other justification that would support such a conclusion in respect of MPA membership. We would encourage the Competition Commission to amend the specific references to the MPA to reflect these concerns.

In this regard, we are also concerned that, in paragraph 85 of the updated issues statement, the Competition Commission appears to have made certain far-reaching assumptions as to the sensitivity and worth of the data disseminated by the MPA. As a result of our own rigorous checks and balances, we do not consider that MPA data serves as a focal point for coordination; nor does it enable members to infer how rivals are behaving (including on pricing) and we are perplexed that the Competition Commission appears to be giving weight to this issue when we cannot see any evidence to support it and there appear to be so many other potential factors and variables at play.