

AGGREGATES, CEMENT AND READY-MIX CONCRETE MARKET INVESTIGATION

Summary of response hearing with the Mineral Products Association held on 17 July 2013

Market data remedy C5: Restrictions on the disclosure of cement market data by the UK Government and by GB cement producers to private sector organizations

1. The Mineral Products Association (MPA) said that it had nothing material to add further to its response on the Competition Commission's (CC's) Notice of Possible Remedies to the CC. It had had no instructions from its members although it was happy to explore possibilities on a without-prejudice basis.
2. MPA explained that it had collected the type of data it published on its website since approximately 2005 (this was actually undertaken by the British Cement Association (BCA) before it merged with the MPA). The Department of Trade and Industry (DTI) used to collect the data and published it with a three-month time lag on the basis of competition law issues. However, there were issues of reliability and timeliness of publication. The BCA wrote to DTI stating that the data was useful for its member companies, planning processes and other third parties in the construction industry and suggested that it collect the data. MPA said that the Department for Business, Innovation and Skills (BIS) welcomed the suggestion that the BCA take over the data collection.
3. In August 2007 the BCA wrote to the Office of Fair Trading (OFT) and advised that it would be publishing the data one month in arrears. The justifications for this shorter time lag was that it would be beneficial to the construction industry, it would ensure production and supply could be planned to minimize the risk of shortage and reduce the possibility of overproduction which would generate waste. The BCA asserted in its letter to the OFT that publication of the data did not contravene the relevant EC and UK competition case law. When the OFT responded it stated that it was not in a position to advise as to whether the proposal was likely to contravene competition law which was the responsibility of the BCA.
4. In 2006, MPA instructed an independent company called Bessler Hendrie (BH), a small independent firm of accountants based in Guildford, to collect the data. Essentially, the four cement production member companies submitted their data directly to BH which BH then aggregated. BH subsequently sent the aggregated data to MPA which MPA then sent to BIS. At that time, or within a day or two, MPA published the same data on its website.
5. The arrangement between the MPA and BH was governed by a detailed document and MPA said the arrangement worked well. The particular document was an engagement letter made between the BCA and BH which set out the responsibilities of both parties plus MPA members. The engagement letter set out that BH was prevented from disclosing information between MPA members who were only permitted to provide information exclusively to MPA.
6. MPA said that today more data was collected than when the BCA was responsible for data collection. However, MPA could not recall the rationale for collecting the additional data.
7. MPA paid BH for collecting and supplying it with the data. The data was given to the Executive Director of MPA Cement. Once received, the monthly data was assessed and converted into a standard table which gave the aggregated information in a table

with a chart which showed the time lag and trend. In turn, this was sent to named company representatives. At the same time, it was published on the MPA website. MPA stated that BH also distributed the data to MPA cement members, Cembureau and BIS.

8. MPA said it would also need to confirm that all the information it made available to MPA members was also published on its website. It was possible that some of the information that was collected was only published in MPA's annual performance reporting. MPA said that production consumption data was published on the MPA website.
9. In addition to England, BH collected data in Northern Ireland and Scotland. The data collected was not at plant level but was instead aggregated by the companies. Once BH received this aggregated data, it would further aggregate it to give the total consumption and production data for Great Britain.
10. Further to the Lafarge Tarmac joint venture, there were four member companies that supplied cement data to MPA: Lafarge Tarmac, Cemex, Hanson and Hope Construction Materials (HCM). MPA did not publish data from January to April 2013 pending HCM's membership of MPA on 1 July 2013. However, MPA said that HCM had participated in MPA activities prior to joining, hence the publication of data since May 2013. MPA considered HCM's entry into the cement market as a result of the Lafarge Tarmac joint venture an unprecedented situation. MPA was keen for HCM to become a member. A driver was that MPA wanted to follow guidance from Government which wanted fewer and more-representative trade associations. Given HCM's size, it was preferable that HCM was part of the primary trade association. Accordingly, MPA permitted a phased approach to HCM's membership.
11. It was reasonable for a trade association to generate data on the size of the cement market. MPA believed that the generation of consistent, managed and transparent data was what the Government was trying to encourage and would relieve the administrative burden from government departments. MPA considered that it was performing this role properly, professionally and with the right checks and balances to ensure probity. MPA considered that its prior concerns regarding government departments collecting this type of data had not been alleviated. [X] The ONS would only carry out this work if BIS paid the ONS to do so and resourcing was an issue. More generally, [X].
12. MPA said that through the enquiries it received as a trade association, including a wide range of stakeholders, journalists and the construction industry, there was a hunger for more data and a sense of where the market was going, in order to inform investment decisions and business planning.
13. In addition to collecting and publishing market data pertaining to the cement market, MPA also collected and published market data relating to aggregates, ready-mix concrete (RMX), asphalt and smaller materials including lime and mortar. In respect of aggregates, asphalt and RMX the data was published on a monthly basis and with respect to smaller products, on a quarterly basis.
14. With regard to the data produced by BH, MPA said that it could not verify the accuracy of the data going to BH. MPA said that it was the responsibility of BH to identify any data which might be incorrect. MPA reiterated that BH received the data from MPA member companies and that MPA was not privy to this data until it was aggregated. Once the aggregated data was received, the Executive Director of MPA Cement would look at the data, identify anything that looked as if it might be wrong

and ask BH to check. MPA considered that if BH collected data for BIS, this final step might be omitted or receive less attention than MPA currently gave it.

15. With regard to the proposed time lag, MPA said it had very strict rules for dealing with data with the member companies and BH and was therefore not concerned by any circumvention of the recommendation. MPA strongly stated that it would not seek any ways to circumvent any remedy the CC wished to put in place and if required it would be prepared to enter into a legal agreement to confirm that. The CC would also need to seek those assurances from cement producers.
16. MPA said that the cement producers did not provide their data to anyone other than BH and that it did not think there would be any data leaks into some other forum. MPA reiterated that Cembureau received aggregated data from MPA on an annual basis. MPA considered that the CC should have confidence in the pipeline of information as between the cement members, BH, MPA and Cembureau, particularly in the light of the terms of reference between MPA and BH.
17. MPA did not know the extent to which there would be any harm to BH if the cement producers submitted their data to BIS direct. MPA said that the contract between itself and BH was small and was renewed annually. MPA had been using BH since 2008 and said that there was merit in consistency.
18. MPA stated that it had not to date said it would be prepared to implement a three-month time lag on the collected data but that it would be prepared to consider time lags longer than the current one month provided it struck a reasonable balance. It did not have an authorized view on the proposed three-month time lag and would have to take instructions, however, it considered that it would not be wholly unacceptable.
19. Regarding the granularity of the data published on the MPA website, MPA said that it provided a regional picture of consumption trends which was useful as London was very different when compared with other parts of Great Britain. There was also a competitive issue in terms of how cement was supplied into various markets, for example RMX or concrete. It was the only source of data which gave visibility of the shifting shape of the markets. The RMX figures did not necessarily translate automatically to cement figures.
20. MPA stated that there was no comprehensive published data for concrete products. BIS published a monthly bulletin of building materials and components but this was confined to data on concrete blocks and roof tiles and there was no data on other concrete product markets.
21. MPA said that a remedy whereby the data published by MPA was reduced to cement sales and production volumes would not be as useful as the granular sales data. MPA also considered that it was difficult to speculate on the value of the data outside of MPA's immediate area of responsibility. MPA would consult with its members about the prospect of moving away from regional data towards an aggregated national picture.