

Aggregates Market Investigation Reference publication Q&As

January 2012

1. What can the Competition Commission do that the OFT can't?

Having referred these markets to the CC, it will now conduct a detailed public investigation and reach its own conclusions about the markets concerned. During an investigation the CC has wider powers than the OFT to compel parties to submit particular evidence. Moreover, in addition, the CC has the power to impose remedies which go beyond the outcomes available from an OFT market study.

2. Why is Northern Ireland not included in the Market Investigation Reference?

Section 133(1) of the Enterprise Act 2002 requires a market investigation reference to specify the description of goods or services to which the feature or combination of features concerned relates and whether this is in the UK or parts of the UK. At the time of the provisional decision we proposed that the reference cover the United Kingdom as a whole.

During the consultation process we received representations from one company that Northern Ireland should be excluded from the geographic scope of the reference to the CC as the features which the OFT has identified as leading to competition concerns in the three product markets are not present in Northern Ireland.

Having considered all the comments and evidence provided to us, we consider that Great Britain and Northern Ireland are likely to be distinct geographic markets, and that the features identified – in particular concentration and vertical integration – appear to be present to a greater extent in Great Britain than in Northern Ireland. On this basis we have decided not to include Northern Ireland in the scope of the reference. However, we have not come to a view as to whether Northern Ireland is a competitive market and may decide to look at this geographic market in more detail in the future.

3. What was the purpose of this market study?

In September 2010 the OFT launched a market study into the aggregates sector. We wanted to look at competition in the market, and at whether the market delivered good value for money. We also wanted to look at the planning system for aggregates and at whether high barriers to entry and Government involvement influenced competitive conditions.

4. Why did we expand the study to cover ready-mix concrete and cement?

In the course of gathering information in relation to how competition in aggregates markets was working, it became clear that a number of issues were being raised that cut across both the cement and ready-mix concrete markets as well as the aggregates sector.

- First, aggregates are a major input into the production of ready-mix concrete, for which cement is the other main input.
- Second, these products are further linked by the high extent of vertical integration among the major firms operating in these markets. The five major aggregates suppliers are also the largest suppliers of ready-mix concrete. Four out of the five are the only producers of cement in the UK, while the fifth is owned by an international cement manufacturer which imports cement through a subsidiary. There is less vertical integration among smaller firms but some aggregates businesses also produce ready-mix concrete.
- Third, there are a number of features present across these markets (for example high concentration, high barriers to entry, homogeneity of products, and market transparency) that economic theory predicts may make it possible and rational for at least the large firms to coordinate conduct, including pricing, across more than a single product. Such coordination may not be undertaken pursuant to any agreement between the firms (though, of course, it may be), but can be based on mutual expectations, for example about how other firms will behave and/or how they would respond to a price or other change by a competitor. Also, the extent of multi-market contact between the major suppliers is an important structural feature of these markets.

5. What prompted this study?

During the course of our mergers work, we received a number of representations from different parties raising possible issues in the aggregates sector. Although in launching this study we were not responding to any specific complaint, the issues raised prompted this look at the state of competition in the sector and the way that planning of the supply of natural resources may impact on competition.

6. What are aggregates?

Aggregates are the granular raw materials that are used to make construction products which are used to build houses, roads, schools, office, hospitals, and other developments within urban and rural environments.

Aggregates broadly come from three sources:

- **Primary aggregates**, which are newly extracted from the ground or sea bed.
- **Secondary aggregates**, which are the by-product either from the extraction of other materials or a manufacturing process, and can either be either natural (such as china clay waste) or manufactured (for example power station ash and steel slag).
- **Recycled aggregates**, which are produced from crushed demolition waste.

Secondary and recycled aggregates make up about 28 per cent of the total aggregates supply.¹

Aggregates are used for many things including the construction of homes and roads. Around 90 per cent of aggregates are used for construction, much of it for making products such as ready-mixed concrete, concrete products, mortar and asphalt. Aggregates are also used as base material under foundations, roads, and railways and so on.

¹ Mineral Products Association, 'Summary Sustainable Development Report 2010'.

Aggregates are used as an input in the manufacture of cement and concrete. Around six per cent of aggregates production, mainly limestone, is used in the manufacture of cement and around 36 per cent goes towards concrete making. Just over half of cement production is used to manufacture ready-mix concrete.

7. What are cement and ready-mix concrete?

Cement is a fine powder that acts as a binder. Cement is mainly used for producing concrete, by mixing it with aggregates and water, but it can also be used to manufacture mortar for bonding bricks.

Ready mixed concrete is a mixture of coarse and fine aggregates, cement and water. It is delivered wet and can be moulded into any form. It is the most common form of concrete and is highly versatile lending itself to a wide range of applications in the construction of buildings, roads and other infrastructure.

8. What is the planning system which controls annual aggregate extraction?

The planning and environmental permitting systems in the UK, which govern how land can be used, are significant factors in the operation of the aggregates market, although their effect varies according to the type of aggregate: primary (land-won and marine), secondary, or recycled. Variations also exist by territory: England and Wales share a broadly common system that allows for national management of aggregates supply, while Scotland and Northern Ireland take separate approaches.

Land-won primary aggregates are subject to both town and country planning restrictions for land use and a Managed Aggregates Supply System ('MASS') that seeks to reconcile supply and demand requirements, setting targets for reserves of permitted supply (land banks)² based on econometric modelling of UK demand.

² A landbank – measured in years – is the stock of permitted reserves that have valid planning permission, and is calculated by dividing the volume of existing permitted reserves by the average annual production in the area. Landbanks link demand forecasts and supply expectations, and are therefore key when MPAs consider planning applications.

Minerals Policy Statement 1 (MPS1) states that Mineral Planning Authorities should ensure a landbank of 'at least 7 years for sand and gravel and at least 10 years for crushed rock', and that these levels should be an 'indicator of when new permissions for aggregates extraction are likely to be needed'.

Within England and Wales, a supporting infrastructure has evolved to enable MASS, led by the Department for Communities and Local Government (CLG) with a National Coordinating Group acting at national level, Aggregates Working Parties (AWPs) to advise on the apportionment of supply across different regions and Mineral Planning Authorities (MPAs) who are responsible for reconciling the requirements of both town and country planning and MASS, and delivering and enforcing the actual local planning decisions to implement these

Numerous changes have recently occurred and are yet anticipated to the planning system, particularly with regard to increasing local empowerment. The major structural consequence has been the intention to remove the regional planning tier. DCLG has also announced a review of planning policy, designed to consolidate policy statements, circulars and guidance documents into a single concise document that sets out the Government's priorities for the planning system, covering all major forms of development proposals handled by local authorities. This will be called the National Planning Policy Framework. A draft Framework document was put out to public consultation on 25 July 2011.³

9. Have we looked at this market before?

The OFT has reviewed a number of mergers in these sectors in recent years. There have been eight mergers reviewed by the OFT since 2004, as outlined below. Six of these were cleared (one after undertakings in lieu of reference were accepted) with another one being cleared only for the aggregates part of the two companies and a seventh one was referred to the Competition Commission but was subsequently abandoned. An eighth merger case, a joint venture between Anglo American, the parent company of Tarmac, and Lafarge, is currently being reviewed by the CC, after it was referred by the OFT.

³ www.communities.gov.uk/publications/planningandbuilding/draftframeworkconsultation

Year	Acquirer	Target	Outcome
2011	Lafarge S.A. and Anglo American plc	Joint Venture	Ongoing
2009	Aggregate Industries Limited	Atlantic Aggregates Ltd	Divestment remedy
2006	Aggregate Industries Limited	Foster Yeoman Ltd	Clearance for aggregates
2005	Ennstone plc	Johnston Group plc	Clearance
2005	Lafarge S.A.	Castle Cement – West Thurrock Cement Terminal	Clearance
2005	Lafarge S.A.	Port Land Cement Company	Clearance
2004	Midland Quarry Products Limited	Hanson Quarry Products Europe Ltd	Clearance
2004	Anglo American plc	Johnston Group plc	Abandoned after reference to CC