

Completed acquisition by Motor Fuel Limited of 228 petrol stations and other assets from Murco Petroleum Limited

Introduction

1. On 22 December 2014, the CMA decided under section 22(1) of the Enterprise Act 2002 (the Act) that it believes that it is or may be the case that the completed acquisition (referred to in this decision as ‘the Merger’) by Motor Fuel Limited (MFL) of 228 petrol stations and other assets from Murco Petroleum Limited (Murco) has resulted or may be expected to result in a substantial lessening of competition within a market or markets in the United Kingdom. That decision of 22 December 2014 is referred to in this decision as ‘the SLC decision’.
2. On 29 December 2014, MFL proposed undertakings to the CMA under section 73(2) of the Act. As required under section 73A(1) of the Act, MFL made this offer within five working days beginning the day after the CMA notified it of the SLC decision under section 34ZA(1)(b) of the Act. The CMA now gives notice, pursuant to section 73A(2)(b) of the Act, to MFL that it considers that there are reasonable grounds for believing that the undertaking offered, or a modified version of it, might be accepted by the CMA under section 73(2) of the Act and that the CMA is considering the offer.

The undertaking offered

3. Under section 73 of the Act, the CMA may, instead of making a reference of the Merger for an in-depth (‘Phase 2’) investigation, and for the purpose of remedying, mitigating or preventing the substantial lessening of competition concerned or any adverse effect which has or may have resulted from it or may be expected to result from it, accept from such of the parties concerned as it considers appropriate undertakings to take such action as it considers appropriate.
4. MFL has offered to divest one petrol station and related assets including a grocery outlet, the Murco Hythe site (Seapoint Filling Station) in the Hythe area in Kent, by way of the sale of the freehold property.

5. The CMA considers that the proposed divestment of the Murco Hythe site is likely to provide a clear-cut and effective remedy for the substantial lessening of competition identified and to be capable of ready implementation. The sale of the Murco Hythe site will eliminate any accretion in MFL's market position in this local market, as there is no other site previously owned by Murco within the 10-minute drive-time isochrone.

Upfront buyer

6. The CMA will only accept undertakings which are capable of ready implementation.¹ The CMA's guidance states that 'the CMA will normally seek an upfront buyer where the divestiture package is not an existing standalone business.'² In this case, MFL's proposed divestment package is a standalone business, and therefore the CMA has therefore decided that, if it were to accept an undertaking, it does not need to include an upfront buyer provision.

Consultation process

7. Full details of the undertaking offered will be published in due course when the CMA consults on the undertaking offered as required by Schedule 10 to the Act.³

The decision

8. For the reasons set out above, the CMA considers that there are reasonable grounds for believing that the undertaking offered by MFL, or a modified version of it, might be accepted by the CMA under section 73(2) of the Act. The CMA now has until 5 March 2015 pursuant to section 73A(3) of the Act to decide whether to accept the undertaking, with the possibility to extend this timeframe pursuant to section 73A(4) of the Act to 5 May 2015 if it considers there are special reasons for doing so. If no undertaking is accepted, the CMA will refer the Merger pursuant to sections 22(1) and 34ZA(2) of the Act.

Michael Grenfell
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Competition and Markets Authority
8 January 2015

¹ [Mergers – Exceptions to the duty to refer and undertakings in lieu of reference guidance](#) (OFT1122, December 2010), paragraph 5.7. This guidance has been adopted by the CMA (see [Mergers: Guidance on the CMA's Jurisdiction and Procedure](#) (CMA2, January 2014), Annex D).

² [Mergers: Guidance on the CMA's jurisdiction and procedure](#) (CMA2, January 2014), paragraph 8.34.

³ *Idem*, paragraph 8.29.