



News Release

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COMPETITION COMMISSION PUBLISHES DRÄGER/AIR-SHIELDS UNDERTAKINGS

The Competition Commission (CC) has published the undertakings it has accepted from Dräger Medical AG & Co KGaA and Dräger Medical UK Limited, which will allow Dräger Medical AG & Co KGaA's proposed acquisition of the Air-Shields neonatal warming therapy business from Hillenbrand Industries Inc. to go ahead.

In its final report on the proposed acquisition, published last month, the CC concluded that the proposed merger may be expected to give rise to a substantial lessening of competition (SLC) in the markets for closed care incubators, open care warming beds and transport incubators—but not in the market for phototherapy products.

This was primarily because the substantial market share held by the merged entity would enable it to raise prices selectively to a significant number of hospitals and also that the loss of an independent competitor and rationalization of product lines would be likely to give rise to a reduction in choice of products for hospitals.

The CC decided that the most appropriate remedies to the SLC would be to obtain undertakings on product range, service support and prices from the merged entity, along with measures to ensure competitive constraints on the merged company in the relevant markets in the longer term.

The agreed undertakings therefore commit the merged company to continue to provide a full range of products, accessories, spares and after-sales service in the relevant UK markets for at least three years and provide that these will be subject to price controls. The undertakings also incorporate the appointment of an independent trustee to monitor the price control.

Separately, the CC has also made recommendations to UK health departments and their procurement agencies that they take action to encourage market entry and strengthen the buyer power of NHS trusts in order to act as a further competitive restraint on the merged company in the longer term.

The full notice of acceptance of undertakings is available on the CC's web site:
www.competition-commission.org.uk.

Notes for editors

1. On 18 December 2003, the Office of Fair Trading (OFT) referred the proposed acquisition by Dräger Medical AG & Co KGaA of certain assets representing the Air-Shields business of Hill-Rom Inc., a subsidiary of Hillenbrand Industries, Inc., to the CC for investigation and report.
2. The CC report published on 19 May 2004 which sets out the CC's conclusions on the SLC and appropriate remedies may be found at:

http://www.competition-commission.org.uk/rep_pub/reports/2004/489drager.htm
3. The CC, in exercise of the powers conferred by sections 41(2) and 82 of the Enterprise Act 2002, may accept undertakings for the purpose of remedying, mitigating or preventing the adverse effects which may be expected to result from a substantial lessening of competition it has identified.
4. Enquiries should be directed to Francis Royle, Chief Press Officer, on 020 7271 0242, or Rory Taylor on 020 7271 0398/rory.taylor@competition-commission.gsi.gov.uk.