

Anticipated acquisition by Exponent Private Equity LLP of Tax Free Worldwide UK Limited

ME/6105/13

The OFT's decision on reference under section 33(1) given on 13 August 2013. Full text of decision published 3 September 2013.

Please note that the square brackets indicate figures or text which have been deleted or replaced in ranges at the request of the parties or third parties for reasons of commercial confidentiality.

PARTIES

1. **Exponent Private Equity LLP ('Exponent')** is a private equity firm registered in the United Kingdom ('UK'). The turnover of Exponent's investee companies in 2012 was around £[] of which [] was achieved in the UK.
2. **Fintrax Group Holdings Ltd ('Fintrax')** is one of the companies in Exponent's investment portfolio. Fintrax is incorporated and headquartered in the Republic of Ireland and is active across 26 countries. Fintrax is a financial services organisation that specialises in the provision of Value Added Tax ('VAT') refund services (mainly through its 'Premier Tax Free' ('PTF') brand), multicurrency payments, and credit card processing to retailers. Fintrax's worldwide turnover in the last financial year was approximately €110 million, of which €[] (around £[]) was achieved in the UK.
3. **Tax Free Worldwide UK Limited ('TFW UK')** is a wholly-owned subsidiary of Tax Free Worldwide Holdings ('TFWH'). TFW UK provides VAT refund services to retailers in the UK. TFWH provides VAT refund services through operations in the EEA, the Faroe Islands, and Switzerland. These are legally separate from TFW UK and are not part of the current transaction. TFWH's consolidated worldwide turnover in the last financial year was

approximately €20 million, of which around £[] was attributable to TFW UK and achieved in the UK.

TRANSACTION

4. On 14 June 2013 certain Exponent entities, TFWH shareholders, and TFW UK entered into an asset transfer agreement relating to the business and assets (including the goodwill, intellectual property rights, contracts, records, stock, and staff) of TFW UK for a consideration of €[] (around £[]) payable no later than three business days after completion (the '**Transaction**'). Completion of the Transaction is conditional on clearance being obtained from the OFT.
5. The Transaction was notified to the OFT on 19 June 2013 and the administrative deadline is 13 August 2013.

JURISDICTION

6. As a result of the Transaction, Exponent and TFW UK (together, '**the parties**') will cease to be distinct.¹ The OFT believes that the combination of assets acquired by Exponent are sufficient to constitute an 'enterprise' for the purposes of section 23 of the Enterprise Act 2002 (the '**Act**').
7. The OFT received evidence that the turnover attributable to TFW UK was less than £70 million. Therefore, the turnover test set out in section 23 of the Act is not met.
8. The parties also submitted that their combined share of supply in the UK of VAT refund services (or revenues generated in connection therewith) is less than 25 per cent, if refunds processed in-house by retailers are considered part of the market as well as outsourced processing by VAT refund companies. As such, they argued that the share of supply test set out in section 23 of the Act is not met and that therefore no relevant merger situation will be created.
9. In determining the goods or services to be considered for the purposes of the share of supply test, the OFT has a wide scope of appreciation. It will

¹ It is also intended that the sales and customer service teams of PTF and TFW UK will be merged and that the merged entity will operate as a single entity.

have regard to a reasonable description of a set of goods or services to determine whether the share of supply test is met.² In this case, the OFT considers that the outsourced supply of VAT refund services by VAT refund companies to retailers in the UK is a reasonable description of services.

10. The parties overlap in the outsourced supply of VAT refund services by VAT refund companies to retailers in the UK. The parties submitted that their combined share of the outsourced supply of VAT refund services by VAT refund companies to retailers in the UK is [20-30] per cent.³
11. As such, the OFT considers that the share of supply test in section 23 of the Act is met. The OFT therefore believes that it is or may be the case that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.

BACKGROUND

12. The VAT Retail Export Scheme (the '**Scheme**') allows mainly non-EU residents visiting the UK to obtain refunds of VAT on goods they buy for personal export outside the EU.⁴ This Scheme is based on European Union ('EU') VAT law. It is mandatory for Member States to offer the Scheme for goods exceeding €175. The UK has exercised its discretion to extend the benefit of the zero rate to goods below that value.
13. The Scheme is voluntary for retailers. Of those that offer the Scheme, some may set minimum sales value below which they will not offer tax free services and/or opt not to offer the Scheme at some retail outlets.
14. Retailers that offer the Scheme may either conduct the relevant administration of refunds themselves ('in-house'), or engage a VAT refund company to administer refunds on their behalf ('outsourcing'). In some cases, retailers may offer both methods to consumers.

² *OFT Mergers – Jurisdictional and procedural guidance*, June 2009 at paragraphs 3.52 to 3.55.

³ Source: TFW UK's internal best estimates.

⁴ Further information is available in HM Revenue and Customs' notice on the VAT Retail Export Scheme.

15. The main source of revenue for VAT refund companies is the commission they deduct from the VAT refund amount paid to eligible consumers.⁵ As well as refunding VAT to consumers, VAT refund companies usually also pay a fee (or '**rebate**') to retailers, which aims to incentivise retailers to participate in the Scheme and to use a VAT refund provider.
16. In most cases, the level of the rebate offered is negotiated with each retailer individually, and is typically influenced by the volume of forms processed, the average value of transactions, and the technical solution deployed.
17. VAT refund companies earn commission and pay rebates based on the overall value of sales to eligible consumers (in respect of which VAT refund forms are correctly returned). Therefore, the aggregate value of sales made to eligible consumers by a retailer is a key driver for VAT refund companies, along with the level of commission and the level of rebates.

FRAME OF REFERENCE

18. The OFT considers that market definition is a useful tool, but not an end in itself. Market definition provides a framework for assessing the competitive effects of the merger and involves an element of judgement. The boundaries of the market do not determine the outcome of the analysis of the competitive effects of a merger in a mechanistic way, as it is recognised that there can be constraints on merging parties from outside the relevant market, segmentation within the relevant market, or other ways in which some constraints are more important than others.⁶
19. In the UK, Fintrax (through PTF) and TFW UK overlap in the provision of VAT refund services to retailers that operate the Scheme, administering and processing VAT refund claims on their behalf. Services provided by VAT refund companies include form issuing solutions as well as validating forms returned by consumers seeking a VAT refund, and organising the transfer of the VAT refund to consumers.

⁵ [].

⁶ *Merger Assessment Guidelines, A joint publication of the Competition Commission and the Office of Fair Trading, OFT1254, September 2010, paragraph 5.2.2.*

Product scope

20. The parties submitted that the frame of reference should be at least as wide as the administering/processing of VAT refunds in the UK.
21. The OFT's approach to product market definition is generally to consider whether narrow candidate markets can be widened through substitution on the demand-side.⁷ The OFT therefore considers below whether the product scope should include retailers operating their own VAT refund operations in-house without a VAT refund company.
22. In support of their argument, the parties submitted with respect to demand-side substitutability that a retailer's need for the administration of VAT refunds is equally addressed whether the retailer processes VAT refund claims in-house or through a VAT refund company. They also provided examples of retailers that currently process claims in-house.
23. However, the parties also noted that in addition to offering a rebate to retailers, other incentives to use a VAT refund company include automating the process for the issuing of forms, staff incentive schemes, and training, as well as marketing opportunities. These are more difficult for retailers to provide in-house.
24. In a previous decision in the same sector, a European Commission's market investigation showed that the in-house option was an alternative but that most retailers preferred to outsource this activity.⁸ When assessing whether self-supply should be included in the relevant product scope, OFT guidance says that the OFT will examine whether it will be profitable for a supplier to forgo its use and sell into the merchant market and whether the ability of customers to choose self-supply affects the profitability of a price rise by those firms already supplying third parties.⁹
25. Evidence from retailers that currently process VAT refunds in-house and retailers that recently decided to outsource VAT refund services (generally with a low volume of transactions eligible under the Scheme) suggests that in-house processing can provide some constraint on the parties. However, the OFT has not seen any examples of retailers switching from using a

⁷ *Merger Assessment Guidelines*, paragraphs 5.2.6 to 5.2.16.

⁸ Case COMP/M.3762 – *Apax/Travellex*, 16 June 2005.

⁹ *Merger Assessment Guidelines*, paragraph 5.2.20.

VAT refund company back to providing the services in-house. Most retailers indicated that it would be too difficult and costly to undertake.

26. The OFT also assessed whether the frame of reference should be narrower than the outsourced supply of VAT refund services. The OFT may define relevant markets for separate customer groups if the effects of the merger on competition to supply a targeted group of customers may differ from its effects on other groups of customers and require a separate analysis. This may happen when, for example, suppliers can target higher prices at customers willing to pay more, or when competition for customers differs significantly between different customer groups.¹⁰
27. The OFT therefore considered whether there is a distinct market for retailers that wish to use the same provider in multiple EU countries, on the basis that only some providers (including the parties) have an international presence and that post-Transaction, the parties may be able to target price increases at this subset of retailers.
28. The OFT received mixed evidence on the extent to which international retailers would be willing to switch from using a single provider to using multiple providers in response to a price rise or decline in service quality.
29. For the purposes of the current assessment, the OFT does not consider it necessary to come to a firm conclusion as to the precise product scope given that, on the evidence presented to it, no competition concerns arise on any possible frame of reference. The OFT has assessed the Transaction on the basis of the outsourced supply of VAT refund services by VAT refund companies to UK retailers that operate the Scheme. Within its competitive assessment, the OFT has also considered the differing extent of constraints faced by the parties depending on retailers' preferences (for instance, for having the same VAT refund company in multiple EU countries) and retailers' volume of transactions eligible under the Scheme.

Geographic scope

30. The parties submitted that the geographic frame of reference in this case should be UK-wide, in particular due to the different national VAT regimes

¹⁰ *Merger Assessment Guidelines*, paragraphs 5.2.28 to 5.2.31.

and the necessity for a provider to have a physical presence in the UK. This is in line with previous European Commission findings.¹¹

31. As no competition concerns arise on any reasonable frame of reference, the OFT does not consider it necessary to come to a firm conclusion on the exact scope of the geographic frame of reference. The OFT has taken a cautious approach and assessed the Transaction on a UK-wide basis.

HORIZONTAL ISSUES

Shares of supply

32. The parties provided the OFT with estimates of shares of supply for VAT refunds by VAT refund companies to retailers in the UK. The parties have based this on the total value of sales in store ('**SIS**') for which VAT was refunded under the Scheme by VAT refund companies. The parties submitted that SIS is a recognised parameter in the industry.¹²
33. The parties' combined share of supply is [20-30] per cent, with a [0-10] per cent increment.
34. The merged entity will continue to face competition from a number of other VAT refund companies. In particular, based on data provided by the parties and evidence from competitors, Global Blue is the leading provider of VAT refund services to retailers in the UK. Other competitors are GB Tax Free, Innova, and Smartax.

¹¹ *Apax/Travelex*, at paragraph 12.

¹² The parties submitted that it was not possible to instead provide market share estimates based on the revenues from administering VAT refunds. This is because the amount of commission or administering/processing fees by VAT refund companies and retailers varies, and not all goods in respect of which VAT is reclaimed are standard-rated.

Table 1: Shares of supply of VAT refund companies in the UK in 2012 (per cent)

VAT company	Market share
Global Blue	[60-70]
PTF	[20-30]
TFW	[0-10]
GB Tax Free	[0-10]
Smartax	[0-10]
Innova	[0-10]
Total	100

Source: TFW's internal best estimates including the Parties' actual SIS. Figures are rounded.

35. The parties submitted that they are not close competitors of one another and that strong constraints remain from other providers. They also argued that they are constrained by buyer power and the possibility for retailers to provide these services in-house.

36. Although the parties' combined share of supply is moderate with a small increment, the market is concentrated with relatively few competitors. This was also the view of some customers who were concerned that there would be a limited number of suppliers in the market post-Transaction. The OFT also notes that the market is characterised by a (commonly informal) bidding process with contracts of up to three years' duration. This means that shares of supply may not accurately reflect the current extent of competition between firms, and the competitive constraint lost as a result of the merger. The OFT therefore considers below closeness of competition between PTF and TFW UK.

Closeness of competition

37. The parties submitted that they are not close competitors of one another. They argued in particular that they have a different customer focus with PTF targeting national retailers and luxury brands while TFW UK focuses on retailers with transactions eligible under the Scheme that have a lower value.

38. To support this argument, the parties provided win/loss data which they argued shows that their customers usually switch to suppliers other than

the other party. They also provided business plans and other internal documents to illustrate their different business models.

39. In relation to their different business models, while PTF does have a higher average transaction value, at £[], than TFW UK (£[]), the parties and their competitors informed the OFT that all VAT refund companies provide essentially the same service and target a wide range of retailers. Moreover, the OFT notes that in contrast to each party's argued focus, a document prepared for TFW UK's sale states that TFW UK 'focused on well-known national merchants and brands across Europe', while PTF's most recent annual plan sets out [].¹³
40. Regarding customer switching, the parties argued that retailers can switch easily because costs are low and contracts are of a short duration with no exclusivity.
41. Most retailers that responded to the OFT's questions agreed that switching is easy, with one respondent highlighting that the incoming provider would absorb the transition costs. A moderate number, however, thought that switching would be difficult because of tax free systems being integrated with payment systems. This was echoed by one competitor.
42. With respect to win/loss data, PTF's data for 2010-2012 showed that Global Blue was the company from which PTF gained, and to which PTF lost, the highest proportion of commission ([] per cent of won commission and [] per cent of lost commission). A significant proportion of PTF's losses went to GB Tax Free ([] per cent) – more than to TFW UK.
43. With regard to TFW UK's win/loss data for 2010-2012, Global Blue is again the competitor from which it won the most commission ([] per cent). Although PTF is the competitor to whom TFW UK lost most commission ([] per cent), Global Blue and GB Tax Free account for almost [] of TFW UK's losses, thus acting as strong constraints on TFW UK. [] per cent of TFW UK's losses in that period went to Innova. The parties also provided evidence that in 2013 Innova has won a significant number of further customers from TFW UK.

¹³ This suggests that even insofar as there are customers for which the parties are not currently competing, there is potential for them to do so. The OFT's assessment encompasses the loss of actual and potential competition.

44. Overall, analysis of the parties' wins and losses suggests that the parties compete to some degree. However, this data shows that Global Blue is a stronger competitor, particularly for PTF. Moreover, GB Tax Free is also a significant competitor of both parties, and Innova is an increasingly significant competitor of TFW UK.
45. Based on the evidence available to it, the OFT considers that while the parties appear to currently focus on different customers depending on the average value of their customers' transactions and are generally not each other's closest competitors, the parties nevertheless exert current and potential constraints on one another.
46. In addition, some evidence suggests that the extent of constraints faced by the parties may differ depending on retailers' preferences and retailers' volume of transactions eligible under the Scheme. The OFT considers below, in turn, closeness of competition between PTF and TFW UK for (i) retailers with a low volume of transactions, (ii) retailers with activities in several EU countries, and (iii) retailers with a preference for enhancements and integrated solutions.

Competition for retailers with a low volume of transactions eligible under the Scheme

47. While the parties' competitors told the OFT that they target a wide range of retailers, [] also indicated that their focus is on smaller retailers and those that do not currently have a provider.¹⁴ Global Blue also told the OFT that they target all types of customers. The parties' internal win/loss data shows that retailers that do not currently use a provider often have smaller volumes of VAT refund transactions eligible under the Scheme. This was confirmed by the OFT's enquiries notably with competitors which indicated that in-house administration is generally only used by retailers with a low volume of transactions eligible under the Scheme.
48. For smaller retailers (in the sense of having low volumes of transactions eligible under the Scheme), there is therefore a larger number of credible

¹⁴ VAT refund companies mainly look at the aggregate value of sales made to eligible visitors under the Scheme. This is not determined only by the volume or value of sales of a retailer; it is also influenced by the residency of purchasers (whether they are overseas visitors) and depends whether the conditions of the Scheme have been complied with.

competing suppliers than for the largest retailers. The OFT has also considered the strength of constraint provided by in-house processing of refunds for retailers that are considering whether to outsource to a VAT refund company.

49. The parties' switching data does not show the extent of competition between VAT refund companies where they are gaining retailers that have not previously run the Scheme. The parties argued that there will often be no competition between providers in this case. However, for these (potential) customers, there are additional options: to administer refunds in-house or to not participate in the Scheme.
50. The OFT received comments from retailers that currently process refunds in-house and retailers that recently decided to outsource refund services to a VAT refund company. Retailers that process refunds in-house indicated that they generally do so because they find the administration (of relatively few forms) simple and easy. They also stated that they consider that VAT refund companies charge commission rates that are too high. Among retailers that recently outsourced VAT refunds, some continue to administer some refunds themselves (depending on the transaction's value and customers' preferences). Most considered other providers at the point of choosing to outsource.
51. Together, this evidence suggests that while the convenience of outsourcing is important for some retailers, for those that only have low volumes of transactions eligible under the Scheme, in-house processing can provide a constraint on the parties at the point of the decision to outsource to VAT refund companies, as well as afterwards in a small number of cases. When competing for other low volume retailers, the parties will continue to face competition from four other providers.

Competition for retailers with activities in multiple EU countries

52. The OFT considers below the extent to which a retailer's preference to use the same VAT refund provider in multiple countries may affect the number and strength of competitors for a retailer's business.¹⁵ Among retailers that are present in more than one country, a small number (see below)

¹⁵ The Transaction reduces the number of international providers in the UK.

expressed a preference to work with a VAT refund provider that is able to service them in many jurisdictions.

53. Of the VAT refund companies active in the UK, only four of them can offer services in more than two countries. Global Blue is present in 25 countries, PTF in 16 countries, TFW UK¹⁶ in 10, and Innova in six. Smartax provides services in the UK and in the Republic of Ireland.
54. Following the Transaction, if these customers wanted to switch provider, they would have a smaller number of suppliers to choose from, or they would have to use different providers in different countries.
55. The parties submitted that other suppliers provided a strong constraint on their activities in multiple EU countries. They referred to the comprehensive pan-European solution offered by Global Blue, which they could not match. They also provided examples of retailers that use different providers in different countries (even where the same provider is present in all countries). The parties also argued that although offering services in multiple EU countries was often used for marketing purposes, the benefits of using the same supplier was limited due for instance to the existence of different VAT rates in the various EU countries, which often meant that a single price tariff was not appropriate. They also claimed that the use of franchises prevents some retailers from having a single contract. The parties also asserted that the retailers that are the most likely to have a preference to work with a supplier that is able to offer a pan-European service are the ones that are able to exert the most significant buyer power.
56. [] of the parties' UK revenues derive from customers that also use their services in other EU countries where both PTF and TFW are present (or would be by the end of 2013). [] are the countries in which most of the parties' top customers use one of them.
57. Competitors argued that some retailers have a preference for a VAT refund provider present in multiple countries, and one competitor argued that this factor is very important for retailers and acts as a barrier to them winning customers.

¹⁶ Through TFWH. The current transaction, while it does not include the non-UK elements of TFW, nevertheless reduces the number of UK providers with an international presence.

58. Among retailers responding to the OFT's enquiries that are present in both the UK and at least one other EU country, a small number indicated that they also used their UK provider in another EU country. Very few retailers mentioned an international presence as an important factor in their choice of provider, although two large retailers did express a strong preference. Neither of these two customers raised concerns about the Transaction, and for both, Global Blue and PTF (and not TFW UK) were seen as the strongest competitors.
59. The evidence supports the parties' argument that many retailers do not use the same provider in all countries in which they are active. In addition, the evidence shows that TFW UK does not currently provide strong competition for international retailers that want to use the same provider in multiple countries. Finally, some multinational retailers told the OFT that, by virtue of their size, they are likely to retain strong bargaining power post-Transaction.

Competition for retailers with a preference for enhancements and integrated solutions

60. The parties stated that VAT refund companies seek to differentiate themselves from one another in the level of service they offer, and in particular in relation to technology. Factors such as the quality of providers' relationship management and of their in-store training were also raised by customers.
61. Competitors' comments suggest that two key aspects of service enhancement that differ across providers are the provision of Dynamic Currency Conversion ('**DCC**') and of payment integration.
- Dynamic Currency Conversion
62. Based on the evidence available to it, the OFT considers that DCC is important for only a limited number of retailers. PTF estimated that approximately [] per cent of its tax free customers also use DCC. Insofar as retailers want to receive DCC from the same provider along with VAT refunds, TFW UK is unable to compete for their business. As such, the merger does not alter the competitive dynamic for those retailers seeking

DCC capability. Several other suppliers are able to offer DCC and VAT refund services.

- Payment integration

63. Based on the evidence available to it, the OFT considers that when retailers consider which VAT refund company to choose, whether they offer payment (and till) integration is more important than DCC. Both PTF and TFW UK can provide such integration, as can Global Blue and GB Tax Free. However, other competitors told the OFT that they are not able to provide such integration.
64. Third parties indicated that in order to offer payment (and till) integration, VAT refund providers need to enter into partnerships with the technology companies that provide payment terminals (and till software). There are many different providers of such technology. A retailer may choose a payment system provider which is already integrated with VAT refunds. Alternatively, a retailer may request that their payment services provider works to integrate with the VAT refund provider it has chosen.
65. Responses from technology providers suggest that they are open to working with multiple VAT refund companies, and the parties have told the OFT that their own relationships with technology providers are not exclusive. However, both the parties and other suppliers have highlighted that they face difficulties in building the necessary partnerships.
66. Responses from customers and competitors suggest that the importance of this factor varies by customer. Integrated solutions may be more important for retailers with larger volumes of transactions eligible under the Scheme. However, even in the case of some very large retailers such integration may be unimportant. There is also evidence of retailers moving from a system that is integrated with payment to one that is not.
67. Overall, the OFT considers that for retailers wanting payment integration, the parties will continue to face constraints from Global Blue and GB Tax Free post-Transaction, as well as from the potential for this service to be provided by Innova and Smartax that do not currently provide such services (they have indicated that they intend to enter, albeit with some difficulty into the necessary partnerships).

68. The parties submitted – and this was confirmed by competitors – that payment service providers hold the primary relationship with retailers and may influence a retailer’s choice of VAT refund supplier (for example by suggesting that a company is their preferred supplier). As a result they may exert a constraint on the parties through their bargaining power, with a resulting effect on services and rebates provided to retailers.

Barriers to entry and expansion

69. Entry or expansion of existing firms can mitigate the initial effect of the acquisition on competition, and in some cases may mean that there is no substantial lessening of competition. In assessing whether entry or expansion might prevent a substantial lessening of competition, the OFT considers whether such entry or expansion would be timely, likely and sufficient.¹⁷ In terms of timeliness, the OFT's guidance indicates that the OFT will look for entry to occur within two years.
70. The parties argued that barriers to entry are low, and that both existing VAT refund companies located outside the UK as well as new VAT refund providers face no technological, regulatory or economic barriers in offering their services to UK retailers. They also argued that smaller operators are able to compete effectively as there are no material (if any) benefits of economies of scale.
71. Given the competition assessment above, the OFT has not found it necessary to conclude on whether barriers to entry and expansion are low enough to protect against a substantial lessening of competition.

Buyer power

72. In assessing buyer power, the OFT considers to what extent the merger is likely to reduce the customer’s ability and incentive to exercise buyer power.¹⁸ The parties raised several arguments in support of buyer power, notably that it is easy for retailers to switch provider, that there is significant constraining buyer power, that in-house processing also provides a constraint, and that VAT refund providers' incentives are aligned with those of retailers.

¹⁷ *Merger Assessment Guidelines*, paragraphs 5.8.1 to 5.8.3.

¹⁸ *Merger Assessment Guidelines*, A joint publication of the Competition Commission and the Office of Fair Trading, OFT 1254, September 2010, paragraph 5.9.4.

73. Given the outcome of the competition assessment above, the OFT has not found it necessary to assess or conclude on countervailing buyer power.

THIRD PARTY VIEWS

74. In this case, the OFT contacted customers and competitors of the parties. Some competitors and a minority of customers raised concerns.
75. The OFT received comments from over 50 retailers and four competitors, which have been incorporated where relevant into the decision. A small number of retailers raised concerns that the Transaction would weaken their bargaining position. However, in most cases these comments were made by retailers that had either never negotiated or had not considered switching since the entry of the newer firms in the market.
76. Some competitors raised concerns that the Transaction could harm competition, in particular by making it harder for smaller providers to build an equivalent reputation, and to build the necessary partnership for service enhancement such as payment integration. While the OFT recognises that it may be more difficult for small providers to develop technology partnerships, it considers that the current increment is not sufficiently great to change this position substantially. In addition, GB Tax Free's success in building partnerships suggests that current scale is not an essential criterion in gaining such agreements.

ASSESSMENT

77. The parties overlap in the outsourced supply of VAT refund services by VAT refund companies to retailers in the UK that operate HMRC's VAT Retail Export Scheme. The OFT has assessed the Transaction on the basis of the outsourced supply of VAT refund services (that is, not including the administration of VAT refunds by retailers in-house).
78. The parties' share of supply is moderate, at around [20-30] per cent, and the increment is also moderate (around [0-10] per cent). Despite the Transaction increasing concentration and reducing the number of competitors on the market, the merged entity will continue to face

competition from four other providers (Global Blue, GB Tax Free, Innova, and Smartax).

79. With respect to competition post-Transaction, the OFT considers that Global Blue is a strong competitor of the parties across all customer types, and particularly for large and international retailers. GB Tax Free is also a significant competitor. Although it has a low market share, GB Tax Free has won significant customers from the parties and can provide a range of technology and service enhancements. Innova and Smartax are weaker competitors with low market shares and limited offerings in terms of international presence and service enhancements. The OFT notes that they have both entered only recently, and Innova, in particular, has won significant numbers of customers from TFW UK.
80. For retailers with a low volume of transactions eligible under the Scheme, the parties will continue to face competition from Global Blue, GB Tax Free, Innova, and Smartax. In addition, for those with low volumes of transactions in-house processing will remain an additional constraint on the parties at the point of retailers' decision to outsource to VAT refund companies, as well as subsequently in a small number of cases.
81. In relation to retailers that prefer using the same VAT refund provider in multiple countries, Global Blue will be the only credible competitor.
82. However, the OFT received some evidence to suggest that TFW UK is a weak competitor for this type of customers. As such, the merger does not alter the competitive dynamic for those retailers. The evidence also shows that international retailers have strong bargaining power which will continue to constrain the parties. In addition, many international retailers use multiple providers, which suggests that the threat to use different providers in different countries will also constrain the parties post-Transaction. Few international retailers raised concerns that the choice of suppliers would be reduced post-Transaction.
83. Regarding retailers that prefer to have VAT refund services integrated with DCC, the Transaction will only have limited impact because TFW UK does not provide such services. The parties will also face constraints from Global Blue and GB Tax Free. With respect to the provision of VAT refund solutions integrated with payment systems, the combined entity will continue to face constraints from Global Blue and GB Tax Free, and from

the potential for Innova and Smartax to provide similar solutions. In addition, the bargaining power of payment service providers will continue to provide some constraint post-Transaction.

84. Whilst concentration on the market will increase as a result of the Transaction, the OFT does not consider that the Transaction will have any impact on the likelihood and effectiveness of coordination.
85. Consequently, the OFT does not believe that it is or may be the case that the merger may be expected to result in a substantial lessening of competition within a market or markets in the United Kingdom.

DECISION

86. This merger will therefore **not be referred** to the Competition Commission under section 33(1) of the Act.