

Completed acquisition by Origin Fertilisers (UK) Limited of CM Fertilisers Limited

ME/5109/11

The OFT's decision on reference under section 33(1) given on 14 September 2011. Full text of decision published 28 September 2011.

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. **Origin Fertilisers (UK) Limited ('Origin')** is wholly owned subsidiary of Origin Enterprises plc, a public limited company controlled by Aryzta AG. It is active in the importing, blending and distribution of fertilisers in the UK and the Republic of Ireland primarily at the wholesale and retail levels of supply. Origin's UK turnover in the last financial year was £99.1 million, all of which was derived from fertiliser sales. Origin's wholly owned subsidiary Masstock Arable (UK) Limited ('Masstock') is active in the provision of agricultural input products, including the supply of fertilisers.¹
2. **CM Fertilisers Limited ('Carrs')** is active in the importing, blending and distribution of fertilisers in the UK primarily at the wholesale and retail levels of supply. Its UK turnover in the year ended 31 March 2010 was £59.2 million.

TRANSACTION

3. Origin acquired the entire issued share capital of Carrs from Carrs Milling Industries plc on 13 July 2011.
4. The OFT received a satisfactory submission on 7 July 2011. The administrative deadline is 14 September 2011.

¹ It has no blending capabilities and is primarily involved in the purchase and sale to end users.

JURISDICTION

5. As a result of this transaction Origin and Carrs will cease to be distinct. The share of supply test is met in relation to the supply of each of straight phosphorous, straight potassium and complex fertilisers in the UK. The OFT therefore believes that it is or may be the case that a relevant merger situation has been created.

RATIONALE

6. The parties consider that the markets for the supply of fertilisers are consolidating both internationally and, as a consequence, nationally. They told the OFT that the consolidation is driven by several factors:
 - internationally, primary producers of fertilisers are consolidating around the geographic source of raw materials, for example in the Middle East and Russia in relation to nitrogen production. As a result of this consolidation, the parties submit that large-scale primary producers of fertilisers try to deal with downstream operators which operate on a similar scale and have the ability to deal with high volumes
 - consolidation further allows downstream national operators to achieve buyer power and economies of scale. Large-scale operation is also necessary to mitigate the effects of the price volatility in international markets, whereby large operators who have access to capital reserves can endure the volatility and are able to buy stock at low prices and stock-pile, and
 - end users of fertilisers are well informed of prevailing global prices and constantly seek improved buying terms from suppliers. Furthermore, the parties submitted that farm size has been increasing in the UK and smaller farms have become part of buying groups. These buyers have achieved purchasing power and economies of scale, which results in the necessity for large scale suppliers to meet these demands.
7. That said the parties did not identify factors in addition to those mentioned above to explain why they in particular (as opposed to the industry in general) were consolidating.

MARKET DEFINITION

8. The parties overlap in the supply of fertilisers in the UK. In particular, both Origins' and Carrs' fertiliser businesses supply wholesalers, distributors/retailers and end users with straight nitrogen (N), straight potassium (K), straight phosphorous (P) and complex (blended and compound) fertilisers.
9. Fertilisers consist of one or more main nutrients required by plants, in particular, 'primary nutrients' such as N K and P. All plants need a balance of these primary nutrients, although the proportion of each nutrient that a plant needs will vary from crop to crop. These primary nutrients are applied to the land either separately, in the form of a 'straight' fertiliser (consisting of a fertiliser containing just one primary nutrient) or combined, in the form of a 'complex' fertiliser (containing more than one primary nutrient). Both parties supply straight and complex fertilisers.
10. Complex fertilisers, also known as 'NKP fertilisers' or 'multi-nutrient fertilisers', come in two forms:
 - blended fertilisers, which are obtained by dry mixing several materials in a blending machine. Each fertiliser granule contains one type of primary nutrient but in aggregate, the whole blend of raw materials contains the mix of N, P and K that the farmer has requested, and
 - compound fertilisers, which are obtained by combining primary nutrients by way of a chemical reaction, such that each individual granule of fertiliser contains the required mix of primary nutrients as requested by the farmer.

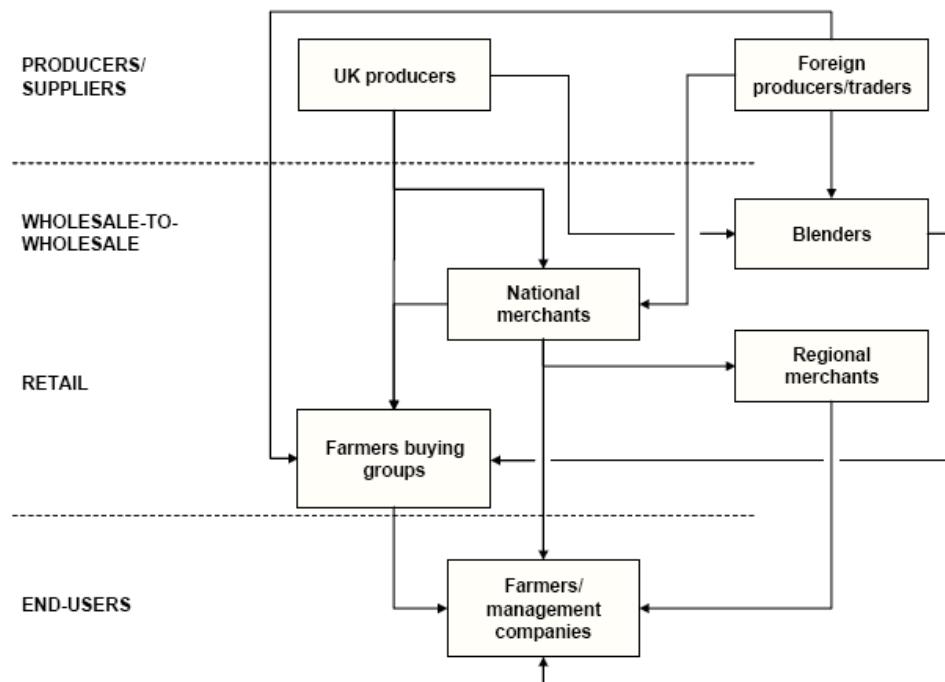
Supply chain

11. In Yara/Kemira² three different levels of the supply chain were distinguished by the European Commission (EC); supply to wholesalers; supply to distributors/retailers; and supply to end users.

² COMP/M.4730, Yara/Kemira GrowHow (21 September 2007).

12. Consistent with this, in Kemira/Terra³ the Competition Commission (CC) found that the UK distribution of fertiliser could be characterised as in Figure 1.

Figure 1: the fertiliser supply chain



Source: CC, based on Terra and Kemira.

13. The parties' position in the supply chain corresponds broadly to that of blenders. This is on the basis that approximately [] per cent of Origin's sales by volume and approximately [] per cent of Carrs' sales by volume were at the wholesale/retail level of trade, with the remaining sales being made to end users.
14. Although the CC drew a distinction in Kemira/Terra between sale to wholesale and retail customers (that is, between blenders and merchants, essentially), recent OFT decisions (Origin/Masstock⁴ and Koch/Bunn⁵) have found the distinction to be blurred.

³ CC report *Kemira GrowHow Oyj and Terra Industries Inc merger inquiry: A report on the anticipated joint venture between Kemira GrowHow Oyj and Terra Industries Inc* (11 July 2007).

⁴ Completed acquisition by Origin Enterprises plc of Masstock Group Holdings Limited, decision of 22 May 2008.

⁵ OFT Case ME/4849/11 Anticipated acquisition by Koch Industries, Inc of J & H Bunn Limited, published 24 February 2011.

Product market

15. Market definition begins with the narrowest plausible candidate market in which the parties overlap.⁶ In the present case, this is each of straight N, straight P and straight K. The OFT has therefore considered whether each of straight N, P and K fertilisers formed distinct product markets. The OFT has then gone on to consider whether complex (blended and compound) and straight fertilisers are in the same market.

N, P and K fertilisers

16. In Koch/Bunn the OFT noted that there were multiple types of straight N, P and K fertilisers: N fertilisers include urea, calcium and ammonium nitrate, for example. These varieties can require different production facilities and some are more appropriate for certain crops than others. The OFT also noted that while all plants require a balance of N, P and K fertilisers, the proportion of each varies with plant needs. As such, the OFT said, the extent to which substitution occurs across straight fertiliser categories depends on the farmer's need to maximise crop yields by achieving the right balance of fertilisers. That is, switching between straight fertilisers, following a small but significant and non-transitory increase in price in one, would be constrained by the need to meet the crop's nutritional requirements.
17. The parties did not make any representations about the degree of demand-side substitutability between straight fertilisers. However they submitted that examples of entry and expansion by their competitors in straight fertilisers were evidence of the constraint on the supply-side offered by players with little or no presence in these segments. For example Agrium, which had sales of [] tonnes of straight potassium fertilisers (out of total sales of 55,000 tonnes), is estimated to have supplied [] tonnes of imported straight potassium fertilisers in the UK in 2011 so far.
18. In this regard, while the boundaries of the relevant product market are generally determined by reference to demand-side substitution alone, in situations where supply-side responses to price rises warrant such a move,

⁶ Merger Assessment Guidelines, paragraph 5.2.11.

the OFT may aggregate several narrow markets into one broader one when:⁷

- production assets can be used by firms to supply a range of different products and firms have the ability and incentive quickly to shift capacity between these products depending on demand for each, and
 - the same firms compete to supply these different products and the conditions of competition are the same for each.
19. Here the evidence available to the OFT does not support broadening the market on the basis of supply-side substitution as:
- different fertiliser varieties can require different—albeit related—production facilities with potentially non-negligible adjustment costs between them
 - spare capacity in domestically-produced straight N (see further paragraph 43) does not appear to have been switched to produce straight P and K, which are predominantly imported (see further paragraphs 36 and 50)
 - shares of supply differ for different players in different straights, especially in straight N compared to straight P and K (see the **Market shares** section below), and
 - prices and profit margins differ between different straights (see further paragraphs 34 and 41 to 43).⁸
20. In the light of the above, and on a cautious basis, the OFT has proceeded to consider straight N, straight P and straight K fertilisers separately.

Straights and complex

21. For each of N, P and K, the OFT also considered whether straight and complex fertilisers constituted part of the same product market.

⁷ Merger Assessment Guidelines, paragraph 5.2.17.

⁸ For example, the parties estimated that average final product prices in 2010, were £[] per tonne of straight N, £[] per tonne of straight P and £[] per tonne of straight K.

22. The parties submitted that demand-side considerations meant that straight and complex fertilisers formed part of the same product market. They suggested that the commodity nature of fertilisers and the transparency in international prices led to switching by customers between straight and complex fertilisers. The parties submitted that this was particularly relevant in the supply of straight P and straight K fertilisers, since customers switched to complex NP and NK fertilisers, and vice versa, to take advantage of pricing differentials.
23. The parties also suggested that demand-side switching was facilitated by developments in agricultural technology, which allowed farmers to measure potassium and/or phosphate levels in the soil using GPS mapping. As a result, farmers could accurately detect the type of fertiliser lacking in the soil and address the deficiency with the necessary straight fertiliser (P or K), instead of purchasing complex NPK fertilisers.
24. While ultimately leaving the market definition open, the European Commission noted in Yara/Kemira⁹ that farmers are able to replicate the NPK nutrient ratio of compound NPK fertilisers by using blended NPK fertilisers or a mix of straight fertilisers. As a result, the Commission noted that the price for compound fertilisers was related to the prices for its constituent straight fertilisers.
25. Set against this, in Kemira/Terra¹⁰ the CC considered straight N fertilisers separately from complex fertilisers, although it was not required to come to a conclusion on this issue for the purposes of its analysis.
26. Third parties contacted by the OFT in the course of its investigation presented mixed views as to the extent of demand-side substitutability between straight fertilisers and complex fertilisers. Two respondents suggested that the pricing of complex fertilisers was directly linked to its constituent straight fertiliser equivalents, whereas another suggested that straight fertilisers are cheaper (especially when bought 'out of season'). One other third party suggested that although complex fertilisers commanded a five per cent premium over straight fertilisers, a small yet

⁹ COMP/M.4730, *Yara/Kemira GrowHow* (21 September 2007).

¹⁰ CC report *Kemira GrowHow Oyj and Terra Industries Inc merger inquiry: A report on the anticipated joint venture between Kemira GrowHow Oyj and Terra Industries Inc* (11 July 2007).

significant rise in price (of five per cent) would lead to switching to straight fertilisers. (This may indicate that straights constrain complex but not necessarily vice versa.) The same respondent confirmed the parties' assertions in relation to developments in technology, allowing for the application of straight fertilisers. One third party noted that straight fertiliser use was limited and that the ease of purchasing and use of complex fertilisers made these a superior choice to straight fertilisers. A further third party told the OFT that straight fertilisers are more complex to apply than complex ones, limiting switching between them.

27. On a cautious basis, therefore, the OFT has considered straight and complex fertilisers as separate on the demand side.
28. Turning to the supply side, comparable evidence to that in paragraph 19 did not support broadening the market because of supply-side substitution. In the light of the above, and on a cautious basis, the OFT has proceeded to consider complex fertilisers separately from each of straight N, straight P and straight K fertiliser.

Blended and compound

29. Finally, the OFT considered whether there was a distinction between 'compound' and 'blended' complex fertilisers. In Kemira/Terra the CC found that, although farmers had preferences for either blended or compound fertilisers, they were substitutes and formed part of one 'complex' fertilisers market.
30. The OFT did not obtain any evidence during its investigation to contradict this and, as such, has carried out its assessment based on a single market for complex fertilisers.

Conclusion on product market definition

31. In summary, the OFT has analysed the competitive effects of the merger:
 - in separate markets for each of straight N, P and K fertilisers
 - separately for straight (N, P and K) and complex fertilisers, and

- drawing no distinction between specific combinations of compound or blended fertilisers, nor between complex or blended fertilisers generally.

Geographic market

32. In previous OFT, CC and Commission investigations, the various markets for fertiliser have tended to be considered to be at least national. In Kemira/Terra the market for N fertilisers was considered to be at least EEA wide, and the market for complex fertilisers was considered to be UK wide. In Yara/Kemira a distinction was made at various levels of the supply chain; wholesalers were found to source fertiliser on at least an EEA-wide basis whereas the supply to retailers and end customers was found to have a national dimension. On a cautious basis, in Origin/Masstock, the OFT considered the transaction on a regional basis as well as on a national one.
33. The parties submitted that the market is national at its narrowest. On the demand-side, although there are regional preferences in the UK depending on differing soil conditions and consequently nutrients required, the parties do not consider that this gives rise to regional or local geographic markets within the UK for the supply of fertilisers.
34. The parties also noted that several of their competitors operate national pricing policies and have transported fertilisers across the country. For example GrowHow UK Limited has a national pricing policy per tonne of delivered fertiliser and distributes its fertilisers across the UK from its two depots in Stockton-on-Tees and Chester. The parties also estimated that GrowHow's maximum distribution costs would not exceed £[] per tonne, with the parties' 2010 average final prices (including delivery) ranging between £[] and £[] per tonne, depending on the type of fertiliser. Furthermore they suggested that end users of fertilisers purchase and are supplied with fertilisers on a UK-wide basis: they submitted that prices per tonne for delivery were not a significant part of the total cost of fertiliser and that it would not be prohibitive to deliver across the country, as demonstrated by the pricing policies of their competitors.
35. Consistent with this, the parties also provided the OFT with the locations of their facilities in the UK and the locations of each of their five largest customers, which provides some support for the view that the relevant geographic market is supra-regional. For example, [].

36. On the supply side, the parties submitted that a large proportion of straight N fertiliser was imported (they estimated 45 per cent), that all straight P was imported and a high proportion of straight K fertiliser (they estimated around 94 per cent) was imported. The parties estimated that around 64 per cent of the demand for complex fertilisers by volume is met through imports.¹¹
37. In respect of the relatively small percentage of the final fertiliser prices associated with transport, however, the OFT notes that Origin operates multiple regional facilities throughout the UK. This means that the small proportion of final prices accounted for by transport may indicate only that transportation costs are minimal within the catchment areas of these regional centres. As such, although it may point to a geographic market that is at least regional, the OFT cannot rely on the transport cost data as evidence of a national market.
38. Third parties who responded to the OFT broadly agreed that they did not require a regional presence from suppliers and dealt directly with suppliers from across the UK. Customers who responded also stated they used national as well as regional suppliers. Two of the parties' five largest customers noted that they currently purchased fertilisers from suppliers located over 200 miles away from their depots. Another stated that they also bought fertilisers from global suppliers, when domestic suppliers could not meet their needs. Set against this, one respondent noted that the parties were close competitors in Scotland, given the relatively few fertiliser suppliers operating there.
39. On a cautious basis however, the OFT proceeds by assessing the effects of the merger on the market for fertilisers on the basis of a UK-wide geographic market, while considering whether the effects of the transaction may be more pronounced in particular areas of the UK. In doing so, the OFT notes that regardless of the precise geographic market definition adopted, the merger does not raise a realistic prospect of a substantial lessening of competition in the supply of fertilisers.

¹¹ It should be noted that not all of these products are used as fertilisers. The parties did not know the proportion of each product imported which was used as a fertiliser or an ingredient to a complex fertiliser product.

HORIZONTAL ISSUES

Unilateral effects

Market shares

40. The parties provided estimates of market shares for the supply of each of the three straight fertilisers (N, P, and K) and for complex fertilisers.¹² In the light of the OFT's Origin/Masstock and Koch/Bunn decisions (see paragraph 14), they informed the OFT that they did not believe there was any significant differences in market shares according to whether customers were wholesalers or end-users. The OFT received no evidence to contradict this.

Straight N fertilisers

41. The parties have an estimated combined share of national supply of [five-15] per cent in straight N fertilisers in the UK with an increment of [zero-10] per cent from Carr. Given the relatively undifferentiated nature of the product and that the OFT has drawn the market narrowly, this combined share of supply and small increment are not high enough to give the OFT cause for concern over unilateral effects. Further, there are strong competitors present in the market such as GrowHow UK with around [35-45] per cent, and Yara with around [20-30] per cent share of the market. In addition, there are many other smaller players, none of whom—on the basis of the evidence available to the OFT—are capacity constrained. Moreover, the OFT understands that profit margins are low in straight N fertiliser, meaning unilateral effects are less likely.^{13,14}

Straight P fertilisers

42. The parties have an estimated combined share of supply of [30-40] per cent in straight P fertilisers in the UK with an increment of [zero-10] per

¹² As in the recent previous relevant OFT decisions (Origin/Masstock and Koch/Bunn), the market shares given are the parties' best estimates. The OFT has confirmed that they are consistent and—where there are apparent inconsistencies—has sought clarification and justification to its satisfaction. In this regard, the OFT notes that the market shares it used in its previous two cases are for earlier years than in this case, where the data is for 2010.

¹³ Merger Assessment Guidelines, paragraph 5.4.9(b).

¹⁴ Origin's variable profit margin on straight N fertilisers was [] per cent and Carrs' was [] per cent throughout 2010. The parties submitted further that [].

cent from Carr. The evidence available to the OFT indicates that []. In the light of this, and given the relatively undifferentiated nature of the product and that the OFT has drawn the market narrowly, this combined share of supply and small increment are not high enough to give the OFT cause for concern over unilateral effects. There are several other significant providers in the market including Koch with around [40-50] per cent share and several smaller players such as Yara, Glasson, MSP and MVF with [zero-10] per cent each, none of whom—on the basis of the evidence available to the OFT—are capacity constrained. Moreover, the OFT understands that profit margins are low in straight P fertiliser, meaning unilateral effects are less likely.¹⁵

Straight K fertilisers

43. The parties have an estimated [30-40] per cent share of supply in straight K fertilisers in the UK with an increment of [zero-10] per cent from Carrs. As with straight P, the evidence available to the OFT indicates that []. In the light of this, and given the relatively undifferentiated nature of the product and that the OFT has drawn the market narrowly, this combined share of supply and small increment are not high enough to give the OFT cause for concern over unilateral effects. In addition, there will remain other significant suppliers with the ability to constrain the parties such as Koch with an estimated [35-40] per cent of the market and a number of smaller players with [zero-10] per cent each (Yara, Agrium, Glasson, MSP and MVF), none of whom—on the basis of the evidence available to the OFT—are capacity constrained. Moreover, the OFT understands that profit margins are low in straight P fertiliser, meaning unilateral effects are less likely.¹⁶

Complex fertilisers

44. The parties have an estimated combined share of supply of complex fertilisers of [25-35] per cent with an increment of [10-20] per cent from Carrs. The parties will continue to face competition from Koch with an estimated [20-30] per cent share of supply, GrowHow UK with an estimated [10-20] per cent share of supply, and a number of smaller

¹⁵ Origin's variable profit margin on straight P fertilisers was [] per cent and Carrs' was [] per cent throughout 2010.

¹⁶ Origin's variable profit margin was [] per cent and Carrs' was [] per cent throughout 2010, in the supply of straight K fertilisers. Also see footnote 15.

suppliers each with a share of supply of [zero-10] per cent (for example, Helm, Glasson, Ameropa, and Transammonia), none of whom—on the basis of the evidence available to the OFT—are capacity constrained. Given the relatively undifferentiated nature of the product and that the OFT has drawn the market narrowly, this combined share of supply and small increment are not high enough to give the OFT cause for concern over unilateral effects. Moreover, the OFT understands that profit margins are low in straight P fertiliser, meaning unilateral effects are less likely.¹⁷

Closeness of competition

45. The parties submitted that they were not close competitors. Third party views were mixed, however, on the degree of rivalry between them. One third party told the OFT that given the fact that the parties sold the same products, they were similar. Set against this, another two respondents suggested that the parties' geographic footprint was different and as such they were not particularly close competitors (see further paragraphs 48 to 51 below).
46. The parties submitted that operators who are part of multinational groups—either producing or trading fertilisers internationally (for example Agrium, Ameropa, Helm, Gleadell and Transammonia)—are stronger competitors to them than they are to each other, as these international operators are increasingly looking to strengthen their foothold within the UK supply market. Further, the parties also told the OFT that imports into the UK, which accounted for 55 per cent of UK fertiliser supply, posed a significant constraint on UK suppliers.
47. Consistent with this, one respondent to the OFT suggested that imports provided a significant constraint to UK suppliers, since it meant that UK prices of fertilisers were closely linked to international prices. Several customers to the parties also suggested that they had sufficient options to ensure they obtained competitive quotes, including from imports.

¹⁷ Origin's variable profit margin was [] per cent and Carrs' was [] per cent throughout 2010, in the supply of complex fertilisers. Also see footnote 15.

Competition in Scotland

48. At a sub-UK geographic level, the narrowest area in which the merging parties overlap is the supply of fertiliser into Scotland.¹⁸ Further, one third party contacted by the OFT in the course of its investigation said that the parties were close competitors in Scotland.
49. The OFT however notes that the parties would face competition in the supply of fertilisers in Scotland from two of their major competitors in Yara and Koch, while MSP also operates a facility in Berwick.
50. The parties also told the OFT that a significant constraint post-merger arises from the supply of imported fertilisers. They said that ports where importers could obtain bulk handling services, storage and packaging facilities, provided a route to market for their competitors and would continue to do so post-merger, including in Scotland.
51. Consistent with this, the OFT received no evidence that the parties' market shares were materially higher in Scotland, nor that their profit margins were materially higher there.

Conclusion

52. On the basis of the above, the OFT does not consider that the merger gives rise to a realistic prospect of a substantial lessening of competition on the basis of horizontal unilateral effects in straight N, straight P, straight K or complex fertilisers.

VERTICAL ISSUES

53. No vertical concerns were raised by third parties. However, the parties told the OFT that under a separate agreement, Origin would supply Carrs Billington Agricultural (sales) Limited (CBAL) with fertilisers on an arm's length basis. Carrs Milling Industries plc has a 51 per cent shareholding in CBAL which operated as a distributor for Carrs' prior to the transaction. Following the merger, CBAL is expected to continue operating as an independent supplier, with the initial duration of supply from Origin lasting for five years.

¹⁸ Carrs' facilities are located in Invergordon, Montrose (both in Scotland) and Silloth. Origin operates facilities in Ayr (in Scotland), Immingham, Ipswich, Newport and Plymouth.

54. Given the vertical relationship between the parties, the OFT considered whether the parties would have the ability and incentive to foreclose supply to downstream market participants, or foreclose a route to market for upstream market participants.
55. However the OFT notes that the merger does not alter the agreement which was in place prior to the transaction taking place. Furthermore, given the discussion in the unilateral effects section and the lack of concern therein, the OFT concludes that the merger does not raise a realistic prospect of an SLC through the parties' supply relationship with CBAL.

ENTRY AND EXPANSION

56. The parties submitted that barriers to entry and expansion were low, since suppliers of fertilisers do not need to own their facilities to handle fertilisers in the UK. The parties provided examples of suppliers entering the UK market by establishing a presence at port facilities and shipping to UK customers. This, they suggested, was evidence of low barriers to entry. The parties also stated that expansion was fairly common in the overlap markets. As an example they cited Agrium, a competitor that increased its supply of straight K fertilisers through imports from [] tonnes in 2010 (around [] per cent of the overall UK straight K market of 124,000 tonnes) to [] tonnes in 2011.
57. Evidence from third parties on entry and expansion was mixed. One said that new entry in Scotland had been 'relatively rare'. However, given its conclusions on the lack of adverse competitive effects from the merger, the OFT has not needed to conclude on whether entry and expansion would be timely, likely and sufficient to countervail any SLC.

BUYER POWER

58. Customers of the parties told the OFT that they enjoyed significant bargaining power in their supply negotiations. For example, one respondent suggested that it operated in a world market, where prices moved according to global demand and supply conditions. Furthermore, it noted that there are at least ten international fertiliser traders operating in the UK which import fertilisers into the UK at world market prices. The respondent

and several other customers noted that the merger was unlikely to alter their bargaining position.

59. Set against this, one third party said that individual farmers have almost no negotiating strength with suppliers over price or other factors but the majority of farmers are members of co-operative buying groups that purchase thousands of tons and as a result can exert some limited influence over price and other factors. This third party argued that the merger would reduce the negotiating strength of groups.
60. However, given its conclusions on the lack of adverse competitive effects from the merger, the OFT has not needed to conclude on whether buyer power would countervail any SLC.

THIRD PARTY VIEWS

61. The OFT consulted a range of third parties at all levels of the supply chain. Their views have been dealt with above, where appropriate. In addition, several third parties noted that this was a market which had experienced consolidation in recent years although they did not have any specific concerns arising from this particular merger.
62. That said, the OFT received one complaint about adverse competition effects in relation to the supply of straight N, K and P and complex fertilisers. This related only to Scotland and has been discussed above.

ASSESSMENT

63. Both Origin and Carrs are involved in the supply of fertiliser in the UK and operate at the wholesale/retail level of the supply chain.
64. The starting point for the OFT's assessment of the relevant markets were previous CC, EC and OFT decisions in the fertiliser industry. Third parties consulted by the OFT supported the product markets identified in these cases, including separate markets for straight and complex fertilisers, separate markets for N, P and K fertilisers, and no clear distinction between compound and blended fertilisers.

65. In relation to the geographic market, most third parties stated that competition occurred on a national basis consistent with conclusions in previous CC and EC decisions. Overall however, similar issues arose in the competitive assessment irrespective of the various product and geographic markets considered.
66. Unilateral concerns do not arise as a result of the proposed transaction. In all the markets identified the increments are moderate (below 15 per cent), there are several other remaining competitors to rival the parties and the parties' profit margins are low. All third party respondents to the OFT's call for comments in relation to the merger suggested that the merger would not alter competitive conditions significantly. No vertical concerns were raised in relation to the merger.
67. Consequently, the OFT does not believe that it is or may be the case that the merger has resulted or may be expected to result in a substantial lessening of competition within a market or markets in the United Kingdom.

DECISION

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