
Completed acquisition by Loomis UK Limited of the cash handling and related services business of Brinks Limited

No. ME/3235/07

The OFT's decision on reference under section 22(1) given on 31 October 2007. Full text of decision published on 8 November 2007.

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

PARTIES

1. **Loomis UK Limited** (Loomis) provides cash-in-transit, ATM replenishment, cash management, cash processing (together 'CIT') and first line maintenance on ATM machines (FLM services) throughout the UK.
2. **Brink's Limited** (Brinks) is a security services company and a subsidiary of a US company, Brinks Incorporated. The business sold to Loomis (the Acquired Business) provides CIT and FLM services in Great Britain. The UK turnover of the Acquired Business in 2006 was £24 million.

TRANSACTION

3. Loomis acquired certain assets¹ from Brinks involved in the provision of its CIT and FLM business in Great Britain. Loomis purchased the Acquired Business on 6 August 2007. The statutory deadline for the assessment of the transaction is 5 December 2007.

JURISDICTION

4. As a result of this merger Loomis and the Acquired Business have ceased to be distinct. As the combined share of supply of Loomis and the Acquired Business for CIT services in the UK exceeds 25 per cent, the share of supply test in section 23 of the Enterprise Act 2002 (the Act) is met. The OFT therefore believes that a relevant merger situation has been created.

¹ Including vehicles, plant and equipment, depots, staff and customer contracts.

5. Loomis submitted to the OFT that the merger did not meet the share of supply test. The CIT data they provided, which took account of all external (i.e. to third parties) *and* internal (i.e. in-house) CIT supply, demonstrated that the parties' combined share of supply of CIT services in the UK was 25.2 per cent. However, Loomis submitted that these figures overstated their combined share of supply as Brinks had pre merger lost a number of large CIT contracts in Scotland to a competitor, G4S Cash Services (UK) Limited (G4S).
6. Whilst the OFT accepts Loomis' submission that the loss of such key contracts may dilute the combined share of supply of the parties, such figures are merely one choice of measure to apply the share of supply test and furthermore, a snapshot which can go up or down. The OFT considers that the share of supply test is met on the basis of the *external* supply of CIT services in the UK. On the basis of the Loomis data, together with information from third party CIT providers on the proportion of their business dedicated to external CIT services, the OFT believes that the combined share of supply of the parties in relation to external CIT services in the UK is around 28 per cent.²

MARKET DEFINITION

7. The parties overlap in the supply of CIT services, including cash transportation, cash processing services and ATM replenishment. ATM replenishment services are often provided in conjunction with FLM services, which comprises low-level maintenance of ATM machines. Both parties provide FLM services in conjunction with ATM replenishment. While Loomis provides all types of CIT services across a national network, Brinks submitted that its strategic focus was on ATM replenishment, although it did provide 'commercial' CIT services (i.e. CIT services other than for the purposes of ATM replenishment) in Scotland.

Background: recent decisions

8. The OFT has recently considered CIT services in *G4S/Abbotshurst*.³ That merger involved the largest national provider of external CIT services with a significant provider of external CIT services in the Midlands and the North of England. This is the most recent of a number of decisions by various competition authorities concerning security services and cash handling.⁴

² The OFT also considered share of supply by number of depots supplying external CIT services in the UK, of which the Brinks Business and Loomis would have a combined share of 26 per cent.

³ Anticipated acquisition by G4S Cash Services (UK) Limited of Abbotshurst Group plc; OFT decision of 18 May 2007.

⁴ See the Competition Commission's decision Group 4 Falck a/s/Wackenhut Corporation (October 2002), the OFT's decision in Securicor plc/the cash handling and distribution business of Royal Mail Group plc (November 2002) (*Securicor/Royal Mail*) and the European Commission decision of COMP/M.3396 – Group 4 Falck/Securicor (2004) (*Group 4/Flack*).

Where relevant, the OFT considers various aspects of these cases further below.

Product markets

9. As set out in *G4S/Abbotshurst*, CIT services comprise four different types of services including:
 - a) Cash transportation
 - b) Cash processing services
 - c) Cash management services, and
 - d) ATM replenishment services.
10. Although operating models differ between providers, a CIT provider will typically operate a network of CIT branches, and may have a regional or national presence. The majority of CIT providers offer their services externally to third party customers. However, the Post Office and Sunwin Cash Processing Services Limited (Sunwin) also provide CIT services internally. In *G4S/Abbotshurst* the OFT found that while supply side substitution from internal to external CIT services is possible, it was unlikely that existing in-house services will be reduced in the near future (such as to result in an increase in available external capacity) and therefore the appropriate frame of reference in that case should include external CIT services only. The OFT received no evidence during the current investigation to warrant concluding differently in this case. However, in the competitive assessment the OFT has considered the ability of in-house providers to continue to provide, and to expand, their external CIT services.
11. Given Brinks' focus on ATM replenishment, the OFT considered whether it was appropriate to consider ATM replenishment separately from other CIT services. In *Group 4/Falck* the European Commission found that ATM replenishment, and in particular the maintenance services that are typically offered in conjunction with ATM replenishment services (i.e. FLM), required specialist skills that went beyond those which were required for CIT services. The Commission found that if CIT services were the focus of an investigation ATM replenishment services (which includes some ATM maintenance) should be included in the relevant product market. However, if ATM replenishment services were to be the focus of the investigation traditional CIT services should not necessarily be included in the relevant market.
12. On the basis that FLM services do require some specialist skills, it might be difficult for a commercial CIT provider to switch to supplying ATM replenishment services if it were the case that FLM services are always bundled with ATM replenishment services. However, the OFT found that a large proportion of customers purchased FLM and ATM replenishment

services from different providers. Loomis also submitted that there are a number of FLM providers who do not offer ATM replenishment services. The ability to separate FLM services from ATM replenishment services indicates that the need for specialist FLM skills may not be a barrier for commercial CIT providers to supply ATM replenishment. However, the OFT has taken a cautious approach and, where relevant, has considered the impact of the merger on the supply of ATM replenishment services, as well as CIT services as a whole (i.e. including ATM replenishment services), in the competitive assessment.

Geographic market

13. In *G4S/Abbotshurst*, the OFT considered that competition may take place at a national or regional level depending on the customer's requirements. In particular, the OFT found that Security Plus provided a constraint on G4S not just at the local/regional level, but at a national level for those customers who were prepared to break down their national contract on a regional basis.
14. In the present case, Loomis submitted that the appropriate geographical market was Great Britain. Both Loomis and Brinks (pre-merger) described their presence as 'national'. This is consistent with our assessment of Brinks in *G4S/Abbotshurst*, and although the extent of the geographic coverage of Brinks was disputed by some third parties the OFT has considered how the merger affects competition on a national level.
15. The OFT also considered whether a regional/local analysis was relevant in this case. A number of customers told the OFT that they contract commercial CIT services on a regional/local basis. Since the parties overlap in commercial CIT in Scotland, the OFT has examined this merger on a regional/local basis where relevant. Local catchments were based on data provided by the parties on the average distance travelled to customers from each depot.

HORIZONTAL ISSUES

The relevant counterfactual

16. In order to decide whether or not it is or may be the case that the merger has resulted or may be expected to result in a substantial lessening of competition, the OFT considers the merger's competitive impact relative to the competitive situation expected to prevail absent the merger (i.e. the counterfactual). Generally speaking, this will be the prevailing conditions of competition, but in this case Loomis has submitted that prior to the acquisition Brinks had been loss making since 2002, and that given these levels of losses Brinks would have ceased providing CIT services regardless of the completed merger and should therefore be treated as a failing firm.

17. In order to accept the parties' submissions on the appropriate counterfactual, the OFT requires sufficient compelling evidence.⁵
18. Loomis submitted that, in addition to the losses incurred by Brinks since 2002, Brinks had lost a number of key contracts in the months before the acquisition, and was continuing to lose customers. Loomis submitted that, at the time of the merger, Brinks was no longer a viable business,^[end note 1] and this was reflected in the purchase price for the Acquired Business, which included only nominal consideration for goodwill or customer contracts. Loomis further submitted that prior to the merger Brinks had explored all options for the strategic reorganisation or sale of the business.
19. Given the OFT's conclusion in relation to the competitive assessment, it has not been necessary to conclude on the failing firm arguments presented by Loomis. However, the OFT has some doubts about the effectiveness of any failing firm defence in this case, including the following:
 - Evidence presented by the parties suggested that (at least until May 2007) Brinks was considering a reorganisation or reinvestment in the business in addition to sale or exit options, and
 - Brinks offered the business to a number of industry participants, including G4S, Loomis and Sunwin. Brinks told the OFT that Sunwin was interested in obtaining parts of the business, but that it ultimately chose to sell the business to Loomis.⁶
20. Ultimately, as set forth below, the merger does not raise competition concerns relative to pre-merger conditions, and therefore there is no need to pursue the issue of an alternative counterfactual further. Nevertheless, from the above it is therefore not clear to the OFT, in the event that the post-merger outcome had raised competition concerns, that there was no less anti-competitive alternative to the sale of the Acquired Business to Loomis.
21. The OFT has taken into account third party comments and evidence from the parties on Brinks' recent inability to win contracts (as well as the loss of several contracts) in coming to a view on what the likely competitive strength of Brinks would have been without the merger, and concludes that its future competitive significance absent the merger would not be greater than the position leading up to the merger; accordingly, its pre-merger position does not understate the constraint it poses on Loomis and other suppliers.

⁵ See *Thermo/GVI*, OFT decision of 15 December 2006, and previous OFT cases therein.

⁶ Although Brinks did sell one depot to Sunwin.

Competitive assessment: national level

Market shares

22. The OFT estimated market share on the basis of information obtained from both the parties themselves and a number of third parties. UK shares of supply of CIT are set out in Table 1 below:

Table 1: Shares of supply, external CIT services in the UK (%)

Provider	
Loomis	24
Brinks	4
Combined	28
G4S	58
Post Office	12
Others	2
Total	100

23. The increment in share of supply arising from the merger is relatively small (4 per cent), and it is clear from both the share of supply figures and evidence obtained from third parties (including bid data) that G4S is the leading provider of CIT services in the UK. The OFT has therefore considered the extent to which Brinks provided a competitive constraint on Loomis pre-merger, and the strength of other current and potential suppliers of CIT services.
24. For FLM services, the parties estimated that their combined share is around 23 per cent (increment of around five per cent). Major competitors in FLM services comprise G4S and Sunwin, and the ATM manufacturers NCR, IBM, Wincor Nixdorf and Fujitsu Siemens. Given the number of competitors in relation to FLM services, including both CIT suppliers and a number of ATM manufacturers, and the lack of customer concerns in this area, the OFT has not considered FLM services further in the competitive assessment.

Brinks as a competitive constraint

25. As set out above, G4S is the leading provider of CIT services in the UK. Despite its relatively small share of supply, prior to the transaction Brinks (through its ATM replenishment services) was one of only a small number of national CIT providers. Brinks had a reputation for providing ATM replenishment services on a national basis, and Loomis accepted that it did historically compete with Brinks for such contracts. However, Loomis submitted that for some time prior to the transaction it had rarely competed with Brinks at a national level. Loomis provided bidding data to the OFT

that showed that it had bid against Brinks only four times in the last three years, and on only one occasion was either of the parties successful. Loomis claims that these four bids should be viewed in light of the large number of tenders which it estimates it participated in over the last two to three years (around 400⁷).

26. In *G4S/Abbotshurst* the OFT obtained significant evidence from a number of sources indicating that Security Plus was a particularly strong competitor for CIT services at the regional level, winning tenders against the larger players and looking to expand its business. The potential loss of such a constraint on the larger players and the high market share increment post merger raised numerous customer concerns. This can be contrasted to the position of Brinks in this case. The market position of Brinks pre-merger supports the finding that Brinks placed a limited competitive constraint on Loomis' CIT business at a national level. The OFT obtained evidence to suggest that Brinks had been struggling for some time, with a higher cost base than other suppliers of CIT services. Some third parties contacted by the OFT did not consider Brinks to be a credible supplier, and Brinks had lost three key national customers immediately prior to the merger. The lost customers represented over half of Brinks' turnover for CIT services, in an industry with relatively high fixed costs, where economies of density are important. All of these factors support the OFT conclusion that, prior to the transaction, Brinks posed a limited competitive constraint on Loomis for the supply of CIT services at the national level.

Other competitive constraints

27. In addition to G4S, the parties submitted that both the Post Office and Sunwin would provide a competitive constraint on Loomis post-merger. The Post Office has a network of depots across the UK and has a substantial internal CIT business. It also provides external CIT services and has recently won a substantial national contract. Sunwin is part of The Cooperative Group and provides internal CIT services to the group, as well as external CIT (including ATM replenishment) and FLM services. Sunwin has recently expanded from six to 14 depots, from which it will provide national coverage.
28. In *G4S/Abbotshurst* the OFT found that the Post Office was likely to place only a limited constraint on Loomis, despite recently acquiring the Arcadia CIT contract. The OFT had doubts about the capacity of the Post Office to further expand, and received comments that the Post Office was not considered a viable option for many customers. In the present case the OFT received mixed evidence on the Post Office's ability to compete for CIT services. While a small proportion of customers spoken to by the OFT suggested that the Post Office was or could in future be a credible supplier

⁷ Loomis included in this figure both tenders and requests for quotations from potential and existing customers.

of CIT services, many did not see them as a credible alternative provider (this was particularly the case with regard to customers who predominantly require ATM replenishment services). However, given the OFT's conclusion on the competitive assessment, it is not necessary to conclude on the extent of the constraint provided by the Post Office on the parties post-merger.

29. The OFT also considered the competitive constraint provided by Sunwin. Sunwin's presence in the supply of CIT services has increased considerably since *G4S/Abbotshurst*. As described above, Sunwin is in the process of expanding from six to 14 depots, largely as a result of obtaining the ATM replenishment business for The Co-operative Group.⁸ Six of the eight new depots have now opened, with another two opening in the next month. Sunwin told the OFT that, with its 14 locations, it could compete for the supply of CIT services (including ATM replenishment) with all competitors across mainland UK. Loomis claims that Sunwin has been seeking to acquire ATM replenishment business and is working with customers to further increase its coverage. Sunwin further told the OFT that all of its new depots (whether opened yet or not) have customer contracts in place, and that additional contracts would commence in the next month. Sunwin also told the OFT that it had actively secured customer contracts from existing CIT providers, including each of the parties.
30. Given the progress made by Sunwin in the expansion of its network (to the extent that it will soon operate more depots than previously operated by Brinks) and its efforts to attract business, and in particular the ATM replenishment business which was the focus of Brinks prior to the transaction, the OFT believes that Sunwin (together with G4S) will exert a sufficient competitive constraint on the merged entity such as to prevent any attempts by Loomis to increase prices or reduce service levels for CIT services, including ATM replenishment, at the national level following the merger.

Competitive assessment: local level

31. In order to consider the impact of the merger at a local level, the OFT undertook a fascia analysis, considering the area served by each Loomis depot and the location of competitors within those areas. The parties had a number of depots in close proximity throughout England. However, Brinks submitted that it did not compete with Loomis or any other party in respect of local commercial CIT services.⁹ Brinks told the OFT that its depots in the UK were used predominantly to service their national ATM replenishment contracts and no sales staff operated from these depots. Brinks provided

⁸ The Co-operative Group and United Co-Operatives (for whom Sunwin has traditionally supplied CIT services) amalgamated on 27 July 2007.

⁹ The parties submitted that Brinks has not undertaken or tendered for local commercial CIT jobs within England and Wales within the past six to seven years.

revenues for its depots in England to show that any revenue was obtained almost entirely from national contracts, and that any local CIT business was extremely small and largely sporadic in nature. This was confirmed in discussions the OFT had with some local customers contacted during the investigation, and the lack of customer concern received by the OFT in this respect. On the basis of this evidence, the OFT does not believe that the transaction creates a substantial lessening of competition in relation to local CIT services in England. No overlaps resulted in Wales. Therefore, the OFT restricted its local area analysis to overlap areas in Scotland.

32. The fascia counts suggested that the areas centred around Elgin (which includes Inverness) and Edinburgh would see a reduction of historical competitors from three to two (excluding Sunwin and the Post Office) as a result of the merger. In each case, the remaining established competitors were Loomis and G4S.
33. Brinks provides local CIT services at each of these depots. However, Brinks submitted that it provides local CIT services in Scotland merely as a consequence of its acquisition of the business divested in *G4S/Falck* in 2005, and that it had not actively solicited additional local CIT business since that acquisition. Brinks provided evidence to show that it had acquired very few local CIT contracts at Elgin and Edinburgh since the acquisition, and had lost a number of customers. Loomis submits that Brinks' weakness as a competitive constraint is illustrated by the price paid for the Acquired Business, which was made up of the book value of Brinks vehicles, plant and equipment. Customers contracts and goodwill were both valued at a nominal sum.
34. Notwithstanding the parties' submissions, prior to the transaction Brinks still had significant local CIT business (albeit as a result of its legacy *G4S/Falck* business) at both its Elgin and Edinburgh depots. In addition, some local customers spoken to by the OFT were aware that Brinks provided CIT services from Elgin and Edinburgh and considered them an alternative to their current provider. On the basis of this evidence, the OFT considers that Brinks was, if not an active competitor, at least capable of immediately competing with Loomis and G4S in each of Elgin and Edinburgh, and thus provided at least some competitive constraint on Loomis prior to the transaction.
35. Loomis submitted that the presence of the Post Office, and the imminent presence of Sunwin, in each of Elgin and Edinburgh areas would exert a sufficient competitive constraint on the merged entity such as to prevent any attempt to increase prices or reduce service levels for CIT services following the merger. As with the analysis at the national level, given the OFT's conclusions on the competitive assessment, it is not necessary to conclude the extent of the constraint provided by the Post Office on the parties post-merger.

36. As part of its national expansion, Sunwin will shortly increase its local presence in Scotland with the opening of depots. Sunwin confirmed with the OFT that it will open a depot in Edinburgh on 5 November (purchased from Brinks) and a new depot near Inverness on 12 November. Sunwin told the OFT that it had contracts lined up for each of these depots, despite the fact that the depots are not yet open, and that they are expecting to obtain further business shortly. While the OFT's evidence suggested that Sunwin had not yet achieved a significant level of customer recognition in Scotland, it expressed a clear intention to compete with Loomis and G4S in the future. The OFT considers that this intention, combined with actual evidence of expansion into both Elgin and Edinburgh, shows that, alongside the market leader G4S, Sunwin will provide a sufficient competitive constraint on the merged entity such as to prevent any attempt to increase prices or reduce service levels for CIT services (including ATM replenishment) following the merger.

Coordinated effects

37. In *G4S/Abbotshurst*, the OFT rejected coordinated effects as a credible theory of harm. Nor did the OFT gather evidence in this case sufficient to suggest the presence of coordination pre-merger. As to the effect of the merger on the conditions necessary to facilitate coordination, in the current case, the merger increases symmetry between Loomis and G4S on a national basis, but only by only a small amount (4 per cent) and by a firm that cannot reasonably be described as a maverick, whose presence constrains other players' ability to coordinate. Overall supply remains asymmetric, and Sunwin will stimulate competitive rivalry as a result of its recent expansion. Suppliers of CIT services told us that prices are generally negotiated with each individual customer, and that set list prices are not used. Intermediaries are also often used as part of the bidding process, which complicates coordination on non-price parameters such as customers or territories. Based on all of the evidence before the OFT in this case, the OFT considers that there is no realistic prospect of a substantial lessening of competition on coordinated effects grounds because the removal of Brinks does not appear materially to affect the ability or incentive of remaining suppliers to coordinate.

Barriers to entry and expansion

38. In *G4S/Abbotshurst* the OFT considered that any entry would not be sufficient in likelihood, time and scope to offset the loss of competition that may have resulted from the anticipated merger. In that case the OFT found that the main barriers to entry are the time to develop a network of branches and obtaining Security Industry Authority licensing approval. In the current case, third parties also emphasised the need to develop a good reputation and the period of loss making while this reputation, and the network, is developed. Although third parties also suggested that entry on a local area was likely to be easier than national, Loomis provided little evidence of actual entry.
39. Based on the evidence obtained in *G4S/Abbotshurst* the OFT found that expansion, while likely to be easier than new entry, would not be sufficient in likelihood, time and scope to offset any competitive detriment caused by that proposed merger. In particular, the OFT had no evidence of actual expansion in the years preceding that merger. However, there have been significant actual developments regarding expansion since *G4S/Abbotshurst* demonstrating that, coupled with the constraint from G4S as market leader, expansion can in fact be likely, timely and sufficient to resolve concerns that arise from the loss of Brinks: as noted, Sunwin has recently expanded from six to 14 depots, and its effect on the supply of CIT services has been discussed in detail above.

Countervailing buyer power

40. As in *G4S/Abbotshurst* evidence on buyer power was mixed. Most third parties told the OFT that they would not have sufficient countervailing buyer power to counteract any price rises that might result post merger. Some of the larger customers did however consider that they held countervailing buyer power. Moreover, one customer has recently taken their CIT requirements inhouse.
41. The OFT considers that any countervailing buyer power, if it exists, is likely to arise in relation to national CIT services (and particularly, ATM replenishment services) which are typically provided to large retailers or financial institutions. Further, any countervailing buyer power held by one customer will not protect other customers from price rises or declines in the standard of service. However, given the OFT conclusion in relation to the competitive assessment, the OFT is not required to reach a view on buyer power in this case.

THIRD PARTY VIEWS

42. Third party views on the merger were mixed. Some customers were concerned about the reduction in choice available to them. Other

customers did not view Loomis and Brinks as having been close competitors and/or Brinks as having been a credible supplier to their requirements.

ASSESSMENT

43. The parties overlap in the provision of CIT and FLM services. The OFT considered the effect of the merger on the supply of CIT, at both national level and a local level (in Scotland) and found no need to assess the merger's impact on FLM services. The OFT also considered, where relevant, how the transaction would affect the supply of ATM replenishment services, given Brinks' focus in this area.
44. The increment in market share arising from the transaction was relatively small, although given the number of competitors in both the national and local markets, the OFT considered whether the loss of Brinks as a competitive constraint would significantly reduce competition in each market. However, the evidence, including bidding data supplied by the parties and the nominal sum paid by Loomis for the customer contracts and goodwill of the Acquired Business, showed that Brinks constituted a limited competitive constraint on Loomis prior to the merger, both at a national and local level. Locally, this was illustrated by Brinks' lack of involvement in local CIT services in England and Wales, and its limited involvement in attracting new local CIT customers in Scotland.
45. The OFT found that the constraints posed by G4S as market leader together with the recent expansion of Sunwin from six to 14 depots would provide a sufficient discipline on Loomis to prevent any attempts to increase prices or reduce service levels for CIT services following the merger. Evidence provided to the OFT showed that Sunwin had recently expanded to provide a national service, and had opened (or was shortly to open) depots in each of the areas of local overlap that had raised concerns on a fascia basis. Further, Sunwin told the OFT that it had customer contracts in place at each of these depots, some of whom had been obtained from each of the parties.
46. Customer views on the merger were mixed. Some customers were concerned about the reduction in choice available to them, but did not provide substantial evidence of the use of Brinks as an important choice in winning contracts or extracting better terms from its rivals. Others did not view Loomis and Brinks as having been close competitors and/or Brinks as having been a credible supplier to their requirements, and the OFT regards the latter view as more consistent with the weight of the overall evidence available. Some customers, particularly larger banks and ATM providers, did consider that they had some degree of buyer power, although the OFT was not required to come to a conclusion on this issue.

47. 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

48. This merger will therefore not be referred to the Competition Commission under section 22(1) of the Act.

End note

1. Brinks has noted that paragraph 18 refers only to the Acquired Business (the domestic CIT business sold to Loomis), which the OFT considered in the context of the failing firm test, and not to its continuing global services business. For the purposes of this decision, the OFT did not consider, and was not required to consider, the viability of any part of Brinks other than the Acquired Business.