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Completed acquisition by the University of Manchester of the Victoria University of Manchester and the University of Manchester Institute of Science and Technology

The OFT's decision on reference under section 22 given on 25 February 2005. Full text of decision published on 8 March 2005.

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**PARTIES**

1. **The Victoria University of Manchester (VUM)** was established by Royal Charter in 1903. It had a total of 118 individual departments involved in teaching and research.

**The University of Manchester Institute of Science and Technology (UMIST)** was created in April 1966, following the transfer of all non-university courses from the Manchester College of Science and Technology to other institutions. The total income of UMIST for the year ending 31 July 2003 was approximately £131m.

**The University of Manchester (UoM)** is a charitable body incorporated by a Royal Charter dated 1 October 2004 to take over the assets and liabilities of VUM and UMIST.

**TRANSACTION**

2. On 1 October 2004, all of the assets and liabilities of VUM and of UMIST were transferred to the UoM under the University of Manchester Act 2004. In accordance with section 25(2) of the Enterprise Act 2002 (the Act), the statutory deadline for consideration of this case has been extended to 11 March 2005. The OFT's administrative deadline for considering this case expires on 25 February 2005.

**JURISDICTION**

3. As a result of the University of Manchester Act 2004 coming into force, UoM, VUM and UMIST have ceased to be distinct enterprises. UMIST's

UK income exceeds £70 million, so the turnover test in section 23(1)(b) the Act is met. A relevant merger situation has been created.

## **RELEVANT MARKET**

4. The institutions overlap in the provision of academic courses of study at undergraduate and postgraduate levels and the provision of academic research in a number of subject areas.
5. The institutions also overlap in the provision of ancillary activities, such as accommodation, operation of car parks, sports, the provision of conference and catering facilities and the exploitation of certain intellectual property rights. However, no competition issues arise in any of these areas and they are not considered any further.

### **Segmentation by degree level**

6. On the demand side, the UoM submits that an undergraduate degree programme will not be a substitute for a postgraduate course of study for most students or vice versa. Further, the UoM accepts that academic research is different in nature to the provision of a course of study in that less services are provided to students. There is no evidence to dispute this view.
7. Higher education institutions are generally free to employ their resources (buildings, library collections, information technology, laboratories, equipment and academics) as they see fit. On this basis, UoM submits that there is a high degree of substitutability between both (i) undergraduate, postgraduate and research activities and (ii) different courses of study.
8. Competitors stated that the switching of resources between undergraduate and postgraduate activity within a department is flexible within fairly narrow limits in the short run (due to the three year (or in some cases four year) length of an undergraduate degree causing the stock of students to be slow to adjust), but more flexible in the long run. However, research and teaching activities are funded separately, with fairly tight limits on switching resources, suggesting that supply side substitutability between taught courses and research activity is not straightforward.
9. Due the lack of demand side substitutability between undergraduate, postgraduate and research provision and the absence of strong evidence on

supply side substitution, the following analysis will consider these areas separately.

### **Undergraduate provision**

10. At present, tuition fees charged by English and Welsh universities to UK undergraduates are fixed but there is likely to be greater variation after new rules come into force in 2006. Scottish universities do not charge tuition fees to Scottish or EU students but do levy a fixed amount (currently £2000) after graduation. Although price may become an increasingly significant consideration (particularly as between English, Welsh and Scottish universities), non-price factors continue to be important drivers of competition between universities for undergraduates. Of these course content, quality of tuition and reputation are likely to be key.
11. The UoM submits that the sheer variety of undergraduate courses on offer means that there will be a number of extremely close substitutes. Even courses with different titles may share common elements. The UoM believes that the extent of overlap is likely to be such that there may be an unbroken chain of substitution across the full panoply of undergraduate course provision. In the event that this chain of substitution is broken, the UoM believes that there is a high degree of substitutability between courses within a particular subject area on the demand side and a high degree of supply side substitutability.
12. Competitor universities believe that it is relatively easy to introduce a new course within an existing department, subject to student numbers being available from the fixed pool that is allocated and a university being willing to fund the start-up costs. However, under current arrangements, developing a new course normally means reducing intakes on other courses. Despite this, competitors state that there are numerous examples of new courses.
13. In the absence of sufficient evidence on the demand-side to support a broader definition, the OFT has taken undergraduate courses by title as its starting point for the relevant product frame of reference.
14. In terms of universities which are able to compete with UoM for undergraduates on quality of tuition and reputation, UoM have submitted that all UK universities, including the former polytechnics, should be included in the frame of reference. It is not necessary to form a view on

this since even on a narrower definition - universities within the Russell Group and the 1994 Group<sup>1</sup> - there is no competition issue.

15. In terms of geographic scope, UoM's undergraduates are drawn from across the UK and abroad - in 2003/4, overseas students typically accounted for between 5-10 per cent of undergraduates at VUM and UMIST. The significantly higher income derived from overseas students makes the attraction of such students particularly important for universities. Although there is no evidence to suggest that UK undergraduates consider overseas institutions as a substitute to any material degree, it may be the case that a competitive constraint is placed upon UK universities from international institutions which overseas students could otherwise attend.
16. Given the above, it appears that competition for undergraduate students takes place on a national basis (notwithstanding the variation in fees charged by English, Welsh and Scottish universities), with some constraint from both European and wider international competition.
17. No undergraduate courses which were provided by both UMIST and VUM were available part time, so the scope for part time undergraduate provision will not be considered.

### **Postgraduate provision**

18. Postgraduate provision can be segmented between taught courses (typically leading to a masters qualification) and research courses (for example those leading to the award of a PhD). There is no evidence of demand side substitutability between taught and research postgraduate courses, so these will be considered separately.

#### Taught courses

19. The UoM submits that the same supply side considerations apply to both undergraduate and postgraduate taught courses. This view is confirmed by third parties.
20. On the demand side, the OFT has received no evidence to suggest that different subjects or different courses within subject areas are substitutes. Therefore, whilst it is recognised that competitor institutions may be able to introduce new courses within existing departments in response to

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<sup>1</sup> The Russell Group comprises 19 research-intensive universities; the 1994 Group is a similar group of 17 research universities.

changes in demand, the OFT has taken individual courses as its starting point for the product frame of reference.

21. In relation to full time taught courses, it is not necessary to consider whether the new universities compete since there is no competition issue if the frame of reference is confined to taught courses offered by Russell Group and 1994 Group universities.
22. The two taught courses in which VUM and UMIST overlapped were also offered on a part-time basis. In relation to part-time taught courses, competition may take place on a regional basis because students tend to be less mobile because of other commitments. As a result, such students may be more willing to consider new universities within the region and distance learning programmes, such as those provided by the Open University, as substitutes.

#### Research courses

23. It is not necessary to conclude whether new universities provide a competitive constraint in this segment since there is no competition issue if the Russell Group and 1994 Group universities alone are included in the frame of reference.

#### Geographic scope

24. As with its undergraduate population, available evidence indicates that, with the possible exception of part-time postgraduates (as indicated above), UoM's taught and research postgraduates are drawn from across the UK and further a field - the Department for Education and Science states that the market for postgraduates is increasingly global.
25. On this basis, the relevant geographic frame of reference is considered to be the UK, albeit that constraints from overseas institutions exist.

#### Academic research

26. It is not necessary to define the relevant frame of reference in this segment since on any analysis, there remain a significant number of competitors.

### **HORIZONTAL ISSUES**

Competition in undergraduate degree provision.

27. VUM and UMIST overlapped in the provision of 20 undergraduate courses. Examining the sector on the narrow definition of individual courses, there are only 3 courses where there will remain less than 7 competing courses offered by other Russell Group and 1994 Group universities. In relation to these 3 – Biochemistry with Biotechnology, Biochemistry and Medical Biochemistry with industrial experience and Software Engineering with industrial experience, there are either no exact matches or only 1 other equivalent course offered by a Russell Group/ 1994 Group university.
28. However, in all cases, some of these competitors offer similar courses in the same subject area. For example, 29 universities within the Russell and 1994 Groups run Biochemistry undergraduate courses; 11 within the Groups offer software engineering. Evidence from UoM and other universities indicates that there is scope for supply-side substitution between courses within subject areas if there is sufficient demand. In particular, the inclusion of a year of industrial experience within a course is considered to be straightforward.

#### Competition in postgraduate degree provision

29. The two institutions overlapped in the provision of the two taught courses: MSc Computer Science and MA Translation Studies. There are 19 other institutions within the Russell and 1994 Groups offering MSc Computer Science and 8 offering MA Translation Studies. No third parties have raised concerns in this area.
30. As regards part-time provision of these courses, there are two other institutions in Greater Manchester - Salford University and Manchester Metropolitan University – which offer the two courses part time. Supply-side substitution is also a realistic constraint given that part-time courses are identical to full-time provision, in terms of tutors and study options, but are completed over a longer timeframe. Again, no third parties have raised concerns about the effects of the merger on the provision of these courses on a part-time basis.

#### **Barriers to entry and expansion**

31. Barriers to entry and expansion of capacity in terms of student numbers are high because of the funding constraints to which universities are subject.

#### **Buyer power**

32. Students are not considered to have buyer power.

## **VERTICAL ISSUES**

33. The transaction does not give rise to any vertical issues.

## **THIRD PARTY VIEWS**

34. No third parties have raised concerns.

## **ASSESSMENT**

35. VUM and UMIST overlapped in the following areas: the provision of academic courses at undergraduate and postgraduate level and in academic research. In almost all segments, there remain a significant number of competitors. In those isolated instances where competing alternatives may be more limited, supply-side substitution appears to be relatively easy and is therefore considered to provide an effective constraint. No third parties have raised concerns about the competitive effects of this merger.

36. 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**

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