Anticipated acquisition by Old Mutual plc of Försäkringsaktiebolaget Skandia (publ)

The OFT's decision on reference under section 33 (1) given on 30 November 2005. Full text of decision published 19 December 2005.

Please note that square brackets indicate information excised or replaced by a range at the parties' request.

PARTIES

1. **Old Mutual plc (OM)** is a South African financial services group particularly active in the provision of insurance and asset management services. Through its subsidiary Old Mutual Asset Managers (UK) Ltd, OM offers asset management services in the UK. OM also provides life insurance in the UK through its subsidiary Selestia Life & Pensions Ltd, which also operates a fund supermarket, Selestia. OM's turnover in the UK for 2004 was approximately £[ ] million.

2. **Försäkringsaktiebolaget Skandia (publ) (Skandia)** is a Swedish financial services group active in the provision of long term savings, life insurance products and financial security solutions. In the UK, Skandia provides a range of life insurance products through a number of its subsidiaries and offers asset management services through Skandia Investment Management Ltd. Skandia also operates a fund supermarket, Skandia MultiFunds. Skandia's turnover in the UK for 2004 was £2.9 billion.

TRANSACTION

3. On 2 September 2005 OM offered 4,360 Swedish kronor per share for Skandia in a combination of debt, cash and shares. The bid turned hostile following the Skandia board's majority rejection of the bid. On 14 November 2005 OM announced that it had extended the Skandia offer closing date to 16 December 2005. The 40-day administrative deadline expires on 25 November 2005.

JURISDICTION

4. OM and Skandia will cease to be distinct as a result of these arrangements. The acquisition satisfies the turnover test set out in s23(1)(b) of the Enterprise Act 2002 ("the Act") because Skandia's turnover in the UK for 2004 exceeded £70 million. These arrangements, if carried into effect, will therefore result in a relevant merger situation.

RELEVANT MARKET

5. OM and Skandia overlap in the provision of life insurance and asset management services in the UK.

INSURANCE

Product focus

6. OM and Skandia overlap in the provision of life insurance, in particular, unit linked life insurance policies.

7. In previous OFT cases, life insurance, non-life insurance and reinsurance have been considered separate frames of reference.[1] The parties and third parties have indicated that this is appropriate for this case.

8. Both life and non-life insurance are contracts (policies) by which the insurer agrees to pay the policy holder a sum of money upon the occurrence of a specific event in exchange for payments from the insured (called premiums). Reinsurance is not a contract between the insurer and the insured but a transfer of risk between insurers and therefore should be considered distinct from the above types of insurance.

9. Life and non-life insurance can be considered separately as they differ depending on the various kinds of risks under protection, the amount of coverage offered and the length of time the coverage last for. In addition, third party evidence indicates that regulations require insurers to provide life and non-life insurance via different subsidiaries.

10. The OFT has considered whether life insurance could be segmented further into different types of products. However, as the majority of third parties agreed that

[1] OFT's decision of 17 October 2003 in relation to the Anticipated acquisition by Swiss Re GB plc of Zurich Life Assurance; OFT's decision of 6 May 2005 in relation to the Completed acquisition by Britannic Assurance plc of Allianz Cornhill Insurance plc's life operations

most life insurance products satisfy similar consumer needs and therefore should be considered as substitutes, no further segmentation appear to be appropriate.

11. On the supply side, OM submits that insurers often provide many types of policies, although some insurers may specialise in a specific policy (e.g. OM specialises in unit linked life insurance policies). The cost of providing different types of policies, instead of just one type, would depend on the method of distribution, the infrastructure requirements and the state of competition. Third parties tended to agree with this proposition.

12. The OFT considers that it is not necessary to reach a final view on the scope of any relevant frame of reference because, even when considered on a narrow disaggregated basis, no competition concerns arise. For completeness, UK share of supply data is thus provided for both life insurance and unit linked life insurance policies which are the specific products where the merging parties overlap.

Geographic focus

13. The geographic frame of reference for life insurance has typically been found to be national. Foreign insurers would need to gain regulatory clearance from the Financial Services Authority (FSA) to operate in the UK. OM and third parties agreed that the appropriate frame of reference is national.

14. For the purposes of analysing the competition effects of this case, the relevant frame of reference is the provision of life insurance in the UK.

ASSET MANAGEMENT

Product focus

15. In the UK, OM and Skandia overlap in the provision of asset management services, in particular, individual savings accounts (ISAs), personal equity plans (PEPs), unit trusts, open ended investment companies (OEICs) and multi-manager funds.

16. Asset management services include the creation, establishment and marketing of retailed pooled funds (mutual funds, unit trusts, investment trusts and open ended investment companies) and the provision of portfolio management services to pension funds, institutions, international organisations and private investors.[2] Consistent with a previous OFT decision, asset management services can be

[2] Case No IV/M.1067 - Merrill Lynch/Mercury

divided by customer type (institutional or retail) and type of asset (fund) (e.g. ISAs, multi-manager). [3]

17. Evidence suggests that it may be appropriate to segment asset management by type of customer (institutional or retail) as companies that focus on retail do not directly compete with non-retail providers. OM and Skandia agree that there is some degree of substitutability between different funds. Some third parties indicated that different funds do compete with each other.

18. On the supply side, OM submits that it would be relatively easy for other asset managers to expand into the provision of other funds without incurring high costs (e.g., from OEICs to ISAs). It believes that this would not significantly depend on their current size and the nature of their asset base. Third parties have been unclear on the degree of supply side substitutability. Some do not consider that it is possible to supply all types of funds (i.e. different investment techniques are required for different types of funds) but recognise some degree of ability to expand.

19. There appear to be a number of channels by which asset managers can distribute their funds: directly to investors (e.g. paper advertising, internet, etc); via tied/ multi-tied agents, banks or Independent Financial Advisers (IFAs); and via fund supermarkets.[4] The parties have argued that there is demand-side and supply-side substitutability between each distribution channel. As the OFT received an adverse third party comment in relation to the fund supermarkets, it has taken a cautious approach and analysed whether competition concerns would arise were fund distribution via fund supermarkets be used as a relevant frame of reference. There is no reason to believe that competition concerns would arise in other distribution channels in this case.

20. As the degree of demand and supply substitutability between various sub-segments of asset management products and between institutional and retail customers is unclear, a cautious view is also taken in this segment and customer type and types of assets in which the parties overlap are considered separately.

Geographic focus

21. OM has supplied the OFT with data on a national basis. However, our assessment suggests that asset management services might be wider than national, even global.

[3] Anticipated acquisition of ISIS Asset Management and Foreign and Colonial Group Holdings Ltd.

22. A cautious view is taken and the relevant frame of reference for assessment is the UK for the purposes of this inquiry.

HORIZONTAL ISSUES

Life insurance

23. The parties provided UK share of supply data in the provision of life insurance and the overlapped sub-segment of unit linked life insurance policies. Their combined shares of supply are [0-5] per cent and [10-15] per cent respectively with very negligible increments (below [0-5] per cent). According to the Association of British Insurers, for 2004 Skandia was ranked 12th out of the top 20 insurers active in the UK whereas OM was not ranked due to its low level of activities.[5] This indicates that post merger the merged entity will continue to face competition from a large number of players.

24. Due to the degree of existing competition, the very low shares of supply above and the lack of third party concerns, an assessment of barriers to entry and buyer power in this segment is not necessary.

Asset management

25. As of May 2005, assets managed by Investment Management Association (IMA) members in the UK totalled £2.16 trillion.[6] The industry continues to be highly fragmented, with the share of supply of the five largest groups standing at 28 per cent and that of the ten largest at 46 per cent. Post merger, the merged entity will have a negligible combined share of asset management services in the UK of less than [0-5] per cent (increment of less than [0-5] per cent).

Institutional and retail funds

26. The parties overlap in the provision of asset management services to both institutional and retail investors. Their estimates indicate that, post-merger, their combined share of supply in institutional funds will be less than [0-5] per cent (increment of less than [0-5] per cent) and in retail funds will be less than [0-5] per cent (increment of less than [0-5] per cent). A very large number of strong competitors will remain in the market.

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[4] The parties distribute funds via fund supermarkets through Selestia and Skandia MultiFunds. Fund supermarkets are IT platforms that distribute funds from a wide sample of asset managers and handle much of their administration.

[5] Rankings by Class based on Total UK Net Premiums in 2004, Association of British Insurers

Overlapping types of fund

27. In relation to institutional investors, the parties only overlap in the provision of multi-manager funds. Post merger, the merged entity's share of supply will be [0-5] or less than [0-5] per cent (increment of less than [0-5] per cent).

28. In relation to retail investors, the parties overlap in the provision of ISAs, PEPs, unit trusts, OEICs and multi-manager funds. Post merger, the parties' estimates received by the OFT indicate that their combined share of supply would be less than [0-5] per cent for each of PEPs, OIECs and ISAs and less than [0-5] per cent for unit trusts. In each case the increments are negligible (less than [0-5] percent). The OFT has no reason to believe that the shares of the parties for multi-manager funds in the UK would be significantly higher than these figures and no third party raised concerns in this segment.

Fund distribution via fund supermarkets

29. A third party raised concerns that post-merger one of the platforms would cease to operate. The concerns did not appear related to the effect of the merger on competition and no other third party raised any concerns about this transaction.

Table 1: Fund distribution via the top UK fund supermarkets

	Approximate value of funds under management (£bn)
Fidelity Fundsnetwork	[4-5]
Cofunds	[4-5]
Skandia MultiFunds	[4-5]
Hargreaves Lansdown Vantage	[3-4]
Selestia (OM)	[0-1]

Source: Skandia estimates as for June 2005

30. The estimates in table 1 above indicate that post merger OM will have the highest value of funds under management on its platform(s). Nonetheless, the OFT believes that OM would continue to face strong competition from other leading fund supermarkets of comparable size such as Fidelity Fundsnetwork, Cofunds and Hargreaves Lansdown Vantage, as well as other smaller players, like Transact Online. There is no convincing evidence to suggest that the merger would give rise to a realistic prospect of a substantial lessening of competition in this segment.

[6] Investment Management Association Survey (May 2005)

VERTICAL ISSUES

31. No vertical concerns arise as a result of this merger.

THIRD PARTY VIEWS

32. The vast majority of third parties were unconcerned about this merger. One third party raised concerns about competition in fund distribution via fund supermarkets. This concern has been addressed above.

ASSESSMENT

33. The parties overlap in the provision of life insurance and asset management services.

34. For the purposes of this assessment, the impact of this anticipated transaction has been considered in relation to provision of unit linked life insurance policies, asset management services to institutional and retail investors and ISAs, PEPs, unit trusts, OEICs and multi-manager funds, as well as fund distribution via fund supermarkets. No competition concerns arise on any of these frames of reference.

35. 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

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