

## Anticipated joint venture between Whitbread plc and Marriot International Inc

The OFT's decision on reference under section 33(1) given on 29 April 2005.  
Full text of decision published 2 June 2005.

---

**Data in square brackets have been put into ranges at the parties' request for reasons of commercial confidentiality.**

### **PARTIES**

1. **Whitbread plc** (Whitbread) is active in three principal areas of the leisure industry: hotels, restaurants and health & fitness. **Marriott International Inc** (Marriott) is a worldwide operator and franchisor of hotels and related facilities.

### **TRANSACTION**

2. Whitbread currently owns and operates over 450 budget hotels under its proprietary brand, 'Premier Travel Inn'. Whitbread also owns and operates 47 hotels under the Marriott brand under a franchise agreement with Marriott. Whitbread and Marriott are proposing the creation of a 50-50 joint venture (JV) into which Whitbread will vest 46 of its 47 Marriott branded hotels<sup>1</sup> ('the Whitbread hotels').
3. At present, the majority of Marriott branded hotels in the UK are owned and operated by Whitbread. However, Marriott currently operates 10 hotels in the UK on its own behalf and on behalf of other third party owners.
4. The purpose of the JV is the eventual onward sale of the properties to one or more buyers under terms and conditions acceptable to both Whitbread and Marriott. Sale will be subject to the buyer agreeing that Marriott will assume the management and running responsibilities for the hotels for a period of [data excised at parties' request].

---

<sup>1</sup> Whitbread will retain one Marriott-branded hotel in Manchester

5. Whitbread and Marriott notified the proposed JV by means of a Merger Notice. The extended statutory deadline is 28 April 2005.

## **RATIONALE**

6. Whitbread is seeking to exit from the management and ownership of hotels under the Marriott brand. For its part, Marriott wishes to safeguard its hotel management business and brand without taking on long term asset ownership. The proposed transaction therefore allows Whitbread to dispose of the properties while enabling Marriott to assume management of them.

## **JURISDICTION**

7. As a result of this transaction, the Whitbread hotels will come under the joint control of Whitbread and Marriott and will cease to be distinct from Marriott's existing hotel business. The UK turnover of the Whitbread hotels exceeds £70 million, so the turnover test in section 23(1)(b) of the Enterprise Act 2002 (the Act) is satisfied. The OFT therefore believes that it is or may be the case that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation for the purposes of section 33(1)(a) of the Act.

## **BACKGROUND**

8. Whitbread's current chain of Premier Travel Inn branded budget hotels was established by combining its 'Travel Inn' hotels with the 'Premier Lodge' chain of hotels it acquired from Spirit Group Holdings Ltd in July 2004. That transaction (Whitbread/Premier Lodge<sup>2</sup>) was cleared by the OFT in May 2004.
9. The European Commission has also considered a number of cases within the hotel sector.<sup>3</sup>

---

<sup>2</sup> ME/1649/04 – Anticipated acquisition by Whitbread Plc of the Premier Lodge business from Spirit Group Holdings Ltd

<sup>3</sup> COMP/M.1596 – Accor/Blackstone/Colony/Vivendi  
COMP/M.2197 – Hilton/Accor/Forte/Travel Services JV  
COMP/M.2451 – Hilton/Scandic  
COMP/M.2464 – Nomura Internation/Le Meridien Hotels  
COMP/M.2510 – Cendant Galileo  
COMP/M.2997 – Accor/Ebertz Dorint

## RELEVANT MARKET

### Product scope

10. Hotels are a form of 'paid for' overnight accommodation and are typically categorised according to star rating<sup>4</sup> or price. Hotels operating under the Marriott brand are within the 4 star and 5 star categories.
11. However, the parties propose that neither star ratings nor prices provide suitable guidance for framing a product reference for the purposes of competition assessment. They consider that consumers' willingness to switch between the different star ratings and price categories of hotel accommodation indicates the existence of a chain of substitution encompassing a broad range of overnight accommodation across the continuum of prices and classifications.
12. The proposal for a wide product scope is consistent with that taken by the OFT in the Whitbread/Premier Lodge decision and by the relevant EC decisions. However, since the competition assessment of this proposed transaction does not result in any concerns with regard to different types of hotel, whether taken individually or together, it is not considered necessary to define the relevant product scope more precisely in the present case.

### Geographic scope

13. In its Whitbread/Premier Lodge decision, the OFT found that there were national and local dimensions to competition.
14. Branded hotel chains such as Marriott compete at the national level to the extent that they operate central reservation systems. At the pricing level, discounting and promotion offers may also apply to all hotels within the same chain. A hotel chain's brand and reputation also have a national, if not an international profile.
15. However, on the demand side, customers seeking overnight accommodation are typically restricted to a local geographic area whose boundaries are determined by factors such as customer preference and the purpose of the overnight stay (e.g. whether on the basis of leisure or business travel). For these reasons it is difficult to delimit the extent of these local markets precisely. The European Commission has previously identified local geographic markets comprising an entire city on the basis that one of the main features of the hotel sector is its individual city

---

<sup>4</sup> In the UK the quality standards of overnight accommodation are classified according to criteria agreed between the AA, the English Tourism Council and the RAC. The AA is the leading independent assessor of hotel accommodation and awards star ratings from one to five to indicate the standards of quality experienced by random visits from its inspectors.

character: 'customers select hotels in the city where they stay'<sup>5</sup>. As in the Whitbread/Premier Lodge case, this is a reasonable starting point for determining those areas where the Whitbread hotels and Marriott currently overlap.

16. The parties argue in their submission that,
  - (a) for very large cities such as London, it may be appropriate to segment the geographic scope further into:
    - i. city centre hotels
    - ii. outer city hotels (which primarily serve their local catchment area), and
  - (b) there may be a distinct market for airport hotels, where these attract primarily transiting airline passengers.
17. Using this approach there are three areas of 'local' overlap between the Whitbread hotels and Marriott. These are: central London, Heathrow airport and Greater Manchester.
18. Due consideration will be given to these three specific areas. Consideration will also be given to the impact of the JV at the national level.

## **HORIZONTAL ISSUES**

19. The Whitbread hotels already adhere to Marriott's brand standards in terms of quality and uniformity of infrastructure, furnishings, service levels etc. and are subject to regular brand audits to ensure that these standards are maintained. In addition, Marriott undertakes marketing and promotion of the brand at the worldwide level – and Whitbread pays a fee for this. The parties submit that Marriott has no control over the prices charged by Whitbread for overnight accommodation and services in the Whitbread hotels. They also state that, in the areas where the Whitbread hotels overlap with Marriott hotels, Whitbread and Marriott currently compete directly on price.

### **Shares of supply**

20. On the basis of 'all hotels', the shares of supply attributable to the JV would be minimal – whatever geographic frame of reference is applied. However, in order to substantiate their proposition that the creation of the JV does not create any

---

<sup>5</sup> COMP/M.1596 – Accor/Blackstone/Colony/Vivendi – para 29

competition concerns, the parties have benchmarked share of supply estimates – measured in terms of the number of hotel rooms – at a narrow level as follows:

- (a) 3 to 5 star hotels, and
- (b) 4 and 5 star hotels

#### National level

21. At the national level, the parties submit that the JV would result in a combined share of [10-20] per cent, (increment [0-5] per cent) of the supply of 4 and 5 star hotel accommodation and [5-10] per cent, (increment [0-5] per cent) of the supply of 3 to 5 star hotel accommodation. Given these relatively low shares and the low increments to those shares, the presence of at least six other competing hotel groups and the fact that no third parties raised any competition-related concerns at the national level, the evidence suggests that the transaction will not substantially lessen competition at this level.

#### Central London

22. Five of the Whitbread hotels and five Marriott hotels are located in central London. The JV would result in a combined share of [10-20] per cent (increment [0-5] per cent) of 4 and 5 star hotel accommodation and [5-10] per cent (increment [0-5] per cent) of 3 to 5 star hotel accommodation. There are at least four other hotel groups offering 4 and 5 star hotel accommodation (five groups if 3 star accommodation is also considered) who will continue to compete with Marriott and the JV. The majority of third party respondents were not concerned about the effect of the joint venture in London as whole. However, two third parties raised concerns regarding the loss of competition in central London. One thought that the transaction may result in the parties' achieving 'a controlling influence' in certain areas of London where they have 'critical mass' although the respondent was 'unsure how effective such influence might be'. The other (a travel agent) thought that there were specific locations within London (e.g. Maida Vale) where competition would be lessened. The OFT requested further information and evidence to substantiate these concerns, but did not receive any further response. Overall, however, the weight of the available evidence suggests that Marriott and the JV will continue to face competition from a number of other hotel groups and that the proposed transaction will not substantially lessen competition in central London.

## Heathrow airport

23. There is local overlap in the Heathrow airport area between 'Heathrow Marriott' operated by Whitbread and 'Renaissance London Heathrow' operated by Marriott which would lead to the JV and Marriott having a combined share of [20-30] per cent, (increment [5-10] per cent) of 4 and 5 star hotel accommodation and [10-20] per cent (increment [5-10] per cent) of 3 to 5 star hotel accommodation. However, there are at least four other hotel groups offering 4 and 5 star hotel accommodation (five if 3 star accommodation is also considered) who will continue to compete with the JV in the area around Heathrow airport.
24. One third party competitor was concerned about the loss of competition in the Heathrow area; however, it thought that lower-starred accommodation did compete with 4 and 5 star hotel accommodation: a proposition which suggests that Marriott and the JV would have a lower share of supply and would face competition from at least five other hotel groups. The OFT requested further information and evidence to substantiate this concern but did not receive a response. The weight of the available evidence suggests that the creation of the JV will not substantially lessen competition in area of Heathrow Airport.

## Greater Manchester

25. In Greater Manchester the JV and Marriott will have a combined share of [20-30] per cent (increment [5-10 per cent]) of 4 and 5 star hotel accommodation and [10-20] per cent (increment [0-5] per cent) of 3 to 5 star hotel accommodation. There are at least five other hotel groups offering 4 and 5 star accommodation who will continue to compete with Marriott and the JV. No third parties raised concerns about this area. The available evidence suggests that there will not be a substantial lessening of competition in Greater Manchester.

## **Barriers to entry**

26. Third parties identified the lack of availability of sites, the need to obtain planning permission and costs of establishing a brand as the main barriers to entry. In the Whitbread/Premier Lodge decision, the OFT noted that, 'entry barriers seem to feature in this sector, but are not insurmountable given the evidence of actual or planned entry or expansion.' It is not necessary to conclude on whether potential entry will constrain the joint venture in this case as the parties will continue to face competition from a number of existing hotels.

## Buyer power

27. In its Whitbread/Premier Lodge decision, the OFT noted that large corporate customers and travel agents may benefit from buyer power – and in the present case, some customers indicated that they were able to use their buyer power to obtain better terms. Although individual consumers are unlikely to have buyer power, the JV and Marriott's commercial behaviour will continue to be constrained by competition from existing hotels.

## Vertical issues

28. No vertical issues arise.

## Third party views

29. The vast majority of third parties did not have concerns. Two competitors and one travel agent expressed concerns but did not respond to the OFT's invitation to submit further information and evidence to substantiate these. These concerns related to central London and Heathrow and are discussed within the 'Horizontal Issues' section.

## ASSESSMENT

30. The proposed transaction would involve the creation of a joint venture between Whitbread and Marriott. Whitbread will vest in the JV 46 hotels that it currently owns and operates under the Marriott brand name. The JV will subsequently seek to arrange the forward sale of these hotels to one or more buyers. Marriott will assume management and operational responsibilities for these 46 hotels both before and after sale. As a result of the JV, these Whitbread hotels and Marriott will cease to be distinct.
31. Post-transaction, numerous competitors will remain both nationally and within local areas of overlap; the OFT considers that these will continue to constrain the behaviour of the JV and Marriott. The vast majority of third party respondents were not concerned by the proposed transaction.
32. Consequently, the OFT does not believe that it is or may be the case that the creation of the merger situation may be expected to result in a substantial lessening of competition within any market or markets in the United Kingdom.
33. This merger will therefore **not be referred** to the Competition Commission under section 33(1) of the Act.