
Anticipated acquisition by Young's Bluecrest Seafood Ltd of Macrae Food Group Ltd and Pan European Seafoods UK Ltd

The OFT's decision on reference under section 22 given on 27 September 2004

Please note square brackets indicate figures replaced by a range at the request of the parties

PARTIES

- 1 **Young's Bluecrest Seafood Ltd (YBS)** is a leading seafood manufacturer. It was formed in 1999 by the merger of Young's and Bluecrest. Its brands include Young's, Macfish and Ross (licensed from Heinz). Over two-thirds of its production is for own-label retailers such as Sainsbury, Somerfield and Iceland.
- 2 **Macrae Food Group Ltd and Pan European Seafoods UK Ltd (Macrae)** was founded in 1993 following a management buy-out from Foodmark. It supplies ready-to-eat (RTE) seafood products. On a smaller scale it supplies chilled fresh fish and ready-to-cook (RTC) seafood products. Macrae's UK turnover for the year ending September 2003 was £77.5 million.

TRANSACTION

- 3 On 30 June 2004, YBS acquired the entire share capital of Macrae. The parties notified the transaction on 14 July 2004 and the administrative deadline expires on 27 September 2004.

JURISDICTION

- 4 As a result of this transaction YBS and Macrae have ceased to be distinct. The UK turnover of Macrae exceeds £70 million, so the turnover test in section 23(1)(b) of the Enterprise Act 2002 (the Act) is satisfied. The parties overlap in the supply of RTC and RTE seafood products and fresh fish in the UK and the share of supply test in section 23 of the Act is also met. The OFT therefore believes that it is the case that a relevant merger situation has been created.

RELEVANT MARKET

- 5 The parties overlap in the supply of RTE seafood products, RTC seafood products and fresh fish.

Product market

- 6 RTE seafood products include a wide range of seafood products that have been prepared in some way and require no heating or further preparation before consumption. The parties specifically overlap in the supply of smoked salmon, shellfish, hot smoked fish, surimi¹ and speciality party products such as salmon parcels, salmon rings and terrines.
- 7 RTC products are convenience, ready-made meals that need no preparation and only require heating.

RTE seafood products

- 8 The key characteristic of these products is that they are purchased for home consumption and can be served with minimum effort. YBS therefore submits that the narrowest market definition that ought to be adopted is chilled RTE products, since customers face a choice between purchasing RTE seafood products or RTE meat, cheese or vegetable products. It is believed that frozen products are not substitutable since their customer profile is very different. RTE products are typically purchased by 'cash-rich, time-poor' individuals who have limited time for shopping and cooking. Customers that responded to the OFT's consultation generally agreed that RTE seafood products compete with other RTE products, particularly for entertaining purposes. RTE seafood products and other RTE products are usually shelved together in-store.
- 9 As foodstuffs that can be served promptly with little preparation, it is likely that all RTE products may be considered substitutable on the demand side, although individual tastes may restrict switching. The products that are likely to act as the most immediate competitive constraints on the individual overlapping RTE seafood products vary by product. It may for example be considered that a small but significant non-transitory price increase in smoked salmon would prompt switching to an alternative 'superior' sandwich filling such as Parma ham. Similarly, a small but significant non-transitory price increase in speciality seafood party products may lead to switching to meat or cheese-based RTE party products. It is recognised therefore that there is at least some overlap between RTE seafood products and other RTE products in that a hypothetical monopoly supplier of RTE

¹ Surimi is a fish-based protein product primarily used to manufacture seafood sticks.

seafood products might have to contemplate some loss of customers were it to institute an across-the-board price increase.

- 10 On the supply side it may be possible for producers active in the manufacture of non-seafood RTE products to switch to RTE seafood products with relative ease given their expertise in food preparation. It is clear however that the parties' main competitors have core operations in seafood and are generally not active outside of this. Similarly it may be considered that supply side switching between individual RTE seafood products could be achieved with ease, although this will also vary by product².
- 11 To the extent that the parties supply fresh food stuffs that require minimal preparation, it is possible that a wide range of potential substitutes exist on both the demand and supply side. No firm conclusion need be reached about the closeness of substitutes by product and hence the extent to which alternatives provide a competitive constraint on the overlapping products. For the purposes of this assessment the impact of the merger on each overlapping product will be considered, although it is recognised that the relevant markets are expected to be wider than this.

RTC seafood products and fresh fish

- 12 Like RTE products, it is expected that non-seafood and seafood RTC products are substitutable on the demand side since both are designed for convenience. Similarly, on the supply side producers who have expertise in food preparation may be able to switch with ease between seafood and non-seafood RTC products. No decision has been reached on whether RTC seafood products constitute a separate product market and, for the purpose of the following analysis, the merger will be assessed at the narrowest level.
- 13 On the demand side fresh fish may be substitutable with a range of different food products. However, consumer preference for fish, particularly for health reasons, may hamper switching. For the purpose of assessment in this case the supply of fresh fish will be considered separately.

Geographic market

- 14 Whilst it is expected that RTE and RTC products may be supplied overseas, exports constitute a low proportion of sales. The parties state, and third parties

² For example, it may be easy for smoked salmon suppliers to move into specialty party products where the core component is smoked salmon such as smoked salmon terrine. Similarly suppliers active in hot smoked fish may find it simple to switch to the preparation of smoked salmon, but not to the preparation of shellfish or surimi.

agree, that exports account for less than 5 per cent of sales. Products are supplied to customers, particularly supermarkets, throughout the whole of the UK and hence the OFT considers that in this case the appropriate geographic focus in all segments is the UK.

HORIZONTAL ISSUES

Market shares

- 15 Table one details the parties' shares of supply in the UK for each overlapping range of products and for overlapping products. The parties' activities are largely complementary. YBS is predominantly active in RTC seafood and fresh fish, with lesser activities in RTE, and Macrae focuses on RTE seafood. Generally, increments by product are relatively low.

Table one: share of supply in overlapping segments and products in the UK

	YBS	Macrae	Combined
RTE chilled seafood	[1-10]	[10-20]	[20-30]
Smoked salmon	[1-10]	[30-40]	[40-50]
Other shellfish	[1-10]	[10-20]	[10-20]
Hot smoked fish	[10-20]	[10-20]	[30-40]
Surimi	[1-10]	[40-50]	[50-60]
Speciality	[1-10]	[20-30]	[20-30]
RTC seafood	[30-40]	[1-10]	[30-40]
Fresh fish	[20-30]	[1-10]	[30-40]

Source: TNS and YBS estimates

Notes: Based on value

- 16 Some customers raised concerns that the seafood industry is becoming too concentrated and that post merger there will be no alternative supplier. Although it is acknowledged that concentration by product will increase, such concerns do not appear to hold. There are a range of alternative suppliers of each of these products to which customers could turn. Indeed, one of the leading UK supermarkets does not purchase any of these products from the parties.
- 17 Furthermore, it is likely that the above share of supply figures overstate the merged parties' true competitive position, particularly with respect to individual products, since the assessment has been conducted on a narrow product basis. As stated above, it is expected that alternative RTE products place at least some competitive constraint on suppliers and will continue to do so post merger.

- 18 Some third parties were concerned that the enhanced portfolio of the merged parties will sideline suppliers that produce niche or individual products. Although supermarkets may enjoy some cost efficiencies from purchasing the full range of products from one supplier it is not considered that this will be to the detriment of suppliers of niche or individual products. Indeed, one large customer stated that it prefers to source supplies from producers of niche products because they are more specialised and focused on product development and have specialised skills and local knowledge.

Barriers to entry and expansion

- 19 Barriers to entry on a small scale are not considered particularly high in any of the product segments, although competitors noted that entry may be hindered by existing industry overcapacity. Sizeable entry requires obtaining a listing with the large multiple retailers. In selecting suppliers, retailers place great importance on reliability and quality, but it is not necessary for a supplier to be able to supply a full range of seafood products. Establishing a reputation for reliability may therefore be necessary to achieve sizeable entry.

Buyer power

- 20 The parties argue that there is countervailing buyer power from the supermarket chains. The vast majority of seafood products supplied by the parties are private label for the supermarkets that account for around 90 per cent of chilled seafood sales by value in the UK (compared with 40 per cent ten years ago). Sainsbury and Tesco are the two major customers in the sector, together accounting for 46 per cent of sales. It is considered that retailers benefit from countervailing buyer power over seafood suppliers who are dependent on sales through the supermarket channel.

VERTICAL ISSUES

- 21 There are no vertical issues associated with this case.

THIRD PARTY VIEWS

- 22 A number of customers and suppliers responded to the OFT's consultation. Three customers raised concerns that the supply of seafood is becoming too concentrated, while two suppliers stated that they were worried that smaller competitors who do not offer a broad portfolio would be side-lined. These concerns are addressed above.

ASSESSMENT

- 23 The parties' pre-merger operations are largely complementary, with YBS primarily active in fresh fish and RTC seafood products and Macrae focusing on RTE seafood products. However, the parties overlap in three segments, namely RTC seafood products, RTE seafood products and fresh fish. With respect to the supply of RTC seafood products and fresh fish, the overlaps between the parties are small.
- 24 The more significant impact of the merger is in the RTE seafood products segment where shares of supply are relatively high (when considered on a product-by-product basis). However, a number of alternative suppliers remain post merger. This is evidenced by the fact that neither of the merging parties supplies one of the leading UK supermarkets. Furthermore, non-seafood RTE products place at least some competitive constraint on suppliers and will continue to do so post-merger.
- 25 Whilst sizeable entry may be hindered to some extent by overcapacity and the need to obtain supermarket listings, barriers to entry on a small scale are not particularly high in any of the product segments and it is not necessary for a supplier to be able to supply a full range of products to obtain a listing with the large retailers. Evidence suggests that some large customers prefer to source supplies from producers of niche products because they are more specialised and focused on product development and have specialised skills and local knowledge.
- 26 In addition, retailers benefit from countervailing buyer power over seafood suppliers who are very dependent on sales through the supermarket channel.
- 27 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

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