
Completed acquisition by Lex Vehicle Leasing Limited of FCE Bank Plc's vehicle fleet contract hire business

The OFT's decision on reference under section 22(1) given on 14 May 2004

PARTIES

Lex Vehicle Leasing Limited ('Lex') is active in the leasing of motor vehicles to commercial customers and individual consumers. It is a 50/50 joint venture controlled by RAC plc and Halifax Bank of Scotland ('HBOS'). In addition to Lex, HBOS is also active in the supply of vehicle leasing through two other companies. It fully owns a company called Bank of Scotland Vehicle Management and has a 50/50 joint venture with RCI Banque in Renault Financial Services ('RFS').

FCE Bank Plc ('FCE') is owned by the Ford Motor Company. Under the trading name 'Business Partner', FCE leases fleets of motor vehicles to commercial customers.

The parties maintain that the transaction is difficult to characterise as a straight-forward acquisition. The implemented agreement has been described as an 'outsourcing contract'. However, assets in the form of Business Partner's existing contract hire portfolio and fleet of 24,000 vehicles have been transferred to Lex. Lex will provide funding and maintenance services under the Business Partner brand, whilst FCE will continue to provide sales and marketing support.

The transaction was completed on 2 February 2004. The statutory deadline in this case is therefore 1 June 2004. A satisfactory submission was received on 22 March 2004. The administrative target is therefore 18 May.

JURISDICTION

As a result of this transaction, Lex and Business Partner have ceased to be distinct. The UK turnover of Business Partner exceeds £70 million. The turnover test in section 23(1)(b) of the Enterprise Act 2002 ('the Act') is therefore satisfied. A relevant merger situation has been created.

RELEVANT MARKET

The parties overlap in the supply of vehicle leasing, vehicle finance and support services to commercial and private customers. The transaction between the parties applies only

to Fleet Contract Hire (FCH): the leasing of fleets of passenger vehicles¹ to companies for use by their employees.

Product market

The parties submit that the supply of leased vehicles to commercial customers is distinct from the supply to individual consumers. Commercial customers often negotiate a master hire agreement. Private customer agreements, on the other hand, are standard and are subject to consumer credit legislation.

The fact that commercial customers generally run relatively large fleets significantly reduces transaction costs per vehicle and generates economies of scale. Commercial leasing is also designed to provide advantages to companies in terms of their balance sheets, which is not a consideration for private individuals.

Notably, however, the main lessors of commercial vehicles are also suppliers to private customers. It may therefore be the case that a degree of supply side substitution exists between FCH and hire to private customers. Responses from competitors confirmed that they do indeed supply private customers, but that this aspect is minor compared with commercial operations. The primary difference between supplying private and commercial customers is the distribution channel.

The extent to which this indicates a wider frame of reference is unclear. The assessment in this paper has therefore been conducted on the narrower basis that the relevant frame of reference is the supply of FCH.

Geographic market

The parties consider that the relevant geographic scope for the supply of FCH is at least Europe wide. Nonetheless they have provided data on a UK basis to allow for an assessment to be made at the narrowest level. Customers confirm that the geographic scope is no narrower than the UK.

For the purposes of this case, the UK will be taken to be the appropriate geographic frame of reference.

HORIZONTAL ISSUES

Market shares

Table one sets out the parties' share of supply in vehicle leasing for vehicles under three and a half tons. Taking a worst case scenario and including HBOS' vehicle leasing interests in Bank of Scotland Vehicle Management and in RFS, the parties will supply – in terms of volume² – 12.6 per cent of vehicles leased under 3.5 tonnes. (The total UK fleet size is 1.63 million vehicles). The increment in supply is very small at 1.5 per cent. The HHI figures and HHI increments indicate that the market is unconcentrated.

¹ This may include a proportion of larger vehicles, such as vans, up to a weight limit of 3.5 tonnes.

² The parties maintain that share of supply in terms of value would be inaccurate due to different accounting methods used by different companies.

Table one: share of supply of vehicle leasing for vehicle under 3.5 tonnes, August 1 2003 in the UK.

Suppliers	UK Fleet Size	Share of Supply
Lex	98,787	6 per cent
Bank of Scotland Vehicle Management	70,100	4.3 per cent
RFS	14133	0.9 per cent
FCE	24,000	1.5 per cent
Combined	206,133	12.6 per cent
Pre-merger HHI	440	
Post merger HHI	474	
HHI increment	33	

Source: Fleet News 50 UK Top 50 Contract Hire Companies and Lex's estimates

Share of supply information (for the 50 largest contract hire companies operating in the UK) is set out in a 'League table' published by the trade gazette, Fleet News³. From this list it is clear that, after accounting for HBOS' activities within other leasing companies, the parties will be the largest supplier of FCH in the UK. Many of the parties' closest competitors, including car companies and banks, are companies with strong brands and substantial capital reserves. Furthermore it is clear that post merger supply of FCH services in the UK will remain highly fragmented.

The parties state (and third parties confirm) that FCH providers are selected through a competitive tendering process. The five customers that responded stated that between three and eleven companies were approached during the tendering process. In all but one case, responses were received from all companies who had been invited to tender. The choice of provider is ultimately determined by both price and service levels offered. Although contracts are not exclusive, the customers that responded stated that they generally source all their vehicle leasing requirements from one firm. This reflects the purchasing patterns of larger organisations who obtain better deals from sole-supply due to lower transaction costs. Many small and medium sized organisations operate multi-supply fleets and effectively choose a supplier each time they order a new company vehicle.

Barriers to entry

The key requirement in establishing a vehicle leasing company is in securing solid and competitively priced finance. Third parties report that this is not considered to be a significant impediment to entry since there are lenders available in the UK and from overseas who could provide this. Entry barriers may be particularly low for banks and financing companies.

³ Fleet News – 1 August 2003

Third parties report that additional barriers include the requirement to establish relationships with customers and car manufacturers. New entrants would also need to acquire marketing, logistical and technical expertise and efficient computer systems.

The parties cite two entrants in 2002: TuskerDirect and Fleet Hire. These entrants both have fleets of more than 2000 vehicles.

Overall, barriers would not appear insurmountable, particularly for car manufacturers or financial institutions and the fragmented nature of supply reflects the opportunity for entry.

Buyer power

The parties state that customers who require large fleets are particularly attractive to FCH suppliers due to the lower transaction costs involved per vehicle. Third party customers and competitors have confirmed that customers placing such large orders do enjoy a stronger negotiating position.

In general, contracts last between two to three years. Third parties report that customers who supply arrangements with only one FCH provider incur switching costs when moving to an alternative FCH provider. One competitor estimated that these were in the region of £150 per car if spread over three years. One third party commented that these switching costs are often met by the incoming supplier. When contracts come up for renewal, of the larger companies supplied by only one FCH, 25 per cent of these large customers switch their suppliers.

Organisations which operate multi-supply fleets switch frequently. Third parties estimate that the incidence of switching for these organisations is in excess of 50 per cent.

VERTICAL ISSUES

No vertical issues are raised by this transaction.

THIRD PARTY VIEWS

A range of small and large customers and three competitors were contacted during the investigation. All large customers and all competitors responded. The only concerns came from one competitor with regard to Lex's large share of supply post merger if all the funding activities of HBOS are included. However, even after accounting for funding activities, the share of supply accounted for by the parties is below 25 per cent and the increment remains minimal.

CONCLUSION AND RECOMMENDATION

The parties overlap in the supply of vehicle leasing, vehicle finance and support services to commercial and private customers. For the purposes of this assessment, the transaction is considered at the narrowest level, i.e. the supply of Fleet Contract Hire vehicles to commercial customers within the UK.

If account is made for HBOS' activities in other vehicle leasing companies, post merger the merged entity is now the largest supplier of FCH services in the UK with 12.6 per cent of supply. The increment is small at 1.5 per cent. Overall the supply side – as evidenced by the low HHIs – is highly fragmented. Third parties confirm that suppliers are selected through a competitive tendering process. Given the small increment, it is unlikely that the acquisition will have adverse effect.

There is evidence of new entry within the past two years and buyers are considered to hold a certain amount of power through their size (in the case of large customers) and/or through their ability to switch suppliers (in the case of smaller organisations).

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.

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