

## Acquisition by MRH (GB) Limited of 78 service stations from Esso Petroleum Company Limited

ME/6563/15

### Parties

1. MRH (GB) Limited (**MRH**) is the UK's largest independent service station owner and operator. MRH owns over 370 service stations, the majority of which are branded Esso, BP, Texaco or Jet.
2. Esso Petroleum Company, Limited (Esso) is selling 78 company owned/leased service stations. Esso submitted that the UK turnover attributable to the Esso Target sites exceeds £70 million in the UK.

### Transaction

3. Pursuant to agreements signed on 11 March 2015, MRH has acquired the 78 Esso Target sites in two tranches all located across East Anglia and South East England. Each tranche had staggered completion dates, with the acquisition of the final site in Tranche 2 completing on 7 January 2016.

### Background

4. On 26 November 2015, the Competition and Markets Authority (**CMA**) decided under section 33(1) of the Enterprise Act 2002 (**the Act**) that it believes that it is or may be the case that the Merger may be expected to result in a substantial lessening of competition (SLC) within a market or markets in the United Kingdom. That decision of 26 November 2015 is referred to in this decision as the **SLC Decision**. The text of the SLC Decision is available on the CMA's webpages.<sup>1</sup>
5. Under section 73(2) of the Act, the CMA may, instead of making a reference of the Merger for an in-depth ('phase 2') investigation, and for the purpose of remedying, mitigating or preventing the SLC concerned or any adverse effect which has or may have resulted from it or may be expected to result from it,

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<sup>1</sup> See CMA [case page](#).

accept from such of the Parties concerned, as it considers appropriate, undertakings to take such action as it considers appropriate.

6. On 3 December 2015, MRH proposed undertakings to the CMA under section 73(2) of the Act. As required under section 73A(1) of the Act, MRH made this offer within five working days beginning the day after the CMA notified it of the SLC Decision under section 34ZA(1)(b) of the Act.
7. The CMA gave notice to MRH on 10 December 2015, pursuant to section 73A(2)(b) of the Act, that it considered that there were reasonable grounds for believing that the undertakings offered, or a modified version of them, might be accepted by the CMA under section 73(2) of the Act and that it was considering MRH's offer. A copy of that notice is available on the CMA's webpages. As set out in the SLC Decision, the CMA believes that, in the absence of an appropriate undertaking, it would be under a duty to refer the Merger for a phase 2 investigation.

### **The undertaking offered**

8. As set out in the SLC Decision, the CMA found that the Merger gives rise to a realistic prospect of an SLC as a result of the lessening of competitive constraints between MRH Girton Spar Service Station and Esso City Service Station in Cambridge; and between MRH Brighton Spar Service Station and Esso Patcham Service Station in Brighton.
9. To address the CMA's concerns, MRH has offered to divest either the MRH Girton site or the Esso City site, and the Esso Patcham site as well as related assets for these sites, including grocery outlets, by way of the sale of the freehold property; or, subject to the CMA's approval, the grant of a leasehold title with a minimum 15-year term (where MRH holds the freehold interest in the site – in the case of the MRH Girton site and the Esso Patcham site) or by way of assignment of a leasehold interest (in the case of the Esso City site). MRH submitted that this divestment will remedy the SLC identified in the SLC Decision.
10. The CMA considers that the proposed divestment of the MRH Girton site or Esso City site and the Esso Patcham site will provide a clear-cut and effective remedy for the SLC identified, as it would enable a third party to enter and compete in these areas thereby replacing the competitive constraint that would otherwise be lost following the Merger. The CMA also considers that the proposed remedy is capable of ready implementation as the proposed divestment sites are stand-alone businesses.

11. As set out in paragraph 5 of the notice of 10 December 2015, the CMA does not consider that it is necessary in this case to seek an upfront buyer in respect of the Divestment Businesses.

## **Consultation**

12. On 23 December 2015, pursuant to paragraph 2(1) of Schedule 10 to the Act, the CMA published the proposed undertakings in lieu of a reference offered by MRH which, in the circumstances of the case, the CMA considered was likely to be appropriate to remedy, mitigate or prevent the competition concerns identified in the SLC Decision.
13. The CMA thereby gave notice that it proposed to accept the undertakings in lieu of a reference for an in-depth (phase 2) investigation.
14. Before reaching a decision as to whether to accept the proposed undertakings, the CMA invited interested parties to make their views known in relation to the proposed undertaking.<sup>2</sup>
15. The CMA did not receive any comments from third parties during the consultation period.

## **Decision**

16. The CMA found in its SLC Decision that, because of the realistic prospect of the SLC, the Merger would be referred for an in-depth (phase 2) investigation if MRH failed to give suitable undertakings in lieu of reference pursuant to section 73 of the Act to remedy the SLC concerned.
17. The CMA considers that the undertakings provided by MRH are a clear-cut and effective remedy for the SLC concerned, and are capable of ready implementation. The CMA considers, in the circumstances of this case, that the undertakings offered by MRH are appropriate. The CMA has therefore decided to accept the undertakings offered by MRH pursuant to section 73 of the Act. The Merger will therefore not be referred for an in-depth (phase 2) investigation.
18. The undertaking, which has been signed by MRH, will come into effect today.

**Andrea Coscelli**  
**Executive Director, Markets and Mergers**  
**Competition and Markets Authority**  
**19 January 2016**

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<sup>2</sup> The consultation text was published on the CMA's webpages alongside the proposed undertakings. See the CMA [case page](#).