

Anticipated acquisition by One Stop Stores Limited of 33 stores from Alfred Jones (Warrington) Limited, trading as Spar

ME/6131/13

The OFT's decision on reference under section 33(1) given on 18 September 2013. Full text of decision published 22 November 2013.

Please note that the square brackets indicate figures or text which have been deleted or replaced in ranges at the request of the parties or third parties for reasons of commercial confidentiality.

PARTIES

1. One Stop Stores Limited (**One Stop**), a wholly owned subsidiary of Tesco plc (**Tesco**), is a retail convenience business, operating 648 convenience stores across England and Wales. Its core activities focus on grocery retailing (both food and non-food). One Stop also provides other services to customers including cash machines, Post Office services, National Lottery, Pay Point, mobile top-ups and home delivery of newspapers and magazines. One Stop's turnover for the financial year to February 2013 was £714 million. Tesco's UK group turnover was £65 billion.
2. Alfred Jones is a privately owned company incorporated in England and Wales, whose principal activity is convenience retailing. It operates 49 convenience stores, of which 33 are the Acquisition Stores. All the Acquisition Stores trade under the Spar fascia. It also operates 18 stores at petrol filling stations, which are not part of the Transaction. For the financial year ended April 2012, Alfred Jones generated total net sales of approximately £116.7 million, of which approximately £[]m was attributable to the Acquisition Stores.

TRANSACTION

3. On 4 July 2013, One Stop entered into a legally binding share purchase agreement ('SPA') and two business purchase agreements ('BPA') with Alfred Jones. Pursuant to the terms of these agreements, One Stop will acquire the entire issued share capital of Newco 1 and Newco 2, which together will own the 33 Acquisition Stores (the **Transaction**).
4. The parties publicised the Transaction on 5 July 2013 and notified the Office of Fair Trading (**OFT**) on 24 July 2013. The OFT's administrative deadline is 19 September 2013.

JURISDICTION

5. As a result of this transaction Tesco/One Stop and certain stores owned by Alfred Jones will cease to be distinct. The parties overlap in the supply of groceries and Tesco's share of supply of grocery retailing in the UK is 30.5 per cent. As a consequence, the OFT considers that the share of supply test in section 23 of the Enterprise Act 2002 (the Act) is met.
6. 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 pursuant to section 23 of the Act.

FRAME OF REFERENCE

Product scope

7. In this case the Acquisition Stores are all convenience stores. The parties referred to previous decisions of the OFT and the Competition Commission ('**CC**') in relation to the relevant product scope. The approach adopted by the OFT in this case, which follows the CC's Groceries Report¹ and the OFT's previous decisional practice, classifies grocery stores according to their size:

¹ 'The supply of groceries in the UK market investigation', 30 April 2008 ('CC Groceries Report').

- **one-stop stores:** those with a net sales area of 1,400 square metres (sqm) or more. Stores in this category compete with other stores of the same size and constrain stores of a smaller size
- **mid-sized stores:** those with a net sales area of between 280 sqm and 1,400 sqm. Stores in this category compete with other stores of the same size, are constrained by one-stop stores but do not in turn constrain them, and
- **convenience stores:** those with a net sales area of less than 280 sqm. Stores in this category compete with all other stores of the same size, and are constrained by mid-sized and one-stop stores. Convenience stores do not constrain mid-sized or one-stop stores.

Asymmetric constraint from one-stop and mid-sized stores

8. In its most recent convenience retailing decisions,² the OFT has only considered the asymmetric constraint imposed on convenience stores from mid-sized and one-stop stores within the convenience store's own catchment area. In these particular cases, the OFT considers this was an appropriate approach to take given the facts and evidence at hand, including survey evidence and Convenience Tracking Program data which cast doubt on the constraint presented by mid-sized and one-stop stores outside the catchment area.³
9. The parties submitted that in this case the OFT should take account of the asymmetric constraint from mid-size stores within five minutes and one stop stores within 10 minutes,⁴ in line with the approach taken in *CGL/Somerfield*.⁵
10. In this case the OFT does not have any evidence to suggest that deviating from the general conclusions reached in the CC's Groceries Report or the

² Anticipated acquisition by Co-operative Group Limited of David Sands Limited, ME/5317/12, OFT decision of 16 April 2012 ('*CGL/David Sands*') and Completed acquisition by Midcounties Co-operative Limited of Tuffin Investments Limited, ME 5452/12, OFT decision of 18 October 2012 ('*Midcounties/Harry Tuffin*').

³ *CGL/David Sands*, paragraph 32, and *Midcounties/Harry Tuffin*, paragraph 60.

⁴ 10 minutes for one stop shops in urban areas and 15 minutes in rural areas, as outlined in paragraph 12. All of the areas which proceeded to Stage 1 filtering were located in urban areas.

⁵ Anticipated acquisition by Co-operative Group Limited of Somerfield Limited, ME/3777/08, OFT decision of 20 October 2008 ('*CGL/Somerfield*').

approach taken in *CGL/Somerfield* is appropriate. On a cautious basis, the OFT did not include the potential asymmetric constraint from one stop stores within 10 minutes in the initial filtering process, but has taken account of the asymmetric constraint imposed by one stop stores within 10 minutes within the stage 2 analysis.

Geographic scope

11. Previous OFT decisions and the CC's Groceries Report have concluded that the relevant geographic market is local, but that national dimensions of competition exist.⁶ At a national level, the OFT and CC have found that the largest national retailers (Tesco, Asda, Sainsbury's, Morrisons and Co-operative Group) constrain each other in an all grocery stores product market. The OFT has followed the same approach in this case.
12. At a local level, the definition of the relevant geographic market is determined by the OFT on the basis of a variety of drive-time isochrones.⁷ Specifically, in relation to the three product markets identified above, the geographic scope has been defined as follows:
 - one-stop stores – 10-minute drive-time in urban areas and 15 minutes in rural areas
 - mid-sized stores – five-minute drive-time in urban areas and 10 minutes in rural areas, and
 - convenience stores – five-minute drive-time in all areas.

Five-minute drive-time and one mile radius

13. The majority of third parties that responded to the OFT's questionnaire stated that the five-minute drive-time isochrone for convenience stores was appropriate, although two third parties noted that catchment areas may be one kilometre or one mile for convenience stores as consumers tend to travel by foot.

⁶ Anticipated acquisition by One Stop Stores Limited of 76 stores of the Mills group of companies, ME/4810/10, OFT decision of 14 March 2011 (*'Tesco/Mills'*), paragraph 13 and the CC's Groceries Report (*'The supply of groceries in the UK market investigation'*, 30 April 2008) paragraph 4.134.

⁷ An isochrone is a line joining points of equal travel time (usually drive-time) from a given point.

14. The parties submitted that a one mile radius was excessively narrow and that the appropriate geographic market to consider in this case was the five-minute drive-time isochrone used in *CGL/Somerfield*.
15. In this case the OFT does not have any evidence to suggest that deviating from the general conclusions reached in the CC's Groceries Report or the approach taken in *CGL/Somerfield* is appropriate. The OFT notes that a one mile measure was used in both the *CGL/David Sands* and the *Midcounties/Harry Tuffin* cases. However, this was because of evidence specific to those cases.⁸
16. Nevertheless, at the OFT's request, the parties carried out their initial filtering on both a five-minute and one-mile basis. The parties provided catchment area maps which showed that in the large majority of areas, there was little difference between the five-minute drive-time catchment isochrone and the one mile radius. Consequently, when considering the stores which were flagged by the filtering as potentially raising concerns, the OFT has assessed them using the five-minute drive time catchment area.

HORIZONTAL ISSUES

17. The OFT has assessed the proposed Transaction on both a national and local level. At the local level, the OFT considered the level of competition that will remain post-Transaction within a five-minute drive-time isochrone, taking account of mid-sized and convenience stores within this area and the asymmetric constraint presented by one stop stores within 10 minutes.

National analysis

18. The OFT does not consider that competition concerns arise as a result of the proposed merger at the national level. Tesco has a national market share in grocery retailing of 30.5 per cent. However, the turnover generated by the Acquisition Stores is approximately £[]m and therefore equates to a national share of less than 0.02 per cent. Other competitors, such as Asda, Sainsbury's, Morrisons and Co-operative Group, will remain

⁸ *CGL/David Sands*, paragraph 23 et seq, *Midcounties/Harry Tuffin*, paragraph 60.

post-merger and provide a competitive constraint on the merged entity at the national level.

19. The OFT therefore considers that the merger does not give rise to a realistic prospect of a substantial lessening of competition on a national basis in the retail supply of groceries.

Local area analysis

20. For the purposes of assessing the local effects of the proposed transaction, the OFT employs a filtering methodology which excludes areas that are very unlikely to be problematic. Where the merger would lead to a reduction in competing fascia to three or fewer, and consequently competition concerns cannot be ruled out,⁹ a more detailed assessment is carried out on an area by area basis.
21. In its previous decisions,¹⁰ and consistent with the CC's Groceries Report, the OFT has concluded that the effective competitor set of grocery retailers consists of large national grocery retailers and regional grocers, and symbol groups. Specialist retailers (for example, bakers or butchers),¹¹ Limited Assortment Discounters (LADs) and frozen food specialists have previously been excluded from this set.¹²
22. In their submission, the parties argued that LADs and frozen food retailers should be included in the fascia counting exercise. They submitted that the following provided evidence of the degree of constraint that LADs and frozen food retailers provide:
 - a comparable range of products relative to One Stop ([] – [] SKUs¹³ for Aldi as compared to [] for One Stop)

⁹ *Merger Assessment Guidelines*, joint publication of the OFT and the CC dated September 2010, paragraph 5.3.5.

¹⁰ *Tesco/Mills* and *CGL/Somerfield*.

¹¹ Specialist stores will typically offer a limited range of products and operate during restricted hours.

¹² *CGL/Somerfield*, paragraph 18.

¹³ Stock keeping units are used by retailers to identify product ranges (in terms of prices, current stock, manufacturer etc.). The granularity at which a particular SKU is assigned will depend on the specifics of the range (that is, differently sized products within the same line may entail separate SKU's), but are useful in providing an indicator of the ranges offered by different retailers.

- a size profile which is broadly equivalent to that of Co-op, Somerfield and M&S stores, all of which are considered by the OFT and the CC to constrain convenience store operators
 - strong geographic presence, with half of all Tesco stores facing Aldi/Lidl within a five-minute drive time
 - high customer perceptions of LADs
 - customer switching across all categories, []
 - customer penetration being higher for LADs [] than for Waitrose [], and
 - growing market share, with the discount segment now representing 9.1 per cent of the total UK grocery market.
23. The parties also cited the OFT's classification of LADs as mid-size stores for the purposes of the Stage One filtering exercise in *Asda/Netto*.¹⁴ They suggested that since there is a one-way constraint from mid-size stores to convenience stores, this is further evidence of the need to include LADs and frozen food retailers in the effective competitor set for convenience retailing.
24. However, the CC¹⁵ and the OFT¹⁶ have in previous assessments of the grocery sector concluded that LADs and frozen food specialists are not part of the same product market as large grocery retailers. This is due to the fact that LADs and frozen food retailers typically carry a reduced number of SKUs when compared to similarly sized stores operated by CGL, M&S, Sainsbury's, Somerfield and Tesco. Furthermore, entry analysis carried out by the CC as part of its Groceries Inquiry showed that stores owned by Aldi, Lidl and Netto were not close substitutes for the stores owned by the major grocery retailers.¹⁷ These results have been confirmed by findings of low customer diversion ratios to LADs from the major grocery retailers in OFT merger analysis.¹⁸ Indeed, survey evidence in the current case did not show significant levels of diversion to LADs.

¹⁴ Anticipated acquisition by Asda Stores Limited of Netto Foodstores Limited, ME/4551/10, OFT decision of 23 September 2010 ('*Asda/Netto*').

¹⁵ CC Groceries Report.

¹⁶ *CGL/Somerfield*.

¹⁷ *CGL/Somerfield*.

¹⁸ *CGL/Somerfield*.

25. In addition to convenience stores operated by the large national multiples and stores belonging to the symbol groups, the parties made representations to the OFT suggesting that the fascia counting and filtering exercises should also include Martin McColls and petrol forecourt station (PFS) kiosks belonging to BP and Total. In relation to Martin McColls, the parties submitted that McColls convenience stores are recognised by IGD as a convenience multiple,¹⁹ in the same category as Tesco Express and Sainsburys Local, and that the Martin McColls group is currently focused on developing and expanding the convenience side of its business. In relation to PFS, the parties submit the sales at PFS have grown to account for more than 12 per cent of all convenience sales, and that some PFS average 550-600 sq m in size and sell approximately 1,500 SKUs.
26. During the course of the investigation the OFT received representations from third parties providing mixed opinions on the constraint presented by McColls and PFS fascia. The OFT further notes that survey evidence in this case indicates diversion is low (only one per cent) even in an area where customers would have to pass a McColls store to access the store which received the majority of diversion.
27. Accordingly, the OFT has proceeded on a cautious basis and followed the methodology in previous merger analysis²⁰ involving convenience store acquisitions and considered the effective competitive set to include stores which are part of the groups operated by the large grocery retailers (Asda, CGL, M&S, Morrisons, Sainsbury's, Somerfield, Tesco and Waitrose), regional grocery retailers (for example, Booths and regional Co-ops) and symbol groups (for example, Budgens and Spar). The OFT subsequently considers the constraint other convenience retailers may pose on the merging parties' fascia in locations which fail the filtering methodology.

Preliminary filter

28. In line with the approach previously taken in *Tesco/Mills*,²¹ the parties applied a preliminary filter. Areas where the parties did not overlap or areas

¹⁹ The necessary attributes for IGD to consider a store as a convenience store include long store opening hours, selling space below 280 m² and the availability of certain core products for consumption off-premises. The IGD criteria are set out here: www.igd.com/our-expertise/Retail/Convenience/3369/Convenience-Retailing-Market-Overview.

²⁰ *CGL/Somerfield*.

²¹ *Tesco/Mills*, paragraph 22.

where six or more relevant competing fascia (including Tesco/One Stop) remained in the relevant geographic market were provisionally identified as raising no competition concerns.

29. On the basis of the preliminary filter, 21 stores were provisionally identified as raising no competition concerns. The OFT requested that three of these were considered further at Stage 1, based on its analysis of the maps. In addition, the parties subsequently passed an additional store through to Stage 1 during the course of confirming their filtering.

Stage 1 filter

30. At the OFT's request, the parties conducted a filtering assessment for the remaining 16 stores, based on fascia counting for each local area where the parties' stores overlap within both a five-minute drive-time isochrone and (as a cautious sensitivity check) a one mile radius. This filtering assessment was conducted using only the fascia in the effective competitor set. It involved centring on the Acquisition Store, all stores owned by Tesco/One Stop within the maximum reach isochrone of the Acquisition Store, and all relevant competitor stores within the primary isochrone of the Acquisition Store.
31. On the basis of the Stage 1 filter, a further 10 Acquisition Stores were provisionally identified as raising no competition concerns, as at least four effective fascia remained in all isochrones. However, the filtering flagged six local areas where the OFT considered further analysis may be required.
32. On a five-minute drive-time isochrone there are four overlap areas in which there will be a reduction in fascia from four to three or fewer post-merger, namely: West Derby, St Helens, Woolston, and Moreton. Based on a one mile radius, two additional overlap areas were identified with a reduction in fascia from four to three or less: Haydock and Woodvale. On a cautious basis, the OFT considered all six areas in its stage 2 analysis.

Stage 2 assessment - areas where survey evidence was provided

33. The OFT assesses in more detail all stores where prima facie competition concerns arise from the stage one filtering assessment (that is, where there will be a reduction in competing fascia from four to three or lower). The parties commissioned a survey at three of the Acquisition Stores, and the

closest Tesco convenience store in the overlap area.²² This has permitted the OFT to carry out a competition assessment for these survey stores using diversion and illustrative price rise estimates.

34. The diversion ratio from a given Alfred Jones store to local Tesco/One Stop stores (and vice versa) offers a measure of the degree to which they are local competitors. The parties conducted surveys to help estimate these diversion ratios from one store to another. In its previous decisional practice, the OFT has had prima facie concerns with diversion ratios of 14.3 per cent or more.²³ However, the OFT considers that such a measure is merely a guide as to whether a transaction is likely to raise prima facie concerns, as opposed to a definite threshold below which no concerns would arise.

Illustrative price rises (IPRs)

35. Diversion ratio estimates and gross margin data can be combined to estimate illustrative price rises (**IPRs**) anticipated as a consequence of the internalisation of pre-merger competitive constraints. It is important to note that these are not 'predicted' price increases, but simply a relative measure of the volume of business internalised by the merger calibrated as a potential price increase. There are alternative IPR formulae depending on whether (a) demand is assumed to be linear or isoelastic,²⁴ and (b) how symmetric the diversion ratios, prices and marginal costs of the parties are.
36. The OFT has used both symmetric and asymmetric IPRs in its previous decisional practice.²⁵ The OFT considers that symmetric IPRs are particularly relevant where there are no significant asymmetries between the merging parties. In its previous decisional practice, the OFT has had prima facie concerns with IPRs of five per cent or more.²⁶ Again, the OFT considers that such a measure is merely a guide as to whether a transaction is likely to raise prima facie concerns, as opposed to a definite threshold below which no concerns

²² In West Derby the parties did not survey the overlapping Tesco as it is a superstore.

²³ *CGL/Somerfield and Midcounties/Harry Tuffin*.

²⁴ Isoelastic IPR assumes that demand has constant elasticity. That is, the proportion of demand that falls for a given percentage price rise is the same irrespective of what the starting price is.

²⁵ Anticipated merger between Co-operative Group (CWS) Limited and United Co-operatives Limited, OFT decision of 23 July 2007, *CGL/Somerfield, Asda/Netto and Sainsbury/Rontec*.

²⁶ *CGL/Somerfield and Midcounties/Harry Tuffin*.

would arise. The OFT interprets IPR estimates in the context of the other evidence available for each area.

37. In **Woolston** and **St Helens**, both surveyed stores are convenience stores. The OFT calculated isoelastic symmetric IPRs for these areas. In Woolston, the IPR was 0.15 per cent and in St Helens, the IPR was 2.98 per cent, both of which are substantially below the five per cent which has previously been used as an indicator of prima facie concerns. Accordingly, the OFT does not consider that there is a realistic prospect of a substantial lessening of competition in these areas.
38. In **West Derby**, the parties did not carry out a survey at the nearest Tesco as it is a large one stop shop. At the Alfred Jones store which was surveyed, the OFT calculates that diversion from Alfred Jones to Tesco is 17.4 per cent.²⁷ The IPR (based on the symmetric form) is 6.7 per cent. This indicates that competition concerns in the area cannot be ruled out.
39. However, the OFT notes that in West Derby the competitive dynamic between the parties is unlikely to be symmetric. For example, the parties have materially different profit margins and store sizes. Two Tesco stores overlap with the Alfred Jones store, one of which is a large one-stop store and the other of which is located on the edge of the catchment area next to a Spar that is not owned by Alfred Jones. In the absence of surveys at the Tesco stores it is not possible to calculate the asymmetric IPR.
40. However, the OFT notes that diversion from Tesco to Spar would have to be over nine per cent to result in an asymmetric IPR of over five per cent.²⁸ The bulk of the diversion from Alfred Jones to Tesco in this area was to the Tesco one-stop store. The OFT considers that in line with the findings of the CC's Groceries Report, little diversion is likely from the Tesco one-stop store to the Alfred Jones store. Moreover, the diversion from Alfred Jones to the Tesco convenience store was low, at six per cent. There is no evidence to indicate that diversion from the Tesco convenience store to Alfred Jones is likely to

²⁷ The OFT has excluded non purchase responses from the diversion ratio estimates in line with its previous decisions in grocery markets.

²⁸ IPRs of over 5 per cent have typically been used as an indicator of potential competition concerns.

be any higher, in particular because the Tesco convenience store is next to a non-target Spar. Accordingly, diversion of six per cent from Tesco to Alfred Jones is likely to represent the upper bound. A diversion ratio of this magnitude would not result in an asymmetric IPR of over five per cent.

41. Having carefully considered the evidence available for West Derby the OFT does not consider that there is a realistic prospect of the merger giving rise to a substantial lessening of competition in this area.

Stage 2 assessment - areas where survey evidence was not provided

42. In areas where survey evidence was not provided, the OFT assessed each of the areas identified in terms of the local characteristics of the area (for example, whether the local area is a rural village or on the edge of a large town), whether there are competing stores (one-stop stores, mid-sized stores or convenience stores) inside and just outside of the relevant geographic scope, the presence of additional competitors within the geographic scope but outside of the effective competitor set that may impose a competitive constraint, and the closeness of competition in terms of proximity of the target store to the nearest Tesco/One Stop store and the relative proximities of competing fascia.
43. The OFT considers, in line with the CC's findings in its Groceries Report,²⁹ that it is appropriate to take into account the nature of the retail offer by the different stores in each local market – including those outside the effective competitor set – when assessing the stores that should be regarded as imposing a competitive constraint in a specific local area. Therefore, for the purposes of examining the competitive effects of the proposed transaction in areas where competition concerns cannot be ruled out but where surveys are not carried out, the OFT considers additional stores outside of the effective competitor set where it has sufficient information to do so.
44. The OFT assesses additional competitors on the following characteristics: geographical proximity to the parties' stores, product offering, store size (net sales area), opening hours, parking availability and association with a multi-store operator (such as a regional chain of stores). The parties

²⁹ CC Groceries Report, paragraph 4.136.

provided a range of documentary evidence to inform the OFT's assessment of competing fascia in these areas based on the above criteria.

45. Following its analysis of each of the three local areas, the OFT considers that there is no realistic prospect of a substantial lessening of competition in each area. A summary of the OFT's local analyses is set out below.
46. In the **Moreton** area, there is a four to three reduction in fascia based on a five-minute filter around the target. However, the area does not fail the *CGL/Somerfield* filter which takes into account the asymmetric constraint presented by one stop stores within 10 minutes. Further, the parties identified a branch of Aldi within the five-minute isochrone, and a Nisa just outside it at six minutes' drive time. The OFT notes that the parties are not each other's closest geographic competitors in the area. Based on the additional competitive constraints identified and the fact that the parties are not each other's closest competitors, the OFT does not believe that there is a realistic prospect of a substantial lessening of competition in this area.
47. In the **Haydock** area, there is a four to three reduction in fascia based on a one mile radial. However, the area does not fail the five-minute filter, within which there are additional effective competitors, or the *CGL/Somerfield* filter which takes into account the asymmetric constraint presented by one stop stores within 10 minutes. The OFT further notes that the parties are not each other's closest geographic competitors in the area. Based on the additional competitive constraints identified, the fact that the parties are not each other's closest geographic competitors, and given the OFT's conclusions on the relevant market discussed above, the OFT does not believe there is a realistic prospect of a substantial lessening of competition in this area.
48. In the **Woodvale** area, there is a three to two reduction in fascia based on a 1 mile radial. However, the area does not fail the five-minute filter (due to the presence of a non-target Spar within five minutes) or the *CGL/Somerfield* filter which takes into account the asymmetric constraint presented by one stop stores within 10 minutes (due to a Waitrose one stop shop in a nearby population centre). The OFT further notes that the parties are not each other's closest geographic competitors in the area. Based on the additional competitive constraints identified, the fact that the parties are not each other's closest competitors, and based on the OFT's

conclusions on the relevant market discussed above, the OFT does not believe there is a realistic prospect of a substantial lessening of competition in this area.

Conclusion on unilateral effects

49. In light of the evidence gathered during the course of its market investigation, the OFT considers that there is no realistic prospect of a substantial lessening of competition in the retail supply of groceries at the national or local level.

Barriers to entry and expansion

50. As the merger does not raise a realistic prospect of a substantial lessening of competition at the national or local level, the OFT has not needed to consider the barriers to entry or expansion in relation to the retail supply of groceries.

THIRD PARTY VIEWS

51. Third party views have been incorporated above where appropriate. The majority of third parties did not raise any competition concerns about the merger. A number of third parties noted the fragmented and competitive nature of the convenience store sector in the UK.
52. Three third parties raised competition concerns suggesting that Tesco's existing national market position would be strengthened by the merger. One third party raised local concerns, suggesting that an additional store would give Tesco a strong position in the Haydock area. These concerns have been addressed above.

ASSESSMENT

53. In accordance with previous decisions of the OFT, the relevant product market is considered to comprise retail grocery stores categorised by size into one-stop, mid-sized and convenience stores.
54. The OFT considers that it is appropriate to examine the merger, in terms of geographic scope, on the basis of a five-minute drive-time isochrone. The

OFT has considered the asymmetric constraint on convenience stores from one-stop and mid-sized stores within and outside these geographic areas, but did not, for the purposes of its preliminary filtering assessment, include one-stop and mid-sized stores outside these areas.

55. At the national level Tesco has a national market share in grocery retailing of 30.5 per cent. The increment attributable to the Acquisition Stores constitutes less than 0.02 per cent of the UK groceries market. Other competitors will continue to provide a constraint on the merged entity. Therefore, the OFT considers that there is no realistic prospect of a substantial lessening of competition at the national level.
56. At the local level, based on a five-minute drive time isochrone there are four overlap areas in which there will be a reduction in fascia from four to three or less post-Transaction. Based on a one mile radius, two additional overlap areas were identified at the filtering stage with a reduction in fascia from four to three or less.
57. The parties provided the OFT with information on these six local areas, including information pertaining to competing fascia in the areas that were not included in the effective competitor set. Following an analysis of a number of factors in each of these local areas that includes (where applicable) survey evidence, the particular geographic characteristics of the areas and the presence of additional competitors outside of the effective competitor set, the OFT considers that there is no realistic prospect of a substantial lessening of competition at the local level.

DECISION

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