
Completed acquisition by Albemarle and Bond Holdings plc of
Herbert Brown & Son Limited

The OFT's decision on reference under section 22(1) given on 19 September 2007. Full text of decision published 3 October 2007.

Please note that square brackets indicate figures or text which have been deleted or replaced with a range by the OFT or at the request of the parties for reasons of commercial confidentiality.

PARTIES

1. **Albemarle and Bond Holdings plc (A&B)** is a company listed on the Alternative Investment Market. Its core business is the provision of consumer credit – primarily by means of pawnbroking and related services – but also through pay day advances, loans and the cashing of cheques. A&B is also a retailer of new and second hand jewellery.
2. **Herbert Brown & Son Ltd (Herbert Brown)** is a private limited company whose activities (with the exception of loans) overlap with those of A&B – but are more heavily weighted towards jewellery retail. Herbert Brown's turnover during the year ended 31 March 2006 was £11.7m.

TRANSACTION

3. A&B's acquisition of the entire issued share capital of Herbert Brown was completed on 17 July 2007. The statutory date by which the OFT must reach a decision on reference is therefore 16 November. The parties notified the transaction to the OFT on 27 July 2007. The administrative target date for a decision is 21 September 2007.

JURISDICTION

4. As a result of this transaction A&B and Herbert Brown have ceased to be distinct. The parties' supply of pawnbroking services brings about combined shares of over 25 per cent in several localities which constitute a substantial part of the UK. Consequently the share of supply test in section 23 of the Enterprise Act 2002 (the Act) is met. The OFT therefore believes that it is or may be the case that a relevant merger situation has been created.

FRAME OF REFERENCE

5. The parties overlap in the retail of jewellery and the provision of non-mainstream consumer credit.

PRODUCT SCOPE

Retail of jewellery

6. The parties submit that the sale to consumers of both new and second hand jewellery comprises one single retail model that does not however include the sale of 'fine jewellery' (i.e. precious gems). They argue that, unlike many other types of second hand goods, jewellery does not become obsolete nor is its function impaired over time.
7. The OFT considers that it is not necessary to reach any conclusion as to the precise scope of the jewellery retail model operated by the parties given that neither is a significant jewellery retailer in the UK and that no competition concerns arise on any basis.

Consumer credit provision

8. The parties compete within a wide area comprising the following segments of consumer credit provision:
 - 'Traditional' pawnbroking services - the provision of small monetary loans secured on items of value (typically jewellery) which the pawnbroker accepts from the borrower and holds as collateral ('pawn') for a minimum redemption period. At any point during this period, the borrower is entitled to buy back the item in question by repaying the amount of the original loan with additional interest – typically in the order of 7 to 12 per cent per month. In the UK, traditional pawnbroking is regulated by the Consumer Credit Act 1974 which sets an initial redemption period for loans at six months. If the loan and interest is not repaid within that period or by any extended period agreed by the pawnbroker, the borrower forfeits the pawn and ownership transfers to the pawnbroker who may then offer the item for general retail sale.
 - Sale and buy-back services - the six months redemption period provided for in UK pawnbroking law can be problematic in the case of pawns that comprise items (such as electronic equipment) which are prone to obsolescence and consequent loss in value in relatively short periods of time. Sale and buy-back is an alternative to traditional pawnbroking in that it allows for a consumer to sell the item to the business on terms that give that consumer the option to buy the item back within a short period of time (typically one month) at a price usually around 20 per cent higher than that received from the sale to the business. Sale and

buy-back services are not regulated by the Consumer Credit Act. It should be noted that although their commercial activities compete with this segment, neither of the parties is active within it.

- Pay day advances - are loans to consumers in regular paid employment to bridge gaps in funds until their next pay day. The borrower writes a personal cheque to the lender in the full amount of the advance plus an additional charge of typically around 14 per cent. The cheque is post-dated to the date when the loan is due for repayment.
 - Cheque cashing - a service by which a consumer presents a cheque drawn on the account of a third party in order to obtain instant access to cash. Such a customer may either not have a bank account or may need the money immediately and therefore be unwilling to wait for the cheque to clear. The typical fee for this service is around six per cent.
9. The parties submit that the above services do not constitute separate product markets. Rather, they propose that the appropriate frame of reference is that for the provision of non-mainstream consumer credit services which includes the services described in paragraph eight as well as other non-mainstream credit options such as home credit.¹ Essentially, this comprises the provision of credit to consumers for whom it is difficult to obtain credit from mainstream sources² due to circumstances such as a poor credit rating or the lack of a bank account.
10. Third party comment on the possibilities for demand and supply side substitution was mixed. Some suggested that pawnbroking, sale and buy-back, pay day advances and cheque cashing comprised one single frame of reference. Others suggested that switching would be more limited. Without prejudice to the possibility of the product scope being wider, the OFT has taken a cautious approach and has considered two candidate frames of reference comprising:
- traditional pawnbroking and sale and buy-back - on the basis of supply and demand side considerations, and
 - pay day advances and cheque cashing - on the basis of supply side considerations.

This approach is consistent with that taken by the Competition Commission (CC) in its report on Home Credit.³ The focus of the CC's inquiry was specifically on home credit, however, in looking at alternative forms of non-mainstream credit, the CC did consider together traditional

¹ Small loans repaid in weekly instalments that are collected from the borrower's home.

² For example, overdrafts, personal loans and credit cards.

³ Competition Commission: Home credit market investigation, 30 November 2006.

pawnbroking and sale and buy-back on the one hand and pay day advances and cheque cashing together on the other.

GEOGRAPHIC SCOPE

11. There are seven towns and cities in the UK in which A&B and Herbert Brown both operate: Huddersfield, Sunderland, Wakefield, Doncaster, Manchester, Leeds and Newcastle-upon-Tyne.
12. The parties propose that the relevant geographic scope is local, comprising a typical catchment area measured in terms of a [-] mile radius around each retail outlet. Evidence provided by the parties, showed some [-] per cent of their customers come from within [-] miles of their outlets.
13. In previous cases, the OFT has considered the impact of merger in various retail sectors on the basis of loss of competition over narrower distances - effectively those comprising town centres. For example, in GAME/Gamestation⁴ a one mile radius was considered appropriate partly on the basis of proximity of competing outlets.
14. The approach adopted by the OFT in the present case has been to consider the impact of the merger - specifically with regard to consumer credit services - using a one mile radius as a candidate lens. However, in the absence of any competition concerns arising at this cautiously narrow range, the OFT reaches no conclusions as to the precise scope of the geographic frame of reference.

HORIZONTAL ISSUES

Non-coordinated effects

Retail of jewellery

15. The parties submit that jewellery retail in the UK is fragmented, with independent retailers having a significant presence alongside larger groups. They also submit that, at the local level, each of the seven towns and cities where they both operate contains a significant number of jewellery retailers – at the very least ten such competing outlets in addition to the parties. On this basis, and in the absence of any third party concerns with regard to the impact of the merger on the retail of jewellery, the OFT does not give this segment any further consideration.

⁴ Completed acquisition by the GAME Group plc of Game Station Ltd and its wholly owned subsidiary Gamestation Ltd, 9 August 2007.

Pawnbroking/sale and buy-back

16. On the basis of one mile radii, the available evidence indicates that there is no overlap between the parties in three of the towns and cities (Manchester, Leeds and Newcastle-upon-Tyne) where they both operate. In two locations (within Sunderland and Wakefield) the number of competing fascia is reduced from five to four and within one location (within the town of Huddersfield) the number of competing fascia is reduced from four to three.
17. Absent third party concerns and given the low entry barriers discussed below, the OFT does not consider that a reduction to three competitors supplying pawnbroking services in an area cautiously delimited by a candidate lens consisting of a one mile radius in the Huddersfield area results in any substantial lessening of competition.

Pay day advances/cheque cashing

18. The available evidence indicates that, post-merger, there remain at least six competing fascia on the basis of one mile radii in all of the seven relevant locations. The market segment consisting of pay day advances and cheque cashing is therefore given no further consideration in this decision.

Barriers to entry and expansion

19. The parties submit that there are no major barriers to entry or expansion in relation to pawnbroking and sale and buy-back. They propose that all that is required is a consumer credit licence, working capital of around £100,000 for the first year, suitable premises and the ability to value jewellery.
20. They argue that potential entrants to any particular geographical area include expansion by major pawnbroking chains such as Harvey & Thompson, The Money Shop, Cash Converters and Cash Generators as well as new entry by independents. The parties suggest that independents may even have an advantage over the larger chains as they are better able to build up more personal relationships with customers which enables them to make a more informed judgement in determining the size of loans - *[redacted]*.
21. The parties' arguments with regard to ease of entry are largely endorsed by third party competitors - albeit on the basis of the new entrant having the necessary expertise and finance. Third party comments in particular support ease of expansion by existing chains into new geographic areas.
22. There is evidence of recent new entry and expansion. The National Pawnbrokers Association (NPA) has recently set up a database to track

new shop openings. The system was set up in March 2007 and between March and July fourteen new shops were opened: four by existing chains and ten by new entrants (often existing jewellery retailers diversifying their business).

23. In addition, the NPA provides information on its website relating to the setting up of a pawnbroking business, including advice on security and compensation schemes, the Consumer Credit Act, access to essential suppliers such as auctioneers and valuers, IT solutions, available courses on the valuation of goods etc.
24. None of the available evidence suggests that new entry or expansion into the area by an existing chain would be difficult in Huddersfield where - albeit within a very narrow geographic area delimited by a one mile radius - the number of competing outlets is reduced from four to three.
25. The OFT therefore considers that de novo entry and/or expansion by an existing pawnbroker would be timely and sufficient enough to mitigate any competition concerns that arise at the local level.

Buyer power

26. Customers in this retail sector are individual consumers who would not be expected to possess any countervailing buyer power.

THIRD PARTY VIEWS

27. Third party comment has been discussed in the body of the analysis above. No third party raised any concern in relation to the merger.

ASSESSMENT

28. The parties overlap in the retail of jewellery and in the supply several types of non-mainstream consumer credit. Neither of the parties is a significant player in jewellery retail: a segment in which considerable competitive constraint is posed at all relevant local levels.
29. For the purposes of this analysis, the two relevant non-mainstream consumer credit segments are (a) traditional pawnbroking and sale and buy-back services and (b) pay day advances and cheque cashing.
30. There are seven towns and cities in the UK in which A&B and Herbert Brown both operate: Huddersfield, Sunderland, Wakefield, Doncaster, Manchester, Leeds and Newcastle-upon-Tyne.
31. Without prejudice to the geographic scope being wider, a cautious approach has been taken by examining the impact of the merger within an area delimited by a one mile radius around the parties' shops.

32. On this very narrow geographic basis, post-merger there remain four or more fascia competing in the traditional pawnbroking and sale and buy-back segment in all the relevant locations - with the exception of Huddersfield, where the number is reduced to three.
33. In relation to Huddersfield, the OFT does not consider, not least on the basis of low entry barriers, that a reduction to three competitors supplying pawnbroking services at the one mile radius results in any substantial lessening of competition.
34. As regards the segment comprising the provision of pay day advances and cheque cashing services, the available evidence indicates that, post-merger, there remain at least six competing fascia on the basis of one mile radii in all of the relevant locations.
35. The opening by both existing chains and small independents of fourteen new shops in the period March to July 2007 is evidence of low barriers to entry and expansion in this retail sector.
36. 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

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