
Completed acquisition by W & J Dunlops Ltd of Genusxpress Ltd

The OFT's decision on reference under section 22 of the Enterprise Act given on 20 March 2006. Full text published 13 April 2006.

PARTIES

1. **W & J Dunlops Limited (Dunlops)** is a wholesale supplier of veterinary pharmaceuticals, pet food, disposables, instruments and equipment to veterinary practices. **Genusxpress Limited (Genus)** was, prior to the acquisition, also active in the wholesale supply of veterinary pharmaceuticals, pet food, disposables, instruments and equipment to veterinary practices. Genus' UK turnover for the financial year ending 31 March 2004 was £67.8 million.

TRANSACTION

2. Dunlops completed the acquisition of Genus on 28 October 2005. The 40-working-day administrative deadline expires 20 March 2006 and the extended statutory timetable expires 10 April 2006.

JURISDICTION

3. As a result of this transaction Dunlops and Genus have ceased to be distinct. The parties overlap in the supply of veterinary pharmaceuticals, pet food, disposables, and instruments and equipment to veterinary practices. They had a combined Great Britain (GB)¹ share of supply of 30 per cent of veterinary pharmaceuticals. 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.

¹ Neither company supplies customers in Northern Ireland.

RELEVANT MARKET

Product market

4. The parties are both full-line veterinary wholesalers, i.e. they stock the whole range of veterinary medicines (over 3,000 product lines) and for the majority of customers they offer a daily delivery service. Veterinary medicines account for the majority of their distributed products.

The parties overlap in the supply of:

- prescription-only veterinary medicines
- other veterinary medicines
- pet foods
- disposables (such as syringes and needles), and
- instruments and equipment (such as scissors and scalpels).

Prescription-only veterinary medicines (POMs)

5. On the demand-side, it appears that veterinary practices, pharmacies, agricultural merchants and saddlers face a choice of two different channels from which to source POMs; they can either source from full line wholesalers² or manufacturers.³ Customers have commented that sourcing directly from manufacturers was inconvenient and the majority considered the supply of POMs would come via a wholesaler.
6. On the supply-side, it is considered unlikely that manufacturers place a significant constraint on full line wholesalers. First, manufacturers do not generally deliver nationally and rely on wholesalers to supply the majority of their products. Secondly, manufacturers only offer limited product ranges and would therefore not constrain full liners from a price increase across their product range.
7. The POM supply by wholesalers will therefore be considered as a separate frame of reference.

² In its 2003 report 'A report on the supply within the UK of prescription-only veterinary medicines', ('the 2003 CC report') the Competition Commission (CC) noted that 90 per cent of POMs were distributed by the (then) six veterinary wholesalers in the UK.

³ Manufacturers contacted by the OFT submitted that approximately 10-15 per cent of supply is directly to customers but this may vary from product to product.

Other veterinary (non-POM) medicines

8. While there is some evidence to suggest that these medicines are mainly sold directly; or through agricultural merchants, or through specialist 'trade' wholesalers, third party comments have been mixed, with some maintaining that use of a wholesaler was necessary. As for POM's a cautious approach has been taken and the wholesale supply of non-POM medicines will therefore be considered in isolation.

Pet foods, Disposables, Instruments and Equipment

9. For the above product categories, the parties have submitted, and this has been confirmed by a number of third parties, that customers can source these products not only from veterinary pharmaceutical wholesalers but also from supermarkets (pet food), and manufacturers and merchants (disposables, instruments and equipment). As the parties' combined GB shares of supply for each of these sectors are relatively low (11 per cent for Instruments and Equipment, 19 per cent for Disposables and 21 per cent for Pet Foods) and given the lack of third party concern in relation to these sectors they are not considered further in this analysis.

Geographic market

10. The parties argue that the relevant geographic frame of reference is national and this is in line with the CC's conclusions in its 2003 report (when noting the parties' lack of supply in Northern Ireland). Dunlops confirms that pre merger, it had the ability to trade nationally from its base in Dumfries (Scotland) and its local trucking stations, while its customer base was geographically mainly concentrated in Scotland, Northern England and Wales. Genus traded nationally from a number of depots and the parties' largest competitor NVS operates nationally, as does another competitor, Centaur, who has a stronger presence in the South but also serves a small number of practices in the North of England and Scotland.
11. In terms of whether there could be a regional dimension to the frame of reference it is particularly noted that no concerns were expressed by customers on a regional basis. (In fact out of eighteen customers who responded to our enquiries, only one expressed concerns about a reduction in choice.) Moreover, in terms of delivery times Dunlops submits that whilst a same-day service can be of value, the trend nationally is for a next day service. This view is consistent with the majority of third party responses. A further factor indicating that conditions of competition are homogeneous between regions is that the OFT has obtained data from the parties which indicates that they do not practice regional price discrimination or regional variation of discounts.

12. All the above factors indicate that the conditions of competition are sufficiently homogenous across GB to consider it as the relevant geographic frame of reference.

HORIZONTAL ISSUES

13. The parties have provided estimates of their shares of supply in each product category.

Table 1: GB share of supply data for sales of veterinary wholesalers

	Dunlop %	Genus %	Combined %	NVS %	Centaur %	Market size (£million)
POMs*	18	12	30	42	23	£337.5
other medicines	18	12	30	42	23	£112.5

Source: Dunlops best estimates

* Dunlop competitor estimates are for all veterinary medicines, POMs comprise 75 per cent of the market.

POMS AND OTHER VETERINARY MEDICINES

14. The merged entity has a national share of supply of 30 per cent (increment 12 per cent) for POMs and other medicines, respectively. Post-merger, two other significant competitors, NVS and Centaur would remain present supplying 42 per cent and 23 per cent respectively. It is considered that they will continue to constrain the merged entity post-merger. Virtually all customers have submitted that switching is relatively easy. Also, respondents submitted that customers are free to source from any supplier at any time. Customers therefore have a choice in terms of alternative suppliers and do not face any difficulty in terms of switching from one supplier to another. It is not therefore considered that the removal of one competitor will result in any significant change in competitive dynamics. The transaction therefore does not raise the realistic prospect of a SLC in POMs and other veterinary medicines, respectively.

THIRD PARTY VIEWS

15. The majority of third parties did not express any competition concerns about this transaction.

ASSESSMENT

16. The parties overlap in the wholesale supply of veterinary pharmaceuticals, pet food, disposables, and instruments and equipment to veterinary practices. On a

GB basis, their combined market shares amount to up to 30 per cent. It is considered that other competitors will continue to sufficiently constrain the parties post-merger such that sufficient competitive pressure is expected to remain to ensure that the merged entity will not be able to raise prices or otherwise restrict consumer choice. In the absence of any horizontal concerns, the OFT does not believe that the merger raises any substantive competition concerns.

17. 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

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