
Anticipated acquisition by Travis Perkins Plc of BSS
Group Plc

ME/4609/10

Variation to undertakings accepted 25 March 2011. Full text of
decision published 25 March 2011.

THE PARTIES

1. **Travis Perkins plc (TP)** primarily distributes building materials through over 600 branches across the UK. Its businesses also include **City Plumbing Supplies (CPS)** a national chain of 194 outlets which specialises in the supply of plumbing and heating (P&H) products.
2. **The BSS Group plc (BSS)** primarily retails and wholesales P&H products in the UK and the Republic of Ireland. Its subsidiary, Plumbing Trade Supplies Limited (PTS), operates 325 branches retailing P&H products mainly to 'domestic' customers (mainly sole traders, plumbers and house builders) in the UK. Other subsidiaries supplying P&H products mainly to 'domestic' customers include: F&P Wholesale (a wholesale supplier to general and specialist builders' merchants), Spendlove C. Jebb (a plumbers' merchant in Northern Ireland and the Republic of Ireland); and, Direct Heating Spares (a distributor of domestic heating spare parts).

TRANSACTION

3. TP acquired BSS by way of a scheme of arrangement in December 2010. The transaction is subject to the UK Takeover Code and is conditional on the Office of Fair Trading (OFT) not referring the transaction to the Competition Commission (CC).

4. TP notified this transaction to the OFT on 19 July 2010. The OFT's administrative deadline in this case was 26 October.

JURISDICTION

5. As a result of this transaction Travis Perkins and BSS ceased to be distinct. The UK turnover of BSS exceeded £70 million, so the turnover test in section 23(1)(b) of the Enterprise Act 2002 (the Act) was satisfied.
6. The OFT concluded in its decision of 26 October 2010 (the Decision) that arrangements were in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.

BACKGROUND

7. In the Decision, the OFT stated 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 on the basis of unilateral effects arising in the retail supply of plumbing and heating products in 20 local areas. The text of the Decision, published on 11 November 2010, provides details of the OFT's findings.
8. To address the OFT's competition concerns, Travis Perkins offered to divest a store (or stores) in each of those local areas (the Divestment Businesses). On 11 November 2010 the OFT published for consultation the text of proposed undertakings in lieu offered by Travis Perkins. These undertakings were accepted by the OFT on 10 December 2010.
9. These original undertakings were varied on 16 February 2011 to remove from the Divestment Businesses two areas: Aldridge and Walsall.
10. Following that variation, it was also brought to the attention of the OFT that 'Plumbase', Grafton Group (UK) plc's branded plumbing and heating specialist national chain, operates a store within less

than two miles from the BSS Plumbing Trade Supplies store in Weston-Super-Mare, Vernon Court (postcode, BS22 8NA).

11. The BSS store and the overlapping Travis Perkins store in that catchment area were included among the Divestment Businesses because, based on the OFT's understanding of the situation at the time, this merger would lead to a '3-to-2' fascia reduction in plumbing and heating specialist national chains in that local area.¹ The presence of the 'Plumbase' store increases the post merger fascia number to three in the 10-miles catchment area.
12. In addition, since the 'Plumbase' store is located within five miles from the target BSS's PTS store and there is a third national plumbing and heating specialist (Wolseley's 'Plumb Center') operating also within that 5-mile radius, on the basis of the methodology² set out and applied in the Decision, the OFT should not have had concerns in that area. As such, there should not have been a requirement for Travis Perkins to make a divestment in Weston-Super-Mare.
13. In light of the above, and following Travis Perkins' formal request to vary the undertakings in lieu, the OFT considered that it was appropriate to consult on the proposed variation. This consists of the removal from the undertakings in lieu of the obligation on Travis Perkins to divest the BSS or the overlapping Travis Perkins store within the 10-mile catchment area around the Weston-Super-Mare branch.

CONSULTATION

14. On 25 February 2011 the OFT published the proposed varied undertakings in lieu inviting interested parties to give their views on them by 11 March 2011 pursuant to paragraph 2(1) Schedule 10 of the Act. In the consultation, the OFT noted that it was minded to accept the proposal.

¹ See Paragraph 127 of the Decision and row 16 of Annex 1 (Divestment Business) of the OFT undertakings-in-lieu decision of 10 December 2010.

² See Paragraph 130 of the Decision.

15. The OFT did not receive any responses against the proposed variation.

DECISION

16. In light of these findings post-decision, the OFT considers that the varied undertakings in lieu superseding the existing ones are clear-cut and appropriate to remedy, mitigate or prevent the substantial lessening of competition and any adverse effects resulting from it. The OFT has therefore decided to accept the superseded undertakings in lieu offered by Travis Perkins and they come into effect from today.

Amelia Fletcher

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25 March 2011