

MARKET INVESTIGATION INTO THE SUPPLY OR ACQUISITION OF AGGREGATES, CEMENT AND READY-MIX CONCRETE

Notice of intention to release Joint Final Undertakings pursuant to section 159 of and Schedule 10 to the Enterprise Act 2002

1. On 18 January 2012 the Office of Fair Trading made a reference to the Competition Commission (CC) under section 131 of the Enterprise Act 2002 (the Act) concerning the supply or acquisition of aggregates, cement and ready-mix concrete in Great Britain (the Reference).
2. On 14 January 2014 the CC published its report on the Reference, entitled *Aggregates, cement and ready-mix concrete market investigation: Final report* (the Report), in which it concluded that:
 - (a) a combination of structural and conduct features in the bulk and bagged cement markets in Great Britain (GB) gave rise to an adverse effect on competition (AEC) in those markets (the GB cement markets);
 - (b) there were further features of the GB cement markets which combine to give rise to an AEC in the market for the supply of ground granulated blast furnace slag (GGBS) in GB, as well as to an additional AEC in the GB cement markets;
 - (c) the likely effect of those features and resulting AECs is higher prices for cement and for GGBS than would otherwise be the case;
 - (d) in order to address those AECs and the resulting customer detriments, remedies should be imposed under section 138(2) of the Act consisting, in particular, in the divestiture of a cement plant by Lafarge Tarmac and an active GGBS plant by Hanson, together with the right of the acquirer of the GGBS plant to obtain supplies of granulated blast furnace slag (GBS) or pellite and access to existing stockpiles of GBS or pellite;
 - (e) the GGBS plant to be divested should, at the option of Hanson, be its plant at Port Talbot, Scunthorpe or Purfleet, and the divestiture should be made to a buyer who satisfies the CC's criteria for a suitable purchaser and is not another GB cement producer;

- (f) the divestiture with the fewest risks would be for Hanson to divest its plant at Scunthorpe, subject to Hanson providing satisfactory undertakings that ensure that: (i) the operation of Hanson's existing joint venture with Calumite Inc (the Calumite JV) does not compromise the ability of the Scunthorpe plant to compete independently; and (ii) it will continue to supply the cement powders used in the nuclear waste encapsulation process at the Sellafield site in Cumbria on terms no less favourable than at present. However, the CC would also be prepared to consider the divestiture of one of Hanson's other two active GGBS plants at Port Talbot or Purfleet, accompanied in the case of Port Talbot by the divestitures of Hanson's Glasgow and Teignmouth depots;
- (g) a monitoring trustee should be appointed to ensure the protection of the divestiture package until completion of the divestiture and to ensure that Hanson was taking the steps necessary to achieve an effective and timely disposal; the divestiture period should not exceed [X] months from the date of final undertakings or (where applicable) final order; and
- (h) the CC reserved the right to appoint a divestiture trustee if the divestiture was not implemented within the period allowed, or if the CC reasonably expected that it would not be so implemented.
3. On 1 April 2014 the remaining functions of the CC in relation to the Reference were transferred to the Competition and Markets Authority (CMA) under Schedule 5 to the Enterprise and Regulatory Reform Act 2013 and the Schedule to the Enterprise and Regulatory Reform Act 2013 (Commencement No. 6, Transitional Provisions and Savings) Order 2014.
4. On 10 July 2014 the CMA, in accordance with section 159 of the Act, accepted Joint Final Undertakings from Lafarge Tarmac and Hanson to prevent action being taken which might impede the taking of any action by the CMA under section 138(2) of the Act (the Joint Final Undertakings). In addition, on the same day, the CMA accepted Final Undertakings from Hanson, in accordance with section 159 of the Act, to prevent action being taken which might impede the taking of any action by the CMA under section 138(2) of the Act (Hanson Final Undertakings).
5. Undertakings accepted by the CMA may be varied, superseded or released by the CMA in accordance with section 159 of the Act.
6. As required by the Report, Hanson completed the sale of its GGBS plant in Scunthorpe to Francis Flower on 31 July 2015 and thereby completed the GGBS divestment remedy arising from the Report.

7. The CMA now gives notice of its intention to release Lafarge Tarmac and Hanson from the Joint Final Undertakings. The CMA invites written representations from any person or persons who wish to comment. Representations should reach the CMA **by 5pm on 31 December 2015** and be sent to:

Remedies Manager
Competition and Markets Authority
Victoria House
Southampton Row
London WC1B 4AD

or by email to: RemediesManager@cma.gsi.gov.uk

8. The CMA will have regard to any representations made in response to this Notice. In the absence of any written representations the CMA proposes to release Lafarge Tarmac and Hanson from the Joint Final Undertakings.
9. For the avoidance of any doubt, the release from the Joint Final Undertakings shall not affect the Hanson Final Undertakings which remain in place.

MARTIN CAVE
Group Chair
11 December 2015