

Completed acquisition by Breedon Group plc of certain assets of Cemex Investments Limited

Summary of the CMA's decision on relevant merger situation and substantial lessening of competition

ME/6871-19

1. On 31 July 2020, Breedon Group plc (**Breedon**) acquired from Cemex Investments Limited (**Cemex**) a portfolio of assets, together with associated goodwill, freehold property, inventory, contracts, intellectual property and permits (the **Target Business**) (the **Merger**). Breedon and the Target Business are together referred to as the **Parties** and, for statements relating to the future, the **Merged Entity**.
2. Breedon is a public company listed on the Alternative Investment Market of the London Stock Exchange and is a fully integrated construction materials group with activities in the UK and Ireland. Cemex is a global building products company with operations in over 50 countries.
3. The Target Business comprises the following portfolio of Cemex assets:
 - (a) 42 aggregates sites (including one site producing aggregates of polished stone value (**PSV**) 68 or above (**High PSV Aggregates**) and three sites producing aggregates of PSV between 60 and 67 (**Medium PSV Aggregates**));
 - (b) 53 RMX plants (as well as two on-site mortar plants);
 - (c) 18 asphalt plants;
 - (d) one cement terminal;
 - (e) four building products plants; and
 - (f) certain contract surfacing assets, comprising mobile plant and equipment.
4. The Competition and Markets Authority (**CMA**) believes that it is or may be the case that each of Breedon and the Target Business is an enterprise; that

these enterprises have ceased to be distinct; and that the turnover test is met. The four-month period for a decision has not yet expired. The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.

5. The CMA considered the impact of the Merger against the pre-Merger conditions of competition.
6. The Parties overlap in:
 - (a) the production and supply of aggregates (specifically non-specialist aggregates, High PSV Aggregates and Medium PSV Aggregates);
 - (b) the production and supply of RMX;
 - (c) the production and supply of asphalt;
 - (d) the production and supply of concrete blocks; and
 - (e) the supply of bulk cement.
7. There are also vertical relationships between the Parties. Aggregates, for example, are an input into the production of each of asphalt, RMX and building products.
8. The CMA's investigation primarily focussed on:
 - (a) horizontal unilateral effects in the production and supply of each of (i) non-specialist aggregates; (ii) RMX; and (iii) asphalt, each at the local level;
 - (b) horizontal unilateral effects in the production and supply of High PSV Aggregates in the UK; and
 - (c) coordinated effects in the supply of bulk cement in the East of Scotland.

Frame of reference

Aggregates

9. The available evidence indicates non-specialist aggregates, High PSV Aggregates and Medium PSV Aggregates are not viable substitutes. The CMA has therefore assessed each of (i) non-specialist aggregates; (ii) High PSV Aggregates; and (iii) Medium PSV Aggregates under separate frames of reference.

10. The CMA has assessed the impact of the Merger (i) using a catchment area of 64 minutes travel time around each of the Parties' sites for non-specialist aggregates as a starting point for its local competitive assessment, (ii) on a national basis for High PSV Aggregates, and (iii) in the local areas around Edinburgh, the Lake District and Belfast (being the locations of the Parties' quarries with non-trivial external sales) for Medium PSV Aggregates.

RMX

11. In line with its precedent cases, the CMA considered the effects of the Merger within a product frame of reference for all types of RMX, including RMX produced by fixed plant, mobile plant or volumetric truck. The fact that both Parties only overlap in the supply of RMX from fixed plants was taken into account within the CMA's competitive assessment.
12. RMX is also supplied on a local basis. The CMA has assessed the impact of the Merger using a catchment area of 29 minutes travel time around each of the Parties' sites as a starting point for its local competitive assessment.

Asphalt

13. In line with its precedent cases, the CMA considered the effects of the Merger within a product frame of reference for all types of asphalt, including asphalt supplied by fixed plants and mobile plants, although the fact that both Parties only overlap in the supply of asphalt from fixed plants was taken into account within the CMA's competitive assessment .
14. Asphalt is also supplied on a local basis. Using the same methodology as for non-specialist aggregates and RMX, the CMA assessed the impact of the Merger using a catchment area of 67 minutes travel time around each of the Parties' sites as a starting point for its local competitive assessment.

Cement

15. In line with its precedent cases, the CMA considered the effects of the Merger within a product frame of reference for the supply of bulk cement (including all types of cement, and both domestically-produced and imported cement).
16. In previous investigations, the CMA has not typically concluded on the appropriate geographic market for the supply of bulk cement; in some cases this market has been analysed on a national basis and in others a sub-national or regional basis. In this case, the evidence available to the CMA, including evidence relating to market characteristics (such as plant locations, delivery distances and existing supply patterns), references in some of the

Parties' internal documents and information submitted by third parties, indicate that the geographic frame of reference may be regional. Therefore, on a cautious basis, the CMA assessed the effects of the Merger within the East of Scotland region.

Competitive assessment

Horizontal unilateral effects in the production and supply of each of (i) non-specialist aggregates; (ii) RMX; and (iii) asphalt, at the local level

17. The CMA assessed whether there is a realistic prospect that the Merger will result in a substantial lessening of competition (**SLC**) in the production and supply of each of (i) non-specialist aggregates; (ii) RMX; and (iii) asphalt at the local level, as a result of the Merged Entity increasing the price of its non-specialist aggregates, RMX and/or asphalt (or otherwise worsening its competitive offer), due to the loss of existing competition between the Parties.
18. Consistent with previous investigations in relation to non-specialist aggregates, RMX and asphalt, the CMA's local competitive assessment was based on: (i) the identification of overlaps and the delineation of catchment areas for specific sites; (ii) filtering to exclude those overlap sites/areas where there is no realistic prospect of competition concerns arising; and (iii) a local competitive assessment of sites/areas which fail these filters.
19. The CMA found that there is a realistic prospect that the Merger will give rise to an SLC in the local areas around: (i) 13 RMX plants; (ii) one non-specialist aggregates quarry; and (iii) one asphalt plant.

Horizontal unilateral effects in the production and supply of High PSV Aggregates in the UK

20. The CMA assessed whether there is a realistic prospect that the Merger will result in an SLC in the production and supply of High PSV Aggregates in the UK, as a result of the Merged Entity increasing the price of its High PSV Aggregates (or otherwise worsening its competitive offer), due to the loss of existing competition between the Parties.
21. On the basis of the evidence gathered during its investigation, the CMA found that the Parties' combined shares of supply are relatively modest ([20-30]%), and that the Parties do not appear to be particularly close competitors.
22. The CMA therefore believes that there is no realistic prospect of an SLC arising as a result of the Merger as a result of horizontal

unilateral effects in relation to the production and supply of High PSV Aggregates in the UK.

Coordinated effects in the supply of bulk cement in the East of Scotland

23. The CMA assessed whether coordinated effects would arise in the supply of bulk cement in the East of Scotland, whereby the Merger would make it more likely that the Merged Entity and certain other bulk cement suppliers in the East of Scotland would recognise that they can reach a more profitable outcome if they align their behaviour by allocating customers and competing less strongly.
24. In line with its standard approach to assessing whether coordinated effects could arise as a result of the Merger, the CMA considered whether there is evidence of pre-existing coordination. Only three cement suppliers have sites in the East of Scotland (Tarmac, Breedon and the Target Business). While the evidence in relation to pre-existing coordination is mixed, the CMA found that customer switching between suppliers in the East of Scotland is limited and that suppliers do not appear to be seeking to win customers from other suppliers.
25. The CMA also examined whether that the market characteristics in the East of Scotland are conducive to coordination and found that the market characteristics (including concentrated supply by vertically integrated firms, a homogeneous product, the relatively limited number of customers and the ready ability of suppliers to track lost sales volumes) are conducive to reaching and monitoring coordination, and to punishing deviation. The evidence also indicated that coordination would be internally sustainable within the coordinating group and externally sustainable from outside competitive constraints, in particular because there appear to be high barriers to market entry.
26. On this basis, the CMA found that there is evidence of pre-existing coordination (by customer allocation) in the supply of bulk cement in the East of Scotland. The CMA also found that the Merger would make pre-existing coordination more sustainable and/or effective.
27. The CMA therefore believes that there is a realistic prospect that the Merger will give rise an SLC in the supply of bulk cement in the East of Scotland, as a result of coordinated effects.