

Anticipated acquisition by Sika AG of MBCC

Notice of proposal to accept Final Undertakings pursuant to sections 41, 82 and 90 of and Schedule 10 to the Enterprise Act 2002 and public consultation on the proposed Final Undertakings

Background

1. On 10 August 2022, the Competition and Markets Authority (**CMA**), in exercise of its duty under [section 33\(1\)](#) of the Enterprise Act 2002 (the **Act**), referred the anticipated acquisition by Sika AG (**Sika**) of LSF11 Skyscraper Holdco S.à.r.l., the ultimate parent company of the MBCC group (**MBCC**) (the **Merger**) to a group of CMA panel members to determine, pursuant to [section 36\(1\)](#) of the Act:
 - (a) whether arrangements are in progress or in contemplation which, if carried into effect, will result in the create of a relevant merger situation; and
 - (b) if so, whether the creation of that relevant merger situation may be expected to result in a substantial lessening of competition (**SLC**) in any market or markets in the United Kingdom (**UK**) for goods or services.
2. On 25 November 2022, the CMA made an interim order (**IO**) pursuant to section 82 of the Act for the purpose of preventing pre-emptive action. On the same date, the CMA issued directions under the IO for the appointment of a monitoring trustee in order to monitor and ensure compliance with the IO.
3. On 15 December 2022, the CMA published its final report pursuant to section 38 of the Act (the **Report**) which concluded that:
 - (a) the Merger has created a relevant merger situation;
 - (b) the creation of that situation may be expected to result in an SLC in the supply of chemical admixtures for cement, concrete and wet mortar in the UK;
 - (c) the CMA should take action to remedy the SLC found and any adverse effects resulting from them.

- (d) having regard to the need to achieve as comprehensive a solution as is reasonable and practicable, the divestiture of the following MBCC businesses to a single purchaser:
- i. the 'admixture systems' business division (including chemical admixtures and associated products such as fibres and underground construction products, together referred to as the EBA business) in the countries of the European Economic Area, Switzerland, UK, Canada, United States, Australia and New Zealand, and
 - ii. the 'construction systems' business division (including all remaining MBCC product lines other than EBA products such as industrial flooring, waterproofing etc., referred to as the EBC business) in Australia and New Zealand,
- (together the **Divestment Business**)
- (e) undertakings should be given to the CMA or, where undertakings are not agreed, an order should be made to give effect to the remedy identified by the CMA in chapter 9 of the Report, namely the divestiture of the Divestment Business.

4. The CMA has reached agreement with Sika and MBCC as to the terms of the final undertakings for the purpose of remedying, mitigating or preventing the SLC it has identified in the Report and any adverse effects arising from the SLC. The proposed final undertakings (the **proposed Final Undertakings**) are attached to this notice.

Notice of proposal to accept undertakings

5. The CMA now hereby gives notice under paragraph 2 of Schedule 10 to the Act that:
- (a) the CMA proposes to accept the attached proposed Final Undertakings;
and
 - (b) the proposed Final Undertakings seek to address the SLC identified in the Report and any adverse effects arising from the SLC.
6. The CMA invites written representations on the proposed Final Undertakings from any person or persons who wish to comment.

7. Representations should reach the CMA via email by 5pm on 16 February 2023 (15 days from the date of publication of this notice) and should be emailed to: sika.mbcc@cma.gov.uk.
8. The CMA will consider any written representations made in accordance with this Notice and may make modifications to the proposed Final Undertakings as a result. In the absence of any written representations, or in the event that the CMA decides, on consideration of representations made and not withdrawn, not to amend the proposed Final Undertakings, the CMA proposes to accept the proposed Final Undertakings in their present form pursuant to section 82 of the Act. If the CMA considers that any representation necessitates any material change to the proposed undertakings, the CMA will give notice of the proposed modifications.
9. Once accepted, the Final Undertakings may be varied, superseded or released by the CMA under section 82(2) of the Act.
10. This Notice and a non-confidential version of the proposed Final Undertakings will be published on the CMA website.

Signed by authority of the CMA

Richard Feasey
Group Chair
2 February 2023