

Anticipated Acquisition by Boparan Private Office Limited (via 2 Agriculture Limited) of ForFarmers UK Limited's Burston and Radstock feed mills

SUMMARY

ME/7106/24

OVERVIEW OF THE CMA'S DECISION

1. The Competition and Markets Authority (**CMA**) has found that the acquisition by 2 Agriculture Limited (**2Agriculture**), of ForFarmers UK Limited's (**ForFarmers UK**) Burston feed mill, gives rise to a realistic prospect of a substantial lessening of competition (**SLC**) as a result of (i) loss of competition in the supply of meat poultry feed to third-party customers in a number of local areas; and (ii) as a result of vertical effects in the downstream supply of poultry meat, as the Merger could lead to foreclosure of poultry meat producers (including growers) in the same local areas.
2. 2Agriculture has agreed to acquire two of ForFarmers UK's feed mills located at Burston (Norfolk, East Anglia) and Radstock (Somerset, South West), further to Asset Purchase Agreements (**APAs**) entered into on 5 April 2024. The APAs do not provide for the transfer of customer contracts or customer volumes.
3. The CMA refers to the arrangements contemplated in the two APAs as the **Merger**.
4. As the CMA has found that the Merger gives rise to a realistic prospect of an SLC as a result of a loss of competition in the supply of meat poultry feed to third-party customers at a local level and as a result of vertical effects in the supply of poultry meat in the UK, the Parties have until 13 November 2024 to offer undertakings in lieu of a reference (**UILs**) to the CMA that will remedy the competition concerns identified. If no such undertaking is offered, then the CMA will refer the Merger pursuant to sections 33(1) and 34ZA(2) of the Enterprise Act 2002 (the **Act**).

5. The CMA has found that the Merger does not give rise to a realistic prospect of an SLC at a local level within the catchment centred on ForFarmers UK's Radstock mill.

Who are the businesses and what products/services do they provide?

6. 2Agriculture is active in the UK animal feed milling business specialising in the production of conventional (ie non-organic) compound poultry feed. 2Agriculture is part of a group of companies, which are active in food production and supply and are under the common ownership of Mr Ranjit Singh Boparan and Mrs Baljinder Kaur Boparan (together with the companies directly or indirectly controlled by them referred to as '**Boparan**').
7. ForFarmers UK produces a range of feed products, including conventional compound feed for monogastric animals (eg poultry and pigs). ForFarmers UK is an indirectly owned subsidiary of ForFarmers N.V., (**FF**) a European animal feed producer, listed on Euronext Amsterdam.
8. The CMA refers to FF, together with its subsidiaries, collectively as '**ForFarmers**'.
9. For the purposes of this investigation, the CMA has focused on the loss of competition in the supply of meat poultry feed to third-party customers in a number of local areas and as a result of vertical effects in the downstream supply of poultry meat.
10. Boparan and ForFarmers are together referred to as the **Parties** and, for statements relating to the future, the **Merged Entity**.

Why did the CMA review this merger?

11. The CMA has a statutory duty to promote competition for the benefit of consumers. This includes a duty to investigate mergers that could raise competition concerns in the UK where it has jurisdiction to do so. In this case, the CMA has concluded that the CMA has jurisdiction to review this Merger because a relevant merger situation has been created: each of (i) Boparan and (ii) ForFarmers' Burston and Radstock feed mills, is an enterprise that will cease to be distinct as a result of the Merger and the turnover test is met.

What evidence has the CMA looked at?

12. To understand the impact of the Merger on competition, the CMA considered a wide range of evidence in the round.
13. The CMA received several submissions and responses to information requests from the Parties and reviewed a number of the Parties' internal documents to

understand their businesses, strategies and plans, and the competitive landscape in which they operate. The CMA also gathered data, directly from the Parties and other feed suppliers, on the levels of total capacity and available spare capacity at feed mills in the relevant local areas.

14. The CMA spoke to and gathered evidence from other sector participants, including competitors and customers of poultry feed in the relevant local areas, which included both written and oral submissions to better understand the competitive landscape and to get their views on the impact of the Merger.

What did the evidence tell the CMA...

...about what would have happened had the Merger not taken place?

15. In order to determine the impact that the Merger could have on competition, the CMA has considered what would have happened had the Merger not taken place. This is known as the counterfactual.
16. In this case, the CMA has assessed the Merger against a counterfactual where ForFarmers' Burston mill would have been sold to an alternative purchaser (as evidence shows that ForFarmers ran a sales process to an advanced stage with multiple purchasers in parallel) and Boparan's Stoke Ferry mill would have continued to operate.

...about the effects on competition of the Merger?

17. The CMA looked at whether the Merger would lead to a substantial lessening in competition as a result of loss of competition in the supply of meat poultry feed to third-party customers in a number of local areas and as a result of vertical effects in the downstream supply of poultry meat, as the Merger could lead to foreclosure of poultry meat producers (including growers) in the same local areas.
18. The CMA found that the Merger gives rise to a realistic prospect of an SLC for the reasons below.

Theory of harm 1: Loss of competition in the supply of meat poultry feed to third-party customers locally

19. The CMA considered the reduction in total capacity for supply to third parties and the level of spare capacity remaining post-Merger in the local areas of (i) Burston (ie the mill Boparan is proposing to acquire), (ii) Stoke Ferry and (iii) Bawsey (these mills are in the Burston catchment area and are operated by Boparan).
20. The CMA considers that the structure of the Merger is such that it results in the removal of capacity for supply to third parties, which may affect rivalry between

firms, including Boparan and ForFarmers, as well as other feed suppliers. The CMA estimated the total capacity for supply to third parties and the total spare capacity for supply to third parties which remains in each catchment post-Merger, based on submissions from the Parties and other feed suppliers.

21. The CMA found that the Merger would remove a material amount of total capacity for supply to third parties in each of the relevant catchment areas when compared to the counterfactual, leaving only a limited amount of spare capacity for supply to third parties, with high rates of capacity utilisation in the local areas assessed.
22. The CMA also received evidence from customers, most of whom expressed negative views of the Merger. Further, the CMA heard that barriers to entry are high in the supply of poultry feed, including due to high capital investments.
23. For the reasons set out above and detailed in the decision, the CMA believes the Merger gives rise to a realistic prospect of an SLC as a result of a loss of competition in the supply of meat poultry feed to third-party customers at a local level, within the catchments centred on the Parties' Burston, Stoke Ferry and Bawsey mills.

Theory of harm 2: Foreclosure of poultry meat producers (including growers)

24. The CMA considered whether the loss of competition upstream in the supply of meat poultry feed to third-party customers results in Boparan (and other suppliers), harming the competitiveness of customers who compete with Boparan downstream in the supply of poultry meat.
25. The CMA found that (i) Boparan would have the ability to foreclose meat poultry feed customers within the catchments centred on the Parties' Burston, Stoke Ferry and Bawsey mills, as a result of reducing capacity for supply to third parties and weakening competition upstream in the supply of meat poultry feed; (ii) Boparan would have the incentive to do so; and (iii) a foreclosure strategy would result in substantial harm to overall competition downstream in the supply of poultry meat in the UK (including both growers and processors). The CMA is particularly concerned that the foreclosure strategy could substantially harm smaller, independent chicken growers and processors, considering the overall market for the supply of chicken is already concentrated with three vertically integrated firms accounting for the vast majority of supply. Further, the downstream supply of poultry meat in the UK, and in particular chicken, is an important sector and this may further increase the CMA's concern about the significance of the harm.

What happens next?

26. As a result of these concerns, the CMA believes the Merger gives rise to a realistic prospect of an SLC as a result of a loss of competition in the supply of meat

poultry feed to third-party customers at a local level and as a result of vertical effects in the supply of poultry meat in the UK. The Parties have until 13 November 2024 to offer an undertaking which might be accepted by the CMA to address the SLC. If no such undertaking is offered, or the CMA decides that any undertaking offered is insufficient to remedy its concerns to the phase 1 standard, then the CMA will refer the Merger for an in-depth phase 2 investigation pursuant to sections 33(1) and 34ZA(2) of the Act.