



12th July 2006

T J Oyler
Inquiry Secretary (Groceries market inquiry)
Competition Commission
Victoria House
Southampton Row
London
WC1B 4AD

Dear Mr Oyler

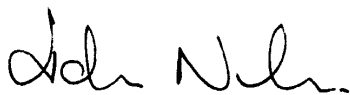
Groceries Market investigation: Issues statement

- 1 Following your publication of the Issues Statement relating to your investigation of the UK groceries market, we would like to comment on behalf of our members, brand manufacturers operating in the UK. Our members range in size and many will have a mix of brands in their portfolios, from brand leaders to secondary and tertiary brands. Each will also be continually seeking to bring new innovative products to market.
- 2 Definition of groceries (para 2) We understand your wish to limit the investigation to groceries. Some retailers in the grocery market however rely on offering a wider mix of products beyond grocery for their profitability and survival. The importance to some convenience stores of lottery terminals and newspaper / magazine sales are examples. Furthermore, the presence of petrol retailing in conjunction with convenience stores may also be worthy of investigation.
- 3 In assessing those retail formats which rely on a mix of products beyond grocery, a market investigation restricted to grocery would only ever identify part of the story and might not reflect appropriately the breadth of competitive forces at play.

- 4 Detriment to consumers (para 4) We are encouraged that you seek to identify consumer detriment in a broad sense beyond price, identifying that detriment may manifest itself as less choice, reduced quality and reduced innovation. In the context of convenience retailing, for example, loss of convenience and proximity may give rise to consumer detriment and, in a wider context, the loss of a much-loved brand from a supermarket's shelves may also be detrimental.
- 5 Supply chain issues (para 10 & 11) We are encouraged that relationships between retailers and their suppliers features as one of three main categories on which you intend to concentrate. There are five particular aspects of the relationship between brand manufacturers and retailers where we believe may be relevant to your investigation:
- 6 (1) *Abuses of buyer power* - supermarkets with buyer power may use a range of practices in relation to suppliers of all sizes that distort competition. This of course was a finding of the 2000 Supermarket inquiry and led to the Supermarket Code of Practice (SCOP). The SCOP has been an ineffective remedy, being reliant on suppliers making complaints (something they will rarely, if ever, do due to the prevailing "climate of apprehension") and not providing a proactive monitoring and enforcement mechanism.
- 7 (2) *Supermarkets as "double agents"* - Multiple retailers are powerful retail customers to branded product suppliers but at the same time are direct, powerful competitors through their own label products, a dual role which may potentially distort competition between products. This "double agent" role may lead to distortions where costs and risks are transferred to some suppliers but not others and where privileged information can be shared in advance with other suppliers.
- 8 (3) *Copycat packaging* - A distortion also occurs between products when retailers stock products that are packaged in designs so close to familiar branded goods that shoppers draw mistaken assumptions about their nature and origin. The similar packaging also prompts some shoppers to buy the wrong product by mistake.
- 9 Misleadingly similar packaging prevents shoppers from making informed purchasing decisions, transfers revenue from the copied brand to the copycat, and increases the original brand's costs. These additional costs are incurred in both defending against an attack and undertaking more investment than otherwise would be needed (eg. in packaging) in order to remain one step ahead of the copycat.
- 10 (4) *Convenience stores* - The move of the major supermarkets into convenience retailing may give rise to distortions that threaten the viability of independent convenience stores. The discrepancy in buying prices between major supermarkets and independent retailers was of course highlighted in the 2000 Supermarkets report. Clearly, where buying power leads to the lower prices as a result of scale and other efficiencies, no distortion would necessarily arise. However, if the lower prices arise from abuses of buyer power, then distortions may arise, particularly where this leads to a reduced choice of stores and more restricted choice of product.
- 11 (5) *Wholesaling* - Competition in the UK grocery market is typified by competition between rival supply chains as much as between rival fascias. Thereby Tesco's supply chain will be competing directly with Sainsbury's and Asda's for ever-greater

- 11 efficiencies, lower costs and better in-store availability. The acquisition of convenience stores by supermarkets transfers stores – and therefore volumes – from the independent supply chains (and independent wholesalers) to the supermarkets' supply chain, reducing the buyer power of the independent wholesale sector. Were independent wholesalers to cease being viable, this would not only reduce competition overall (notably in the procurement market) but would, significantly, increase barriers to entry as new entrants would be deprived of a competitive source of supply.
- 12 *Competition between types of stores (para 15(e))* - we support fully an analysis of different store types and the reasons why shoppers use certain store formats for different purchase occasions and for the purchase of different types of products. Such an understanding of shopper behaviour in relation to different store types will inform the nature of consumer welfare and detriment.
- 13 *Market concentration (para 17 (a))* – We note your comment about the relatively high concentration of the UK grocery retail market. Much depends on the definition of concentration however. The UK is certainly more highly concentrated than the European average if determined by concentration under a single fascia. However, an analysis of concentration by turnover of the top 5 national grocery retailers would put the UK below the European average (behind the Netherlands, the Scandinavian countries, France and Germany).
- 14 *Local market concentration (Para 18(a))* – Local market concentration is important in determining the choice of product offered to shoppers. If a retailer has local dominance, the ability for a shopper to switch store rather than product is made more difficult, with shoppers being much more dependent on that retailer for their product selection.
- 15 *Activities in markets outside grocery (para 21)* – We have raised the issue above (in para 2) of some retail formats relying on a mix of product offerings for their profitability so it is therefore appropriate that this aspect of the market be investigated.
- 16 Should you have any queries about the information we have provided here in response to your Issues Statement, or require more data, please let me know.

Yours sincerely



John Noble