

**ENQUIRY LETTER TEMPLATE**

Dear Sir/ Madam,

I am writing to enquire about the joint venture between your company and [...].

First, I should explain that under Section 5 of the Enterprise Act 2002 (the Act) the OFT has a function to obtain, compile and review information relating to merger situations, and under Sections 22 and 33 a duty to refer to the Competition Commission (CC) for further investigation any relevant merger situation where it believes that it is or may be the case that the merger has resulted or may be expected to result in a substantial lessening of competition in a UK market. The provisions of the Act apply to both completed and anticipated transactions. A relevant merger situation is created where:

- (a) two or more enterprises cease to be distinct, and either
- (b) as a result, a share of 25 per cent held by one enterprise in the supply or acquisition of goods or services of a particular description in the UK, or substantial part of the UK, is created or enhanced, or
- (c) the UK turnover associated with the enterprise which is being acquired exceeds £70 million.

Where a relevant merger situation is created the OFT will decide on the question of reference to the CC and (in public cases) will publish its decision. Guidance on how the OFT assesses mergers and the procedures followed can be found on our web site at: [www.offt.gov.uk/OFTwork/mergers/publications](http://www.offt.gov.uk/OFTwork/mergers/publications).

To help us decide whether your transaction fall within the scope of the Act, I should be grateful if you would supply the information set out in the attached annex by [...].

Should you have any queries please contact me on the above number quoting our reference. I look forward to hearing from you.

Yours sincerely

## **General information**

1. The names and full contact details (contact names, addresses, phone numbers, fax numbers and e-mail addresses) of the merging parties (and their ultimate parent companies –if any-) or their advisers/representatives.
2. A description of the businesses of the merging parties and their parent, associated or (directly or indirectly) controlled companies which are active in the same sector.
3. The type of transaction (for example, whether it is an agreed bid, a full takeover or the acquisition of assets or of a minority shareholding giving material influence, or a joint venture).
4. The economic rationale of the transaction together with any supporting documents, and details of the consideration being paid.
5. Whether the transaction is completed or anticipated and the date of the actual or intended completion.
6. If the transaction is completed, please provide details on the merging parties' most significant assets relating to their overlaps and explain briefly the extent of integration that has taken place between the merging parties subsequent to the transaction (for example details of the management and staff integration, combination of IT and finance systems, customer or supplier information sharing and rationalisation of products and/or services).

## **Jurisdiction**

7. Confirm that the merger falls outside the EC Merger Regulation<sup>1</sup> (ECMR) and the reasons for this, in particular whether or not this is because both of the parties achieve more than two-thirds of their aggregate EU-wide turnover in the UK (Art. 1(2)(b) ECMR).
8. Details of any other countries where the transaction has been notified; including the outcome and date of any investigation which has been completed.
9. The UK turnover associated with the target and the turnover of the acquiring company for the last financial year.

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<sup>1</sup> Council Regulation 139/2004/EC, OJ L24, 29.1.2004, p.1.

10. An estimate of each of the merging parties' UK (and, if relevant, local, European and/or worldwide) share of supply<sup>2</sup> (based on value and/or volume) in the areas of overlap.

### **Business activities and market position**

11. A description of the products and services supplied by each of the merging parties and any parent, associated and/or (directly or indirectly) controlled companies active in the same sector(s).

12. A full description of the relevant market(s), including demand and supply substitutes, the geographic market and barriers to entry and expansion.<sup>3</sup>

13. Details of any vertical links, including activities on, and relationships between the merging parties in respect of different levels of the supply chain.

14. An estimate of the market share of the parties and at least their three largest competitors.

15. If not already included in 12 above, an estimate of the total size of the UK relevant market(s) by value and volume.

### **Supporting documents**

16. Two copies of any internal documents prepared for the purpose of assessing or analysing the transaction with respect to competitive conditions, competitors, market conditions and merger benefits.

17. Two copies of the merging parties' business plans for the last year; and (if available) copies of any post-merger business plans.

18. Two copies of the most recent Annual Report and Accounts.

19. Provide any press releases issued by the parties relating to the transaction.

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<sup>2</sup> See Mergers: Jurisdictional and procedural guidance (available at [www.offt.gov.uk/shared\\_offt/mergers/642749/OFT1254.pdf](http://www.offt.gov.uk/shared_offt/mergers/642749/OFT1254.pdf)) at paragraph 3.55, 'The Act expressly provides the OFT with a wide discretion in describing the relevant goods or services ...'

<sup>3</sup> For a detailed explanation on the OFT's approach to market definition, please refer to Section 5.2 and 5.8 of the Mergers Assessment Guidelines, which can be found at: [www.offt.gov.uk/shared\\_offt/mergers/642749/OFT1254.pdf](http://www.offt.gov.uk/shared_offt/mergers/642749/OFT1254.pdf)

**Third parties' contact details**

20. Full contact details (contact name, address, phone number, fax number and e-mail address) for the five main UK customers and five main competitors for each of the merging parties in relation to each area of overlap.

21. Where there are marked differences in the size of your customers, such that some customers purchase goods and services by different means or in significantly different quantities, please provide these same details for five medium and five small customers.