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## Anticipated acquisition by Co-operative Group Limited of GA Taylor Funeral Directors

CR/002/10

The OFT's decision on reference under section 33(1) given on 4 February 2010. Full text of decision published 11 February 2010.

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**Please note that the square brackets indicate figures or text which have been deleted or replaced in ranges at the request of the parties or third parties for reasons of commercial confidentiality.**

## GA TAYLOR FUNERAL DIRECTORS

### PARTIES

1. **Co-operative Group Limited** (CGL) is the UK's largest co-operative society with some 4.5 million members.<sup>1</sup> It is active in, amongst other things, food retail, pharmacy, banking and travel agency. It is also a supplier of funeral directing services through its Funeralcare business. Having handled close to 100,000 arrangements in the financial year ended January 2009, it is the largest provider of 'at need' funerals<sup>2</sup> in the UK.
2. **GA Taylor** is a funeral directing business operating from one location in Peterhead, around 25 miles north of Aberdeen. In 2008, it conducted [80-120] 'at need' funeral services.

### TRANSACTION

3. CGL proposes to acquire the funeral directing business of GA Taylor. The anticipated transaction was notified on 11 November 2009 and the extended administrative target date for the OFT's decision is 9 February 2010.
4. Following the Monopolies and Mergers Commission (MMC) investigation into the acquisition by the Co-operative Wholesale Society (CWS) of the funeral directing business of House of Fraser, the Secretary of State for Trade and

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<sup>1</sup> A cooperative is a business owned and controlled by the people who use its services or who work within it.

<sup>2</sup> 'At need' funeral services are those which are purchased after a bereavement, in contrast to funeral services which are paid for by way of a 'pre-paid' funeral plan.

Industry accepted on 27 November 1987 undertakings from CWS that it would notify the OFT of any future proposed acquisitions of funeral directing businesses in Scotland. CGL continues to comply with its obligation under these 1987 undertakings.

## **JURISDICTION**

5. As a result of this transaction CGL and GA Taylor will cease to be distinct. The share of supply test in section 23 of the Enterprise Act 2002 (the Act) is met in respect the supply of 'at need' funeral services in Scotland, a substantial part of the UK. The OFT therefore believes that it is or may be the case that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.

## **MARKET DEFINITION**

### **Product scope**

6. The parties overlap in the provision of a range of 'at need' funeral directing services primarily to the next-of-kin of an individual who has recently died. As well as providing optional assistance with legalities and with ordering the deceased's affairs, such services may also include the procurement of a coffin and the making of administrative, logistical and other arrangements (including the engagement of third parties) for the placement, transportation and also the ceremonial and actual burial or cremation of the deceased.

### **Geographic scope**

7. The geographic scope for the provision of 'at need' funeral directing services is essentially local in reach given the limited nature and extent of the search for a service provider carried out by next-of-kin seeking to make funeral arrangements.
8. Consistent with a substantial number of previous cases,<sup>3</sup> there are two ways in which the geographic market may be delimited: (i) the area within which the target funeral director derives 80 per cent of its business (in terms of the number of funerals conducted), or (ii) on the basis of two and five mile isochrones centred on the target branch.
9. The OFT considers that there is nothing in the present case to suggest that it should depart from making an assessment based on an 80 per cent catchment

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<sup>3</sup> For example ME/4160/09: Anticipated acquisition by Co-operative Group Limited of Plymouth and South West Co-operatives Limited (2009), ME/3953/08: Anticipated acquisition by Co-operative Group Ltd (formerly Co-operative Wholesale Society Ltd) of the funeral business of George Burgess & Son Ltd (2008), ME/3933/08: Anticipated acquisition by Co-operative Group Limited (CGL) of Lothian Borders and Angus Co-operative Society Limited (LBA) (2008), ME/3004/07: Anticipated merger between Co-operative Group (CWS) Limited and United Co-operatives Limited (2007).

area. By contrast, the OFT considers that the standard two and five mile isochrone analysis may be less appropriate given that the target is located in a relatively rural area.

10. Of relevance to this analysis is the CGL/G Burgess case (see footnote 3). G Burgess, based in Ellon, is now the closest CGL store in distance (11 miles) to the GA Taylor branch.

## **HORIZONTAL ISSUES**

### **Market shares**

11. Based on previous cases,<sup>4</sup> the OFT considers that a 25 per cent market share provides a useful benchmark for assessing whether the extent of the overlap between the merging parties warrants any further consideration.
12. CGL's post-merger market share within GA Taylor's 80 per cent catchment area amounts to [20-25] per cent with an increment of [0-5] per cent.<sup>5</sup> This share is the number of funerals conducted by the parties in 2008 as a proportion of the total number of deaths within the area that year.
13. The OFT also notes that postcode and other data provided by the parties indicates that there is no overlap between GA Taylor's and G Burgess' respective '80 per cent catchment areas', and that there are two competitors who are located at a shorter distance from G Burgess than GA Taylor.

## **THIRD PARTY VIEWS**

14. Only one third party responded to the OFT's request for information, however the points raised by this respondent were with regard to perceptions of CGL's quality of service and were not specific to the proposed merger.

## **ASSESSMENT**

15. The parties overlap in the provision of a range of 'at need' funeral directing services.
16. In cases such as these, it is current OFT practice to delimit the relevant geographical area by reference to a 'catchment area' in which a particular funeral directing branch derives at least 80 per cent of its business. Market shares are then calculated as a percentage that the total number of funerals conducted the previous year by the bidding company and the target represents

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<sup>4</sup> See footnote 3.

<sup>5</sup> The parties provided postcode data from the last known addresses of the deceased whose funerals were conducted by them, and also ONS total death data for the corresponding postcode sectors.

of the total number of deaths within the same catchment that year. In this particular case, CGL's post-merger market share amounts to 23 per cent.

17. Market enquiries revealed that there is no overlap between that CGL branch's and GA Taylor's respective '80 per cent catchment areas'. Further, the merged entity will continue to face competition from the two competitors who are located at shorter distances from G Burgess than the target business.
18. Consequently, the OFT does not believe that it is or may be the case that the merger may be expected to result in a substantial lessening of competition within a market or markets in the United Kingdom.

## **DECISION**

19. This merger will therefore **not be referred** to the Competition Commission under section 33(1) of the Act.