

A report under section 4(4) of the Enterprise Act 2002 on the advice given to the Secretary of State for Trade and Industry with regard to undertakings given under section 88 of the Fair Trading Act 1973.

TO: SECRETARY OF STATE FOR TRADE AND INDUSTRY

**FROM: JOHN VICKERS
CHAIRMAN**

27 November 2003

UNDERTAKING FOLLOWING THE 1981 MMC MONOPOLY REPORT ON THE SUPPLY IN THE UK OF CONCRETE ROOFING TILES

ISSUE

1. Section 88(4) of the Fair Trading Act 1973 (FTA) requires the OFT to keep under review undertakings given as a consequence of a MMC monopoly report and to advise you if we believe that changes are appropriate. This advice relates to the release of three manufacturers of concrete roofing tiles from their sole remaining undertaking, which is not to acquire a competitor in the UK without giving the OFT four weeks' notice.

RECOMMENDATION

2. We recommend that you release the parties from their undertaking.

TIMING

3. Routine.

BACKGROUND

4. In its 1981 report (HC 12), the MMC found that Redland Roofing Systems Ltd ('Redland', now Lafarge Roofing Ltd) and The Marley Roof Tile Company Ltd ('Marley') enjoyed monopoly positions in Great Britain and that the prices of concrete roofing tiles were higher than they would have been under more effective competition.
5. Following the report, these two manufacturers, together with Scott (Toomebridge) Ltd in Northern Ireland, gave a number of undertakings under section 88 of the FTA.
6. All of these undertakings have since expired or been removed, save one requiring four weeks' advance notice to the OFT of any acquisition of a

competitor in the UK. This was intended to give competition authorities the opportunity to prevent a reduction of competition via creeping acquisitions of smaller suppliers.

ASSESSMENT

7. The OFT has reviewed the remaining undertaking as a part of its programme of reviews of undertakings and Orders under section 88 of the FTA.
8. Redland and Marley now supply some [] per cent of concrete roofing tiles in Great Britain. Two smaller suppliers, Russell Roof Tiles ([] per cent, up from 1 per cent at the time of the MMC report) and Sandtoft Roof Tiles ([] per cent) now make up all bar [] per cent of the remainder.
9. The scope for creeping acquisitions of smaller companies has therefore greatly diminished. The last acquisition of a competitor by one of the parties was in 2002 when Redland acquired Scotcem Roof Tiles Ltd. The OFT then advised you not to refer the acquisition to the Competition Commission because it did not significantly change Redland's relative market position.
10. Were Marley or Redland to seek to merge with or acquire another supplier it may in any event qualify for OFT consideration under the merger provisions of the Enterprise Act 2002.
11. Scott (Toomebridge) Ltd in Northern Ireland is a dormant company owned by the Farrans Limited Group. Farrans has a market share in Northern Ireland of [] per cent and any merger or acquisition of a competitor may itself qualify for consideration by the OFT under the Enterprise Act. The undertaking has no significant effect on the operation of the Northern Ireland market and we consider that it now serves no purpose.

CONCLUSION

12. The scope for creeping acquisitions of smaller companies has greatly diminished and any future mergers or acquisitions can be dealt with under the new merger review framework provided by the Enterprise Act. We recommend that the three companies be released from their undertaking. We will publish this advice, without the market sensitive share of supply figures, once you have announced your decision.

John Vickers
Chairman