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7 March 2008

The Inquiry Secretary
(Groceries Market Investigation)
Competition Commission
Victoria House
Southampton Row
LONDON
WC1B 4AD

Your ref:

Dear Sir/Madam

**COMPETITION COMMISSION – GROCERIES MARKET INVESTIGATION –
PROVISIONAL DECISION ON REMEDIES**

I refer to your News Release of February 15 2008 inviting views on the *Groceries Market Investigation – Provisional Decision on Planning Remedies*. RTPI Cymru welcomes the opportunity to submit comments on the documents.

RTPI Cymru's Policy and Research Forum have considered the Provisional Decision on Planning Remedies. The Forum's comments are set out below.

We do not wish to comment on the other remedies proposed by the CC, namely those relating to controlled land or supply issues.

Which body would apply the assessment?

The Forum considers that if a competition assessment were to be introduced, the assessment should be applied by the OFT, as suggested by the CC, whether it is carried out within the planning system or separate to it.

We agree with the CC that, whilst LPAs could conduct a competition assessment, the matters would run contrary to the sort of planning considerations with which the LPA are familiar, and thus this consideration should be kept separate.

Should the OFT assessment be within or outside the Planning System?

The Forum believes that the advantages of including the competition assessment within the planning system, including the fact that the OFT view could be considered against any other planning benefits, are out-weighed by the practical difficulties that would result (see below) and by the change in principle that this would require. Thus the Forum would support the introduction of any test outside of the planning system.

As identified by the CC, the advantages of having the competition assessment outside of the planning system include that it would be easier to introduce across the devolved



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administrations in a consistent manner and would also avoid the risk of inconsistent application across different local planning authorities.

Timing of OFT Assessment

The Forum have considered whether the OFT assessment should be required before or after the grant of planning permission, if it is considered separately. However, in our view it is a matter that should be left to the individual applicant to decide, although clearly it would be necessary to have both planning and OFT approval prior to any store opening. The reason we have reached this view is that we believe the appropriate time will vary depending on the applicant. For a retailer the preference is likely to be for the OFT approval to be received prior to the submission of a planning application, as they will require certainty that they could operate from that location prior to obtaining planning permission. However, a developer may wish to obtain planning permission first before seeking to attract an operator.

Competition assessment operating within the planning system.

In reaching our conclusion that it would be preferable for the competition assessment to operate outside of the planning system, we have considered the effect that including the test as part of the planning application process. We have concerns that this may have an impact on the way applicants and decision makers consider the appropriateness of retail development and have concluded that the two assessments require very different inputs.

We note that the CC suggests that in assessing competition within an area, the OFT would:

- Consider all applications for new stores and extensions/mezzanines which would take the resulting store to over 1,000 sq m (assume net)
- Consider competition of over 1,000 sq m within the CC defined catchment area of 10 minutes in urban areas and 15 minutes in rural area (urban/rural to be defined). Drivetimes would be based on the same commercially available package to ensure clarity and consistency.
- Exclude discounters, Iceland, Farmfood and similar retailers from their analysis
- Assess the market share based on total grocery floorspace

In comparison, a retail capacity assessment would:

- Select the appropriate catchment area for the application store. Thus this would reflect the size of unit and whether it was a new store or extension. In many cases it would also be influenced by postcode sectors, rather than drivetimes as supporting household surveys are often assessed on that basis.
- Consider all relevant existing and committed stores. This would include stores of below 1,000 sq m net and stores operated by retailers excluded from the CC analysis as these are relevant in planning terms for assessing need (quantitative and qualitative) and impact.
- Would consider the inflows and outflows from any defined catchment area



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- Would be carried out on a goods basis, i.e. with consideration as to the amount of floorspace devoted to convenience and comparison sales both in relation to the proposed development and existing and proposed stores. Thus, for instance, there may be a planning case for the extension of an existing store if it is for comparison purposes but not for additional convenience floorspace

In addition, we have concerns that the consideration of competition within the planning system would lead to confusion in terms of base data. Any retail assessment submitted by an application would be based on publicly available information on the existing foodstores in the area. If, subsequently the retailers submitted different data to the OFT, we are concerned that the two datasets may be inconsistent. It would then be both confusing for the LPA and third parties and onerous for an applicant to have to change the submitted supporting documents and could lead to significant delays to the planning process.

What aspects of the planning system would the assessment be applied to?

The competition assessment would clearly need to be applied at the development control stage. Application of the assessment as part of the development plan process would not be practicable, given the uncertainties and potential changes in the groceries market over any plan period and we welcome the fact that this has been recognised by the CC

I trust you find the Forum's comments helpful but do not hesitate to contact me should you require any further clarification. The Forum has no objection to these comments being made public.

Yours sincerely

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