



## PROPOSAL FOR A MARKET STUDY FOR OFT CONSIDERATION November 2004

### Your name, organisation and contact details:

This proposal for a market study is submitted by the Association of Convenience Stores, Friends of the Earth England Wales and Northern Ireland, the National Federation of Women's Institutes.

### The Association of Convenience Stores is:

- The trade body representing the interests of over 30,000 neighbourhood shops in the United Kingdom
- Members include multiple groups, symbol group retailers and unaffiliated stores
- ACS provides political representation, support and information for its members

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### Friends of the Earth is:

- the UK's most influential national environmental campaigning organisation
- the most extensive environmental network in the world, with almost one million supporters across five continents and over 60 national organisations worldwide
- a unique network of campaigning local groups, working in over 200 communities throughout England, Wales and Northern Ireland
- dependent on individuals for over 90 per cent of its income.

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**"FARM - the independent voice of farmers" - is:**

- a unique alliance of farmers and consumers campaigning for a sustainable, viable future for agriculture and the countryside
- primarily UK-focused, representing over 1,000 active members and supporters, but with international links to like-minded
- organisations independent of political affiliation and vested interests

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**The National Federation of Women's Institutes (NFWI) is:**

- The UK's largest national voluntary organisation for women
- It has some 215,000 members, in 7,000 Women's Institutes across England, Wales and the Islands.
- It is an educational, social and non-party political and non-sectarian organisation that particularly represents the views of women in rural communities.

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**Market for consideration:**

We believe that the UK Grocery market should be subject to further investigation by the Office of Fair Trading and the Competition Commission. This investigation is necessary in light of ongoing consolidation in the grocery market, including the takeover of Safeway plc. We consider that practices identified by the Competition Commission's investigation of the grocery market in 2000 [1] as being damaging to suppliers and independent retailers, and ultimately against the public interest, have been exacerbated by consolidation in the market, but action has not been taken to adequately deal with these issues. In some cases a remedy has not even been identified. We also believe that the fast paced growth of the dominant supermarket corporations and recent expansions into non-food ranges and convenience shopping outlets makes the need for further full investigation necessary including a re-assessment of the definition of the grocery market.

As an industry that represents £115bn to the UK economy and is the sector that arguably has the most direct and intimate interaction with UK consumers it is vital that further investigations are undertaken to address the significant structural problems that work against the long term interest of operators in the agricultural, processing and manufacturing sectors as well as impacting on consumers directly.

## 1. Grocery Market

Recent developments in the market show that the grocery market is incorrectly defined by using the model set out in the Competition Commission report 2000 which assumed there were two distinct market categories: “one stop” and “top-up”. Although the OFT has recently denied that it segments the grocery market into two distinct sectors [2], in its assessment of the Tesco acquisition of T&S Stores [3] it specifically considered the case in terms of ‘*convenience retailing*’ and used Tesco’s own estimates of how much of its supermarkets’ sales are ‘*convenience-related*’ to calculate what share of this section of the market would be accounted for by the merged operation. By making this distinction the overall buyer power of Tesco was not considered in this case and it was approved without reference to the Competition Commission.

This study is therefore necessary not least to ensure that the market is analysed in a way that better reflects the reality of the large supermarkets’ market power, sitting as they do at the bottleneck between thousands of suppliers upstream and millions of consumers downstream [4].

At the downstream (retail) level, the market may sometimes need to be divided into different segments; in grocery retailing this may include, for example, supermarkets over 1,400 square metres (the measure used by the Competition Commission in the Supermarkets report), smaller grocery/convenience outlets, cash and carry, etc. Retail markets may also need to be analysed by reference to geographic region, as was done in the Supermarkets report, in order to assess local dominance.

At the upstream (procurement) level, the market clearly includes all types of grocery outlet, as the products sold in a small convenience store are the same as (though fewer in number) those sold in supermarkets and generally supplied by the same suppliers.

The competition authorities’ focus to date on large format retail has hidden the extent to which the major supermarkets dominate the “top up” or “convenience” spend in the UK. This is illustrated by the following facts:

- Top-up shopping accounts for £26bn in superstores – a higher figure than the total sales through convenience store outlets at £21.5bn [5].
- Harris International Marketing tracked over 1,000 shoppers and confirmed that convenience shopping now takes place at both large supermarkets and small stores [6]
- The Grocer magazine also concluded that “shoppers do not differentiate between the two types of stores choosing to top up wherever it is convenient at a given time” [7]

This fact was not accurately or sufficiently emphasised in the Competition Commission report of 2000. Since then the distinction has been further

undermined by the rapid expansion of the major multiples' presence in convenience format outlets (see below).

While the concerns are concentrated on the big four supermarkets, the study (and subsequent investigation) should examine the grocery sector as a whole, as many of the practices are generic to the grocery retailing industry. Certainly, so far as suppliers are concerned, the issues arising from the big supermarkets' massive buying power apply to all the products they sell, whether they are destined for a superstore or a convenience shop.

## **2. Non-food products sold by major supermarkets**

The Competition Commission's report of 2000 looked specifically at the grocery market defined as food, alcoholic and non-alcoholic drinks, cleaning products, toiletries and household goods. Since that time the major supermarkets have significantly increased their market share of non-food goods including petrol, books, DVDs, magazines, clothes, stationery, greetings cards, electrical goods, homewares, pharmaceuticals, cosmetics, newspapers and magazines, as well as services such as dry cleaning, insurance and financial services. Total non-food sales in grocery in the 52 weeks up to July 3 2004 were £11.6bn, up by 12.2% on the previous year's figure [8]. According to an IGD Shopper Insight report 11% of shoppers go to superstores just to buy non-food [9].

A number of examples can be given to highlight the change in the supermarkets' share of non-food goods. In 2000 the Competition Commission noted that newspapers and magazines were mainly purchased in specialist local shops. Now the multiples have a growing share of newspaper and magazine sales. Tesco had reached nearly 10% of magazine sales by the end of 2002 and the independents' share slipped from nearly 41% to just under 36% in the same period [10]. The supermarkets' share of UK clothing sales has also risen to over 5% by expenditure and 15% by volume by April 2004 [11]. In 2004 Asda overtook Debenhams to become the third largest clothing retailer in the UK by value [12].

By growing their market share supermarkets have gained additional buyer power in these areas with inevitable impacts on suppliers of these goods. The major supermarkets have the ability to cut prices on these goods so aggressively that they will adversely affect the competitiveness of other smaller and specialist retailers and therefore reduce consumer choice. The global buying power of Asda's parent company Walmart gives it a particular advantage over other retailers (see below).

### **Nature of the problem for consumers or working of the market:**

The nature of buying power in the grocery market has not been properly examined, either by the OFT or the Competition Commission, and where problems have been acknowledged effective remedies have not been put into place. Specifically in the case of convenience store take-overs the

incremental increase in buyer power has not been taken into account. The impact of the enormous inequalities in buying power which presently exist is widespread.

Firstly, the power of supermarket retail buyers over smaller suppliers is detrimental to these suppliers and, in the case of farmers, the rural economies of which they are a crucial part. Secondly, the reasons for the comparative prices achieved by supermarkets have never been fully investigated. For example, the question has never been asked: why is there any economy of scale in delivering ten trunkers of product to a retailer compared to delivering one trunker? The reasons behind the disparity in buying prices currently in the market require investigation. The loss of smaller suppliers also impacts on consumers in the form of reduced choice of goods.

The power of the major supermarkets to extract harsh terms from suppliers and aggressively cut retail prices continues to cause problems for smaller retailers who increasingly find it difficult to compete. Not only does this reduce consumer choice and access but also indicates a failure of the market where a diversity of business types and sizes are unable to exist together. The evidence of declining diversity and therefore choice in UK towns is well documented by the New Economics Foundation (NEF) in two recent reports [13] [14].

We have identified several specific problems with the working of the grocery market that were recognised in the Competition Commission 2000 report but have not been resolved, and we have also identified new problems with the grocery market (including non-food) which we believe should be investigated by the competition authorities.

### **Issues recognised in the 2000 report that have not been resolved**

There are issues raised by the Competition Commission 2000 report on supermarkets relating to concentration in the grocery market and indicating a failure in the grocery market that we do not consider to have been adequately addressed. These include:

1. Unfair trading practices of supermarkets with significant buyer power, defined as companies with over 8% of the grocery market. These practices were meant to be addressed by the Supermarket Code of Practice which came into effect in March 2002, but have continued due to the ineffectiveness of the Code. Evidence of the failure of the Code is substantial, including the supplier survey carried out by the Competition Commission for the Safeway merger inquiry [15] and the OFT's own review of the Code [16]. In its report on Safeway the Competition Commission recognised the problems would be exacerbated by further consolidation in the market resulting from the takeover of Safeway *"The evidence both from submissions made to us and our two surveys suggest that the Code of Practice has not been working to protect suppliers. This suggests that, given that buyer power will increase as a result of the acquisition of Safeway, the situation would worsen for suppliers if the Code remained substantially in its present form"*

This issue remains unresolved. We believe that enough evidence already exists for the Government to take action to strengthen the Code and make it statutory, and to introduce an independent supermarket regulator to oversee the implementation of the Code and monitor its effectiveness. Australia provides an example of another major jurisdiction that has introduced a code but with a statutory ombudsman to give it teeth. Because there is a straightforward solution to this problem which can be implemented now – the Secretary of State has the necessary powers under the Fair Trading Act - we are not suggesting that it should be a specific subject for a new investigation at this stage.

2. Distortion of the market due to major supermarkets engaging in below cost selling, for which no action has been taken (see below).

3. Distortion of competition due to price flexing, for which no action has been taken (see below).

The Competition Commission concluded that all three of these practices were operating against the public interest due to the reduction in quality and choice of goods in the first case; the potential loss of smaller stores in the second case; and the additional cost of groceries in some locations in the third case.

Not only do these issues remain unresolved but the grocery market is more concentrated now than it was in 2000, in part due to growth and mergers, with more than three quarters (76.4%) of the grocery market being controlled by just four companies [17]. Tesco alone has a market share of over 28% for groceries.

The failure to address the problems arising from a highly concentrated grocery market will lead to negative impacts on consumers, as the Competition Commission warned in 2000, including less choice of goods and outlets and less innovation in products. The number of independent retail outlets has declined by nearly 3000 outlets since 2000 [18].

### **Issues which need to be re-visited in a Market Study**

#### 1) Price discrimination – persistent below cost selling

The Competition Commission's report on Supermarkets in 2000 concluded that below cost selling was damaging to smaller competitors because they were less able to sustain losses on key items by cross-subsidy and because of the huge imbalance in buying power between the largest supermarkets and all smaller retailers: *"the problems caused by below-cost selling are compounded because these smaller stores secure far less favourable supplier terms than the large multiples"*. Data produced by the Competition Commission shows that on the top five branded lines sold, independent and smaller retailers paid 103% relative to the average main party price [19]. It is literally impossible for most retailers to compete on price with Tesco or Walmart because of their huge buying advantage. The Competition Commission suggested that where prices for basic items of shopping (KVIs)

were sold below cost in major supermarkets there would be a disproportionate effect on convenience stores which relied heavily on sales of such products. The Competition Commission recognised that by undermining the competitiveness of neighbourhood outlets this practice reduced accessibility and choice to consumers. In particular the loss of such outlets would impact on consumers on low incomes or with limited mobility who may be unable to shop at large supermarkets.

Market concentration since 2000 has increased this imbalance. For example in 2000 Tesco controlled 24.6% of the grocery market, it now controls 28%. In 2000 five supermarkets controlled 75.5% of the grocery market, now four companies control 76.4% [20]. Yet no action has been taken to address the issue of price discrimination. The OFT should revisit this issue in the light of increased market concentration to investigate whether the practice has resulted in negative impacts on consumers and to look at the effectiveness of measures taken in other countries since 2000 to address the problems. A large number of EU countries have laws prohibiting below cost selling, including France, Germany, Spain, Italy, Austria, Portugal and Ireland.

## 2) Price Flexing

The Competition Commission report looked into the negative impacts of price flexing where a higher price is charged by the multiples in particular locations. It did not suggest any remedies to this issue. However the Competition Commission failed to look at the negative impacts of aggressive price cutting where this may be aimed at driving the local competition out of business. We are aware of at least one example of where this is happening (Withensea) but although the case was referred to the OFT no action was taken. We believe there is a case for the OFT to invite evidence from smaller and independent retailers of this practice occurring in other locations to establish whether this is a common practice deliberately aimed at reducing competition.

We also consider that some wider issues were not adequately addressed by the 2000 report, a vital one being the impact of an over-concentrated market on low income consumers. For example, although the Competition Commission recognised that the loss of local shops as a result of the multiples engaging in below cost selling would particularly disadvantage those without cars, it felt that some low income consumers would benefit from aggressive price cutting. However it did not assess in any detail who would benefit, e.g. people without cars may not benefit from price cutting relating to bulky offers, or indeed to cheap prices in an inaccessible store – once transport costs are added the price benefits may disappear. Food access for people on low incomes is a highly complex area with many causes and a wide range of potential solutions. However we do not agree with the Competition Commission's conclusion that it is not related to anti-competitive practices outlined above. The impact on low income households and shoppers without access to a car should be a part of any market study and subsequent investigation. As John Vickers, chairman of the OFT, said in a speech on abuse of market power on 3 September 2004 *"the law against exclusionary practices by dominant firms should prevent the exclusion of rivals whose presence enhances consumer welfare"* [21]. The OFT's consultation paper on

Market Studies [22] also notes that “the number of consumers affected and the extent of the detriment to them” are factors to be taken into account”.

### **New issues which should be the subject of a Market Study and Investigation**

In addition to the well established issues which need to be revisited by the OFT and Competition Commission we have identified new issues which could affect the competitiveness of the grocery market and which have arisen since the 2000 report. Firstly the trend for major retailers to enter the convenience store market and secondly the significant increase in the supermarkets’ share of non-food goods.

#### ***1. Supermarket entry into the high street***

Since the Competition Commission report in 2000 there has been a rapid expansion of the major multiples’ presence in convenience format outlets, partly because they have limited scope for expansion in the supermarket sector. Tesco, for example, has increased its number of outlets to quickly become the second largest operator in the convenience sector. Recent acquisitions include:

- November 2002: Tesco takeover of T&S
- January 2004: Tesco takeover of Adminstore
- February 2004: Sainsbury takeover of Bells
- October 2004: Sainsbury acquisition of Jackson’s

This recent wave of acquisitions of convenience store groups by supermarkets which already have significant market share (Tesco and Sainsbury for example) raises concerns about whether there will be a viable independent convenience store sector in the long term, raising serious issues for consumer choice and competition. As the New Economics Foundation notes in its ‘Clone Town’ report the replication of supermarket stores in ‘micro-format’ on the high street represents a new threat to distinctive local shops [23]. Competition should encourage diversity; this trend of multiples taking over smaller chains threatens diversity.

This entry into smaller format operation has been made possible by the supermarket corporations’ ability to employ the significant scale achieved within the market place as a means of inflating acquisition prices. The average price for each store acquired has now reached £490,000 [24]. The ability to pay such prices is restricted to the major multiples and this has therefore led to an almost insurmountable barrier to entry for existing and prospective small and independent retailers in acquiring sites.

The increased buyer power gained by major supermarkets via piecemeal acquisitions of smaller chains and the impact on the independent wholesale and retail sector must be investigated. The impact of major supermarkets acquiring convenience store chains needs to be considered in the context of

the grocery market as a whole in which Tesco already has a share of over 28%. In recent merger cases the impacts of Tesco gaining additional national market share and therefore additional buyer power have not been fully assessed because of the perpetuation of the two market distinction in deliberations. The Competition Commission report acknowledged that supermarkets with considerable buyer power (defined as over 8%) were abusing their strong position in the market. As reported above the Competition Commission report on Safeway warned that the existing remedy aimed at protecting suppliers, the Code of Practice, would need to be strengthened as the market became more concentrated.

It is essential that the cumulative impact on buyer power is considered each time a merger is proposed, even when the merger in itself does not add a significant market share at retail level.

The potential for concentration in local markets must also be considered, again looking at the major supermarkets' share of the grocery market rather than considering "convenience retailing" in isolation. At the local level, choice could be severely limited if one of the major supermarkets already operates from a large out-of-town or edge-of-centre store and then acquires high street stores via c-store takeovers.

Impacts on the community must also be considered as part of the investigation. There is evidence that Tesco is closing post offices in c-stores that it acquires, leaving local communities without a vital service. Pensioners in Witney in Oxfordshire told Friends of the Earth that the planned closure of post offices in local shops acquired by Tesco would leave 10,000 people in Witney without a local post office. Pensioners depend on the local post office to withdraw money, pay utility bills and council tax. Since the acquisition of convenience store group T&S Stores, Tesco have closed post offices in over a quarter of the outlets converted to the Tesco Express format. Tesco's stated strategy is to have over 1000 Tesco Express outlets in the UK [25].

According to Verdict research Tesco is already the fourth largest c-store operator behind Spar, the Co-op and Londis [26]. The trend for major supermarkets taking over convenience stores is predicted to accelerate so an urgent investigation is needed into the implications for consumer choice, access to shops and services, and the impact on suppliers as the major companies cumulatively increase their buyer power.

## ***2. Acquisitions and consolidation of buying power***

The acquisitions that have taken place since 2002 have had an effect beyond the customer facing the implications of a greater number of outlets being under the same ownership. They have also had the effect of increasing Sainsbury's and Tesco's scale and therefore increasing suppliers' dependence on a very small number of retailers as well as damaging the long term sustainability of systems of distribution.

In 2000 the Competition Commission acknowledged that an 8% share of the market constituted disproportionate buyer power. Tesco, Sainsbury, ASDA and Morrison's together account for over 76% of the market and therefore wield significant buyer power. These acquisitions have increased the gulf in buying power between the major grocery multiples and that of the independent sector. This gap in buying power between the multiples and smaller retailers was not adequately addressed by the 2000 report and to our knowledge has not been considered by the OFT in recent decisions about acquisitions.

### *Availability of Distribution*

Most independent retailers and small chains are serviced in one form or another by third party wholesalers. By contrast the large supermarkets have their own distribution systems. For many independent retailers, sourcing goods through cash and carries or through delivered wholesalers is the most viable way of achieving delivery of the range of frozen, chilled and ambient products demanded by the customer. The efficiency of the wholesale supply route to independent retailers is dependent upon a critical mass of independent retailers being available in geographical areas serviceable by regional depots.

To combat the buying scale of the major multiples, retailers operating in the convenience format choose to work together as part of buying groups. Larger operators such as T&S, Bells and Jackson's were an important part of these types of arrangements. Their removal from the buying group through acquisition by a major multiple will have a significant effect on the existing arrangement. Buying groups provide a means for small groups and single stores to work together to meet the challenge of a highly concentrated market; the continued undermining of those groups by removing significant companies from them has major long term implications for their viability.

Buying power has been a factor considered by the OFT and the Competition Commission. However, in merger investigations attention has been focused on the relatively small increase that any acquisition will have on the acquiring organisation's volume. A market investigation should look closely at the cumulative impact of recent acquisitions on how buying is organised outside the big 4 operators and the likely anti-competitive effects of further acquisitions on the sustainability of these independent supply chains.

It is our belief that in the long-run this trend threatens to create barriers to entry in the market: how can competitors to the big four superstore groups grow and develop when they cannot obtain supply of goods efficiently? In extreme situations – especially in remote areas of the UK - retailers may, if current trends are allowed to continue, be unable to find economic supply of product.

### **3. Supermarkets' increase of non-food sales**

Non food goods other than a very limited range that fell within the definition of grocery items were not considered in the 2000 report but it is clear that supermarkets are rapidly expanding their sales of non-food goods. This trend in the market now warrants a full investigation. Consumer choice and the vitality and viability of high street shops could be under serious threat if independent specialist shops are unable to compete with the supermarkets. There are already signs that major specialist and non-food chains such as Mothercare, HMV and Boots are struggling to compete with the supermarkets' aggressive price cutting [27]. If these major chains are under threat it can be assumed that it will be even harder for smaller and independent retailers to compete.

An investigation into non-grocery goods sold by supermarkets must include an investigation into the impacts of aggressive price cutting, including an assessment of whether below-cost selling is taking place. The same problems may arise as were found in the grocery market. For example major supermarkets are known to sell popular books and CDs at prices well below those of specialist shops. Low prices will tend to be on a limited range of the most popular items but this could be extremely damaging to a specialist shop that is unable to match those prices on best selling items. For example the price of the latest Harry Potter book was reduced from £16.99 to £10.00 by most multiple retailers forcing smaller independent shops to follow although they are less able to bear such a price reduction on a best selling item [28]. The major supermarkets will only sell a limited range of books or CDs or magazines so the loss of specialist shops would have a significant impact on consumer choice. The British Booksellers' Association has reported that more than 1 in 40 of Britain's independent bookshops has folded in the previous five years alone leading the New Economics Foundation to conclude that *"apart from reducing the number of specialist outlets, this trend has major repercussions across the entire book publishing and distribution industry, potentially limiting the choice of material that we as readers are able to access"* [29]. The impacts on choice and innovation must be investigated.

The buyer power of the major retailers and the impact on suppliers of non-food goods must also be investigated, for example it has been reported in the trade press that Asda can sell its George clothing at very low prices because its parent company Walmart can buy fabric 60% cheaper than other retailers [30].

Asda-Walmart has been extending its non-food sales area by fitting mezzanine floors into existing stores. In doing so it has exploited a loophole in planning law because internal extensions do not require planning permission. The Government has now committed to closing this loophole in recognition of the potential damage that such uncontrolled expansion could do to town centres and smaller shops. A local authority survey conducted by Friends of the Earth [31] revealed widespread concern that stores could not only expand in this way but also change the very nature of the store by using

the space for non-food sales. Local planning authorities told Friends of the Earth that this undermined attempts to revitalise town centres.

The major supermarkets have made it clear that they intend to increase their non-food ranges significantly. This is likely to have significant impacts on competition for a wide range of high street stores and smaller competitors and therefore on consumer choice and access to a wide range of shops. An investigation into the impact of increased sales of non-food goods by supermarkets should be undertaken as a matter of urgency.

### **Reasons why the problem and the market are important:**

*(E.g. indications of market size.)*

The problem is important for several reasons:

- people's access to food is being affected

The closure of smaller shops has a disproportionate impact on non-car owners, which accounts for over 25% of households in the UK [32], and poorer households, especially where the only alternative is a large supermarket which cannot be accessed on foot. Between 1997 and 2002 specialised stores, including butchers, bakers and fishmongers, closed at the rate of 50 a week and this trend is continuing [33]. Low prices in a supermarket are not a benefit to people on low incomes if they require transport costs to get there or if the low prices are on bulky offers. The Social Exclusion Unit has recognised the importance of strong local shopping provision. The National Consumer Council has also raised concerns about consumer choice and access to food for low income shoppers in an increasingly concentrated market. In particular the NCC has raised the issue of the importance of investigating local monopolies as consumers perceive and experience shopping at the local level.

- consumer choice of food and other goods is being affected

The homogeneity of large supermarkets has already reduced the diversity of retail outlets available to shoppers, and therefore lessened competition. Although supermarkets appear to offer a vast range of goods, on closer examination by category they can actually be limiting choice, for example by only selling the most popular books or music. Low prices on a limited range of books or CDs are not a consumer benefit if it results in the loss of specialist shops that offer a much wider selection of those goods.

- local economies are being affected

When independent food shops close down in market towns and rural areas there is likely to be a knock on effect on the rural economy, as independent shops are more likely to source direct from the

surrounding countryside. With the move into non-food shopping, areas could be deprived of key businesses which currently pull shoppers in to town centres.

- Suppliers are being affected

As the major supermarkets take over smaller chains to move into the high street their overall buying power becomes even more massive and makes suppliers (especially farmers, third world producers and their UK import agents, and SME producers eg ready meals etc) absolutely dependent on just a few massive retailers. The impacts on suppliers eventually impact on consumers too because innovation and choice is reduced.

**Whether laws, regulations or public sector involvement are part of the problem:** *(Please give details.)*

The weakness of the Supermarket Code of Practice is part of the problem because it has failed to do anything to redress the imbalance in power between the major supermarkets and their suppliers, whilst allowing the supermarkets to claim that the authorities have not been able to find fault with their practices. However we are aware that the OFT and the DTI are already looking into this issue. We consider that there is enough evidence already that the code is not working and so we are not suggesting that this is the main subject of a new market study or investigation at this stage – because all that is needed is for the Government to strengthen the code, put it into statutory form, and appoint someone to monitor it. However the impact of a weak code as buyer power increases needs to be considered.

The lack of a link between planning policy and competition policy is a problem. New planning policy guidance will require local planning authorities to assess the need for retail floorspace but it can only assess overall need, and planning cannot distinguish between different companies even if there is a local monopoly of a particular retailer. A local monopoly could therefore arise when a new store is granted planning permission, but at the moment there is not even a mechanism for local planning authorities to alert the OFT to such a situation. This is in contrast with the approach taken with acquisitions, for example where Tesco has been prohibited from buying certain Safeway stores because they are too close to an existing Tesco store. But there is nothing in competition law to stop them building a new store in that same area. In its 2000 report the Competition Commission recommended that the Director General of Fair Trading's approval should be required if one of the main supermarkets wanted to build a new store over 1,000 square metres of grocery retailing area within a 15 minute drive time of one of its existing stores. This recommendation was not acted upon.

We also consider that there should be a mechanism for assessing concentration in a wider area. For example, in North Norfolk Tesco has an existing store in the market town of Stalham which has already had negative impacts on local high street shops. It has recently gained planning permission

for stores in Sheringham and Fakenham. There are few competitors in terms of other major stores and the evidence from Stalham suggests that smaller shops will close. Tesco could therefore gain a massive share of the market in the North Norfolk area but there is currently no way for this local market concentration to be investigated.

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- [33] New Economics Foundation (2003). *Ghost Town Britain II – Death on the High Street*

**Further assistance:**

The organisations submitting this suggestion for a market study are willing to assist the OFT with further information and analysis. However there are many other organisations and businesses that would also need to contribute evidence including suppliers and retailers.