

ZIPCAR/STREETCAR MERGER INQUIRY

Provisional findings report

Published: 18 November 2010

The Competition Commission has excluded from this published version of the provisional findings report information which the inquiry group considers should be excluded having regard to the three considerations set out in section 244 of the Enterprise Act 2002 (specified information: considerations relevant to disclosure). The omissions are indicated by [X]. [Some numbers have been replaced by a range. These are shown in square brackets.]

Summary

1. On 10 August 2010, the Office of Fair Trading (OFT) referred to the Competition Commission (CC) for investigation and report under the Enterprise Act 2002 (the Act) the completed acquisition of Streetcar Limited (Streetcar) by Zipcar, Inc (Zipcar). The reference requires us to determine:

(a) whether a relevant merger situation has been created; and

(b) if so, whether the merger has resulted or may be expected to result in a substantial lessening of competition (SLC) within any market or markets in the UK for goods or services.

We are required to report by 24 January 2011.

2. Before the merger, Zipcar and Streetcar both ran car clubs in London. Car clubs provide a network of readily accessible vehicles, parked in local areas, for use on a commercial basis. Car club members book vehicles via the Internet or by phone and are able to gain access to vehicles 24 hours a day, subject to availability, using keyless smartcard technology. At the end of the vehicle rental period, the car must normally be returned to the parking space from which it was taken.

3. Car clubs are self-service in that cars are picked up from and returned to unmanned locations. Individuals or corporate customers pay a fee to become members of a particular car club, and then pay hourly or daily charges each time they use a vehicle. Vehicles may be parked in on-street parking spaces, allocated by local authorities to a particular car club, or in off-street parking spaces, to which the car club has gained access through negotiations with the owners of those spaces.

4. Car clubs have grown rapidly in recent years, and this growth is forecast (by industry participants and third parties) to continue. The main parties estimate that the national car club fleet increased in size from 1,320 vehicles to 2,117 vehicles during 2009,

and that there were approximately 100,000 car club members in the UK by the end of 2009.

5. Zipcar is a US-based car club company and operates in various cities in North America. Zipcar launched its London operation in 2007 through Zipcar UK Limited (Zipcar UK), a wholly-owned subsidiary of Zipcar. London is the only European city where Zipcar currently operates. Zipcar UK's fleet comprised approximately 375 cars in London at the end of 2009. Zipcar UK's revenue has increased from £0.2 million in 2007 to £2.4 million in 2009. However, it has been loss-making since its launch.
6. Streetcar operates as a car and van club in the UK. It was founded in 2004 and currently operates in 13 towns and cities across the UK including London. By the end of 2009, Streetcar's UK vehicle fleet comprised approximately 1,300 cars and vans. Before it was acquired by Zipcar, Streetcar's main shareholders were its founders and Smedvig Capital AS (Smedvig). Streetcar's turnover was about seven times that of Zipcar UK during 2009. Streetcar's revenue has increased from £3.7 million (12 months pro rata) in 2007 to £16.4 million in 2009. Streetcar was loss-making until 2009, when it made an operating profit of £1.5 million.
7. Zipcar completed its acquisition of the entire issued share capital of Streetcar on 21 April 2010. We found that Streetcar and Zipcar would have shares of supply of car club services in London totalling more than a quarter, whether based on the number of car club vehicles or the number of car club members. On this basis we found that Zipcar's acquisition of Streetcar created a relevant merger situation within the meaning of the Act.
8. The other car club operators currently active in London are Hertz (under the Connect by Hertz brand) and City Car Club.

9. We found that the relevant product market for the purposes of our inquiry was car club services. We acknowledged, however, that customers of car club services might also use a variety of other transport options, such as car rental, taxis and public transport. Our assessment of the effects of the merger included consideration of potential substitution from car clubs services to these alternatives. Had we considered broader markets for car rental, or even for transport, each with a particular focus on the effects of the merger in the small segment for car club services, our assessment of the effect of the merger on competition would have been the same.

10. We considered there to be three dimensions to the geographical scope of the car club services market:
 - (a) small local markets around car club vehicle locations, defined by the distance customers were willing to walk to get to the vehicle;
 - (b) the 14 London boroughs in which both Streetcar and Zipcar operated before the merger ('the overlap boroughs'); and
 - (c) Streetcar and Zipcar UK company-wide markets, since Streetcar and Zipcar each use one set of prices across their networks. In the case of Zipcar UK, this is effectively the same as a London-wide market, as Zipcar UK only has operations in London.

11. To establish a baseline against which we could assess the competitive effects of the merger, we examined what would have been likely to have happened in the absence of the merger (this is known as the counterfactual). We found that it was likely that, had Zipcar not acquired Streetcar:
 - (a) Streetcar would have remained a financially viable and independent competitive constraint in the relevant market; and

(b) both Zipcar and Streetcar would have continued to operate and compete within the London car club market (including growing their networks), and would have continued to have access to finance in the foreseeable future.

12. We examined three possible ways in which the merger could lead to an SLC.

13. First, we considered whether the merger would lead to a loss of competition between Streetcar and Zipcar for car club members in the overlap boroughs in London, enabling them to raise prices or worsen other aspects of their services. We found that:

(a) Streetcar and Zipcar competed on the basis of price before the merger. We found that there were constraints from other car clubs and from other transport options (such as car rental, public transport and taxis) on the prices the merged firm could charge. In the case of other transport options, these constraints applied particularly to hire periods of a few hours or less and for hire periods greater than about 8 hours (in the case of Zipcar) and 10 hours (in the case of Streetcar). However, we found that these constraints would be likely to be insufficient to prevent the merged firm increasing its prices for hire periods in between these durations, which represented about half of all hire periods for both companies;

(b) Streetcar and Zipcar competed on the basis of network capacity, ie the overall size and geographical coverage of their car club fleets. However, this competition was asymmetric (in that Zipcar faced more fleet size competition than Streetcar) and was limited to the four London boroughs in which both Streetcar and Zipcar had substantial shares of the car club fleet before the merger. Taken together, these factors suggested that the loss of network capacity competition between Streetcar and Zipcar was not likely to be significant; and

(c) Streetcar and Zipcar competed on the basis of network density, ie the number of car club vehicles in a given area, which governs the availability of alternative

vehicles within easy walking distance of members. We found that the effect of the loss of density competition would be localized. We also found that there would be a loss of potential competition from increased Streetcar and Zipcar density in the overlap boroughs, as they expanded their networks in the absence of the merger. This loss of potential competition would also be localized. We considered further the implications of the finding that network density effects are largely localized when we considered the constraining role of entry and expansion.

14. Second, we investigated whether the merger might lead to less competition during the tender processes used by local authorities to allocate on-street parking to car clubs.
15. We found that this was unlikely to be the case because:
 - (a) we concluded that car clubs are only a small component of overall demand for on-street parking and local authorities can decide how many spaces to allocate for car clubs in particular;
 - (b) we found that both on-street parking and off-street parking were potentially suitable for car club operations (although on-street parking was typically considerably cheaper than off-street parking);
 - (c) the London boroughs expressed very little concern about the loss of a potential bidder for their on-street car club spaces; and
 - (d) six outer London boroughs only ever had one car club operator interested in their on-street parking spaces, suggesting that the merger would not result in an actual loss of competition in such allocation processes.
16. Third, we considered whether a merged Streetcar/Zipcar would be able to obtain a larger share of available on-street parking than would have been allocated in total to Streetcar and Zipcar absent the merger. If so, the remaining competitors and

potential new entrants could find it harder to expand or enter following the merger, if access to on-street parking were a barrier to entry.

17. We found that it was unlikely that a merged Streetcar/Zipcar would be able to obtain a larger share of on-street parking because:
 - (a) although we found that some local authorities used criteria in assessing bids for on-street parking that could favour larger or more established operators (for example, an operator's level of membership within the local authority area), many other criteria were also used to assess bids for on-street parking. The criteria which could favour more established operators were therefore unlikely to determine the outcome of bids in isolation. Further, we noted that local authorities controlled the processes by which on-street parking was allocated to car clubs. Local authorities could, in future, alter the criteria they use (and the weight they give to these criteria) if these are leading to undesirable outcomes; and
 - (b) evidence from London boroughs was mixed and did not support the theory that the merger would be likely to result in the merged firm obtaining a greater share of the available on-street parking than Streetcar and Zipcar would have done in total before the merger.

18. We examined whether entry into the car club market (or expansion by Connect by Hertz and City Car Club) would be sufficient to replace the loss of competition between Zipcar and Streetcar for members in the overlap boroughs that we had identified.

19. We found that the car club market in the UK was likely to continue to grow rapidly. All, else being equal, a growing market will encourage new entrants, as new entrants can gain members without having to win them away from existing relationships with other car club operators.

20. We found that there were barriers to entry to the car club market. We considered that there were advantages from scale and from having a wide network of vehicles. We also found that access to on-street parking could act as a barrier to entry at a local level. On-street parking is on average cheaper than off-street parking. About half the local authorities in London that make on-street parking available to car clubs implement a 'single-operator' policy, which means that they allocate all their car club spaces to one operator. However, we expected that, taken together, these barriers to entry would be insufficient to deter entry and expansion, given the rapid growth in the market.
21. There was evidence of two entrants with well-developed plans to enter the car club market in the UK, along with evidence that other large companies in adjacent markets were considering entry. Whilst we could not conclude that entry was certain to occur, we expected, on the basis of the evidence that we saw, that entry was likely, supported by the attractiveness of the London market and prospects for rapid growth. We noted that Connect by Hertz and City Car Club planned to expand, although they told us that their expansion plans were limited by restricted access to on-street parking.
22. We expected that, taken together, new entry and expansion would be sufficient to constrain the prices and prevent any deterioration in the service levels of a merged Streetcar-Zipcar within a few years.
23. We therefore expected that, although the merger resulted in the loss of competition between Zipcar and Streetcar such that price rises were likely in the short term, and although some entry barriers existed, entry (together with some expansion) would be timely, likely and sufficient to prevent an SLC from arising. In other words, we

expected that entry and expansion would prevent a merged Streetcar-Zipcar from exercising market power to the detriment of consumers in the medium to long term.

24. We therefore provisionally found that the merger may not be expected to result in an SLC in the car club market in London.

25. As set out above, in the course of our inquiry, we noted that about half of the London boroughs that made on-street parking available for car clubs gave all such parking spaces to one car club operator. In those London boroughs, this creates an artificial distinction (at a local level) between the competitive positions of the car club that has on-street parking and the other car clubs that do not. This policy may also have the effect of slowing growth in the market. We therefore consider that the development of the car club market would be assisted by local authorities avoiding any such exclusivity or limiting any such exclusivity to their initial piloting of on-street parking for car clubs. In the latter case, we considered that growth in the market would be assisted if any period of exclusivity lasted no more than a year, after which on-street parking should be made more widely available.