

Note of dissent by Chris Goodall

1. I accept that if Corus had not sold to Arcelor, the most likely counterfactual is that Corus would simply have left the market by the end of 2005. Nonetheless, the transaction resulted in the Scunthorpe mill closing up to 18 months earlier than it would otherwise have done. As noted in the provisional findings, Arcelor told us that, if it had not bought Corus's assets but Corus had simply left the UK market at some point in 2004 or 2005, it believed a price war would have occurred with Salzgitter. In my view, therefore, the merger was intended to avert the process of competition for market share in the UK and, as a result of the merger, Arcelor appears to have captured a very large share of the total UK market. If the market had been opened up by Corus's withdrawal in late 2005, when Salzgitter will have greater steel-making capacity itself, and the world steel shortage may have eased, it is inconceivable that the German company would not have made an active attempt to increase its UK sales. Even if Arcelor had comfortably beaten off this attempt, the process of rivalry would have almost certainly improved the prices and service levels obtained by UK customers. Hence, the transaction we are investigating will have lessened competition, at least for some period. This conclusion is also supported by the response of piling contractors in the UK to our investigation, many of whom, as noted in the provisional findings, were concerned about the effects of the merger on prices and service standards.
2. Moreover, as a result of the merger, Arcelor has locked other suppliers out of the UK market for a substantial period of time. Corus sustained its high market share in the UK by an effective programme of support and service. Though it consistently charged much higher prices in the UK than other producers charged in Europe, it was able to maintain a share of between 65 and 75 per cent though there were some signs that this might slip in the future. Corus's dominance, and its domestic insulation from the competitive war that took place in mainland Europe in 2002 and 2003, derived from its

investment in an infrastructure of sales and technical support for 'project'¹ sales in the UK market, all the key features of which Arcelor appears now to have replicated. The costs of such an infrastructure are expensive; as noted in the report, a reasonable figure might be about £1 million (€1.5 million or about €30 a tonne for Arcelor, assuming it captures between 65 and 75 per cent of the UK market.) I regard this as essentially a fixed cost—Arcelor's experience over the last three months shows that almost all Corus's previous support activities were genuinely needed to service market needs. So an alternative producer, such as Salzgitter, would need to provide almost the same level of service even for a 10 per cent share of UK project sales, at a much higher cost per tonne of over €200. This would make entry into the project market uneconomic since EBITDA margins in piling have recently been significantly below this for European producers. Hence the cost disadvantage facing a new entrant because of the need to establish a UK support infrastructure would now make it unprofitable for any competitor to Arcelor to enter the project market. This suggests that, by buying a large initial market share, Arcelor has prevented any large scale entry into the high end of the UK market. Some customers will be happy to call off piling from stockholders, but those with more complex or urgent needs will be obliged to go to Arcelor.

3. Hence, my provisional view is that, having avoided an initial price war by buying the Corus business, Arcelor is now also in a very strong position to copy Corus in being able to maintain a high market share and high prices in the UK, with limited fear of competition. The merger has therefore resulted in a very serious loss of competitive intensity and in my provisional view this lessening of competition is likely to persist.

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¹By 'project' sales, I mean those transactions in which the purchaser is not able simply to buy standard piling sections from a stockholder, but instead had to buy directly from a manufacturer because of specific technical, support, delivery or storage requirements.