

RESPONSE FROM COMHAIRLE NAN EILEAN SIAR IN REGARD TO THE COMPETITION COMMISSION PAN FISH / MARINE HARVEST MERGER INQUIRY

The Competition Commission has been asked by the Office of Fair Trading to decide whether the acquisition by Pan Fish ASA of Marine Harvest NV may be expected to result in a substantial lessening of competition within any market or markets in the United Kingdom for goods or services namely the European Economic Area wide market for farmed Atlantic salmon.

Background

Aquaculture, and salmon farming in particular, is a vital contributor to the economy of the Outer Hebrides. Around 15% of Scottish farmed salmon output is produced in the islands and the industry supports over 400 full time equivalent jobs, principally in salmon growing and processing. These activities in turn support employment in ancillary services and underpin essential infrastructure, including ferry services.

In the Outer Hebrides aquaculture had grown year-on-year since the 1980s and three international companies (Marine Harvest, Stolt Seafarm and Fjord Seafoods) had significant operations in the islands, providing the bulk of employment. Their scale of operation also created critical mass for other services and infrastructure that benefited smaller, independent, salmon producers.

In recent years market and economic forces have led to consolidation and rationalisation within the global aquaculture industry. The local economic impact of this has been substantial. The takeover of Stolt Seafarm by Marine Harvest in 2005, for example, led to the closure of a state-of-the-art processing facility in Scalpay, Harris, with the loss of over 40 jobs.

The acquisition by Pan Fish ASA of Marine Harvest NV, allied to the significant shareholding (25.7%) that Pan Fish has acquired in Fjord Seafoods ASA, gives cause for concern. Based on recent experience of such mergers and acquisitions, the Comhairle is highly concerned about the potential local economic impact, both in terms of direct employment and the consequential effects within the island economy.

Comhairle nan Eilean Siar's response to the specific issues raised by the Competition Commission are detailed below:

i) The relevant market in relation to salmon, smolts and aquafeed;

In relation to the European Economic Area wide market for the above there may be a lessening of competition where market duplication / orientation exists between the two organisations. Increased consumer demand, however, for seafood in general, and salmon in particular because to its Omega 3 fatty acid health benefits, will ensure continued competition within those overall markets.

The dominant market position, however, that the proposed new company will hold may in effect result in a monopoly type situation, where the company is able to

dictate price and impact on supply to smaller companies attempting to compete in the market.

ii) Information on who you consider to be competitors, customers and suppliers of the merging parties;

The merging parties are the two remaining large salmon producers in the Western Isles area accounting for approximately 85% of farmed salmon production. The remaining production in the Western Isles is from a number of smaller independent producers.

The Comhairle recognises the importance of developing, supporting and promoting a range of different sized operators in the market. Its long term strategy has been developed to encourage site rationalisation to achieve economies of scale for larger operators but also to ensure increased site availability for small to medium sized operators.

Pan Fish through Fjord Seafood supply a limited number of intra-group European customers with Marine Harvest supplying a different market segment. Pan Fish through Fjord Seafood source feed and overheads as part of an international group agreement achieving competitive prices through economies of scale. All other inputs such as smolt production, farm and processing labour / management, transport and maintenance requirements are sourced locally. Marine Harvest source farm inputs locally, however salmon processing is undertaken off island.

The Comhairle would be extremely concerned if the merger process led to significant consolidation of local labour and local suppliers. This is an area which will require close monitoring and a willingness for the new company (should the merger proceed) to work with local authorities to ensure that any significant changes are minimised and introduced in a sensitive and appropriate manner.

Similarly the segmentation within the companies may open up new opportunities in niche market development for the type of quality product produced in the Western Isles. Again, if the merger proceeds, the company should be encouraged to work closely with the relevant authorities to ensure best value to local communities. Within the parameters of commercial confidentiality the new company should be encouraged to discuss and brief relevant local authorities with regard to their future plans / market strategy. This is of particular importance for an area such as the Western Isles whose economy is strongly influenced by the salmon farming sector.

iii) Competition within the product and geographic markets identified in terms of the reference, and any other market definition you may consider relevant;

Each organisation currently harvests and processes the salmon in a different way. Consequently at present they target different markets with differing degrees of value added processing and direct competition between each organisation is limited. However the concentration of ownership of these organisations may lead to a standardisation of production with the risk that local processing, technical and

management employment and skills may be lost. This is one of the Comhairle's main concerns.

If the merger proceeds the company should be encouraged to work with the Comhairle and other relevant authorities to ensure that any potentially negative impacts are minimised and areas of opportunity are maximised.

iv) Barriers to entry to these markets;

The two most significant factors affecting entry to farmed salmon production are capital investment and site availability.

The extent of investment required to establish and maintain a production site means access to an appropriate level of capital is essential. In the short term strengthened salmon prices will improve investment availability. In addition if salmon prices continue to recover in the medium to long term then this should attract potential operators to the market.

It is also essential that sufficient production sites are available to potential market entrants. As noted in response (ii) the Comhairle actively supports appropriate site utilisation which develops and reflects the market value of farmed salmon and recognises the industry's impact on the environment. Maximising available salmon production sites is one important way to ensure efficient market entry. This is evidenced by the Comhairle's support for the innovative "Western Isles Site Optimisation Plan" scheme which is supported by operators and regulatory agencies alike.

It is a concern to the Comhairle that so many production sites controlled through one organisation may lead to site availability and market access restrictions. It will be important for the Competition Commission to consider whether following any site rationalisation as a result of the merger, whether a maximum number of leases should be held by one operator.

The new company should be compelled to make available to new entrants, sites which have become surplus to their requirements. The company should not be permitted to hold onto fallow sites in order to prevent new entrants to the market.

v) The effect of the proposed acquisition on customers;

Given the current increase in demand for salmon noted in response (i) and the different types of market penetration noted in response (iii) the proposed merger may not have an immediate effect on customers as each organisation has different production and final market characteristics.

It is a concern to the Comhairle however that the concentration of production through effectively one organisation may lead to overall market supply control. There is potential for that organisation to restrict supply and consequently drive up prices. The Competition Commission should consider current and projected production levels and determine to what extent they address current demand.

v) Level of prices and variety and quality of products;

Given the increasing demand for salmon and limited short-term supply, prices should remain firm. The purchasing strength of the European supermarkets and wholesalers will ensure customer requirements and preferences are reflected with a variety of quality products. It recognised that a one company may have a major distortive impact on price in particular.