

**Sylvan International Ltd
and
Locker Group plc**

A report on the merger situation



COMPETITION COMMISSION

Sylvan International Ltd and Locker Group plc

A report on the merger situation

**Presented to Parliament by the Secretary of State for
Trade and Industry by Command of Her Majesty
November 2000**

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¹These members formed the Group which was appointed to investigate and report on this reference under the Chairmanship of Mrs D P B Kingsmill. Because of ill health, Professor Steele was not able to participate in the work of the Group from late August 2000 and resigned from the Group on 8 September 2000. The conclusions in this report are those of the remaining members of the Group.

Note by the Department of Trade and Industry

In accordance with section 83(3) and (3A) of the Fair Trading Act 1973, the Secretary of State has excluded from the copies of the report, as laid before Parliament and as published, certain matters, publication of which appears to the Secretary of State to be against the public interest, or which he considers would not be in the public interest to disclose and which, in his opinion, would seriously and prejudicially affect certain interests.

The omissions are indicated by a note in the text or, where space does not permit, by the symbol ✂.

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Part I

Summary and Conclusions

1 Summary

1.1. On 1 June 2000, the Secretary of State for Trade and Industry referred to the CC for investigation and report the joint venture now called Pentre Askern Group Limited (Pentre Askern), formed by combining the drum and other businesses previously owned by Askern Group Limited (Askern), a subsidiary of Sylvan International Ltd (Sylvan), and by Pentre (Holdings) Limited (Pentre), a subsidiary of Locker Group plc (Locker)(see Appendix 1.1 for the terms of reference). A subsidiary of Locker owns 51 per cent of the joint venture and a subsidiary of Askern owns the remaining 49 per cent.

1.2. Drums are supplied to manufacturers and distributors for the packaging and transport of electrical and telecommunications cable and wire. We decided that drums for this purpose were in separate markets from drums for manufacturing purposes and from other forms of packaging. We focused on steel, timber, plywood and cardboard drums as they were all manufactured by both Pentre and Askern.

1.3. The effect of the merger, which became unconditional on 4 April 2000, has been to create a business with an 80 per cent share of the combined markets in the UK for steel, timber, plywood and cardboard drums, and a 39 per cent share of the market in the UK for timber drum management services. This satisfies the requirements for our investigation under the Fair Trading Act 1973.

1.4. Prior to the merger, Pentre's turnover in the year to 31 March 2000 was £29.2 million. Pentre was one of the two largest suppliers of small steel, timber, plywood and cardboard drums to UK customers, with an overall market share of 33.9 per cent. Pentre was also a major supplier of timber drum management services for UK customers, with a market share of 18 per cent.

1.5. Askern's turnover prior to the merger in the year ending 31 March 2000 was £31.2 million. Askern was the other of the two largest suppliers of small steel, timber, plywood and cardboard drums to UK customers, with an overall market share of 51.7 per cent. Askern was also a supplier of timber drum management services for UK customers, with a market share of 20.6 per cent.

1.6. We consider that the markets for small steel, timber, plywood and cardboard drums are UK markets, as is the market for timber drum management services.

1.7. In these five UK markets, Pentre and Askern had competed effectively with each other prior to the merger. We believe that, had the merger not occurred, both Pentre and Askern would have continued to compete in all five markets, although there is some doubt as to whether Askern would have remained in the market for small steel drums.

1.8. Pentre Askern is not the largest supplier in the market for timber drum management services and barriers to entry in this market are particularly low. We do not expect the merger to have an adverse effect on competition in this market.

1.9. Pentre Askern has a very high share of the four UK product markets—small steel, timber, plywood and cardboard—ranging from 84 to 93 per cent. In considering whether its position would be constrained by competitive pressure, we have examined the desire of customers for dual sourcing, the degree of buyer power that some may be able to exercise, the scope for imports, and the scope for new entry or expansion by smaller UK suppliers, noting that technical barriers to entry are very low.

1.10. Two members conclude that the merger may not be expected to have adverse effects on competition in the market for small steel drums, where imports have begun. The other member disagrees.

1.11. We all conclude that in the markets for timber, plywood and cardboard drums the merger may be expected to have an adverse effect on competition.

1.12. The parties expect to see benefits from the merger but we do not expect these to be large or to be shared to a significant extent with customers. The benefits are not sufficient to outweigh the adverse effects and we thus conclude that the merger may be expected to operate against the public interest.

1.13. The adverse effects on competition arise from the inability of smaller UK suppliers to survive if Pentre Askern made selective low price offers to the main customers of those suppliers; and from the possibility that small customers may not have the information to make informed choices between Pentre Askern and alternative suppliers and may as a result pay higher prices to Pentre Askern than they otherwise would have done. The lack of price transparency in the market is a contributory factor.

1.14. The majority of members believe that, given time, alternative sources of supply would become better established; that it is not necessary to dismantle the merger; and that a package of behavioural remedies is the most appropriate means to alleviate the detriment to the public interest which we have identified. They conclude that these remedies should be confined to the markets for timber, plywood and cardboard drums and should last for three years. They recommend that the Director General of Fair Trading (DGFT) should obtain undertakings from Pentre Askern covering:

- information on a web site to improve price transparency;
- restrictions on subsequent reversal of selective price cuts;
- independently audited information for the DGFT;
- prior clearance of further acquisitions in these three markets; and
- notification to customers and potential customers of these undertakings.

1.15. Denise Kingsmill, however, concludes that these undertakings would not be effective and that a structural remedy is more appropriate to a structural problem. She concludes that the only appropriate remedy is to divide Pentre Askern, returning the businesses to the separate ownership of Sylvan and Locker.