



## News Release

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### **CC PUBLISHES NEW WATER MERGER GUIDELINES**

The Competition Commission (CC) has, following public consultation, published new guidelines which explain its approach to water merger inquiries.

Amendments to the Water Industry Act 1991, which take effect from 29 December 2004, have aligned the water merger provisions more closely with the Enterprise Act 2002 general merger regime.

The CC is the decision maker in merger cases, including water mergers, referred to it by the Office of Fair Trading (OFT). In the event of such a referral, the CC has to establish whether a relevant merger situation has been created, and if so whether it prejudices the ability of the Director General of Water Services (DGWS), in carrying out his regulatory functions, to make comparisons between different water enterprises. If prejudice is found the CC may then consider appropriate remedies, and in deciding on appropriate remedies may have regard to whether any relevant customer benefits arising from the merger are substantially more important than the prejudice.

This is a different test from that applied to all other mergers whereby the CC is required to determine if a relevant merger situation has been created and whether or not it may be expected to result in a substantial lessening of competition.

Chairman of the CC, Professor Paul Geroski, said:

'This is the last piece of major Enterprise Act guidance and we are grateful for the thoughtful responses received from the public consultation. The water merger guidelines will provide interested parties with clear guidance on how the CC will carry out water merger investigations. Each case will be considered on its merits within the framework of the new regime. The CC is committed to provide a transparent and consistent approach in its investigations and these guidelines have been prepared for that purpose.'

The document completes for the time being a series of guidance published by the CC under the Enterprise Act 2002 to explain its approach to market and merger inquiries. The draft guidelines were distributed for comment in the water industry, economic, business and legal sectors as well as to other regulators and government bodies. The CC's response to

comments received can be found on the CC's web site: [www.competition-commission.org.uk/rep\\_pub/consultations/past/index.htm](http://www.competition-commission.org.uk/rep_pub/consultations/past/index.htm).

### **Notes for editors**

1. Water Merger References: Competition Commission Guidelines can be found, along with all other guidance published by the CC under the Enterprise Act 2002, on: [www.competition-commission.org.uk/rep\\_pub/rules\\_and\\_guide/index.htm](http://www.competition-commission.org.uk/rep_pub/rules_and_guide/index.htm).
2. A 'water merger' is a merger of any two or more water enterprises, a water enterprise being an enterprise carried on by a company appointed under section 6 of the Water Industries Act 1991 to be a water undertaker and/or a sewerage undertaker.
3. The OFT is subject to a duty to refer mergers between two or more water enterprises to the Commission if the OFT believes that it is or may be the case that arrangements are in progress, which, if carried into effect, will result in a merger of any two or more water enterprises; or that such a merger has taken place. The duty does not apply if the value of the turnover of the water enterprise being taken over or the value of the turnover of each of the water enterprises belonging to the person making the takeover does not or would not exceed £10 million.
4. Enquiries should be directed to Francis Royle on 020 7271 0242 or Rory Taylor on 020 7271 0398 ([rory.taylor@competition-commission.gsi.gov.uk](mailto:rory.taylor@competition-commission.gsi.gov.uk)).