

CR/194/05

**ANTICIPATED ACQUISITION BY HMV GROUP PLC THROUGH WATERSTONE'S PLC OF
OTTAKAR'S PLC**

Terms of reference

1. Whereas in exercise of its duty under section 33(1) of the Enterprise Act 2002 ("the Act") to make a reference to the Competition Commission ("the Commission") in relation to an anticipated merger the Office of Fair Trading ("the OFT") believes that it is or may be the case that-

(a) arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation in that:

(i) enterprises carried on by or under the control of HMV Group plc will cease to be distinct from enterprises carried on by or under the control of Ottakar's plc ("Ottakar's"); and

(ii) the value of the turnover in the United Kingdom of the enterprises carried on by or under the control of Ottakar's exceeds £70 million; and

(b) the creation of that situation 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 retail sale of books to final consumers in the United Kingdom, particularly by retailers who sell a wide range of titles (Large Range Retailers).

2. Now therefore the OFT in exercise of its duty under section 33 of the Act, hereby refers to the Commission, for investigation and report within a period ending on 22 May 2006, the following questions in accordance with section 36 of the Act-

(a) whether arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation; and

(b) if so, whether the creation of that situation may be expected to result in a substantial lessening of competition within any market or markets in the United Kingdom for goods or services.

3. In relation to the question whether a relevant merger situation will be created, the Commission shall exclude from consideration one of the subsections (1) and (2) of section 23 of the Act if they find that the other is satisfied.



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