

**REFERENCE RELATING TO THE COMPLETED ACQUISITION BY HASTINGS
DIVERSIFIED UTILITIES FUND AND UTILITIES TRUST OF AUSTRALIA OF
SOUTH EAST WATER**

**Notice of provisional findings made under Rule 10
of the Competition Commission Rules of Procedure**

1. On 16 November 2006 the Office of Fair Trading (OFT) in the exercise of its duty under section 32(b) of the Water Industry Act 1991 (the WIA) referred to the Competition Commission (CC) the completed acquisition by Hastings Diversified Utilities Fund (HDUF) and Utilities Trust Of Australia (UTA) of South East Water (SEW) for investigation and report within a period ending on 2 May 2007.

Provisional findings

2. The CC inquiry group (the Group) appointed to consider this reference has made provisional findings on the statutory questions it has to decide pursuant to section 35(1) of the Enterprise Act 2002 (as amended by regulation 11 of the Water Mergers (Modification of Enactments) Regulations 2004). The Group provisionally finds that:
 - (a) a water merger has taken place; and
 - (b) that merger has prejudiced or may be expected to prejudice the ability of the Authority (Ofwat), in carrying out its functions by virtue of the WIA, to make comparisons between different water enterprises.
3. The Group's reasons are set out in full in the provisional findings report (see note (i)).

The next steps

4. HDUF and UTA are now invited to provide the Group with their reasons in writing as to why these provisional findings should not become final (or, as the case may be, should be varied) (see note (ii)).
5. These reasons should be received by the Group no later than 29 March 2007.
6. The Group will have regard to any such reasons provided in making their final decisions on the statutory questions and actions.
7. The Group will today send to HDUF and UTA and publish a notice of the actions which they consider might be taken by the CC to remedy the prejudice and/or the adverse effects provisionally identified.

Peter Davis
Group Chairman
8 March 2007

Notes:

- (i) A copy of this Notice, the provisional findings report and the executive summary of the provisional findings report will be placed on the CC website today (8 March 2007). The published version of the provisional findings report will not contain any information which the Group consider should be excluded from the report, having regard to the three considerations set out in section 244 of the Enterprise Act 2002.
- (ii) Comments should be made in writing to:

Alexander Marsden, Inquiry Secretary,
Victoria House,
Southampton Row,
London WC1B 4AD

or by email to: Alexander.Marsden@cc.gsi.gov.uk