

**COMPLETED WATER MERGER BETWEEN
SOUTH EAST WATER LIMITED (SEW) AND MID KENT WATER LIMITED (MKW)**

**NOTICE OF PROPOSAL TO ACCEPT UNDERTAKINGS
PURSUANT TO SECTION 82 OF THE ENTERPRISE ACT 2002
(AS MODIFIED BY REGULATION 23 OF THE WATER MERGERS (MODIFICATION OF
ENACTMENTS) REGULATIONS 2004)
AND SCHEDULE 10 TO THE ENTERPRISE ACT 2002
AND PUBLIC CONSULTATION ON THE PROPOSED UNDERTAKINGS**

IN THE MATTER of the reference to the Competition Commission dated 16 November 2006 relating to the acquisition by of Macquarie Luxembourg Water Sarl (now Hastings Luxembourg Water Sarl) by HDF (UK) Holdings Limited, which is jointly owned by Utilities of Australia PTY Limited (in its capacity as trustee of Utilities Trust of Australia (UTA)) and Hastings Funds Management Limited (in its capacity as responsible entity of Hastings Diversified Utilities Fund (HDUF));

Introduction

1. On 16 November 2006 the Office of Fair Trading (OFT) made the reference to the Competition Commission (CC) under section 32(b) of the Water Industry Act 1991 (WIA).
2. In its report *South East Water Limited and Mid Kent Water Limited: a report on the completed water merger of South East Water Limited and Mid Kent Water Limited*, dated 1 May 2007 (the report), the CC concluded that:
 - (a) The merger may be expected to prejudice the ability of Ofwat, in carrying out its functions by virtue of the WIA, to make comparisons between different water enterprises.
 - (b) The CC should take action to remedy the prejudice.
 - (c) The prejudice should be remedied by a requirement upon MKW and SEW to reduce prices to customers of their companies by a total amount of £4 million on a 'one-off' basis, to be given effect through bills issued to customers for the year 2008/2009 ('the price reduction').
 - (d) The price reduction remedy described above should be accompanied by requirement on MKW and SEW to accept a price determination at the next quinquennial price review that reflects £3.1 million annual merger savings in operating expenditure (as compared with current operating expenditure costs and projections) ('the opex adjustment').
3. The CC has reached agreement with SEW, MKW, UTA and HDUF as to the terms of draft final undertakings to remedy the prejudice, and the draft final undertakings are annexed to this Notice. Separate forms of undertakings have been agreed with SEW and MKW on the one hand and UTA and HDUF on the other hand. The purpose and effect of the undertakings are to give effect to the remedy set out in the report, as described above, on the terms set out in the drafts.

4. The CC now gives notice that it proposes to accept final undertakings in the form of the drafts annexed to this notice, and invites written representations on the drafts from any person or persons who wish to comment. Representations should reach the CC no later than 12.00 on 21 November 2007 and should be addressed to:

The Inquiry Secretary
South East Water/Mid Kent Water Merger Inquiry
Competition Commission
Victoria House
Southampton Row
London WC1B 4AD

Or by email to: alexander.marsden@cc.gsi.gov.uk

Signed by authority of the CC
Dr PETER DAVIS
Group Chairman
6 November 2007