

Terms of reference

1. Whereas in exercise of its duty under section 22(1) of the Enterprise Act 2002 (“the Act”) to make a reference to the Competition Commission (“the CC”) in relation to a completed merger the Office of Fair Trading (“the OFT”) believes that it is or may be the case that—
 - (a) a relevant merger situation has been created in that:
 - (i) enterprises carried on by or under the control of Tesco plc have ceased to be distinct from enterprises carried on by or under the control of the Co-operative Group (CWS) Limited at Uxbridge Road, Slough; and
 - (ii) as a result the condition specified in section 23(3) of the Act prevails or prevails to a greater extent with respect to the supply in the United Kingdom or a substantial part of the United Kingdom of groceries via one-stop shopping (as that term is defined in the report by the CC on the proposed acquisition of Safeway plc, Cm 5950, September 2003); and
 - (b) the creation of that situation has resulted or may be expected to result in a substantial lessening of competition within any market or markets in the United Kingdom for goods or services, including the supply of groceries.
2. Now, therefore, the OFT, in exercise of its duty under section 22 of the Act, hereby refers to the CC, for investigation and report within a period ending on 3 October 2007, the following questions in accordance with section 35 of the Act—
 - (a) whether a relevant merger situation has been created; and
 - (b) if so, whether the creation of that situation has resulted or 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 has been created, the CC shall exclude from consideration one of the subsections (1) and (2) of section 23 of the Act if it finds that the other is satisfied.

(signed) **Simon Pritchard**
Director of Mergers
Office of Fair Trading
19 April 2007