

Terms of reference and conduct of the inquiry

Terms of reference

1. On 8 August 2007 the Office of Fair Trading (OFT) sent the following reference to the CC:

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 Macquarie UK Broadcast Ventures Limited have ceased to be distinct from enterprises carried on by or under the control of National Grid Telecoms Investment Limited, Lattice Telecommunications Asset Development Company Limited and National Grid Wireless No. 2 Limited; and
- (ii) as a result, the condition specified in section 23(4) of the Act prevails or prevails to a greater extent with respect to the supply in the United Kingdom of terrestrial transmission services to radio and television broadcasters, multiplex operators and wireless telecommunications operators; 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 services including the supply of terrestrial transmission services to radio and television broadcasters, multiplex operators and wireless telecommunications operators.

2. Now, therefore, the OFT, in exercise of its duty under section 22(1) of the Act and its power under section 35(6) of the Act, hereby refers to the CC, for investigation and report within a period ending on 22 January 2008, the following questions in accordance with section 35(1) 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 they find that the other is satisfied.

(signed) **Sean M G Williams**
Office of Fair Trading
8 August 2007

Conduct of inquiry

2. The reference from the OFT was made on 8 August 2007. We posted an invitation to express views to us on the CC website (www.competition-commission.org.uk) on the same day.
3. On 29 August we published an administrative timetable for the inquiry. The initial statutory deadline for the publication of our final report was 22 January 2008. Due to the complexity of the remedies stage of the inquiry and the number of parties to consult, this deadline was subsequently extended to 18 March 2008.
4. On 13 August the CC adopted the undertakings Macquarie UK Broadcast Holdings Limited (MUKBH) had previously given to the OFT. On 15 October the CC accepted revised interim undertakings from MUKBH. Copies of these undertakings can be found on the inquiry homepage (www.competition-commission.org.uk/inquiries/ref2007/macquarie/index.htm).
5. We wrote letters requesting evidence from television and radio broadcasters, wireless and telecommunications providers, and other interested parties. An advertisement inviting interested parties to submit written evidence to the CC was placed in *The Guardian* on 27 August.
6. On 6 September members of the Group, accompanied by staff, visited a range of broadcast transmission sites near London.
7. In the course of the inquiry, we received many submissions and held oral hearings and telephone conversations with the parties and many third parties. Non-sensitive versions of the submissions we received, and agreed summary records of hearings and telephone conversations can be found on the CC website.
8. In the course of the inquiry we sent draft working papers on various subjects to the parties and some third parties, and received many comments back.
9. We published an issues statement on 7 September 2007.
10. We published our provisional findings on 30 November 2007.
11. We sent a remedies working paper to the parties and several third parties on 25 January 2008, which was followed by a supplement on 8 February 2008, to both of which we received many comments back.
12. We would like to thank all those who have assisted in our inquiry.