



News Release

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CC CONSULTS ON NEW MERGER REMEDY GUIDELINES

The Competition Commission (CC) is consulting on new guidelines which explain its approach to remedies where mergers are likely to lead to a substantial lessening of competition (SLC).

The draft guidelines provide a single source of guidance on merger remedies including divestiture, prohibition and behavioural measures. The emphasis of the guidelines is on implementing remedies that are effective and yet minimize burdens on customers, suppliers and merger parties. The document takes account of the CC's experience of implementing remedies in recent years under the Enterprise Act and research into the outcome of remedies.

The document is the latest in a series of guidance published by the CC under the Enterprise Act. The draft guidelines are available on the CC's website: www.competition-commission.org.uk.

Chairman of the CC, Peter Freeman said:

The guidelines clarify our criteria, requirements and processes for merger remedies in the light of our experience over the past four years in implementing remedies under the Enterprise Act. These are part of the CC's commitment to a transparent and consistent approach to the UK merger control regime. We would welcome any comment from interested parties on the guidelines.

Comments on the consultation document can be sent by e-mail to: david.roberts@cc.gsi.gov.uk.

Or by post to:

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Head of Remedies
Competition Commission
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Responses should be received by 22 August 2008.

Notes for editors

1. The CC is an independent public body, which carries out investigations into mergers, markets and the regulated industries.
2. If a CC inquiry concludes that a merger is likely to result in an SLC, then the CC has to decide what actions it or other bodies should take to remedy, mitigate or prevent the SLC or any adverse effects resulting from it. These actions can take a variety of forms including prohibition, divestiture or behavioural measures such as rights of access to facilities and price caps. When selecting remedies, the CC is required by the Enterprise Act to 'achieve as comprehensive a solution as is reasonable and practicable to the substantial lessening of competition and any adverse effects' and may also take account of any relevant customer benefits resulting from the merger.
3. The CC implemented its first remedies under the Enterprise Act in 2004. In total, the CC has required remedies in 21 merger inquiries to date since the introduction of the Enterprise Act and has chosen divestiture or prohibition in 17 of these cases.
4. The new guidelines will supersede the CC's existing guidance on divestiture remedies (CC8), existing guidance on interim measures and guidelines on remedial measures in the CC's general merger guidance (CC2). The approach in the new guidelines is consistent with these previous documents but has been clarified and extended. The new guidelines also cover areas such as intellectual property remedies and behavioural remedies which are not covered in detail in existing guidance.
5. The new guidelines may be accessed at www.competition-commission.org.uk/rep_pub/consultations/index.htm.
6. In parallel with the consultation on merger remedies, the CC is also reviewing its guidelines for the assessment and analysis of mergers in a joint exercise with the OFT. This aims to produce joint guidance for consultation at the end of 2008.
7. Enquiries should be directed to Rory Taylor on 020 7271 0242 (rory.taylor@cc.gsi.gov.uk).