

# Completed acquisition by Graham's The Family Dairy Limited of the business of Quothquan Farms Limited

The CMA's decision on reference under section 22(1) on 14 November 2014. Full text of the decision published on 17 November 2014.

**ME/6480-14**

1. Graham's The Family Dairy Limited (Graham's) acquired the business of Quothquan Farms Limited (the Target, together the Parties) on 27 April 2014 (the Merger). The Competition and Markets Authority (CMA) began an own-initiative assessment of the Merger on 3 September 2014 under the mergers provisions of the Enterprise Act 2002 (the Act).
2. The Merger was completed on 27 April 2014 and Graham's confirmed that the Parties did not issue a press release on their websites about the Merger, nor took any other steps to publicise the Merger at large other than by letter to customers and suppliers. Graham's stated that the Merger was mentioned on 3 May 2014 in an article in 'The Scottish Farmer' (a paid for weekly trade magazine in Scotland).<sup>1</sup> However, the CMA notes that this article made only a passing reference to the Merger towards the end of an article on a different subject. The CMA is not aware of any references to the Merger in the press until at least 15 July 2014, when the CMA was made aware of the Merger through a complaint.
3. The CMA therefore believes that, in line with its published guidance<sup>2</sup> and previous decisions by the Office of Fair Trading (OFT),<sup>3</sup> material facts about the Merger were not 'made public' such as to start the four-month statutory clock under section 24 of the Act following the completion of the Merger. Rather, the CMA was made aware of the Merger on 15 July 2014 through a complaint. Therefore, the statutory four-month deadline is 12 December 2014 (following extensions to the deadline of 15 November 2014 under section

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<sup>1</sup> 'The Scottish Farmer', article entitled 'Milk Price Upheaval', 3 May 2014.

<sup>2</sup> See [Mergers – Guidance on the CMA's jurisdiction and procedure](#) (CMA2, January 2014), paragraph 4.44.

<sup>3</sup> OFT Decisions: the completed acquisition by Genus plc of Local Breeders Limited (14 May 2008), the completed acquisition by Tesco Stores Limited of Brian Ford's Discount Store Limited (22 December 2008) and the completed acquisition by Stericycle, Inc of Ecowaste Southwest Limited (25 August 2011).

25(2) of the Act). The statutory 40 working day deadline under section 34ZA of the Act for the CMA to make a decision on reference is 9 December 2014.

4. On the basis of the information available to it from the Parties and third parties, the CMA has decided that the Merger **does not qualify** for investigation under the Act, because neither the turnover test nor the share of supply test in section 23 of the Act is met. A relevant merger situation has, therefore, not been created.

**Nelson Jung**  
**Director of Mergers Group**  
**Competition and Markets Authority**  
**14 November 2014**