

Completed acquisition by Harvest Housing Group of Arena Housing Group

ME/5533/12

The OFT's decision on reference under section 23 given on 13 August 2012.
Full text of decision published 23 August 2012.

Please note that the square brackets indicate figures or text which have been deleted or replaced in ranges at the request of the parties or third parties for reasons of commercial confidentiality.

PARTIES

1. Harvest Housing Group (**Harvest**) and Arena Housing Group (**Arena**) (now Your Housing Group) are both active in the provision of social housing in the North West of England.

TRANSACTION

2. On 2 April 2010, Harvest acquired Arena by way of Arena amending its rules so as to give Harvest corporate control over it. The Office of Fair Trading (**OFT**) opened its own investigation into the transaction. []

JURISDICTION

3. As a result of the acquisition, Harvest and Arena ceased to be distinct. The merged parties provided the OFT with Arena's most recent annual accounts (for the year ending 31 March 2012), which showed its UK turnover was below £70 million. Therefore, the turnover test set out in section 23(1)(b) of the Enterprise Act 2002 (the **Act**) is not met.
4. The merged parties submitted that their combined share of supply of social housing by volume in the North West and in each local authority area of overlap is less than 25 per cent such that the share of supply test as set

out in section 23 of the Act is not met. These shares were calculated based on independent data from the National Register of Social Housing Plus, a database administered by the Homes & Communities Agency.

5. The share of supply test is met where post-merger, both of the merged parties supply or acquire at least 25 per cent of all goods or services of a particular description in the UK or in a substantial part of the UK. In determining the goods or services to be considered for the purposes of the share of supply test, the OFT has a wide scope of appreciation that it can apply although it will have regard to a reasonable description of a set of goods or services to determine whether the share of supply test is met. The OFT may have regard to the value, cost, price, quantity, capacity, number of workers employed or any other criterion in determining whether the 25 per cent threshold is met.¹
6. The OFT therefore requested additional information from the merged parties on their combined share of supply on the basis of the supply of:
 - social housing for non local authority administered social housing only (provided by volume)
 - repair, maintenance and improvement services to third parties
 - social housing by value
 - housing under a shared ownership scheme (by volume and value)
 - housing for sale (by volume and value), and
 - social housing split according to new build and refurbished social housing (by volume and value).
7. The merged parties submitted that they did not have any properties for sale (and had not had any for the last two years), that they did not overlap with respect to new build social housing,² the supply of repair, maintenance and improvement services to third parties and certain supply of housing under

¹ OFT Mergers - Jurisdictional and procedural guidance, June 2009 at paragraphs 3.3 and 3.52 to 3.55.

² The merged parties therefore did not provide the split between new build and refurbished social housing.

shared ownership scheme; and their shares of supply were below 25 per cent on all other segments set out above.

DECISION

8. Therefore, the OFT has decided that the completed acquisition of Arena by Harvest does not qualify for investigation under the mergers provisions of the Act, because neither the UK 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.