

## **Kim Howells accepts undertakings from the Scotts Company**

Kim Howells, Minister for Competition and Consumer Affairs, announced today that he has accepted satisfactory undertakings from The Scotts Company, and that Scotts' acquisition of certain assets of the Monsanto Company will not therefore be referred to the Competition Commission. This decision is in accordance with the advice of the Director General of Fair Trading (DGFT).

The undertakings require Scotts to divest the Phostrogen brand to a purchaser to be approved by the DGFT. The assets to be divested include trademarks and patents; stock in trade; pesticide approvals; supply contracts; sales, marketing and research and development personnel; and customer records. The undertakings also require Scotts to maintain Phostrogen as a separate business until the divestment takes place.

Dr Howells said:

"The DGFT advised me that the merger gave rise to competition concerns in relation to the market for garden fertilisers, by giving Scotts control of both the Miracle Gro and Phostrogen brands of garden fertiliser. He advised that these concerns could be addressed by undertakings from Scotts to divest the Phostrogen brand.

"On 21 May I invited interested parties to comment on the draft undertakings recommended by the DGFT. Following that consultation, the DGFT has advised me that the undertakings are appropriate to remedy or prevent the adverse effects of the merger in respect of the supply of garden fertilisers.

"I agree with the DGFT's advice, and have therefore decided to accept the undertakings in lieu of a reference to the Competition Commission."

### Notes for Editors

1. Section 75G of the Fair Trading Act 1973 (inserted by section 147 of the Companies Act 1989 and amended by the Deregulation and Contracting Out Act 1994) enables the Secretary of State to accept undertakings as an alternative to making a merger reference to the Competition Commission. The Secretary of State must consider whether such undertakings remedy adverse effects of the merger specified by the DGFT which would otherwise have led him to make a reference to the Competition Commission.

2. On 21 May Dr Howells announced that he had asked the DGFT to seek undertakings from Scotts in lieu of a reference to the Competition Commission, and

invited interested parties to comment on the draft text of the undertakings (DTI Press Notice P/99/434).

3. Copies of the undertakings signed by Scotts and of the DGFT's advice are available from the DTI press Office.

Source:

<http://www.m2.com/m2/web/story.php/1999852568440080DDE88025683B005CABB9>