

**THE CMA'S CONSULTATION ON DRAFT NEW RULES AND GUIDE FOR WATER
REDETERMINATION REFERENCES**

RESPONSE BY FRESHFIELDS BRUCKHAUS DERINGER LLP

SEPTEMBER 2024

**RESPONSE TO THE CMA'S CONSULTATION ON DRAFT NEW RULES AND GUIDE FOR WATER
REDETERMINATION REFERENCES**

1. Introduction

1.1 Freshfields Bruckhaus Deringer LLP (the *Firm*) welcomes the opportunity to respond to the Competition and Markets Authority (*CMA*)'s consultation on draft new rules (the draft *Rules*) and guide (the draft *Guide*) for water redetermination references (together, the draft *Water Redetermination Guidance*). The draft Water Redetermination Guidance sets out the CMA's proposed rules for managing water redetermination references.

1.2 This response is based on our significant experience in advising clients on a wide range of regulatory appeal and redetermination proceedings, and particularly our experience representing one of the water companies in the PR19 water redetermination process (the *PR19 Redetermination*).

1.3 This response is submitted on behalf of the Firm and does not represent the views of any of the Firm's clients.

2. The Firm's observations

2.1 We welcome the CMA's decision to codify the Water Redetermination Guidance separately from other proceedings. While the CMA's previous guidance was useful, as we saw in the PR19 Redetermination, there are several nuances to water redeterminations that do not apply to the other proceedings covered by the CMA's previous guidance, so this further codification is useful. We support the transparency that the Water Redetermination Guidance will bring to future proceedings.

2.2 We consider that the PR19 Redetermination was run efficiently as a process, and we support the CMA's view, clear from the Water Redetermination Guidance, that further water redetermination processes should follow the same structure as was followed in the PR19 Redetermination.

2.3 To encourage that efficiency, as well as the overriding objective, we particularly support the position taken in the draft Rules at Rule 8.5 that parties may only make submissions in accordance with the draft Rules, and that the CMA reserves the right to reject unsolicited submissions.

Freshfields Bruckhaus Deringer LLP

September 2024