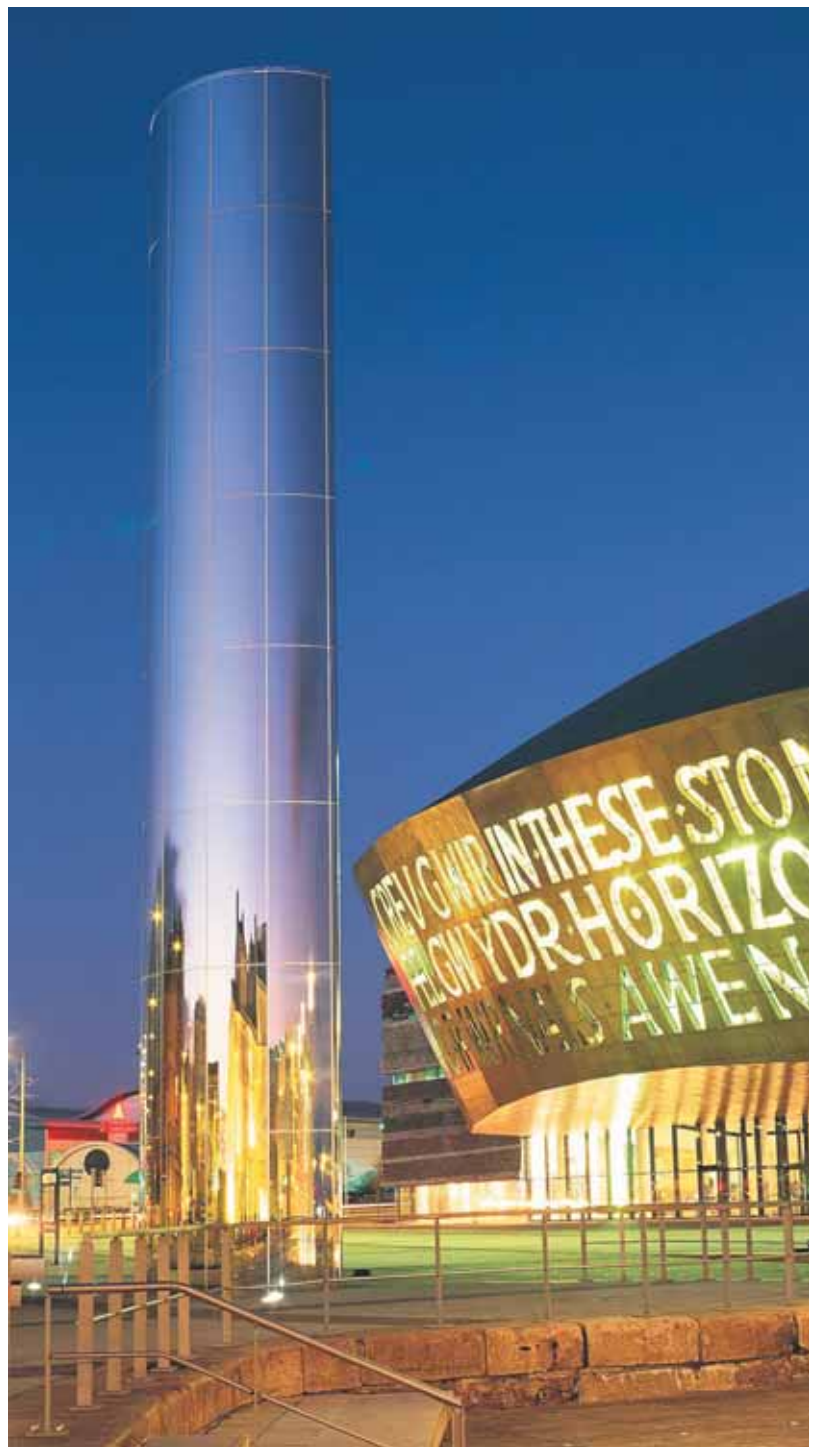


# A guide to investing in Wales

## Appendix 8 – Business regulations



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## 1. Registration and licensing

There are no statutory restrictions or required approvals on licensing agreements or the amount of royalties paid under such arrangements. However, the Competition Directorate of the European Commission can challenge an agreement.

## 2. Price controls

The government, either directly or through regulatory agencies, has permanent price control powers over most public utilities, London taxi fares and milk.

## 3. Monopolies and restraint of trade

Most prominent UK monopolies and near-monopolies are public utilities. Competition is restricted in gas and electricity, although they are now privately owned. Most of the telecommunications market is open to competition.

The Competition Act 1998 introduced the concept of abuse of monopoly position, which is central to EU law. Under the Enterprise Act, the Office of Fair Trading (OFT) may refer market investigations to the Competition Commission (CC) where the structure of a market or conduct of suppliers or customers appears to harm competition. Following a referral, the CC conducts a detailed investigation. A finding of an adverse effect on competition may be remedied via an undertaking or an order. A right of appeal has been introduced for market investigation references. Those affected by the decision may request a review from the Competition Appeal Tribunal, an independent body.

## 4. Mergers and acquisitions

Legislation governing mergers is contained in the Enterprise Act 2002. Decisions on most mergers are taken by independent bodies (OFT and the CC). They use tests based purely on competition, rather than the public interest.

The OFT may investigate mergers that meet a turnover test or a share-of-supply test. The turnover test is met if the target company has a turnover exceeding £70 million. The share-of-supply test is met if the merging companies were together to supply at least a 25% share of particular goods or services in the UK (or a substantial part of the UK).

If the OFT decides that a merger may restrict competition substantially, it may refer the matter to the CC or seek undertakings in lieu of a reference. If a merger is referred to the CC, the agency will conduct a full investigation into whether the merger has caused or may cause a restriction in competition. It may prohibit a merger or impose remedies in the form of undertakings or orders.

Generally, larger mergers are subject to the jurisdiction of the European Competition Directorate, the EU's antitrust authority. This applies to companies with an aggregate global turnover exceeding EUR 5 billion and EU turnover of at least EUR 250 million for at least two of the partners (even where there are no assets in the EU), with less than two-thirds of this derived from any single member state.

Mergers meeting all of the following conditions must be reported to several national competition authorities within the EU:

- combined worldwide turnover of the companies concerned exceeds EUR 2.5 billion;
- combined aggregate turnover of all of the undertakings concerned exceeds EUR 100 million in at least three EU member states;
- aggregate turnover of each of at least two of the undertakings exceeds EUR 25 million in each of these three member states; and
- aggregate turnover of at least two of the undertakings exceeds EUR 100 million throughout the EU.

The European Commission has 25 working days following notification either to open proceedings or to approve a merger that comes within its remit. It has 35 working days if undertakings are offered or a referral request is received. If the Commission opts to open a procedure, it has another 90 working days to conduct an in-depth inquiry. This may be extended by 20 working days if requested by the notifying parties or by the Commission with the agreement of the notifying parties.

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Designed and produced by The Creative Studio at Deloitte, London. 31244