



# Fair Trading Act 1973

## 1973 CHAPTER 41

### PART X

#### EXTENSION OF ACT OF 1956 TO AGREEMENTS RELATING TO SERVICES

#### **116 Application of provisions of Acts of 1956 and 1968**

- (1) Subject to the following provisions of this section, sections 9 to 23 of the Act of 1956 shall have effect in relation to agreements to which Part I of that Act applies by virtue of an order under section 107 or section 108 of this Act as they have effect in relation to agreements to which Part I of that Act applies apart from any such order.
- (2) For the purposes of the application of those sections in relation to an agreement to which Part I of that Act applies by virtue of such an order, such of those sections as are specified in the first column of Part I of Schedule 10 to this Act shall have effect subject to the modifications specified in relation to them in the second column of that Part of that Schedule.
- (3) For the purposes of the application of section 21 of that Act in relation to an agreement to which Part I of that Act applies by virtue of such an order, that section shall have effect subject to the following modifications, that is to say—
  - (a) with the substitution, for paragraphs (a) and (b) of subsection (1), of the following paragraphs:—
    - “(a) that the restriction is reasonably necessary, having regard to the character of the services to which it applies, to protect the public against injury (whether to persons or to premises) in connection with the use of those services or in connection with the consumption, installation or use of goods in relation to which those services are supplied;
    - (b) that the removal of the restriction would deny to the public as users of any services, or as purchasers, consumers or users of any goods in relation to which any services are supplied, other specific and substantial benefits or advantages enjoyed or likely to be enjoyed by them as such, whether by virtue

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*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

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- of the restriction itself or of any arrangements or operations resulting therefrom”;
- (b) with the substitution, for paragraph (d) of subsection (1), of the following paragraph:—
- “(d) that the restriction is reasonably necessary to enable the persons party to the agreement to negotiate fair terms for the supply of services to, or for obtaining services from, any one person not party thereto who controls a preponderant part of the trade or business of supplying such services, or for the supply of services to any person not party to the agreement and not carrying on such a trade or business who, either alone or in combination with any other such person, controls a preponderant part of the market for such services”;
- (c) with the substitution, in the provisions of that subsection after paragraph (h), for the words " (being purchasers, consumers or users of goods produced or sold by such parties, or persons engaged or seeking to become engaged in the trade or business of selling such goods or of producing or selling similar goods) " of the words " (being users of services supplied by such parties, or persons engaged or seeking to become engaged in any business of supplying such services or of making available or supplying similar services, or being purchasers, consumers or users of goods in relation to which any such services or similar services are supplied) ".
- (4) Sections 1 to 3 and sections 6 and 7 of the Act of 1968 shall have effect in relation to agreements to which Part I of the Act of 1956 applies by virtue of an order under section 107 or section 108 of this Act, but, in the case of such of those sections as are specified in the first column of Part II of Schedule 10 to this Act, shall have effect in relation to such agreements subject to the modifications specified in relation to them in the second column of that Part of that Schedule.
- (5) In section 9 of the Act of 1968 any reference to particulars entered or filed in the register pursuant to Part I of the Act of 1956 shall be construed as including a reference to particulars so entered or filed pursuant to any provisions of Part I of the Act of 1956 as applied by subsection (1) of this section.
- (6) Any reference in this section to any provisions of the Act of 1956 shall be construed as including a reference to those provisions as applied by section 5(2) of the Act of 1968 (which relates to information agreements); and the modifications of section 21 of the Act of 1956 made by subsection (3) of this section shall be construed accordingly.
- (7) Where by virtue of subsection (2) or subsection (4) of this section any provisions of the Act of 1956 or of the Act of 1968 are to have effect subject to modifications specified in Schedule 10 to this Act for the purposes of their application to an agreement to which Part I of the Act of 1956 applies by virtue of an order under section 107 or section 108 of this Act—
- (a) that order shall be taken to be " the relevant order " referred to in those modifications, and
- (b) in those modifications " the Act of 1973 " means this Act and " services brought under control by the relevant order" means services of the class described in that order in accordance with section 107(1) or section 108(1) of this Act.