



# Fair Trading Act 1973

## 1973 CHAPTER 41

### PART IV

#### FUNCTIONS OF DIRECTOR AND COMMISSION IN RELATION TO MONOPOLY SITUATIONS AND UNCOMPETITIVE PRACTICES

##### *Monopoly references*

#### **49 Monopoly reference not limited to the facts**

- (1) A monopoly reference may be so framed as to require the Commission to investigate and report on the question whether a monopoly situation exists in relation to the matters set out in the reference in accordance with section 47 of this Act and, if so, to investigate and report—
  - (a) on the questions mentioned in paragraphs (a) to (d) of section 48 of this Act, and
  - (b) on the question whether any facts found by the Commission in pursuance of their investigations under the preceding provisions of this subsection operate, or may be expected to operate, against the public interest.
- (2) A monopoly reference may be so framed as to require the commission to investigate and report on the questions whether a monopoly situation exists in relation to the matters set out in the reference in accordance with section 47 of this Act and, if so,—
  - (a) by virtue of which provisions of sections 6 to 8 of this Act that monopoly situation is to be taken to exist;
  - (b) in favour of what person or persons that monopoly situation exists; and
  - (c) whether any action or omission on the part of that person or those persons in respect of matters specified in the reference for the purposes of this paragraph operates, or may be expected to operate, against the public interest.
- (3) For the purposes of subsection (2)(c) of this section any matter may be specified in a monopoly reference if it relates to any of the following, that is to say—

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*Status: This is the original version (as it was originally enacted).*

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- (a) prices charged, or proposed to be charged, for goods or services of the description specified in the reference ;
- (b) any recommendation or suggestion made as to such prices;
- (c) any refusal to supply goods or services of the description specified in the reference ;
- (d) any preference given to any person (whether by way of discrimination in respect of prices or in respect of priority of supply or otherwise) in relation to the supply of goods or services of that description ;

and any matter not falling within any of the preceding paragraphs may be specified for those purposes in a monopoly reference if, in the opinion of the person or persons making the reference, it is of a kind such that (if a monopoly situation is found to exist) that matter might reasonably be regarded as a step taken for the purpose of exploiting or maintaining that situation or as being attributable to the existence of that situation.

- (4) A monopoly reference framed in either of the ways mentioned in subsections (1) and (2) of this section is in this Act referred to as a " monopoly reference not limited to the facts ".