



# Fair Trading Act 1973

## 1973 CHAPTER 41

### PART V

#### MERGERS

##### *Other merger references*

#### **65 Enterprises ceasing to be distinct enterprises**

- (1) For the purposes of this Part of this Act any two enterprises shall be regarded as ceasing to be distinct enterprises if either—
  - (a) they are brought under common ownership or common control (whether or not the business to which either of them formerly belonged continues to be carried on under the same or different ownership or control), or
  - (b) either of the enterprises ceases to be carried on at all and does so in consequence of any arrangements or transaction entered into to prevent competition between the enterprises.
- (2) For the purposes of the preceding subsection enterprises shall (without prejudice to the generality of the words " common control " in that subsection) be regarded as being under common control if they are—
  - (a) enterprises of interconnected bodies corporate, or
  - (b) enterprises carried on by two or more bodies corporate of which one and the same person or group of persons has control, or
  - (c) an enterprise carried on by a body corporate and an enterprise carried on by a person or group of persons having control of that body corporate.
- (3) A person or group of persons able, directly or indirectly, to control or materially to influence the policy of a body corporate, or the policy of any person in carrying on an enterprise, but without having a controlling interest in that body corporate or in that enterprise, may for the purposes of subsections (1) and (2) of this section be treated as having control of it.

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*Status: This is the original version (as it was originally enacted).*

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- (4) For the purposes of subsection (1)(a) of this section, in so far as it relates to bringing two or more enterprises under common control, a person or group of persons may be treated as bringing an enterprise under his or their control if—
- (a) being already able to control or materially to influence the policy of the person carrying on the enterprise, that person or group of persons acquires a controlling interest in the enterprise or, in the case of an enterprise carried on by a body corporate, acquires a controlling interest in that body corporate, or
  - (b) being already able materially to influence the policy of the person carrying on the enterprise, that person or group of persons becomes able to control that policy.