



Fair Trading Act 1973

1973 CHAPTER 41

PART V

MERGERS

Other merger references

68 Supplementary provisions as to merger situations qualifying for investigation

- (1) In relation to goods or services of any description which are the subject of different forms of supply—
 - (a) references in subsection (2) of section 64 of this Act to the supply of goods, or
 - (b) references in subsection (3) of that section to the supply of services,shall be construed in whichever of the following ways appears to the Secretary of State or the Commission, as the case may be, to be appropriate in all the circumstances, that is to say, as references to any of those forms of supply taken separately, to all those forms of supply taken together, or to any of those forms of supply taken in groups.
- (2) For the purposes of the preceding subsection the Secretary of State or the Commission may treat goods or services as being the subject of different forms of supply whenever the transactions in question differ as to their nature, their parties, their terms or their surrounding circumstances, and the difference is one which, in the opinion of the Secretary of State or of the Commission, as the case may be, ought for the purposes of that subsection to be treated as a material difference.
- (3) For the purpose of determining whether the proportion of one-quarter mentioned in subsection (2) or subsection (3) of section 64 of this Act is fulfilled with respect to goods or services of any description, the Secretary of State or the Commission, as the case may be, shall apply such criterion (whether it be value or cost or price or quantity or capacity or number of workers employed or some other criterion, of whatever nature) or such combination of criteria as may appear to the Secretary of State or the Commission to be most suitable in all the circumstances.

Status: This is the original version (as it was originally enacted).

- (4) The criteria for determining when goods or services can be treated, for the purposes of section 64 of this Act, as goods or services of a separate description shall be such as in any particular case the Secretary of State thinks most suitable in the circumstances of that case.