



# Competition Act 1980

## 1980 CHAPTER 21

### *Further references and investigations*

#### **11 References of public bodies and certain other persons to the [F<sup>1</sup>CMA]**

- (1) The Secretary of State may at any time refer to the [F<sup>2</sup>CMA] any question relating to—
- (a) the efficiency and costs of, [F<sup>3</sup>or]
  - (b) the service provided by, F<sup>4</sup> ...
  - F<sup>4</sup>(c) .....

a person falling within subsection (3) below and specified in the reference, including any question whether, in relation to a matter falling within [F<sup>5</sup>paragraph (a) or (b)] above, the person is pursuing a course of conduct which operates against the public interest.

F<sup>6</sup>(2) .....

- (3) The persons referred to in subsection (1) above are—
- (a) any body corporate—
    - (i) which supplies goods or services by way of business,
    - (ii) the affairs of which are managed by its members, and
    - (iii) the members of which hold office as such by virtue of their appointment to that or another office by a Minister under any enactment; or
  - [F<sup>7</sup>(aa) any publicly owned railway company, within the meaning of the Railways Act 1993, which supplies network services or station services, within the meaning of Part I of that Act; or]
  - [F<sup>8</sup>(b) any person (not falling within paragraph (a) above) who provides in Northern Ireland a bus service within the meaning of section 14 of the Finance Act (Northern Ireland) 1966; or]
  - [F<sup>9</sup>(bb) any person who provides a railway passenger service in pursuance of an agreement entered into by Transport for London or any of its subsidiaries (within the meaning of the Greater London Authority Act 1999) by virtue of section 156(2) or (3) of the Greater London Authority Act 1999;]

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- [<sup>F10</sup>(c) the National Rivers Authority;]
  - [<sup>F11</sup>(ca) Scottish Water;]
  - [<sup>F12</sup>(cc) .....
  - (d) any board administering a scheme under the <sup>M1</sup>Agricultural Marketing Act 1958 [<sup>F13</sup>or the <sup>M2</sup>Agricultural Marketing Act (Northern Ireland) 1964][<sup>F14</sup>or the Agricultural Marketing (Northern Ireland) Order 1982]; or
  - (e) any body corporate with a statutory duty to promote and assist the maintenance and development of the efficient supply of any goods or services by a body falling within paragraphs (a) to (d) above; or
  - (f) any subsidiary, within the meaning of [<sup>F15</sup>section 1159 of the Companies Act 2006], of a body falling within paragraphs (a) to (e) above.
- (4) The Secretary of State may by order exclude from subsection (3)(b) [<sup>F16</sup>or (bb)] above persons of such descriptions as may be specified in the order.
- (5) No question concerning a person falling within subsection (3)(b) [<sup>F17</sup>or (bb)] above or a subsidiary of a body falling within [<sup>F18</sup>that subsection][<sup>F18</sup>either of those paragraphs] may be referred to the [<sup>F19</sup>CMA] under this section unless it relates to the carriage of passengers by the person or, as the case may be, the subsidiary.
- (6) The Secretary of State may at any time by notice given to the [<sup>F20</sup>CMA] vary a reference under this section.
- (7) On making a reference under this section or on varying such a reference under subsection (6) above the Secretary of State shall arrange for the reference or, as the case may be, the variation to be published in such manner as he considers most suitable for bringing it to the attention of persons who in his opinion would be affected by it or be likely to have an interest in it.
- (8) On a reference under this section the [<sup>F21</sup>CMA] shall investigate and report on any question referred to them but shall exclude from their investigation and report consideration of—
- (a) any question relating to the appropriateness of any financial obligations or guidance as to financial objectives (however expressed) imposed on or given to the person in question by or under any enactment, or otherwise by a Minister; <sup>F22</sup>...
  - [<sup>F22</sup>(b) .....
- [<sup>F23</sup>(9) .....
- [<sup>F24</sup>(9A) .....
- (10) A report of the [<sup>F25</sup>CMA] on a reference under this section shall be made to the Secretary of State and shall state, with reasons, the conclusions of the [<sup>F25</sup>CMA] with respect to any question referred to them and, where the [<sup>F25</sup>CMA] conclude that the person specified in the reference is pursuing a course of conduct which operates against the public interest, the report may include recommendations as to what action (if any) should be taken by the person for the purpose of remedying or preventing what the [<sup>F25</sup>CMA] consider are the adverse effects of that course of conduct.
- [<sup>F26</sup>(10A) The functions of the CMA with respect to a reference under this section (including functions under sections 109 to 115 of the Enterprise Act 2002, as applied by section 11B) are to be carried out on behalf of the CMA by a group constituted for the

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purpose by the chair of the CMA under Schedule 4 to the Enterprise and Regulatory Reform Act 2013.]

- (11) In this section “Minister” includes a Northern Ireland department and the head of such a department.

#### Textual Amendments

- F1** Word in s. 11 heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 2(4)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F2** Word in s. 11(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 2(2)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F3** Word in s. 11(1)(a) inserted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 10(2)(a)(i)**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)
- F4** S. 11(1)(c) and preceding word repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 10(2)(a)(ii), **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)
- F5** Words in s. 11(1) substituted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 10(2)(a)(iii)**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)
- F6** S. 11(2) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 10(2)(b), **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)
- F7** S. 11(3)(aa) inserted (6.1.1994) by 1993 c. 43, s. 152(1), **Sch. 12 para. 12(1)** (with s. 150(1)(o)); S.I. 1993/3237, **art. 2(2)**
- F8** S. 11(3)(b) substituted by virtue of Transport Act 1985 (c. 67, SIF 126), **s. 114(1)(a)**
- F9** S. 11(3)(bb) substituted (15.7.2003) by The Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), art. 1(1), **Sch. 1 para. 6**
- F10** S. 11(3)(c) commencing “the National Rivers” substituted (E.W.) for s. 11(3)(c) commencing “any statutory water” by Water Act 1989 (c. 15, SIF 130), s. 190(1), **Sch. 25 para. 59(1)**
- F11** S. 11(3)(ca) inserted (14.7.2004) by The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), art. 1(1), **Sch. para. 10**
- F12** S. 11(3)(cc) repealed (S.) (1.4.2002) by Water Industry (Scotland) Act 2002 (asp. 3), ss. 71, 72(2), Sch. 7 {para. 10} (with art. 67); S.S.I. 2002/118, **art. 2(3)**
- F13** Words repealed (*prosp.*) (but by S.R.s 1984 No. 422 and 1989 No. 47 the repeal came into operation in relation to the Pigs Marketing Board (Northern Ireland) on 31.12.1984 and in relation to the Milk Marketing Board for Northern Ireland on 1.4.1989 respectively) by S.I. 1982/1080, (N.I. 12), art. 46(2), Sch. 9
- F14** Words inserted by S.I. 1982/1080, (N.I. 12), art. 46(1), Sch. 8
- F15** Words in s. 11(3)(f) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 42(a)** (with art. 10)
- F16** Words inserted (E.W.) by London Regional Transport Act 1984 (c. 32, SIF 126), **s. 71(3)(a)**, Sch. 6 para. 15(2)
- F17** Words inserted (E.W.) by London Regional Transport Act 1984 (c. 32, SIF 126), **s. 71(3)(a)**, Sch. 6 para. 15(3)(a)
- F18** Words “either of those paragraphs” substituted (E.W.) for words “that subsection” by London Regional Transport Act 1984 (c. 32, SIF 126), **s. 71(3)(a)**, Sch. 6 para. 15(3)(b)
- F19** Word in s. 11(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 2(2)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F20** Word in s. 11(6) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 2(2)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F21** Word in s. 11(8) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 2(2)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F22** S. 11(8)(b) and the word preceding it repealed (1.3.2000) by 1998 c. 41, ss. 74(1)(3), Sch. 12 para. 4(2), **Sch. 14 Pt. I** (with s. 73); S.I. 2000/344, art. 2, **Sch.**

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- F23** S. 11(9) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 10(2)(b), **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)
- F24** S. 11(9A) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 10(2)(b), **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)
- F25** Word in s. 11(10) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 2(2)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F26** S. 11(10A) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 2(3)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

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#### Marginal Citations

- M1** 1958 c. 47.
- M2** 1964 c. 13 (N.I.)

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