



Copyright, Designs and Patents Act 1988

1988 CHAPTER 48

PART I

COPYRIGHT

CHAPTER VII

COPYRIGHT LICENSING

Powers exercisable in consequence of competition report

144 Powers exercisable in consequence of report of Monopolies and Mergers Commission.

[^{F1}(1) Subsection (1A) applies where whatever needs to be remedied, mitigated or prevented by the Secretary of State, the Office of Fair Trading or (as the case may be) the Competition Commission under section 12(5) of the Competition Act 1980 or section 41(2), 55(2), 66(6), 75(2), 83(2), 138(2), 147(2) or 160(2) of, or paragraph 5(2) or 10(2) of Schedule 7 to, the Enterprise Act 2002 (powers to take remedial action following references to the Commission in connection with public bodies and certain other persons, mergers or market investigations) consists of or includes—

- (a) conditions in licences granted by the owner of copyright in a work restricting the use of the work by the licensee or the right of the copyright owner to grant other licences; or
- (b) a refusal of a copyright owner to grant licences on reasonable terms.

(1A) The powers conferred by Schedule 8 to the Enterprise Act 2002 include power to cancel or modify those conditions and, instead or in addition, to provide that licences in respect of the copyright shall be available as of right.

(2) The references to anything permitted by Schedule 8 to the Enterprise Act 2002 in section 12(5A) of the Competition Act 1980 and in sections 75(4)(a), 83(4)(a),

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Changes to legislation: There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988. Cross Heading: Powers exercisable in consequence of competition report. (See end of Document for details)

84(2)(a), 89(1), 160(4)(a), 161(3)(a) and 164(1) of, and paragraphs 5, 10 and 11 of Schedule 7 to, the Act of 2002 shall be construed accordingly.]

- (2) The references in sections 56(2) and 73(2) of that Act, and [F²section] 12(5) of the M¹Competition Act 1980, to the powers specified in that Part of that Schedule shall be construed accordingly.
- (3) [F³The Secretary of State, the Office of Fair Trading or (as the case may be) the Competition Commission] shall only exercise the powers available by virtue of this section if he [F⁴or it] is satisfied that to do so does not contravene any Convention relating to copyright to which the United Kingdom is a party.
- (4) The terms of a licence available by virtue of this section shall, in default of agreement, be settled by the Copyright Tribunal on an application by the person requiring the licence; and terms so settled shall authorise the licensee to do everything in respect of which a licence is so available.
- (5) Where the terms of a licence are settled by the Tribunal, the licence has effect from the date on which the application to the Tribunal was made.

Textual Amendments

- F1** S. 144(1)(1A)(2) substituted (20.6.2003 for certain purposes and 29.12.2004 otherwise) for s. 144(1)(2) by 2002 c. 40, ss. 278(1), 279, Sch. 25 para. 18(2); S.I. 2003/1397, arts. 2, 3(1), Sch. (with arts. 4-12); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)
- F2** Words in s. 144(2) substituted (1.3.2000) by S.I. 2000/311, art. 22(2)
- F3** Words in s. 144(3) substituted (20.6.2003 for certain purposes and 29.12.2004 otherwise) by 2002 c. 40, ss. 278(1), 279, Sch. 25 para. 18(3)(a); S.I. 2003/1397, arts. 2, 3(1), Sch. (with arts. 4-12); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)
- F4** Words in s. 144(3) inserted (20.6.2003 for certain purposes and 29.12.2004 otherwise) by 2002 c. 40, ss. 278(1), 279, Sch. 25 para. 18(3)(b); S.I. 2003/1397, arts. 2, 3(1), Sch. (with arts. 4-12); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

Modifications etc. (not altering text)

- C1** S. 144(1) amended (20.6.2003) by The Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 (S.I. 2003/1592), art. 16, Sch. 4 para. 7(1)(a) (as amended (1.4.2014) by S.I. 2014/891, arts. 1, 19(3) (with arts. 20-23))
- C2** S. 144(2) amended (20.6.2003) by The Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 (S.I. 2003/1592), art. 16, Sch. 4 para. 7(1)(b)

Marginal Citations

- M1** 1980 c. 21.

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