



Enterprise Act 2002

2002 CHAPTER 40

PART 5

THE COMPETITION COMMISSION

185 The Commission

Schedule 11 (which amends provisions relating to the constitution and powers of the Commission under Schedule 7 to the 1998 Act) has effect.

186 Annual report of Commission

After paragraph 12 of Schedule 7 to the 1998 Act (the Competition Commission) there is inserted—

“Annual reports

- 12A (1) The Commission shall make to the Secretary of State a report for each financial year on its activities during the year.
- (2) The annual report must be made before the end of August next following the financial year to which it relates.
- (3) The Secretary of State shall lay a copy of the annual report before Parliament and arrange for the report to be published.”

187 Commission rules of procedure

- (1) In section 45(7) of the 1998 Act (the Competition Commission) for the words “Schedule 7 makes” there shall be substituted “Schedules 7 and 7A make”.
- (2) In paragraph 19 of Schedule 7 to that Act, after sub-paragraph (4), there shall be inserted—

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“(5) This paragraph does not apply to groups for which rules must be made under paragraph 19A.”

(3) After paragraph 19 of that Schedule to that Act there shall be inserted—

“19A (1) The Chairman must make rules of procedure in relation to merger reference groups, market reference groups and special reference groups.

(2) Schedule 7A makes further provision about rules made under this paragraph but is not to be taken as restricting the Chairman’s powers under this paragraph.

(3) The Chairman must publish rules made under this paragraph in such manner as he considers appropriate for the purpose of bringing them to the attention of those likely to be affected by them.

(4) The Chairman must consult the members of the Commission and such other persons as he considers appropriate before making rules under this paragraph.

(5) Rules under this paragraph may—

- (a) make different provision for different cases or different purposes;
- (b) be varied or revoked by subsequent rules made under this paragraph.

(6) Subject to rules made under this paragraph, each merger reference group, market reference group and special reference group may determine its own procedure.

(7) In determining how to proceed in accordance with rules made under this paragraph and in determining its procedure under sub-paragraph (6), a group must have regard to any guidance issued by the Chairman.

(8) Before issuing any guidance for the purposes of this paragraph the Chairman shall consult the members of the Commission and such other persons as he considers appropriate.

(9) In this paragraph and in Schedule 7A—

“market reference group” means any group constituted in connection with a reference under section 131 or 132 of the Enterprise Act 2002 (including that section as it has effect by virtue of another enactment);

“merger reference group” means any group constituted in connection with a reference under section 59 of the Fair Trading Act 1973 (c. 41), section 32 of the Water Industry Act 1991 (c. 56) or section 22, 33, 45 or 62 of the Enterprise Act 2002; and

“special reference group” means any group constituted in connection with a reference or (in the case of the Financial Services and Markets Act 2000 (c. 8)) an investigation under—

- (a) section 11 of the Competition Act 1980 (c. 21);
- (b) section 13 of the Telecommunications Act 1984 (c. 12);
- (c) section 43 of the Airports Act 1986 (c. 31);
- (d) section 24 or 41E of the Gas Act 1986 (c. 44);
- (e) section 12 or 56C of the Electricity Act 1989 (c. 29);

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- (f) Schedule 4 to the Broadcasting Act 1990 (c. 42);
 - (g) section 12 or 14 of the Water Industry Act 1991 (c. 56);
 - (h) article 15 of the Electricity (Northern Ireland) Order 1992 (S.I. 1992/231 (N.I. 1));
 - (i) section 13 of, or Schedule 4A to, the Railways Act 1993 (c. 43);
 - (j) article 34 of the Airports (Northern Ireland) Order 1994 (S.I. 1994/426 (N.I. 1));
 - (k) article 15 of the Gas (Northern Ireland) Order 1996 (S.I. 1996/275 (N.I. 2));
 - (l) section 15 of the Postal Services Act 2000 (c. 26);
 - (m) section 162 or 306 of the Financial Services and Markets Act 2000 (c. 8); or
 - (n) section 12 of the Transport Act 2000 (c. 38).”
- (4) After Schedule 7 to that Act there shall be inserted, as Schedule 7A, the Schedule set out in Schedule 12 to this Act.