

SCHEDULES

SCHEDULE 7

ENFORCEMENT REGIME FOR PUBLIC INTEREST AND SPECIAL PUBLIC INTEREST CASES

Undertakings in lieu of reference under section 45 or 62

- 4 (1) The relevant authority shall not make a reference under section 22, 33 or 45 in relation to the creation of a relevant merger situation or (as the case may be) a reference under section 62 in relation to the creation of a special merger situation if—
- (a) the Secretary of State has accepted an undertaking or group of undertakings under paragraph 3; and
 - (b) the relevant merger situation or (as the case may be) the special merger situation is the situation by reference to which the undertaking or group of undertakings was accepted.
- (2) In sub-paragraph (1) “the relevant authority” means—
- (a) in relation to a possible reference under section 22 or 33, the OFT; and
 - (b) in relation to a possible reference under section 45 or 62, the Secretary of State.
- (3) Sub-paragraph (1) does not prevent the making of a reference if material facts about relevant arrangements or transactions, or relevant proposed arrangements or transactions, were not notified (whether in writing or otherwise) to the Secretary of State or the OFT or made public before any undertaking concerned was accepted.
- (4) For the purposes of sub-paragraph (3) arrangements or transactions, or proposed arrangements or transactions, are relevant if they are the ones in consequence of which the enterprises concerned ceased or may have ceased, or may cease, to be distinct enterprises.
- (5) In sub-paragraph (3) “made public” means so publicised as to be generally known or readily ascertainable.