



Enterprise Act 2002

2002 CHAPTER 40

PART 3

MERGERS

CHAPTER 5

SUPPLEMENTARY

Information and publicity requirements

107 Further publicity requirements

- (1) The [^{F1}CMA] shall publish—
- ^{F2}(a) any decision made by it that the duty to make a reference under section 22 [^{F3}, 33, 68B or 68C] applies and any such reference made by it;
 - (aa) any decision made by it that the duty to make such a reference does not apply (other than a decision made by virtue of [^{F4}section 33(2)(b) or 68C(2)(a)]);
 - ^{F5}(ab) any notice given by it as mentioned in paragraph (b) of the definition of “initial period” in section 34ZA(3);
 - (ac) any extension by it under section 34ZB of the initial period;
 - (ad) any decision made by it to cancel an extension as mentioned in section 34ZB(7)(b);
 - ^{F6}(ae)
 - ^{F7}(af)
 - ^{F8}(ag)
 - ^{F9}(ah)]
 - (b) any variation made by it under section 37 of a reference under section 22 [^{F10}, 33, 68B or 68C];
 - (c) such information as it considers appropriate about any decision made by it under section 57(1) to bring a case to the attention of the Secretary of State;

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- ^{F11}(d)
- (e) any enforcement order made by it under section 72 ^{F12}... or paragraph 2 of Schedule 7;
- ^{F13}(ea) any notice given by it under section 73A(2)(b);
- (eb) any extension by it under section 73A of the period for considering whether to accept an undertaking under section 73;
- (ec) any decision made by it to cancel an extension as mentioned in section 73A(11)(b);]
- (f) any variation, release or revocation of [^{F14}an order mentioned in paragraph (e)]
- ^{F15}(g)
- ^{F15}(h) [^{F16}; and
- (i) any notice given by it under section 96(2A).]
- (2) The [^{F17}CMA shall also] publish—
- (a) any cancellation by it under section 37(1) of a reference under section 33 [^{F18}or 68C];
- (b) any decision made by it under section 37(2) to treat [^{F19}a reference under section 22 or 68B as if it had been made under section 33 or 68C or to treat a reference under section 33 or 68C as if it had been made under section 22 or 68B];
- (c) any extension by it under section 39 of the period within which a report under section 38 is to be prepared and published;
- (d) any decision made by it to cancel an extension as mentioned in section 39(8)(b);
- (e) any decision made by it under section 41(2) neither to accept an undertaking under section 82 nor to make an order under section 84;
- ^{F20}(ea) any extension by it under section 41A of the period within which its duty under section 41(2) is to be discharged;
- (eb) any decision made by it to cancel an extension as mentioned in section 41A(7)(b);]
- (f) any decision made by it that there has been a material change of circumstances as mentioned in subsection (3) of section 41 or there is another special reason as mentioned in that subsection of that section;
- (g) any cancellation by it under section 48(1) or 53(1) of a reference under section 45 or any cancellation by it under section 64(1) of a reference under section 62;
- (h) any decision made by it under section 49(1) to treat—
- (i) a reference made under subsection (2) or (3) of section 45 as if it had been made under subsection (4) or (as the case may be) (5) of that section; or
- (ii) a reference made under subsection (4) or (5) of section 45 as if it had been made under subsection (2) or (as the case may be) (3) of that section;
- (i) any extension by it under section 51 of the period within which a report under section 50 is to be prepared and published;
- (j) any decision made by it under section 51(8)(b) to cancel such an extension;
- (k) any extension by it under section 51 as applied by section 65(3) of the period within which a report under section 65 is to be prepared and published;

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- (l) any decision made by it under section 51(8)(b) as applied by section 65(3) to cancel such an extension;
 - (m) any decision made by it under section 64(2) to treat a reference made under subsection (2) or (3) of section 62 as if it had been made under subsection (3) or (as the case may be) (2) of that section;
 - (n) any decision made by it as mentioned in section 76(6)(b);
 - (o) any enforcement order made by it under section 76 or 81;
 - (p) any enforcement undertaking accepted by it under section 80;
 - (q) any variation, release or revocation of such an order or undertaking; and
 - (r) any decision made by it to dispense with the requirements of Schedule 10.
- (3) The Secretary of State shall publish—
- (a) any intervention notice or special intervention notice given by him;
 - (b) any report of the [^{F21}CMA] under section 44 or 61 which has been received by him;
 - [^{F22}(ba) any report of OFCOM under section 44A or 61A which has been received by him;]
 - (c) any reference made by him under section 45 or 62 or any decision made by him not to make such a reference;
 - (d) any variation made by him under section 49 of a reference under section 45 or under section 64 of a reference under section 62;
 - (e) any report of the [^{F23}CMA] under section 50 or 65 which has been received by him;
 - (f) any decision made by him neither to accept an undertaking under paragraph 9 of Schedule 7 nor to make an order under paragraph 11 of that Schedule;
 - (g) any notice given by him under section 56(1);
 - ^{F24}(h)
 - ^{F24}(i)
 - (j) any decision made by him as mentioned in paragraph 6(6)(b) of Schedule 7; and
 - (k) any decision made by him to dispense with the requirements of Schedule 10.
- (4) Where any person is under a duty by virtue of subsection (1), (2) or (3) to publish the result of any action taken by that person or any decision made by that person, the person concerned shall, subject to subsections (5) and (6), also publish that person's reasons for the action concerned or (as the case may be) the decision concerned.
- (5) Such reasons need not, if it is not reasonably practicable to do so, be published at the same time as the result of the action concerned or (as the case may be) as the decision concerned.
- (6) Subsections (4) and (5) shall not apply in relation to any information published under subsection (1)(c).
- (7) The Secretary of State shall publish his reasons for—
- (a) any decision made by him under section 54(2) or 66(2); or
 - (b) any decision to make an order under section 58(3) or vary or revoke such an order.
- (8) Such reasons may be published after—
- (a) in the case of subsection (7)(a), the publication of the decision concerned; and

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- (b) in the case of subsection (7)(b), the making of the order or of the variation or revocation;
- if it is not reasonably practicable to publish them at the same time as the publication of the decision or (as the case may be) the making of the order or variation or revocation.
- (9) The Secretary of State shall publish—
- (a) the report of the [^{F25}CMA] under section 44 [^{F26}and any report of OFCOM under section 44A,] in relation to a matter no later than publication of his decision as to whether to make a reference under section 45 in relation to that matter; and
 - (b) the report of the [^{F27}CMA] under section 50 in relation to a matter no later than publication of his decision under section 54(2) in relation to that matter.
- (10) The Secretary of State shall publish—
- (a) the report of the [^{F28}CMA] under section 61 [^{F29}, and any report of OFCOM under section 61A,] in relation to a matter no later than publication of his decision as to whether to make a reference under section 62 in relation to that matter; and
 - (b) the report of the [^{F30}CMA] under section 65 in relation to a matter no later than publication of his decision under section 66(2) in relation to that matter.
- (11) Where the Secretary of State has decided under section 55(2) or 66(6) to accept an undertaking under paragraph 9 of Schedule 7 or to make an order under paragraph 11 of that Schedule, he shall (after the acceptance of the undertaking or (as the case may be) the making of the order) lay details of his decision and his reasons for it, and the [^{F31}CMA's] report under section 50 or (as the case may be) 65, before each House of Parliament

Textual Amendments

- F1** Word in s. 107(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 141\(2\)\(a\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F2** S. 107(1)(a)(aa) substituted for s. 107(1)(a) (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 15 para. 36\(2\)](#); S.I. 2014/416, art. 2(1)(f) (with Sch.)
- F3** Words in s. 107(1)(a) substituted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(j), [Sch. 16 para. 26\(2\)](#)
- F4** Words in s. 107(1)(aa) substituted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(j), [Sch. 16 para. 26\(3\)](#)
- F5** S. 107(1)(ab)-(ah) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 26(3), s. 57, Sch. 15 para. 36(3); S.I. 2014/416, art. 2(1)(f) (with Sch.)
- F6** S. 107(1)(ae) omitted (31.12.2020) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), [50](#) (with Sch. 4 paras. 24, 28) (as amended by S.I. 2020/1343, regs. 1(1), [35-59](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F7** S. 107(1)(af) omitted (31.12.2020) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), [50](#) (with Sch. 4 paras. 24, 28) (as amended by S.I. 2020/1343, regs. 1(1), [35-59](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F8** S. 107(1)(ag) omitted (31.12.2020) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), [50](#) (with Sch. 4 paras. 24, 28) (as amended by S.I. 2020/1343, regs. 1(1), [35-59](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F9** S. 107(1)(ah) omitted (31.12.2020) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), [50](#) (with Sch. 4 paras. 24, 28) (as amended by S.I. 2020/1343, regs. 1(1), [35-59](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

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- F10** Words in s. 107(1)(b) substituted (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(j), **Sch. 16 para. 26(4)**
- F11** S. 107(1)(d) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 15 para. 36(4)**; S.I. 2014/416, art. 2(1)(f) (with Sch.)
- F12** Words in s. 107(1)(e) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 141(2)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F13** S. 107(1)(ea)-(ec) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 26(3), s. 57, **Sch. 15 para. 36(5)**; S.I. 2014/416, **art. 2(1)(f)** (with Sch.)
- F14** Words in s. 107(1)(f) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 15 para. 36(6)**; S.I. 2014/416, art. 2(1)(f) (with Sch.)
- F15** S. 107(1)(g)(h) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 141(2)(c)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F16** S. 107(1)(i) and word inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 15 para. 36(7)**; S.I. 2014/416, art. 2(1)(f) (with Sch.)
- F17** Words in s. 107(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 141(3)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F18** Words in s. 107(2)(a) inserted (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(j), **Sch. 16 para. 26(5)**
- F19** Words in s. 107(2)(b) substituted (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(j), **Sch. 16 para. 26(6)**
- F20** S. 107(2)(ea)(eb) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 15 para. 36(8)**; S.I. 2014/416, art. 2(1)(f) (with Sch.)
- F21** Word in s. 107(3)(b) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 141(4)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F22** S. 107(3)(ba) inserted (29.12.2003) by Communications Act 2003 (c. 21), ss. 389(1), 411(2)(3), **Sch. 16 para. 18(2)** (with transitional provisions in Sch. 18); S.I. 2003/3142, **art. 3(1)**, Sch. 1 (subject to arts. 3(3), 11)
- F23** Word in s. 107(3)(e) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 141(4)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F24** S. 107(3)(h)(i) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 15 para. 36(9)**; S.I. 2014/416, art. 2(1)(f) (with Sch.)
- F25** Word in s. 107(9)(a) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 141(5)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F26** Words in s. 107(9)(a) inserted (29.12.2003) by Communications Act 2003 (c. 21), ss. 389(1), 411(2)(3), Sch. 16 para. 18(3) (with transitional provisions in Sch. 18); S.I. 2003/3142, art. 3(1), **Sch. 1** (subject to arts. 3(3), 11)
- F27** Word in s. 107(9)(b) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 141(5)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F28** Word in s. 107(10)(a) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 141(6)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F29** Words in s. 107(10)(a) inserted (29.12.2003) by Communications Act 2003 (c. 21), ss. 389(1), 411(2)(3), **Sch. 16 para. 18(4)** (with transitional provisions in Sch. 18); S.I. 2003/3142, art. 3(1), **Sch. 1** (subject to arts. 3(3), 11)
- F30** Word in s. 107(10)(b) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 141(6)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F31** Word in s. 107(11) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 141(7)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

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