



Enterprise Act 2002

2002 CHAPTER 40

PART 4

MARKET INVESTIGATIONS

CHAPTER 1

MARKET INVESTIGATION REFERENCES

Determination of references

138 Duty to remedy adverse effects

- (1) Subsection (2) applies where a report of the Commission has been prepared and published under section 136 within the period permitted by section 137 and contains the decision that there is one or more than one adverse effect on competition.
- (2) The Commission shall, in relation to each adverse effect on competition, take such action under section 159 or 161 as it considers to be reasonable and practicable—
 - (a) to remedy, mitigate or prevent the adverse effect on competition concerned; and
 - (b) to remedy, mitigate or prevent any detrimental effects on customers so far as they have resulted from, or may be expected to result from, the adverse effect on competition.
- (3) The decisions of the Commission under subsection (2) shall be consistent with its decisions as included in its report by virtue of section 134(4) unless there has been a material change of circumstances since the preparation of the report or the Commission otherwise has a special reason for deciding differently.
- (4) In making a decision under subsection (2), the Commission shall, in particular, have regard to the need to achieve as comprehensive a solution as is reasonable and

Status: This is the original version (as it was originally enacted).

practicable to the adverse effect on competition concerned and any detrimental effects on customers so far as resulting from the adverse effect on competition.

- (5) In making a decision under subsection (2), the Commission may, in particular, have regard to the effect of any action on any relevant customer benefits of the feature or features of the market concerned.
- (6) The Commission shall take no action under subsection (2) to remedy, mitigate or prevent any detrimental effect on customers so far as it may be expected to result from the adverse effect on competition concerned if—
 - (a) no detrimental effect on customers has resulted from the adverse effect on competition; and
 - (b) the adverse effect on competition is not being remedied, mitigated or prevented.