



Enterprise Act 2002

2002 CHAPTER 40

PART 4

MARKET INVESTIGATIONS

CHAPTER 2

PUBLIC INTEREST CASES

Intervention notices under section 139(1)

141 Questions to be decided by Commission

- (1) This section applies where an intervention notice under section 139(1) is in force in relation to a market investigation reference.
- (2) The Commission shall decide whether any feature, or combination of features, of each relevant market (within the meaning given by section 134(3)) prevents, restricts or distorts competition in connection with the supply or acquisition of any goods or services in the United Kingdom or a part of the United Kingdom.
- (3) The Commission shall, if it has decided that there is an adverse effect on competition, decide the following additional questions—
 - (a) whether action should be taken by the Secretary of State under section 147 for the purpose of remedying, mitigating or preventing the adverse effect on competition concerned or any detrimental effect on customers so far as it has resulted from, or may be expected to result from, the adverse effect on competition;
 - (b) whether the Commission should recommend the taking of other action by the Secretary of State or action by persons other than itself and the Secretary of State for the purpose of remedying, mitigating or preventing the adverse effect on competition concerned or any detrimental effect on customers so far as it

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- has resulted from, or may be expected to result from, the adverse effect on competition; and
- (c) in either case, if action should be taken, what action should be taken and what is to be remedied, mitigated or prevented.
- (4) The Commission shall, if it has decided that there is an adverse effect on competition, also decide separately the following questions (on the assumption that it is proceeding as mentioned in section 148(1))—
- (a) whether action should be taken by it under section 138 for the purpose of remedying, mitigating or preventing the adverse effect on competition concerned or any detrimental effect on customers so far as it has resulted from, or may be expected to result from, the adverse effect on competition;
- (b) whether the Commission should recommend the taking of action by other persons for the purpose of remedying, mitigating or preventing the adverse effect on competition concerned or any detrimental effect on customers so far as it has resulted from, or may be expected to result from, the adverse effect on competition; and
- (c) in either case, if action should be taken, what action should be taken and what is to be remedied, mitigated or prevented.
- (5) In deciding the questions mentioned in subsections (3) and (4), the Commission shall, in particular, have regard to the need to achieve as comprehensive a solution as is reasonable and practicable to the adverse effect on competition concerned and any detrimental effects on customers so far as resulting from the adverse effect on competition.
- (6) In deciding the questions mentioned in subsections (3) and (4), 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.