



# Enterprise Act 2002

## 2002 CHAPTER 40

### PART 3

#### MERGERS

### CHAPTER 2

#### PUBLIC INTEREST CASES

##### *Power to make references*

#### **43 Intervention notices under section 42**

- (1) An intervention notice shall state—
  - (a) the relevant merger situation concerned;
  - (b) the public interest consideration or considerations which are, or may be, relevant to a consideration of the relevant merger situation concerned; and
  - (c) where any public interest consideration concerned is not finalised, the proposed timetable for finalising it.
- (2) Where the Secretary of State believes that it is or may be the case that two or more public interest considerations are relevant to a consideration of the relevant merger situation concerned, he may decide not to mention in the intervention notice such of those considerations as he considers appropriate.
- (3) An intervention notice shall come into force when it is given and shall cease to be in force when the matter to which it relates is finally determined under this Chapter.
- (4) For the purposes of this Part, a matter to which an intervention notice relates is finally determined under this Chapter if—
  - (a) the time within which the OFT is to report to the Secretary of State under section 44 has expired and no such report has been made;

---

*Status: This is the original version (as it was originally enacted).*

---

- (b) the Secretary of State decides to accept an undertaking or group of undertakings under paragraph 3 of Schedule 7 instead of making a reference under section 45;
  - (c) the Secretary of State otherwise decides not to make a reference under that section;
  - (d) the Commission cancels such a reference under section 48(1) or 53(1);
  - (e) the time within which the Commission is to prepare a report under section 50 and give it to the Secretary of State has expired and no such report has been prepared and given to the Secretary of State;
  - (f) the time within which the Secretary of State is to make and publish a decision under section 54(2) has expired and no such decision has been made and published;
  - (g) the Secretary of State decides under section 54(2) to make no finding at all in the matter;
  - (h) the Secretary of State otherwise decides under section 54(2) not to make an adverse public interest finding;
  - (i) the Secretary of State decides under section 54(2) to make an adverse public interest finding but decides neither to accept an undertaking under paragraph 9 of Schedule 7 nor to make an order under paragraph 11 of that Schedule; or
  - (j) the Secretary of State decides under section 54(2) to make an adverse public interest finding and accepts an undertaking under paragraph 9 of Schedule 7 or makes an order under paragraph 11 of that Schedule.
- (5) For the purposes of this Part the time when a matter to which an intervention notice relates is finally determined under this Chapter is—
- (a) in a case falling within subsection (4)(a), (e) or (f), the expiry of the time concerned;
  - (b) in a case falling within subsection (4)(b), the acceptance of the undertaking or group of undertakings concerned;
  - (c) in a case falling within subsection (4)(c), (d), (g) or (h), the making of the decision concerned;
  - (d) in a case falling within subsection (4)(i), the making of the decision neither to accept an undertaking under paragraph 9 of Schedule 7 nor to make an order under paragraph 11 of that Schedule; and
  - (e) in a case falling within subsection (4)(j), the acceptance of the undertaking concerned or (as the case may be) the making of the order concerned.