



Enterprise Act 2002

2002 CHAPTER 40

PART 3

MERGERS

CHAPTER 4

ENFORCEMENT

Powers exercisable before references under section 22 or 33

72 Initial enforcement orders: completed mergers

- (1) Subsection (2) applies where the OFT is considering whether to make a reference under section 22.
- (2) The OFT may by order, for the purpose of preventing pre-emptive action—
 - (a) prohibit or restrict the doing of things which the OFT considers would constitute pre-emptive action;
 - (b) impose on any person concerned obligations as to the carrying on of any activities or the safeguarding of any assets;
 - (c) provide for the carrying on of any activities or the safeguarding of any assets either by the appointment of a person to conduct or supervise the conduct of any activities (on such terms and with such powers as may be specified or described in the order) or in any other manner;
 - (d) do anything which may be done by virtue of paragraph 19 of Schedule 8.
- (3) No order shall be made under subsection (2) unless the OFT has reasonable grounds for suspecting that it is or may be the case that—
 - (a) a relevant merger situation has been created; and
 - (b) pre-emptive action is in progress or in contemplation.
- (4) An order under this section—

Status: This is the original version (as it was originally enacted).

- (a) shall come into force at such time as is determined by or under the order; and
 - (b) may be varied or revoked by another order.
- (5) An order which—
- (a) is in force under this section in relation to a possible reference or a reference under section 22; and
 - (b) has not been adopted under section 81 or paragraph 2 of Schedule 7;
- shall cease to be in force if an undertaking under section 71 or 80 comes into force in relation to that reference or an undertaking under paragraph 1 of that Schedule comes into force in relation to the matter.
- (6) An order under this section shall, if it has not previously ceased to be in force and if it is not adopted under section 81 or paragraph 2 of Schedule 7, cease to be in force—
- (a) where the OFT has decided to make the reference concerned under section 22, at the end of the period of 7 days beginning with the making of the reference;
 - (b) where the OFT has decided to accept an undertaking under section 73 instead of making that reference, on the acceptance of that undertaking;
 - (c) where an intervention notice is in force, at the end of the period of 7 days beginning with the giving of that notice; and
 - (d) where the OFT has otherwise decided not to make the reference concerned under section 22, on the making of that decision.
- (7) The OFT shall, as soon as reasonably practicable, consider any representations received by it in relation to varying or revoking an order under this section.