



# Enterprise and Regulatory Reform Act 2013

## 2013 CHAPTER 24

### PART 4

#### COMPETITION REFORM

### CHAPTER 5

#### MISCELLANEOUS

#### *Miscellaneous*

#### **54 Recovery of CMA's costs in respect of price control references**

After section 193 of the Communications Act 2003 (reference of price control matters) insert—

#### **“193A Recovery of CMA's costs in respect of price control references**

- (1) Where a determination is made on a price control matter referred by virtue of section 193, the CMA may make an order in respect of the costs incurred by it in connection with the reference (a “costs order”).
- (2) A costs order may require the payment to the CMA of some or all of those costs by such parties to the appeal which gave rise to the reference, other than OFCOM, as the CMA considers appropriate.
- (3) A costs order must—
  - (a) set out the total costs incurred by the CMA in connection with the reference, and

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*Status: This is the original version (as it was originally enacted).*

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- (b) specify the proportion of those costs to be paid by each party to the appeal in respect of whom the order is made.
- (4) In deciding on the proportion of costs to be paid by a party to the appeal the CMA must, in particular, consider—
- (a) the extent to which the determination on the reference upholds OFCOM’s decision in relation to the price control matter in question,
  - (b) the extent to which the costs were attributable to the involvement in the appeal of the party, and
  - (c) the conduct of the party.
- (5) A costs order—
- (a) must be made as soon as reasonably practicable after the making of the determination on the reference, but
  - (b) does not take effect unless the Tribunal, in deciding the appeal which gave rise to the reference, decides the price control matter which is the subject of the reference in accordance with the determination of the CMA (see section 193(6)).
- (6) In a case where the Tribunal decides the price control matter in question otherwise than as mentioned in subsection (5)(b), the CMA may make an order under this subsection in respect of the costs incurred by it in connection with the reference.
- (7) Subsections (2) to (4) apply in relation to an order under subsection (6) as they apply in relation to an order under subsection (1); but for that purpose the reference in subsection (4)(a) to the determination on the reference is to be read as a reference to the decision of the Tribunal mentioned in subsection (6).
- (8) An order under subsection (6) must be made as soon as reasonably practicable after the decision of the Tribunal mentioned in that subsection.
- (9) An amount payable to the CMA by virtue of an order made under this section is recoverable summarily as a civil debt (but this does not affect any other method of recovery).
- (10) The CMA must pay any sums it receives by virtue of this section into the Consolidated Fund.
- (11) The functions of the CMA under this section, other than those under subsections (9) and (10), are to be carried out on behalf of the CMA by the group constituted by the chair of the CMA in relation to the reference in question.”

## 55 Disclosure etc. of information: offences

In section 241 of the 2002 Act (disclosure of information for the purpose of exercise of statutory functions), after subsection (2) insert—

- “(2A) Information disclosed under subsection (1) so that it is not made available to the public must not be used by the person to whom it is disclosed for any purpose other than that mentioned in subsection (1).”

**56 Review of certain provisions of Chapters 1 and 2**

- (1) The Secretary of State must, before the end of each review period—
  - (a) carry out a review of the provisions of this Part mentioned in subsection (2), and
  - (b) prepare and publish a report setting out the conclusions of the review.
- (2) The provisions of this Part are—
  - (a) sections 29 and 36 and Schedule 11 (investigation powers: mergers and markets),
  - (b) section 30 and Schedule 7 (interim measures and pre-emptive action: mergers), and
  - (c) sections 32 and 38 and Schedules 8 and 12 (time-limits etc: mergers and markets).
- (3) The report must in particular—
  - (a) set out the objectives intended to be achieved by the provisions,
  - (b) assess the extent to which those objectives have been achieved, and
  - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved in another way which imposed less regulation.
- (4) The Secretary of State must lay the report before Parliament.
- (5) Each of the following is a review period for the purposes of this section—
  - (a) the period of 5 years beginning with the first day on which any of the provisions mentioned in subsection (2) comes into force (whether wholly or partly), and
  - (b) each successive period of 5 years.

**57 Minor and consequential amendments**

Schedule 15 (which makes minor and consequential amendments related to this Part) has effect.

**58 Interpretation**

In this Part—

- “the 1998 Act” means the Competition Act 1998;
- “the 2002 Act” means the Enterprise Act 2002.