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*Changes to legislation: There are currently no known outstanding effects for the Enterprise and Regulatory Reform Act 2013, Paragraph 56. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 4

#### THE COMPETITION AND MARKETS AUTHORITY

#### PART 3

##### THE CMA PANEL

- 56 (1) This paragraph applies for the purposes of Part 3 of the Enterprise Act 2002.
- (2) Where a decision of a CMA group under section 35(1) or 36(1) of that Act that there is an anti-competitive outcome is not a qualifying majority decision, it is to be treated as a decision under that section that there is not an anti-competitive outcome.
- [<sup>F1</sup>(2A) Sub-paragraph (2B) applies where a decision of a CMA group under section 35(1) or 36(1) of that Act (as applied by section 68F of, and Schedule 5A to, that Act) that there is, or is likely to be, prejudice of the kind described in section 68B(1)(b) or 68C(1)(b) of that Act is not a qualifying majority decision.
- (2B) The decision of the CMA group is to be treated as a decision under section 35(1) or, as the case may be, section 36(1) of that Act (as applied by section 68F of, and Schedule 5A to, that Act) that there is not, or is not likely to be, prejudice of that kind.]
- (3) Where a decision of a CMA group under section 47 of that Act is not a qualifying majority decision—
- (a) in the case of a decision that a relevant merger situation has been created, it is to be treated as a decision under section 47 that no such situation has been created;
  - (b) in the case of a decision that the creation of a relevant merger situation has resulted, or may be expected to result, in a substantial lessening of competition within any market or markets in the United Kingdom for goods and services, it is to be treated as a decision under section 47 that the creation of that situation has not resulted, or may be expected not to result, in such a substantial lessening of competition;
  - (c) in the case of a decision that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation, it is to be treated as a decision under section 47 that no such arrangements are in progress or in contemplation;
  - (d) in the case of a decision that the creation of such a situation as is mentioned in paragraph (c) may be expected to result in a substantial lessening of competition within any market or markets in the United Kingdom for goods and services, it is to be treated as a decision under section 47 that the creation of that situation may be expected not to result in such a substantial lessening of competition.

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- (4) Where a decision of a CMA group under section 63 of that Act is not a qualifying majority decision—
- (a) in the case of a decision that a special merger situation has been created, it is to be treated as a decision under section 63 that no such situation has been created;
  - (b) in the case of a decision that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a special merger situation, it is to be treated as a decision under section 63 that no such arrangements are in progress or in contemplation.
- (5) Expressions used in this paragraph are to be construed in accordance with Part 3 of the Enterprise Act 2002.

#### **Textual Amendments**

- F1** Sch. 4 para. 56(2A)(2B) inserted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(j), **Sch. 16 para. 36(3)**

#### **Modifications etc. (not altering text)**

- C1** Sch. 4 para. 56(1) modified by SI 2003/1592 Sch. 4 para. 18(f) (as inserted (1.4.2014) by [The Enterprise Act 2002 \(Protection of Legitimate Interests\) \(Amendment\) Order 2014 \(S.I. 2014/891\)](#), arts. 1, **19(5)** (with arts. 20-23))
- C2** Sch. 4 para. 56(4) modified by SI 2003/1592 Sch. 4 para. 18(g) (as inserted (1.4.2014) by [The Enterprise Act 2002 \(Protection of Legitimate Interests\) \(Amendment\) Order 2014 \(S.I. 2014/891\)](#), arts. 1, **19(5)** (with arts. 20-23))

#### **Commencement Information**

- I1** Sch. 4 para. 56 in force at 1.4.2014 by [S.I. 2014/416](#), **art. 2(1)(c)** (with Sch.)

**Changes to legislation:**

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