



# Enterprise and Regulatory Reform Act 2013

## 2013 CHAPTER 24

### PART 4

#### COMPETITION REFORM

#### CHAPTER 1

#### MERGERS

#### *Interim measures*

### **30 Interim measures: pre-emptive action: mergers**

- (1) Omit section 71 of the 2002 Act (initial undertakings: completed mergers).
- (2) Section 72 of that Act (initial enforcement orders: completed mergers) is amended as follows.
- (3) For subsection (1) substitute—
  - “(1) Subsection (2) applies where—
    - (a) the CMA is considering whether to make a reference under section 22 or 33; and
    - (b) the CMA has reasonable grounds for suspecting that it is or may be the case that two or more enterprises have ceased to be distinct or that arrangements are in progress or in contemplation which, if carried into effect, will result in two or more enterprises ceasing to be distinct.”
- (4) Omit subsection (3).
- (5) Before subsection (4) insert—

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*Status: This is the original version (as it was originally enacted).*

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“(3A) Subsection (3B) applies where—

- (a) subsection (1)(a) and (b) applies; and
- (b) the CMA also has reasonable grounds for suspecting that pre-emptive action has or may have been taken.

(3B) The CMA may by order, for the purpose of restoring the position to what it would have been had the pre-emptive action not been taken or otherwise for the purpose of mitigating its effects—

- (a) do anything mentioned in subsection (2)(b) to (d);
- (b) impose such other obligations, prohibitions or restrictions as it considers appropriate for that purpose.”

(6) After subsection (3B) insert—

“(3C) A person may, with the consent of the CMA, take action or action of a particular description where the action would otherwise constitute a contravention of an order under this section.”

(7) In subsection (6), in each of paragraphs (a) and (d), after “section 22” insert “or 33”.

(8) After subsection (7) insert—

“(8) In this section “pre-emptive action” means action which might prejudice the reference concerned or impede the taking of any action under this Part which may be justified by the CMA’s decisions on the reference.”

(9) In the heading for “completed mergers” substitute “completed or anticipated mergers”.

(10) Schedule 7 (which makes further provision about interim measures under Part 3 of the 2002 Act) has effect.