



Enterprise Act 2002

2002 CHAPTER 40

PART 3

MERGERS

CHAPTER 5

SUPPLEMENTARY

General duties in relation to references

103 Duty of expedition in relation to references

- (1) In deciding whether to make a reference under section 22 or 33 the OFT shall have regard, with a view to the prevention or removal of uncertainty, to the need for making a decision as soon as reasonably practicable.
- (2) In deciding whether to make a reference under section 45 or 62 the Secretary of State shall have regard, with a view to the prevention or removal of uncertainty, to the need for making a decision as soon as reasonably practicable.

104 Certain duties of relevant authorities to consult

- (1) Subsection (2) applies where the relevant authority is proposing to make a relevant decision in a way which the relevant authority considers is likely to be adverse to the interests of a relevant party.
- (2) The relevant authority shall, so far as practicable, consult that party about what is proposed before making that decision.
- (3) In consulting the party concerned, the relevant authority shall, so far as practicable, give the reasons of the relevant authority for the proposed decision.

Status: This is the original version (as it was originally enacted).

- (4) In considering what is practicable for the purposes of this section the relevant authority shall, in particular, have regard to—
- (a) any restrictions imposed by any timetable for making the decision; and
 - (b) any need to keep what is proposed, or the reasons for it, confidential.
- (5) The duty under this section shall not apply in relation to the making of any decision so far as particular provision is made elsewhere by virtue of this Part for consultation before the making of that decision.
- (6) In this section—
- “the relevant authority” means the OFT, the Commission or the Secretary of State;
 - “relevant decision” means—
 - (a) in the case of the OFT, any decision by the OFT—
 - (i) as to whether to make a reference under section 22 or 33 or accept undertakings under section 73 instead of making such a reference; or
 - (ii) to vary under section 37 such a reference;
 - (b) in the case of the Commission, any decision on the questions mentioned in section 35(1) or (3), 36(1) or (2), 47 or 63; and
 - (c) in the case of the Secretary of State, any decision by the Secretary of State—
 - (i) as to whether to make a reference under section 45 or 62; or
 - (ii) to vary under section 49 or (as the case may be) 64 such a reference; and
 - “relevant party” means any person who appears to the relevant authority to control enterprises which are the subject of the reference or possible reference concerned.