



# Competition Act 1998

## 1998 CHAPTER 41

### PART I

#### COMPETITION

#### CHAPTER V

#### MISCELLANEOUS

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

- C1** Pt. 1 modified (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\), ss. 371\(3\), 411\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/1900, arts. 1\(2\), 2\(1\), Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142, art. 1\(3\)](#)); [S.I. 2003/3142, art. 3\(2\)](#) (with [art. 11](#))

#### *Vertical agreements and land agreements*

#### **50 Vertical agreements and land agreements.**

- (1) The Secretary of State may by order provide for any provision of this Part to apply in relation to—
- vertical agreements, or
  - land agreements,
- with such modifications as may be prescribed.
- (2) An order may, in particular, provide for exclusions or exemptions, or otherwise provide for prescribed provisions not to apply, in relation to—
- vertical agreements, or land agreements, in general; or
  - vertical agreements, or land agreements, of any prescribed description.

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- (3) An order may empower the [F1CMA] to give directions to the effect that in prescribed circumstances an exclusion, exemption or modification is not to apply (or is to apply in a particular way) in relation to an individual agreement.
- (4) Subsections (2) and (3) are not to be read as limiting the powers conferred by section 71.
- (5) In this section—
  - “land agreement” and “vertical agreement” have such meaning as may be prescribed; and
  - “prescribed” means prescribed by an order.

#### Textual Amendments

- F1** Word in s. 50(3) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 29](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

*[F2CMA's] rules, guidance and fees*

#### Textual Amendments

- F2** Word in s. 51 cross-heading substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 30](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

## 51 Rules.

- (1) The [F3CMA] may make such rules about procedural and other matters in connection with the carrying into effect of the provisions of this Part as [F4it] considers appropriate.
- (2) Schedule 9 makes further provision about rules made under this section but is not to be taken as restricting the [F5CMA] powers under this section.
- (3) If the [F6CMA] is preparing rules under this section [F7it] must consult such persons as he considers appropriate.
- (4) If the proposed rules relate to a matter in respect of which a regulator exercises concurrent jurisdiction, those consulted must include that regulator.
- (5) No rule made by the [F8CMA] is to come into operation until it has been approved by an order made by the Secretary of State.
- (6) The Secretary of State may approve any rule made by the [F8CMA] —
  - (a) in the form in which it is submitted; or
  - (b) subject to such modifications as he considers appropriate.
- (7) If the Secretary of State proposes to approve a rule subject to modifications he must inform the [F8CMA] of the proposed modifications and take into account any comments made by the [F8CMA] .
- (8) Subsections (5) to (7) apply also to any alteration of the rules made by the [F8CMA] .

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- (9) The Secretary of State may, after consulting the [F<sup>8</sup>CMA] , by order vary or revoke any rules made under this section.
- (10) If the Secretary of State considers that rules should be made under this section with respect to a particular matter he may direct the [F<sup>8</sup>CMA] to exercise [F<sup>9</sup>its] powers under this section and make rules about that matter.

#### Textual Amendments

- F3** Word in s. 51(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 31(2)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F4** Words in s. 51(1) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(38)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F5** Word in s. 51(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 31(3)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F6** Word in s. 51(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 31(4)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F7** Words in s. 51(3) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(38)(c)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F8** Word in s. 51(5)-(10) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 31(4)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F9** Words in s. 51(10) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(38)(e)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

## 52 Advice and information.

- (1) [F<sup>10</sup>The CMA] must prepare and publish general advice and information about—
  - (a) the application of the Chapter I prohibition and the Chapter II prohibition, and
  - (b) the enforcement of those prohibitions.

[F<sup>11</sup>(1A) . . . . .

- (2) The [F<sup>12</sup>CMA] may at any time publish revised, or new, advice or information.
- (3) Advice and information published under this section must be prepared with a view to—
  - (a) explaining provisions of this Part to persons who are likely to be affected by them; and
  - (b) indicating how the [F<sup>12</sup>CMA] expects such provisions to operate.
- (4) Advice (or information) published by virtue of subsection (3)(b) may include advice (or information) about the factors which the [F<sup>12</sup>CMA] may take into account in considering whether, and if so how, to exercise a power conferred on [F<sup>13</sup>it] by Chapter I, II or III.
- (5) Any advice or information published by the [F<sup>12</sup>CMA] under this section is to be published in such form and in such manner as [F<sup>14</sup>it] considers appropriate.
- (6) If the [F<sup>12</sup>CMA] is preparing any advice or information under this section [F<sup>15</sup>it] must consult such persons as he considers appropriate.
- (7) If the proposed advice or information relates to a matter in respect of which a regulator exercises concurrent jurisdiction, those consulted must include that regulator.

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- (8) In preparing any advice or information under this section about a matter in respect of which he may exercise functions under this Part, a regulator must consult—
- (a) the [F16CMA] ;
  - (b) the other regulators; and
  - (c) such other persons as he considers appropriate.

#### Textual Amendments

- F10** Words in s. 52(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 32\(2\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F11** S. 52(1A) omitted (31.12.2020) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), [18](#) (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F12** Word in s. 52(2)-(6) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 32\(4\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F13** Words in s. 52(4) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 38\(39\)\(b\)](#); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F14** Words in s. 52(5) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 38\(39\)\(c\)](#); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F15** Words in s. 52(6) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 38\(39\)\(d\)](#); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F16** Word in s. 52(8) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 32\(4\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

### 53 Fees.

[F17(1) The [F18OFT] may charge fees, of specified amounts, in connection with the exercise by [F18it] of specified functions under this Part.

- (2) Rules may, in particular, provide—
- (a) for the amount of any fee to be calculated by reference to matters which may include—
    - (i) the turnover of any party to an agreement (determined in such manner as may be specified);
    - (ii) the turnover of a person whose conduct the [F18OFT] is to consider (determined in that way);
  - (b) for different amounts to be specified in connection with different functions;
  - (c) for the repayment by the [F18OFT] of the whole or part of a fee in specified circumstances;
  - (d) that an application or notice is not to be regarded as duly made or given unless the appropriate fee is paid.
- (3) In this section—
- (a) “rules” means rules made by the [F18OFT] under section 51; and
  - (b) “specified” means specified in rules.]

#### Textual Amendments

- F17** S. 53 ceased to have effect (1.5.2004) by virtue of [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), [Sch. 1 para. 32](#) (with reg. 6(2))

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**F18** Words in s. 53 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(40); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

## Regulators

### 54 Regulators.

- (1) In this Part “regulator” means <sup>F19</sup>—
- <sup>F20</sup>(a) the Office of Communications;]
  - (b) the Gas and Electricity Markets Authority;
  - <sup>F21</sup>(c) .....
  - (d) [<sup>F22</sup>the Water Services Regulation Authority;]
  - (e) the [<sup>F23</sup>Office of Rail and Road];
  - (f) [<sup>F24</sup>the Northern Ireland Authority for Utility Regulation;]
  - (g) the Civil Aviation Authority][<sup>F25</sup>; [<sup>F26</sup>and]]
  - <sup>F25</sup>(h) Monitor.]
  - <sup>F27</sup>(i) the Payment Systems Regulator established under section 40 of the Financial Services (Banking Reform) Act 2013.]
  - <sup>F28</sup>(j) the Financial Conduct Authority.]
- (2) Parts II and III of Schedule 10 provide for functions of the [<sup>F29</sup>CMA] under this Part to be exercisable concurrently by regulators.
- (3) Parts IV and V of Schedule 10 make minor and consequential amendments in connection with the regulators’ competition functions.
- (4) The Secretary of State may make regulations for the purpose of co-ordinating the performance of functions under this Part (“Part I functions”) which are exercisable concurrently by two or more competent persons as a result of [<sup>F30</sup>any enactment (including any subordinate legislation) whenever passed or made].
- (5) The regulations may, in particular, make provision—
- (a) as to the procedure to be followed by competent persons when determining who is to exercise Part I functions in a particular case;
  - (b) as to the steps which must be taken before a competent person exercises, in a particular case, such Part I functions as may be prescribed;
  - (c) as to the procedure for determining, in a particular case, questions arising as to which competent person is to exercise Part I functions in respect of the case;
  - (d) for Part I functions in a particular case to be exercised jointly—
    - (i) by the [<sup>F31</sup>CMA] and one or more regulators, or
    - (ii) by two or more regulators,and as to the procedure to be followed in such cases;
  - (e) as to the circumstances in which the exercise by a competent person of such Part I functions as may be prescribed is to preclude the exercise of such functions by another such person;
  - (f) for cases in respect of which Part I functions are being, or have been, exercised by a competent person to be transferred to another such person;
  - (g) for the person (“A”) exercising Part I functions in a particular case—

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- (i) to appoint another competent person (“B”) to exercise Part I functions on A’s behalf in relation to the case; or
  - (ii) to appoint officers of B (with B’s consent) to act as officers of A in relation to the case;
  - (h) for notification as to who is exercising Part I functions in respect of a particular case.
- <sup>F32</sup>(6) Provision made by virtue of subsection (5)(c) may provide for questions to be referred to and determined by the Secretary of State [<sup>F33</sup>, the CMA] or by such other person as may [<sup>F34</sup>—
- (a) prescribe circumstances in which the CMA may decide that, in a particular case, it is to exercise Part 1 functions in respect of the case rather than a regulator;
  - (b) be prescribed.
- <sup>F35</sup>(6A) [ Where the regulations make provision as mentioned in subsection (6)(a), they must—
- (a) include provision requiring the CMA to consult the regulator concerned before making a decision that the CMA is to exercise Part 1 functions in respect of a particular case, and
  - (b) provide that, in a case where a regulator has given notice under section 31(1) that it proposes to make a decision (within the meaning given by section 31(2)), the CMA may only decide that it is to exercise Part 1 functions in respect of the case rather than the regulator if the regulator consents.]
- [ The Secretary of State may by regulations make provision requiring arrangements to
- <sup>F36</sup>(6B) be made for the sharing of information between competent persons in connection with concurrent cases.]
- [ For the purposes of subsection (6B), “a concurrent case” is a case in respect of which—
- <sup>F36</sup>(6C) (a) the CMA considers that Part 1 functions are, or (but for provision made under subsection (5)(e)) would be, exercisable by both it and any regulator;
- (b) any regulator considers that Part 1 functions are, or (but for provision made under subsection (5)(e)) would be, exercisable by it.]
- (7) “Competent person” means the [<sup>F37</sup>CMA] or any of the regulators.
- [ In this section, “subordinate legislation” has the same meaning as in section 21(1) of
- <sup>F38</sup>(8) the [Interpretation Act 1978 \(c 30\)](#) and includes an instrument made under—
- (a) an Act of the Scottish Parliament;
  - (b) Northern Ireland legislation.]]

#### Textual Amendments

- F19** Words in s. 54(1) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 38\(41\)\(a\)](#); [S.I. 2003/766](#), art. 2, [Sch.](#) (with art. 3) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), [Sch.](#))
- F20** S. 54(1)(a) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), [ss. 371\(5\)\(a\)](#), 411(2) (with [Sch. 18](#)); [S.I. 2003/1900](#), arts. 1(2), 2(1), [Sch. 1](#) (with art. 3) (as amended by [S.I. 2003/3142](#), art. 1(3)); [S.I. 2003/3142](#), art. 3(2) (with art. 11)
- F21** S. 54(1)(c) omitted (1.4.2014) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 15 para. 11\(a\)](#); [S.I. 2014/416](#), art. 2(1)(f) (with [Sch.](#))
- F22** S. 54(1)(d) substituted (1.4.2006) by [Water Act 2003 \(c. 37\)](#), s. 105(3), [Sch. 7 para. 32\(2\)](#); [S.I. 2005/2714](#), art. 4(f)



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- F23** Words in s. 54(1)(e) substituted (16.10.2015) by The Office of Rail Regulation (Change of Name) Regulations 2015 (S.I. 2015/1682), reg. 1(2), **Sch. para. 4(m)**
- F24** S. 54(1)(f) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 15 para. 11(b)**; S.I. 2014/416, art. 2(1)(f) (with Sch.)
- F25** S. 54(1)(h) and word inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 74(5)(b), 306(4)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F26** Word in s. 54(1)(g) omitted (1.11.2014 for specified purposes, 1.4.2015 so far as not already in force) by virtue of Financial Services (Banking Reform) Act 2013 (c. 33), **ss. 67(2), 148(5)**; S.I. 2014/2458, arts. 2(a)(ii), 3(b)(iii)
- F27** S. 54(1)(i) inserted (1.11.2014 for specified purposes, 1.4.2015 so far as not already in force) by Financial Services (Banking Reform) Act 2013 (c. 33), **ss. 67(2), 148(5)**; S.I. 2014/2458, arts. 2(a)(ii), 3(b)(iii)
- F28** S. 54(1)(j) inserted (1.11.2014 for specified purposes, 1.4.2015 so far as not already in force) by Financial Services (Banking Reform) Act 2013 (c. 33), s. 148(5), **Sch. 8 para. 9**; S.I. 2014/2458, arts. 2(b)(bb)(i), 3(b)(v)
- F29** Word in s. 54(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 33** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F30** Words in s. 54(4) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 33(2)**
- F31** Word in s. 54(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 33** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F32** Words in s. 54(6) inserted (25.4.2013 for specified purposes, 1.4.2014 in so far as not already in force) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 51(2)(b), 103(1)(i)(3)**; S.I. 2014/416, art. 2(1)(b) (with Sch.)
- F33** Words in s. 54(6) inserted (25.4.2013 for specified purposes, 1.4.2014 in so far as not already in force) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 51(2)(b), 103(1)(i)(3)**; S.I. 2014/416, art. 2(1)(b) (with Sch.)
- F34** Words in s. 54(6) inserted (25.4.2013 for specified purposes, 1.4.2014 in so far as not already in force) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 51(2)(a), 103(1)(i)(3)**; S.I. 2014/416, art. 2(1)(b) (with Sch.)
- F35** S. 54(6A) inserted (25.4.2013 for specified purposes, 1.4.2014 in so far as not already in force) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 51(3), 103(1)(i)(3)**; S.I. 2014/416, art. 2(1)(b) (with Sch.)
- F36** S. 54(6B)(6C) inserted (25.4.2013 for specified purposes, 1.4.2014 in so far as not already in force) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 51(4), 103(1)(i)(3)**; S.I. 2014/416, art. 2(1)(b) (with Sch.)
- F37** Word in s. 54(7) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 33** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F38** S. 54(8) inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 33(3)**

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

- C2** S. 54(5)-(7) applied by 1986 c. 46, s. 9D(2) (as inserted (20.6.2003) by Enterprise Act 2002 (c. 40), **ss. 204(2), 279**; S.I. 2003/1397, art. 2(1), Sch.)
- C3** S. 54(5)-(7) applied by S.I. 2002/3150 (N.I. 4), art. 13D(2) (as inserted (19.12.2005) by The Company Directors Disqualification (Amendment) (Northern Ireland) Order 2005 (S.I. 2005/1454), arts. 1(3), 3; S.R. 2005/514, art. 2)

#### Commencement Information

- I1** S. 54 wholly in force; s. 54 not in force at Royal Assent see s. 76(3); s. 54(2) in force for certain purposes at 26.11.1998 by S.I. 1998/2750, **art. 2**; s. 54(3) in force for certain purposes at 11.1.1999 and s. 54(4)-(7) in force at the same date by S.I. 1998/3166, **art. 2, Sch.**; s. 54(3) in force for certain

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purposes at 1.4.1999 by S.I. 1999/505, art. 2, Sch. 2; s. 54(1)(2) and (3) wholly in force at 1.3.2000 by S.I. 2000/344, art. 2, Sch.

### *Confidentiality and immunity from defamation*

#### **F39 55 General restrictions on disclosure of information.**

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##### **Textual Amendments**

**F39** S. 56 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 247(j), 279, Sch. 26; S.I. 2003/1397, art. 2(1), Sch. (with art. 6)

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

**C4** S. 55 restricted (31.10.2003) by Railways and Transport Safety Act 2003 (c. 20), s. 115; S.I. 2003/2681, art. 2(b)

#### **F39 56 Director and Secretary of State to have regard to certain matters in relation to the disclosure of information.**

.....

##### **Textual Amendments**

**F39** S. 56 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 247(j), 279, Sch. 26; S.I. 2003/1397, art. 2(1), Sch. (with art. 6)

#### **57 Defamation.**

For the purposes of the law relating to defamation, absolute privilege attaches to any advice, guidance, notice or direction given, or decision made, by the [<sup>F40</sup>CMA] in the exercise of any of [<sup>F41</sup>its] functions under this Part.

##### **Textual Amendments**

**F40** Word in s. 57 substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 34 (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

**F41** Words in s. 57 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(42); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

### *Findings of fact by [<sup>F42</sup>CMA]*

##### **Textual Amendments**

**F42** Word in s. 58 cross-heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 35 (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)



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## 58 Findings of fact by <sup>F43</sup>CMA].

- (1) Unless the court <sup>F44</sup>or the Tribunal] directs otherwise <sup>F45</sup>or the <sup>F46</sup>OFT] has decided to take further action in accordance with section 16(2) or 24(2)], <sup>F47</sup>CMA's] finding which is relevant to an issue arising in Part I proceedings is binding on the parties if—
- (a) the time for bringing an appeal <sup>F48</sup>under section 46 or 47] in respect of the finding has expired and the relevant party has not brought such an appeal; or
  - (b) the decision of <sup>F49</sup>the Tribunal] on such an appeal has confirmed the finding.
- (2) In this section—
- <sup>F50</sup>“<sup>F51</sup>a CMA's] finding” means a finding of fact made by the <sup>F52</sup>CMA] in the course of conducting an investigation;]
- <sup>F53</sup>“Part 1 proceedings” means proceedings brought otherwise than by the <sup>F52</sup>CMA]—
- (za) <sup>F54</sup>in respect of an infringement decision;]<sup>F55</sup>or]
  - (a) in respect of an alleged infringement of the Chapter I prohibition or of the Chapter II prohibition; <sup>F56</sup>...
  - (b) <sup>F56</sup>...]
- “relevant party” means—
- (a) in relation to the Chapter I prohibition <sup>F57</sup>..., a party to the agreement which <sup>F58</sup>has been found to have infringed the prohibition or is alleged to have infringed the prohibition (as the case may be)]; and
  - (b) in relation to the Chapter II prohibition <sup>F59</sup>..., the undertaking whose conduct <sup>F58</sup>has been found to have infringed the prohibition or is alleged to have infringed the prohibition (as the case may be)].
- (3) Rules of court <sup>F60</sup>or Tribunal rules] may make provision in respect of assistance to be given by the <sup>F61</sup>CMA] to the court <sup>F62</sup>or the Tribunal] in Part I proceedings.
- <sup>F63</sup>(4) In this section “the court” means—
- (a) in England and Wales or Northern Ireland, the High Court,
  - (b) in Scotland, the Court of Session or the sheriff.]

### Textual Amendments

- F43** Word in s. 58 heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 36(5)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F44** Words in s. 58(1) inserted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 13(2)**; S.I. 2015/1630, art. 3(j)
- F45** Words in s. 58(1) cease to have effect (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 34(2)** (with reg. 6(2))
- F46** Word in s. 58 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(43)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F47** Words in s. 58(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 36(2)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F48** Words in s. 58(1)(a) inserted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 5 para. 5(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F49** Words in s. 58(1)(b) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 5 para. 5(b)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F50** Words in s. 58(2) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 34(3)(a)**

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- F51** Words in s. 58(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 36(3)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F52** Word in s. 58(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 36(3)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F53** Words in s. 58(2) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 34(3)(b)**
- F54** Words in s. 58(2) inserted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 13(3)(a)**; S.I. 2015/1630, art. 3(j)
- F55** Word in s. 58(2) inserted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **19(2)(a)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F56** Words in s. 58(2) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **19(2)(b)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F57** Words in s. 58(2) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **19(3)(a)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F58** Words in s. 58(2) substituted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 13(3)(b)**; S.I. 2015/1630, art. 3(j)
- F59** Words in s. 58(2) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **19(3)(b)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F60** Words in s. 58(3) inserted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 13(4)(a)**; S.I. 2015/1630, art. 3(j)
- F61** Word in s. 58(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 36(4)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F62** Words in s. 58(3) inserted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 13(4)(b)**; S.I. 2015/1630, art. 3(j)
- F63** S. 58(4) inserted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 13(5)**; S.I. 2015/1630, art. 3(j)

### *[<sup>F64</sup>Findings of infringements]*

#### **Textual Amendments**

- F64** S. 58A and cross-heading inserted (20.6.2003) by Enterprise Act 2002 (c. 40), **s. 20(1)(2)**, 279 (with s. 20(2)); S.I. 2003/1397, art. 2(1), Sch.

#### **[<sup>F65</sup>58A Infringement decisions**

- (1) This section applies to a claim in respect of an infringement decision which is brought in proceedings—
  - (a) before the court, or
  - (b) before the Tribunal under section 47A or 47B.
- (2) The court or the Tribunal is bound by the infringement decision once it has become final.
- (3) An infringement decision specified in section 47A(6)(a) or (b) becomes final—
  - (a) when the time for appealing against that decision expires without an appeal having been brought; [<sup>F66</sup> or

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- (b) where an appeal has been brought against the decision, when—
  - (i) the appeal and any further appeal in relation to the decision has been decided or has otherwise ended, and
  - (ii) the time for appealing against the result of the appeal or further appeal has expired without another appeal having been brought.]

<sup>F67</sup>(4) .....

(5) This section applies to the extent that the court or the Tribunal would not otherwise be bound by the infringement decision in question.

(6) In this section “the court” means—

- (a) in England and Wales or Northern Ireland, the High Court,
- (b) in Scotland, the Court of Session or the sheriff.]

#### Textual Amendments

- F65** S. 58A substituted (1.10.2015) by [Consumer Rights Act 2015 \(c. 15\)](#), s. 100(5), **Sch. 8 para. 14(1)** (with [Sch. 8 para. 14\(2\)](#)); [S.I. 2015/1630](#), art. 3(j)
- F66** S. 58A(3)(b) and word substituted for s. 58A(3)(b)-(d) (9.3.2017) by [The Claims in respect of Loss or Damage arising from Competition Infringements \(Competition Act 1998 and Other Enactments \(Amendment\)\) Regulations 2017 \(S.I. 2017/385\)](#), reg. 1(2), **Sch. 2 para. 8(2)** (with [Sch. 2 para. 8\(4\)](#))
- F67** S. 58A(4) omitted (31.12.2020) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), **20** (with [Sch. 4 paras. 7, 13](#)) (as amended by [S.I. 2020/1343](#), regs. 35-59); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

### *Interpretation and governing principles*

## 59 [<sup>F68</sup>Interpretation of Part 1].

(1) In this Part—

[<sup>F69</sup>“agreement” is to be read with section 2(5) and (6);]

<sup>F70</sup> ...

<sup>F71</sup> ...

<sup>F72</sup> ...

<sup>F73</sup> ...

“block exemption” has the meaning given in section 6(4);

“block exemption order” has the meaning given in section 6(2);

“the Chapter I prohibition” has the meaning given in section 2(8);

“the Chapter II prohibition” has the meaning given in section 18(4);

[<sup>F74</sup>“class member” has the meaning given in section 47B(8)(a);]

[<sup>F75</sup>“the CMA” means the Competition and Markets Authority;]

[<sup>F74</sup>“collective proceedings” has the meaning given in section 47B(1);]

[<sup>F74</sup>“collective proceedings order” means an order made by the Tribunal authorising the continuance of collective proceedings;]

<sup>F76</sup> ...

<sup>F77</sup> ...

“the court”, except in sections [<sup>F78</sup>49E,] 58[<sup>F79</sup>, 58A] and [<sup>F80</sup>60A][<sup>F81</sup>and Schedule 8A] and the expression “European Court”, means—

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- (a) in England and Wales, the High Court;
- (b) in Scotland, the Court of Session; and
- (c) in Northern Ireland, the High Court;

F82  
...

“document” includes information recorded in any form;

F83  
...

F84  
...

F85  
...

[<sup>F86</sup>“individual exemption” has the meaning given in section 4(2);]

“information” includes estimates and forecasts;

[<sup>F74</sup>“infringement decision”, except in section 49C, has the meaning given in section 47A(6);]

[<sup>F74</sup>“injunction” includes an interim injunction;]

“investigating officer” has the meaning given in section 27(1);

[<sup>F87</sup>“investigation” means an investigation under section 25;]

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975;

[<sup>F88</sup>“OFCOM” means the Office of Communications;]

“officer”, in relation to a body corporate, includes a director, manager or secretary and, in relation to a partnership in Scotland, includes a partner;

[<sup>F74</sup>“opt-in collective proceedings” has the meaning given in section 47B(10);]

[<sup>F74</sup>“opt-out collective proceedings” has the meaning given in section 47B(11);]

F89  
...

F90  
...

“person”, in addition to the meaning given by the <sup>M2</sup>Interpretation Act 1978, includes any undertaking;

[<sup>F91</sup>“premises” includes any land or means of transport;]

“prescribed” means prescribed by regulations made by the Secretary of State;

“regulator” has the meaning given by section 54;

[<sup>F74</sup>“representative” means a person who is authorised by a collective proceedings order to bring collective proceedings;]

[<sup>F74</sup>“represented person” means a class member who—

- (a) has opted in to opt-in collective proceedings,
- (b) was domiciled in the United Kingdom at the time specified for the purposes of determining domicile (see section 47B(11)(b)(i)) and has not opted out of opt-out collective proceedings, or
- (c) has opted in to opt-out collective proceedings;]

[<sup>F92</sup>“retained block exemption regulation” has the meaning given in section 10(12);]

[<sup>F92</sup>“retained exemption” has the meaning given in section 10(3);]

F93  
...

F94  
...

[<sup>F95</sup>“the Tribunal” means the Competition Appeal Tribunal;

“Tribunal rules” means rules under section 15 of the Enterprise Act 2002.]

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[<sup>F96</sup>“working day” means a day which is not—

- (a) Saturday,
- (b) Sunday,
- (c) Christmas Day,
- (d) Good Friday, or
- (e) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 (c. 80) in any part of the United Kingdom.]

[<sup>F97</sup>(1A) In this Part, in respect of proceedings in Scotland, [<sup>F98</sup>“claimant” is to be read as “pursuer” and] “defendant” is to be read as “defender”.

(1B) Sections 41, 42, 45 and 46 of the Civil Jurisdiction and Judgments Act 1982 apply for the purpose of determining whether a person is regarded as “domiciled in the United Kingdom” for the purposes of this Part.]

(2) The fact that to a limited extent the Chapter I prohibition does not apply to an agreement, because of an exclusion provided by or under this Part or any other enactment, does not require those provisions of the agreement to which the exclusion relates to be disregarded when considering whether the agreement infringes the prohibition for other reasons.

(3) For the purposes of this Part, the power to require information, in relation to information recorded otherwise than in a legible form, includes power to require a copy of it in a legible form.

(4) Any power conferred on the [<sup>F99</sup>CMA] by this Part to require information includes power to require any document which [<sup>F100</sup>it] believes may contain that information.

#### Textual Amendments

- F68** Words in s. 59 sidenote substituted (1.5.2004) by *The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004* (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 35(3)**
- F69** Words in s. 59(1) inserted (1.5.2004) by *The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004* (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 35(2)(a)**
- F70** Words in s. 59(1) repealed (1.4.2003) by *Enterprise Act 2002* (c. 40), s. 279, Sch. 5 para. 6(a), **Sch. 26**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F71** Words in s. 59(1) omitted (31.12.2020) by virtue of *The Competition (Amendment etc.) (EU Exit) Regulations 2019* (S.I. 2019/93), regs. 1(1), **21(2)(a)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F72** Words in s. 59(1) omitted (31.12.2020) by virtue of *The Competition (Amendment etc.) (EU Exit) Regulations 2019* (S.I. 2019/93), regs. 1(1), **21(2)(b)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F73** Words in s. 59(1) omitted (31.12.2020) by virtue of *The Competition (Amendment etc.) (EU Exit) Regulations 2019* (S.I. 2019/93), regs. 1(1), **21(2)(c)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F74** Words in s. 59(1) inserted (1.10.2015) by *Consumer Rights Act 2015* (c. 15), s. 100(5), **Sch. 8 para. 15(2)**; S.I. 2015/1630, art. 3(j)
- F75** Words in s. 59(1) inserted (1.4.2014) by *Enterprise and Regulatory Reform Act 2013* (c. 24), s. 103(3), **Sch. 5 para. 38(2)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F76** Words in s. 59(1) omitted (31.12.2020) by virtue of *The Competition (Amendment etc.) (EU Exit) Regulations 2019* (S.I. 2019/93), regs. 1(1), **21(2)(d)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

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- F77** Words in s. 59(1) omitted (31.12.2020) by virtue of *The Competition (Amendment etc.) (EU Exit) Regulations 2019* (S.I. 2019/93), regs. 1(1), **21(2)(e)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F78** Word in s. 59(1) inserted (1.10.2015) by *Consumer Rights Act 2015* (c. 15), s. 100(5), **Sch. 8 para. 15(3)**; S.I. 2015/1630, art. 3(j)
- F79** Word in s. 59(1) inserted (20.6.2003) by *Enterprise Act 2002* (c. 40), **ss. 20(3)**, 279; S.I. 2003/1397, art. 2(1), Sch.
- F80** Word in s. 59(1) substituted (31.12.2020) by *The Competition (Amendment etc.) (EU Exit) Regulations 2019* (S.I. 2019/93), regs. 1(1), **21(3)**; 2020 c. 1, Sch. 5 para. 1(1)
- F81** Words in s. 59(1) inserted (9.3.2017) by *The Claims in respect of Loss or Damage arising from Competition Infringements (Competition Act 1998 and Other Enactments (Amendment)) Regulations 2017* (S.I. 2017/385), reg. 1(2), **Sch. 2 para. 9(2)**
- F82** Words in s. 59(1) repealed (1.4.2003) by *Enterprise Act 2002* (c. 40), s. 279, Sch. 25 para. 38(44)(a), **Sch. 26**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F83** Words in s. 59(1) omitted (31.12.2020) by virtue of *The Competition (Amendment etc.) (EU Exit) Regulations 2019* (S.I. 2019/93), regs. 1(1), **21(2)(f)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F84** Words in s. 59(1) omitted (31.12.2020) by virtue of *The Competition (Amendment etc.) (EU Exit) Regulations 2019* (S.I. 2019/93), regs. 1(1), **21(2)(g)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F85** Words in s. 59(1) omitted (31.12.2020) by virtue of *The Competition (Amendment etc.) (EU Exit) Regulations 2019* (S.I. 2019/93), regs. 1(1), **21(2)(h)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F86** Words in s. 59(1) cease to have effect (1.5.2004) by *The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004* (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 35(2)(e)** (with reg. 6(2))
- F87** Words in s. 59(1) inserted (1.5.2004) by *The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004* (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 35(2)(f)**
- F88** Words in s. 59(1) inserted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by *Communications Act 2003* (c. 21), **ss. 371(7)**, 411(2) (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)
- F89** Words in s. 59(1) omitted (1.4.2014) by virtue of *Enterprise and Regulatory Reform Act 2013* (c. 24), s. 103(3), **Sch. 5 para. 38(2)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F90** Words in s. 59(1) omitted (31.12.2020) by virtue of *The Competition (Amendment etc.) (EU Exit) Regulations 2019* (S.I. 2019/93), regs. 1(1), **21(2)(i)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F91** Words in s. 59(1) substituted (1.5.2004) by *The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004* (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 35(2)(g)**
- F92** Words in s. 59(1) inserted (31.12.2020) by *The Competition (Amendment etc.) (EU Exit) Regulations 2019* (S.I. 2019/93), regs. 1(1), **21(4)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F93** Words in s. 59(1) omitted (31.12.2020) by virtue of *The Competition (Amendment etc.) (EU Exit) Regulations 2019* (S.I. 2019/93), regs. 1(1), **21(2)(j)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F94** Words in s. 59(1) omitted (31.12.2020) by virtue of *The Competition (Amendment etc.) (EU Exit) Regulations 2019* (S.I. 2019/93), regs. 1(1), **21(2)(k)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F95** Words in s. 59(1) inserted (1.4.2003) by *Enterprise Act 2002* (c. 40), s. 279, Sch. 5 para. 6(b), **Sch. 26**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F96** Words in s. 59(1) inserted (1.5.2004) by *The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004* (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 35(2)(h)**



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- F97** S. 59(1A)(1B) inserted (1.10.2015) by [Consumer Rights Act 2015 \(c. 15\)](#), s. 100(5), **Sch. 8 para. 15(4)**; S.I. 2015/1630, art. 3(j)
- F98** Words in s. 59(1A) inserted (9.3.2017) by [The Claims in respect of Loss or Damage arising from Competition Infringements \(Competition Act 1998 and Other Enactments \(Amendment\)\) Regulations 2017 \(S.I. 2017/385\)](#), reg. 1(2), **Sch. 2 para. 9(3)**
- F99** Word in s. 59(4) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), **Sch. 5 para. 38(3)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F100** Words in s. 59(4) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, **Sch. 25 para. 38(44)(b)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

#### Commencement Information

- I2** S. 59 wholly in force at 11.1.1999; s. 59 not in force at Royal Assent see s. 76(3); s. 59 in force for certain purposes at 26.11.1998 by S.I. 1998/2750, **art. 2**; s. 59 in force in so far as not already in force by S.I. 1998/3166, art. 2, **Sch.**

#### Marginal Citations

- M1** 1975 c. 26.  
**M2** 1978 c. 30.

### <sup>F101</sup>**60 Principles to be applied in determining questions.**

.....

#### Textual Amendments

- F101** S. 60 omitted (31.12.2020) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), **22**; 2020 c. 1, Sch. 5 para. 1(1)

### <sup>F102</sup>**60A Certain principles etc to be considered or applied from IP completion day**

- (1) This section applies when one of the following persons determines a question arising under this Part in relation to competition within the United Kingdom—
  - (a) a court or tribunal;
  - (b) the CMA;
  - (c) a person acting on behalf of the CMA in connection with a matter arising under this Part.
- (2) The person must act (so far as is compatible with the provisions of this Part) with a view to securing that there is no inconsistency between—
  - (a) the principles that it applies, and the decision that it reaches, in determining the question, and
  - (b) the principles laid down by the Treaty on the Functioning of the European Union and the European Court before IP completion day, and any relevant decision made by that Court before IP completion day, so far as applicable immediately before IP completion day in determining any corresponding question arising in EU law,  
subject to subsections (4) to (7).
- (3) The person must, in addition, have regard to any relevant decision or statement of the European Commission made before IP completion day and not withdrawn.

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: Competition Act 1998, Chapter V is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) Subsection (2) does not require the person to secure that there is no inconsistency with a principle or decision referred to in subsection (2)(b) so far as the principle or decision is excluded from the law of England and Wales, Scotland and Northern Ireland on or after IP completion day.
- (5) For the purposes of subsection (4), a principle or decision is to be treated as not excluded from the law of England and Wales, Scotland and Northern Ireland if it is excluded only by virtue of an exclusion or revocation in the Competition (Amendment etc.) (EU Exit) Regulations 2019.
- (6) Subsection (2) does not apply so far as the person is bound by a principle laid down by, or a decision of, a court or tribunal in England and Wales, Scotland or Northern Ireland that requires the person to act otherwise.
- (7) Subsection (2) does not apply if the person thinks that it is appropriate to act otherwise in the light of one or more of the following—
- (a) differences between the provisions of this Part under consideration and the corresponding provisions of EU law as those provisions of EU law had effect immediately before IP completion day;
  - (b) differences between markets in the United Kingdom and markets in the European Union;
  - (c) developments in forms of economic activity since the time when the principle or decision referred to in subsection (2)(b) was laid down or made;
  - (d) generally accepted principles of competition analysis or the generally accepted application of such principles;
  - (e) a principle laid down, or decision made, by the European Court on or after IP completion day;
  - (f) the particular circumstances under consideration.
- (8) In subsection (2)(b), the reference to principles laid down before IP completion day is a reference to such principles as they have effect in EU law immediately before IP completion day, disregarding the effect of principles laid down, and decisions made, by the European Court on or after IP completion day.
- (9) In this section, references to a decision of the European Court or the European Commission include a decision as to—
- (a) the interpretation of a provision of EU law;
  - (b) the civil liability of an undertaking for harm caused by its infringement of EU law.]

#### Textual Amendments

**F102** S. 60A inserted (31.12.2020) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), **23** (as amended by [S.I. 2020/1343](#), reg. 5); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

**Status:**

Point in time view as at 31/12/2020.

**Changes to legislation:**

Competition Act 1998, Chapter V is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.