



# Enterprise Act 2002

## 2002 CHAPTER 40

### PART 3

#### MERGERS

### CHAPTER 4

#### ENFORCEMENT

#### *Final powers*

#### **82 Final undertakings**

- (1) The Commission may, in accordance with section 41, accept, from such persons as it considers appropriate, undertakings to take action specified or described in the undertakings.
- (2) An undertaking under this section—
  - (a) shall come into force when accepted;
  - (b) may be varied or superseded by another undertaking; and
  - (c) may be released by the Commission.
- (3) An undertaking which is in force under this section in relation to a reference under section 22 or 33 shall cease to be in force if an order under section 76(1)(b) or 83 comes into force in relation to the subject-matter of the undertaking.
- (4) No undertaking shall be accepted under this section in relation to a reference under section 22 or 33 if an order has been made under—
  - (a) section 76(1)(b) or 83 in relation to the subject-matter of the undertaking; or
  - (b) section 84 in relation to that reference.
- (5) The Commission shall, as soon as reasonably practicable, consider any representations received by it in relation to varying or releasing an undertaking under this section.

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*Status: This is the original version (as it was originally enacted).*

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### **83 Order-making power where final undertakings not fulfilled**

- (1) Subsection (2) applies where the Commission considers that—
  - (a) an undertaking accepted by it under section 82 has not been, is not being or will not be fulfilled; or
  - (b) in relation to an undertaking accepted by it under that section, information which was false or misleading in a material respect was given to the Commission or the OFT by the person giving the undertaking before the Commission decided to accept the undertaking.
- (2) The Commission may, for any of the purposes mentioned in section 41(2), make an order under this section.
- (3) Subsections (3) to (5) of section 41 shall apply for the purposes of subsection (2) above as they apply for the purposes of subsection (2) of that section.
- (4) An order under this section may contain—
  - (a) anything permitted by Schedule 8; and
  - (b) such supplementary, consequential or incidental provision as the Commission considers appropriate.
- (5) An order under this section—
  - (a) shall come into force at such time as is determined by or under the order;
  - (b) may contain provision which is different from the provision contained in the undertaking concerned; and
  - (c) may be varied or revoked by another order.
- (6) No order shall be varied or revoked under this section unless the OFT advises that such a variation or revocation is appropriate by reason of a change of circumstances.

### **84 Final orders**

- (1) The Commission may, in accordance with section 41, make an order under this section.
- (2) An order under this section may contain—
  - (a) anything permitted by Schedule 8; and
  - (b) such supplementary, consequential or incidental provision as the Commission considers appropriate.
- (3) An order under this section—
  - (a) shall come into force at such time as is determined by or under the order; and
  - (b) may be varied or revoked by another order.
- (4) No order shall be varied or revoked under this section unless the OFT advises that such a variation or revocation is appropriate by reason of a change of circumstances.
- (5) No order shall be made under this section in relation to a reference under section 22 or 33 if an undertaking has been accepted under section 82 in relation to that reference.