



# Enterprise Act 2002

## 2002 CHAPTER 40

### PART 3

#### MERGERS

### CHAPTER 5

#### SUPPLEMENTARY

##### *Information and publicity requirements*

#### **105 General information duties of [F<sup>1</sup>CMA]**

- (1) Where the [F<sup>2</sup>CMA] decides to investigate a matter so as to enable it to decide whether to make a reference under section 22 [F<sup>3</sup>, 33, 68B or 68C], or so as to make a report under section 44 or 61, it shall, so far as practicable, take such action as it considers appropriate to bring information about the investigation to the attention of those whom it considers might be affected by the creation of the relevant merger situation concerned or (as the case may be) the special merger situation concerned.

[F<sup>4</sup>(1A) Where OFCOM decide to investigate a matter so as to make a report under section 44A or 61A, they shall, so far as practicable, take such action as they consider appropriate to bring information about the investigation to the attention of those who they consider might be affected by the creation of the relevant merger situation concerned or (as the case may be) the special merger situation concerned.]

- (2) [F<sup>5</sup>Subsections (1) and (1A) do] not apply in relation to arrangements which might result in the creation of a relevant merger situation if a merger notice has been given in relation to those arrangements under section 96.

- (3) The [F<sup>6</sup>CMA] shall give the F<sup>7</sup> ... [F<sup>8</sup>OFCOM]—

- (a) such information in its possession as F<sup>9</sup> ... [F<sup>10</sup>OFCOM] may reasonably require to enable the F<sup>9</sup> ... [F<sup>10</sup>OFCOM] to carry out its functions under this Part; and

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*Changes to legislation:* There are currently no known outstanding effects for the Enterprise Act 2002, Section 105. (See end of Document for details)

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- (b) any other assistance which the <sup>F11</sup>... [<sup>F10</sup>OFCOM] may reasonably require for the purpose of assisting it in carrying out its functions under this Part and which it is within the power of the [<sup>F12</sup>CMA] to give.

[<sup>F13</sup>(3A) OFCOM shall give the [<sup>F14</sup> CMA ] —

- (a) such information in their possession as the [<sup>F15</sup>CMA] may reasonably require to enable the [<sup>F15</sup>CMA] to carry out its functions under this Part; and
- (b) any other assistance which the [<sup>F15</sup>CMA] may reasonably require for the purpose of assisting it in carrying out its functions under this Part and which it is within the power of OFCOM to give.]

- (4) The [<sup>F16</sup>CMA] shall give the [<sup>F17</sup>OFCOM] any information in its possession which has not been requested by the <sup>F18</sup>... [<sup>F19</sup>OFCOM] but which, in the opinion of the [<sup>F16</sup>CMA], would be appropriate to give to the <sup>F18</sup>... [<sup>F19</sup>OFCOM] for the purpose of assisting it in carrying out its functions under this Part.

[<sup>F20</sup>(4A) OFCOM shall give the [<sup>F21</sup>CMA] any information in their possession which has not been requested by the [<sup>F22</sup>CMA] but which, in the opinion of OFCOM, would be appropriate to give to the [<sup>F22</sup>CMA] for the purpose of assisting it in carrying out its functions under this Part.]

(5) The [<sup>F23</sup>CMA and OFCOM] shall give the Secretary of State—

- (a) such information in their possession as the Secretary of State may by direction reasonably require to enable him to carry out his functions under this Part; and
- (b) any other assistance which the Secretary of State may by direction reasonably require for the purpose of assisting him in carrying out his functions under this Part and which it is within the power of the [<sup>F24</sup>CMA or (as the case may be) OFCOM] to give.

(6) The [<sup>F25</sup>CMA][<sup>F26</sup>and OFCOM] shall give the Secretary of State any information in [<sup>F27</sup>their] possession which has not been requested by the Secretary of State but which, in the opinion of the [<sup>F25</sup>CMA][<sup>F28</sup>or (as the case may be) OFCOM], would be appropriate to give to the Secretary of State for the purpose of assisting him in carrying out his functions under this Part.

(7) The [<sup>F29</sup>CMA] shall have regard to any information given to it under subsection [<sup>F30</sup>(3A) or (4A)]; and the Secretary of State shall have regard to any information given to him under subsection (5) or (6).

[<sup>F31</sup>(7A) OFCOM shall have regard to any information given to them under subsection (3) or (4);]<sup>F32</sup>...

(8) Any direction given under subsection (5)—

- (a) shall be in writing; and
- (b) may be varied or revoked by a subsequent direction.

#### Textual Amendments

- F1** Word in s. 105 heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 137(11)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F2** Word in s. 105(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 137(2)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F3** Words in s. 105(1) substituted (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(j), **Sch. 16 para. 24**

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*Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Section 105. (See end of Document for details)*

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- F4 S. 105(1A) inserted (29.12.2003) by Communications Act 2003 (c. 21), **ss. 382(2)**, 411(2)(3) (with transitional provisions in Sch. 18); S.I. 2003/3142, **art. 3(1)**, Sch. 1 (subject to arts. 3(3), 11)
- F5 Words in s. 105(2) substituted (29.12.2003) by Communications Act 2003 (c. 21), **ss. 382(3)**, 411(2)(3) (with transitional provisions in Sch. 18); S.I. 2003/3142, **art. 3(1)**, Sch. 1 (subject to arts. 3(3), 11)
- F6 Word in s. 105(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 137(3)(a)(i)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F7 Words in s. 105(3) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 137(3)(a)(ii)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F8 Words in s. 105(3) inserted (29.12.2003) by Communications Act 2003 (c. 21), **ss. 382(4)(a)**, 411(2)(3) (with transitional provisions in Sch. 18); S.I. 2003/3142, **art. 3(1)**, Sch. 1 (subject to arts. 3(3), 11)
- F9 Words in s. 105(3)(a) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 137(3)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F10 Words in s. 105(3) inserted (29.12.2003) by Communications Act 2003 (c. 21), **ss. 382(4)(b)**, 411(2)(3) (with transitional provisions in Sch. 18); S.I. 2003/3142, **art. 3(1)**, Sch. 1 (subject to arts. 3(3), 11)
- F11 Words in s. 105(3)(b) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 137(3)(c)(i)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F12 Word in s. 105(3)(b) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 137(3)(c)(ii)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F13 S. 105(3A) inserted (29.12.2003) by Communications Act 2003 (c. 21), **ss. 382(5)**, 411(2)(3) (with transitional provisions in Sch. 18); S.I. 2003/3142, **art. 3(1)**, Sch. 1 (subject to arts. 3(3), 11)
- F14 Word in s. 105(3A) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 137(4)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F15 Word in s. 105(3A) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 137(4)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F16 Word in s. 105(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 137(5)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F17 Word in s. 105(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 137(5)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F18 Words in s. 105(4) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 137(5)(c)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F19 Words in s. 105(4) inserted (29.12.2003) by Communications Act 2003 (c. 21), **ss. 382(6)(b)**, 411(2)(3) (with transitional provisions in Sch. 18); S.I. 2003/3142, **art. 3(1)**, Sch. 1 (subject to arts. 3(3), 11)
- F20 S. 105(4A) inserted (29.12.2003) by Communications Act 2003 (c. 21), **ss. 382(7)**, 411(2)(3) (with transitional provisions in Sch. 18); S.I. 2003/3142, **art. 3(1)**, Sch. 1 (subject to arts. 3(3), 11)
- F21 Word in s. 105(4A) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 137(6)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F22 Word in s. 105(4A) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 137(6)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F23 Words in s. 105(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 137(7)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F24 Words in s. 105(5)(b) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 137(7)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F25 Word in s. 105(6) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 137(8)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F26 Words in s. 105(6) inserted (29.12.2003) by Communications Act 2003 (c. 21), **ss. 382(9)(a)**, 411(2)(3) (with transitional provisions in Sch. 18); S.I. 2003/3142, **art. 3(1)**, Sch. 1 (subject to arts. 3(3), 11)
- F27 Word in s. 105(6) substituted (29.12.2003) by Communications Act 2003 (c. 21), **ss. 382(9)(b)**, 411(2)(3) (with transitional provisions in Sch. 18); S.I. 2003/3142, **art. 3(1)**, Sch. 1 (subject to arts. 3(3), 11)
- F28 Words in s. 105(6) inserted (29.12.2003) by Communications Act 2003 (c. 21), **ss. 382(9)(c)**, 411(2)(3) (with transitional provisions in Sch. 18); S.I. 2003/3142, **art. 3(1)**, Sch. 1
- F29 Word in s. 105(7) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 137(9)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

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- F30** Words in s. 105(7) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 137(9)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F31** S. 105(7A) inserted (29.12.2003) by Communications Act 2003 (c. 21), **ss. 382(11), 411(2)(3)** (with transitional provisions in Sch. 18); S.I. 2003/3142, **art. 3(1)**, Sch. 1 (subject to arts. 3(3), 11)
- F32** Words in s. 105(7A) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 137(10)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

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

- C1** S. 105 applied (with modifications) (20.6.2003) by The Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 (S.I. 2003/1592), art. 15, **Sch. 3 para. 1(1)(m)(13)** (as amended by S.I. 2003/3180, art. 2, **Sch. para. 10(13)** (with transitional provisions and savings in art. 3) and (1.4.2014) by The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014 (S.I. 2014/891), arts. 1, **18(1)-(17)** (with arts. 20-23))

**Changes to legislation:**

There are currently no known outstanding effects for the Enterprise Act 2002, Section 105.