



Enterprise Act 2002

2002 CHAPTER 40

PART 3

MERGERS

CHAPTER 1

DUTY TO MAKE REFERENCES

Determination of references

41 Duty to remedy effects of completed or anticipated mergers

- (1) Subsection (2) applies where a report of the [F¹CMA] has been prepared and published under section 38 within the period permitted by section 39 and contains the decision that there is an anti-competitive outcome.
- (2) The [F¹CMA] shall take such action under section 82 or 84 as it considers to be reasonable and practicable—
 - (a) to remedy, mitigate or prevent the substantial lessening of competition concerned; and
 - (b) to remedy, mitigate or prevent any adverse effects which have resulted from, or may be expected to result from, the substantial lessening of competition.
- (3) The decision of the [F¹CMA] under subsection (2) shall be consistent with its decisions as included in its report by virtue of section 35(3) or (as the case may be) 36(2) unless there has been a material change of circumstances since the preparation of the report or the [F¹CMA] otherwise has a special reason for deciding differently.
- (4) In making a decision under subsection (2), the [F¹CMA] shall, in particular, have regard to the need to achieve as comprehensive a solution as is reasonable and practicable to the substantial lessening of competition and any adverse effects resulting from it.

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Section 41. (See end of Document for details)

- (5) In making a decision under subsection (2), the [^{F1}CMA] may, in particular, have regard to the effect of any action on any relevant customer benefits in relation to the creation of the relevant merger situation concerned.

Textual Amendments

- F1** Word in s. 41(1)-(5) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 26(3), [Sch. 5 para. 81](#) (with s. 28), S.I. 2014/416, [art. 2\(1\)\(d\)](#)

Modifications etc. (not altering text)

- C1** Pt. 3 modified (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 4 para. 56](#); S.I. 2014/416, [art. 2\(1\)\(c\)](#) (with Sch.)

Changes to legislation:

There are currently no known outstanding effects for the Enterprise Act 2002, Section 41.