



Enterprise Act 2002

2002 CHAPTER 40

PART 3

MERGERS

CHAPTER 3

OTHER SPECIAL CASES

Special public interest cases

62 Power of Secretary of State to refer the matter

- (1) Subsection (2) applies where the Secretary of State—
 - (a) has given a special intervention notice in relation to a special merger situation; and
 - (b) has received a report of the OFT under section 61 in relation to the matter.
- (2) The Secretary of State may make a reference to the Commission if he believes that it is or may be the case that—
 - (a) a special merger situation has been created;
 - (b) one or more than one consideration mentioned in the special intervention notice is relevant to a consideration of the special merger situation concerned; and
 - (c) taking account only of the relevant consideration or considerations concerned, the creation of that situation operates or may be expected to operate against the public interest.
- (3) The Secretary of State may make a reference to the Commission if he believes that it is or may be the case that—
 - (a) arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a special merger situation;

Status: This is the original version (as it was originally enacted).

- (b) one or more than one consideration mentioned in the special intervention notice is relevant to a consideration of the special merger situation concerned; and
 - (c) taking account only of the relevant consideration or considerations concerned, the creation of that situation may be expected to operate against the public interest.
- (4) No reference shall be made under this section if the making of the reference is prevented by section 69(1) or paragraph 4 of Schedule 7.
- (5) The Secretary of State, in deciding whether to make a reference under this section, shall accept the decision of the OFT included in its report under section 61 by virtue of subsection (4) of that section.
- (6) A reference under this section shall, in particular, specify—
- (a) the subsection of this section under which it is made;
 - (b) the date on which it is made; and
 - (c) the consideration or considerations mentioned in the special intervention notice which the Secretary of State believes are, or may be, relevant to a consideration of the special merger situation concerned.