



Legal Services Act 2007

2007 CHAPTER 29

PART 4

REGULATION OF APPROVED REGULATORS

Competition

57 Reports by the OFT

- (1) If the OFT is of the opinion that the regulatory arrangements of an approved regulator (or any part of them) prevent, restrict or distort competition within the market for reserved legal services to any significant extent, or are likely to do so, the OFT may prepare a report to that effect.
- (2) A report under subsection (1)—
 - (a) must state what, in the OFT's opinion, is the effect, or likely effect, on competition of the regulatory arrangements or part of them to which the report relates, and
 - (b) may contain recommendations as to the action which the Board should take for the purpose of ensuring that the regulatory arrangements of the approved regulator do not prevent, restrict or distort competition.
- (3) Where the OFT makes a report under subsection (1), it must—
 - (a) give a copy of the report to the Board, the Consumer Panel and the approved regulator, and
 - (b) publish the report.
- (4) Before publishing a report under subsection (3)(b), the OFT must, so far as practicable, exclude any matter which relates to the private affairs of a particular individual the publication of which, in the opinion of the OFT, would or might seriously and prejudicially affect the interests of that individual.

- (5) The OFT may exercise any of the powers conferred on it by section 174(3) to (5) of the Enterprise Act 2002 (c. 40) (investigation powers) for the purpose of assisting it in exercising its functions under this section.
- (6) For the purposes of the law of defamation, absolute privilege attaches to any report of the OFT under this section.

58 The Board's response to OFT report

- (1) This section applies where a report is made by the OFT under section 57 in respect of an approved regulator.
- (2) The Board must allow the approved regulator a period of 28 days beginning with the day on which the copy of the report is given to the approved regulator under section 57, or such longer period as the Board may specify in a particular case, to make representations to the Board about the OFT's report.
- (3) The Consumer Panel may give the Board such advice as the Consumer Panel thinks fit regarding the OFT's report.
- (4) Having considered any representations made under subsection (2) and any advice given under subsection (3), the Board must notify the OFT of the action (if any) it proposes to take in response to the report.

59 Referral of report by the Lord Chancellor to the Competition Commission

- (1) This section applies where the OFT is satisfied that the Board has failed to give full and proper consideration to a report made by the OFT, in respect of an approved regulator, under section 57.
- (2) The OFT may give a copy of its report to the Lord Chancellor.
- (3) The OFT must notify the Board and the approved regulator if it gives a copy of its report to the Lord Chancellor.
- (4) On receiving a report under subsection (2), the Lord Chancellor must—
 - (a) give the Competition Commission a copy of the report, and
 - (b) seek its advice on what action (if any) should be taken by the Lord Chancellor under section 61.

60 Duties of the Competition Commission

- (1) Where the Lord Chancellor seeks the advice of the Competition Commission under section 59, the Commission must investigate the matter.
- (2) The Commission must then make its own report on the matter unless it considers that, as a result of any change of circumstances, no useful purpose would be served by a report.
- (3) If the Commission decides in accordance with subsection (2) not to make a report, it must make a statement setting out the change of circumstances which resulted in that decision.

- (4) The Commission must comply with subsection (2) or (3) within the period of 3 months beginning with the day on which it receives a copy of the OFT's report under section 59(4)(a).
- (5) A report made under this section must state the Commission's conclusion as to whether any of the matters which is the subject of the report has or is likely to have the effect of preventing, restricting or distorting competition within the market for reserved legal services to a significant extent.
- (6) A report under this section stating the Commission's conclusion that there is, or is likely to be, such an effect must also—
 - (a) state whether or not the Commission considers that that effect is justified, and
 - (b) if it states that the Commission considers that it is not justified, state its conclusion as to what action, if any, ought to be taken by the Board.
- (7) When determining under subsection (6)(b) any action to be taken by the Board, the Commission must ensure—
 - (a) that the action stated is action which the Board has power to take, and
 - (b) so far as reasonably possible, that the action stated is compatible with the functions conferred, and obligations imposed, on the Board by or under this Act.
- (8) A report under this section must contain such an account of the Commission's reasons for its conclusions as is expedient, in the opinion of the Commission, for facilitating proper understanding of them.
- (9) Sections 109 to 115 of the Enterprise Act 2002 (c. 40) (investigation powers) apply in relation to an investigation under this section as they apply in relation to an investigation made on a reference made to the Commission under Part 3 of that Act (mergers), but as if—
 - (a) in section 110(4) of that Act, the reference to the publication of the report of the Commission on the reference concerned were a reference to the Commission making a report under subsection (2) or a statement under subsection (3), and
 - (b) in section 111(5)(b)(ii) of that Act the day referred to were the day on which the Commission makes that report or statement.
- (10) If the Commission makes a report or a statement under this section it must—
 - (a) give a copy to the Lord Chancellor, the Board, the Consumer Panel and the approved regulator to which the OFT's report relates, and
 - (b) publish the report or statement.

61 Lord Chancellor's power to give directions

- (1) The Lord Chancellor may direct the Board to take such action as the Lord Chancellor considers appropriate in connection with any matter raised in a report made by the OFT under section 57.
- (2) Before giving a direction under subsection (1), the Lord Chancellor must consider any report from the Competition Commission under section 60 on that matter.
- (3) When exercising the power to give a direction under subsection (1), the Lord Chancellor must ensure—

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- (a) that the action stated is action which the Board has power to take, and
 - (b) so far as reasonably possible, that the action stated in any direction is compatible with the functions conferred, and obligations imposed, on the Board by or under this Act.
- (4) The Lord Chancellor must publish a direction given under this section.