



Civil Aviation Act 2012

2012 CHAPTER 19

PART 1

AIRPORTS

CHAPTER 2

COMPETITION

60 Functions under Part 4 of Enterprise Act 2002

- (1) The functions of the Office of Fair Trading (“the OFT”) specified in subsection (2) are to be concurrent functions of the CAA and the OFT.
- (2) Those functions are the OFT’s functions under Part 4 of the Enterprise Act 2002 (market investigations) so far as they relate to the provision of airport operation services, other than functions under sections 166 and 171.
- (3) References to the OFT in the following are to be read as including a reference to the CAA—
 - (a) Part 4 of the Enterprise Act 2002, other than sections 166 and 171, and
 - (b) provisions of that Act applied by that Part.
- (4) But subsection (3) applies—
 - (a) only so far as it is consequential on subsections (1) and (2), and
 - (b) only if the context does not otherwise require.

61 Enterprise Act 2002: supplementary

- (1) Before the Office of Fair Trading (“the OFT”) or the CAA first carries out functions specified in section 60(2) (“relevant 2002 Act functions”) in relation to a matter it must consult the other.

Status: This is the original version (as it was originally enacted).

- (2) If the OFT or the CAA has carried out relevant 2002 Act functions in relation to a matter, the other must not carry out those functions in relation to that matter.
- (3) Subsections (4) to (6) apply if, in carrying out relevant 2002 Act functions, the CAA makes a reference to the Competition Commission.
- (4) The CAA must give the Competition Commission any information in the CAA's possession or control—
 - (a) which is requested by the Commission for the purpose of the reference, or
 - (b) which the CAA considers it appropriate to give to the Commission for that purpose.
- (5) The CAA must give the Competition Commission any other assistance requested by the Commission for the purpose of the reference which it is within the CAA's power to give.
- (6) In carrying out its investigation on the reference the Competition Commission must take account of any information given to it under subsection (4).
- (7) If a question arises as to whether a relevant 2002 Act function must or may be carried out by the CAA in relation to a particular case, the question must be referred to and determined by the Secretary of State.
- (8) No objection may be taken to anything done by or in relation to the CAA under Part 4 of the Enterprise Act 2002, other than section 166 or 171, on the ground that it should have been done by or in relation to the OFT.
- (9) The CAA may, when carrying out relevant 2002 Act functions, have regard to any matter in respect of which a duty is imposed by section 1(1) to (3) of this Act if it is a matter to which the OFT may have regard when carrying out relevant 2002 Act functions.
- (10) Section 4 of the Civil Aviation Act 1982 (CAA's general objectives) does not apply in relation to the carrying out by the CAA of relevant 2002 Act functions.
- (11) In section 136(7) of the Enterprise Act 2002 (investigations and reports on market investigation references: relevant sectoral enactments), at the end of paragraph (g) insert "or section 60 of the Civil Aviation Act 2012;".

62 Functions under Competition Act 1998

- (1) The functions of the Office of Fair Trading ("the OFT") specified in subsection (2) are to be concurrent functions of the CAA and the OFT.
- (2) Those functions are the OFT's functions under Part 1 of the Competition Act 1998 (competition) so far as they relate to anything which—
 - (a) is mentioned in subsection (3)(a) to (d), and
 - (b) relates to the provision of airport operation services,
 other than functions under sections 31D(1) to (6), 38(1) to (6) and 51.
- (3) Those things are—
 - (a) agreements, decisions or concerted practices of the kind mentioned in section 2(1) of that Act,
 - (b) conduct of the kind mentioned in section 18(1) of that Act,

- (c) agreements, decisions or concerted practices of the kind mentioned in Article 101 of the Treaty on the Functioning of the European Union, or
 - (d) conduct which amounts to abuse of the kind mentioned in Article 102 of that Treaty.
- (4) References to the OFT in Part 1 of the Competition Act 1998, other than in sections 31D(1) to (6), 38(1) to (6) and 51, are to be read as including a reference to the CAA.
- (5) But subsection (4) applies—
- (a) only so far as it is consequential on subsections (1) and (2), and
 - (b) only if the context does not otherwise require.

63 Competition Act 1998: supplementary

- (1) No objection may be taken to anything done by or in relation to the CAA under a provision of Part 1 of the Competition Act 1998, other than sections 31D(1) to (6), 38(1) to (6) and 51, on the ground that it should have been done by or in relation to the Office of Fair Trading.
- (2) The CAA may, when carrying out relevant 1998 Act functions, have regard to any matter in respect of which a duty is imposed by section 1(1) to (3) of this Act if it is a matter to which the Office of Fair Trading may have regard when carrying out relevant 1998 Act functions.
- (3) Section 4 of the Civil Aviation Act 1982 (CAA’s general objectives) does not apply in relation to the carrying out by the CAA of relevant 1998 Act functions.
- (4) In this section “relevant 1998 Act functions” means functions specified in section 62(2).

64 Review etc of airport operation services

- (1) The CAA must, so far as it appears to it practicable to do so—
- (a) keep under review the provision of airport operation services in the United Kingdom and elsewhere, and
 - (b) collect information about the provision of such services in the United Kingdom and elsewhere,
- with a view to facilitating the carrying out of its functions under this Chapter.
- (2) The CAA must provide information, advice and assistance to the Secretary of State and the Office of Fair Trading (“the OFT”) regarding any matter in respect of which the CAA has a function under this Chapter if—
- (a) it thinks it expedient to do so, or
 - (b) it is asked by the Secretary of State or the OFT to do so.
- (3) Subsection (2)(b) applies only so far as it appears to the CAA practicable for the CAA to provide the information, advice or assistance requested.
- (4) The CAA may—
- (a) prepare reports relating to competition in markets for airport operation services, and
 - (b) arrange for such reports to be published.

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

- (5) The CAA may exclude from publication under subsection (4)(b) any information which it is satisfied is—
- (a) commercial information, the disclosure of which would, or might in the CAA’s opinion, significantly harm the legitimate business interests of an undertaking to which it relates, or
 - (b) information relating to the private affairs of an individual, the disclosure of which would, or might in the CAA’s opinion, significantly harm the individual’s interests.
- (6) For the purposes of carrying out its functions under this section the CAA may carry out, commission or provide financial or other support for research.

65 Power to modify CAA’s competition powers

- (1) The Secretary of State may by regulations modify sections 60(2) and 62(2) by providing that the functions of the Office of Fair Trading mentioned in those provisions—
- (a) do not include functions relating to the provision of particular airport operation services, or
 - (b) include functions relating to the provision of particular services at an airport that are not airport operation services.
- (2) The regulations may make consequential, incidental or supplementary provision amending this Chapter.