
Changes to legislation: There are currently no known outstanding effects for the Enterprise and Regulatory Reform Act 2013, Paragraph 18. (See end of Document for details)

SCHEDULES

SCHEDULE 10

MARKETS: PUBLIC INTEREST INTERVENTIONS

18 After section 148 insert—

“148A Full PI references: reversion of the matter to CMA

- (1) This section applies if—
 - (a) the Secretary of State decides under section 146A(2) to make no finding at all in the matter; or
 - (b) the Secretary of State fails to make and publish the decision under subsection (2) of section 146A within the period required by subsection (6) of that section.
- (2) The CMA shall proceed under section 138 as if—
 - (a) a reference under section 131 had been made (in accordance with the requirements imposed by this Part) instead of a full PI reference; and
 - (b) its report had been prepared and published under section 136 within the period permitted by section 137.
- (3) The CMA shall publish the report which has been prepared by it under section 142 (if still unpublished) as soon as it becomes able to proceed by virtue of subsection (2).
- (4) In relation to proceedings by virtue of subsection (2), the reference in section 138(3) to decisions of the CMA included in its report by virtue of section 134(4) is to be construed as a reference to decisions which were included in the report of the CMA by virtue of section 141A(6).
- (5) Where the CMA becomes under a duty to proceed as mentioned in subsection (2), references in this Part to a reference under section 131, so far as necessary, are to be construed accordingly.
- (6) Where the CMA, in proceeding by virtue of subsection (2), intends to proceed in a way which is not consistent with its decisions as included in its report by virtue of section 141A(6), it shall not so proceed without the consent of the Secretary of State.
- (7) The Secretary of State shall not withhold consent under subsection (6) unless the Secretary of State believes that the proposed alternative way of proceeding will operate against the public interest.
- (8) For the purposes of subsection (7) a proposed alternative way of proceeding will operate against the public interest only if any admissible public interest consideration or considerations outweigh the considerations which have led the CMA to propose proceeding in that way.

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- (9) In deciding whether to withhold consent under subsection (6), the Secretary of State shall accept the CMA's view of what, if the only relevant consideration were how to remedy, mitigate or prevent the adverse effect on competition concerned or any detrimental effect on customers so far as resulting from the adverse effect on competition, would be the most appropriate way to proceed.
- (10) In this section “admissible public interest consideration” has the same meaning as in section 146A.”

Commencement Information

II Sch. 10 para. 18 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(d) (with Sch.)

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