

SCHEDULES

SCHEDULE 9

Section 34(4)

MARKETS: CROSS-MARKET REFERENCES

- 1 Part 4 of the 2002 Act (market investigations) is amended as follows.
- 2 (1) Section 133 (contents of references) is amended as follows.
 - (2) In subsection (1)—
 - (a) omit the “and” following paragraph (b),
 - (b) in paragraph (c), at the beginning insert “in the case of an ordinary reference,”, and
 - (c) after paragraph (c) insert “; and
 - (d) in the case of a cross-market reference, the feature or features concerned and the descriptions of goods or services to which it or they relate.”
 - (3) In subsection (2)—
 - (a) in paragraph (a), after “a supply” insert “or, in the case of a cross-market reference, supplies”, and
 - (b) in paragraph (b), after “an acquisition” insert “or, in the case of a cross-market reference, acquisitions”.
- 3 (1) Section 134 (questions to be decided on market investigation references) is amended as follows.
 - (2) In subsection (1), for “a market investigation” substitute “an ordinary”.
 - (3) After subsection (1) insert—

“(1A) The CMA shall, on a cross-market reference, decide in relation to each feature and each combination of the features specified in the reference, whether the feature or combination of features, as it relates to goods or services of one or more than one of the descriptions so specified, prevents, restricts or distorts competition in connection with the supply or acquisition of any goods or services in the United Kingdom or a part of the United Kingdom.”
 - (4) In subsection (2), for “a market investigation” substitute “an ordinary”.
 - (5) After subsection (2) insert—

“(2A) For the purposes of this Part, in relation to a cross-market reference, there is an adverse effect on competition if a feature or a combination of the features specified in the reference, as that feature or combination of features relates to goods or services of one or more than one of the descriptions so specified, prevents, restricts or distorts competition in connection with the supply or acquisition of any goods or services in the United Kingdom or a part of the United Kingdom.”

Status: This is the original version (as it was originally enacted).

- (6) In subsection (5)(a), after “the market” insert “or markets”.
- (7) In subsection (7), after “the market” insert “or markets”.
- (8) In subsection (8)(a)(i), after “the market” insert “or markets”.
- 4 In section 138 (duty to remedy adverse effects), in subsection (5), after “the market” insert “or markets”.
- 5 (1) Section 141 (questions to be decided where intervention notice under section 139(1) is in force) is amended as follows.
 - (2) In subsection (2), after “shall” insert “, on an ordinary reference,”.
 - (3) After subsection (2) insert—
 - “(2A) The CMA shall, on a cross-market reference, decide in relation to each feature and each combination of the features specified in the reference, whether the feature or combination of features, as it relates to goods or services of one or more than one of the descriptions so specified, prevents, restricts or distorts competition in connection with the supply or acquisition of any goods or services in the United Kingdom or a part of the United Kingdom.”
 - (4) In subsection (6), after “the market” insert “or markets”.
- 6 In section 147 (remedial action by the Secretary of State), in subsection (5), after “the market” insert “or markets”.
- 7 In section 154 (undertakings in lieu of references), in subsection (4), after “the market” insert “or markets”.
- 8 (1) Section 156 (effect of undertakings under section 154) is amended as follows.
 - (2) Before subsection (1) insert—
 - “(A1) No market investigation reference shall be made by the CMA or the appropriate Minister in relation to any feature, or combination of features, of a market in the United Kingdom for goods or services if—
 - (a) the CMA has accepted an undertaking or group of undertakings under section 154 within the previous 12 months;
 - (b) the feature or combination of features to which the undertaking or group of undertakings relates is the same as the feature or combination of features to which the reference would relate; and
 - (c) the goods or services to which the undertaking or group of undertakings relates are of the same description as the goods or services to which the reference would relate.”
 - (3) In subsection (1)—
 - (a) in the words before paragraph (a), for “market investigation” substitute “ordinary”,
 - (b) in paragraph (a), after “has” insert “, instead of making an ordinary reference,”, and
 - (c) in paragraph (b), for “the feature, or combination of features, relates” substitute “the reference would relate”.
 - (4) In subsection (2), for “Subsection (1) does” substitute “Subsections (A1) and (1) do”.

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

- 9 (1) Section 184 (index of defined expressions for Part 4) is amended as follows.
- (2) In the second column of the entry for “Adverse effect on competition”, after “134(2)” insert “and (2A)”.
- (3) After the entry in the table for “Consumer” insert—
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| “Cross-market reference | Section 131(6)”. |
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- (4) Before the entry in the table for “Public interest consideration” insert—
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| “Ordinary reference | Section 131(6)”. |
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