



Enterprise and Regulatory Reform Act 2013

2013 CHAPTER 24

PART 4

COMPETITION REFORM

CHAPTER 3

ANTI-TRUST

Investigation powers

42 Part 1 of the 1998 Act: procedural matters

- (1) Part 1 of the 1998 Act (competition) is amended as follows.
- (2) After section 25 (power to investigate) insert—

“25A Power of CMA to publish notice of investigation

- (1) Where the CMA decides to conduct an investigation it may publish a notice which may, in particular—
 - (a) state its decision to do so;
 - (b) indicate which of subsections (2) to (7) of section 25 the investigation falls under;
 - (c) summarise the matter being investigated;
 - (d) identify any undertaking whose activities are being investigated as part of the investigation;
 - (e) identify the market which is or was affected by the matter being investigated.

Changes to legislation: There are currently no known outstanding effects for the Enterprise and Regulatory Reform Act 2013, Section 42. (See end of Document for details)

- (2) Section 57 does not apply to a notice under subsection (1) to the extent that it includes information other than information mentioned in that subsection.
- (3) Subsection (4) applies if—
 - (a) the CMA has published a notice under subsection (1) which identifies an undertaking whose activities are being investigated, and
 - (b) the CMA subsequently decides (without making a decision within the meaning given by section 31(2)) to terminate the investigation of the activities of the undertaking so identified.
- (4) The CMA must publish a notice stating that the activities of the undertaking in question are no longer being investigated.”
- (3) Schedule 9 (examples of provision that may be made in rules) is amended as follows.
- (4) After paragraph 1 insert—

1A “Delegation of functions

- (1) Rules may provide for the exercise of a function of the CMA under this Part on its behalf—
 - (a) by one or more members of the CMA Board (see Part 2 of Schedule 4 to the Enterprise and Regulatory Reform Act 2013);
 - (b) by one or more members of the CMA panel (see Part 3 of that Schedule to that Act);
 - (c) by one or more members of staff of the CMA;
 - (d) jointly by one or more of the persons mentioned in paragraph (a), (b) or (c).
- (2) Sub-paragraph (1) does not apply in relation to any function prescribed in regulations made under section 7(1) of the Civil Aviation Act 1982 (power for Secretary of State to prescribe certain functions of the Civil Aviation Authority which must not be performed on its behalf by any other person).”
- (5) After paragraph 13 insert—

13A “Oral hearings: procedure

- (1) Rules may make provision as to the procedure to be followed by the CMA in holding oral hearings as part of an investigation.
- (2) Rules may, in particular, make provision as to the appointment of a person mentioned in sub-paragraph (3) who has not been involved in the investigation in question to—
 - (a) chair an oral hearing, and
 - (b) prepare a report following the hearing and give it to the person who is to exercise on behalf of the CMA its function of making a decision (within the meaning given by section 31(2)) as a result of the investigation.
- (3) The persons are—
 - (a) a member of the CMA Board;
 - (b) a member of the CMA panel;

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- (c) a member of staff of the CMA.
- (4) The report must—
 - (a) contain an assessment of the fairness of the procedure followed in holding the oral hearing, and
 - (b) identify any other concerns about the fairness of the procedure followed in the investigation which have been brought to the attention of the person preparing the report.”
- (6) After paragraph 13A insert—

13B “Procedural complaints

- (1) Rules may make provision as to arrangements to be made by the CMA for dealing with complaints about the conduct by the CMA of an investigation.
- (2) Rules may, in particular, make provision as to—
 - (a) the appointment of a person mentioned in sub-paragraph (3) who has not been involved in the investigation in question to consider any such complaint;
 - (b) the time-table for the consideration of any such complaint.
- (3) The persons are—
 - (a) a member of the CMA Board;
 - (b) a member of the CMA panel;
 - (c) a member of staff of the CMA.”
- (7) After paragraph 13B insert—

13C “Settling cases

Rules may make provision as to the procedure to be followed in a case where, during an investigation, one or more persons notify the CMA that they accept that there has been an infringement of a kind to which the investigation relates.”

Commencement Information

- I1** S. 42 partly in force; s. 42 in force for specified purposes at Royal Assent, see s. 103(1)(i)
- I2** S. 42 in force at 1.4.2014 in so far as not already in force by S.I. 2014/416, art. 2(1)(b) (with Sch.)

Changes to legislation:

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