

SCHEDULE 1

Amendments to the Competition Act 1998

10. For Section 25 (OFT's power to investigate) there is substituted—

“ 25 Power of OFT to investigate

- (1) In any of the following cases, the OFT may conduct an investigation.
- (2) The first case is where there are reasonable grounds for suspecting that there is an agreement which—
 - (a) may affect trade within the United Kingdom; and
 - (b) has as its object or effect the prevention, restriction or distortion of competition within the United Kingdom.
- (3) The second case is where there are reasonable grounds for suspecting that there is an agreement which—
 - (a) may affect trade between Member States; and
 - (b) has as its object or effect the prevention, restriction or distortion of competition within the Community.
- (4) The third case is where there are reasonable grounds for suspecting that the Chapter II prohibition has been infringed.
- (5) The fourth case is where there are reasonable grounds for suspecting that the prohibition in Article 82 has been infringed.
- (6) The fifth case is where there are reasonable grounds for suspecting that, at some time in the past, there was an agreement which at that time—
 - (a) may have affected trade within the United Kingdom; and
 - (b) had as its object or effect the prevention, restriction or distortion of competition within the United Kingdom.
- (7) The sixth case is where there are reasonable grounds for suspecting that, at some time in the past, there was an agreement which at that time—
 - (a) may have affected trade between Member States; and
 - (b) had as its object or effect the prevention, restriction or distortion of competition within the Community.
- (8) Subsection (2) does not permit an investigation to be conducted in relation to an agreement if the OFT—
 - (a) considers that the agreement is exempt from the Chapter I prohibition as a result of a block exemption or a parallel exemption; and
 - (b) does not have reasonable grounds for suspecting that the circumstances may be such that it could exercise its power to cancel the exemption.
- (9) Subsection (3) does not permit an investigation to be conducted if the OFT—
 - (a) considers that the agreement is an agreement to which the prohibition in Article 81(1) is inapplicable by virtue of a regulation of the Commission (“the relevant regulation”); and

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(b) does not have reasonable grounds for suspecting that the conditions set out in Article 29(2) of the EC Competition Regulation for the withdrawal of the benefit of the relevant regulation may be satisfied in respect of that agreement.

(10) Subsection (6) does not permit an investigation to be conducted in relation to any agreement if the OFT considers that, at the time in question, the agreement was exempt from the Chapter I prohibition as a result of a block exemption or a parallel exemption.

(11) Subsection (7) does not permit an investigation to be conducted in relation to any agreement if the OFT considers that, at the time in question, the agreement was an agreement to which the prohibition in Article 81(1) was inapplicable by virtue of a regulation of the Commission.

(12) It is immaterial for the purposes of subsection (6) or (7) whether the agreement in question remains in existence.”

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