



Fair Trading Act 1973

1973 CHAPTER 41

PART IV

FUNCTIONS OF DIRECTOR AND COMMISSION IN RELATION TO MONOPOLY SITUATIONS AND UNCOMPETITIVE PRACTICES

Powers for Director to require information

44 General power for Director to require information

- (1) Where it appears to the Director that there are grounds for believing—
 - (a) that a monopoly situation may exist in relation to the supply of goods or services of any description, or in relation to exports of goods of any description from the United Kingdom, and
 - (b) that in accordance with the following provisions of this Part of this Act he would not be precluded from making a monopoly reference to the Commission with respect to the existence or possible existence of that situation,the Director, for the purpose of assisting him in determining whether to make a monopoly reference with respect to the existence or possible existence of that situation, may exercise the powers conferred by the next following subsection.
- (2) In the circumstances and for the purpose mentioned in the preceding subsection the Director may require any person who supplies or produces goods of the description in question in the United Kingdom, or to whom any such goods are supplied in the United Kingdom, or (as the case may be) any person who supplies services of that description in the United Kingdom, or for whom any such services are so supplied, to furnish to the Director such information as the Director may consider necessary with regard to—
 - (a) the value, cost, price or quantity of goods of that description supplied or produced by that person, or of goods of that description supplied to him, or (as the case may be) the value, cost, price or extent of the services of that description supplied by that person or of the services of that description supplied for him, or

- (b) the capacity of any undertaking carried on by that person to supply, produce or make use of goods of that description, or (as the case may be) to supply or make use of services of that description, or
- (c) the number of persons employed by that person wholly or partly on work related to the supply, production or use of goods of that description, or (as the case may be) the supply or use of services of that description.

45 Special power to require information with respect to complex monopoly situations

- (1) Where it appears to the Director that there are grounds for believing—
- (a) that a complex monopoly situation may exist in relation to the supply of goods or services of any description, or in relation to exports of goods of any description from the United Kingdom, and
 - (b) that in accordance with the following provisions of this Part of this Act he would not be precluded from making a monopoly reference to the Commission with respect to the existence or possible existence of that situation,

the Director may formulate proposals for requiring specified persons to furnish information to him in accordance with the proposals for the purpose of assisting him in determining whether to make a monopoly reference with respect to the existence or possible existence of that situation.

- (2) The persons specified in any such proposals shall be persons appearing to the Director to be, or to be included among, those who, in relation to the production or supply of goods or to the supply of services of the description in question, or in relation to exports from the United Kingdom of goods of the description in question,—
- (a) may be parties to any such agreement as is mentioned in paragraph (d) of section 6(1) or paragraph (d) of section 7(1) of this Act (or mentioned in either of those paragraphs as modified by section 9(2) of this Act) or may be parties to any such agreement as is mentioned in subsection (2) or subsection (3) of section 8 of this Act, or
 - (b) may be conducting their respective affairs as mentioned in section 6(2) or in section 7(2) of this Act.
- (3) Any such proposals shall also specify the description of goods or services in question, and—
- (a) in a case falling within paragraph (a) of subsection (2) of this section, shall indicate the particular respects in which it appears to the Director that any agreement in question may be such an agreement as is referred to in that paragraph, or
 - (b) in a case falling within paragraph (b) of that subsection, shall indicate the particular respects in which it appears to the Director that the persons specified in the proposals may be conducting their respective affairs in a manner referred to in that paragraph,

and shall state what information the Director proposes that the persons specified in the proposals should be required to furnish for the purpose of indicating whether, in those respects, they are parties to such an agreement, or are so conducting their respective affairs, and, if so, of indicating in what circumstances they are parties to such an agreement or are so conducting their affairs.

- (4) Where the Director has formulated proposals under this section, he may submit those proposals to the Secretary of State for approval; and if the Secretary of State approves the proposals, with or without modifications, the Director may require any person specified in the proposals to furnish to the Director such information as the Director may specify in accordance with the proposals, or, if the proposals have been approved with modifications, in accordance with the proposals as so modified.

46 Supplementary provisions as to requirements to furnish information

- (1) Any power conferred on the Director by the preceding provisions of this Part of this Act to require a person to furnish information shall be exercisable by notice in writing served on that person.
- (2) Any person who refuses or wilfully neglects to furnish to the Director information required by such a notice shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £400.
- (3) Any person who, in furnishing information required by such a notice, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular, shall be guilty of an offence and shall be liable—
- (a) on summary conviction, to a fine not exceeding £400 ;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.