Company Directors Disqualification Act 1986

1986 CHAPTER 46

[F1 Disqualification for competition infringements]

9A Competition disqualification order

(1) The court must make a disqualification order against a person if the following two conditions are satisfied in relation to him.

(2) The first condition is that an undertaking which is a company of which he is a director commits a breach of competition law.

(3) The second condition is that the court considers that his conduct as a director makes him unfit to be concerned in the management of a company.

(4) An undertaking commits a breach of competition law if it engages in conduct which infringes any of the following—

(a) the Chapter 1 prohibition (within the meaning of the Competition Act 1998) (prohibition on agreements, etc. preventing, restricting or distorting competition);

(b) the Chapter 2 prohibition (within the meaning of that Act) (prohibition on abuse of a dominant position);

(c) Article 81 of the Treaty establishing the European Community (prohibition on agreements, etc. preventing, restricting or distorting competition);

(d) Article 82 of that Treaty (prohibition on abuse of a dominant position).

(5) For the purpose of deciding under subsection (3) whether a person is unfit to be concerned in the management of a company the court—

(a) must have regard to whether subsection (6) applies to him;

(b) may have regard to his conduct as a director of a company in connection with any other breach of competition law;

(c) must not have regard to the matters mentioned in Schedule 1.

(6) This subsection applies to a person if as a director of the company—

Status: *Point in time view as at 20/06/2003. This version of this provision has been superseded.*
Changes to legislation: *There are currently no known outstanding effects for the Company Directors Disqualification Act 1986, Section 9A. (See end of Document for details)*

(a) his conduct contributed to the breach of competition law mentioned in subsection (2);

(b) his conduct did not contribute to the breach but he had reasonable grounds to suspect that the conduct of the undertaking constituted the breach and he took no steps to prevent it;

(c) he did not know but ought to have known that the conduct of the undertaking constituted the breach.

(7) For the purposes of subsection (6)(a) it is immaterial whether the person knew that the conduct of the undertaking constituted the breach.

(8) For the purposes of subsection (4)(a) or (c) references to the conduct of an undertaking are references to its conduct taken with the conduct of one or more other undertakings.

(9) The maximum period of disqualification under this section is 15 years.

(10) An application under this section for a disqualification order may be made by the OFT or by a specified regulator.

(11) Section 60 of the Competition Act 1998 (c. 41) (consistent treatment of questions arising under United Kingdom and Community law) applies in relation to any question arising by virtue of subsection (4)(a) or (b) above as it applies in relation to any question arising under Part 1 of that Act.

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