

SCHEDULES

SCHEDULE 4

REFERENCES WITH RESPECT TO NETWORKING ARRANGEMENTS

References to MMC

- 4 (1) Where the Director's report on any arrangements contains any such conclusions as are mentioned in paragraph 1(4), the Commission or the holder of any regional Channel 3 licence may, within the relevant period, make to the MMC a reference which is so framed as to require the MMC to investigate and report on either or both of the following questions, namely—
- (a) whether the arrangements, or any particular provisions of the arrangements, satisfy the competition test;
 - (b) whether the modifications specified in the report, or any particular modification so specified, ought to be incorporated in the arrangements for the purpose of enabling them to satisfy that test.
- (2) In sub-paragraph (1) "the relevant period" means the period of four weeks beginning with the date of publication of the Director's report.
- (3) Where a reference is made to the MMC under this paragraph, the MMC shall (subject to sub-paragraphs (4) and (5))—
- (a) publish a notice of the reference in such manner as they consider most suitable for bringing it to the attention of persons who, in the opinion of the MMC, would be affected by or be likely to have an interest in it; and
 - (b) make a report on the reference within the period of three months beginning with the date of publication of the notice referred to in paragraph (a).
- (4) The period referred to in sub-paragraph (3)(b) may be extended by the MMC by a further period of three months if they consider it necessary to do so.
- (5) The MMC shall not be required to proceed with any reference under this paragraph which appears to them to be frivolous or vexatious; but, where they decide not to proceed with any such reference, they shall publish a notice of their decision in such manner as they consider appropriate.
- (6) If—
- (a) while the MMC are proceeding with any reference under this paragraph, the Director is informed in accordance with section 39(12)(b) of this Act of any modification to the arrangements in respect of which the reference has been made, and
 - (b) it appears to him that the modification is material to any issue falling to be considered by the MMC on the reference,
- he shall refer the modification to the MMC, who may, if they think fit, treat the reference as varied so far as is necessary to take account of the modification; and, if

Status: This is the original version (as it was originally enacted).

they do so, references to those arrangements in paragraphs 5 and 6 shall accordingly be construed as references to those arrangements as modified.

(7) The following provisions, namely—

- (a) sections 81 (procedure in carrying out investigations) and 85 (attendance of witnesses and production of documents) of the Fair Trading Act 1973,
- (b) Part II of Schedule 3 to that Act (performance of functions of MMC), and
- (c) section 24 of the Competition Act 1980 (modification of provisions about performance of such functions),

shall apply in relation to references under this paragraph as if—

- (i) the functions of the MMC in relation to such references were functions under the Fair Trading Act 1973,
 - (ii) the expression “merger reference” included a reference under this paragraph,
 - (iii) in the said section 81, subsections (3) and (4) were omitted, and
 - (iv) in the said Schedule 3, paragraphs 11 and 16(2) were omitted.