



Enterprise Act 2002

2002 CHAPTER 40

PART 4

[^{F1}MARKET STUDIES AND] MARKET INVESTIGATIONS

CHAPTER 2

PUBLIC INTEREST CASES

Intervention notices under section 139(2)

149 Intervention notices under section 139(2)

- (1) An intervention notice under section 139(2) shall state—
 - (a) the proposed undertaking which may be accepted by the [^{F1}CMA];
 - (b) the notice under section 155(1) or (4);
 - (c) the public interest consideration or considerations which are, or may be, relevant to the [^{F2}proposal to accept the undertaking]; and
 - (d) where any public interest consideration concerned is not finalised, the proposed timetable for finalising it.
- (2) Where the Secretary of State believes that it is or may be the case that two or more public interest considerations are relevant to the [^{F3}proposal to accept the undertaking], he may decide not to mention in the intervention notice such of those considerations as he considers appropriate.
- (3) The Secretary of State may at any time revoke an intervention notice which has been given under section 139(2) and which is in force.
- (4) An intervention notice under section 139(2) shall come into force when it is given and shall cease to be in force on the occurrence of any of the events mentioned in subsection (5).

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(5) The events are—

- (a) the acceptance by the [^{F4}CMA] with the consent of the Secretary of State of an undertaking which is the same as the proposed undertaking mentioned in the intervention notice by virtue of subsection (1)(a) or which does not differ from it in any material respect;
- (b) the decision of the [^{F4}CMA] to proceed neither with the proposed undertaking mentioned in the intervention notice by virtue of subsection (1)(a) nor a proposed undertaking which does not differ from it in any material respect; or
- (c) the decision of the Secretary of State to revoke the intervention notice concerned.

Textual Amendments

- F1** Word in s. 149(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 182](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F2** Words in s. 149(1)(c) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 10 para. 19\(2\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F3** Words in s. 149(2) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 10 para. 19\(3\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F4** Word in s. 149(5) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 182](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

150 Power of veto of Secretary of State

[^{F5}(A1) Where an intervention notice under subsection 139(1) is in force, the CMA shall not, without the consent of the Secretary of State, accept any proposed undertaking under section 154 in relation to the matter concerned.]

- (1) Where an intervention notice under section 139(2) is in force, the [^{F6}CMA] shall not, without the consent of the Secretary of State, accept the proposed undertaking concerned or a proposed undertaking which does not differ from it in any material respect.
- (2) The Secretary of State shall withhold his consent if he believes that it is or may be the case that the proposed undertaking will, if accepted, operate against the public interest.
- (3) For the purposes of subsection (2) a proposed undertaking will, if accepted, operate against the public interest only if any public interest consideration which is mentioned in the intervention notice concerned and has been finalised, or any public interest considerations which are so mentioned and have been finalised, outweigh the considerations which have led the [^{F7}CMA] to propose accepting the undertaking.
- (4) In making his decision under subsection (2) the Secretary of State shall accept the [^{F8}CMA's] view of what undertakings, if the only relevant consideration were how to remedy, mitigate or prevent the adverse effect on competition concerned or any detrimental effect on customers so far as resulting from the adverse effect on competition, would be most appropriate.
- (5) Where a public interest consideration which is mentioned in the intervention notice concerned is not finalised on the giving of the notice, the Secretary of State shall not make his decision as to whether to give his consent under this section before—

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- (a) the end of the period of 24 weeks beginning with the giving of the intervention notice; or
 - (b) if earlier, the date on which the public interest consideration concerned has been finalised.
- (6) Subject to subsections (2) to (5), the Secretary of State shall not withhold his consent under this section.

Textual Amendments

- F5** S. 150(A1) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 10 para. 20**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F6** Word in s. 150(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 183(2)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F7** Word in s. 150(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 183(2)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F8** Word in s. 150(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 183(3)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

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