



Enterprise Act 2002 (repealed)

2002 CHAPTER 40

PART 3

MERGERS

CHAPTER 5

SUPPLEMENTARY

Information and publicity requirements

105 General information duties of OFT and Commission

(1) Where the OFT decides to investigate a matter so as to enable it to decide whether to make a reference under section 22 or 33, or so as to make a report under section 44 or 61, it shall, so far as practicable, take such action as it considers appropriate to bring information about the investigation to the attention of those whom it considers might be affected by the creation of the relevant merger situation concerned or (as the case may be) the special merger situation concerned.

[^{F1}(1A) Where OFCOM decide to investigate a matter so as to make a report under section 44A or 61A, they shall, so far as practicable, take such action as they consider appropriate to bring information about the investigation to the attention of those who they consider might be affected by the creation of the relevant merger situation concerned or (as the case may be) the special merger situation concerned.]

(2) [^{F2}Subsections (1) and (1A) do] not apply in relation to arrangements which might result in the creation of a relevant merger situation if a merger notice has been given in relation to those arrangements under section 96.

(3) The OFT shall give the Commission [^{F3}or OFCOM]—

Status: Point in time view as at 29/12/2003. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002 (repealed), Section 105. (See end of Document for details)

- (a) such information in its possession as the Commission [^{F4}or (as the case may be) OFCOM] may reasonably require to enable the Commission [^{F4}or (as the case may be) OFCOM] to carry out its functions under this Part; and
- (b) any other assistance which the Commission [^{F4}or (as the case may be) OFCOM] may reasonably require for the purpose of assisting it in carrying out its functions under this Part and which it is within the power of the OFT to give.

[^{F5}(3A) OFCOM shall give the Commission or the OFT—

- (a) such information in their possession as the Commission or (as the case may be) the OFT may reasonably require to enable the Commission or (as the case may be) the OFT to carry out its functions under this Part; and
- (b) any other assistance which the Commission or (as the case may be) the OFT may reasonably require for the purpose of assisting it in carrying out its functions under this Part and which it is within the power of OFCOM to give.]

(4) The OFT shall give the Commission [^{F6}or OFCOM] any information in its possession which has not been requested by the Commission [^{F7}or (as the case may be) OFCOM] but which, in the opinion of the OFT, would be appropriate to give to the Commission [^{F7}or (as the case may be) OFCOM] for the purpose of assisting it in carrying out its functions under this Part.

[^{F8}(4A) OFCOM shall give the Commission or the OFT any information in their possession which has not been requested by the Commission or (as the case may be) the OFT but which, in the opinion of OFCOM, would be appropriate to give to the Commission or (as the case may be) the OFT for the purpose of assisting it in carrying out its functions under this Part.]

(5) The OFT [^{F9}, OFCOM] and the Commission shall give the Secretary of State—

- (a) such information in their possession as the Secretary of State may by direction reasonably require to enable him to carry out his functions under this Part; and
- (b) any other assistance which the Secretary of State may by direction reasonably require for the purpose of assisting him in carrying out his functions under this Part and which it is within the power of the OFT [^{F9}, OFCOM] or (as the case may be) the Commission to give.

(6) The OFT [^{F10}and OFCOM] shall give the Secretary of State any information in [^{F11}their] possession which has not been requested by the Secretary of State but which, in the opinion of the OFT [^{F12}or (as the case may be) OFCOM] , would be appropriate to give to the Secretary of State for the purpose of assisting him in carrying out his functions under this Part.

(7) The Commission shall have regard to any information given to it under subsection (3) [^{F13}, (3A), (4) or (4A)] ; and the Secretary of State shall have regard to any information given to him under subsection (5) or (6).

[^{F14}(7A) OFCOM shall have regard to any information given to them under subsection (3) or (4); and the OFT shall have regard to any information given to it under subsection (3A) or (4A).]

(8) Any direction given under subsection (5)—

- (a) shall be in writing; and
- (b) may be varied or revoked by a subsequent direction.

Status: Point in time view as at 29/12/2003. This version of this provision has been superseded.
Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002 (repealed), Section 105. (See end of Document for details)

Textual Amendments

- F1** S. 105(1A) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), **ss. 382(2)**, 411(2)(3) (with transitional provisions in [Sch. 18](#)); [S.I. 2003/3142](#), **art. 3(1)**, Sch. 1 (subject to arts. 3(3), 11)
- F2** Words in s. 105(2) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), **ss. 382(3)**, 411(2)(3) (with transitional provisions in [Sch. 18](#)); [S.I. 2003/3142](#), **art. 3(1)**, Sch. 1 (subject to arts. 3(3), 11)
- F3** Words in s. 105(3) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), **ss. 382(4)(a)**, 411(2)(3) (with transitional provisions in [Sch. 18](#)); [S.I. 2003/3142](#), **art. 3(1)**, Sch. 1 (subject to arts. 3(3), 11)
- F4** Words in s. 105(3) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), **ss. 382(4)(b)**, 411(2)(3) (with transitional provisions in [Sch. 18](#)); [S.I. 2003/3142](#), **art. 3(1)**, Sch. 1 (subject to arts. 3(3), 11)
- F5** S. 105(3A) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), **ss. 382(5)**, 411(2)(3) (with transitional provisions in [Sch. 18](#)); [S.I. 2003/3142](#), **art. 3(1)**, Sch. 1 (subject to arts. 3(3), 11)
- F6** Words in s. 105(4) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), **ss. 382(6)(a)**, 411(2)(3) (with transitional provisions in [Sch. 18](#)); [S.I. 2003/3142](#), **art. 3(1)**, Sch. 1 (subject to arts. 3(3), 11)
- F7** Words in s. 105(4) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), **ss. 382(6)(b)**, 411(2)(3) (with transitional provisions in [Sch. 18](#)); [S.I. 2003/3142](#), **art. 3(1)**, Sch. 1 (subject to arts. 3(3), 11)
- F8** S. 105(4A) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), **ss. 382(7)**, 411(2)(3) (with transitional provisions in [Sch. 18](#)); [S.I. 2003/3142](#), **art. 3(1)**, Sch. 1 (subject to arts. 3(3), 11)
- F9** Words in s. 105(5) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), **ss. 382(8)**, 411(2)(3) (with transitional provisions in [Sch. 18](#)); [S.I. 2003/3142](#), **art. 3(1)**, Sch. 1 (subject to arts. 3(3), 11)
- F10** Words in s. 105(6) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), **ss. 382(9)(a)**, 411(2)(3) (with transitional provisions in [Sch. 18](#)); [S.I. 2003/3142](#), **art. 3(1)**, Sch. 1 (subject to arts. 3(3), 11)
- F11** Word in s. 105(6) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), **ss. 382(9)(b)**, 411(2)(3) (with transitional provisions in [Sch. 18](#)); [S.I. 2003/3142](#), **art. 3(1)**, Sch. 1 (subject to arts. 3(3), 11)
- F12** Words in s. 105(6) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), **ss. 382(9)(c)**, 411(2)(3) (with transitional provisions in [Sch. 18](#)); [S.I. 2003/3142](#), **art. 3(1)**, Sch. 1
- F13** Words in s. 105(7) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), **ss. 382(10)**, 411(2)(3) (with transitional provisions in [Sch. 18](#)); [S.I. 2003/3142](#), **art. 3(1)**, Sch. 1 (subject to arts. 3(3), 11)
- F14** S. 105(7A) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), **ss. 382(11)**, 411(2)(3) (with transitional provisions in [Sch. 18](#)); [S.I. 2003/3142](#), **art. 3(1)**, Sch. 1 (subject to arts. 3(3), 11)

Modifications etc. (not altering text)

- C1** S. 105 applied (with modifications) (20.6.2003) by [The Enterprise Act 2002 \(Protection of Legitimate Interests\) Order 2003 \(S.I. 2003/1592\)](#), art. 15, **Sch. 3 para. 1(1)(m)(13)** (as amended by [S.I. 2003/3180](#), art. 2, **Sch. para. 10(13)**) (with transitional provisions and savings in art. 3) and (1.4.2014) by [The Enterprise Act 2002 \(Protection of Legitimate Interests\) \(Amendment\) Order 2014 \(S.I. 2014/891\)](#), arts. 1, **18(1)-(17)** (with arts. 20-23))

Textual Amendments applied to the whole legislation

- F1** Act: for the words "solicitor of the Supreme Court of Northern Ireland" wherever they occur there is substituted (prosp.) the words "solicitor of the Court of Judicature of Northern Ireland" by virtue of [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148(1), **Sch. 11 para. 5** [Editorial Note: this amendment will be carried through into the text of the Act at the same time as any other effects on the Act for the year in which the relevant commencement order (or first such order) is made]

Status:

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Changes to legislation:

There are currently no known outstanding effects for the Enterprise Act 2002 (repealed), Section 105.