

1990 No. 1563

MONOPOLIES AND MERGERS

**The EEC Merger Control
(Consequential Provisions) Regulations 1990**

Made - - - - 27th July 1990

Coming into force 21st September 1990

Whereas a draft of these Regulations has been approved by resolution of each House of Parliament:

Now, therefore, the Secretary of State, being designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to the control of concentrations between undertakings, in exercise of the powers conferred on him by the said section 2(2) and by section 75F(1) and (2) of the Fair Trading Act 1973(c) hereby makes the following Regulations:

1.—(1) These Regulations may be cited as the EEC Merger Control (Consequential Provisions) Regulations 1990 and shall come into force on 21st September 1990.

(2) In these Regulations, “ the Merger Control Regulation ” means Council Regulation (EEC) No. 4064/89 on the control of concentrations between undertakings(d), and expressions used in that Regulation shall bear the same meaning in these Regulations.

2. For the purpose of determining the effect of giving a merger notice and the steps which may be or are to be taken by any person in connection with such a notice in a case in which the arrangements in question are or would result in a concentration with a Community dimension, section 75B of the Fair Trading Act 1973 is amended by omitting the word “ or ” at the end of paragraph (b) of subsection (7) and adding the following at the end of that subsection:

“ or,

(d) it appears to him that the notified arrangements are, or if carried into effect would result in, a concentration with a Community dimension within the meaning of Council Regulation (EEC) No. 4064/89 of 21st December 1989 on the control of concentrations between undertakings.”

3. A merger reference may be made under section 64 of the Fair Trading Act 1973 in a case in which the relevant enterprises ceased to be distinct enterprises at a time and in circumstances not falling within subsection (4) of that section if by reason of the Merger Control Regulation or anything done under or in accordance with it the reference could not have been made earlier than six months before the date on which it is to be made.

27th July 1990

John Redwood
Parliamentary Under Secretary of State,
Department of Trade and Industry

(a) S.I. 1990/1304. (b) 1972 c.68.
(c) 1973 c.41; sections 75A to 75F of that Act were inserted by section 146 of the Companies Act 1989 (c.40).
(d) O. J. No. L395, 30.12.89, p.1.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision consequential upon Council Regulation (EEC) No. 4064/89 on the control of concentrations between undertakings ("the Merger Control Regulation").

Regulation 2 amends the provision of the Fair Trading Act 1973 about restriction on the power to make a merger reference where prior notice has been given (inserted by the Companies Act 1989) by providing that the Director General of Fair Trading may reject a merger notice where it appears to him that the merger is also a "concentration with a Community dimension" within the Merger Control Regulation.

Regulation 3 enables a merger reference to be made later than the time limit in section 64(4) of the Fair Trading Act 1973 if it is made within six months of the removal of any restriction on the making of the reference created by the Merger Control Regulation.

55p net

ISBN 0 11 004563 7

Printed in the UK by HMSO

833/WO1430 C14 8/90 3200879 452/4 19542