

SCHEDULE 4

Saving and transitional provision

PART 7

Enterprise Act 2002

Intervention to protect legitimate interests: European intervention notice before exit day

29.—(1) This paragraph applies in a case falling within paragraph 28(1) in which before exit day the Secretary of State—

- (a) has received a report of the CMA under article 4 of the 2003 Order in relation to the case; and
- (b) has not decided whether to make a reference in relation to the case under article 5(2) of the 2003 Order.

(2) The report under article 4 of the 2003 Order is to be treated on and after exit day as if it were a report under section 44(2) of the 2002 Act⁽¹⁾.

(3) Section 44(2) of the 2002 Act has effect as if it required the CMA to give the Secretary of State that report and an additional report which includes the decisions mentioned in section 44(4) of that Act and, where relevant, the descriptions of undertakings mentioned in section 44(5) of that Act.

(4) In a case where the CMA is required by virtue of sub-paragraph (3) to make an additional report under section 44 of the 2002 Act—

- (a) section 43 of the 2002 Act⁽²⁾ has effect as if the reference in subsection (4)(a) of that section to the time within which the CMA is to report to the Secretary of State under section 44 of the 2002 Act were a reference to the time within which the additional report is to be made;
- (b) section 45 of the 2002 Act has effect as if the reference in subsection (1) of that section to a report of the CMA under section 44 of the 2002 Act were a reference to both the report of the CMA under article 4 of the 2003 Order in relation to the case and the additional report by the CMA;
- (c) section 46 of the 2002 Act has effect as if the reference in subsection (2) of that section to decisions included in the CMA's report by virtue of subsection (4) of section 44 of the 2002 Act and any descriptions of undertakings as mentioned in subsection (5) of that section were a reference to the decisions and descriptions of undertakings included in the additional report by virtue of sub-paragraph (3) of this paragraph; and
- (d) section 107(9)(a) of the 2002 Act⁽³⁾ has effect as if the reference to the report of the CMA under section 44 of the 2002 Act were a reference to both the report of the CMA under article 4 of the 2003 Order in relation to the case and the additional report by the CMA.

(1) Section 44 was amended by was amended by paragraphs 59 and 84 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013; there is another amendment to section 45 but it is not relevant.

(2) Section 43 was amended by paragraph 8 of Schedule 16 to the Communications Act 2003 and paragraphs 59 and 83 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013.

(3) Section 107(9) was amended by paragraphs 18 of Schedule 16 to the Communications Act 2003.