



Digital Markets, Competition and Consumers Act 2024

2024 CHAPTER 13

PART 1

DIGITAL MARKETS

CHAPTER 5

MERGERS

57 Duty to report possible mergers etc

- (1) A relevant person (in this Chapter, “P”) must report an event to which [subsection \(2\)](#) or [\(3\)](#) applies (a “reportable event”) to the CMA before the event takes place.
- (2) [This subsection](#) applies to an event where—
 - (a) the event results in P having qualifying status (see [section 58](#)) in respect of shares or voting rights in relation to a UK-connected body corporate, and
 - (b) the value of all consideration (see [section 59](#)) provided by P, whether before or as part of the event, for shares or voting rights in the UK-connected body corporate is at least £25 million.
- (3) [This subsection](#) applies to an event which consists of the formation by P and at least one other person of a body corporate (in this Chapter, a “joint venture vehicle”) where—
 - (a) P expects or intends that the joint venture vehicle will be a UK-connected body corporate,
 - (b) P has qualifying status in respect of shares or voting rights in relation to the joint venture vehicle, and
 - (c) the total value of—

Status: This is the original version (as it was originally enacted).

- (i) all capital and assets contributed by P to the joint venture vehicle when it is formed, and
 - (ii) all other consideration provided by P, whether directly or indirectly, in relation to the formation of the joint venture vehicle,
- is at least £25 million.
- (4) In this Chapter, “relevant person” means—
- (a) a designated undertaking, or
 - (b) where a designated undertaking is part of a group, any member of that group.
- (5) In this Chapter, a “UK-connected body corporate” is any body corporate (wherever established or recognised) which—
- (a) carries on activities in the United Kingdom, or
 - (b) supplies goods or services (whether for consideration or otherwise) to a person or persons in the United Kingdom.
- (6) For the purposes of subsection (5), anything done by a subsidiary of a body corporate is to be treated as being done by the body corporate.
- (7) The reference in subsection (3) to an “other person” is to a person who is not—
- (a) the designated undertaking or part of the designated undertaking, or
 - (b) where the designated undertaking is part of a group, a member of that group.
- (8) The duty to report an event under subsection (1) is subject to provision made by or under regulations under section 67.
- (9) For steps that the CMA may take in relation to a possible merger, see—
- (a) section 33 of EA 2002 (duty to make references in relation to anticipated mergers), and
 - (b) section 72 of that Act (initial enforcement orders).

58 Qualifying status

- (1) For the purposes of section 57(2), an event results in P having qualifying status in respect of shares or voting rights in relation to a UK-connected body corporate where the event results in the percentage of the shares or, as the case may be, the voting rights that P holds in the body corporate increasing—
- (a) from less than 15% to 15% or more,
 - (b) from 25% or less to more than 25%, or
 - (c) from 50% or less to more than 50%.
- (2) For the purposes of section 57(3), P has qualifying status in respect of shares or voting rights in relation to a joint venture vehicle where the event results in P holding at least 15% of the shares or, as the case may be, voting rights in the joint venture vehicle.
- (3) In subsections (1) and (2), references to holding a percentage of shares are—
- (a) in the case of a body corporate that has a share capital, to holding shares comprised in the issued share capital of the body corporate of a nominal value (in aggregate) of that percentage of the share capital,
 - (b) in the case of a body corporate that does not have a share capital, to holding a right to a share of that percentage of the capital or profits of the body corporate, and

- (c) in the case of a limited liability partnership, to holding a right to a share of that percentage of any surplus assets of the partnership on a winding up.
- (4) For the purposes of subsection (3)(c), to the extent that rights to share in any surplus assets of the limited liability partnership on a winding up are not expressly provided for, each member of the partnership is to be treated as holding the right to an equal share of such assets.
- (5) In subsections (1) and (2), references to voting rights are—
 - (a) in the case of a body corporate that has a share capital, to the rights conferred on shareholders in respect of their shares to vote at general meetings of the body corporate on all or substantially all matters, and
 - (b) in the case of a body corporate that does not have a share capital, to the rights conferred on members to vote at general meetings of the body corporate on all or substantially all matters,and, in the case of a body corporate that does not have general meetings at which matters are decided by such votes, include any rights in relation to the body corporate that have the equivalent effect.
- (6) A person is to be treated for the purposes of this Chapter as acquiring an interest or right (to the extent that the person would not otherwise be regarded as doing so) where the interest or right becomes treated as held by the person by virtue of [Schedule 2](#).

59 Value of consideration

- (1) The references in section [57\(2\)\(b\)](#) to the value of all consideration provided by P for shares or voting rights in a UK-connected body corporate is a reference to the value of all consideration provided by P, whether directly or indirectly, for shares or voting rights in the body corporate in all transactions which result in P holding shares or voting rights in the body corporate (whether or not the transaction is an event within section [57\(2\)](#)).
- (2) In this Chapter, references to “consideration” are to fees, remuneration, assets of any description, liabilities assumed and any other kind of consideration, however provided, and include conditional and deferred consideration.
- (3) The Secretary of State may by regulations make further provision about how the value of—
 - (a) consideration,
 - (b) capital, or
 - (c) assets,is to be calculated for the purposes of this Chapter.
- (4) The Secretary of State must consult the CMA before making regulations under [subsection \(3\)](#).
- (5) Regulations under [subsection \(3\)](#) are subject to the negative procedure.

60 Content of report etc

- (1) The CMA must by notice make provision setting out—
 - (a) the information which a report for the purposes of [section 57\(1\)](#) must contain;
 - (b) the form in which such a report must be made.

- (2) The notice may not require a report to contain information other than information which the CMA considers necessary to allow it to determine whether to—
 - (a) begin an investigation for the purposes of deciding whether to make a reference under section 33 of EA 2002 in relation to a reportable event, or
 - (b) make an initial enforcement order under section 72 of that Act in relation to a reportable event.
- (3) The CMA may from time to time replace the notice.
- (4) The CMA must publish any notice or replacement notice which it makes under [this section](#).
- (5) The CMA must consult—
 - (a) the Secretary of State, and
 - (b) such other persons as it considers appropriate, before making or replacing a notice under [this section](#).

61 Application of the duty to report etc

- (1) Two or more persons may comply with the duty in [section 57\(1\)](#) by making a joint report to the CMA.
- (2) For the purposes of this Chapter, where a designated undertaking is part of a group—
 - (a) anything which a member of a group does or fails to do is to be treated as being done or not done by each member of the group;
 - (b) each member of a group is to be treated as providing the combined consideration provided by all members of the group;
 - (c) each member of a group is to be treated as holding the combined interests or rights of all members of the group.
- (3) Schedule 2 makes further provision about cases in which a person is to be treated for the purposes of this Chapter as holding an interest or right.
- (4) The duty to make a report under [section 57\(1\)](#) does not apply—
 - (a) in relation to a reportable event which does not differ in any material respect from an event which has already been reported under [section 57\(1\)](#);
 - (b) in relation to a reportable event so far as it consists of “notified arrangements” within the meaning of section 96(6) of EA 2002;
 - (c) in relation to a reportable event so far as the CMA has informed P that it has begun an investigation for the purposes of deciding whether it has to make a reference under section 33 of EA 2002 (duty to make references in relation to anticipated mergers) in relation to a matter that does not differ in any material respect from the reportable event;
 - (d) in relation to a reportable event so far as the Secretary of State has given the CMA an intervention notice under section 42 of EA 2002 (intervention by the Secretary of State in certain public interest cases) in relation to a relevant merger situation that does not differ in any material respect from the reportable event;
 - (e) in relation to a reportable event so far as the Secretary of State has given the CMA a special intervention notice under section 59 of EA 2002 (intervention by the Secretary of State in special public interest cases) in relation to a special

merger situation that does not differ in any material respect from the reportable event.

- (5) This Chapter does not require any steps to be taken in relation to an event where, after it has been reported to the CMA—
- (a) the Secretary of State gives the CMA an intervention notice under section 42 of EA 2002 in relation to a relevant merger situation that does not differ in any material respect from the event;
 - (b) the Secretary of State gives the CMA a special intervention notice under section 59 of EA 2002 in relation to a special merger situation that does not differ in any material respect from the event;
 - (c) the CMA makes an initial enforcement order under section 72 of EA 2002 imposing obligations, prohibitions or restrictions in relation to the event;
 - (d) the undertaking to which the event relates ceases to be a designated undertaking.

62 Acceptance of report

- (1) Where the CMA receives a report under [section 57\(1\)](#), the CMA must, within the period of 5 working days beginning with the first working day after the day on which it receives the report, give a notice to the person that made the report confirming whether the CMA accepts that the report is sufficient.
- (2) Where the CMA does not accept that a report is sufficient it must, in its notice under [subsection \(1\)](#), include reasons for its decision.
- (3) The CMA may not decide that a report is not sufficient where the report—
- (a) contains all information required by notice under [section 60\(1\)\(a\)](#), and
 - (b) is made in the form required by notice under [section 60\(1\)\(b\)](#).
- (4) A person who makes a report under [section 57\(1\)](#) may withdraw that report at any time before the CMA gives notice that it has accepted that the report is sufficient.
- (5) Where a report is withdrawn, this Chapter applies as if the event to which it related had not been reported to the CMA.

63 Delay to possible mergers etc

- (1) A person to whom the duty in [section 57\(1\)](#) applies in relation to a reportable event must not allow the event to take place—
- (a) without a report in relation to the event having been given to the CMA under [section 57\(1\)](#), or
 - (b) before the end of the waiting period in relation to the event.
- (2) The waiting period in relation to a reportable event is the period of 5 working days beginning with the first working day after the day on which the CMA gives the person that made a report a notice under [section 62\(1\)](#) confirming that the CMA accepts that the report relating to the event is sufficient.
- (3) If a reportable event takes place in contravention of [subsection \(1\)](#), each person to whom the duty in [section 57\(1\)](#) applied in relation to the event is to be treated as having breached [subsection \(1\)](#).
- (4) The CMA may—

- (a) give its consent to a reportable event happening before the end of the waiting period;
 - (b) revoke that consent before the reportable event happens.
- (5) [Subsection \(1\)](#) does not apply in relation to a reportable event where the CMA gives and does not revoke consent under [subsection \(4\)](#) in relation to a reportable event.
- (6) Section 95 of EA 2002 (rights to enforce statutory restrictions) applies in relation to the obligation to comply with [subsection \(1\)](#) as it applies in relation to the obligation to comply with [section 77\(2\)](#) or [\(3\)](#) or [78\(2\)](#) of that Act.

64 Timing of a reportable event

Where a reportable event results from an agreement providing for P to acquire shares or voting rights, or to form a joint venture vehicle together with at least one other person, the event is to be treated as taking place for the purposes of [section 57\(1\)](#) and [section 63\(1\)](#) when P becomes unconditionally obliged to acquire the shares or voting rights, or to form the joint venture vehicle.

65 Authorisation for one person to act for another

- (1) P may authorise another person to make a report under [section 57\(1\)](#) and receive the notice under [section 62\(1\)](#) which relates to the report on P's behalf by giving a notice of the authorisation to the CMA.
- (2) P may revoke an authorisation made under this section by giving a notice to that effect to the CMA.
- (3) A notice under [subsection \(1\)](#) or [\(2\)](#) must be signed by an officer of P.
- (4) In this section, references to an "officer" of an undertaking are to an officer of a body corporate that is, or is comprised in, the undertaking.

66 Applications for review of decisions relating to mergers

Section 120 of EA 2002 (review of decisions under Part 3 of EA 2002: mergers) applies in relation to a decision made by the CMA in connection with its functions under this Chapter, other than a decision about the imposition of a penalty under [section 85\(4\)](#) or [87](#), as it applies in relation to decisions listed in [subsection \(1A\)](#) of that section.

67 Regulations about duty to report

- (1) The Secretary of State may by regulations make provision about the duty to report a reportable event.
- (2) The Secretary of State must consult the CMA before making regulations under [subsection \(1\)](#).
- (3) Regulations under [subsection \(1\)](#) may (among other things) make provision—
 - (a) varying, adding or removing circumstances in which the duty to make a report applies;
 - (b) varying the period in [section 62\(1\)](#);
 - (c) varying the waiting period in [section 63](#);

- (d) about exemptions from the duty to make a report;
 - (e) varying, adding or removing circumstances in which one person may act on behalf of another under [section 65](#);
 - (f) modifying how [section 332](#) applies for the purposes of this Chapter or [Schedule 2](#);
 - (g) conferring functions on the CMA in relation to the duty to report, including power to make provision by notice or general or specific directions about a matter mentioned in [paragraph \(d\)](#);
 - (h) amending this Chapter or [Schedule 2](#).
- (4) Regulations under [subsection \(1\)](#) that contain provision made in reliance on any of paragraphs (a), (b), (c), (d), (e) or (h) of [subsection \(3\)](#), whether alone or with other provision, are subject to the affirmative procedure.
- (5) Any other regulations under [subsection \(1\)](#) are subject to the negative procedure.

68 Duty to keep compliance under review

The CMA must keep under review—

- (a) the extent to which persons comply with provisions made by, under or by virtue of this Chapter, and
- (b) the appropriateness of taking action—
 - (i) in accordance with section 95 of EA 2002 (rights to enforce statutory restrictions) in respect of any person to whom [section 63\(1\)](#) applies, and
 - (ii) in accordance with [Chapter 7](#) (enforcement and appeals) in respect of any person that does not comply with provisions made by, under or by virtue of this Chapter.