



Digital Markets, Competition and Consumers Act 2024

2024 CHAPTER 13

PART 5

MISCELLANEOUS

CHAPTER 1

COMPETITION IN CONNECTION WITH MOTOR FUEL

311 Provision of information about competition in connection with motor fuel

- (1) The CMA may require an undertaking involved in, or connected with, the distribution, supply or retail of motor fuel (“U”) to give specified information to it where it considers that the information would assist the CMA in—
- (a) assessing competition in the United Kingdom in connection with the retail of motor fuel;
 - (b) publishing information about competition in the United Kingdom in connection with the retail of motor fuel;
 - (c) making proposals, or giving information or advice, to the Secretary of State about the need for, or the potential for, action to be taken (whether by the Secretary of State or another person) and what that action should be for the purposes of—
 - (i) increasing competition in the United Kingdom in connection with the retail of motor fuel;
 - (ii) benefiting consumers of motor fuel;
 - (d) assessing the effectiveness of any action taken as a result of proposals made, or information or advice given, under [paragraph \(c\)](#).
- (2) The power conferred by [subsection \(1\)](#) is to be exercised by giving U a notice (an “information notice”).

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- (3) The CMA must include in an information notice—
- (a) the time at which, or the frequency with which, the information must be given to the CMA;
 - (b) the manner and form in which the information must be given to the CMA;
 - (c) information about the possible consequences of not complying with the notice.
- (4) The power under this section to require U to give information to the CMA includes the power to—
- (a) require U to take copies of or extracts from information;
 - (b) require U to obtain or generate information;
 - (c) require U to collect or retain information that they would not otherwise collect or retain;
 - (d) if any specified information is not given to the CMA, require U to state, to the best of their knowledge and belief, both where that information is and why it has not been given to the CMA.
- (5) An undertaking may not be required under this section to give the CMA a privileged communication.
- (6) A “privileged communication” is a communication—
- (a) between a professional legal adviser and their client, or
 - (b) made in connection with, or in contemplation of, legal proceedings,
- which in proceedings in the High Court would be protected from disclosure on grounds of legal professional privilege.
- (7) In the application of this section to Scotland—
- (a) the reference to the High Court is to be read as a reference to the Court of Session, and
 - (b) the reference to legal professional privilege is to be read as a reference to the confidentiality of communications.
- (8) In this section—
- “consumer” has the same meaning as in Part 4 of EA 2002 (see section 183(1) of that Act);
- “motor fuel” has the same meaning as in the Motor Fuel (Composition and Content) Regulations 1999 (S.I. 1999/3107) (see regulation 2 of those Regulations), but as if paragraphs (c) and (d) of the definition of that term were omitted;
- “specified” means—
- (a) specified, or described, in the information notice, or
 - (b) falling within a category which is specified, or described, in the information notice;
- “United Kingdom” includes a part of the United Kingdom.
- (9) The Secretary of State may by regulations amend the definition of “motor fuel” in [subsection \(8\)](#).
- (10) Regulations under [subsection \(9\)](#) are subject to the negative procedure.
- (11) In this Chapter, “undertaking” has the same meaning it has for the purposes of Part 1 of CA 1998 (competition: agreements, abuse of dominant position etc).

312 Penalties for failure to comply with notices under [section 311](#)

- (1) The CMA may impose a penalty on an undertaking where it considers that the undertaking has, without reasonable excuse—
 - (a) failed to comply with an information notice under [section 311](#);
 - (b) destroyed, otherwise disposed of, falsified or concealed, or caused or permitted the destruction, disposal, falsification or concealment of, any document which the undertaking has been required to produce by an information notice under that section;
 - (c) given the CMA information which is false or misleading in a material particular in connection with an information notice under that section;
 - (d) given information which is false or misleading in a material particular to another undertaking knowing that the information was to be used for the purpose of giving information to the CMA in connection with an information notice under that section.
- (2) The amount of a penalty imposed on an undertaking under this section may be such amount as the CMA considers appropriate, provided it does not exceed the amounts set out in subsection (4).
- (3) The amount of a penalty under this section must be—
 - (a) a fixed amount,
 - (b) an amount calculated by reference to a daily rate, or
 - (c) a combination of a fixed amount and an amount calculated by reference to a daily rate.
- (4) The maximum amounts of a penalty that may be imposed on an undertaking are—
 - (a) in the case of a fixed amount, an amount equal to 1% of the total value of the undertaking's turnover (both inside and outside the United Kingdom);
 - (b) in the case of an amount calculated by reference to a daily rate, for each day an amount equal to 5% of the total value of the undertaking's daily turnover (both inside and outside the United Kingdom);
 - (c) in the case of a combination of a fixed amount and an amount calculated by reference to a daily rate, the amounts mentioned in [paragraph \(a\)](#), in relation to the fixed amount, and [paragraph \(b\)](#), in relation to the amount calculated by reference to a daily rate.
- (5) In imposing a penalty under this section by reference to a daily rate—
 - (a) no account is to be taken of any days before the service on the undertaking concerned of the provisional penalty notice under section 112(A1) of EA 2002 (as applied by [section 313](#)), and
 - (b) unless the CMA determines an earlier day (whether before or after the penalty is imposed), the amount payable ceases to accumulate at the beginning of the day on which the undertaking first complies with the requirement in question.
- (6) The Secretary of State may by regulations make provision for determining the turnover (both inside and outside the United Kingdom) of an undertaking for the purposes of this section.
- (7) The regulations may, among other things—
 - (a) make provision about amounts which are, or are not, to be included in an undertaking's turnover;

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- (b) make provision about the date or dates by reference to which an undertaking's turnover is to be determined;
- (c) confer on the CMA the power to determine and make provision about matters specified in the regulations (including the matters mentioned in paragraphs (a) and (b)).

(8) Regulations under [subsection \(6\)](#) are subject to the negative procedure.

313 Procedure and appeals

- (1) Sections 112 (penalties: main procedural requirements), 113 (payments and interest by instalments), section 114 (appeals) and 115 (recovery of penalties) of EA 2002 apply in relation to a penalty imposed under [section 312](#) as they apply in relation to a penalty imposed under section 110(1) of that Act.
- (2) For the purposes of this section—
 - (a) sections 112 to 115 of EA 2002 are to be read as if references to “the appropriate authority” were references to the CMA only;
 - (b) section 114(5A) of EA 2002 is to be read as if the words “In the case of a penalty imposed on a by the CMA or OFCOM,” were omitted;
 - (c) section 114(12) of EA 2002 is to be read as if, for paragraph (b), there were substituted—
 - “(b) “the relevant guidance” means the statement of policy which was most recently published under [section 314](#) of the Digital Markets, Competition and Consumers Act 2024 at the time of the act or omission giving rise to the penalty.”

314 Statement of policy on penalties

- (1) The CMA must prepare and publish a statement of policy in relation to the exercise of powers to impose a penalty under [section 312](#).
- (2) The statement must include a statement about the considerations relevant to the determination of—
 - (a) whether to impose a penalty under [section 312](#), and
 - (b) the nature and amount of any such penalty.
- (3) The CMA may revise its statement of policy and, where it does so, must publish the revised statement.
- (4) In preparing or revising its statement of policy the CMA must consult—
 - (a) the Secretary of State, and
 - (b) such other persons as the CMA considers appropriate.
- (5) A statement of policy, or revised statement, may not be published under this section without the approval of the Secretary of State.
- (6) [Subsection \(7\)](#) applies where the CMA proposes to impose a penalty under [section 312](#) on an undertaking.
- (7) The CMA must have regard to the statement of policy most recently published under this section at the time of the act or omission giving rise to the penalty when deciding—
 - (a) whether to impose the penalty, and

- (b) if so, the amount of the penalty.

315 Offences etc

Destroying or falsifying information

- (1) A person (“P”) commits an offence if, having been required to give information to the CMA under [section 311](#), P—
- (a) intentionally or recklessly destroys or otherwise disposes of it, falsifies or conceals it, or
 - (b) causes or permits its destruction, disposal, falsification or concealment.

False or misleading information

- (2) A person (“P”) commits an offence if—
- (a) P gives information to the CMA in connection with an information notice under [section 311](#),
 - (b) the information is false or misleading in a material particular, and
 - (c) P knows that it is or is reckless as to whether it is.
- (3) A person (“P”) commits an offence if P gives information to another person which is false or misleading in a material particular and P—
- (a) either—
 - (i) knows the information to be false or misleading in a material particular, or
 - (ii) is reckless as to whether the information is false or misleading in a material particular, and
 - (b) knows that the information will be given to the CMA in connection with an information notice under that section.

Sentences

- (4) A person guilty of an offence under this section is liable—
- (a) on summary conviction in England and Wales, to a fine;
 - (b) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum;
 - (c) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

Offences by officers of a body corporate etc

- (5) If an offence under this section committed by a body corporate is proved—
- (a) to have been committed with the consent or connivance of an officer of the body corporate, or
 - (b) to be attributable to neglect on the part of an officer of the body corporate, the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (6) If the affairs of a body corporate are managed by its members, [subsection \(5\)](#) applies in relation to the acts and defaults of a member in connection with the member’s functions of management as if the member were an officer of the body corporate.

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- (7) If an offence under this section committed by a partnership in Scotland is proved—
- (a) to have been committed with the consent or connivance of a partner, or
 - (b) to be attributable to neglect on the partner’s part,
- the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.
- (8) In [subsection \(7\)](#), “partner” includes a person purporting to act as a partner.

316 Penalties under [section 312](#) and offences under [section 315](#)

- (1) The CMA may not impose a penalty on a person under [section 312](#) in relation to an act or omission which constitutes an offence under [section 315](#) if the person has, in relation to that act or omission, been found guilty of that offence.
- (2) A person may not be found guilty of an offence under [section 315](#) by virtue of an act or omission if the person has paid a penalty imposed under [section 312](#) in relation to that act or omission.

317 Information sharing

In Schedule 14 to EA 2002 (provisions about disclosure of information) at the appropriate place insert—

“Chapter 1 of [Part 5](#) of the Digital Markets, Competition and Consumer Act 2024.”

318 Expiry of this Chapter

- (1) This Chapter, apart from [subsection \(5\)](#) of this section and [section 317](#), expires at the end of the relevant period.
- (2) The “relevant period” means the period of five years beginning with the day on which this Act is passed.
- (3) The Secretary of State may by regulations amend this section to change the definition of the “relevant period”.
- (4) Regulations under [subsection \(3\)](#) are subject to the affirmative procedure.
- (5) The expiry of this Chapter does not affect its continued operation in relation to any information notice given under [section 311](#) before its expiry.