
DRAFT STATUTORY INSTRUMENTS

2003 No.

**The Enterprise Act 2002 (Protection
of Legitimate Interests) Order 2003**

Initial investigation and report by OFT

4.—(1) Paragraph (2) applies where the Secretary of State has given a European intervention notice in relation to a relevant merger situation under section 67 of the Act.

(2) The OFT shall, within such period as the Secretary of State may require, give a report to the Secretary of State in relation to the case.

(3) The report shall contain—

- (a) advice from the OFT on the considerations relevant to the making of a reference under section 22 or 33 of the Act which are also relevant to the Secretary of State's decision as to whether to make a reference under article 5; and
- (b) a summary of any representations about the case which have been received by the OFT and which relate to any public interest consideration mentioned in the European intervention notice concerned and which is or may be relevant to the Secretary of State's decision as to whether to make a reference under article 5.

(4) The report shall include a decision as to whether the OFT believes that it is, or may be, the case that a European relevant merger situation has been created or (as the case may be) arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a European relevant merger situation.

(5) The report may, in particular, include advice and recommendations on any public interest consideration mentioned in the European intervention notice concerned and which is or may be relevant to the Secretary of State's decision as to whether to make a reference under article 5.

(6) The OFT shall carry out such investigations as it considers appropriate for the purpose of producing a report under this article.