



Fair Trading Act 1973

1973 CHAPTER 41

PART V

MERGERS

Newspaper merger references

57 Meaning of “newspaper”, “transfer of newspaper or of newspaper assets” and related expressions.

(1) In this Part of this Act—

(a) “newspaper” means a daily, Sunday or local (other than daily or Sunday) newspaper circulating wholly or mainly in the United Kingdom or in a part of the United Kingdom;

[^{F1}(b) “newspaper proprietor” includes (in addition to an actual proprietor of a newspaper) any member of a group of persons of which another member is an actual proprietor of a newspaper.

(1A) In this Part of this Act, any reference to the newspapers of a newspaper proprietor (“NP”) is to—

(a) all newspapers of which NP is an actual proprietor, and

(b) all newspapers of which a member of a group of persons of which NP is a member is an actual proprietor.]

and any reference to the newspapers of a newspaper proprietor includes all newspapers in relation to which he is a newspaper proprietor and, in the case of a body corporate, all newspapers in relation to which a person having a controlling interest in that body corporate is a newspaper proprietor.

(2) In this Part of this Act “transfer of a newspaper or of newspaper assets” means any of the following transactions, that is to say—

(a) any transaction (whether involving a transfer or not) by virtue of which a person would become, or would acquire the right to become [^{F2}—

(i) an actual proprietor of a newspaper, or

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- (ii) a person with a primary or secondary controlling interest in an actual proprietor of a newspaper;]
- (b) any transfer of assets necessary to the continuation of a newspaper as a separate newspaper (including goodwill or the right to use the name of the newspaper);
- (c) any transfer of plant or premises used in the publication of a newspaper, other than a transfer made without a view to a change in the ownership or control of the newspaper or to its ceasing publication;
- and “the newspaper concerned in the transfer”, in relation to any transaction falling within paragraph (a), paragraph (b) or paragraph (c) of this subsection, means the newspaper in relation to which (as mentioned in that paragraph) the transaction is or is to be effected.
- (3) In this Part of this Act “average circulation per day of publication”, in relation to a newspaper, means its average circulation for the appropriate period, ascertained by dividing the number of copies to which its circulation amounts for that period by the number of days on which the newspaper was published during that period (circulation being calculated on the basis of actual sales in the United Kingdom of the newspaper as published on those days); and for the purposes of this subsection “the appropriate period”—
- (a) in a case in which an application is made for consent under the next following section, means the period of six months ending six weeks before the date of the application, or
- (b) in a case in which a transfer or purported transfer is made without any such application for consent, means the period of six months ending six weeks before the date of the transfer or purported transfer.
- (4) For the purposes of this section a person has a [^{F3}primary]controlling interest in a body corporate if (but only if) he can, directly or indirectly, determine the manner in which one-quarter of the votes which could be cast at a general meeting of the body corporate are to be cast on matters, and in circumstances, not of such a description as to bring into play any special voting rights or restrictions on voting rights.
- [^{F4}(5) For the purposes of this section a person (“A”) has a secondary controlling interest in a body corporate (“B”) if, without having a primary controlling interest in B—
- (a) A has a primary controlling interest in a body corporate which has a primary controlling interest in B, or
- (b) A is connected to B by a chain of any number of other bodies corporate, in the first of which A has a primary controlling interest, in the second of which the first has a primary controlling interest, and so on, the last such body corporate having a primary controlling interest in B.
- (6) For the purposes of this section a group of persons consists of any number of persons of whom the first is—
- (a) a person other than a body corporate, or
- (b) a body corporate in which no other person has a primary controlling interest, and the others are the bodies corporate in which the first has a primary or secondary controlling interest.
- (7) In determining for the purposes of subsection (6)(b) of this section whether a body corporate (“X”) is one in which another person has a primary controlling interest,

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there shall be disregarded any body corporate in which X has a primary or secondary controlling interest.]

Textual Amendments

- F1** S. 57(1)(b)(1A) substituted (retrospectively) for s. 57(1)(b) by 1994 c. 40, s. 8(2)(6); S.I. 1994/3188, arts. 2, 3(a)
- F2** Subparagraphs (i)(ii) substituted (retrospectively) for words in s. 57(2) by 1994 c. 40, s. 8(3)(6); S.I. 1994/3188, arts. 2, 3(a)
- F3** Word in s. 57(4) inserted (retrospectively) by 1994 c. 40, s. 8(4)(6); S.I. 1994/3188, arts. 2, 3(a)
- F4** S. 57(5)(6)(7) inserted (retrospectively) by 1994 c. 40, s. 8(5)(6); S.I. 1994/3188, arts. 2, 3(a)

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