



# Enterprise Act 2002

## 2002 CHAPTER 40

### PART 4

#### MARKET INVESTIGATIONS

### CHAPTER 2

#### PUBLIC INTEREST CASES

##### *Intervention notices under section 139(2)*

#### **150 Power of veto of Secretary of State**

- (1) Where an intervention notice under section 139(2) is in force, the OFT shall not, without the consent of the Secretary of State, accept the proposed undertaking concerned or a proposed undertaking which does not differ from it in any material respect.
- (2) The Secretary of State shall withhold his consent if he believes that it is or may be the case that the proposed undertaking will, if accepted, operate against the public interest.
- (3) For the purposes of subsection (2) a proposed undertaking will, if accepted, operate against the public interest only if any public interest consideration which is mentioned in the intervention notice concerned and has been finalised, or any public interest considerations which are so mentioned and have been finalised, outweigh the considerations which have led the OFT to propose accepting the undertaking.
- (4) In making his decision under subsection (2) the Secretary of State shall accept the OFT's view of what undertakings, if the only relevant consideration were how to remedy, mitigate or prevent the adverse effect on competition concerned or any detrimental effect on customers so far as resulting from the adverse effect on competition, would be most appropriate.

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*Status: This is the original version (as it was originally enacted).*

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- (5) Where a public interest consideration which is mentioned in the intervention notice concerned is not finalised on the giving of the notice, the Secretary of State shall not make his decision as to whether to give his consent under this section before—
- (a) the end of the period of 24 weeks beginning with the giving of the intervention notice; or
  - (b) if earlier, the date on which the public interest consideration concerned has been finalised.
- (6) Subject to subsections (2) to (5), the Secretary of State shall not withhold his consent under this section.