

SCHEDULES

SCHEDULE 2

APPEALS UNDER SECTIONS 24 AND 25

PART 6

GENERAL

Consideration of new matters

- 23 (1) This paragraph applies to—
- (a) an authorised member of the Competition Commission with the function of determining an application for permission to appeal under section 24 or 25, and
 - (b) a group with the function of determining an appeal.
- (2) The member or group must not have regard to any matter, information or evidence raised or provided by the CAA if it was not considered by the CAA in making the decision that is the subject of the application or appeal, unless the member or group considers that—
- (a) the CAA could not reasonably have been expected to consider the matter, information or evidence when making that decision, and
 - (b) the matter, information or evidence is likely to have an important effect on the outcome of the application or appeal, either by itself or taken together with other matters, information or evidence.
- (3) The member or group must not have regard to any matter, information or evidence raised or provided by a person other than the CAA if it was not considered by the CAA in making the decision that is the subject of the application or appeal, unless the member or group considers that—
- (a) the person or a relevant connected person could not reasonably have raised the matter with the CAA, or provided the information or evidence to the CAA, during the period in which the CAA was making that decision, and
 - (b) the matter, information or evidence is likely to have an important effect on the outcome of the application or appeal, either by itself or taken together with other matters, information or evidence.
- (4) Where the member or group has regard to a matter, information or evidence in reliance on sub-paragraph (2) or (3), those sub-paragraphs do not prevent the member or group having regard to further matters, information or evidence raised or provided in response to it if the member or group considers that the further matter, information or evidence is likely to have an important effect on the outcome of the application or appeal, either by itself or taken together with other matters, information or evidence.

Status: This is the original version (as it was originally enacted).

- (5) In sub-paragraph (3), in relation to a person who raises or provides a matter, information or evidence, “relevant connected person” means a person who was connected to that person at any time during the period in which the CAA was making the decision that is the subject of the application or appeal.
- (6) References in this paragraph to the period in which the CAA was making a decision are to the period—
- (a) beginning with the publication of a notice under section 15(1) or 22(2) proposing to make the decision, and
 - (b) ending with the publication of a notice under section 15(5) or 22(6) in relation to the decision.