



Digital Markets, Competition and Consumers Act 2024

2024 CHAPTER 13

PART 5

MISCELLANEOUS

CHAPTER 2

PROVISION OF INVESTIGATIVE ASSISTANCE TO OVERSEAS REGULATORS

319 Provision of investigative assistance to overseas regulators

- (1) A relevant regulator (“R”) may assist an overseas regulator (“O”) in accordance with the table in [subsection \(2\)](#) where—
- (a) O makes a request to R (see [section 320](#)) for R to assist O’s carrying out of functions which correspond or are similar to functions of R under a relevant enactment,
 - (b) R considers that it would be appropriate to assist O (see [section 321](#)), and
 - (c) where the request is made otherwise than under or in accordance with a qualifying cooperation arrangement, the Secretary of State authorises R to assist O (see [section 322](#)).
- (2) The table in this subsection is—

Where the enactment in question is—	The regulator that may assist the overseas regulator is—	The regulator may assist the overseas regulator by—
Part 1 of CA 1998 (competition)	the CMA	exercising its powers under sections 26 to 29 of CA 1998 as if, by assisting O’s carrying

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Where the enactment in question is—	The regulator that may assist the overseas regulator is—	The regulator may assist the overseas regulator by—
Part 3 of EA 2002 (mergers)	the CMA	out of functions which correspond or are similar to the functions of the CMA under Part 1 of that Act, the CMA were carrying out an investigation under section 25 of that Act exercising its powers under section 109 of EA 2002 as if assisting O’s carrying out of functions which correspond or are similar to the functions of the CMA under Part 3 of that Act were a “permitted purpose” for the purposes of that section
Part 6 of EA 2002 (cartel offence)	the CMA	exercising its powers under sections 193 and 194 of EA 2002 as if, by assisting O’s carrying out of functions which correspond or are similar to the functions of the CMA under Part 6 of that Act, the CMA were carrying out an investigation under section 192 of that Act
Schedule 5 to CRA 2015 (investigatory powers)	an enforcer for the purposes of Schedule 5 to CRA 2015 (see paragraph 2 of that Schedule)	exercising the powers under Parts 3 and 4 of Schedule 5 to CRA 2015 in connection with an infringement of the law of, or other requirement imposed in, the country or territory of O which appears to R to make provision corresponding or similar to an enactment or other obligation or rule of law listed in Schedule 15 to this Act
Part 1 of this Act (digital markets)	the CMA	exercising its powers under any of sections 69 , 71 and 79 as

Where the enactment in question is—	The regulator that may assist the overseas regulator is—	The regulator may assist the overseas regulator by—
Part 1 of this Act (digital markets)	the CMA	if assisting O's carrying out of a function which corresponds or is similar to a digital markets function (as defined in section 118) were itself a digital markets function exercising its powers under any of sections 72, 74 and 75 as if, by assisting O's carrying out of any investigation which corresponds or is similar to a digital markets investigation (as defined in section 118), the CMA were carrying out a digital markets investigation

(3) For the purposes of the exercise by R of the powers under Parts 3 and 4 of Schedule 5 to CRA 2015 by virtue of this Chapter—

- (a) paragraphs 13, 19 and 20 of that Schedule are to be ignored;
- (b) where a power is exercisable only by an enforcer of a particular description, the power is exercisable by R only if R is an enforcer of that description;
- (c) references in Part 4 of that Schedule to the enforcer's legislation, in relation to a domestic enforcer, are to be read in relation to R as references to the law of, or other requirement imposed in, the country or territory of O mentioned in the entry for that Schedule in the table in subsection (2).

(4) Any reference in an enactment (other than in this Chapter) to the functions of a relevant regulator under a relevant enactment includes a reference to those functions as exercised by virtue of this Chapter.

(5) In this Chapter—

“cooperation arrangement” means an arrangement or agreement relating in whole or in part to cooperation in matters relating to the subject matter of a relevant enactment;

“overseas regulator” or “O” means a person or body in a country or territory outside the United Kingdom which appears to R to exercise functions of a public nature corresponding or similar to functions of R;

“qualifying cooperation arrangement” means any cooperation arrangement—

- (a) to which the United Kingdom and the country or territory of O are parties, and
- (b) which provides for the provision of mutual assistance as between the United Kingdom and that country or territory, or as between R and

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persons or bodies in that country or territory, in relation to matters relating to—

- (i) functions of R under a relevant enactment, or
- (ii) functions of O which correspond or are similar to those functions;

“relevant enactment” means an enactment listed in the first column of the table in [subsection \(2\)](#);

“relevant regulator” or “R” means a regulator listed in the second column of the table in [subsection \(2\)](#).

320 Requests for investigative assistance

- (1) [Subsection \(2\)](#) makes provision about requests from O for the purposes of [section 319\(1\)\(a\)](#).
- (2) A request from O to R for R to assist O must—
 - (a) be made in writing,
 - (b) describe the matter in respect of which R’s assistance is requested, and
 - (c) include details of any penalty or sanction that could be imposed as a result of the carrying out by O of the functions in respect of which R’s assistance is requested.

321 The appropriateness of providing investigative assistance

- (1) This subsection makes provision about how R is to consider whether it would be appropriate to assist O for the purposes of [section 319\(1\)\(b\)](#).
- (2) In considering whether it would be appropriate to assist O, R must have regard to whether—
 - (a) R would be able to exercise its powers under the relevant enactment concerned in a corresponding or similar case arising in the United Kingdom;
 - (b) the United Kingdom and the country or territory of O, or R and O, are parties to a cooperation arrangement;
 - (c) the matter in respect of which the assistance is requested is sufficiently serious to justify R assisting O.
- (3) R may consider that it would not be appropriate to assist O unless O undertakes to make such contribution as R considers appropriate towards the cost of R doing so.
- (4) R must consider that it would not be appropriate to assist O where any of [subsections \(5\) to \(8\)](#) apply.
- (5) This subsection applies where R considers that—
 - (a) a person or body in the country or territory of O (whether or not O) would not provide corresponding or substantially similar assistance to R, unless R considers that there is an overriding public benefit to the United Kingdom in assisting O;
 - (b) assisting O would be contrary to the public interest.
- (6) This subsection applies where—
 - (a) the matter to which the request relates concerns the investigation of crime or the bringing of criminal proceedings, and

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- (b) the request is made otherwise than under or in accordance with a qualifying cooperation arrangement.
- (7) This subsection applies where R would not be able to disclose, under Part 9 of EA 2002 (information), to O any information obtained by R in the course of assisting O.
- (8) This subsection applies where—
 - (a) the request relates to a matter in respect of which in a corresponding or similar case arising in the United Kingdom R would not be able to exercise its powers under the relevant enactment concerned unless R has reasonable grounds for suspecting that there has, or may have, been a breach of the law (“the relevant UK law”), and
 - (b) R does not have reasonable grounds for suspecting that there has, or may have, been a breach of the law of the country or territory of O which appears to R to make provision corresponding or similar to the relevant UK law in question.
- (9) For the purposes of [subsection \(8\)\(b\)](#), R is to regard as conclusive a certificate issued by O as to whether there has, or may have, been a breach of the law of the country or territory of O.

322 Authorisation of the provision of investigative assistance

- (1) This section makes provision about how the Secretary of State authorises R to assist O for the purposes of [section 319\(1\)\(c\)](#).
- (2) The Secretary of State may authorise R to assist O either—
 - (a) in relation to one or more specific requests for assistance, or
 - (b) generally in respect of requests for assistance of a particular description (including in respect of requests from particular overseas regulators).
- (3) The Secretary of State may withdraw any general authorisation given under [subsection \(2\)\(b\)](#).
- (4) The Secretary of State must publish—
 - (a) any general authorisation given under [subsection \(2\)\(b\)](#);
 - (b) notice of any withdrawal of a general authorisation under [subsection \(3\)](#).
- (5) In considering whether to authorise R to assist O (whether specifically or generally), the Secretary of State must have regard to whether—
 - (a) O’s request for assistance is made under, or in accordance with, the terms of an arrangement or agreement (other than a qualifying cooperation arrangement) to which the United Kingdom is a party (and, where it is, the Secretary of State must also have regard to the terms of the arrangement or agreement);
 - (b) it would be more appropriate, in relation to the matter in respect of which R’s assistance is requested, for—
 - (i) any of R’s powers under the relevant enactment concerned to be exercised solely on behalf of R (and not by virtue of this Chapter), or
 - (ii) for functions to be exercised by another person or body in the United Kingdom or in a country or territory other than the country or territory of O;
 - (c) R assisting O would be contrary to the public interest.

- (6) In authorising R to assist O, the Secretary of State may impose conditions on R doing so.
- (7) The conditions that may be imposed include conditions—
- (a) requiring R, before assisting O, to obtain an undertaking from O that any information obtained by R in assisting O will not be used, or will only be used, for specified purposes;
 - (b) requiring R not to use specified powers that would otherwise be available to R in assisting O;
 - (c) requiring R to assist O by using specified powers available to R only in a specified manner;
 - (d) requiring R to assist O only in respect of specified matters.
- (8) In [subsection \(7\)](#), “specified” means specified in a condition imposed by the Secretary of State under [subsection \(6\)](#).

323 Notifications in respect of requests for investigative assistance

- (1) R must notify the Secretary of State that R has received a request for assistance from O where—
- (a) R considers that it would be appropriate for R to assist O, and
 - (b) the Secretary of State has not given R a general authorisation to provide O with the assistance requested (see [section 322\(2\)\(b\)](#)).
- (2) But [subsection \(1\)](#) does not apply where O’s request is made under or in accordance with a qualifying cooperation arrangement.
- (3) R must notify O as to whether R will be providing the assistance requested and, where relevant, of any conditions imposed on that assistance (see [section 322\(6\)](#)).

324 Guidance in connection with investigative assistance

- (1) The CMA must prepare and publish guidance about—
- (a) the making and consideration of requests for assistance under this Chapter, and
 - (b) the provision of assistance under this Chapter.
- (2) The CMA may at any time prepare and publish revised or new guidance.
- (3) No guidance is to be published under this section without the approval of the Secretary of State.
- (4) In preparing guidance under this section the CMA must consult such persons as it considers appropriate.
- (5) A relevant regulator must have regard to the guidance for the time being in force when it is exercising functions under or in connection this Chapter.

325 Amendments to other legislation

[Schedule 28](#) makes amendments to other legislation in connection with the provision made by this Chapter.