

Order made by the Secretary of State, laid before Parliament under section 31 of the Competition Act 1980, for approval by resolution of each House of Parliament within forty days beginning with the day on which the Order was made, subject to extension for periods of dissolution, prorogation or adjournment for more than four days.

STATUTORY INSTRUMENTS

1994 No. 1557

COMPETITION

**The Anti-Competitive Practices
(Exclusions) (Amendment) Order 1994**

<i>Made</i>	- - - -	<i>14th June 1994</i>
<i>Laid before Parliament</i>		<i>14th June 1994</i>
<i>Coming into force</i>	- -	<i>14th August 1994</i>

The Secretary of State in exercise of the powers conferred upon him by section 2(3) and (4) of the Competition Act 1980⁽¹⁾ hereby makes the following Order:—

1.—(1) This Order may be cited as the Anti-Competitive Practices (Exclusions) (Amendment) Order 1994 and shall come into force two months after the day on which it is made.

(2) In this Order, “the Act” means the Competition Act 1980.

(3) This Order shall not apply to any case in which, before the date on which this Order comes into force, notice under section 3(2)(a) of the Act has been given to the person in respect of whose course of conduct the question of whether it is excluded has arisen.

2. For paragraph (b) of Article 2 of the Anti-Competitive Practices (Exclusions) Order 1980⁽²⁾ (which excludes courses of conduct of persons by reference to turnover and market share) there shall be substituted—

“(b) the course of conduct of a person (not being a local authority within the meaning of section 2(8) of the Act)—

- (i) whose relevant annual turnover in the United Kingdom is less than £10 million and who is not a member of a group of interconnected bodies corporate which has an aggregate annual turnover in the United Kingdom of £10 million or more,
- or

(1) 1980 c. 21.

(2) S.I.1980/979 to which there is an amendment not relevant to this Order.

(ii) who enjoys less than one quarter of a relevant market and who is not a member of a group of interconnected bodies corporate which enjoys one quarter or more of a relevant market;”.

3. Article 3 of the 1980 Order shall be amended—

- (a) in paragraph (b), by the substitution of “£10 million” for “£5 million”;
- (b) in the proviso following paragraph (e), by the substitution of “Article 2(b)” for “Article 2(b)(iii)”.

4. Schedule 2 to the 1980 Order shall be amended—

- (a) in paragraph 4, by the substitution of “Article 2(b)” for “Article 2(b)(iii)”;
- (b) in paragraph 5, by the substitution of “Article 2(b)(i)” for “Article 2(b)(iii)”;
- (c) in paragraph 6, by the substitution of “Article 2(b)(ii)” for “Article 2(b)(iii)”.

Neil Hamilton
Parliamentary Under-Secretary of State for
Corporate Affairs,
Department of Trade and Industry

14th June 1994

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Anti-Competitive Practices (Exclusions) Order 1980. That Order excludes from being an anti-competitive practice under the Competition Act 1980 the course of conduct of any person (not being a local authority) whose turnover in the United Kingdom is less than £5 million, whose share of the relevant market is less than one quarter, and which is not a member of a group of interconnected bodies corporate with an annual turnover in the United Kingdom of £5 million or more or which enjoys more than one quarter of the relevant market.

The effect of the amendment is to increase the turnover threshold to £10 million and to provide that the conduct of a person who satisfies either the turnover test or the market share test will be excluded from the 1980 Act. Thus the conduct of a person will not be capable of being an anti-competitive practice under the 1980 Act if his turnover (combined with that of others in the same group if he is a member of a group of interconnected bodies corporate) is less than £10 million. The conduct of a person who enjoys less than one quarter of the relevant market will also be excluded unless he is a member of a group of interconnected bodies corporate which enjoys one quarter or more of a relevant market.