
EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies the maximum amounts that the Competition Commission (“the Commission”) may impose as a penalty under section 110(1) or (3) of the Enterprise Act 2002 (“the Act”). Section 110(1) of the Act permits the Commission to impose a penalty where a person has failed, without reasonable excuse, to comply with a notice under section 109 of the Act. Section 110(3) of the Act permits the Commission to impose such a penalty where it considers that a person has intentionally obstructed or delayed another person in the exercise of his powers under section 109(6) of the Act.

A penalty imposed under section 110(1) of the Act may be a fixed amount, an amount calculated by reference to a daily rate, or a combination of the two. Where the penalty comprises or includes a fixed amount, the maximum fixed amount is £20,000. Where the penalty comprises or includes an amount calculated by reference to a daily rate, the maximum rate at which the penalty may increase is £5,000 per day.

A penalty imposed under section 110(3) of the Act must be a fixed amount. The maximum amount of such a penalty is £20,000.

Sections 110 and 111 of the Act apply for the purposes of references to the Commission or investigations by the Commission for the purpose of exercising functions under the following statutory provisions as they apply for the purposes of merger references under Part 3 of the Act: Part 4 of the Act (market investigation references), section 11 of the Competition Act 1980, section 13 of the Telecommunications Act 1984, section 43 of the Airports Act 1986, sections 24, 26A and 41E of the Gas Act 1986, sections 12, 14A and 56C of the Electricity Act 1989, paragraph 4 of Schedule 4 to the Broadcasting Act 1990, section 14 of the Water Industry Act 1991, Article 15 of the Electricity (Northern Ireland) Order 1992, sections 13, 15A and 15B of and paragraphs 9, 13 and 14 of Schedule 4A to the Railways Act 1993, Article 34 of the Airports (Northern Ireland) Order 1994, Article 15 of the Gas (Northern Ireland) Order 1996, section 162 of the Financial Services and Markets Act 2000, section 15 of the Postal Services Act 2000 and sections 12, 15 and 16 of the Transport Act 2000.