

2003 No. 1371

COMPETITION

The Competition Commission (Penalties) Order 2003

Made - - - - - 23rd May 2003

Laid before Parliament 27th May 2003

Coming into force - - 20th June 2003

Whereas the Secretary of State, as required by section 111(8) of the Enterprise Act 2002(a), (“the Act”), has consulted the Competition Commission and such other persons as she considers appropriate;

And whereas the Secretary of State has considered the representations received;

Now, therefore, the Secretary of State in exercise of the powers conferred on her by section 111(4) and (6) of the Act, including those subsections as applied by section 176 of the Act, section 11B(1) of the Competition Act 1980(b) section 13B(1) of the Telecommunications Act 1984(c), section 44B(1) of the Airports Act 1986(d), sections 24B(1), 26A(11F) and 41EB(1) of the Gas Act 1986(e), sections 12B(1), 14A(11F) and 56CB(1) of the Electricity Act 1989(f), paragraph 4A(1) of Schedule 4 to the Broadcasting Act 1990(g), section 14B(1) of the Water Industry Act 1991(h), Article 15B(1) of the Electricity (Northern Ireland) Order 1992(i), sections 13B(1) and 15C(2D) and paragraphs 10A(1) and 15(2D) of Schedule 4A to the Railways Act 1993(j), Article 35B(1) of the Airports (Northern Ireland) Order 1994(k), Article 15B(1) of the Gas (Northern Ireland) Order 1996(l), paragraph 2A(1) of Schedule 14 to the Financial Services and Markets Act 2000(m), sections 15B(1) and 19A(6) of the Postal Services Act 2000(n) and sections 12B(1) and 18(6) of the Transport Act 2000(o) hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Competition Commission (Penalties) Order 2003 and shall come into force on 20th June 2003.

(2) In this Order “the Act” means the Enterprise Act 2002.

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- (a) 2002 c. 40.
 - (b) 1980 c. 21.
 - (c) 1984 c. 12.
 - (d) 1986 c. 31.
 - (e) 1986 c. 44.
 - (f) 1989 c. 29.
 - (g) 1990 c. 42.
 - (h) 1991 c. 56.
 - (i) S.I. 1992/231 (N.I. 1).
 - (j) 1993 c. 43.
 - (k) S.I. 1994/426 (N.I. 1).
 - (l) S.I. 1996/275 (N.I. 2).
 - (m) 2000 c. 8.
 - (n) 2000 c. 26.
 - (o) 2000 c. 38.

The Specified Amounts

2.—(1) For the purposes of section 111(4)(a) of the Act the fixed amount specified shall be £20,000.

(2) For the purposes of section 111(4)(b) of the Act the amount per day specified shall be £5,000.

(3) For the purposes of section 111(4)(c) of the Act the fixed amount specified shall be £20,000 and the amount per day specified shall be £5,000.

(4) For the purposes of section 111(6) of the Act the amount specified shall be £20,000.

23rd May 2003

Brian Wilson,
Minister of State for Energy and Construction,
Department of Trade and Industry

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.

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