

ENTERPRISE AND REGULATORY REFORM ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: the Competition and Markets Authority and Part 4: Competition Reform

Part 4: Competition Reform

Chapter 3: Anti-Trust

Miscellaneous

Section 45: Power for Secretary of State to impose time-limits on investigations etc.

345. This section inserts a new power in the CA 1998 enabling the Secretary of State by order to impose time limits in relation to the conduct by the CMA of anti-trust investigations and the making by the CMA of decisions as to whether one of the anti-trust prohibitions has been infringed. The time limits could only be set in relation to investigations in general or in relation to particular types of investigation specified in the order, not individual cases.
346. The Secretary of State must consult the CMA and any other such persons he/she considers appropriate before making an order.
347. By virtue of section 71(5) of the CA 1998, an order imposing time limits would be subject to the negative resolution procedure.
348. There are at present no time limits for the conduct of anti-trust investigations. Time limits are imposed under the EA 2002 for investigations and reports in respect of merger (Part 3) and market (Part 4) cases.

Section 46: Review of operation of Part 1 of the Competition Act 1998

349. This section requires the Secretary of State to review the operation of Part 1 of the CA 1998 (which makes provision for the enforcement of the anti-trust prohibitions and related matters), as amended by the Act, and to lay before Parliament a report on the outcome of the review. He/she is required to do this within 5 years of the coming into force of Part 1 of Schedule 5 which transfers the OFT's functions under Part 1 of the CA 1998 to the CMA.