

These notes refer to the Enterprise and Regulatory Reform Act 2013 (c.24) which received Royal Assent on 25 April 2013

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 5: Miscellaneous

Enforcement orders: markets and mergers

Section 49: Enforcement orders: monitoring compliance and determination of disputes

365. **Section 49** amends Schedule 8 of the EA 2002, which sets out the kinds of provisions which can be included in enforcement orders made by the CMA or the Secretary of State in both the mergers and markets regimes. The new paragraph 20C will enable the CMA to appoint a third party expert to monitor the implementation of remedies, including compliance with orders and to determine disputes. New paragraph 20C(2) also requires an enforcement order which makes provision for the appointment of a third party expert, to make provision about his or her terms of appointment. This is intended to allow the order to require the parties subject to it to remunerate the appointed third party. Currently the appointment of third parties relies on the agreement of the parties. For example, the Adjudicator – Broadcast Transmission Services was created as a result of undertakings arising from the merger of Macquarie UK Broadcast Ventures and National Grid Wireless Group. ITV's Contracts Rights Renewal Undertakings were accepted following the merger of Carlton and Granada. The purpose of these provisions is to increase the range of remedies available to the CMA so that the most proportionate and effective remedy can be applied to address an Adverse Effect on Competition.