

SCHEDULE 1

TRANSFER OF FUNCTIONS OF OFT AND COMPETITION COMMISSION TO CMA AND AMENDMENTS CONSEQUENTIAL ON PARTS 3 AND 4 OF THE ACT

PART 2

Amendments to other Acts of Parliament

Communications Act 2003

161.—(1) Section 370 (OFCOM’s functions under Part 4 of the Enterprise Act 2002)(1) is amended as follows.

(2) In subsection (1), for “Office of Fair Trading” substitute “Competition and Markets Authority (referred to in this Part as “the CMA”)”.

(3) In subsection (2)—

(a) for “and 171” substitute “, 171 and 174E”,

(b) for “Office of Fair Trading” substitute “CMA”, and

(c) for “relating to” substitute—

“those functions—

(a) are exercisable by the CMA Board (within the meaning of Schedule 4 to the Enterprise and Regulatory Reform Act 2013), and

(b) relate to”.

(4) In subsection (3)—

(a) for “(1) and (2), references” substitute—

“(1) and (2)—

(a) references”,

(b) for “Office of Fair Trading” substitute “CMA”, and

(c) for the words from “except” to “requires.” substitute—

“(except in sections 166, 171 and 174E and where the context otherwise requires);

(b) references in that Part to the CMA carrying out functions under section 5 of the Enterprise Act 2002 are to be construed as including references to OFCOM exercising powers under section 1(3) of this Act to obtain, compile and keep under review information about matters relating to the carrying out of its functions.”

(5) After subsection (3) insert—

“(3A) Section 130A of the Enterprise Act 2002 is to have effect in its application in relation to OFCOM by virtue of subsections (1) and (2)—

(a) as if for subsection (1) of that section there were substituted—

“(1) Where the Office of Communications—

(a) is proposing to fulfil its duties under section 3(1) of the Communications Act 2003 by obtaining, compiling and keeping under review information in relation to a matter for the purposes mentioned in subsection (2), and

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- (b) considers that the matter is one in respect of which it would be appropriate for it to exercise its powers under section 174 (investigation) in connection with deciding whether to make a reference under section 131,

the Office of Communications must publish a notice under this section (referred to in this Part as a “market study notice”).”, and

- (b) as if in subsection (2)(a) of that section, for “the acquisition or supply of goods or services of one or more than one description in the United Kingdom” there were substituted “commercial activities connected with communications matters (within the meaning given by section 369(1) of the Communications Act 2003)”.

- (6) In subsection (4), in the wording before paragraph (a)—

- (a) for “subsection (2) the reference” substitute “subsections (2) and (3A) the references”,
- (b) for “it is a reference” substitute “they are references”, and
- (c) for “includes” substitute “include”.

- (7) In subsections (5) and (6), for “Office of Fair Trading” (in each place where it occurs) substitute “CMA”.

- (8) In subsection (7)—

- (a) in the words before paragraph (a), for “the Competition Commission” substitute “a CMA group”,
- (b) also in those words, for “reference made to them by OFCOM” substitute “market investigation reference made by OFCOM (under section 131 of the Enterprise Act 2002)”, and
- (c) for “Commission” (in each place where it occurs) substitute “group”.

- (9) After subsection (7) insert—

“(7A) In subsection (7) “CMA group” has the same meaning as in Schedule 4 to the Enterprise and Regulatory Reform Act 2013.”

- (10) In subsections (9), (10) and (12), for “Office of Fair Trading” (in each place where it occurs) substitute “CMA”.