

Notice of Variation of Procedure

Adoption of Undertakings

Where a merger reference has been made to the Competition Commission (CC) under section 22 or 33 of the Enterprise Act 2002 (EA) and the Office of Fair Trading (OFT) has accepted initial undertakings under section 71 EA the CC may adopt those undertakings (section 80(3) EA). If not adopted, the initial undertakings will lapse seven days after the reference has been made (section 71(6) EA).

The functions of the CC are generally discharged by groups. The Chairman of the CC has the ability to perform general functions which facilitate the work of the group where a group has not yet been constituted (Competition Act 1998, Schedule 7 15(7)).

It is within the competence of the Remedies Standing Group (RSG) to adopt initial undertakings before a merger reference group has been constituted (*Competition Commission Rules of Procedure*, paragraph 5). CC practice has been that the RSG should adopt initial undertakings.

The CC has now decided to vary the procedure for the adoption of initial undertakings. In order to facilitate the work of merger reference groups and where a group has not yet been constituted, the procedure will be adoption by the Chairman of the CC or where the Chairman is absent or unable to act, the next most senior Deputy Chairman who is able to act.

Adoption of Initial Undertakings

Where a merger reference has been made to the CC under section 22 or 33 EA and the OFT has accepted initial undertakings under section 71 EA and a merger reference group has not yet been constituted, the initial undertakings may be adopted by the CC as follows:

- (a) by the Chairman of the CC; or,
- (b) where the Chairman is absent or unable to act or where there is no Chairman, by the most senior Deputy Chairman of the CC who is able to act.

signed
Peter Freeman
Chairman
16 March 2010