



HM Government

Response Form: Competition Regime – Draft Secondary Legislation – Part 2

17 September 2013



Department
for Business
Innovation & Skills

Response Form: Competition Regime – Draft Secondary Legislation – Part 2

Issued: 17 September 2013

Respond by: 11 November 2013

Enquiries to:

Paul Griffiths
Consumer and Competition Policy Directorate
Department for Business, Innovation and Skills
1 Victoria Street
London
SW1H 0ET

Tel: 0207 215 1722

Email: competition.consultation@bis.gsi.gov.uk

This consultation is relevant to: Businesses of all size, economic regulatory bodies, consumer organisations, legal bodies and academics.

This information is also available on the GOV.UK website:

<https://www.gov.uk/government/consultations/competition-regime-cma-priorities-and-draft-secondary-legislation-part-two>

How to Respond

This consultation will begin on 17 September 2013 and will run for 8 weeks, closing on 11 November 2013.

When responding please state whether you are responding as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents by selecting the appropriate interest group on the consultation form and, where applicable, how the views of members were assembled.

The consultation response form is available electronically on the consultation page: www.gov.uk/government/consultations/competition-regime-draft-secondary-legislation-part-two (until 11 November 2013). The form can be submitted online/by email or by letter or fax to:

Paul Griffiths
Consumer and Competition Policy Directorate
Department of Business, Innovation and Skills
1 Victoria Street
London
SW1H 0ET

Tel: 0207 215 1722
Fax: 0207 215 0235
Email: competition.consultation@bis.gsi.gov.uk

A list of those organisations and individuals consulted is in Annex K. We would welcome suggestions of others who may wish to be involved in this consultation process.

You may make printed copies of this document without seeking permission. Other versions of the document in Braille, other languages or audio-cassette are available on request.

Confidentiality & Data Protection

Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want information, including personal data that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic

confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

Help with queries

Questions about the policy issues raised in the document can be addressed to Paul Griffiths at the above address.

What happens next?

Following the close of the consultation period, the Government will publish all of the responses received, unless specifically notified otherwise (see data protection section above for full details).

The response to the consultation will take the form of decisions made in light of the consultation, a summary of the views expressed and reasons given for decisions finally taken. This document will be published on the BIS website with paper copies available on request.

Comments or complaints

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to:

John Conway,
BIS Consultation Co-ordinator,
1 Victoria Street,
London
SW1H 0ET

Telephone John on 020 7215 6402
or e-mail to: john.conway@bis.gsi.gov.uk

The consultation principles are in Annex J.

However if you wish to comment on the specific policy proposals you should contact the policy lead.

Response Form

Name: Sebastian Eyre

Organisation (if applicable): EDF Energy

Address: 40 Grosvenor Place, Victoria, London SW1X 7EN

Please tick a box from the list of options below that best describes you as a respondent.

<input type="checkbox"/>	Business representative organisation/trade body
<input type="checkbox"/>	Central government
<input type="checkbox"/>	Charity or social enterprise
<input type="checkbox"/>	Individual
<input checked="" type="checkbox"/>	Large business (over 250 staff)
<input type="checkbox"/>	Legal representative
<input type="checkbox"/>	Local Government
<input type="checkbox"/>	Medium business (50 to 250 staff)
<input type="checkbox"/>	Micro business (up to 9 staff)
<input type="checkbox"/>	Small business (10 to 49 staff)
<input type="checkbox"/>	Trade union or staff association
<input type="checkbox"/>	Other (please describe):

Chapter 2. Cartels: Enterprise Act 2002 (Publishing of Relevant Information under section 188A) Order 2014

Question 1: What is your view on the proposed manner of publication of relevant information?

Comments:

EDF Energy believe the proposed approach should ensure that relevant information will be made readily available without placing overly burdensome requirements on businesses.

Question 2: Can you estimate the number of advertisements which might be placed in one of the Gazettes?

Comments:

No comment

Question 3: Do you have any other comments on the draft Order?

Comments:

EDF Energy has no further comments.

Chapter 3. Concurrency: Competition Act 1998 (Concurrency) Regulations 2014

Question 4: Do you have any comments on the draft Regulations?

Comments:

Under Regulation 5 if agreement cannot be reached within a 'reasonable time' the CMA must notify the other relevant competent persons that it intends to make a determination. However, it is unclear on what will be deemed 'reasonable time' by the CMA. Additional clarity should be provided with a preference for a prescribed timeframe within the Regulations to be set. Alternatively, an indication of what will be deemed 'reasonable' should be included within the CMA's Guidance documents.

It is noted that where a transfer of Part 1 functions occurs, notification will be provided to the undertaking subject to the case under Regulation 7(2). In addition to this notification, we believe greater transparency would be provided if an undertaking should also be notified, at the time the competent person informs it that it has exercised Part 1 function, of the fact that agreement or a CMA determination has been made in accordance with Regulation 4 or 5.

We note that there is a typographic error in Regulation 7(5). The second "the" on line 2 should be deleted.

Chapter 4. Antitrust: The Competition Appeal Tribunal (Warrants) (Amendment) Rules 2014

Question 5: Do you have any comments on the draft Rules?

Comments:

No comments.

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply ☒

At BIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

☒ Yes

☐ No