

# Review of the Electrical Contracting (London Exhibition Halls) Order 1995

Final decision

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## Introduction

1. On 22 January 2018, the Competition and Markets Authority (CMA) launched a review of the Electrical Contracting (London Exhibition Halls) Order 1995 (the Order).<sup>1</sup> The Order, which was made in 1995 under the Fair Trading Act 1973 (FTA), followed a report issued by the Monopolies and Mergers Commission (MMC) in 1990 (the MMC Report).<sup>2</sup>
2. The purpose of the Order was to implement the recommendations identified in the MMC Report to address public interest concerns arising from a monopoly situation in the market for the provision of electrical contracting services to large exhibition halls in London.<sup>3</sup>
3. The CMA has a statutory duty to keep under review orders and undertakings made under the FTA and the Enterprise Act 2002 (the Act).<sup>4</sup> In the exercise of its duty, the CMA must from time to time consider whether, by reason of any change of circumstances:
  - (a) undertakings are no longer appropriate and need to be varied, superseded or released; or
  - (b) an order is no longer appropriate and needs to be varied or revoked.
4. The CMA's decision to conduct a review of the Order was made pursuant to the guidance in CMA11.<sup>5</sup> This follows the commitment made in its 2016/17

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<sup>1</sup> [SI 1995 No,3299](#)

<sup>2</sup> *Electrical Contracting at Exhibition Halls in London: A report on the supply in Greater London of electrical contracting services at large exhibition halls* (Cm 995).

<sup>3</sup> The FTA was based on a 'public interest' test. Under the FTA, in deciding whether a monopoly situation operated against the public interest, the MMC had to take into account all matters which appeared to it in the particular circumstances to be relevant and, among other things, had regard to the desirability (i) of maintaining and promoting effective competition between persons supplying goods and services in the United Kingdom; (ii) of promoting the interests of consumers, purchasers and other users of goods and services in the United Kingdom in respect of the prices charged for them and in respect of their quality and the variety of goods and services supplied; (iii) of promoting, through competition, the reduction of costs and the development and use of new techniques and new products, and of facilitating the entry of new competitors into existing markets; (iv) of maintaining and promoting the balanced distribution of industry and employment in the United Kingdom; and (v) of maintaining and promoting competitive activity in markets outside the United Kingdom on the part of producers of goods, and of suppliers of goods and services, in the United Kingdom.

<sup>4</sup> The CMA's duty to review undertakings orders made under the FTA is preserved in paragraph 17 of Schedule 24 to the Act. The CMA's duty to review undertakings and orders made under the Act in the context of market investigations is set out in section 162 of the Act.

<sup>5</sup> CMA (January 2011, revised August 2015), Remedies: Guidance on the CMA's approach to the variation and termination of merger, monopoly and market undertakings and orders (CMA11).

Annual Plan systematically to review its existing merger and market remedies and to remove measures that are no longer appropriate.

5. On 20 March 2018 the CMA published its provisional decision in this review, along with a Notice of Intention to Revoke the Order. The CMA did not receive any comments during the consultation period on the provisional decision, which closed on 20 April 2018.

### ***The launch and provisional decision consultations***

6. Prior to launch, the CMA sought preliminary information from representatives of relevant venues, organisers, electrical contractors and exhibitors to understand the nature of any changes in this sector since the Order came into force. The CMA used information provided by these stakeholders, as well as its own research, to inform the decision to launch this review.
7. The CMA publicised the launch and the provisional decision consultations on Gov.uk. In addition, the CMA sought to attract responses by directly contacting by email 53 businesses and trade associations representing venues, exhibition organisers, contractors, and exhibitors. The CMA also issued announcements on Twitter and posted updates onto relevant CMA LinkedIn pages.
8. The CMA received three responses to its launch consultation: two from the contractor level of the supply chain and one from the Health and Safety Executive. The CMA took all of these responses into account, alongside the preliminary information received before launch, in reaching its provisional decision that the Order should be revoked due to a change of circumstances since 1990 which has resulted in the Order being no longer appropriate. The CMA published its provisional decision to revoke the Order, including its reasoning for that provisional decision and a notice of intention to revoke the Order, on 20 March 2018. The CMA received no responses to its provisional decision during the consultation period.

### ***The final decision***

9. In light of the above, the CMA has reached a final decision that the Order should be revoked due to a change of circumstances since 1990 which has resulted in the Order being no longer appropriate. The reasoning for this decision was set out in the provisional decision document and is repeated below.

## The MMC's investigation

10. The MMC defined electrical contracting services as 'the services provided by electrical contractors, in their capacity as such, other than the service of connecting electrical equipment to electrical mains'.<sup>6</sup> The relevant venues were defined as having 'an exhibition floor area exceeding 2,500 square metres' (the Reference Halls).
11. The MMC noted that electrical contracting services were a crucial element in mounting exhibitions, albeit a very small part of cost of mounting an exhibition. The exhibitions industry itself was found to be increasingly important, and was characterised, particularly in London, by a shortage of space, and particularly of large venues.
12. The MMC found that the three largest contractors accounted for approximately half of the electrical contracting work at exhibitions in the UK.<sup>7</sup> It also found that a complex monopoly existed in favour of five electrical contractors which were tied to certain large exhibition halls in London<sup>8</sup> and that certain practices of those electrical contractors operated against the public interest. In particular:
  - a) their failure to show reference prices<sup>9</sup> separately to hall charges for electricity and mains connections<sup>10</sup> impeded comparison of prices;

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<sup>6</sup> MMC Report, paragraph 2.1. Although the MMC does not specify in detail exactly what activity this entails, it does note that the electrical contractor may 'wire up' stands to the specification of the exhibitor and may also arrange for the venue mains supply to be provided to a block of stands through junction boxes. Wiring up' of stands appears to comprise primarily supply and connection of light fittings and mains sockets. This can be inferred by reference to the price surveys carried out by the MMC which specify two typical combinations of light fittings and sockets (see MMC Report, paragraph 3.28). No reference is made to electrical equipment beyond light fittings and sockets, e.g. IT, AV, printing or telephone equipment.

<sup>7</sup> Ecando Systems Ltd (dissolved in 2009), Melville Group plc (dissolved in 2006) and Giltspur International Ltd (dissolved in 2004) (MMC Report, paragraph 2.15)

<sup>8</sup> These were:

- Business Design Centre Ltd – in-house tie to Business Design Centre;
- Ecando Systems Ltd (dissolved in 2009), owned at the time by Earls Court and Olympia Ltd. Tied to Earl's Court (no longer operating), Olympia and Olympia 2 (both now Olympia London);
- Johnson Smith & Company Ltd (dissolved in 2005), owned at the time by Melville Group plc. Tied to the Wembley Centre (demolished in 2006);
- Lightpower Exhibitions Ltd (dissolved in 2005), also owned at the time by Melville Group plc. Tied to Alexandra Palace, Novotel London and Westminster Exhibition Centre (the latter now Royal Horticultural Halls and Conference Centre); and
- S Seymour (Electrics) Ltd (dissolved in 2013). Tied to the Wembley Centre (demolished in 2006).

<sup>9</sup> i.e. the price for the service and/or equipment provided by the contractor.

<sup>10</sup> i.e. prices determined by the hall, which would be the same regardless of contractors' pricing.

- b) their payment of commission to hall owners and / or exhibition organisers, who held market power, distorted competition to the detriment of exhibitors; and
- c) their tie to exhibition halls:
  - (i) restricted competition for work at those halls;
  - (ii) discouraged new entry into electrical contracting at those halls; and
  - (iii) inhibited the growth of potential competition in the supply of electrical contracting.

## The Order

13. The MMC Report recommended that electrical contractors should: publish their prices in order to increase transparency and exhibitors' ability to shop around or assess whether they were obtaining value for money; and distinguish prices for contractors' services from other associated charges. The MMC Report also recommended that the payment of commission and the practice of hall owners requiring their tied electrical contractors to be employed either wholly or partly should be prohibited.
14. The Order, which came into force in 1996 and applies to the Reference Halls, implements these recommendations. It prohibits hall owners and exhibition organisers from appointing fewer than two electrical contractors for exhibitors to choose from and requires constraints on appointing contractors to be objectively justified. It also requires electrical contractors to be appointed on a competitive basis. In relation to electrical contractors, the Order contains a requirement that they notify exhibitors of their prices for the services they supply in writing before they enter into a binding written contract.
15. The explanatory note to the Order summarises its purpose as follows:

*'This Order provides that the owners of exhibition halls may not impose restrictions on who may provide electrical contracting services to exhibitors at exhibitions organised by persons unconnected with the hall owner except on objectively justified grounds. Where an exhibition organiser and the hall owner are connected, then the exhibition organiser may only require the use of a particular electrical contractor if that contract has been competitively chosen. In such cases, the contractor must notify*

*the exhibitors of its prices before the exhibitors enter into a contract to exhibit at the particular exhibition.*

*'Hall owners may not receive any valuable benefits from contactors in return for requiring or promoting the use of their services.'*

## **Change of Circumstances**

16. The CMA has assessed whether, or not, there has been any change of circumstances such that the Order is no longer appropriate and may no longer be required or may need to be varied. We set out below the main changes identified.

### ***Changes in structure of competition among electrical contractors***

17. The MMC found a complex monopoly situation to exist comprising the five largest electrical contractors to the Reference Halls. However, four of those contractors are no longer operating. Whilst the Order is a market-wide remedy and applies to any businesses falling within its definitions, it is clear that the exit of four out of five of the 'complex monopolists' whose conduct was found by the MMC to be problematic is a relevant change of circumstances. In addition to this, all three of the contractors which the MMC found to account for approximately half of electrical contracting work at exhibitions in the UK are no longer operating.<sup>11</sup>
18. The structure of the market for electrical contracting at London exhibition halls now appears to be much less concentrated and there is less scope for such 'complex monopolies' to be formed. A trade association representing contractors told us that its membership of 230 businesses includes twelve 'main contractors', who offer a diverse range of services including electrical work, and that there are an estimated 400-500 reputable contractors in the market as a whole.<sup>12</sup>
19. The information provided to us indicates that exhibitors typically still use only one 'main' electrical contractor. However, this is the result of more pro-competitive circumstances than the 'complex monopoly' and 'tie' systems which prevailed at the time of the MMC's investigation. For example, we were

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<sup>11</sup> See footnote 7 above.

<sup>12</sup> It was estimated that around 40% of these are 'stand builders', some of whom, we were informed by another stakeholder, now also carry out electrical work (see paragraph 233).



informed by stakeholders representing electrical contractors that electrical contractors are now appointed by organisers, not venues, through tenders which take into account price, service levels, health and safety awareness, quality of labour, management and any 'unique selling points'. We were also told that the justification for organisers generally appointing only one electrical contractor for any exhibition is that the contractor now has responsibility for ordering and paying for mains supply from the venue in advance and for testing all installations, and that in operational terms this is more easily managed by just one contractor. Contracts with larger organisers can be nationwide and for 1-5 years however we were told that many organisers also prefer shorter-term contracts in order to keep their options open in response to feedback from exhibitors.

20. In addition to the ability of *organisers* to choose contractors, there now also appears to be better scope for *exhibitors* to use alternatives if they wish. One electrical contractor told us that exhibitors are now free to choose between the partners of the organiser or their own contractors. In particular, 'space only' exhibitors can now choose their own electrical contractor if they meet the required criteria.
21. It also appears that the industry displays more collaboration between different levels of the supply chain than it did at the time of the MMC's investigation. For example, a stakeholder representing venues told us that the industry works together to expand business space, and the ESSA<sup>13</sup> Electrical Technical Group has been set up to enable venues, organisers and contractors to discuss issues and concerns.

### ***Changes in the service offered by electrical contractors***

22. As described at paragraph 19 above, electrical contractors are now generally appointed by organisers through competitive tenders. One electrical contractor also informed us that the service now provided by electrical contractors includes ordering and paying for all mains supplies in advance. Another explained that venue mains costs can be 48%-65% of electrical contractors' turnover, depending on the type of show. Electrical contractors carry out new testing procedures on all installations, and this is reflected in their quotes. We were also told that most contractors now use a pre-

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<sup>13</sup> Event Supplier and Services Association.

fabricated wiring system, known as 'plug & play', in response to demand to make build and break down times shorter.

23. We have been told that a further change which has occurred in the last 5-10 years is that of stand builders<sup>14</sup> now ordering direct mains and carrying out electrical work that previously could have been carried out only by an electrical contractor.

### ***Changes in choice of venues within Greater London***

24. Some of the Reference Halls listed by the MMC have closed or been demolished, and new ones have opened. The MMC Report lists 12 venues which meet its definition of 'Reference Halls' (i.e. venues in Greater London with a floor area for exhibitions of over 2,500 square metres). Of these, three are no longer operating<sup>15</sup>, four of the remainder have changed ownership, and at least one now has an exhibition space which would not meet the MMC's criteria. In addition, a brief internet search returns a further four potential venues which may now meet the MMC's size criteria.<sup>16</sup> This is relevant to the hall-tie problem identified by the MMC as two of the three venues which are no longer operating had a tied contractor. We have received or identified no information which suggests that the new venues, or new owners of venues named by the MMC, still operate a tie system and the information described at paragraphs 19 and 20 above strongly supports this.
25. We have been told that although there is now less large venue space in London, the opening of ExCeL has had a significant impact in London and there are now more large venues available outside London. Recent years have also seen the emergence of 'pop-up' venues in spaces such as dormant breweries. These factors have increased the range of alternatives available to organisers and hence their ability to obtain better value for money for exhibitors.
26. Over and above any change in the absolute number of venues which meet the MMC's Reference Halls definition, the ability of venues to implement effective detrimental exclusivity arrangements is weakened by the existence of alternative venues, the change in the structure of the supply of contracting

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<sup>14</sup> Stand builders typically design, produce and install modular or custom-made exhibition stands.

<sup>15</sup> Earls Court, London Arena and Wembley Centre.

<sup>16</sup> London Transport Museum, Royal Airforce Museum, ExCeL London and Wembley Stadium (Search on [www.venuefinder.com](http://www.venuefinder.com), carried out in November 2017. Criteria: London (15 mile radius), exhibition venues, largest room area 2500m<sup>2</sup>).

services, and the shift in market power from a small number of venues to a significantly larger number of organisers.

27. In addition to change in the supply of exhibition space, there is now less scope for venues to wield undue influence to tie particular electrical contractors and decrease customer choice. At the time of the MMC report venues such as Earls Court & Olympia were very powerful, were vertically integrated<sup>17</sup> or tied with<sup>18</sup> other parts of the supply chain, and used that power to their own advantage. Now however, as described at paragraph 19 above, organisers select contractors and do so through competitive tender. This supports the assertion made by a representative of venues that organisers are now more influential than venues. The same stakeholder also informed us that no venue now has a tied organising operation.

### ***Changes in regulation***

28. The MMC considered that health and safety issues were relevant to its inquiry, although not a focus for its recommendations<sup>19</sup> and there have been some changes in regulation in this area. For example, we were told by a stakeholder representing venues that the industry recently negotiated a specific set of technical regulations to apply to exhibition stands due to their temporary nature. As described at paragraph 19 above, the main contractor appointed by the exhibition organiser is responsible for testing all installations. Health and safety considerations are covered by the Health and Safety at Work Act and by the Electricity at Work Regulations.

### **Conclusions on change of circumstances**

29. In light of the information provided by stakeholders and through the CMA's own research it is apparent that a change of circumstances has taken place such that the concerns articulated by the MMC are no longer applicable. In particular:
- Exhibition organisers, rather than exhibitors, are now the primary 'consumer' of electrical contractors' services. Whereas electrical contractors were previously appointed by just a handful of venues using a system of exclusivity ties, each venue now hosts many organisers, each

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<sup>17</sup> i.e part of the same company or corporate group.

<sup>18</sup> E.g. customers are required to use the tied contractor or organiser if they wish to use the venue.

<sup>19</sup> MMC Report, paragraphs 6.23 – 6.25, 6.48 and 6.50.

of whom appoints their own choice of contractor through competitive tenders, with contract periods ranging from 1-5 years. These factors together remove the MMC's concerns about exclusivity practices within a concentrated market.

- Four of the five electrical contractors identified by the MMC as constituting a 'complex monopoly', and all three of the electrical contractors identified by the MMC as accounting for c.50% of UK exhibition work, no longer operate. Exhibitors often have freedom to choose between the contractor appointed by the organiser and their own preferred contractor, and there is now a greater variety of contractors to choose from with other types of service provider such as stand builders now carrying out electrical work. One of the chief concerns raised by the MMC, market concentration among electrical contractors, is therefore no longer applicable.
- The nature of the service provided by contractors has changed and consequently so has their competitive environment. Ordering and paying for mains supply from the venue in advance, and testing all installations, is now part of the service provided by electrical contractors. Most electrical contractors also use pre-fabricated wiring systems which facilitate quick build and break up of exhibitions, benefiting organisers. In addition, some stall builders now also order mains supply and carry out electrical installation work.
- Of the 12 Reference Halls listed by the MMC, three have been demolished (of which two had a tied contractor), four more have changed ownership and at least one no longer meets the MMC's criteria. An online venue search engine returned new venues which may meet the MMC's criteria. The nature of supply has also changed with the emergence of temporary venues and greater availability of large venues outside of London. This, along with the shift in market power from a small number of venues to a considerably larger number of organisers, will inevitably have had an impact on the 'hall-tie' problem identified by the MMC. In fact we have not identified or been informed about any relevant venues which have a tied electrical contractor such that organisers have no choice over whom to appoint.

## **Appropriateness of the Order**

30. Given the finding of changes in circumstances relevant to the Order, it is necessary for the CMA to determine whether the Order should remain in place in its current form, or whether it should be revised, or revoked.
31. The Order was designed to address the concerns identified by the MMC in the provision of electrical contractor services to large exhibition halls in London and. As explained above, a change of circumstances has taken place in the market. We have not been informed of, or otherwise identified, the continued existence of the specific problems identified by the MMC in 1990 such that it would be appropriate to vary the Order to address those problems more adequately. This suggests that the MMC concerns have been removed. We note that this does not constitute a finding that there are no competition or consumer concerns within the sector either in Greater London or in the UK as a whole. However, if any such problems were to come to light, they would, subject to the CMA's Prioritisation Principles<sup>20</sup>, be addressed through a new piece of work under the relevant investigatory or enforcement powers and action and/or bespoke remedies as appropriate.
32. In addition, we have received a consistent message from stakeholders that industry players are generally unaware of the Order and that the Order has not been invoked or even referred to in the course of their business. This fact does not in itself demonstrate that the Order is no longer necessary. However, it strongly supports the view that the Order provides no ongoing benefit to the market because its provisions address a specific situation which no longer applies.
33. The above suggests that the Order is no longer necessary and should be revoked.

## **Final decision and revocation order**

34. In light of the change of circumstances explained above, the CMA's final decision is to revoke the Order. As envisaged in Schedule 10, paragraph 8 of the Enterprise Act 2002, the CMA hereby publishes a revocation order alongside this document.

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<sup>20</sup> [CMA Prioritisation Principles](#)