Draft Order laid before Parliament under section 124(6), (6A) and (11) of the Enterprise Act 2002 (c. 40), for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2025 No. 0000

COMPETITION

The Enterprise Act 2002 (Definition of Newspaper) Order 2025

Made - - - - ***

Coming into force in accordance with article 1(2)

The Secretary of State makes this Order in exercise of the powers conferred by sections 44(11), 70G(1) and (4), and 124(2), (3) and (4) of the Enterprise Act 2002(**a**).

In accordance with section 124(6), (6A) and (11) of the Enterprise Act 2002(**b**), a draft of this Order was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) This Order may be cited as the Enterprise Act 2002 (Definition of Newspaper) Order 2025.

(2) This Order comes into force on the day after the day on which it is made.

(3) The amendments made by this Order have effect in accordance with article 4.

(4) This Order extends to England and Wales, Scotland and Northern Ireland.

Amendment to section 44 of the Enterprise Act 2002

2.—(1) Section 44 of the Enterprise Act 2002 (investigation and report by CMA) is amended as follows.

(2) For subsection (10) substitute—

"(10) In this Part, "newspaper" means a publication which—

(a) consists of, or includes, news-related material which is subject to editorial control;

(**a**) 2002 c. 40. Section 44(8) to (11) was inserted by section 376(3) of the Communications Act 2003 (c. 21). Section 124(4) was amended by paragraph 24 of Schedule 16 to the Communications Act 2003. Section 70G(1) and (4) was inserted by paragraph 2 of Schedule 7 to the Digital Markets, Competition and Consumers Act 2024 (c. 13). Section 124(3) was amended by paragraph 4(9)(a)(i) of Schedule 7 to the Digital Markets, Competition and Consumers Act 2024. There are other amendments to section 124(3) and (4) but none are relevant.

(**b**) Section 124(6) was amended by paragraph 2(5)(a) and (c) of Schedule 14 to the Digital Markets, Competition and Consumers Act 2024 and paragraph 24(4) of Schedule 16 to the Communications Act 2003 (c. 21). There are other amendments but none are relevant. Section 124(6A) was inserted by paragraph 4 of Schedule 7 to the Digital Markets, Competition and Consumers 2024. Section 124(11) was inserted by paragraph 2(7) of Schedule 14 to the Digital Markets, Competition and Consumers Act 2024.

(b) is published on any periodic basis; and

(c) is connected with the United Kingdom.

(10A) For the purposes of subsection (10)—

(a) "news-related material" means—

(i) news or information about current affairs; or

(ii) opinion about matters relating to the news or current affairs;

(b) news-related material contained in a publication is subject to editorial control if the publisher of the publication has editorial or equivalent responsibility for—

(i) the content of the material (which may include commissioning it);

(ii) how the material is presented; and

(iii) the decision to first publish the material;

(c) a publication is not to be treated as consisting of, or including, news-related material if the news-related material contained in the publication—

(i) is included only incidentally to the main content of the publication; or

(ii) relates wholly to a particular pastime, hobby, trade, business, industry or profession;

(d) "publication" means a publication which is—

(i) online; or

(ii) in hard copy,

and references to "publish" or a "publisher" are to be construed accordingly;

(e) a reference to a publication being published on any periodic basis includes, in relation to an online publication, a reference to it being updated on any periodic or other recurring basis;

(f) a publication is connected with the United Kingdom if—

(i) the majority of its readership is in the United Kingdom;

(ii) the majority of editorial decisions about the publication are taken in the United Kingdom; or

(iii) the registered or principal office of the publisher of the publication is in the United Kingdom.".

Amendment to section 70F of the Enterprise Act 2002

3. In section 70F of the Enterprise Act 2002 (other interpretation)(**a**), omit subsection (1).

Partial retrospective effect and savings provision

4.—(1) The amendments made by article 2, so far as those amendments have effect for the purposes of Chapter 3A of Part 3 of the Enterprise Act 2002, and by article 3 apply in relation to—

(a) enterprises ceasing to be distinct on or after 15th May 2025, but not in relation to enterprises ceasing to be distinct before that date;

(**a**) Section 70F was inserted by paragraph 2 of Schedule 7 to the Digital Markets, Competition and Consumers Act 2024 (c. 13).

(b) arrangements in progress or in contemplation on or after 15th May 2025 which, if carried into effect, might result in the creation of a foreign state newspaper merger situation by virtue of enterprises ceasing to be distinct on or after that date.

(2) For all other purposes, the amendments made by article 2 apply in relation to—

(a) enterprises ceasing to be distinct on or after the date on which this Order comes into force, but not in relation to enterprises ceasing to be distinct before that date;

(b) arrangements in progress or in contemplation on or after the date on which this Order comes into force which, if carried into effect, might result in enterprises ceasing to be distinct on or after that date.

Parliamentary Under Secretary of State
Department for Culture, Media and Sport

EXPLANATORY NOTE

(This note is not part of the Order)

Article 2 of this Order amends the definition of newspaper in section 44(10) of the Enterprise Act 2002 (c. 40) ("the Act") for the purposes of the UK's merger control regime in Part 3 of the Act.

Article 3 repeals section 70F(1) of the Act as a consequence of the amendments made by Article 2.

The amendments made by article 2 have effect retrospectively from 15th May 2025, so far as they have effect for the purposes of Chapter 3A of Part 3 of the Act. The amendment made by article 3 also has effect retrospectively from 15th May 2025. The retrospective application of these provisions applies to enterprises ceasing to be distinct on or after 15th May 2025 and to arrangements in progress or in contemplation on or after that date which, if carried into effect, might result in the creation of a foreign state newspaper merger situation. For all other purposes, the amendments made by article 2 apply to enterprises ceasing to be distinct on or after the date on which this Order comes into force, and to arrangements in progress or in contemplation on or after that date which, if carried into effect, might result in enterprises ceasing to be distinct.

A de minimis impact assessment of the effect this instrument will have on the costs of businesses, voluntary bodies and community bodies has been conducted.

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