STATUTORY INSTRUMENTS

2006 No. 354

COMPETITION

The Enterprise Act 2002 (Enforcement Undertakings) Order 2006

Made - - - -	*14th February 2006*
Laid before Parliament	*16th February 2006*
Coming into force - -	*10th March 2006*

The Secretary of State in exercise of the powers conferred upon him by section 277(1) and (2) of, and by paragraphs 15(1) and 16(1) of Schedule 24 to, the Enterprise Act 2002(**a**) makes the following Order:

Title and commencement

1. This Order may be cited as the Enterprise Act 2002 (Enforcement Undertakings) Order 2006 and shall come into force on 10th March 2006.

Interpretation

2. In this Order—

"the Act" means the Enterprise Act 2002;

"the 1973 Act" means the Fair Trading Act 1973(**b**);

Specification

3. The undertakings described in the Schedule to this Order, which have been accepted by the Secretary of State under section 75G of the 1973 Act, are specified for the purposes of paragraphs 15(1) and 16(1) of Schedule 24 to the Act.

Consequential amendments

4. Where the undertakings described in paragraphs 4 – 16 of the Schedule refer to action requiring the consent, approval or agreement of the Secretary of State, such consent, approval or agreement may be granted by the Office of Fair Trading.

(**a**) 2002 c.40.
(**b**) 1973 c.41.

Gerry Sutcliffe
Parliamentary Under Secretary of State for
Employment Relations and Consumer Affairs
Department of Trade and Industry

14th February 2006

SCHEDULE

Article 3

1. The undertakings given to the Secretary of State by Enterprise Inns plc in relation to its acquisition of the Laurel Pub Group Limited(**a**).

2. The undertakings given to the Secretary of State by British Sky Broadcasting Group plc in relation to its proposed acquisition of control of British Interactive Broadcasting Holdings Limited(**b**).

3. The undertakings given to the Secretary of State by National Express Group plc in relation to its acquisition of Prism Rail plc(**c**).

4. The undertakings given to the Secretary of State by Gala Group Limited in relation to its acquisition of Riva Clubs Limited(**d**).

5. The undertakings given to the Secretary of State by Hanson plc, dated 4 May 2000, in relation to its proposed acquisition of Pioneer International Limited(**e**).

6. The undertakings given to the Secretary of State by Anglo American plc, dated 1 March 2000, in relation to its proposed acquisition of Tarmac plc(**f**).

7. The undertakings given to the Secretary of State by The Scotts Company, dated 3 June 1999, in relation to its acquisition of certain assets of the Monsanto Company(**g**).

8. The undertakings given to the Secretary of State by Federal-Mogul Corporation and T&N PLC, dated 26 June 1998, in relation to the acquisition by Federal-Mogul Corporation of T&N PLC(**h**).

(**a**) The acceptance of the undertakings was announced in a DTI Press Notice dated 23 September 2002 (P/2002/583), which provided for the publication of the undertakings in accordance with section 75H(1) of the 1973 Act.
(**b**) The acceptance of the undertakings was announced in a DTI Press Notice dated 8 May 2001 (P/2001/296).
(**c**) The acceptance of the undertakings was announced in a DTI Press Notice dated 17 January 2001 (P/2001/30).
(**d**) The acceptance of the undertakings was announced in a DTI Press Notice dated 17 August 2000 (P/2000/579).
(**e**) The acceptance of the undertakings was announced in a DTI Press Notice dated 4 May 2000 (P/2000/308).
(**f**) The acceptance of the undertakings was announced in a DTI Press Notice dated 1 March 2000 (P/2000/137).The Secretary of State subsequently agreed to the variation of the terms of the undertakings, details of which were announced in a DTI Press Notice dated 29 September 2000 (P/2000/654).
(**g**) The acceptance of the undertakings was announced in a DTI Press Notice dated 11 June 1999 (P/99/491).
(**h**) The acceptance of the undertakings was announced in a DTI Press Notice dated 2 July 1998 (P/98/530). The Secretary of State subsequently agreed to the variation of the terms of the undertakings, details of which were announced in a DTI Press Notice dated 17 December 1998 (P/98/1048).

9. The undertakings given to the Secretary of State by the British United Provident Association Limited, dated 3 October 1997, in relation to its acquisition of Goldsborough Healthcare PLC and of a 20.92% interest in Independent British Healthcare PLC(**a**).

10. The undertakings given to the Secretary of State by Ibstock Building Products Limited, a subsidiary of Ibstock plc, dated 29 July 1996, in relation to its proposed acquisition of the brick manufacturing business of Redland plc(**b**).

11. The undertakings given to the Secretary of State by Schlumberger Limited, dated 19 November 1992, in relation to its acquisition from The Raytheon Company of Seismograph Service Limited, and of the acquisition by Schlumberger Technology Corporation from The Raytheon Company of Geoquest Systems Incorporated(**c**).

12. The undertakings given to the Secretary of State by Bowater Plc, dated 15 September 1992, in relation to its acquisition from Pembridge Investments Limited of DRG Packaging(**d**).

13. The undertakings given to the Secretary of State by Redland PLC, dated 3 March 1992, in relation to its proposed acquisition of Steetley plc(**e**).

14. The undertakings given to the Secretary of State by Trafalgar House Plc in relation to its acquisition of The Davy Corporation Plc(**f**).

15. The undertakings given to the Secretary of State by International Marine Holdings Inc. in relation to the acquisition by its subsidiary, International Marine Systems PLC, of Benjamin Priest Group plc(**g**).

16. The undertakings given to the Secretary of State by The Rank Organisation Plc, dated 14 September 1990, in relation to its acquisition of Mecca Leisure Group plc(**h**).

(**a**) The acceptance of the undertakings was announced in a DTI Press Notice dated 20 October 1997 (P/97/672), which provided for the publication of the undertakings in accordance with section 75H(1) of the 1973 Act.
(**b**) The acceptance of the undertakings was announced in a DTI Press Notice dated 29 July 1996 (P/96/607).
(**c**) The acceptance of the undertakings was announced in a DTI Press Notice dated 19 November 1992 (P/92/750).
(**d**) The acceptance of the undertakings was announced in a DTI Press Notice dated 15 September 1992 (P/92/586).
(**e**) The acceptance of the undertakings was announced in a DTI Press Notice dated 3 March 1992 (P/92/172).
(**f**) The acceptance of the undertakings was announced in a DTI Press Notice dated 9 August 1991 (P/91/443).
(**g**) The acceptance of the undertakings was announced in a DTI Press Notice dated 9 July 1991 (P/91/370).
(**h**) The acceptance of the undertakings was announced in a DTI Press Notice dated 2 October 1990 (P/90/576).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies certain undertakings accepted by a Minister of the Crown in relation to merger situations under section 75G of the Fair Trading Act 1973 (c. 41) ("the 1973 Act") for the purposes of paragraphs 15(1) and 16(1) of Schedule 24 to the Enterprise Act 2002 ("the Act") and makes consequential amendments to the undertakings.

Although Part 3 and related provisions of the 1973 Act have been repealed they continue to apply in relation to certain undertakings, by virtue of paragraph 13(1) of Schedule 24 to the Act and Article 4 of the Enterprise Act 2002 (Commencement No 3, Transitional and Transitory Provisions and Savings) Order 2003 SI 2003/1397, subject to paragraphs 15 to 18 of Schedule 24 to the Act.

The effect of specification under paragraph 15(1) is that sections 94(1) to (6) of the Act (which provides for the enforcement of undertakings and related rights) shall apply in relation to the undertakings instead of sections 93 and 93A of the 1973 Act. The effect of specification under paragraph 16(1) is to provide the Office of Fair Trading with a power to supersede, vary or release any such undertaking instead of the Secretary of State.

Article 4 provides for consequential amendments to the terms of the undertakings so that the Office of Fair Trading may provide consent, approval or agreement in place of the Secretary of State.

Copies of the merger undertakings and press notices referred to in the Schedule to this Order may be obtained from the Consumer and Competition Policy Directorate, DTI (telephone: 020 7215 5009; e-mail: paul.banister@dti.gov.uk). A regulatory impact assessment has not been produced for this instrument as it has no impact on the costs to business.

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