

R/7

OFGEM PUBLISHES REVISED COMPETITION ACT GUIDANCE FOR THE ENERGY SECTOR

Energy Regulator Ofgem today (Thursday) published revised guidelines on the application of the Competition Act 1998 in the energy sector.

The Competition Act 1998 Application in the Energy Sector guideline provides advice and information about factors which Ofgem's Authority must take into account when considering whether, and if so how, to exercise its powers under the Act.

The revisions to the guidelines reflect the modernisation of EC competition law. This provides for national competition authorities, including Ofgem's Authority, and courts of Member States applying and enforcing EC competition law (Articles 81 and 82 of the EC Treaty) alongside the European Commission.

Ofgem has concurrent powers with the Office of Fair Trading (OFT) to tackle cases involving anti-competitive agreements or abuse of dominance in the energy markets in Great Britain. As a result of modernisation of competition law, Ofgem's authority will now also apply to anti-competitive agreements or abuses of dominant positions which affect trade between Member States of the European Union.

Amendments have also been made to reflect recent developments in case law and Ofgem's experience in applying the Competition Act. The guidelines highlight aspects of particular importance to the energy market and should be read in conjunction with the competition law guidelines, published by the OFT.

ends

Notes to Editors

1. Copies of the final document 'Competition Act 1998 – Application in the Energy Sector', alongside a summary of responses to the consultation are available from the Ofgem website www.ofgem.gov.uk. Hard copies can be ordered from the [OFT](http://www.offt.gov.uk) <http://www.offt.gov.uk>
2. Ofgem is the Office of the Gas and Electricity Markets, which supports the Gas and Electricity Markets Authority, the regulator of the gas and electricity industries in Great Britain. Ofgem's aim is to bring choice and value to all gas and electricity customers by promoting competition and regulating monopolies. The Authority's powers are provided for under the Gas Act 1986, the Electricity Act 1989 and the Utilities Act 2000.
3. Article 81 of the EC Treaty prohibits agreements which may affect trade between Member States and which may have as their object or effect the prevention, restriction or distortion of competition within the common market. However, an agreement which satisfies the conditions set out in Article 81 (3) will not be prohibited. These are agreements which:
 - contribute to improving the production or distribution of goods or to promoting technical or economic progress;
 - provide a fair share of the benefits to consumers;

- do not impose restrictions which are not indispensable to obtaining the improvements;
and
 - would not result in a substantial elimination of competition.
4. Article 82 of the EC Treaty prohibits conduct which amounts to an abuse of a dominant position within the single market and which may affect trade between Member States.
 5. The OFT's proposed revisions of the competition law guidelines are available on the OFT website. The revised competition law guidelines were published in December 2004. Please refer to the OFT website: <http://www.of.gov.uk>

For further press information contact:

Mark Wiltsher 020 7901 7006

Richard Hunt 020 7901 7158

Out of hours 07774 728971/07769 565642