



COMPETITION APPEAL TRIBUNAL

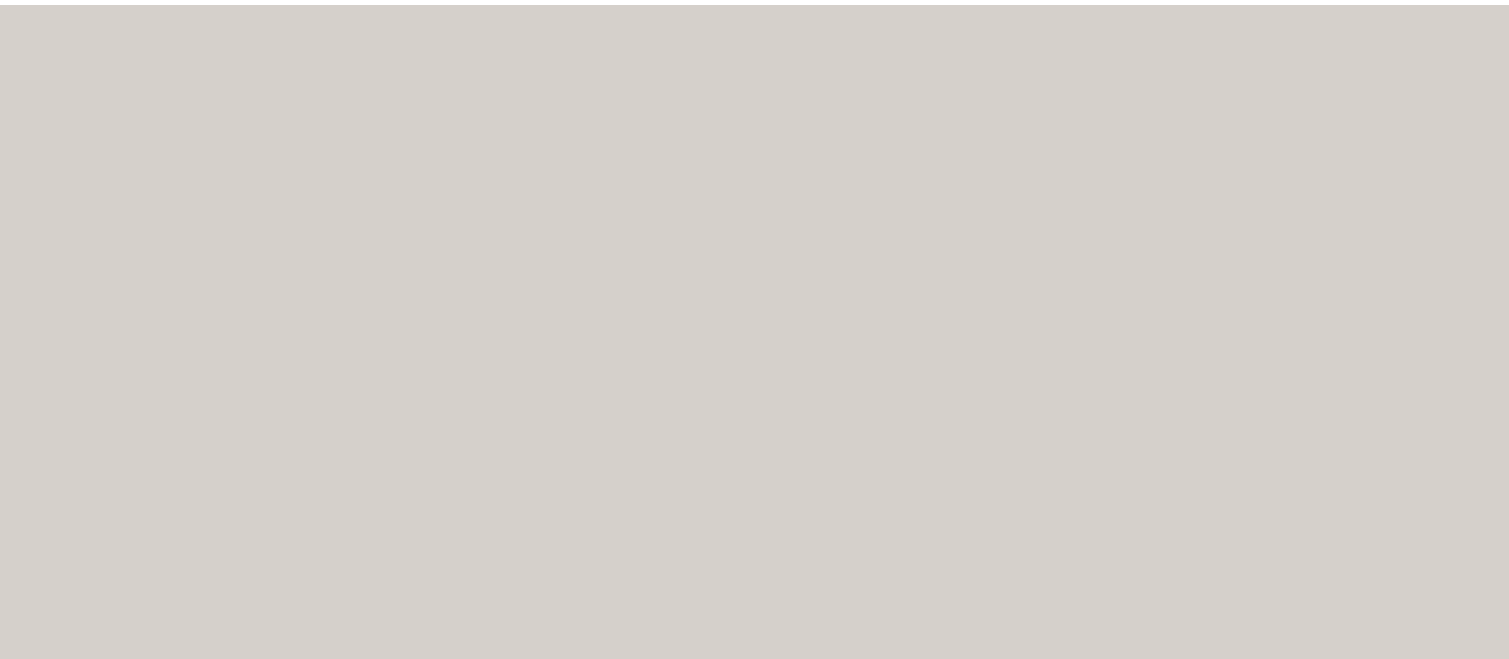


Annual Review and Accounts 2013/2014

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Introduction

The Enterprise Act 2002 provided for the establishment of the Competition Appeal Tribunal (Tribunal) and the Competition Service (CS). Although created as separate entities under the Enterprise Act 2002 and treated as such for accounting purposes, in practical terms the Tribunal and the CS constitute a single organisation. Through the CS, the Tribunal effectively administers itself and a single body of staff deploys the same set of resources in multi-tasking the casework of the Tribunal and necessary support functions.

Principal functions of the Tribunal

The principal functions of the Tribunal are to hear appeals against: decisions under Chapters I and II of the Competition Act 1998 and Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU) taken by the Competition and Markets Authority (CMA)¹ and by designated sector regulators with concurrent powers²; certain decisions of the Office of Communications (Ofcom) regarding the communications and broadcasting sectors under the Communications Act 2003; and decisions of the CMA or the Secretary of State on merger cases and market investigations under the Enterprise Act 2002. The Tribunal may also hear actions for damages where there has been a decision by a national competition authority finding an infringement of UK competition law or by the European Commission in respect of an infringement of Article 101 or Article 102 of the TFEU.

Further powers have been given to the Tribunal to hear certain appeals under the Payment Services Regulations 2009.

Under the Energy Act 2010, the Tribunal is able to hear appeals in relation to decisions taken by the Gas and Electricity Markets Authority (GEMA) in respect of the application of a market power licence condition to particular types of exploitative behaviours in electricity markets. The Tribunal may also hear appeals in respect of certain decisions taken by OFCOM pursuant to the Mobile Roaming (European Communities) Regulations 2007 and the Authorisation of Frequency Use for the Provision of Mobile Satellite Services (European Union) Regulations 2010. The Postal Services Act 2011 provides for an appeal to the Tribunal in respect of certain decisions taken by OFCOM in relation to the regulation of postal services.

The Civil Aviation Act 2012 affords a right of appeal to the Tribunal in respect of various decisions and determinations of the Civil Aviation Authority (CAA), including market power determinations, the imposition, modification and revocation of certain enforcement orders, the revocation of licences and the imposition of penalties.

Pursuant to sections 72 and 73 of the Health and Social Care Act 2012, Monitor, the regulator for health and adult social care services in England, now has concurrent powers with the CMA to enforce provisions of the Competition Act 1998 and the TFEU, and to make market investigation references to the CMA under the Enterprise Act 2002 in relation

to the provision of healthcare services in England. Such decisions may be appealed to the Tribunal.

The Financial Services (Banking Reform) Act 2013 provides for the extension, in due course, of concurrent competition powers to both the Financial Conduct Authority (FCA) and the Payment Systems Regulator (PSR). Decisions taken under such powers will be appealable to the Tribunal. The Financial Services (Banking Reform) Act 2013 also affords the Tribunal jurisdiction to hear appeals from some types of enforcement and penalty decisions of the PSR.

The President's statement later in this review outlines certain further extensions to the Tribunal's jurisdiction which are either due to come into force shortly, or which have been proposed. These include the power under the Enterprise and Regulatory Reform Act 2013 (the relevant provisions of which have not yet come into force) for the Tribunal to grant warrants under the Competition Act 1998 and the Enterprise Act 2002, and the various proposals contained in Schedule 8 of the Consumer Rights Bill, which would extend the Tribunal's jurisdiction in relation to the grant of injunctions in England and Wales and actions for damages in respect of infringements of competition law, in particular through the introduction of an "opt-out" collective actions regime. The Consumer Rights Bill was introduced in the House of Commons on 23 January 2014 and is currently continuing its passage through Parliament.

1. The CMA became operational on 1 April 2014 with the commencement of section 25(1) of the Enterprise and Regulatory Reform Act 2013, and took over many of the functions and responsibilities of the Office of Fair Trading and Competition Commission.
2. See section 54 of the Competition Act 1998.

Each of the cases within the Tribunal's various areas of statutory jurisdiction is heard and decided by a panel consisting of the President or a Chairman, and two Ordinary Members. The decisions of the Tribunal may be appealed on a point of law or as to the amount of any penalty to the Court of Appeal in England and Wales, the Court of Session in Scotland or the Court of Appeal in Northern Ireland.

Membership of the Tribunal

The Tribunal's membership comprises:

President

The Honourable Mr Justice Roth*

**The term of office of the previous President, Mr Justice Barling, expired in November 2013 and Mr Justice Roth was appointed by the Lord Chancellor as his successor.*

Panel of Chairmen

The Honourable Mr Justice Henderson

The Honourable Mr Justice Morgan

The Honourable Mr Justice Norris

The Honourable Mr Justice Sales

The Honourable Mrs Justice Proudman

The Honourable Mr Justice Arnold

The Honourable Mr Justice Nugee

The Honourable Mr Justice Newey

The Honourable Mr Justice Hildyard

The Honourable Mrs Justice Asplin

The Honourable Mr Justice Birss

The Honourable Mrs Justice Rose**

Lord Carlile CBE, QC**

Heriot Currie QC

Peter Freeman CBE, QC (Hon)

Andrew Lenon QC

Hodge Malek QC

Marcus Smith QC

*** Lord Carlile and Mrs Justice Rose reached the end of their respective terms as Tribunal Chairmen in December 2013.*

Ordinary Members

William Allan

Professor John Beath

Michael Blair QC (Hon)

Timothy Cowen

Margot Daly

Dr Clive Elphick

Dermot Glynn

Stephen Harrison

Brian Landers

Jonathan May

Professor Colin Mayer

Clare Potter

Professor Gavin Reid

Joanne Stuart OBE

Professor Stephen Wilks

Registrar

Charles Dhanowa OBE, QC (Hon)

Recruitment

The President and Chairmen are appointed by the Lord Chancellor for a fixed term upon the recommendation of the Judicial Appointments Commission and by open competition as appropriate. Ordinary Members are recruited in open competition according to the guidelines of the Office of the Commissioner for Public Appointments and are appointed by the Secretary of State for Business Innovation and Skills (BIS). The Registrar is also appointed by the Secretary of State.

The Competition Service (CS)

The CS is an executive non-departmental public body established by the Enterprise Act 2002 to provide the administrative staff, finance and accommodation required by the Tribunal to carry out its functions. Although the Tribunal and the CS are, in formal terms, separate bodies, in practice they are different aspects of

one integrated organisation; a single body of staff multi-tasks across case-handling and administrative roles using a common pool of resources.

The membership of the CS comprises: the President, Sir Peter Roth; the Registrar, Charles Dhanowa; and a non-executive member, Susan Scholefield CMG, who is also chair of the Audit Committee. Jeremy Straker and Ilia Bowles share the post of Tribunal/CS Director, Operations. The previous non-executive member, Janet Rubin, completed her term of office in September 2013.

Register of Interests

The CS holds a Register of Interests detailing any directorships or other significant interests held by members of the CS which may conflict with their management responsibilities.

Premises

The Tribunal and the CS operate from premises in Victoria House, Bloomsbury Place, London, WC1A 2EB. Where cases involve matters pertaining to a particular part or region of the UK, the Tribunal may hear those cases at premises outside London. Past cases concerning Scottish, Welsh and Northern Irish undertakings have been heard in Edinburgh, Cardiff and Belfast respectively.

Finance and workload

The work of the Tribunal is financed entirely through grant-in-aid from BIS and administered by the CS. The Registrar is the Accounting Officer and is responsible for the proper use of these funds.

President's statement

Introduction

This is my first statement as President of the Competition Appeal Tribunal, a position to which I was honoured to be appointed in November 2013. I am, however, acutely aware of the shoes I have to fill as the third President of the Tribunal, following the founding President, Sir Christopher Bellamy, and, most recently, Sir Gerald Barling.

In his final statement as President, Sir Gerald reflected on how much the Tribunal had evolved during his six years as President. Looking forward to the expected developments during my own term, I am struck by the extent to which the Tribunal now stands on the threshold of substantial change, a position to which Sir Gerald expertly guided it.

1 April 2014 saw the newly created CMA take up its powers and responsibilities, replacing the Office of Fair Trading (OFT) and the Competition Commission (CC). This is a transformation of the structure of competition enforcement in the UK. Although in a sense it will be business as usual for the Tribunal, with only the name of the respondent to certain cases changing, in the longer term I expect a number of interesting and novel issues will come before the Tribunal.

More fundamentally, from the Tribunal's own perspective at least, the Consumer Rights Bill was introduced into Parliament on 23 January 2014 and, as I write, it is progressing through the House of Commons. Should that Bill become law, it will significantly alter and extend the Tribunal's jurisdiction and I will say more about this below.

These important changes must be set against the Tribunal's ongoing caseload in its present jurisdiction, which continues to present unique and complex challenges. My term as President began part way through the 13-day hearing of multiple appeals, which I am chairing, against OFCOM's determination of a number of disputes relating to BT's charges for Ethernet extension services. These appeals raise important questions about the construction and application of cost orientation obligations, as well as the dispute resolution process before OFCOM. In addition, the Tribunal has been called on to resolve a number of significant disputes relating to the procedures applied by the CC in its consideration of merger and market investigation references (in the *Eurotunnel* and *BMI* cases), with further similar challenges pending (in relation to the Aggregates market investigation), as well as its substantive consideration of some complex merger cases (in *Akzo Nobel* and *Ryanair*).

Chairmen

I must, first, thank Marcus Smith QC, now the longest serving of our current panel of fee-paid Chairmen, who has taken a leading role in the casework of the Tribunal and has chaired many of the most difficult cases that have fallen to be decided in the period under review, most notably the *Eurotunnel* and *BMI* cases, which I referred to above, while also grappling with a number of complex case management issues in the context of a follow-on damages claim in *Deutsche Bahn v Morgan Advanced Materials*. Marcus has, in addition, given much of his time to promoting the reputation of the Tribunal, speaking at a number of

conferences and other events in his capacity as a Chairman.

I am pleased to say that all of our newly appointed Chairmen, Heriot Currie QC, Peter Freeman CBE, QC, Andrew Lenon QC and Hodge Malek QC, have now had the opportunity to chair, or at least sit on, one or more cases before the Tribunal, and they have already made important contributions to the Tribunal's work. In particular, Hodge chaired the application brought by Ryanair Holdings against the CC's final decision in the long running investigation into Ryanair's minority stake in Aer Lingus, while Peter heard an appeal brought by Colt Technology Services against aspects of OFCOM's Business Connectivity Market Review 2013. Andrew is also chairing applications for review of the CC's Aggregates market investigation.

We also very much value the assistance that the Tribunal receives from the Judges of the Chancery Division, and we are very grateful to the Chancellor of the High Court, the Rt Hon. Sir Terence Etherton, for the assistance he and the Judges of that division have rendered to the Tribunal during the period under review. In the past year, two Chancery Judges (in addition to myself) have sat in the Tribunal: Mr Justice Norris chaired the appeal in *Akzo Nobel v Competition Commission*; and Mr Justice Newey presided over the appeal in *Global Radio Holdings v Competition Commission*. I offer my particular thanks to them. We look forward to having more Chancery Judges chairing cases in the Tribunal when its jurisdiction expands.

Members

As a relative newcomer to the Tribunal – although I had sat as a Chairman here before my appointment as President – I am struck by just how significant a contribution the Members make to the Tribunal's work and how deep and varied their expertise is. Without their diligence and knowledge, the Tribunal would not be the respected body that it is. For my part, I very much look forward to getting to know the individual Members better and working with more of them on the challenging and complex cases that will no doubt come before the Tribunal in the future.

I also wish to take this opportunity to thank Dr Adam Scott for his work as the Tribunal's Director of Studies, in which capacity his organisation of, and contributions to, the training sessions of the Members and Chairmen is invaluable, as is his work representing the Tribunal externally. Last and by no means least, indeed in many respects most, I would like to thank the Tribunal's Registrar, Charles Dhanowa OBE, QC. Charles has been Registrar of the Tribunal since its inception. His knowledge of its working is unparalleled and in the short time I have been here, I have been impressed by his skills in managing the Tribunal's staff and its daily operations. He has played a prominent role in dealing with the policy and legislative issues that have arisen over the past year in discussions with BIS, and his contribution on such issues is invaluable.

Cases

New cases registered during the period covered by this review include one follow-on action for damages under section 47A of the Competition Act 1998, five appeals under section 192 of the Communications Act 2003, four applications for review of merger decisions by the CC and six applications

for review of decisions taken in the context of market investigations.

Although the overall number of sitting days during the period under review is fewer than for the previous period (during which the Tribunal heard several substantial cases, including Tesco's appeal from the OFT's Dairy decision, and the action for damages brought by Albion Water), the Tribunal held more case management conferences and received substantially more applications to intervene, suggesting that the complexity of the cases before us has not lessened, and nor have the attendant case management issues.

The Tribunal handed down 28 judgments, rulings and reasoned orders in the period under review. Cases of particular interest, that were heard or decided during this time, are mentioned at the end of my statement.

New functions

In the Annual Review for 2012-2013, Sir Gerald noted that one of the changes to be brought about by the Enterprise and Regulatory Reform Act 2013 was the extension to the Tribunal of the power to grant search and seizure warrants in the context of competition investigations. The Tribunal has been working with BIS with a view to developing a set of rules for the Tribunal in relation to applications for such warrants. It had been hoped that those rules would be in place for 1 April 2014, when the CMA took up its powers and replaced the OFT and CC. Regrettably that was not possible but I will continue to work with BIS and other stakeholders to finalise those rules so that they can be laid before Parliament as soon as possible.

Reform of private enforcement

Sir Gerald also set out an overview of the draft legislation to reform private actions

in competition law, which was published last year. That legislation, the Consumer Rights Bill, was, as I have said, introduced into Parliament on 23 January 2014 and the part of the Bill that deals with competition issues has not encountered any opposition in the House of Commons. Should that Bill become law, the Tribunal's jurisdiction will be very significantly extended. It will be able to hear standalone claims for damages, grant injunctive relief and operate a fast-track regime offering expedited procedures and remedies (except in Scottish cases). Moreover, the legislation will introduce a regime for opt-out collective actions in appropriate cases. This would be a "first" in UK law, presenting particular challenges. Like Sir Gerald, I welcome these developments as a very positive step in enhancing the private enforcement of competition law in the UK and, in particular, in improving the protections afforded to small and medium enterprises (SMEs) and individual consumers.

The very significant changes that would be brought by the Consumer Rights Bill would have not just a substantive but also a considerable procedural impact on the Tribunal, requiring new rules to be put in place. Along with the Registrar and one of the Tribunal's *Référéndaires*, Jennifer Reeves, I collaborated closely with a working party to prepare draft rules for collective actions. That working party comprised persons with particular experience and/or expertise in private actions in competition law (including collective actions). On 10 March 2014, a copy of the draft rules was published by the Tribunal on its website.³ A copy has also been placed in the House of Commons and House of Lords libraries. The complexity of preparing these draft rules should not be understated, and I am immensely grateful to all who were involved, for their contributions, particularly in the context of what was a very tight timetable.

3. <http://catribunal.org.uk/247-8406/Draft-Tribunal-Rules-on-Collective-Actions.html>

Review of the rules and guide

In addition to the need for specific rules to address the potential collective actions jurisdiction of the Tribunal, a general review of the Tribunal's Rules is also under way. To that end, BIS has established another working group, chaired by a retired Lord Justice of Appeal, Sir John Mummery, to review the Tribunal's primary rules, with a view to preparing a revised version for consideration by the Secretary of State. A particular need is to update and expand the rules addressing private actions in general. It is likely that this process will also lead to a revised "Guide to Proceedings" being prepared and issued by me as a new practice direction. For this process, the Tribunal is greatly assisted by discussion in its User Group, to which I refer further below.

In due course, both the draft rules on collective actions and the rules prepared following the review chaired by Sir John Mummery, will be the subject of a formal consultation by BIS, which will provide an opportunity for the wider group of stakeholders to provide comments and views.

I am confident that this process will result in a new set of rules for the Tribunal, which will provide a robust but flexible framework within which the Tribunal can case-manage, hear and determine the complex and challenging cases that will continue to be brought before it, as well those that may be commenced under any new or extended jurisdiction resulting from the new legislation.

Possible changes to regulatory and competition appeals

On 19 June 2013, BIS published the latest in what the 2012-13 Annual Review referred to as a "virtually incessant stream" of consultations and other initiatives. This one, entitled "Streamlining Regulatory and Competition Appeals: Consultation on Options for Reform"⁴, had the stated intention of assessing "whether the appeals frameworks for regulatory and competition decisions strike the right balance between providing a proper right of challenge and allowing regulators and competition authorities to make decisions in a timely way" as well as seeking views on ways that appeals might be streamlined. The Consultation proposed, among other things, lowering the standard of review, or restricting the permissible grounds of appeal, in competition and regulatory appeals, as well as imposing various prescriptive measures designed, in theory, to improve the procedures of the Tribunal, despite acknowledging that the Tribunal already deals with cases efficiently and is well placed in relation to domestic and overseas comparators. The Consultation also sought views on placing on a statutory footing the jurisprudence regarding the admissibility of "new" evidence in appeals to the Tribunal.

The Consultation elicited substantial interest from stakeholders and an accordingly large number of responses, which have since been published by the Government.⁵ Given its centrality to the Consultation, and the potentially very significant changes to the Tribunal and its jurisdiction, the Tribunal itself prepared a detailed response to the Consultation.⁶ Although that response was necessarily subject to certain constraints, the Tribunal was well-placed to comment on its experience of handling appeals from various authorities and, based on this

experience and specialised knowledge, on the practical merits and demerits of the BIS proposals.

The Tribunal welcomed certain aspects of the Consultation but disagreed with others, as well as expressing some serious underlying concerns. Generally, the Tribunal agreed that improvements can always be made and efficiencies sought in the way that appeals are progressed. It also agreed that there was some case for rationalisation of regulatory appeals generally, as well as reforms, but these would need careful design. It is a very positive development that the Government is now looking at the introduction of legislation to enable the heads of the three judiciaries of the UK to nominate specific judges of the High Court (and the equivalent in Scotland and Northern Ireland) to sit as Tribunal Chairmen and to remove what, under the current legislation, would be an eight-year limit to their terms of appointment.

The Tribunal viewed it as, at best, questionable, however, whether changing the standard of review in regulatory appeals would achieve any of the aims apparently pursued in the Consultation. The Tribunal, also, had particular concerns about altering or reformulating the standard of review in appeals under the Competition Act 1998, a change for which no case at all was made out. Contrary to statements in the Consultation document, the Tribunal's experience does not suggest that current Tribunal rules and procedures encourage unmeritorious appeals or involve the excessive deployment of so-called "new" evidence and, accordingly, the Tribunal saw no basis for placing specific restrictions on it in this regard.

The Tribunal was also concerned that some of the evidence relied on in the Consultation to support often radical conclusions and proposals was insufficient, selective and/or misleading,

4. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/229758/bis-13-876-regulatory-and-competition-appeals-revised.pdf
 5. <https://www.gov.uk/government/consultations/regulatory-and-competition-appeals-options-for-reform>
 6. http://www.catribunal.org.uk/files/Streamlining_Regulatory_and_%20Competition_Appeals_Response_220813.pdf

while the Government's stated objectives were too high level in nature and, in some cases, contradictory. Where they were sufficiently clear, however, the Tribunal feared that implementation of the proposals may achieve the opposite result from what was intended, namely delay and increased cost. Overall, the Tribunal expressed the fear that, whilst there were some very positive aspects to these proposals, the Consultation had not presented a coherent case for change and some of its measures, if implemented, could very well harm the system.

Broadly speaking, the preponderance of other responses to the Consultation appeared to confirm the Tribunal's own view that its rules and procedures are generally working well, and that the Tribunal's active case management is fast and efficient. There was also a broad, but not unanimous, consensus that the case for change had not been made out.

At the time of writing, no response to the Consultation, which closed on 11 September 2013, has been published but I look forward, in due course, to reviewing what I hope will be significantly revised proposals, once the Government has had time to consider the views expressed by stakeholders.

Other activities

Conferences and seminars

Already since becoming President, I have received numerous requests to speak at a variety of conferences and seminars in the coming months, as have my colleagues at the Tribunal over the past year. Unfortunately, it is only ever possible to accept a small proportion of these invitations. In view of the Tribunal's specialist role and its reputation within the EU and beyond, however, it is important that we should endeavour to participate in appropriate events related to the subject areas in which we work, other commitments permitting, and to share our experience with judges abroad.

In March 2014, I travelled to Panama and spoke at a seminar for Latin American judges on the EU and UK perspective as to why competition law matters.

Although outside the period covered by this review, I also spoke at the South African Competition Tribunal Workshop in Johannesburg and at the XI Treviso Antitrust Conference, both of which took place in May 2014.

While still President, Sir Gerald travelled to Beijing in May 2013 in order to attend the EU-China Conference on Private Actions in Competition Law. He spoke on evidence, and the standard and burden of proof in competition cases. Among many other engagements, Sir Gerald also gave the inaugural David Vaughan CBE, QC/Clifford Chance Lecture in June 2013, where he looked ahead to what might be expected in competition litigation, and he was the keynote speaker at the Westminster Business Forum in September 2013, addressing the ongoing reform of the UK competition regime.

The Tribunal's Chairmen have also been busy. Marcus Smith QC spoke at an array of events in the period under review, including the ICC-Crowell & Moring Annual Conference that looked at trends and developments in global competition law in May 2013, the Global Competition Review Conference in November 2013 and the 47th FIW Symposium in Innsbruck in March 2014, to name but a few. Similarly, Peter Freeman CBE, QC attended a number of events, including the ESRC Centre for Competition Policy Annual Summer Conference in June 2013 and the 9th Annual Conference of the GCLC: Antitrust Damages in EU Law and Policy in November 2013, where he spoke on "Antitrust damages actions: the state of play in the UK" (and where there was considerable international interest in the Tribunal's decision awarding damages in *2 Travel Group PLC v Cardiff City Transport Services Ltd* in 2012), as well as the 5th International Concurrences Conference in February 2014, held in Paris.

In addition to the above events, we have also been increasingly engaged in seminars targeted at judges of other EU Member States. In October 2013, Marcus travelled to Ljubljana where he gave the keynote address on EU competition law and judicial co-operation between national judges. I should also like to thank our three *Référendaires*, who have been busy in this regard too. George Lusty was invited to participate in a competition law training seminar for Member State judges sponsored by the European Commission and held in Palermo in November 2013. In February 2014, Alex Hiendl travelled to Budapest to speak on abuse of dominance cases at the OECD-GVH Regional Centre for Competition Law. Alex also spoke on hub-and-spoke concerted practices at King's College, London, in November 2013. Although outside the period covered by this review, I should also mention that Jennifer Reeves, the Tribunal's third *Référendaire*, travelled to Budapest in April 2014 to speak to the staff of the Hungarian Competition Authority, the *Gazdasági Versenyhivatal*, on hub-and-spoke concerted practices.

AECLJ

In its capacity of *de facto* Secretariat for the Association of European Competition Law Judges (AECLJ), an organisation of which I am Treasurer, the Tribunal continues to play an active role in stimulating dialogue and debate between members of the judiciary in the EU Member States, and in bringing together judges and officials from competition enforcement agencies. The AECLJ's annual conference was held at the Court of Justice of the European Union in Luxembourg, in June 2013, and centred around the theme "Competition law within a framework of rights: applying the Charter and the Convention". The conference welcomed a number of distinguished guest speakers, including Koen Lenaerts, Vice President of the Court of Justice, Marc Jaeger, President of the General Court, Carl Baudenbacher, President of the EFTA Court, Dean

Spielmann, President of the European Court of Human Rights, and Andreas Mundt, President of the German Federal Cartel Office (the *Bundeskartellamt*).

I must also take this opportunity to offer my congratulations, first, to Judge Jacqueline Riffault-Silk, who was elected President of the AECLJ and also appointed Dean of the Commercial and Economic Chamber of the *Cour de Cassation*, France; and, secondly, to Sir Christopher Bellamy. Luxembourg's Minister of Justice came to the Court of Justice to present Sir Christopher, the first President of this Tribunal, with the *Commandeur, Ordre de la couronne de Chêne* (Order of the Oak Crown), in recognition of his contribution to the Grand Duchy and his tireless efforts since the inception of the AECLJ in Luxembourg in 2002.

Visitors to the Tribunal

It is a mark of the widespread regard for the work of the Tribunal that we continue to receive a large number of visits from competition judges and enforcement authorities from other jurisdictions. In the period under review, we have hosted delegations from Brunei, Burma (Myanmar), Cambodia, Colombia, Indonesia, Laos, Malaysia, Peru, the Philippines, Singapore, Thailand and Vietnam, with whom we discussed the Tribunal's jurisdiction, rules and procedures, and some of our jurisprudence. Dr Adam Scott and George Lusty also travelled to Malaysia in March 2014 to meet, and speak to, members of the Malaysian Competition Commission and Competition Appeal Tribunal.

May 2013 saw a highly instructive seminar delivered by Oxera on competition economics for judges, while in January 2014 we were delighted to host the 8th Junior Competition Practitioners' Conference, organised by the editors of the Competition Law

Journal, which focused on the newly-created CMA and current trends in competition law and practice. This is a conference that we have seen develop over the years and I was most impressed by the number and diversity of junior practitioners it attracts.

I should also take this opportunity to congratulate Emeritus Professor Richard Whish of King's College, London, a regular visitor to the Tribunal, on his appointment in February 2014 as Queen's Counsel *honoris causa*. This thoroughly deserved honour recognises Professor Whish's enormous contribution to the field of competition law, through his untiring academic and other work.

User Group

Shortly after my appointment, I reinstated the User Group, which comprises individuals from the competition and regulatory authorities, private practitioners from the Bar and the solicitors' profession, and a prominent in-house lawyer, all with experience of the Tribunal. The Group provides an important forum for sharing information and ideas about the Tribunal's practice and procedure, and discussing important policy developments and their impact on the Tribunal. I am most grateful to the members of the Group for their feedback and constructive suggestions. Minutes of the User Group's meetings are available on the Tribunal's website.

Comings and goings

2014 saw the departure from the Tribunal of Alex Hiendl, one of our *Référendaires*, who left us to take up the position of Practice Manager in Allen & Overy LLP's International Arbitration Group. Alex was with the Tribunal for a little over two years and I would like to thank him for all his hard work and contributions to the Tribunal over that period. On behalf of everyone at the Tribunal, I wish Alex every

success in his new venture. The vacancy resulting from Alex's departure has now been filled by Renella Reumerman, whom we look forward to welcoming in August of this year.

In November of last year, Susan Scholefield CMG took up the role of non-executive member of the CS, the body which provides the resources for the work of the Tribunal. Susan is currently the LSE's School Secretary as well as an adviser to the National Audit Office on Civil Service Reform. She had an early academic career at the University of California, before joining the Civil Service, where she rose to senior roles in the Balkans Secretariat, Northern Ireland Office, Communities Department and the Cabinet Office. We are pleased to welcome Susan to the Tribunal. I am also delighted to say that Susan's predecessor, Janet Rubin, was awarded an MBE in the New Year's Honours List for 2014, in recognition of her services to Industry and Public Sector Bodies.

In October 2013, we also welcomed Salina Hoang to the Tribunal as an Administrative Assistant and I am pleased to say that she has already become an integral part of the Tribunal's team.

Finally, I wish to thank the Tribunal's staff as a whole for all their help as I acclimatise to my transition from the High Court to the Tribunal. I have been very impressed by their dedication to the Tribunal and their enthusiasm. They have been, without exception, of the utmost assistance and I very much look forward to working closely with them in the years to come.

Sir Peter Roth
President
23 June 2014

Notable cases

The following are some of the notable cases determined by the Tribunal in the review period:

Competition Act 1998: Follow-on Damages Claims

Costs: Albion Water Limited v Dŵr Cymru Cyfyngedig

In March 2013, the Tribunal awarded Albion Water substantial compensatory damages in respect of losses it suffered due to an abuse of dominance by Dŵr Cymru but dismissed its claim for exemplary damages.

In July 2013, in its first ruling on a costs application arising from a follow-on damages claim, the Tribunal decided that Albion Water was entitled to recover 85 per cent of all its costs, including the insurance premium. The Tribunal ruled that, as a result of its conduct in the proceedings, Dŵr Cymru should bear its own costs of defending the exemplary damages claim, even though it was successful in that respect, and that it should, in addition, pay a portion of Albion Water's costs of bringing that claim.

Jurisdiction: Deutsche Bahn AG & Ors v Morgan Crucible Company PLC & Ors

In August 2013, the Tribunal ruled on an application by five of the Claimants, each domiciled in the UK, to lift the stay as against the 2nd to 6th Defendants on the basis that jurisdiction against them could be founded on Article 5(3) of the Brussels Regulation. The stay was imposed pending an appeal by the First Defendant to the Supreme Court. The Tribunal considered, contrary to the Defendants' arguments, that the Claimants had a good arguable case that some damage was actually caused in the UK and, therefore, held that there was jurisdiction under Article 5(3). The Tribunal rejected an argument by the Defendants that lifting the stay and requiring them to serve defences to the claims of those

Claimants domiciled in the UK would amount to a submission by the Defendants to the jurisdiction of the Tribunal in respect of all claims brought against them.

The Court of Appeal refused the Defendants permission to appeal holding, in particular, that what Article 5(3) of the Brussels Regulation is concerned with is a connecting factor between the relevant defendant and the putative jurisdiction in which the action was commenced.

Enterprise Act 2002

BMI Healthcare Limited v Competition Commission (No. 1)

In October 2013, the Tribunal handed down its judgment in relation to applications for review brought by BMI, HCA International and Spire Healthcare. These applications concerned a decision of the CC to allow access, on terms set out in certain undertakings and rules, to a disclosure room containing certain confidential information relating to the CC's private healthcare market investigation.

The Tribunal concluded that the CC's rules governing the disclosure room were not fit for the purpose of allowing a proper and informed response to be made to the CC's provisional findings. Accordingly, the decision was in breach of the CC's statutory duty in section 169 of the Enterprise Act 2002 and in breach of the rules of natural justice.

Ryanair Holdings PLC v Competition Commission

In March 2014, the Tribunal dismissed Ryanair's application for review of the CC's decision in relation to Ryanair's acquisition of a minority shareholding in Aer Lingus. Ryanair sought a review of the decision on six grounds, notably challenging the rationality of the CC's finding of a substantial lessening of competition (SLC) and submitting that the CC's decision to impose a divestiture remedy was in breach of the EU-law duty of sincere cooperation.

The Tribunal concluded that the CC's decision to impose a divestiture order did not breach the duty of sincere cooperation. In particular, the Tribunal rejected Ryanair's submission that it is an EU objective that an acquisition, once cleared by the European Commission under the EU Merger Regulation, does in fact take place. The Tribunal also rejected other challenges brought by Ryanair in relation to the procedural fairness of the CC's decision, the rationality of the CC's SLC finding, and that the CC's decision to impose a divestiture remedy on Ryanair was disproportionate and *ultra vires*.

Groupe Eurotunnel S.A. v Competition Commission

The Société Coopérative de Production Sea France S.A. v Competition Commission

In December 2013, the Tribunal handed down its judgment on two applications for review of the CC's decision in relation to the completed acquisition by Eurotunnel of certain assets of the former SeaFrance S.A. The Tribunal dismissed Eurotunnel's application, but allowed the SCOP's application and remitted to the CC the question of whether it had jurisdiction. This question turned on whether Eurotunnel acquired an "asset" or an "enterprise", with a relevant merger situation arising only in the latter case.

Both Eurotunnel and the SCOP challenged the CC's investigation procedures in this case. In particular, it was argued that the procedures were generally unfair and in breach of the rules of natural justice. The Tribunal dismissed this challenge, as well as the more specific challenges made by Eurotunnel and the SCOP in relation to the adequacy of information that was provided to them by the CC during the investigation. The Tribunal also dismissed challenges brought in relation to the proportionality of the remedy imposed by the CC.

Akzo Nobel N.V. v Competition Commission

In June 2013, the Tribunal dismissed an application by AkzoNobel for a review of the CC's decision in its Report on the anticipated acquisition by AkzoNobel of Metlac Holding S.r.l. It was argued that the CC erred in finding that AkzoNobel, a company registered in the Netherlands, carried on business in the UK. In its judgment, the Tribunal set out an important analysis of the meaning of the term "carrying on business in the United Kingdom" in section 86(1)(c) of the Enterprise Act 2002. The Tribunal concluded that the CC had properly determined that AkzoNobel was carrying on business in the UK and, therefore, the CC was entitled to make an order prohibiting the merger. The Tribunal also dismissed AkzoNobel's challenge to the CC's finding that Metlac competes more aggressively on price than other competitors.

AkzoNobel was given permission to appeal this judgment by the Court of Appeal. In April 2014, the Court of Appeal dismissed AkzoNobel's appeal and upheld the Tribunal's analysis of action 86(1)(c) of the Enterprise Act 2002.

Communications Act 2003

Colt Technology Services v Office of Communications

In November 2013, the Tribunal handed down its judgment dismissing Colt's appeal against OFCOM's Business Connectivity Market Review. Colt challenged OFCOM's decision not to impose passive remedies on various grounds including, in particular, that OFCOM had erred in its assessment of the relative merits of active and passive remedies. Passive remedies might involve giving a communications provider access to BT's physical network assets, such as its ducts and poles or unlit fibre. They can be distinguished from active remedies, which refer to regulated access to communications services, which BT (or another regulated firm) provides using

infrastructure, including electronic equipment. The Tribunal found no error in OFCOM's decision.

British Telecommunications PLC & Others v Office of Communications (Ethernet Determinations)

In March 2014, the Tribunal handed down a ruling refusing BT's application, made following the conclusion of the final hearing in the appeals, to amend its notice of appeal. It was practicable for BT to have included the new ground in its notice of appeal and the Tribunal held that the mere fact that BT's proposed amendment raised a pure point of law could not, in and of itself, amount to "exceptional circumstances" as required by rule 11(3)(c) of the Tribunal's Rules.

The Tribunal also found it highly relevant that the new ground, which went to OFCOM's jurisdiction to accept aspects of the disputes referred to it for resolution, had not been raised in an earlier appeal brought by BT against OFCOM's decision to accept those very disputes. Indeed, the Tribunal considered that granting the application in these circumstances would give rise to a very real prejudice, both to the legitimate expectations of the other parties and to the principles of legal certainty. Finally, although without expressing any concluded view, the Tribunal was of the view that the new ground faced significant objections on the merits.

The Tribunal's judgment on the substance of these complex and interesting appeals is pending and will be delivered outside the period covered by this review.

Registrar's statement

The Tribunal and the CS

In formal terms, the Tribunal and the CS are two separate bodies. In practice, the CS provides the means by which the Tribunal manages itself – the CS's entire staff, premises and other resources being fully deployed in the daily work of the Tribunal. The President and myself, together with a non-executive member (Susan Scholefield CMG) constitute the Board of the CS. Jeremy Straker and Ilia Bowles, who share the post of Tribunal/CS Director, Operations, act as the secretary to our meetings. Together we ensure that the resources formally vested in the CS are fully and efficiently utilised in the work of the Tribunal and that the Tribunal/CS functions as a single integrated organisation.

Resources

In 2013/14 the grant-in-aid received from BIS was £3,920,000 against a revised allocation of £3,876,000 (£3,985,000 in 2012/13). The running costs of the Tribunal/CS for 2013/14 were £3,898,000 (£3,882,000 in 2012/13). Fixed costs (mainly rent, service charge and business rates) comprised £3,357,000 or 86 per cent of the total. The extra grant of £44,000 was agreed with BIS in order to fund investment occurring across the year end in respect of IT equipment and services. Looking to the future, several factors are likely to give rise to financial pressure.

As noted last year, our working practices and the nature of our facilities are dictated by the specialised judicial functions of the Tribunal and the particular demands of hearing large scale complex competition and economic regulatory cases, often to very tight

timescales. The need to hear these cases quickly was a major theme in the Government's Consultation on "Streamlining Regulatory and Competition Appeals" earlier in the year and to which the President made reference in his statement at the beginning of this review. It is essential to our efficient operation that we maintain large modern courtrooms that are suitable for the multi-party and document heavy cases heard by the Tribunal. We need to be located in central London close to the senior judiciary who sit on cases in the Tribunal and convenient for the parties and their counsel. We also need high calibre members and staff with specialist expertise who can deal with the highly technical and detailed nature of the Tribunal's work as rapidly as possible. That all dictates a fixed cost base which is at or around the level with which we have been operating.

Our work is entirely demand led. We have no control over the number and nature of cases which are received during the year and this increases the uncertainty for planning and budgeting resources. The number of decisions made by the UK competition authorities, OFCOM (in respect of telecoms regulation) and the European Commission (in respect of matters that might give rise to follow on actions for damages) is presently the primary factor determining the workload of the Tribunal. Moreover, it is difficult to make assumptions about the demands of individual cases which vary between the small but often difficult and the extremely large and highly complex cases that absorb a great deal of resources. It has been clear though that, over the last year, enforcement activity by the competition authorities has been at a low

level, due largely to efforts being diverted to the establishment of the CMA. This has meant that the Tribunal has had a lower than usual caseload over the year and that has been the primary factor in keeping the Tribunal/CS more or less within its grant-in-aid allocation.

As the CMA began to commence operations in April 2014, enforcement activity may be expected to rise with a corresponding upturn in workload for the Tribunal. The Tribunal has recently received back from the Court of Appeal the Pay TV appeals for consideration of additional matters. Those cases were some of the largest and most resource intensive dealt with by the Tribunal. The Tribunal also expects, over the next year or so, to have to progress a number of other significant cases that are pending before the higher appellate courts for determination of particular issues prior to final judgment by the Tribunal. These factors, when taken in conjunction with expected increases in other areas (most notably, rent), are likely to increase the Tribunal's costs over the next year.

Looking to the future, if the Consumer Rights Bill is enacted, then from late 2015 onwards the Tribunal's jurisdiction in respect of private actions will be considerably enlarged and this will contribute, in possibly quite a significant way, to an increase in the Tribunal's workload. This would be a welcome development but would also require additional resources for the Tribunal.

Overall therefore, it must be concluded that the Tribunal's present level of funding, being a minuscule proportion of the amount spent on the UK's system of competition enforcement, is not suitable for the long term pressures to which it

will be subject and will need to rise as demands increase. We have mentioned this issue to BIS and discussions will no doubt ensue as to how to address it in the context of the current situation regarding public expenditure.

In reaching that conclusion I should emphasise that the Tribunal/CS has been highly successful to date in living within its means. As I mentioned last year, we have kept our overall cost increases to less than 2 per cent per year since the Tribunal was established in 2003. The remuneration of the President and the Registrar (being linked to judicial pay scales) remained frozen for three years and last year was increased by only one percent. Those positions, representing the senior management of the organisation, have never and do not receive bonuses. Staff pay increases, in line with much of the public sector, have been frozen or restricted to one per cent for the last four years. Last year, performance bonuses were paid only to the top 12.5 per cent of staff. That meant that in an organisation with only 16 staff carrying out specialist work within short timescales, where there is tight team working, and where the general level of staff performance has always been very high, it was only possible to recognise the contribution of one or two staff members. Maintaining morale in such circumstances is therefore quite a challenge and I am very grateful to the continued professional and committed approach shown by the staff.

With regard to the members of the Tribunal, the *per diem* rate for Ordinary Members has not increased since 2006 and the rate for Chairmen remains at the level set in 2003 at the inception of the Tribunal. Whilst the restrained position with regard to the remuneration of members and staff flows from the need for austerity, it does prompt a concern as to our future ability to attract members and staff of the high calibre needed for the work of the Tribunal, especially when other bodies, most notably the economic regulators (whose most difficult cases

generally end up on appeal to the Tribunal), routinely offer much higher levels of remuneration.

Facilities

As our specialised court accommodation is our largest expense, we have increased the utilisation of that space by making it available to other tribunals and organisations. The practice has also now developed of allowing the CC (now the CMA) to make frequent use of our meeting rooms when their own facilities are fully utilised. Once again though, we have, in the last year, had to incur unexpected expenditure on the premises as a result of remedial action necessary to deal with a flood caused by a malfunction of the air conditioning system. There have been several such incidents during our tenure but each time the cause of the problem is different and there appears to be no common factor that can easily be rectified. On this occasion, the leak devastated Courtroom 2 where a large tax case was underway which had to be adjourned for several weeks. Also put out of action was a significant part of our office accommodation. Nevertheless, the staff coped with this emergency in a prompt and professional manner and continued to work as efficiently as possible in difficult and trying conditions whilst the repairs were effected.

Administration

As predicted last year, the burden of several wide ranging enquiries from central Government concerning the performance of our judicial functions has continued this year. The President has already described how one of these enquiries metamorphosed into the Government's Consultation on "Streamlining Regulatory and Competition Appeals" and alluded to the need to devote considerable resources to the production of an authoritative response to correct the various misconceptions, errors of fact, inapt

comparisons, and unfounded deductions that were in the consultation document. This was a considerable task that imposed a heavy burden upon us but which produced an informative response document that was widely welcomed by many with an interest in the area of competition law and policy and which I think should serve as a useful source of information for the public for several years to come.

We are still engaged with BIS in working on a "triennial review" under the auspices of the Cabinet Office's rolling review of non-departmental public bodies. More recently, as the President has also noted, BIS has instigated a general review of the Tribunal's Rules to be conducted according to its own timetable. This is the culmination of a succession of "informal" inquiries over several years from BIS regarding particular procedural aspects, such as the need for witness evidence in cases and the introduction of new evidence in appeals, some of which fed into the Streamlining Appeals Consultation referred to earlier. All these inquiries have overlapped considerably and have had to be conducted within very tight externally imposed timescales. Inevitably, they have created additional pressure on top of the performance of our statutory duties, reduced our focus on the proactive development of the organisation and placed a heavy burden on individual staff members leading to an unsurprising rise in untaken leave.

Members

This year has seen some momentous changes for us. First, we were all very sad to see Sir Gerald Barling come to the end of his term of office as President of the Tribunal. Sir Gerald had to guide the Tribunal through quite a turbulent period with many cross-cutting and challenging policy issues arising in connection with the various reviews I have mentioned above. In addition, Sir Gerald chaired a number of exceptionally heavy novel and complex cases, notably the Pay TV

appeals, whilst also keeping up a punishing schedule of speaking engagements and contributing articles to learned journals around the world. He did all this with a wonderful sense of good humour and courtesy which endeared him to the members, staff and the parties to cases. We wish him well in his return to the Chancery Division of the High Court and for the future. In his place, we are all very pleased to welcome Sir Peter Roth who is no stranger to the Tribunal, having appeared as leading counsel in its very first case and in many subsequent cases. As everyone acquainted with this area knows, Sir Peter is a very experienced judge who commands a very high reputation both nationally and internationally as an expert in competition related litigation. He has our very best wishes in settling in to his new duties and we all look forward to working with him as he leads the Tribunal in the exciting challenge of a wider role with regard to private actions.

As Sir Gerald foreshadowed in his statement in last year's review, we have also lost the services of two of our esteemed Chairmen, Lord Carlile CBE, QC and Vivien Rose (now Dame Vivien Rose DBE) whose appointments as a member of the Tribunal's panel of chairmen came to an end in December 2013. Like Sir Gerald, both of them were very popular with the members, staff and the parties and they will be equally missed.

In September, our non-executive member, Janet Rubin, came to the end of her term of office. Janet had been with us as a Board member and as Chair of the Audit Committee since the Tribunal came into existence and has been an invaluable source of information and wisdom on matters of governance, personnel and other organisational issues which has been crucial to the smooth running of the CS. Her approachable manner and constant good humour were very much appreciated and I am personally very grateful for the insight, advice and support she provided during times when

we were particularly stretched by administrative demands from the centre of Government. I would like to congratulate Janet on being awarded an MBE in the New Year's Honours List for 2014. In her place, I am very pleased to be able to welcome Susan Scholefield CMG as the new non-executive member. As the President has noted in his statement, Susan has a wealth of high level experience with a range of important organisations and will, I am sure, prove to be a wise counsellor for the Board of the CS.

Staff

This year I am pleased to report that staff turnover has been relatively moderate. Early in the year, Paulina Spencer, our Legal Assistant, left to join a private law firm dealing with structured finance. In November, our Operations Manager, Julie Hamilton, went on maternity leave. Also, one of our Référéndaires, Alex Hiendl, left to take up a position with a law firm. Shortly before Christmas, we welcomed Salina Hoang to assist with administrative tasks.

The staff team now comprises 16 people (with four of them working part-time), a number of whom multi-task across several roles. The President, Members and I continue to attach the highest importance to the expertise, dedication and flexibility of the staff without which the Tribunal could not function anywhere near its present level of efficiency. It was particularly pleasing to note that in its response to the Government's Consultation on Streamlining Appeals, the City of London Law Society referred to the Tribunal as "a world class organisation" and the staff can claim a large part of the credit for that.

Once again, the staff absence rate (1.4 per cent of working days) is far below the average for both the private and public sectors.

Information Technology

The forthcoming year will see a number of substantial IT projects. The CS will procure IT services (previously provided by the CC IT department) from the trading fund of the Foreign & Commonwealth Office (FCOS). This will be accompanied by an upgrade in the organisation's IT operating system and desktop hardware, as well as a transition to a cloud based computing system. At the same time, the CS will upgrade its electronic document and record management system.

There have been no incidents involving a breach of data security in the year under review.

Pensions

Present and past employees of the CS are covered under the provisions of the Principal Civil Service Pension Scheme (PCSPS). The PCSPS is non-contributory (except in respect of dependants' benefits and additional employee contributions to the classic, premium and nuvos schemes). Liability for payment of future benefits is a charge on the PCSPS. Employer contributions are charges to the CS's income and expenditure account. Further information on the terms of the schemes can be found in the remuneration report and in the notes to the CS's accounts.

The Tribunal/CS Audit Committee

The Tribunal/CS Audit Committee meets four times a year and in July 2013 met for the last time under the chairmanship of Janet Rubin. In March 2014, the committee convened for the first time with Susan Scholefield taking the chair. Stephen Harrison and Brian Landers, both Tribunal Members with considerable accounting experience, are also members of the committee.

Format of accounts

The accounts for the Tribunal/CS have been prepared in accordance with the 2013/14 Government Financial Reporting Manual (FReM) and the separate Accounts Direction for the Tribunal and the CS given by the Secretary of State with the consent of HM Treasury in accordance with Schedule 3 of the Enterprise Act 2002. The accounting policies contained in the FReM apply International Financial Reporting and Accounting Standards as adapted or interpreted for the public sector.

The Accounts Direction for the Tribunal provides for the Statement of Accounting Officer's Responsibilities and Corporate Governance Statement to be combined with those of the CS.

The Tribunal's accounts include only the direct costs specifically attributable to the Tribunal. All support costs are included in the CS's accounts in accordance with its statutory purpose set out in the introduction to this review. Whilst it is necessary to make this division for accounting purposes, it should always be borne in mind that in its day to day operations the Tribunal/CS acts as a single integrated organisation.

Auditors

The financial statements of the Tribunal and the CS are audited under Schedule 3 paragraph 12(4) of the Enterprise Act 2002 by the Comptroller and Auditor General. The cost of the external statutory audit was £6,000 for the Tribunal (2012/13: £6,000) and £18,000 for the CS (2012/13: £18,000).

In 2013/14 BIS's Cross Departmental Internal Audit Service (XDIAS) continued to provide internal audit services to the CS. The cost of providing this function was £8,000 (2012/13: £8,000).

Payment of creditors

The Tribunal/CS aims to pay all supplier invoices by the due date or within ten working days of receipt if no due date has been agreed. This accords with Government guidelines aimed at assisting suppliers with their cashflow. Throughout the year, the average payment period was ten days (2012/13: ten days) and 71 per cent of (undisputed) invoices were settled within ten days (2012/13: 83 per cent).

Disclosure of relevant audit information

So far as I am aware, there is no relevant audit information of which the Tribunal/CS's external auditors are unaware and I have, to the best of my knowledge, taken all the steps that I ought to have taken to make myself aware of any relevant audit information and to communicate this to the Tribunal/CS's auditors.

Charles Dhanowa OBE, QC
Registrar and Accounting Officer
23 June 2014

Membership

President



Sir Peter Roth was called to the Bar in 1977 and took Silk in 1997. He was appointed a Recorder in 2000 and a High

Court Judge in 2009. He was, for many years, a leading practitioner in competition law and, as a judge, has heard many of the recent competition cases brought in the High Court. From 2003 to 2009 he was Chairman of the Competition Law Association. He held a visiting professorship at King's College, London, teaching competition law on the LL.M course and he was the General Editor of the 5th and 6th editions of *Bellamy & Child on the European Union Law of Competition*.

Chairmen

The following Judges of the Chancery Division of the High Court:

Panel of Chairmen

The Honourable Mr Justice Henderson

The Honourable Mr Justice Morgan

The Honourable Mr Justice Norris

The Honourable Mr Justice Sales

The Honourable Mrs Justice Proudman

The Honourable Mr Justice Arnold

The Honourable Mr Justice Nugee

The Honourable Mr Justice Newey

The Honourable Mr Justice Hildyard

The Honourable Mrs Justice Asplin

The Honourable Mr Justice Birss

The Honourable Mrs Justice Rose

Lord Carlile CBE, QC



Alex Carlile was called to the Bar by Gray's Inn in 1970 and appointed Queen's Counsel in 1984. He is a Bencher of Gray's

Inn. He sits as a Recorder of the Crown Court and as a Deputy High Court Judge. He was the Independent Reviewer of terrorism legislation from 2001 to 2011. He was until 2013 the President of the Howard League for Penal Reform. He is a fellow of King's College, London, and a fellow of the Industry and Parliament Trust and holds British and foreign Honorary Doctorates of Law. From 1983 to 1997, he was the Liberal then Liberal Democrat MP for Montgomeryshire in Mid Wales. During that time, he served as spokesperson on a range of issues, including home affairs and the law. He

was leader of the Welsh Liberal Democrats from 1992 to 1997. He was appointed a Life Peer in 1999 and takes the Liberal Democrat Whip. Until 2007, he was Head of Chambers at 9-12 Bell Yard. He specialises in the civil and criminal aspects of commercial fraud and in the development of counter-terrorism legislation internationally. He is involved in numerous charities, including the Royal Medical Foundation of Epsom College and the White Ensign Association. He has a particular interest in mental health issues and was a co-founder of the Welsh charity Rekindle. He chaired the Select Committee of both Houses of Parliament on recent mental health legislation. His major report for the Howard League on the use of restraints on children in custody was published in February 2006. He is Vice Chairman of a listed agricultural merchanting company, Wynnstay Group Plc, and a founder and director of the strategic consultancy SC Strategy Ltd.

Heriot Currie QC (Scotland)



Heriot Currie practises in both Scotland and England. He commenced practice at the Scottish Bar in 1979, was Standing

Junior in Scotland to the Department of Trade and Industry between 1987 and 1992 and was called to the English Bar (Gray's Inn) in 1991. In 1992, he was appointed Queen's Counsel in Scotland. In 2005, he also commenced practice at the English Bar when he became a member of Monckton Chambers. His practice has covered a wide range of commercial cases, including competition law, intellectual property, judicial review, procurement, human rights and EU law,

professional negligence, commercial fraud, building and engineering contracts, arbitrations and public inquiries.

Peter Freeman CBE, QC (Hon)



Peter Freeman is a solicitor who has held senior posts in UK competition enforcement. He is a member of the Lloyd's

Enforcement Appeal Tribunal Panel. From 2011 to 2013, he was Senior Consultant to the international law firm Cleary Gottlieb Steen & Hamilton. From 2005 to 2011, he was Chairman of the CC, having been a Deputy Chairman since 2003. Prior to that, he practised for 30 years at the international law firm Simmons & Simmons, 25 of them as a partner, managing the Commercial Department and heading the EC and Competition Law practice group. He was for many years Chairman of the Regulatory Policy Institute, Oxford, and has written and spoken widely on competition and regulatory law. He is a member of the advisory boards of the Economic and Social Research Centre for Competition Policy at the University of East Anglia and the International Competition Forum, University of St Gallen, the Scientific Board of Concurrência e Regulação, Lisbon, and is also a member of the Council of the University of Bath.

Andrew Lenon QC



Andrew Lenon was called to the Bar in 1982 and was appointed Queen's Counsel in 2006. A member of One Essex

Court Chambers, his practice covers the full range of company and commercial litigation, arbitration and advisory work. He has been involved in many leading cases involving banking and financial services, company and insolvency matters and the insurance, reinsurance and energy industries. He sits as a Deputy District Judge and as a Chairman of the Bar Disciplinary Tribunals.

Hodge Malek QC



Hodge Malek was called to the Bar in 1983 and appointed Queen's Counsel in 1999. He is a member of Thirty Nine Essex

Street Chambers and his practice has covered many areas of commercial law and dispute resolution including banking and financial services, fraud, professional disciplinary cases, energy, insurance and reinsurance and procurement. He is the general editor of the leading book on the law of evidence, Phipson on Evidence (18th edition, 2013), and the joint author of Disclosure (4th edition, 2012). He is also a contributor to Mithani, Directors Disqualification (Human Rights chapters) and various volumes of Atkins Court Forms (Financial Services, Human Rights, Disclosure and Information Requests, and Administrative Court). He was a member of the Commercial Court working party chaired by Lord Justice Cresswell on Electronic Disclosure and has been a Chairman of the Bar Disciplinary Tribunals. He sits as a Recorder in both civil and criminal cases, is a member of the Inns of Court Conduct Committee and a Bencher of Gray's Inn.

Dame Vivien Rose DBE



Vivien Rose was called to the Bar in 1984 and was a member of Monckton Chambers, London, for ten years specialising in

domestic and EU competition law. In 1995 she left private practice and joined the Government Legal Service working for several years in HM Treasury advising on financial services regulation, at the Ministry of Defence advising on international humanitarian law and in the Legal Services Office of the House of Commons. She joined the Tribunal as a Chairman in 2005 and has chaired panels dealing with cases covering the whole range of the Tribunal's work including against findings of competition law infringement appeals against penalties,

telecoms cases and follow-on damages claims. She is co-editor of the 7th edition of Bellamy & Child on the European Union Law of Competition (March 2013). She was appointed a Judge of the Chancery Division of the High Court in May 2013.

Marcus Smith QC



Marcus Smith is a barrister specialising in commercial law. He has degrees in law from Oxford University and studied

at the University of Munich. He was called to the Bar in 1991 and is a member of Fountain Court Chambers, London. He has an extensive commercial litigation and international arbitration practice. He was appointed Queen's Counsel in 2010. His work mainly concerns cases with a strong technical element and spans a wide range of subject areas including aviation, banking, commercial contracts, conflicts of law, insurance and reinsurance, IT/telecommunications, professional negligence and sports. He is the author of the leading textbook in the area of intangible property, "The Law of Assignment: The Creation and Transfer of Choses in Action", and is one of the authors of "Private International Law of Insurance and Reinsurance". He is also the consultant editor for the title "Choses in Action" in Halsbury's Laws of England and has written widely on matters of contract, trusts, insurance and private international law.

Ordinary Members

William Allan



William Allan is a solicitor who was a partner in the law firm Linklaters for 28 years until April 2010, during which time he specialised in EU and UK competition law. He has also taught competition law as an affiliated lecturer in the Faculty of Law at Cambridge University since 2004.

Professor John Beath



John Beath is Secretary-General of the Royal Economic Society and Emeritus Professor of Economics at the University of St Andrews. His professional training was at Queen's College Dundee, the University of London and the University of Pennsylvania. He has held academic posts at Cambridge, Bristol and St Andrews. He is an applied micro-economist with interests in the economics of industry and in public finance. Previous public appointments have included membership of the Review Body on Doctors' and Dentists' Pay Remuneration and chairmanship of the Economic Research Institute of Northern Ireland. He is currently a member of the Economic and Social Research Council and also a member of the Prison Service Pay Review Body.

Michael Blair QC (Hon)



Michael Blair is a practising barrister with Chambers in 3 Verulam Buildings, Gray's Inn, specialising in financial services and financial regulation. He has been in independent practice since 2000. He was a member of the Board of the Dubai Financial Services Authority until April 2013. He was, until 2009, the Chairman of SWX Europe Limited, the London exchange where the major Swiss equities

were traded, and was the Treasurer of his Inn of Court, the Middle Temple, in 2008. Until 2000, he was General Counsel to the Financial Services Authority. He served on the Bar Council for nine years (including as Treasurer for four years) and had earlier been employed as a civil servant in the Lord Chancellor's Department for 20 years. He is the author or editor of a number of textbooks on financial services.

Timothy Cowen



Timothy Cowen became a partner in the international antitrust/competition practice of the law firm Sidley Austin LLP in January 2011. He is the founder of the Open Computing Alliance, a fellow of the think tank "Res Publica", a visiting professor at the City of London Law School and a board member of the International Institute of Communications, a not-for-profit training and conference organiser on communications issues. From 2001 to 2009, he served as General Counsel and a board member for BT's international businesses. He was BT's Chief Counsel, competition law and public policy, from 1997 to 2001, and before that, was BT's Head of European law. He trained with city law firm Lovell White Durrant. He is a barrister, called in July 1985, and has an MA in Law from Cambridge University.

Margot Daly



Margot Daly has held Chief Executive Officer and Chief Operating Officer positions in both FTSE listed and privately held companies. She has extensive international experience in digital media with a heavy emphasis on disruptive technology, strategy, operations and business transformation. She is a qualified CEDR dispute resolution mediator, serves as a consumer redress adjudicator for the OFCOM approved Communications and

Internet Services Adjudication Scheme programme and as a non-executive director for Sports Resolutions, which runs dispute resolution services for professional and amateur sport, and operates the UK's National Anti-Doping Panel. She is a graduate of UC Berkeley, an affiliate member of the Chartered Institute of Legal Executives and holds a post-graduate diploma in Competition Economics from King's College, London.

Dr Clive Elphick



Clive Elphick is a board member of the Environment Agency and an independent director of National Grid Gas plc and of National Grid Electricity Transmission plc. His former roles include being a board member of the Northern Ireland Authority for Utility Regulation, Managing Director at United Utilities Group Plc, Chairman of the CBI for the North West of England and a board member of a Department of State and of a regional Development Agency. He is also a trustee of the Lancashire Wildlife Trust and the National Museums Liverpool.

Dermot Glynn



Dermot Glynn is a Principal at Europe Economics. He was an Exhibitioner at Balliol College, Oxford, where he read philosophy, politics and economics, and then taught economics and business studies. He became a member of the Department of Applied Economics at Cambridge, Economic Director of the CBI, Chief Economist at KPMG's London office, and UK Managing Director of NERA before founding an economics consultancy, Europe Economics, in 1998.

Stephen Harrison



Stephen Harrison is a retired partner from PwC. During his career at PwC, he held numerous management roles

and, at the time of his retirement, was one of seven Regional Chairmen. During his professional career, he was actively involved in advising a wide range of businesses. In particular, he has been involved in undertaking due diligence assignments for some of the major global acquisitions that have occurred in recent years. He has been involved in lecturing on financial matters. He has been actively involved in local organisations encouraging economic growth and promoting skills and employment. He is currently involved as Chairman of a charity, non-executive director of a building society and an advisor to a number of private companies.

Brian Landers



Brian Landers is Chairman of Companies House and an Audit Commissioner. He has served on the boards

of various companies in the UK and overseas including Habitat, Waterstone's and Penguin Books and was Finance Director of HM Prison Service. He was also Chief Internal Auditor of Sainsbury's, Deputy Chairman of the Financial Ombudsman Service and Treasurer of Amnesty International UK. He has a MBA from the London Business School.

Jonathan May



Jonathan May has been closely involved in the development of competition and regulatory policy and its practical delivery

since the mid 1990s, working in the Treasury, Department of Trade and Industry and, since 2001, the OFT. As an

OFT board member since 2006, he was responsible for delivery and policy on most competition and consumer issues. He has been a member of the Financial Services Consumer Panel since 2012, a member of Consumer Futures' board since 2013 and a member of Ofgem's Enforcement Decision Panel since April 2014.

Professor Colin Mayer



Colin Mayer is the Peter Moores Professor of Management Studies at the Saïd Business School at the

University of Oxford. He is an honorary fellow of Oriel College, Oxford, and of St Anne's College, Oxford, a professorial fellow of Wadham College, Oxford, and an inaugural fellow of the European Corporate Governance Institute. He is a member of the UK Department for Environment, Food and Rural Affairs' Natural Capital Committee. He was the First Professor at the Saïd Business School in 1994, the Peter Moores Dean of the Business School between 2006 and 2011, and the First Director of the Oxford Financial Research Centre between 1998 and 2005. He was a Harkness Fellow at Harvard University, a Houblon-Norman Fellow at the Bank of England, the first Leo Goldschmidt Visiting Professor of Corporate Governance at the Solvay Business School, Université de Bruxelles, and he has had visiting positions at Columbia, Massachusetts Institute of Technology and Stanford universities. He was Chairman of the economics consultancy firm Oxera Limited between 1986 and 2010, and he has consulted for firms, governments, regulators and international agencies around the world.

Clare Potter



Clare Potter was Chief Legal Adviser to the CC from 2004 until May 2010. Prior to joining the CC she practised as a

competition partner in City firm Simmons & Simmons where she specialised in energy and telecoms regulation. She is a public member of Network Rail.

Professor Gavin Reid



Gavin Reid is currently Honorary Professor of Economics and Finance at the University of St Andrews, having been

Professor there from 1991 to 2013, and he has been Visiting Professor in Accounting and Finance at Strathclyde University Business School since 2007. He also plays a strategic role in research capacity building in the Business School of the University of the West of Scotland, in which role he holds the part-time post of Professor of Enterprise and Innovation. He is the author of ten books on industrial organisation, small business, entrepreneurship and venture capital, and of over 70 academic articles in leading research journals in economics, accounting and finance. He has been adviser to the Centre for Business Research, Judge Business School, since 2009. In recent years, he has received an honorary DBA from the University of Abertay for his research in business economics and a DLitt from Aberdeen University for his research on small business enterprise. His current research includes a project on financial reporting standards, which is supported by a grant from the Carnegie Trust.

Joanne Stuart OBE



After 20 years working in the IT industry, Joanne Stuart founded Attrus Limited in 2006 which supports businesses and

entrepreneurs both in the private and social enterprise sectors. A former Chairman of the Institute of Directors, Northern Ireland Division, she chaired the independent review on university fees in Northern Ireland leading to a published report in February 2011. She currently chairs the Government and business steering group tasked with driving forward the Northern Ireland Science, Technology, Engineering and Mathematics (STEM) strategy. This dovetails with her role on Matrix, the Northern Ireland Science Panel, and her work with the Northern Ireland Science Park Trust. She is Chairman of Arts & Business Northern Ireland and Vice Chair of the Northern Ireland Assembly and Business Trust, as well as holding a number of other voluntary roles.

Professor Stephen Wilks



Stephen Wilks is Emeritus Professor of Politics at the University of Exeter where he also served for four years as

Deputy Vice Chancellor. From 2001 to 2005, he was a member of the Economic and Social Research Council and chaired its Research Strategy Board. He has written extensively on the politics, administration and enforcement of UK and European competition policy and has just published the book "*Political Power of the Business Corporation*" with Edward Elgar. From 2001 to 2009, he was a member of the CC and served on 12 merger inquiries.

Competition Service: Non-executive member

Susan Scholefield CMG



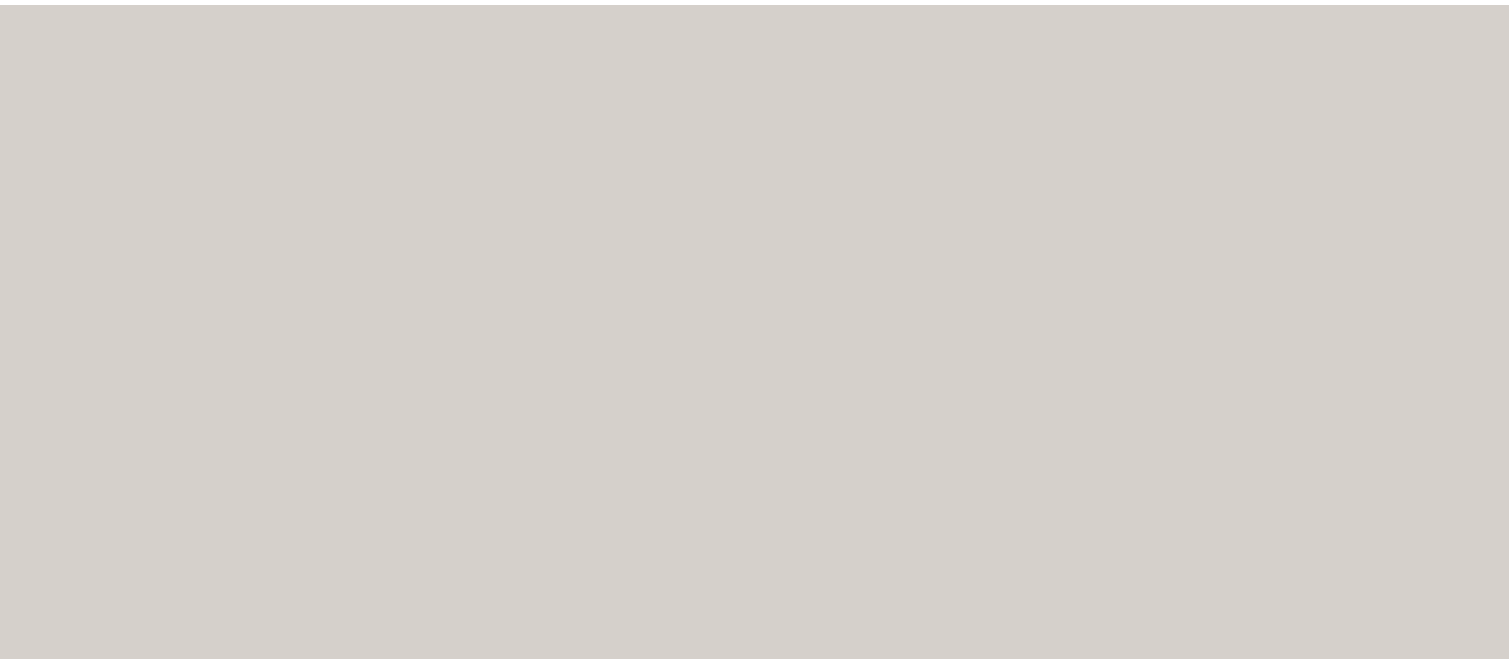
Susan Scholefield is the LSE's School Secretary, where she supports the Director and Chairman of Court and Council on

governance, legal compliance, planning and ethics issues as well as contributing to the strategic direction of the School. She is a Fellow of the Chartered Institute of Personnel and Development and a Chartered Public Finance Accountant. She had an early academic career at the University of California, then joined the Civil Service in 1981 and held senior roles in the Balkans Secretariat, Northern Ireland Office, Communities Department and the Cabinet Office as Head of the Civil Contingencies Secretariat. Most recently, she was Director General, Human Resources and Corporate Services, at the Ministry of Defence. She studied at the Ecole Nationale d'Administration in Paris from 1985 to 1986 and in 1999 was awarded a CMG in the New Year's Honours for her work in Bosnia.

Cases



Judgments handed down within the period	
1 April 2013 to 31 March 2014	24
Activity by case within the period	
1 April 2013 to 31 March 2014	37
Overall case activity within the period	
1 April 2013 to 31 March 2014	45



Judgments handed down within the period 1 April 2013 to 31 March 2014

Note: The details set out below are only intended to be brief summaries of judgments. There is no intention to add to, interpret or otherwise gloss the judgment. The definitive text of each judgment can be found in the UK Competition Law Reports or on the website of the Competition Appeal Tribunal.

	JUDGMENT	TRIBUNAL	SUBJECT MATTER
1.	<p>(1) British Sky Broadcasting Limited (2) TalkTalk Telecom Group PLC v. Office of Communications (LLU/WLR Charge Control March 2012)</p> <p>British Telecommunications PLC v Office of Communications (LLU/WLR Charge Control March 2012)</p> <p>[2013] CAT 8 29 Apr 2013</p>	<p>Mrs Justice Rose Jonathan May Professor Stephen Wilks</p>	<p>Ruling of the Tribunal disposing of the appeal. On 27 March 2013, the CC notified the Tribunal of its determination of the reference questions. The CC rejected some of the challenges raised by the appellants but found that some of the challenges to OFCOM's decision entitled "Charge control review for LLU (Local Loop Unbundling) and WLR (Wholesale Line Rental services): Statement" (the LLU and WLR decision) were well founded.</p> <p>Upon none of the parties seeking to challenge the CC's determination, the Tribunal decided that no aspects of the determination fell to be set aside on the application of judicial review principles. The Tribunal therefore upheld those grounds of the appeals which were encapsulated in: (a) reference questions 1(i) and (ii) of Sky and TalkTalk's appeal; and (b) reference questions 1(ii), (iv), (vi) and (vii) of BT's appeal, to the extent found in the CC's determination. The Tribunal dismissed the other grounds of appeal. The Tribunal accordingly remitted the LLU and WLR decision to OFCOM pursuant to section 195(4) of the 2003 Act with the directions set out in the Annex to the ruling.</p>
2.	<p>British Sky Broadcasting Limited & Ors v Office of Communications</p> <p>[2013] CAT 9 9 May 2013</p>	<p>Mr Justice Barling (President) Professor John Beath Michael Blair QC (Hon)</p>	<p>Ruling of the Tribunal in relation to: (i) costs applications made by each of Sky and FAPL; and (ii) the disposal of FAPL's appeal in light of the Tribunal's Pay TV judgment ([2012] CAT 20).</p> <p>For the reasons set out in the ruling, the Tribunal made an award in Sky's favour in respect of its costs relating to ground 2 of its main appeal (Case: 1158/8/3/10), such costs to be subject to detailed assessment if not agreed. Sky was also awarded its costs of the Set Top Boxes and Conditional Access Modules appeals (Cases: 1170/8/3/10 and 1179/8/3/10), although no order was made in respect of the costs of Sky's application for Interim Relief (Case: 1152/8/3/10 (IR)).</p> <p>As regards FAPL's appeal (Case: 1157/8/3/10), the Tribunal concluded that FAPL's appeal should be dismissed in light of the Pay TV judgment and that there should be no order in respect of costs.</p>
3.	<p>John Lewis plc v Office of Fair Trading</p> <p>[2013] CAT 10 29 May 2013</p>	<p>Mrs Justice Rose Peter Freeman CBE, QC (Hon) Stephen Harrison</p>	<p>Ruling of the Tribunal in relation to a costs application by DSG Retail Limited for the costs of its intervention in the proceedings. For the reasons set out in the ruling, the Tribunal dismissed the application.</p>
4.	<p>Siemens plc v National Grid plc Capital Meters Limited v National Grid plc</p> <p>[2013] CAT 11 30 May 2013</p>	<p>Lord Carlile CBE, QC</p>	<p>Order of the Chairman in connection with applications by the claimants to: (i) vacate a case management conference listed for 31 May 2013; and (ii) stay each of the claims.</p>

	JUDGMENT	TRIBUNAL	SUBJECT MATTER
5.	<p>(1) Somerfield Stores Limited (2) Co-operative Group Food Limited v Office of Fair Trading</p> <p>(1) Gallaher Group Limited (2) Gallaher Limited v Office of Fair Trading</p> <p>[2013] CAT 12</p> <p>6 June 2013</p>	<p>Marcus Smith QC</p>	<p>Ruling of the Chairman refusing the OFT permission to appeal and determining that there should be no order as to costs.</p>
6.	<p>Akzo Nobel N.V. v Competition Commission</p> <p>[2013] CAT 13</p> <p>21 June 2013</p>	<p>Mr Justice Norris</p> <p>William Allan</p> <p>Professor Gavin Reid</p>	<p>Judgment of the Tribunal in connection with an application by AkzoNobel for a review under section 120 of the 2002 Act of a decision by the CC contained in a report dated 21 December 2012 (the Report), which detailed the CC's conclusions as regards the anticipated acquisition by AkzoNobel of Metlac Holding S.r.l. (the Transaction). In the Report, the CC found that the Transaction would lead to an SLC in the market for the supply of metal packaging coatings for beer and beverage cans in the UK. The CC concluded that the only effective remedy for the SLC would be the prohibition of the Transaction.</p> <p>AkzoNobel applied to the Tribunal for a review of the Report, averring that the CC erred: (i) in law in its interpretation of section 86(1)(c) of the 2002 Act and/or misdirected itself in the application of that section in concluding that AkzoNobel, a company registered in the Netherlands, carries on business in the UK and could, therefore, be the subject of a prohibition order; (ii) in law in finding that Metlac competes more aggressively on price than other competitors PPG and Valspar, which finding was the basis in the Report for the CC's theory of harm and SLC finding; and (iii) in maintaining in the Report a finding that the Transaction would lead to a loss of competition in innovation when there was no evidence to support that conclusion.</p> <p>On the first ground, the Tribunal concluded that the CC had not erred in law and/or misdirected itself as to its power to prohibit the Transaction. The Tribunal was satisfied, having regard to the functional and operational structure of the Akzo Nobel Group, as found by the CC, that AkzoNobel was "a person carrying on business in the United Kingdom" for the purpose of section 86(1)(c) of the 2002 Act. The CC, therefore, had jurisdiction to prohibit the Transaction.</p>

	JUDGMENT	TRIBUNAL	SUBJECT MATTER
			<p>In relation to the second ground, the Tribunal concluded that the CC had not erred in finding that Metlac competed more aggressively on price than its competitors. The CC drew on three sources of evidence in its analysis of Metlac’s competitiveness on pricing: (a) a subset of the responses provided to the German Bundeskartellamt’s survey of customer views and pricing in the coatings market as part of that authority’s investigation of the Transaction under German law; (b) responses to the CC’s survey of customer views (which were gathered by various means, including by written questionnaire, oral hearings and written follow-up questions); and (c) the CC’s own pricing data. The Tribunal found that: (i) the CC’s analysis of, (ii) the reliance placed upon, and (iii) the conclusions drawn from, each of the three sources were rational and that the CC had properly investigated the reasons why Metlac was able to offer lower prices than PPG and Valspar.</p> <p>In respect of the third ground, the Tribunal held that the CC had a sufficient evidential basis upon which to conclude that the Transaction would lead to a loss of competition in innovation. The Tribunal held that the assessment of the evidence was a matter principally for the CC and involved at least an element of economic prediction. On that basis, the Tribunal concluded that the CC was entitled to reach the conclusion it did.</p> <p>As a result, the Tribunal unanimously dismissed all three of AkzoNobel’s grounds of review.</p>
7.	<p>British Sky Broadcasting Limited & Ors v Office of Communications [2013] CAT 14 25 June 2013</p>	<p>Mr Justice Barling (President) Professor John Beath Michael Blair QC (Hon)</p>	<p>Ruling of the Tribunal refusing an application by OFCOM for permission to appeal the Tribunal’s costs order in these proceedings.</p>
8.	<p>(1) Verizon UK Limited (2) Vodafone Limited v Office of Communications [2013] CAT 15 27 June 2013</p>	<p>Mr Justice Barling (President) Peter Freeman CBE, QC (Hon) Marcus Smith QC</p>	<p>Ruling of the Tribunal refusing a request for permission to intervene by Sky and TalkTalk.</p>

JUDGMENT	TRIBUNAL	SUBJECT MATTER
9. Albion Water Limited v Dŵr Cymru Cyfyngedig [2013] CAT 16 31 Jul 2013	Mrs Justice Rose Timothy Cowen Brian Landers	<p>Ruling of the Tribunal in connection with applications by each of Albion and Dŵr Cymru for the payment of their respective legal costs of the proceedings.</p> <p>Although Albion did not succeed on every point in relation to the compensatory damages claims, the Tribunal decided that Albion was the clear winner on this part of the case. Albion was, therefore, entitled to all its costs of bringing the compensatory claims.</p> <p>In respect of the exemplary damages claim, each party had applied for its costs. Notwithstanding the fact that Dŵr Cymru successfully defended the exemplary damages claim, the Tribunal concluded that, given the manner in which Dŵr Cymru presented parts of its case, the appropriate order was that there should be no order as to Dŵr Cymru's costs of defending that claim. With regard to Albion's application for its costs of bringing the exemplary damages claim, the Tribunal considered that Albion should be able to recover a proportion of those costs. The Tribunal held that Albion should recover 85 per cent of its costs of the proceedings from Dŵr Cymru. It considered that the deduction of 15 per cent reflected those costs of the exemplary damages claim, which Albion should bear itself.</p> <p>Albion also sought to recover the after-the-event insurance premium (the ATE premium). The Tribunal concluded that Albion should recover 85 per cent of the ATE premium on the same basis as it recovered its other costs. The Tribunal ordered that Dŵr Cymru make a payment on account to Albion in an amount equal to 85 per cent of the ATE premium within 14 days of the ruling being handed down, with the remainder of the costs to be subject to detailed assessment, unless agreed.</p>
10. Akzo Nobel N.V. v Competition Commission [2013] CAT 17 6 August 2013	Mr Justice Norris William Allan Professor Gavin Reid	<p>Reasoned Order of the Chairman which refused AkzoNobel permission to appeal the Tribunal's judgment of 21 June 2013 ([2013] CAT 13) but extended, by seven days, the period in which AkzoNobel could renew its application in the Court of Appeal.</p>

JUDGMENT	TRIBUNAL	SUBJECT MATTER
<p>11. Deutsche Bahn AG & Ors v Morgan Crucible Company PLC & Ors [2013] CAT 18 15 August 2013</p>	<p>Marcus Smith QC Margot Daly Dermot Glynn</p>	<p>Ruling of the Tribunal on an application (the Application) by the UK Claimants to lift the stay, imposed by the Order of 13 September 2012, as against the 2nd – 6th Defendants.</p> <p>The UK Claimants submitted that the stay ought to be lifted as against the 2nd – 6th Defendants because, whatever the outcome of the First Defendant’s appeal to the Supreme Court, the Tribunal had jurisdiction over the UK Claimants’ claims against the 2nd – 6th Defendants pursuant to Article 5(3) of Regulation (EC) 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (the Brussels Regulation). This was on the basis that the 2nd – 6th Defendants had caused the UK Claimants harm in the United Kingdom and as such, the UK Claimants did not need the First Defendant as an “anchor” defendant to bring their claim against the Defendants before the Tribunal. The Tribunal considered, contrary to the Defendants’ arguments, that the UK Claimants had a good arguable case that some damage was actually suffered in the UK and, therefore, held that there was jurisdiction under Article 5(3) (the 2nd – 6th Defendants’ jurisdictional objections to the claims of the claimants other than the UK Claimants remain outstanding).</p> <p>The Tribunal rejected the 2nd – 6th Defendants’ contention that ordering the 2nd – 6th Defendants to defend the UK Claimants’ claims would amount to a submission by the 2nd – 6th Defendants to the Tribunal’s jurisdiction over the entire proceedings, and not just the claims of the UK Claimants, pursuant to Article 24 of the Brussels Regulation. The Tribunal held that Case 150/80, <i>Elefanten Schuh GmbH v Jacqmain</i> [1981] ECR 1671 and <i>Harada Limited v Turner</i> [2003] EWCA Civ 1695, made it clear that, provided any challenge to jurisdiction is made either before (as was the case here) or at the same time as the arguments on the merits, a defendant can enter an appearance to contest the merits without submitting to the jurisdiction it challenges.</p> <p>The question then was one of case management. The Tribunal considered that the UK Claimants were entitled, like any other claimant, to have their case heard and determined justly and expeditiously, as required by rule 44 of the Tribunal Rules. A partial lifting of the stay as requested by the UK Claimants would allow, at least some, progress to be made in relation to those claims and that was a real benefit that would accrue from the partial lifting of the stay. The Tribunal did not accept that lifting the stay would give rise to unacceptable adverse case management issues, although it acknowledged that there would be matters, most notably the disclosure process that would require active case management.</p> <p>The Tribunal, therefore, granted the Application and the parties will be heard on the appropriate directions for the conduct of the UK Claimants’ claims against the 2nd – 6th Defendants at some point in the future. The Tribunal also abridged the period for seeking permission to appeal the ruling to two weeks.</p>
<p>12. Deutsche Bahn AG & Ors v Morgan Crucible Company PLC & Ors [2013] CAT 19 27 August 2013</p>	<p>Marcus Smith QC Margot Daly Dermot Glynn</p>	<p>Reasoned Order in connection with an application by the Defendants for an extension of the period for seeking permission to appeal the Tribunal’s ruling of 15 August 2013 ([2013] CAT 18).</p>

	JUDGMENT	TRIBUNAL	SUBJECT MATTER
13.	Deutsche Bahn AG & Ors v Morgan Crucible Company PLC & Ors [2013] CAT 20 29 August 2013	Marcus Smith QC Margot Daly Dermot Glynn	Reasoned Order which gave certain case management directions in relation to the claims of the UK Claimants against the 2nd – 6th Defendants.
14.	Groupe Eurotunnel S.A. v Competition Commission The Société Coopérative de Production Sea France S.A. v Competition Commission [2013] CAT 21 30 August 2013	Marcus Smith QC Heriot Currie QC Dermot Glynn	Reasoned Order which granted the SCOP's application to add its French external counsel to the confidentiality ring for the purpose of reviewing certain documents disclosed in the proceedings.
15.	Deutsche Bahn AG & Ors v Morgan Crucible Company PLC & Ors [2013] CAT 22 24 September 2013	Marcus Smith QC Margot Daly Dermot Glynn	Reasoned Order which refused applications by the 4th – 5th Defendants (SGL Carbon SE and Mersen SA) for permission to appeal the Tribunal's Ruling of 15 August 2013 ([2013] CAT 18).
16.	Deutsche Bahn AG & Ors v Morgan Crucible Company PLC & Ors [2013] CAT 23 24 September 2013	Marcus Smith QC Margot Daly Dermot Glynn	Reasoned Order in connection with an application by the Claimants for permission to re-amend their claim form.
17.	BMI Healthcare Limited & Ors v Competition Commission [2013] CAT 24 2 October 2013	Marcus Smith QC William Allan Margot Daly	Judgment of the Tribunal in connection with applications by BMI, HCA and Spire for review of a decision of the CC to allow access, on terms set out in certain undertakings and rules, to a disclosure room containing certain confidential information relating to the CC's private healthcare market investigation. For the reasons set out in the judgment, the Tribunal concluded that the CC's rules governing the disclosure room were not fit for the purpose of allowing a proper and informed response to be made to the CC's provisional findings. Accordingly, the decision was in breach of the CC's statutory duty set out in section 169 of the 2002 Act and in breach of the rules of natural justice.
18.	Ryanair Holdings PLC v Competition Commission [2013] CAT 25 10 October 2013	Hodge Malek QC Professor John Beath Margot Daly	Ruling of the Tribunal on an application by Ryanair for disclosure of certain information redacted in the CC's Final Report dated 28 August 2013.

JUDGMENT	TRIBUNAL	SUBJECT MATTER
<p>19. Global Radio Holdings Limited v Competition Commission [2013] CAT 26 15 November 2013</p>	<p>Mr Justice Newey Professor John Beath Andrew Lenon QC</p>	<p>Judgment of the Tribunal in connection with an application by Global for a review under section 120 of the 2002 Act of a decision by the CC contained in a report dated 21 May 2013, which sets out the CC’s conclusions as regards the acquisition by Global of GMG Radio Holdings Limited, since renamed RSL (the Transaction). The CC decided that the Transaction had resulted, or may be expected to result, in an SLC in the supply of advertising services to non-contracted advertisers in seven areas, including Greater Manchester. It further decided that, absent any countervailing factors, significant adverse effects would eventuate in Greater Manchester, which would lead to a reduction of competition across the North-West region. The CC concluded that Global should be required to divest itself of any one of its stations, Capital, Real or Smooth.</p> <p>Global challenged the CC’s decision on two grounds. The first related to the meaning of SLC in the 2002 Act, the second to whether the CC erred in its approach to remedies as regards Greater Manchester and the North-West region.</p> <p>On the first ground, it was Global’s case that “substantial” meant “large”, “considerable” or “weighty”, and that the CC had not asked itself whether Global’s purchase of RSL has resulted, or may be expected to result, in a large, considerable or weighty lessening of competition. It was accepted that the CC had not asked itself that question but the Tribunal held that it had not been required to do so. The Tribunal rejected the construction of a SLC advanced by Global, holding that “substantial” does not have to be construed as “large”, “considerable” or “weighty”. Among other things, the Tribunal considered that a finding that there was an SLC should suffice, regardless of whether that lessening was large in absolute terms.</p> <p>In relation to the second ground, the Tribunal concluded that Global’s challenge also failed. First, the CC had not erred in finding that the loss of RSL as an alternative for advertisers primarily focused on Greater Manchester would reduce competition. There was evidence to support that finding and it could not be said that the CC’s approach was irrational, applying the judicial review standard prescribed by section 120(4) of the 2002 Act. Secondly, the remedies chosen by the CC were selected to target the significant adverse effects identified in Greater Manchester and, in so doing, it could be said that they would also remedy the loss of competition in the wider North-West region. It could not be inferred that the CC took into account “significant adverse effects” it had not identified. Finally, Global was wrong to argue that the CC had failed to ask itself whether a divestiture of one of RSL’s other stations, Gold, Real XS or Xfm, either on its own or in combination with each other, would meet the requirements of section 35 of the 2002 Act. On the contrary, the CC stated in terms that divestment of Gold, Real XS and Xfm would not “provide an effective constraint in Greater Manchester”.</p> <p>As a result, the Tribunal unanimously dismissed Global’s application.</p>

JUDGMENT	TRIBUNAL	SUBJECT MATTER
20.	Lafarge Tarmac Holdings Limited v Competition Commission Hanson Quarry Products Europe Limited v Competition Commission [2013] CAT 27 22 November 2013	Andrew Lenon QC Dr Clive Elphick Jonathan May Ruling of the Tribunal which stayed the application until the day after the publication of the CC's final report in its investigation into the markets for the supply and acquisition of aggregates, cement and ready-mix concrete in Great Britain.
21.	Deutsche Bahn AG & Ors v Morgan Crucible Company PLC & Ors [2013] CAT 28 25 November 2013	Marcus Smith QC Margot Daly Dermot Glynn Reasoned Order which gave certain case management directions in relation to the claims of the UK Claimants against the 2nd – 6th Defendants, following the Court of Appeal's judgment handed down on 20 November 2013 ([2013] EWCA Civ 1484) dismissing the 2nd – 6th Defendants' applications for permission to appeal the Tribunal's ruling of 15 August 2013 ([2013] CAT 18).
22.	Colt Technology Services v Office of Communications [2013] CAT 29 26 November 2013	Peter Freeman CBE, QC (Hon) Clare Potter Joanne Stuart OBE Judgment of the Tribunal in connection with an appeal brought by Colt under section 192 of the 2003 Act against a determination by OFCOM published in its statement of 28 March 2013 entitled "Business Connectivity Market Review" (the Statement). In the Statement, OFCOM found, <i>inter alia</i> , that BT had significant market power (SMP) in various business connectivity markets. OFCOM imposed on BT various access remedies for active products (i.e. including electronics) in the wholesale markets in which it was found to have SMP. OFCOM also imposed a charge control. OFCOM did not, however, impose a "passive remedy" on BT (the Decision). Colt, supported by an intervening group of communications providers (CPs), challenged this latter aspect of the Statement only. Passive remedies might involve giving a CP access to BT's physical network assets, such as its ducts and poles or unlit fibre. They can be distinguished from "active remedies", which refer to regulated access to communications services which BT (or another regulated firm) provides using infrastructure including electronic equipment. For the reasons set out in the judgment, the Tribunal rejected each of Colt's grounds of appeal, and concluded that: 1. OFCOM did not view active and passive remedies as necessarily alternatives rather than complementary remedies. OFCOM was alive to the potential benefits of passive remedies, but, having analysed the potential risks such remedies entailed, did not consider these to outweigh the possible downsides. It engaged in genuine consultation with stakeholders in order to ascertain their views on the role that passive remedies might play in the business connectivity market for the promotion of downstream competition and what the implications might be for active remedies. Therefore, OFCOM had not reached an internal <i>fait accompli</i> in relation to the possible coexistence of active and passive remedies.

	JUDGMENT	TRIBUNAL	SUBJECT MATTER
			<p>2. OFCOM had not erred in its factual assessment when concluding that it had seen no evidence that any CP would invest “substantially” in infrastructure based on passive remedies. Throughout the consultation process on this point, OFCOM gave Colt an adequate opportunity to make its views on investment in passive remedies known to OFCOM. Moreover, it was apparent that evidence of an intention to invest substantially was not sufficient to justify introducing passive remedies: the limited evidence of intention to invest therefore reinforced the overall decision not to impose passive remedies, but was not fundamental to its validity.</p> <p>3. OFCOM did not operate under any theoretical or <i>de facto</i> prejudice or presumption in relation to the use or otherwise of passive remedies. Instead OFCOM considered whether, in this particular case, their use would or would not be beneficial.</p> <p>4. OFCOM did not err in its assessment of the relative merits of active and passive remedies and, in particular, whether active remedies could achieve the same benefits as passive remedies. OFCOM, as an experienced and careful regulator operating under a comprehensive legal and regulatory framework, followed an open and fair consultation process, made its objectives and concerns clear, took account of the responses it received and, as a result, asked itself the right question on the basis of appropriate and relevant material.</p>
23.	<p>Groupe Eurotunnel S.A. v Competition Commission The Société Coopérative de Production Sea France S.A. v Competition Commission [2013] CAT 30 4 December 2013</p>	<p>Marcus Smith QC Heriot Currie QC Dermot Glynn</p>	<p>Judgment of the Tribunal in connection with applications by Eurotunnel and the SCOP for a review under section 120 of the 2002 Act of a decision by the CC contained in a report dated 6 June 2013, which enunciated the CC’s conclusions as regards the completed acquisition by Eurotunnel of certain assets of the former SeaFrance (the Decision).</p> <p>The CC decided that a relevant merger situation had been created within the meaning of section 23(3) and (4) of the 2002 Act and that the merger might be expected to result in an SLC in the markets for the supply of transport services on the short sea to passengers and to freight customers. By way of remedy, the CC prohibited Eurotunnel from operating ferry services at the port of Dover from a date six months after the date of the order to implement the remedy and, in the meantime, permitted Eurotunnel to divest two of the three vessels it had acquired from the liquidator of SeaFrance.</p> <p>The SCOP challenged the CC’s jurisdiction to consider the acquisition on the basis that its conclusion that a relevant merger situation had been created was wrong. Both applicants challenged the Decision on natural justice grounds and on the basis that the remedy imposed was disproportionate. Eurotunnel also contended that the CC had failed to explore certain relevant issues and/or had wrongly failed to take into account matters relevant to its Decision.</p> <p>In relation to the four grounds of the SCOP’s jurisdictional challenge:</p> <ol style="list-style-type: none"> 1. The Tribunal dismissed the SCOP’s challenge to the CC’s finding that Eurotunnel and the SCOP were “associated persons” within the meaning of section 127(4)(d) of the 2002 Act. 2. The Tribunal dismissed the SCOP’s argument that, even if Eurotunnel and the SCOP were “associated persons”, the CC had erred in finding that the acquisition brought two enterprises within common control.

JUDGMENT	TRIBUNAL	SUBJECT MATTER
		<p>3. The Tribunal agreed that the CC had erred in finding that Eurotunnel and the SCOP had ceased to be "distinct enterprises" (by reason of Eurotunnel's "material influence") within the meaning of section 26 of the 2002 Act. However, in light of the Tribunal's conclusion on the SCOP's grounds 1 and 2, there was no need for the CC to rely on section 26 to found jurisdiction and, accordingly, it was not necessary to remit the question of "material influence" back to the CC.</p> <p>4. The Tribunal agreed that the CC had erred in its consideration of whether Eurotunnel had acquired an "enterprise", as defined in section 129(1) of the 2002 Act. The Tribunal doubted whether the facts, as found by the CC, supported a conclusion that Eurotunnel had acquired something more than "bare assets". Accordingly, to a limited extent, the SCOP's fourth ground succeeded and the Tribunal remitted the question of whether Eurotunnel/SCOP had acquired an enterprise to the CC.</p> <p>In relation to the natural justice challenges:</p> <ol style="list-style-type: none"> 1. For the reasons set out in the judgment, the Tribunal dismissed Eurotunnel's argument that the CC's procedures were generally unfair and in breach of the rules of natural justice. 2. The Tribunal dismissed the specific challenges made by Eurotunnel and the SCOP in relation to the adequacy of the information that was provided to them by the CC during the investigation. The Tribunal considered that, on the particular issues raised by Eurotunnel, the CC had conveyed to Eurotunnel the gist of the case it had to answer. While the Tribunal considered that there was no justification for the CC to withhold, as it did, certain information from the SCOP, the SCOP had in fact had sufficient opportunity to address the point against it, and it took that opportunity. <p>The Tribunal rejected the CC's contention that Eurotunnel's natural justice challenge had been brought out of time.</p> <p>The Tribunal also dismissed Eurotunnel's argument that the CC had failed to explore certain relevant issues and/or had wrongly failed to take into account matters relevant to its Decision.</p> <p>In relation to the challenges to the proportionality of the remedy imposed:</p> <ol style="list-style-type: none"> 1. The Tribunal dismissed Eurotunnel's argument that the remedy was disproportionate because it went beyond requiring operations to be reduced to below the minimum efficient scale identified by the CC. 2. The Tribunal dismissed the SCOP's argument that the CC had erred in its assessment of the proportionality of its proposed remedy because it failed to take proper account of the irremediable damage which the remedy would do to the SCOP's business, particularly as regards the loss of the jobs created by MyFerryLink SAS. <p>Accordingly, the Tribunal concluded that the natural justice challenges, the challenges to the CC's alleged failure to address certain issues, and the challenges to the nature of the remedy imposed by the CC all failed. However, the Tribunal remitted to the CC the question of whether it had jurisdiction. Specifically, the Tribunal required the CC to consider whether Eurotunnel/SCOP had acquired an "asset" or an "enterprise". To that extent, and for that reason alone, the Tribunal quashed the Decision.</p>

	JUDGMENT	TRIBUNAL	SUBJECT MATTER
24.	Deutsche Bahn AG & Ors v Morgan Crucible Company PLC & Ors [2013] CAT 31 4 December 2013	Marcus Smith QC Margot Daly Dermot Glynn	Reasoned Order which listed a case management conference in relation to the claims of the UK Claimants against the 2nd – 6th Defendants for 20 January 2014.
25.	BMI Healthcare Limited v Competition Commission [2014] CAT 1 16 January 2014	Marcus Smith QC William Allan Margot Daly	Ruling of the Tribunal in connection with an application for costs by BMI. For the reasons set out in the Ruling, the Tribunal ordered the CC to pay BMI a total of £125,000 in respect of its costs.
26.	Deutsche Bahn AG & Ors v Morgan Crucible Company PLC & Ors [2014] CAT 2 27 January 2014	Marcus Smith QC Margot Daly Dermot Glynn	Reasoned Order which gave directions in relation to disclosure and certain other case management issues with regard to the claims of the UK Claimants against the 2nd – 6th Defendants.
27.	Ryanair Holdings PLC v Competition Commission [2014] CAT 3 7 March 2014	Hodge Malek QC Professor John Beath Margot Daly	<p>Judgment of the Tribunal on an application by Ryanair for review of the final report of the CC dated 28 August 2013 concerning Ryanair's acquisition of a minority shareholding in Aer Lingus. In its final report, the CC concluded that the minority shareholding gave Ryanair material influence over Aer Lingus and resulted in an SLC within the meaning of section 35 of the 2002 Act. The CC decided to impose a final order requiring Ryanair to divest itself of the majority of its holding in Aer Lingus, by reducing its stake to no more than 5 per cent, such disposal to be through a sales process under a divestiture trustee.</p> <p>By its application, Ryanair challenged the lawfulness of the final report on six grounds. Ryanair's grounds of review, together with the Tribunal's conclusions in relation to each ground, are summarised briefly below:</p> <ol style="list-style-type: none"> 1. Ryanair submitted that the CC's decision to require divestiture is contrary to the EU law duty of sincere cooperation, as it would undermine any subsequent ruling by the European Commission (if Ryanair's ongoing appeal to the General Court from the European Commission's decision of 27 February 2013 is successful) that Ryanair is entitled to acquire the whole of Aer Lingus. For the reasons set out in the judgment, the Tribunal concluded that the CC's decision to impose a divestiture order did not breach the duty of sincere cooperation. In particular, the Tribunal rejected Ryanair's submission that it is an EU objective that an acquisition, once cleared by the European Commission under the EU Merger Regulation, does in fact take place. 2. Ryanair submitted that it was procedurally unfair to keep secret from Ryanair material allegations and evidence which the CC relied upon in reaching its decision, in particular the identity of certain airlines that had provided evidence to the CC during its investigation. For the reasons set out in the judgment, the Tribunal concluded that, both globally and in relation to the specific matters relied on by Ryanair, Ryanair was informed of the gist of the case which it was required to answer, and was in a position to make worthwhile representations in answer to the case it had to meet.

JUDGMENT	TRIBUNAL	SUBJECT MATTER
		<p>3. Ryanair submitted that the CC had erred in law by failing to appreciate the need for a causal connection between Ryanair's acquisition of material influence over Aer Lingus and the alleged SLC. Ryanair submitted that the CC had wrongly relied on various ways in which Ryanair's minority stake may result in an SLC but which had nothing to do with its alleged material influence. The Tribunal concluded that the CC had applied the correct approach, by seeking to compare the situation where the relevant merger situation prevailed with one where it did not. This exercise did not require the CC to limit itself to the examination of competitive effects which were causally connected to the mechanism by which two or more enterprises came to be distinct, in this case Ryanair's ability to exercise material influence over the policy of Aer Lingus.</p> <p>4. Ryanair submitted that the CC's SLC finding was irrational, as it rested on highly speculative theories of harm, and was unsupported by the evidence. Having considered the elements of the CC's SLC finding, the Tribunal found that the CC's conclusion that there was an SLC was one that it was entitled to reach, and the Tribunal found no basis for overturning this conclusion on the grounds put forward by Ryanair.</p> <p>5. Ryanair submitted that the CC's divestiture remedy and the immediate appointment of a divestiture trustee were disproportionate, given Ryanair's willingness to offer undertakings which were equally (or more) effective but less intrusive, and less destructive of Ryanair's interests. The Tribunal rejected Ryanair's submissions, finding that the CC acted in a reasonable and proportionate manner in rejecting Ryanair's remedies proposals, and was entitled to impose a remedy which would result in no realistic prospect of an SLC materialising.</p> <p>6. Ryanair submitted that the CC did not have jurisdiction to impose requirements on Ryanair, an Irish company which did not carry on business in the UK. The Tribunal concluded that the CC did not err in its assessment of its jurisdiction to impose a remedy on Ryanair on the basis of the material before it.</p> <p>Accordingly, and for the reasons set out in the judgment, the Tribunal unanimously dismissed Ryanair's application for review.</p>
<p>28. British Telecommunications PLC v Office of Communications [2014] CAT 4 11 March 2014</p>	<p>Mr Justice Roth (President) Stephen Harrison Professor Colin Mayer</p>	<p>Ruling of the Tribunal in connection with an application by BT for permission to amend its notice of appeal. For the reasons set out in ruling, the Tribunal refused BT's application on the basis that the circumstances relied upon by BT did not constitute "exceptional circumstances", as required by Rule 11(3) (c) of the Tribunal Rules. The Tribunal considered, in particular, that to permit BT to amend its notice of appeal and introduce a new ground of appeal after the hearing of this complex case had concluded and, in effect, to reopen the proceedings, would undermine the orderly and efficient conduct of appeals before the Tribunal and be unfair to the other parties.</p> <p>The Tribunal directed that the period for any appeal against the ruling be extended until one month after the date on which the Tribunal hands down judgment on the appeals in Cases: 1205-1207/3/3/13 and ordered that BT pay the other parties' costs of addressing the application for permission to amend.</p>

Glossary of defined terms

Defined Term	Meaning
1998 Act	Competition Act 1998
2002 Act	Enterprise Act 2002
2003 Act	Communications Act 2003
2nd – 6th Defendants	Defendants in the <i>Deutsche Bahn</i> proceedings, namely: Morgan Advanced Materials Plc (formerly Morgan Crucible Company Plc), Schunk GmbH, Schunk Kohlenstofftechnik GmbH, SGL Carbon SE (formerly SGL Carbon AG), Mersen SA (formerly Le Carbone-Lorraine SA), and Hoffman & Co Elektrokohle AG
Aer Lingus	Aer Lingus Group plc
AkzoNobel	Akzo Nobel N.V.
Albion	Albion Water Limited
BMI	BMI Healthcare Limited
BT	British Telecommunications PLC
CC	Competition Commission
Colt	Colt Technology Services
Dŵr Cymru	Dŵr Cymru Cyfyngedig
Eurotunnel	Groupe Eurotunnel S.A.
FAPL	Football Association Premier League Limited
Global	Global Radio Holdings Limited
HCA	HCA International Limited
OFCOM	Office of Communications
OFT	Office of Fair Trading
PPG	PPG Industries, Inc.
RSL	Real and Smooth Limited
Ryanair	Ryanair Holdings PLC
SCOP	Société Coopérative de Production Sea France S.A.
SeaFrance	Sea France S.A.
Sky	British Sky Broadcasting Limited
SLC	Substantial lessening of competition
SMP	Significant market power
Spire	Spire Healthcare Group
TalkTalk	TalkTalk Telecom Group Plc
Tribunal Rules	Competition Appeal Tribunal Rules (S.I. 2003 No. 1372)
UK Claimants	The 13th – 17th Claimants in the <i>Deutsche Bahn</i> proceedings, namely: DB Schenker Rail (UK) Limited, Loadhaul Limited, Mainline Freight Limited, Rail Express Systems Limited, and English Welsh & Scottish Railway International Limited
Valspar	The Valspar Corporation

Activity by case within the period 1 April 2013 to 31 March 2014

Case name, number and date registered	Year (1 April to 31 March)	Applications to intervene	Case management conferences	Hearings (and sitting days – excluding days limited to formal handing down of judgments)	Judgments (including interlocutory rulings and final judgments)	Date of judgment(s) on the main issues (and months from registration to judgment)	Requests for permission to appeal	Status at 31 March 2014
Emerson Electric Co & Others v Morgan Crucible Company PLC Case: 1077/5/7/07 9 Feb 2007	06-07							
	07-08		1	3	4	2		
	08-09					2		
	09-10							
	10-11			1	1	1		
	11-12					1	1	
	12-13							
	13-14							Ongoing
<p><i>Notes</i> In April 2013, the Claimants settled with the 5th and 6th Defendants (the Mersen Defendants) and agreed to withdraw their application for permission to appeal to the UK Supreme Court. The stay on the proceedings (pursuant to the Tribunal's Order of 3 May 2013) was lifted on 3 August 2013. On 4 February 2014, the Tribunal made an Order regarding the next steps in the proceedings and gave consideration to hearing parts of the Emerson claim together with the Deutsche Bahn claim (or the UK parts of their claim). Settlements were subsequently concluded with the 4th Defendant (SGL Carbon AG) – see the Tribunal's Order of 17 February 2014, and the 2nd and 3rd Defendants (the Schunk Defendants) – see the Tribunal's Order of 26 March 2014.</p>								
British Sky Broadcasting Limited v Office of Communications (Interim Relief) Case: 1152/8/3/10 (IR) 16 Apr 2010	10-11			2	5.5	1		
	11-12							
	12-13							
	13-14							Closed
<p><i>Notes</i> The Interim Relief granted by the President in his Order of 29 April 2010 has continued in force pending the final disposal of Virgin Media, Inc. (Case: 1156/8/3/10); The Football Association Premier League Limited (Case: 1157/8/3/10); British Sky Broadcasting Limited (Case: 1158/8/3/10); and British Telecommunications PLC (Case: 1159/8/3/10) – together referred to below as "the Pay TV appeals".</p>								
Virgin Media, Inc. v Office of Communications Case: 1156/8/3/10 28 May 2010	10-11	12	2	1	1			
	11-12			1	37			
	12-13			1	1	3	8 Aug 2012 (26.4)	1
	13-14					2		1
<p><i>Notes</i> The main Judgment in the Pay TV appeals was given on 8 August 2012. There were two judgments given during this review period, ([2013] CAT 9) and ([2013] CAT 14). These are recorded against this case but relate to all the Pay TV appeals. There was a request for permission to appeal the Tribunal's costs order in respect of the Pay TV appeals by OFCOM which is also recorded against this case. Following an appeal by British Telecommunications PLC to the Court of Appeal, that Court has now remitted the Pay TV appeals back to the Tribunal to consider the issue of whether the prices proposed by British Sky Broadcasting Limited allowed a hypothetical new entrant to compete, and whether this separate concern of OFCOM would have affected the Tribunal's main judgment in the Pay TV appeals.</p>								
The Football Association Premier League Limited v Office of Communications Case: 1157/8/3/10 1 Jun 2010	10-11	12						
	11-12							
	12-13							
	13-14							Ongoing
<p><i>Notes</i> See the notes in relation to Virgin Media (Case:1156/8/3/10).</p>								

Case name, number and date registered	Year (1 April to 31 March)	Applications to intervene	Case management conferences	Hearings (and sitting days – excluding days limited to formal handing down of judgments)	Judgments (including interlocutory rulings and final judgments)	Date of judgment(s) on the main issues (and months from registration to judgment)	Requests for permission to appeal	Status at 31 March 2014
British Sky Broadcasting Limited v Office of Communications Case: 1158/8/3/10 1 Jun 2010	10-11 11-12 12-13 13-14	12						Ongoing
Notes See the notes in relation to Virgin Media (Case:1156/8/3/10).								
British Telecommunications PLC v Office of Communications Case: 1159/8/3/10 1 Jun 2010	10-11 11-12 12-13 13-14	12						Ongoing
Notes See the notes in relation to Virgin Media (Case:1156/8/3/10).								
Albion Water Limited v Dŵr Cymru Cyfyngedig Case: 1166/5/7/10 18 Jun 2010	10-11 11-12 12-13 13-14		1	1 1	1 12	2 5 28 Mar 2013 (33.3)		Closed
Notes A ruling on costs was given on 31 July 2013.								
British Sky Broadcasting Limited v Office of Communications (Linear-only Set Top Boxes) Case: 1170/8/3/10 11 Oct 2010	10-11 11-12 12-13 13-14	4						Ongoing
Notes This case was heard concurrently with the Pay TV appeals mentioned above.								
Deutsche Bahn AG and Ors v Morgan Crucible Company PLC and Ors Case: 1173/5/7/10 15 Dec 2010	10-11 11-12 12-13 13-14		1	1 1	1 1 8		1 1	Ongoing
Notes A reasoned order was made by the Tribunal on 13 September 2012 extending a stay of proceedings pending determination of the 1st Defendant's (Morgan Crucible Company Plc) application to the UK Supreme Court for permission to appeal the Court of Appeal's judgment of 31 July 2012. The Supreme Court granted Deutsche Bahn permission to appeal by order made on 21 December 2012. (The hearing before the Supreme Court took place on 11 and 12 March 2014.) On 15 August 2013, the Chairman handed down a ruling granting an application by 13th – 17th Claimants and partially lifting the stay in respect of the UK Claims. On 24 September 2013, the Tribunal refused the 2nd – 6th Defendants permission to appeal the lifting of the stay of proceedings and the Court of Appeal refused renewed applications in respect of that matter in a judgment given on 20 November 2013 ([2013] EWCA Civ 1484). The 2nd – 6th Defendants filed defences on 29 November 2013; the UK Claimants filed their replies on 3 January 2013. A case management conference was held in respect of the UK Claims on 20 January 2014 and orders made regarding disclosure and other directions, as well as confidentiality. By an order dated 2 April 2014, the UK Claims were stayed for a period of three months and a case management conference has been listed for 4 July 2014.								

Case name, number and date registered	Year (1 April to 31 March)	Applications to intervene	Case management conferences	Hearings (and sitting days – excluding days limited to formal handing down of judgments)	Judgments (including interlocutory rulings and final judgments)	Date of judgment(s) on the main issues (and months from registration to judgment)	Requests for permission to appeal	Status at 31 March 2014
British Sky Broadcasting Limited v Office of Communications (Conditional Access Modules) Case: 1179/8/3/11 14 Feb 2011	10-11 11-12 12-13 13-14	4						Ongoing
<p><i>Notes</i> This case was heard concurrently with the Pay TV appeals mentioned above.</p>								
(1) British Sky Broadcasting Limited (2) TalkTalk Telecom Group Plc v Office of Communications (LLU/WLR Charge Control March 2012) Case: 1192/3/3/12 8 May 2012	12-13 13-14	1	1		2 1	29 Apr 2013 (10.7)		Closed
<p><i>Notes</i> The ruling disposing of this appeal was handed down on 29 April 2013. OFCOM applied to the Tribunal on 25 October 2013 to vary the directions annexed to that ruling regarding the disposal of the appeal.</p>								
British Telecommunications PLC v Office of Communications (LLU/WLR Charge Control March 2012) Case: 1193/3/3/12 8 May 2012	12-13 13-14	3						Closed
<p><i>Notes</i> See the notes in relation to British Sky Broadcasting Limited (Case: 1192/3/3/12).</p>								
British Telecommunications PLC v Office of Communications (08x Nos: BT-Vodafone Dispute) Case: 1195/3/3/12 11 Jun 2012	12-13 13-14	1						Stayed
<p><i>Notes</i> This case has been stayed since inception to await the decision of the Higher Courts in related cases (British Telecommunications PLC v OFCOM, Cases: 1151, 68, 69/3/3/10). Currently this case is awaiting the decision of the UK Supreme Court (UKSC 2012/0204) in relation to those other cases. These proceedings have been stayed until five working days after the Supreme Court hands down its judgment in the appeal.</p>								
(1) Somerfield Stores Limited (2) Co-operative Group Food Limited v Office of Fair Trading Case: 1197/1/1/12 13 Jul 2012	12-13 13-14			1	1		1	Closed
<p><i>Notes</i> This case was heard concurrently with (1) Gallaher Group Limited (2) Gallaher Limited (Case: 1200/1/1/12). The Tribunal's ruling on both applications was handed down on 27 March 2013. On 6 June 2013, the Tribunal made a ruling refusing the OFT's application for permission to appeal and costs. The two cases are currently on appeal to the Court of Appeal.</p>								

Case name, number and date registered	Year (1 April to 31 March)	Applications to intervene	Case management conferences	Hearings (and sitting days – excluding days limited to formal handing down of judgments)	Judgments (including interlocutory rulings and final judgments)	Date of judgment(s) on the main issues (and months from registration to judgment)	Requests for permission to appeal	Status at 31 March 2014
Siemens plc v National Grid plc Case: 1198/5/7/12 20 Jul 2012	12-13 13-14				1			Withdrawn
<p><i>Notes</i> On 1 July 2013, the Chairman made an order granting the Claimant permission to withdraw the claim.</p>								
Capital Meters Limited v National Grid plc Case: 1199/5/7/12 24 Jul 2012	12-13 13-14							Withdrawn
<p><i>Notes</i> On 1 July 2013, the Chairman made an order granting the Claimant permission to withdraw the claim.</p>								
(1) Gallaher Group Limited (2) Gallaher Limited v Office of Fair Trading Case: 1200/1/1/12 25 Jul 2012	12-13 13-14							Closed
<p><i>Notes</i> See the notes in relation to (1) Somerfield Stores Limited (2) Co-operative Group Food Limited (Case: 1197/1/1/12).</p>								
Moy Park Limited and Ors v Tessengerlo Chemie N.V. Case: 1202/5/7/12 28 Sep 2012	12-13 13-14							Withdrawn
<p><i>Notes</i> On 21 June 2013, the President made an order granting the Claimants permission to withdraw the claim.</p>								
John Lewis plc v Office of Fair Trading Case: 1203/6/1/12 21 Dec 2012	12-13 13-14	2	1	1	7	1 1	28 Mar 2013 (3.2)	Closed
<p><i>Notes</i> On 29 May 2013, the Tribunal handed down a ruling in connection with an application by DSG Retail Limited (Dixons) for the costs of its intervention in the proceedings.</p>								
Akzo Nobel N.V. v Competition Commission Case: 1204/4/8/13 17 Jan 2013	12-13 13-14	2	1	1	2	2	21 Jun 2014 (5.1)	Closed
<p><i>Notes</i> The main hearing took place on 18 and 19 April 2013 and the main judgment was given on 21 June 2013. A costs order was made on 24 July 2013 and on 6 August 2013 a further order was made refusing an application by Akzo Nobel N.V. (AkzoNobel) for permission to appeal the Tribunal's judgment of 21 June 2013. On 31 October 2013, the Court of Appeal granted AkzoNobel permission to appeal the Tribunal's judgment.</p>								

Case name, number and date registered	Year (1 April to 31 March)	Applications to intervene	Case management conferences	Hearings (and sitting days – excluding days limited to formal handing down of judgments)	Judgments (including interlocutory rulings and final judgments)	Date of judgment(s) on the main issues (and months from registration to judgment)	Requests for permission to appeal	Status at 31 March 2014
British Telecommunications PLC v Office of Communications (Ethernet Determinations) Case: 1205/3/3/13 20 Feb 2013	12-13 13-14	3	1 1	1 13	1 1			Ongoing
<p><i>Notes</i> This case was heard concurrently with Cable & Wireless Worldwide plc and British Sky Broadcasting Limited (Cases: 1206/3/3/13 and 1207/3/3/13). The related appeals were heard over 13 days between 29 October and 22 November 2013. Judgment is pending. British Telecommunications PLC (BT) applied for permission to amend its grounds of appeal on 29 November 2013. The Tribunal gave its judgment on BT's application on 11 March 2014 refusing permission.</p>								
(1) Cable & Wireless Worldwide plc (2) Virgin Media Limited (3) Verizon UK Limited v Office of Communications (Ethernet Determinations) Case: 1206/3/3/13 19 Feb 2013	12-13 13-14	1						Ongoing
<p><i>Notes</i> See the notes in relation to British Telecommunications PLC (Case: 1205/3/3/13).</p>								
(1) British Sky Broadcasting Limited (2) TalkTalk Telecommunications Group Plc v Office of Communications (Ethernet Determinations) Case: 1207/3/3/13 20 Feb 2013	12-13 13-14	1						Ongoing
<p><i>Notes</i> See the notes in relation to British Telecommunications PLC (Case: 1205/3/3/13).</p>								
(1) Somerfield Stores Limited (2) Co-operative Group Food Limited v Office of Fair Trading Case: 1208/1/1/13 24 Apr 2013	13-14							Stayed
<p><i>Notes</i> On 29 April 2013, the President made an order staying the period for filing the defence until 14 days after the determination of the OFT's permission to appeal applications (and any ensuing appeals) in Cases: 1197/1/1/12 and 1200/1/1/12. On 23 July 2013, the Court of Appeal granted the OFT permission to appeal the Tribunal's Rule 8 ruling in Cases: 1197/1/1/12 and 1200/1/1/12.</p>								
(1) Gallaher Group Limited (2) Gallaher Limited v Office of Fair Trading Case: 1209/1/1/13 24 Apr 2013	13-14							Stayed
<p><i>Notes</i> See the notes in relation to (1) Somerfield Stores Limited (2) Co-operative Group Food Limited (Case: 1208/1/1/13).</p>								

Case name, number and date registered	Year (1 April to 31 March)	Applications to intervene	Case management conferences	Hearings (and sitting days – excluding days limited to formal handing down of judgments)	Judgments (including interlocutory rulings and final judgments)	Date of judgment(s) on the main issues (and months from registration to judgment)	Requests for permission to appeal	Status at 31 March 2014
(1) Verizon UK Limited (2) Vodafone Limited v Office of Communications Case: 1210/3/3/13 24 May 2013	13-14	3	1		1			Closed
<p><i>Notes</i> A case management conference took place on 20 June 2013. On 24 June 2013, British Telecommunications PLC was granted permission to intervene in the proceedings. A ruling in respect of the application to intervene from British Sky Broadcasting Limited and TalkTalk Telecom Group Plc was handed down on 27 June 2013. On 22 July 2013, the Tribunal made an order referring the specified price control matters arising in this appeal to the CC for determination. On 12 December 2013, the CC notified the parties of its final determination. Upon the appellants informing the Tribunal that they did not intend to challenge the CC's determination, the Chairman made an order, on 13 January 2014, dismissing the appeal.</p>								
British Telecommunications PLC v Office of Communications (Termination charges: NCCNs 1046, 1101 and 1107) Case: 1211/3/3/13 24 May 2013	13-14	5						Stayed
<p><i>Notes</i> On 25 June 2013, the President made an order staying the proceedings until the handing down of the UK Supreme Court's judgment in case UKSC 2012/0204 (see Case: 1195/3/3/12 (above)). British Telecommunications PLC is required to indicate to the Tribunal within 14 days of the Supreme Court's judgment whether it intends to pursue this appeal.</p>								
Colt Technology Services v Office of Communications Case: 1212/3/3/13 28 May 2013	13-14	6	1	1	4	26 Nov 2013 (6.0)		Closed
<p><i>Notes</i> A case management conference took place on 20 June 2013. On 24 June 2013, the President made an order granting permission to intervene to Everything Everywhere Limited, Hutchison 3G UK Limited, TalkTalk Telecom Group Plc, Verizon UK Limited, Vodafone Limited and British Telecommunications PLC. The main hearing took place between 14 and 17 October 2013 and the Tribunal handed down its judgment dismissing the appeal on 26 November 2013. On 20 December 2013, the Chairman made an order in relation to costs.</p>								
(1) Teva UK Limited (2) Norton Healthcare Limited v (1) Reckitt Benckiser Group plc (2) Reckitt Benckiser Healthcare (UK) Limited Case: 1213/5/7/13 12 Jun 2013	13-14							Closed
<p><i>Notes</i> On 11 July 2013, an order was made transferring the claim to the Chancery Division of the High Court of England and Wales, pursuant to section 16(5) of the 2002 Act and rule 48(a) of the Tribunal Rules.</p>								
Global Radio Holdings Limited v Competition Commission Case: 1214/4/8/13 14 Jun 2013	13-14		1	1	1	15 Nov 2013 (5.1)		Closed
<p><i>Notes</i> A case management conference took place on 3 July 2013. The main hearing took place on 3 October 2013 and on 15 November 2013, the Tribunal handed down its judgment dismissing the application. On 9 December 2013, the Tribunal made an order awarding the CC its costs incurred in defending the application.</p>								

Case name, number and date registered	Year (1 April to 31 March)	Applications to intervene	Case management conferences	Hearings (and sitting days – excluding days limited to formal handing down of judgments)	Judgments (including interlocutory rulings and final judgments)	Date of judgment(s) on the main issues (and months from registration to judgment)	Requests for permission to appeal	Status at 31 March 2014
The Number UK Limited v Office of Communications Case: 1215/3/3/13 17 Jun 2013	13-14							Withdrawn
<i>Notes</i> On 12 July 2013, the Tribunal made an order granting the Appellant permission to withdraw the appeal.								
Groupe Eurotunnel S.A. v Competition Commission Case: 1216/4/8/13 18 Jun 2013	13-14	3	1	1	2	2	4 Dec 2013 (5.6)	Closed
<i>Notes</i> The main hearing took place on 10 and 11 September 2013. The judgment was given on 4 December 2013. On 12 December 2013, the Tribunal confirmed that it did not propose to make any additional order in relation to the issue which in the judgment it had remitted to the CC. On 8 January 2014, the CC published the timetable it intends to adopt in relation to the jurisdiction question remitted by the Tribunal. On 17 January 2014, the parties confirmed that they had reached an agreement as to the costs of the proceedings before the Tribunal.								
The Société Coopérative de Production Sea France S.A. v Competition Commission Case: 1217/4/8/13 3 Jul 2013	13-14	3						Closed
<i>Notes</i> See the notes in relation to Groupe Eurotunnel S.A. (Case: 1216/4/8/13).								
BMI Healthcare Limited v Competition Commission (No. 1) Case: 1218/6/8/13 17 Sep 2013	13-14	3		2	2	2	2 Oct 2013 (0.5)	Closed
<i>Notes</i> A preliminary hearing took place on 20 September 2013 and the main hearing took place on 30 September 2013. The requests for permission to intervene by HCA International Limited and Spire Healthcare Group were treated as notices of application for review for the purposes of rules 8(1) and 25 of the Tribunal Rules. The Tribunal handed down its judgment on 2 October 2013. A ruling on costs was handed down on 16 January 2014.								
Ryanair Holdings PLC v Competition Commission Case: 1219/4/8/13 23 Sep 2013	13-14	1	1	1	3	2	7 Mar 2014 (5.4)	Ongoing
<i>Notes</i> The hearing took place between 12 and 14 February 2014. The Tribunal handed down its judgment dismissing Ryanair's application on 7 March 2014.								
BMI Healthcare Limited v Competition Commission (No. 2) Case: 1220/6/8/13 8 Oct 2013	13-14							Ongoing
<i>Notes</i> On 12 December 2013, the Chariman made an order staying the proceedings until after the publication of the CC report into the private healthcare market.								

Case name, number and date registered	Year (1 April to 31 March)	Applications to intervene	Case management conferences	Hearings (and sitting days – excluding days limited to formal handing down of judgments)	Judgments (including interlocutory rulings and final judgments)	Date of judgment(s) on the main issues (and months from registration to judgment)	Requests for permission to appeal	Status at 31 March 2014
<p>TalkTalk Telecom Group PLC v Office of Communications (MPF New Provide)</p> <p>Case: 1221/3/3/13</p> <p>15 Oct 2013</p> <p><i>Notes</i> On 8 November 2013, the Chairman made an order vacating the case management conference listed for 11 November 2013 and stayed the proceedings until further order. The Tribunal was notified on 20 December 2013, that TalkTalk had lodged a further dispute relating to MPF New Provide with OFCOM, the outcome of which was expected to have a substantial impact on the way in which this appeal is handled. The Tribunal acceded to the parties' request to continue the stay until five working days after OFCOM publishes its final determination in the new dispute or 30 April 2014, whichever is earlier.</p>	13-14							Stayed
<p>Lafarge Tarmac Holdings Limited v Competition Commission</p> <p>Case: 1222/6/8/13</p> <p>22 Oct 2013</p> <p><i>Notes</i> By order of 18 November 2013, the application was stayed until after the CC published its final report in respect of its market investigation into markets for the supply and acquisition of aggregates, cement and ready-mixed concrete in Great Britain.</p>	13-14		1		1			Stayed
<p>Hanson Quarry Products Europe Limited v Competition Commission</p> <p>Case: 1223/6/8/13</p> <p>28 Oct 2013</p> <p><i>Notes</i> On 4 March 2014, the Chairman made an order granting the Applicant permission to withdraw the application.</p>	13-14							Withdrawn
<p>Lafarge Tarmac Holdings Limited v Competition Commission (No. 2)</p> <p>Case: 1224/6/8/14</p> <p>12 Mar 2014</p> <p><i>Notes</i> Summary of application published on 14 March 2014. A case management conference took place on 4 April 2014 at which the Chairman made directions regarding the future conduct of the application.</p>	13-14							Ongoing
<p>Hope Construction Materials Limited v Competition Commission</p> <p>Case: 1225/6/8/14</p> <p>13 Mar 2014</p> <p><i>Notes</i> Summary of application published on 14 March 2014. A case management conference took place on 4 April 2014 at which the Chairman made directions regarding the future conduct of the application.</p>	13-14							Ongoing
<p>Skyscanner Limited v Competition and Markets Authority</p> <p>Case: 1226/2/12/14</p> <p>31 Mar 2014</p> <p><i>Notes</i> Summary of appeal published on 2 April 2014.</p>	13-14							Ongoing
Total	13-14	24	8	8	28	28	3	

Overall case activity within the period 1 April 2013 to 31 March 2014

	2013/14	2012/13	2011/12
Appeals, applications and claims received			
of which:	19	18	10
section 46 Competition Act 1998 ¹	2	2	2
section 47 Competition Act 1998 ²	1	0	0
section 47A Competition Act 1998 ³	1	5	0
section 47B Competition Act 1998 ⁴	0	0	0
section 120 Enterprise Act 2002 ⁵	4	3	0
section 179 Enterprise Act 2002 ⁶	6	2	1
section 192 Communications Act 2003 ⁷	5	6	7
section 317 Communications Act 2003 ⁸	0	0	0
applications for Interim Relief	0	0	0
Applications to intervene	24	16	12
Case management conferences held	8	7	12
Hearings held (sitting days)	8 (28)	12 (42)	10 (95)
Judgments handed down	28	29	47
of which:			
judgments disposing of main issue or issues	7	10	14
judgment on procedural and interlocutory matters	14	11	13
judgments on ancillary matters (e.g. costs)	7	8	20
Orders made	106	106	118
<p>1. An appeal by a party to an agreement or conduct in respect of which the OFT (or one of the other regulators with concurrent powers to apply the 1998 Act) has made an "appealable decision". During the period to 31 March 2014, appealable decisions included a decision as to whether the Chapter I prohibition or Chapter II prohibition of the 1998 Act had been infringed, as to whether Articles 101 or 102 of the Treaty on the Functioning of the European Union (formerly Articles 81 and 82 of the EC Treaty) had been infringed and the imposition of a penalty for infringement of those provisions or as to the amount of such penalty.</p> <p>2. An appeal against an "appealable decision" made by the OFT or other regulator with concurrent powers to apply the 1998 Act and made by a third party with a sufficient interest in the decision not otherwise entitled to appeal the decision pursuant to section 46 of the 1998 Act.</p> <p>3. A claim for damages or other claim for a sum of money by a person who has suffered loss or damage as a result of the infringement of the 1998 Act or of EU competition law.</p> <p>4. A claim for damages or other claim for a sum of money brought by "a specified body" on behalf of two or more consumers.</p> <p>5. An application by "any person aggrieved" by a decision of the OFT, the CC or the Secretary of State in connection with a reference or possible reference in relation to a relevant merger situation or special merger situation under the 2002 Act.</p> <p>6. An application by "any person aggrieved" by a decision of the OFT, the CC or the Secretary of State in connection with a market investigation reference or possible market investigation reference under the 2002 Act.</p> <p>7. An appeal by "a person affected" by a decision of OFCOM or of the Secretary of State in relation to certain specified communication matters set out in that section.</p> <p>8. An appeal by "a person affected" by a decision of OFCOM to exercise its Broadcasting Act power for a competition purpose (pursuant to Section 317 of the 2003 Act).</p>			

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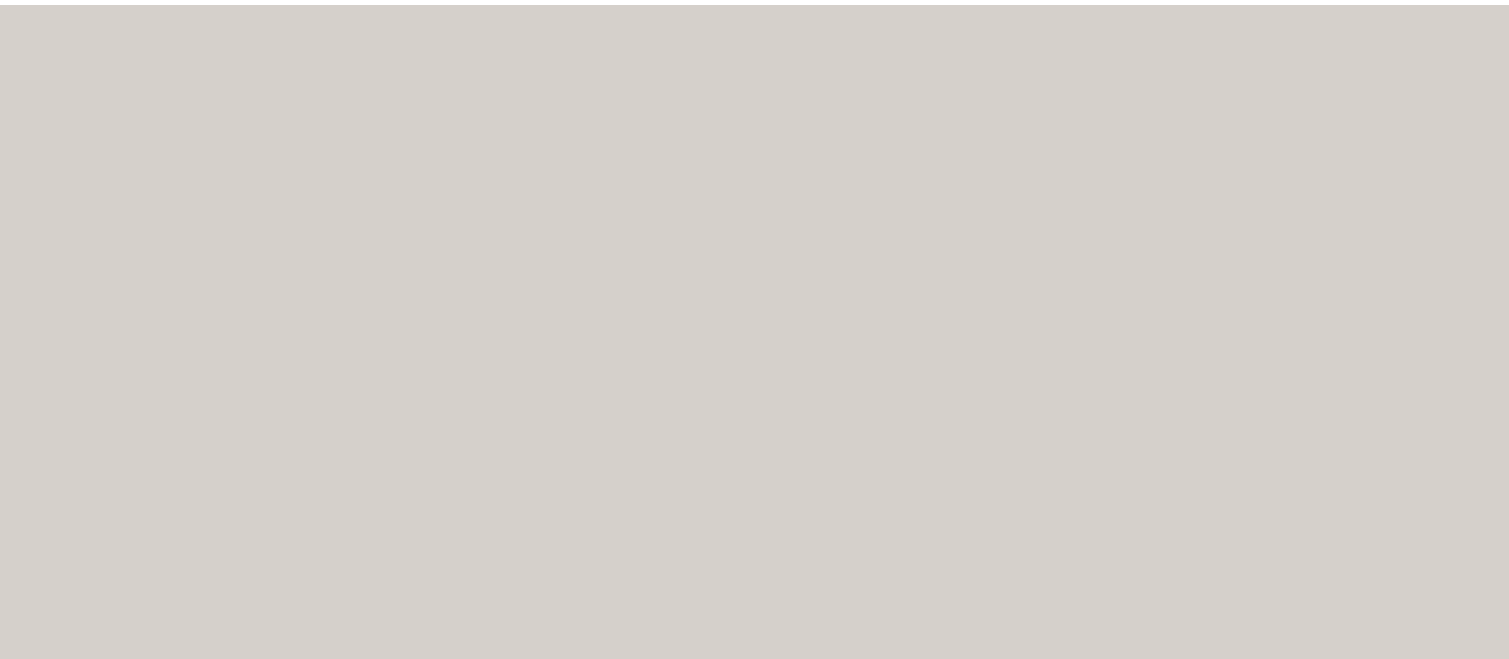
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Management Commentary in respect of the Tribunal and the CS for the year ended 31 March 2014

The key activities of the Tribunal and the CS are explained in the introduction to this report. Similarly, the performance of the Tribunal and the CS in carrying out their respective functions during the period covered by this report is mentioned in the statements of the President and Registrar. The Tribunal and the CS aim to ensure that proceedings are conducted efficiently and economically whilst meeting the requirements of justice. The objective of the CS is to support the Tribunal in carrying out its statutory functions.

Accounts direction

As required by statute, separate accounts have been prepared for the Tribunal and the CS in accordance with the accounts directions issued by the Secretary of State for BIS under the Enterprise Act 2002, section 12 and Schedule 2. The accounts are prepared so as to give a true and fair view of the state of affairs of the Tribunal and the CS at the year end and provide disclosures and notes to the accounts in compliance with the accounting principles and disclosure requirements issued by HM Treasury and included in the Government Financial Reporting Manual (FRM) in force for financial year 2013/14.

Financial performance

The programme and administration funding allocation from BIS for 2013/14 was £3,870,000 for resource expenditure (net of any income from other sources) which was later revised to £3,876,000 including £91,000 for capital expenditure. The capital expenditure budget included costs related to changes to the IT Infrastructure straddling the current and next financial years.

Actual resource expenditure for the year was £3,898,000 and capital expenditure was £27,000.

The actual expenditure for the Tribunal was £538,000 in 2013/14 (£609,000 in 2012/13). The reduction in the Tribunal costs is primarily attributable to savings on members' case costs. There has also been a saving on the long service award for the President as income tax has been reduced to 45 per cent.

The CS's expenditure increased to £3,360,000 in 2013/14, from £3,273,000 in 2012/13. The main changes in the CS's costs are set out below.

Increase/(Decrease)
in costs
2013/14
£'000

Core Staff Payroll & Agency Staff	36
Accommodation	63
IT, Staff Training, Recruitment & Communications	(11)
Year on year increase	88

Financing of activities

As a non-departmental public body, the CS records grant-in-aid as financing received from BIS. Therefore any imbalance between grant-in-aid received and expenditure during the year will result in a movement in the CS's reserves on the balance sheet.

Statement of financial position

The Tribunal's statement of financial position shows only those liabilities at 31 March 2014 which relate to the activities of the Tribunal which are paid by the CS. The liabilities in the CS's statement of financial position therefore include those liabilities that relate to the activities of the Tribunal.

The book value of the CS's non current assets decreased from £83,000 to £80,000. This represents a reduction from depreciation of the assets.

Capital expenditure during the year amounted to £27,000. This expenditure included computer equipment, office machinery, furniture and initial work on the new IT Infrastructure.

The total assets of the CS increased to £579,000 from £554,000. Closing cash balances were £450,000 (2012/13: £405,000).

The CS's general fund (which represents the total assets less liabilities of the CS to the extent that the total is not represented by other reserves and financing items) remains unchanged.

Pension liabilities

Pension arrangements and liabilities for the President and the Registrar are mentioned separately in the remuneration report. Note 1(h) in the CS's accounts contains further detail on the pension provisions relating to CS staff, including the Registrar. The appointments of Tribunal Chairmen and Ordinary Members are non-pensionable.

Risks and uncertainties

The Tribunal/CS maintains a risk register which is monitored and updated regularly following staff discussions. On a quarterly basis the risk register is considered by the Audit Committee.

The risk register is intended to identify strategic, operational and financial risks together with the controls and arrangements to manage those risks.

Currently, the main risks are on two major IT projects to upgrade the Tribunal/CS IT Infrastructure and electronic document and record management system. Failure to implement these projects properly could lead to operational and reputational damage with consequent waste of costs and inefficiency.

Future developments

The Resource Departmental Expenditure Limit (RDEL) approved by BIS for 2014/15 incorporates the increased costs for legislative changes and rent. An amount of £4,281,000 has been earmarked for resource and £72,000 for capital expenditure.

Nearly 80 per cent of the resource costs for the Tribunal/CS are fixed costs. Accommodation costs (specialised courtrooms and associated facilities) are more than 48 per cent of the RDEL.

Resource costs for the CS are budgeted to rise by £162,000 mainly following a 13 per cent increase in rent effective from September 2013, increases in library subscriptions, payroll costs for staff returning from maternity leave and increased hours for staff previously working on reduced hours.

Charles Dhanowa OBE, QC
Registrar and Accounting Officer
23 June 2014

Remuneration Report for the Tribunal and the CS for the year ended 31 March 2014

Remuneration policy

The remuneration of the President and the Registrar is determined by the Secretary of State under Schedule 2 of the 2002 Act. The remuneration of the non-executive member of the CS is determined by the Secretary of State under Schedule 3 of the 2002 Act.

The President is a High Court Judge and his salary is set at the applicable level in the judicial salaries list. The President's salary increased by 1 per cent as recommended by the Senior Salaries Review Body (which makes recommendations about the pay of the senior civil service, senior military personnel and the judiciary). The President's salary is paid by the Ministry of Justice (MoJ) and invoiced to the CS.

The salary of the Registrar is linked to judicial salaries as determined by the Secretary of State. For 2013/14, the salary of the Registrar increased by 1 per cent in accordance with the government pay limits.

The salary costs of the President are charged to the Tribunal's operating cost statement. The salary costs of the Registrar are charged to the CS's operating cost statement.

Tribunal Chairmen are remunerated at the rate of £600 *per diem*, a rate which was set at the inception of the Tribunal in 2003.

The Ordinary Members are remunerated at the rate of £350 *per diem*, which has remained unchanged since 2006.

The non-executive member of the CS is remunerated on a *per diem* basis, at a rate of £350, as determined by the Secretary of State. This rate has remained unchanged since 2003. The remuneration costs of the non-executive member are charged to the CS's operating cost statement.

CS contract, salary and pension entitlements

The following sections provide details of the contracts, remuneration and pension interests of the President, Registrar and non-executive member of the CS.

CS contracts

The President is appointed by the Lord Chancellor under Schedule 2 of the 2002 Act. The Registrar is appointed by the Secretary of State pursuant to section 12(3) of the 2002 Act.

The Registrar's appointment must satisfy the requirements of Rule 4 of the Competition Appeal Tribunal Rules 2003 (SI 2003 No 1372).

The non-executive member of the CS is appointed by the Secretary of State under Schedule 3 of the 2002 Act. The appointment carries no right of pension, gratuity or allowance on its termination.

Remuneration

The following part of the Remuneration Report has been audited.

	2013/14 Total £'000	2012/13 Total £'000
Sir Gerald Barling until 4 November 2013	140-145	255-260
Sir Peter Roth from 5 November 2013	105-110	–

The single total figure of remuneration, as above, includes £40,000 pension benefits (2012/13: £82,000) for Sir Gerald Barling and £36,000 pension benefits (2012/13: N/A) for Sir Peter Roth. The remainder is salary.

The full-time equivalent salary for the President's post was £170,000-£175,000 in 2013/14 (£170,000-£175,000 in 2012/13).

Sir Peter Roth was appointed as President on 5 November 2013, to replace Sir Gerald Barling who returned to the High Court as a Judge in the Chancery Division.

Reporting bodies are required to disclose the relationship between the remuneration of the highest-paid officer in their organisation and the median remuneration of the organisation's workforce.

	2013/14 Total	2012/13 Total
Registrar (Highest Paid Officer's) Total Remuneration (£'000)	110-115	110-115
Median Total Remuneration (£)	39,000	38,756
Ratio	2.53	2.52

The single total figure of remuneration, as above, includes £17,000 pension benefits (2012/13: £14,000). The remainder is salary.

The full time equivalent salary for the Registrar's post was £95,000-£100,000 in 2013/14 (£95,000-£100,000 in 2012/13).

As Chairmen and Ordinary Members are only paid when working on cases and the non-executive member is paid on an ad-hoc basis, they are excluded from the calculation above.

Total remuneration includes salary, non-consolidated performance-related pay, benefits-in-kind as well as severance payments. It does not include employer pension contributions and cash equivalent transfer value of pensions.

The non-executive member of the CS is remunerated at a rate of £350 per day (2012/13: £350 per day) and, as noted above, unchanged since 2003. Total remuneration in 2013/14 for Janet Rubin, whose appointment expired in September 2013, was £1,750 (2012/13: £3,850) and for Susan Scholefield, who was appointed on 18 October 2013, was £1,225.

Benefits in kind

The CS does not provide any allowances, bonuses or benefits in kind to the President, Registrar and non-executive member of the CS.

Untaken leave

The work of the Tribunal involves the conduct, within demanding timescales, of urgent, complex and novel cases of great importance to the parties concerned and the public interest. As the Tribunal/CS has a very small staff team, this can result, from time to time, in the unavoidable accumulation of untaken leave.

The Registrar's untaken leave liability accrual increased by £4,000 to £28,000 in 2013/14 and becomes payable by the CS upon cessation of employment unless the leave is taken. The movement in this liability is reflected in the Net Expenditure Account and affects the Reserves.

Pensions applicable to the Tribunal and the CS

Judicial pensions

The majority of the terms of the pension arrangements are set out in (or in some cases are analogous to) the provisions of two Acts of Parliament: the Judicial Pensions Act 1981 and the Judicial Pensions and Retirement Act 1993.

The Judicial Pensions Scheme (JPS) is an unfunded public service scheme, providing pensions and related benefits for members of the judiciary. Participating judicial appointing or administering bodies make contributions known as Accruing Superannuation Liability Charges (ASLCs), to cover the expected cost of benefits under the JPS. ASLCs are assessed regularly by the Scheme's Actuary – The Government Actuary's Department.

The contribution rate required from the judicial appointing or administering bodies to meet the cost of benefits accruing in the year 2013/14 has been assessed at 32.15 per cent of the relevant judicial salary. This includes an element of 0.25 per cent as a contribution towards the administration costs of the scheme.

Details of the Resource Accounts of the MoJ: JPS can be found on the MoJ website (www.justice.gov.uk).

Civil Service pensions

Pension benefits are provided through the Civil Service pension arrangements. From 30 July 2007, civil servants may be in one of

four defined benefit schemes: a final salary scheme (classic, premium or classic plus); or a whole career scheme (nuvos). These statutory arrangements are unfunded with the cost of benefits met by monies voted by Parliament each year. Pensions payable under each scheme are increased annually in line with Pensions Increase legislation. Members joining from October 2002 may opt for either the appropriate defined benefit arrangement or a 'money purchase' stakeholder pension with an employer contribution (partnership pension account).

Employee contributions are salary-related and range between 1.5 per cent and 4.75 per cent of pensionable earnings for classic, and 3.5 per cent and 7.46 per cent for premium, classic plus and nuvos. Increases to employee contributions will apply from 1 April 2014. Benefits in classic accrue at the rate of 1/80th of final pensionable earnings for each year of service. In addition, a lump sum equivalent to three years initial pension is payable on retirement. For premium, benefits accrue at the rate of 1/60th of final pensionable earnings for each year of service. Unlike classic, there is no automatic lump sum. Classic plus is essentially a hybrid with benefits for service before 1 October 2002 calculated broadly as per classic and benefits for service from October 2002 worked out as in premium. In nuvos a member builds up a pension based on his pensionable earnings during their period of scheme membership. At the end of the scheme year (31 March) the member's earned pension account is credited with 2.3 per cent of their pensionable earnings in that scheme year and the accrued pension is uprated in line with Pensions Increase legislation. In all cases members may opt to give up (commute) pension for a lump sum up to the limits set by the Finance Act 2004.

The partnership pension account is a stakeholder pension arrangement. The employer makes a basic contribution of between 3 per cent and 12.5 per cent (depending on the age of the member) into a stakeholder pension product chosen by the employee from a panel of three providers. The employee does not have to contribute but, where they do make contributions, the employer will match these up to a limit of 3 per cent of pensionable salary (in addition to the employer's basic contribution). Employers also contribute a further 0.8 per cent of pensionable salary to cover the cost of centrally-provided risk benefit cover (death in service and ill health retirement).

The accrued pension quoted is the pension the member is entitled to receive when they reach pension age, or immediately on ceasing to be an active member of the scheme if they are already at or over pension age. Pension age is 60 for members of classic, premium and classic plus and 65 for members of nuvos.

Further details about the Civil Service pension arrangements can be found on the Civil Service website (www.civilservice.gov.uk/pensions).

Further information regarding the Principle Civil Service Pension Scheme (PCSPS) is included in note 5 of the CS's accounts.

Cash Equivalent Transfer Values

A Cash Equivalent Transfer Value (CETV) pot is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV payment is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies.

The figures include the value of any pension benefit in another scheme or arrangement which the member has transferred to the Civil Service pension arrangements. They also include any additional pension benefit accrued to the member as a result of their buying additional pension benefits at their own cost. CETVs are worked out in accordance with The Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2008 and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due when pension benefits are taken.

Real increase in CETV

This reflects the increase in CETV that is funded by the employer. It does not include the increase in accrued pension due to inflation, contributions paid by the employee (including the value of any benefits transferred from another pension scheme or arrangement) and uses common market valuation factors for the start and end of the period.

(a) President's pension benefits

The President is a member of the JPS. For 2013/14, employer contributions of £33,000 for the former President, Sir Gerald Barling (whose appointment came to the end on 4 November 2013), and £23,000 for the current President, Sir Peter Roth (whose appointment commenced on 5 November 2013), were payable to the JPS at a rate of 32.15 per cent of pensionable pay.

The following part of the Remuneration Report has been audited.

	Accrued pension as at 31/03/14 and related lump sum £'000	Real increase in pension and related lump sum as at 31/03/14 £'000	CETV at 31/03/14 £'000	CETV at 31/03/13 £'000	Employee contributions and transfers £'000	Real increase in CETV £'000
Sir Gerald Barling	25 – 30 55 – 60	0 – 2.5 2.5 – 5	538	470	4	37
Sir Peter Roth	0 – 5 0 – 5	0 – 2.5 2.5 – 5	34	0	3	30

(b) Registrar's pension benefits

The Registrar's pension benefits are provided through the Civil Service Pension arrangements. For 2013/14, employer contributions of £24,000 (2012/13: £24,000) were payable to the PCSPS at a rate of 24.3 per cent (2012/13: 24.3 per cent) of pensionable pay.

The following part of the Remuneration Report has been audited.

	Accrued pension at age 60 as at 31/03/14 and related lump sum £'000	Real increase in pension and related lump sum at age 60 £'000	CETV at 31/03/14 £'000	CETV at 31/03/13 £'000	Employee contributions and transfers £'000	Real increase in CETV £'000
Registrar	30 – 35 90 – 95	0 – 2.5 2.5 – 5	554	506*	17	8

*The CETV figure as at 31 March 2013 is a revised figure provided by the MyCSP soon after publishing the 2012/13 Annual Review. It, therefore, differs from the corresponding figure in that Review.

Charles Dhanowa OBE, QC
Registrar and Accounting Officer
23 June 2014

Statement of the Accounting Officer's Responsibilities in respect of the Tribunal and the CS

Under Paragraph 12 of Schedule 3 of the 2002 Act, the CS is required to prepare a statement of accounts for the Tribunal and the CS for each financial year in the form and on the basis determined by the Secretary of State, with the consent of HM Treasury. Each set of accounts is prepared on an accruals basis and must give a true and fair view of the state of affairs of the Tribunal and the CS at the year end and of operating costs, total recognised gains and losses and cash flows for the financial year.

In preparing the accounts for the Tribunal and for the CS, the CS is required to:

- observe the accounts directions issued by the Secretary of State, including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis;
- make judgements and estimates on a reasonable basis;
- state whether applicable accounting standards have been followed, and disclose and explain any material departures in the financial statements; and
- prepare the financial statements on a going concern basis, unless it is inappropriate to assume that the Tribunal and the CS will continue in operation.

The Accounting Officer for BIS has designated the Registrar of the Tribunal as Accounting Officer for both the Tribunal and the CS. His relevant responsibilities as Accounting Officer, including his responsibility for the propriety and regularity of the public finances and for the keeping of proper records, are set out in the Accounting Officer's Memorandum issued by HM Treasury and published in Managing Public Money.

Corporate Governance Statement

The purpose of the Governance Statement

The Governance Statement (the Statement) is intended to provide a clear picture of the structure of the controls within the organisation with regard to the management of risk. The Statement identifies and prioritises the risks to the achievement of the organisation's statutory functions, evaluates the likelihood of those risks materialising and their likely effect, and indicates how they should be managed efficiently, effectively and economically. The Statement informs the Accounting Officer how well internal controls operated in the year.

Scope of responsibility

As Accounting Officer, I have ensured that a sound system of governance and internal controls is in place to support the performance of the CS's and the Tribunal's statutory functions, whilst safeguarding the public funds and departmental assets for which I am responsible (in accordance with the responsibilities assigned to me in the HM Treasury publication *Managing Public Money*). I have been assisted in this by the Board and Audit Committee of the CS to which reports are regularly made. In addition, our internal auditors, BIS Cross Departmental Internal Audit Service (XDIAS), provide advice and guidance on risk management, governance and accountability issues. They work in conjunction with our external auditors, the National Audit Office (NAO), to ensure that the CS properly accounts for and uses its financial resources efficiently, effectively and economically. Further advice and guidance is available from our sponsors in BIS. In my role as Accounting Officer, I am directly responsible to the Accounting Officer of BIS and, ultimately, to Parliament.

The CS's governance structure

The President of the Tribunal, a non-executive member (Susan Scholefield CMG) and I constitute the CS Board, which meets usually four times a year to consider the strategic direction of the organisation. There was full attendance at Board meetings for all members during the year (Janet Rubin was the non-executive member until September 2013: see Registrar's statement). Reports on workload, financial and administrative matters and from the Audit Committee are standing agenda items for Board meetings. The President and I have a detailed knowledge of the working of the Tribunal and the CS, and Susan Scholefield brings her wide and extensive experience of HR, finance and corporate governance matters to the Board. The Director, Operations acts as secretary to the Board.

The President is appointed by the Lord Chancellor on the recommendation of the Judicial Appointments Commission (JAC). The Registrar is recruited in an open competition and appointed by the Secretary of State for BIS. In November 2013, Sir Peter Roth succeeded Sir Gerald Barling as President of the Tribunal. The role of Director, Operations is fulfilled by Jeremy Straker and Ilia Bowles, on a job-share basis.

The non-executive member of the Board chairs the Audit Committee, which also comprises two members of the Tribunal who have financial and business experience. Meetings of the Audit Committee are attended by representatives of both the CS's internal and external auditors and often by a representative of our sponsoring department. The Audit Committee reviews the financial performance of the organisation and examines the Annual Review and Accounts report prior to publication. The CS's risk register is a frequent agenda item for Audit Committee meetings. At each meeting, the auditors and the committee members are offered the opportunity of a private meeting without CS personnel being present so that management performance can be discussed. The Director, Operations also acts as secretary to the Audit Committee.

Internal audit work during the year included the usual finance and accounting audit.

As part of BIS's group corporate governance assessment process, the CS completes an annual governance submission based on an evaluation of risk management processes. The CS's internal auditors review this return as part of their audit work.

The CS also completes a statement of assurance to the BIS Senior Information Risk Owner (SIRO) on an annual basis confirming that information is being used as effectively as possible and in line with data confidentiality and integrity principles.

The risk and internal control framework

The CS's Finance Manager compiles a risk register and discusses each risk with the relevant risk owner. Risks are rated according to their impact and likelihood. The register is kept under review by myself, the Director, Operations and the Finance Manager and is also examined regularly by the Audit Committee.

The CS endeavours to promote a strong understanding of risk throughout the organisation and for Tribunal members and CS staff to have a full awareness of risk considerations in the performance of their duties.

The CS's internal auditors make recommendations to senior management, who undertake to respond within agreed timescales.

The internal auditors' work is determined to comply with the Public Sector Internal Audit Standards. They report on the

adequacy and effectiveness of the CS's system of internal control and provide recommendations for improvement.

In the financial year ended 31 March 2014, Internal Audit reviewed the CS's financial systems. The findings were reported to me and to the Audit Committee.

The Head of Internal Audit provided a satisfactory opinion on the adequacy and effectiveness of the CS's system of internal control.

Detailed monthly management accounts are circulated to me and other members of the CS's senior management, the Audit Committee and BIS. Quarterly grant-in-aid requests also provide BIS with highly detailed information on the CS's financial position.

In addition, the CS's senior management have regular meetings with BIS staff to share management and financial information.

Each year, a Business Plan is produced, which identifies the objectives for the year. The plan is approved by the CS Board and copied to BIS for information.

The majority of CS contractors are selected from the Crown Commercial Service, the centralised commercial and procurement services for the Government and the UK public sector.

In line with BIS Counter Fraud Measures, we have put in place preventative measures to ensure we mitigate risks to ourselves and the BIS family.

The CS has one appointee who is not paid through the payroll system. Steps have been taken to ensure that full tax compliance pertains in this case.

Information security

At the beginning of the current financial year, the IT service level agreement with the CC IT department is due to end. The CS will be joining BIS on a secure platform (PSN360) on the Public Secure Network provided by the trading fund of the Foreign & Commonwealth Office (FCOS). First and second line IT support will also be shared with BIS and provided by an IT G-cloud provider. As part of the transition to PSN360, the CS will be upgrading its IT operating system and desktop hardware, and deploying a new electronic document and record management system.

Under the new Government Security Classification Scheme, which was implemented on 1 April 2014, all information that is created or processed by the Tribunal/CS is classified as OFFICIAL. Members of staff have completed an online assessment to properly understand the value and sensitivity of their information and the ways in which they work with it, in order to make informed risk management decisions.

As the Tribunal/CS SIRO, I am responsible for ensuring that all information risks are recognised and managed through a sound information risk policy and assessment process.

A Departmental Security Officer (DSO) and an Information Technology Security Officer (ITSO) ensure that the Tribunal/CS complies with Cabinet Office Security Policy Framework v11.

Risk assessments are periodically carried out to look at forthcoming changes in services, technology and threats, risks to confidentiality, integrity and availability of information. Proportionate responses are planned and implemented to address any identified threats. In particular, during the year under review, risk assessments were tailored to analyse risks associated with the changes in the Tribunal/CS IT systems, namely the up-grade from Windows XP to Windows 7 and the deployment of SharePoint 2013 and Microsoft Office 2013.

There have been no incidents in the year involving a breach of security. All members of staff have completed the online information awareness training made available by Civil Service Learning.

Review of effectiveness

As Accounting Officer, I have responsibility for reviewing the effectiveness of the CS's governance, risk management and internal control systems. My review is informed by the work of the internal auditors and the relevant CS managers, advice from the Audit Committee and the external auditors' reports.

My overall conclusion is that the CS's governance and internal control structures are good at this point and will remain subject to continuous review.

Charles Dhanowa OBE, QC
Accounting Officer
23 June 2014

Competition Appeal Tribunal: The Certificate and Report of the Comptroller and Auditor General to the Houses of Parliament

I certify that I have audited the financial statements of the Competition Appeal Tribunal for the year ended 31 March 2014 under the Enterprise Act 2002. The financial statements comprise: the Statements of Comprehensive Net Expenditure, Financial Position, Cash Flows, Changes in Taxpayers' Equity and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

Respective responsibilities of the Accounting Officer and auditor

As explained more fully in the Statement of Accounting Officer's Responsibilities, the Accounting Officer is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. My responsibility is to audit, certify and report on the financial statements in accordance with the Enterprise Act 2002. I conducted my audit in accordance with International Standards on Auditing (UK and Ireland). Those standards require me and my staff to comply with the Auditing Practices Board's Ethical Standards for Auditors.

Scope of the audit of the financial statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the Competition Appeal Tribunal's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by Competition Appeal Tribunal; and the overall presentation of the financial statements. In addition, I read all the financial and non-financial information in the Annual Report to identify material inconsistencies with the audited financial statements and to identify any information that is apparently materially incorrect based on, or materially inconsistent with, the knowledge acquired by me in the course of performing the audit. If I become aware of any apparent material misstatements or inconsistencies I consider the implications for my certificate.

I am required to obtain evidence sufficient to give reasonable assurance that the expenditure and income recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

Opinion on regularity

In my opinion, in all material respects, the expenditure and income recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

Opinion on financial statements

In my opinion:

- the financial statements give a true and fair view of the state of the Competition Appeal Tribunal's affairs as at 31 March 2014 and of the net expenditure for the year then ended; and
- the financial statements have been properly prepared in accordance with the Enterprise Act 2002 and Secretary of State directions issued thereunder.

Opinion on other matters

In my opinion:

- the part of the Remuneration Report to be audited has been properly prepared in accordance with Secretary of State directions made under the Enterprise Act 2002; and
- the information given in Introduction, Registrar's Statement and Management Commentary for the financial year for which the financial statements are prepared is consistent with the financial statements.

Matters on which I report by exception

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- adequate accounting records have not been kept or returns adequate for my audit have not been received from branches not visited by my staff; or
- the financial statements and the part of the Remuneration Report to be audited are not in agreement with the accounting records and returns; or
- I have not received all of the information and explanations I require for my audit; or
- the Governance Statement does not reflect compliance with HM Treasury's guidance.

Report

I have no observations to make on these financial statements.

Amyas C E Morse
Comptroller and Auditor General
National Audit Office
157-197 Buckingham Palace Road, Victoria
London, SW1W 9SP
24 June 2014

Competition Appeal Tribunal: Statement of Comprehensive Net Expenditure for the year ended 31 March 2014

	Note	2013/14 £'000	2012/13 £'000
Expenditure:			
Members' remuneration costs	3(d)	(461)	(531)
Other operating charges	4(a)	(77)	(78)
Total Expenditure		(538)	(609)
Income			
		–	–
Net Expenditure for the financial year		(538)	(609)

The notes on pages 60 to 63 form part of these accounts.

Competition Appeal Tribunal: Statement of Financial Position as at 31 March 2014

	Note	31 March 2014 £'000	31 March 2013 £'000
Non current assets:			
Trade receivables and other receivables	5(a)	47	48
Total non current assets		47	48
Current assets:			
Trade receivables and other receivables	5(a)	66	64
Cash and cash equivalents		–	–
Total current assets		66	64
Total assets		113	112
Current liabilities:			
Trade payables and other payables	6(a)	(66)	(64)
Total current liabilities		(66)	(64)
Net current assets		47	48
Non current liabilities:			
Other financial liabilities		–	–
Provisions	7	(47)	(48)
Total non current liabilities		(47)	(48)
Assets less liabilities		–	–
Taxpayers' equity:			
General fund		–	–
Total taxpayers' equity		–	–

The non current and current assets split for financial year ending 31 March 2013 has been restated.

The notes on pages 60 to 63 form part of these accounts.

Charles Dhanowa OBE, QC
Registrar and Accounting Officer
23 June 2014

Competition Appeal Tribunal: Statement of Cash Flows for the year ended 31 March 2014

	Note	2013/14 £'000	2012/13 £'000
Cash flows from operating activities:			
Net operating cost		(538)	(609)
Decrease in receivables		3	27
(Decrease) in payables		(2)	(45)
(Decrease)/Increase in provisions		(1)	18
Net cash (outflow) from operating activities		(538)	(609)
Cash flows from financing activities:			
Grant-in-aid from the CS	2	538	609
Increase/(Decrease) in cash in the period		–	–

The notes on pages 60 to 63 form part of these accounts.

Competition Appeal Tribunal: Statement of Changes in Taxpayers' Equity for the year ended 31 March 2014

The Tribunal does not have reserves. The Tribunal's activities are funded by the CS.

The notes on pages 60 to 63 form part of these accounts.

Competition Appeal Tribunal: Notes to the accounts

1. Basis of preparation and statement of accounting policies

These financial statements have been prepared in accordance with the 2013/14 Government FReM. The accounting policies contained in the FReM apply International Financial Reporting Standards as adapted or interpreted for the public sector and follow International Accounting Standards to the extent that it is meaningful to do so and appropriate to the public sector. The Tribunal does not enter into any accounting transactions in its own right, as the CS has the responsibility, under the Enterprise Act 2002, to meet all the expenses of operating the Tribunal. Accordingly, the Tribunal has no assets, liabilities, reserves or cash flows.

Under an accounts directive from HM Treasury (the 2013/14 Government Financial Reporting Manual), the Tribunal is to prepare accounts on the basis that it had directly incurred the expenses relating to its activities. Accordingly, the accounts of the Tribunal are prepared on this basis, which includes those assets, liabilities and cash flows of the CS, which relate to the Tribunal's activities.

Where the FReM permits a choice of accounting policy, the accounting policy which has been judged to be the most appropriate to the particular circumstances of the Tribunal for the purpose of giving a true and fair view has been selected. The Tribunal's accounting policies have been applied consistently in dealing with items considered material in relation to the accounts.

(a) Accounting convention

The financial statements have been prepared under the historic cost convention.

(b) Basis of preparation of accounts

The FReM requires non-departmental public bodies to account for grant-in-aid received for revenue purposes as financing. The CS draws down grant-in-aid on behalf of the Tribunal to fund the Tribunal's activities. There is a debtor balance of an equal amount representing the amount that the CS shall transfer to meet those liabilities.

(c) Pensions

The pension arrangements for the President are mentioned separately in the remuneration report. The appointment of Tribunal Chairmen and Ordinary Members is non-pensionable.

(d) Going concern

The accounts have been prepared on a going concern basis.

In accordance with accounts directions issued by the Secretary of State, with the approval of HM Treasury, the Tribunal and the CS have prepared a joint Statement of Accounting Officer's Responsibilities and Corporate Governance Statement.

2. Government grant-in-aid

Total grant-in-aid allocated by the CS in financial year 2013/14 was £538,000 (2012/13: £609,000).

3. Members' remuneration

- (a) Members of the Tribunal during the year are listed in the introduction. The President and the Chairmen are appointed by the Lord Chancellor upon the recommendation of the JAC. Ordinary Members are appointed by the Secretary of State. Chairmen and Ordinary Members are appointed for a fixed term of up to eight years.
- (b) Remuneration costs for members of the panel of chairmen are shown in the table below.

	2013/14 £	2012/13 £
Lord Carlile CBE, QC	–	43,757
Heriot Currie QC	15,279	600
Peter Freeman CBE, QC (Hon)	31,133	9,000
Andrew Lenon QC	5,507	600
Hodge Malek QC	17,999	600
Dame Vivien Rose DBE	602	47,299
Marcus Smith QC	44,377	51,043

Lord Carlile CBE, QC, Heriot Currie QC, Peter Freeman CBE, QC (Hon), Hodge Malek QC, Andrew Lenon QC, Dame Vivien Rose DBE and Marcus Smith QC were remunerated on a *per diem* basis at a rate of £600 per day (2012/13: £600 per day) or pro rata. Their remuneration costs are included in note 3(d).

The salary costs of the judges of the Chancery Division of the High Court when sitting as Tribunal chairmen are paid by the MOJ.

- (c) The Ordinary Members are remunerated at a rate of £350 per day (2012/13: £350 per day). The total remuneration payable to Ordinary Members of £74,754 (2012/13: £100,474) is included in note 3(d).
- (d) The total cost of members' remuneration is shown in the table below.

	2013/14 £'000	2012/13 £'000
Members' remuneration (including the President, Chairmen and Ordinary Members)	364	426
Social security costs	41	49
Pension contributions for the President	56	56
Total members' remuneration	461	531

4. Other operating charges

(a) Other operating charges are shown in the table below.

	2013/14 £'000	2012/13 £'000
Members' travel and subsistence	27	21
Members' PAYE and National Insurance on travel and subsistence expenses	10	8
Members' training	35	25
Long service award	(1)	18
Audit fees*	6	6
Total other operating charges	77	78

*Audit fees related only to statutory audit work.

(b) The long service award relates to a provision for the President in his capacity as a judge of the High Court. The value of the award was calculated by the Government Actuary's Department (GAD) and reflects the President's length of service and judicial grade. The level of the long service award is dependent on the tax paid by the member on his retirement lump sum. For this year's disclosures, the GAD has assumed tax is paid on his lump sum at 45 per cent, reflecting the top income rate prevailing at 31 March 2014. The award has been reduced to incorporate the tax reduction from 50 per cent to 45 per cent. However, if the President pays tax on the lump sum at a different rate, the long service award will differ.

5. Trade receivables and other receivables

(a) Analysis by type

	31 March 2014 £'000	31 March 2013 £'000
Amounts falling due within one year:		
Trade receivables and other receivables with the CS	66	64
Amounts falling due after more than one year:		
Trade receivables and other receivables with the CS	47	48
Total trade receivables and other receivables	113	112

(b) Intra-government balances

	Amounts falling due within one year		Amounts falling due after more than one year	
	31 March 2014 £'000	31 March 2013 £'000	31 March 2014 £'000	31 March 2013 £'000
Balances with other central government bodies	66	64	47	48
Total trade receivables and other receivables	66	64	47	48

The non current and current asset split for financial year ending 31 March 2013 has been restated.

6. Trade payables and other payables

(a) Analysis by type

	31 March 2014 £'000	31 March 2013 £'000
Amounts falling due within one year:		
Taxation and social security	16	14
Trade payables	–	–
Accruals	50	50
Total trade payables and other payables	66	64

The payables balance represents the total liabilities outstanding at the balance sheet date that directly relate to the activities of the Tribunal. The CS meets all expenses relating to the Tribunal's activities.

(b) Intra-government balances

	Amounts falling due within one year	
	31 March 2014 £'000	31 March 2013 £'000
Balances with other central government bodies	42	40
Balances with bodies external to government	24	24
Total trade payable and other payables	66	64

There are no intra-government balances that fall due after one year.

7. Provisions for liabilities and charges

	Long service award costs £'000
Balance at 31 March 2013	48
Provided in the year	(1)
Balance at 31 March 2014	47

The provision made in the year relates to the expected cost of the President's long service award which becomes payable on retirement and will be met by the CS. The liability was calculated by the GAD and is based on his judicial grade and length of service. The level of the long service award is dependent on the tax paid by the member of the JPS on his retirement lump sum. For this year's disclosures the GAD have assumed tax is paid on the lump sum at 45 per cent, the prevailing tax rate as at 31 March 2014. However, if the member paid tax on the lump sum at a different rate the long service award would differ. The value of the long service award payable to the previous President reduced to £44,000 as at 4 November 2013 due to the top tax rate reduction to 45 per cent. The remaining provision of £3,000 is for the current President.

8. Related party transactions

The President, Chairmen and Ordinary Members did not undertake any material transactions with the CS during the year.

9. Events after the reporting period

There were no events after the reporting period to report. The Accounting Officer authorised these financial statements for issue on the date of certification.

Competition Service: The Certificate and Report of the Comptroller and Auditor General to the Houses of Parliament

I certify that I have audited the financial statements of the Competition Service for the year ended 31 March 2014 under the Enterprise Act 2002. The financial statements comprise: the Statements of Comprehensive Net Expenditure, Financial Position, Cash Flows, Changes in Taxpayers' Equity and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

Respective responsibilities of the Accounting Officer and auditor

As explained more fully in the Statement of Accounting Officer's Responsibilities, the Accounting Officer is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. My responsibility is to audit, certify and report on the financial statements in accordance with the Enterprise Act 2002. I conducted my audit in accordance with International Standards on Auditing (UK and Ireland). Those standards require me and my staff to comply with the Auditing Practices Board's Ethical Standards for Auditors.

Scope of the audit of the financial statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the Competition Service's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by Competition Service; and the overall presentation of the financial statements. In addition, I read all the financial and non-financial information in the Annual Report to identify material inconsistencies with the audited financial statements and to identify any information that is apparently materially incorrect based on, or materially inconsistent with, the knowledge acquired by me in the course of performing the audit. If I become aware of any apparent material misstatements or inconsistencies, I consider the implications for my certificate.

I am required to obtain evidence sufficient to give reasonable assurance that the expenditure and income recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the

financial statements conform to the authorities which govern them.

Opinion on regularity

In my opinion, in all material respects the expenditure and income recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

Opinion on financial statements

In my opinion: the financial statements give a true and fair view of the state of Competition Service's affairs as at 31 March 2014 and of the net expenditure for the year then ended; and the financial statements have been properly prepared in accordance with the Enterprise Act 2002 and Secretary of State directions issued thereunder.

Opinion on other matters

In my opinion:

- the part of the Remuneration Report to be audited has been properly prepared in accordance with Secretary of State directions made under the Enterprise Act 2002; and
- the information given in Introduction, Registrar's Statement and Management Commentary for the financial year for which the financial statements are prepared is consistent with the financial statements.

Matters on which I report by exception

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- adequate accounting records have not been kept or returns adequate for my audit have not been received from branches not visited by my staff; or
- the financial statements and the part of the Remuneration Report to be audited are not in agreement with the accounting records and returns; or
- I have not received all of the information and explanations I require for my audit; or
- the Governance Statement does not reflect compliance with HM Treasury's guidance.

Report

I have no observations to make on these financial statements.

Amyas C E Morse
Comptroller and Auditor General
National Audit Office
157-197 Buckingham Palace Road, Victoria
London, SW1W 9SP
24 June 2014

Competition Service: Statement of Comprehensive Net Expenditure for the year ended 31 March 2014

	Note	2013/14 £'000	2012/13 £'000
Expenditure:			
Funding the activities of the Tribunal		(538)	(609)
CS and Audit Committee Members' remuneration	3(a)	(7)	(9)
Staff Costs	4(a)	(862)	(824)
Other expenditure	6	(2,462)	(2,409)
Depreciation	6	(29)	(31)
Total expenditure		(3,898)	(3,882)
Income:			
Other income	7	4	5
Net expenditure		(3,894)	(3,877)
Interest received	7	2	4
Net expenditure after interest		(3,892)	(3,873)
Taxation	8	(0)	(1)
Net expenditure after taxation		(3,892)	(3,874)

All activities were continuing during the year.

The notes on pages 68 to 76 form part of these accounts.

Competition Service: Statement of Financial Position as at 31 March 2014

	Note	31 March 2014 £'000	31 March 2013 £'000
Non current assets:			
Property, plant & equipment	9	55	61
Intangible assets	10	25	22
Total non current assets		80	83
Current assets:			
Trade receivables and other receivables	11(a)	49	66
Cash and cash equivalents	12	450	405
Total current assets		499	471
Total assets		579	554
Current liabilities:			
Trade payables and other payables	13(a)	(214)	(193)
Total current liabilities		(214)	(193)
Non current assets plus net current assets		365	361
Non current liabilities:			
Financial liabilities	13(a)	(1,823)	(1,846)
Provisions	14	(47)	(48)
Total non current liabilities		(1,870)	(1,894)
Assets less liabilities		(1,505)	(1,533)
Taxpayers' equity:			
General fund		(1,505)	(1,533)
Total taxpayers' equity		(1,505)	(1,533)

The notes on pages 68 to 76 form part of these accounts.

Charles Dhanowa OBE, QC
Registrar and Accounting Officer
23 June 2014

Competition Service: Statement of Cash Flows for the year ending 31 March 2014

	Note	2013/14 £'000	2012/13 £'000
Cash flows from operating activities:			
Net deficit before interest		(3,894)	(3,877)
Adjustments for non-cash transactions	6	29	31
Decrease in receivables		17	66
(Decrease) in payables		–	(10)
(Decrease)/Increase in provisions	14	(1)	18
Net cash (outflow) from operating activities		(3,849)	(3,772)
Cash flows from investing activities:			
Interest received	7	2	4
Taxation	8	(1)	–
Property, plant and equipment purchases	9	(15)	(31)
Intangible asset purchases	10	(12)	(22)
Net cash generated from/(used in) investing activities		(26)	(49)
Cash flows from financing activities:			
Grant-in-aid from BIS	2	3,920	3,906
Net Increase in cash and cash equivalents in the period	12	45	85
Cash and cash equivalents at the beginning of the period	12	405	320
Cash and cash equivalents at the end of the period	12	450	405

The purchase of assets figure represents the cash paid in the year. The payables amount is net of non-operating expenses relating to corporation tax accrued at 31 March 2014.

The notes on pages 68 to 76 form part of these accounts.

Competition Service: Statement of Changes in Taxpayers' Equity for the year ending 31 March 2014

	General Fund £'000
Balance at 31 March 2012	(1,565)
Net operating cost for 2012/13	(3,874)
Net financing from BIS for 2012/13	3,906
Balance at 31 March 2013	(1,533)
Net operating cost for 2013/14	(3,892)
Net financing from BIS for 2013/14	3,920
Balance at 31 March 2014	(1,505)

The notes on pages 68 to 76 form part of these accounts.

Competition Service: Notes to the accounts

1. Statement of accounting policies

These financial statements have been prepared in accordance with the 2013/14 Government FReM. The accounting policies contained in the FReM apply International Financial Reporting Standards as adapted or interpreted for the public sector and follow International Accounting Standards to the extent that it is meaningful to do so and appropriate to the public sector.

Where the FReM permits a choice of accounting policy, the accounting policy which has been judged to be the most appropriate to the particular circumstances of the CS for the purpose of giving a true and fair view has been selected. The CS's accounting policies have been applied consistently in dealing with items considered material in relation to the accounts.

(a) Going concern

BIS is engaged with CS on the "triennial review" under the Cabinet Office's rolling review of non-departmental public bodies. The review currently in initial draft stage is likely to conclude around September 2014 and for 2014/15 there will be no change in the functioning of the CS and the Tribunal. An increased allocation by BIS has been made for costs related to legislative changes and rent increases, reinforcing our belief that future sponsorship from BIS will be forthcoming within the capital and resource budgets. Accordingly, it is appropriate to adopt a going concern basis for the preparation of these financial statements. The statement of financial position indicates a negative balance because of timing differences between consumption and payment. The CS draws grant-in-aid to cover its cash requirements and not to represent income. The operating lease liability includes the full cost of annual rent increments from September 2008 of 2.5 per cent calculated every five years and compounded to 13 per cent spread on a straight line basis over the 20 years of the lease. Therefore, although the operating lease liability is recognised, the increase will be paid from future grant-in-aid receipts.

(b) Accounting convention

The financial statements have been prepared under the historic cost convention. Depreciated historical cost is used as a proxy for fair value as this realistically reflects consumption of the assets. Revaluation would not cause a material difference.

(c) Basis of preparation of accounts

The statutory purpose of the CS is to fund and provide support services to the Tribunal and all relevant costs are included in the CS's accounts. Direct costs specifically attributable to the Tribunal are incurred initially by the CS but are shown in the Tribunal's accounts.

Schedule 3 of the 2002 Act requires the CS to prepare separate statements of accounts in respect of each financial year for itself and for the Tribunal.

In accordance with accounts directions issued by the Secretary of State for BIS with the approval of HM Treasury, the Tribunal and the CS have prepared a joint Statement of Accounting Officer's Responsibilities and Corporate Governance Statement.

(d) Grant-in-aid

The CS is funded by grant-in-aid from BIS. In drawing down grant-in-aid the CS draws down sums considered appropriate for the purpose of enabling the Tribunal to perform its functions.

The FReM requires non-departmental public bodies to account for grant-in-aid received for revenue purposes as financing which is credited to the general reserve as it is regarded as contributions from a sponsor body.

(e) Non current assets

All assets are held by the CS in order to provide support services to the Tribunal. Items with a value of £500 or over, in a single purchase or grouped purchases where the total group purchase is £500 or more, are capitalised.

(f) Depreciation

Depreciation is provided on all non current assets using the straight line method at rates calculated to write off, in equal instalments, the cost at the beginning of the year over the expected useful life. Non current assets are depreciated from the month following acquisition and not depreciated in the year of disposal.

(i) Property, plant and equipment assets:

Information Technology:

Desktop/laptop computers and printers	3 years
Servers and audio visual equipment	5 years
Office equipment	5 years
Furniture	7 years

(ii) Intangible non current assets:

Information Technology:

Software licences	1 to 3 years
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(g) Taxation

- (i) The CS is liable for corporation tax on interest earned on bank deposits.
- (ii) The CS is not registered for VAT and therefore cannot recover any VAT. Expenditure in the income and expenditure account is shown inclusive of VAT, and VAT on the purchase of non current assets is capitalised.

(h) Pension costs

Present and past employees are covered under the provisions of the PCSPS. The PCSPS is non-contributory (except in respect of dependants' benefits and additional employee contributions to the classic and premium schemes). The CS recognises the expected costs of the PCSPS pensions on a systematic and rational basis over the period during which it benefits from employees' services by payment to the PCSPS of amounts calculated on an accruing basis. Liability for payment of future benefits is a charge on the PCSPS. In respect of the defined contribution element of the schemes, the CS recognises contributions payable in the year.

The PCSPS is therefore treated as a defined contribution scheme and the contributions recognised as they are paid each year.

(i) Income

The main source of income is from the rental of courtrooms and website service income (see note 7). The income is recognised when the service is provided.

(j) Operating leases

Rentals payable under operating leases are charged to the income and expenditure account on a straight line basis over the 20 year term of the lease, which the CS pays for its and the Tribunal's accommodation in Victoria House. Operating lease estimates are based on VAT remaining at 20 per cent for the remaining term of the lease.

(k) Financial instruments

Financial instruments are initially measured at fair value plus transaction costs unless they are carried at fair value through profit and loss in which case transaction costs are charged to operating costs.

(i) Financial assets

The CS holds financial assets which comprise cash at bank and in hand and receivables, classified as loans and receivables. These are non derivative financial assets with fixed or determinable payments that are not traded in an active market.

Since these balances are expected to be realised within 12 months of the reporting date, there is no material difference between fair value, amortised cost and historical cost.

(ii) Financial liabilities

The CS holds financial liabilities which comprise payables. Since these balances are expected to be settled within 12 months of the reporting date, there is no material difference between fair value, amortised cost and historical cost.

(l) Reserves

The General Fund represents the total assets less liabilities of the CS, to the extent that the total is not represented by other reserves and financing items.

(m) Provisions

The CS provides for legal or constructive obligations which are of uncertain timing or amount at the balance sheet date on the basis of the best estimate of the expenditure required to settle the obligation.

Specific assumptions are given in note 14.

2. Government grant-in-aid

	2013/14 £'000	2012/13 £'000
Allocated by BIS	3,876	3,985
Drawn down:		
Resource	3,893	3,853
Capital	27	53
Total drawn down	3,920	3,906

3. The CS and Audit Committee Members' remuneration**(a) The total cost of CS and Audit Committee Members' remuneration is shown in the table below.**

	2013/14 £'000	2012/13 £'000
CS and Audit Committee Members' remuneration	7	9
Social security costs	–	–
Total CS and Audit Committee Members' remuneration	7	9

(b) The President's salary costs are included in note 3d of the Tribunal's accounts. The Registrar's salary costs are included in note 4a below.

Until September 2013, Janet Rubin was the non-executive member of the CS and also chaired the CS's Audit Committee.

Her remuneration of £1,750 in the year (2012/13: £3,850) is included in note 3(a) above. Susan Scholefield was appointed on 18 October 2013 as non-executive member and Chairman of the CS Audit Committee to replace Janet Rubin.

Susan Scholefield's remuneration of £1,225 is included in note 3(a) above. The post is remunerated at a rate of £350 per day (unchanged since 2003) and is non-pensionable.

4. Staff related costs and numbers

(a) Staff costs are shown in the table below.

	Total 2013/14 £'000	Permanently employed staff 2013/14 £'000	Total 2012/13 £'000
Wages and salaries	671	671	634
Social security costs	54	54	58
Other pension costs	137	137	132
Total employee costs	862	862	824

No severance payments were made in 2013/14.

(b) The average number of staff employed during the year (full time and part time) remained 16 for the previous year and the reporting year. No temporary agency staff were employed.

5. Pension costs

The PCSPS is an unfunded multi-employer defined benefit scheme and the CS is unable to identify its share of the underlying assets and liabilities. Further information can be found on the resource accounts of the Cabinet Office: Civil Service Pensions website (www.civilservice.gov.uk/pensions).

For 2013/14, employer contributions of £137,000 (2012/13: £132,000) were payable to the PCSPS at one of four rates in the range 16.7 to 24.3 per cent (2012/13: 16.7 to 24.3 per cent) of pensionable pay, based on salary bands. The Scheme's Actuary reviews employer contributions every four years following a full scheme valuation. The contribution rates reflect benefits as they are accrued, not when the costs are actually incurred, and reflect past experience of the scheme.

6. Other expenditure

	2013/14 £'000	2012/13 £'000
Hire of plant and machinery	11	23
Other operating leases	1,245	1,243
Non case related expenditure including internal audit fees	11	9
IT service fees	102	100
Accommodation and utilities	827	764
Travel, subsistence and hospitality	17	17
Other administration including case related expenditure	231	235
Audit fees	18	18
Non cash item		
Depreciation	29	31
Total other expenditure	2,491	2,440

Other operating lease costs relate to the rental of office space at Victoria House, where the CS is a tenant of the CC under a Memorandum of Terms of Occupation (MOTO) arrangement. The MOTO lasts for the duration of the CC's 20-year lease with the Victoria House landlord, which commenced in September 2003.

In early 2014, the CMA was formed (as a result of the merger of the CC and the OFT) and succeeded to the CC's rights and obligations under the MOTO.

The current policy of the CS is not to charge the Tribunal Service and other government bodies for use of Tribunal/CS's court facilities.

Audit fees related only to statutory audit work.

7. Tribunal/CS's income and interest received

	2013/14 £'000	2012/13 £'000
Website service income	4	5
Gross interest received	2	4
Total income	6	9

Interest was received on funds deposited in the CS's bank accounts.

The website service income relates to a contract with Bloomberg, a US publisher, for non-exclusive use of information published on the website.

8. Taxation

The Corporation tax payable for the reporting year is negligible in comparison with the £1,000 reported for 2012/13. Corporation tax payable is based on 20 per cent of gross interest receivable (2012/13: 20 per cent).

9. Property, plant and equipment

	Information Technology £'000	Furniture and Fittings £'000	Office Machinery £'000	Total £'000
Cost or valuation:				
At 31 March 2013	319*	336*	32	687
Additions	7	2	6	15
Disposals	1	1	-	2
At 31 March 2014	325	337	38	700
Depreciation:				
At 31 March 2013	298	318	10	626
Charged in year	10	5	5	20
Disposals	-	1	-	1
At 31 March 2014	308	322	15	645
Net book value at 31 March 2013	21	18	22	61
Asset financing:				
Owned	21	18	22	61
Net book value at 31 March 2014	17	15	23	55
Asset financing:				
Owned	17	15	23	55

*Included in the cost of fixed assets, shown in the table above, are IT assets with a value of £290,222 and F&F assets with a value of £183,201, which have been fully written down but are still in use.

10. Intangible assets

	Purchased software licences £'000	Assets under construction £'000	Total £'000
Cost or valuation:			
At 31 March 2013	241	–	241
Additions	–	12	12
At 31 March 2014	241	12	253
Amortisation:			
At 31 March 2013	219	–	219
Charged in the year	9	–	9
At 31 March 2014	228	–	228
Net book value at 31 March 2013	22	–	22
Net book value at 31 March 2014	13	12	25

11. Trade and other receivables

(a) Analysis by type

	31 March 2014 £'000	31 March 2013 £'000
Amounts falling due within one year:		
Deposits and advances	6	7
Other receivables	–	–
Prepayments and accrued income	43	59
Total trade receivables and other receivables	49	66

(b) Intra-government balances

	Amounts falling due within one year	
	31 March 2014 £'000	31 March 2013 £'000
Balances with other central government bodies	6	7
Balances with bodies external to government	43	59
Total trade and other receivables	49	66

There are no intra-government balances that fall due after one year.

12. Cash and cash equivalents

	31 March 2014 £'000	31 March 2013 £'000
Balance at 1 April	405	320
Net change in cash balances	45	85
Balance at 31 March	450	405
The following balances were held at 31 March:		
Commercial banks and cash in hand	450	405
Balance at 31 March	450	405

13. Trade payables and other current/non-current liabilities

(a) Analysis by type

	31 March 2014 £'000	31 March 2013 £'000
Amounts falling due within one year:		
Payables representing activities of the Tribunal at 31 March	66	64
Taxation and social security	18	18
Trade payables	4	6
Accruals	56	44
Untaken leave accrual	47	38
Deferred income rent free	23	23
Total amounts falling due within one year	214	193
Amounts falling due after more than one year:		
Deferred income rent free	193	216
Operating lease liability	1,630	1,630
Total amounts falling due after more than one year	1,823	1,846

(b) Intra-government balances

	Amounts falling due within one year		Amounts falling due after more than one year	
	31 March 2014 £'000	31 March 2013 £'000	31 March 2014 £'000	31 March 2013 £'000
Balances with other central government bodies	141	125	1,823	1,846
Balances with bodies external to government	73	68	–	–
Total trade and other payables	214	193	1,823	1,846

(c) Deferred income and operating lease liability

The deferred income in note 13(a) represents the value of the rent-free period for Victoria House.

In accordance with the principles of IAS 17 (Leases) and the supplementary guidance specified in SIC 15 (Operating leases incentives), the CS has spread the value of the initial nine month rent-free period for Victoria House over the expected full 20-year length of the tenancy agreement.

The operating lease liability in note 13(a) represents obligations under operating leases which include an increase of 2.5 per cent compounded over every five years equating to 13 per cent applied from September 2008 for land and buildings. The full cost of the operating lease has been spread on a straight line basis over the 20-year term of the lease.

Further details of the lease arrangements in respect of land and buildings are given in note 6.

14. Provisions for liabilities and charges

	Long service award costs £'000
Balance at 31 March 2013	48
Provided in the year	(1)
Balance at 31 March 2014	47

The provision made in the year relates to the Tribunal's expected cost of the President's long service award which becomes payable on retirement. The CS will provide the finances to settle the Tribunal's liability. The liability was calculated by the GAD and is based on the President's judicial grade and length of service. The level of the long service award is dependent on the tax paid by the member on his retirement lump sum. For this year's disclosures the GAD have assumed tax is paid on his lump sum at 45 per cent, the prevailing tax rate as at 31 March 2014. However, if the member paid tax on the lump sum at a different rate the long service award would differ. The value of the long service award payable to the previous President reduced to £44,000 as at 4 November 2013 due to the top tax rate reduction to 45 per cent. The remaining provision of £3,000 is for the current President.

15. Commitments under operating leases

Commitments under operating leases to pay rentals during the year following the year of these accounts are given in the table below, inclusive of VAT analysed according to the period in which the lease expires.

	31 March 2014 £'000	31 March 2013 £'000
Obligations under operating leases comprise:		
Buildings:		
Not later than one year	1,344	1,266
Later than one year and not later than five years	5,463	5,375
Later than five years	6,836	8,268
Other:		
Not later than one year	4	11
Later than one year and not later than five years	3	3
Later than five years	–	–
Total obligations under operating leases	13,650	14,923

The obligations under operating leases include an increase of 2.5 per cent compounded over every five years equating to 13 per cent applied from September 2008 for land and buildings. Note 6 gives further details of the lease arrangements in respect of land and buildings.

16. Financial instruments

IAS 32 Financial Instruments Presentation requires disclosure of the role which financial instruments have had during the period in creating or changing the risks an entity faces in undertaking its activities. The CS has limited exposure to risk in relation to its activities. As permitted by IAS 32, trade receivables and payables, which mature or become payable within 12 months from the balance sheet date, have been omitted from this disclosure note. The CS has no borrowings and relies on grant-in-aid from BIS for its cash requirements, and is therefore not exposed to liquidity, credit and market risks. The CS has no material deposits other than cash balances held in current accounts at a commercial bank, and all material assets and liabilities are denominated in sterling, so it is not exposed to interest rate risk or currency risk. There was no difference between the book values and fair values of the CS's financial assets. Cash at bank was £450,000 as at 31 March 2014.

17. Related party transactions

During the year the CS had various material transactions with the CC relating to the provision of IT support to the CS and the occupancy of Victoria House. The CS's sponsor department is BIS from which it receives grant-in-aid. During the year the CS also had various other material transactions with BIS including internal audit services. In addition, the CS had material transactions with the MoJ and the Cabinet Office to which accruing superannuation liability charges and employee contributions were paid over for the President and permanent staff respectively. Salary and national insurance for the President are paid to the MoJ. No CS member, key manager or other related party has undertaken any material transactions with the CS during the year.

18. Contingent liability

On 24 September 2013 there was a water leak. The water seeped through to other occupiers' offices. The building management have held discussions with the tenants and landlords to ascertain the liability.

19. Events after the reporting period

There were no events after the reporting period to report. The Accounting Officer authorised these financial statements for issue on the date of certification.

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