



COMPETITION APPEAL TRIBUNAL

Annual Report
and Accounts
2015/2016





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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 Tribunal hears appeals against: decisions taken under the Competition Act 1998 and Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU) by the Competition and Markets Authority (CMA) and by designated sector regulators with concurrent powers;¹ certain decisions of the Office of Communications (Ofcom) regarding the communications and broadcasting sectors under the Communications Act 2003; and other legislation related to those sectors and decisions of the CMA or the Secretary of State for Business Innovation and Skills (BIS) on merger cases and market investigations under the Enterprise Act 2002.

Further powers have been given to the Tribunal to hear appeals under the Payment Services Regulations 2009. Under the Financial Services (Banking Reform) Act 2013 and the Payment Card Interchange Fee Regulations 2015, the Tribunal has jurisdiction to hear appeals from some types of enforcement and penalty decisions of the Payment Systems Regulator. 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 behaviour in electricity markets. The Tribunal may also hear appeals in respect of 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 including market power determinations, the imposition, modification and revocation of certain enforcement orders, the revocation of licences and the imposition of penalties.

Following the coming into force of the Consumer Rights Act in October 2015, the Tribunal can now hear any claim for damages in respect of an infringement whether or not there is a prior decision of a competition authority establishing such an infringement (previously the Tribunal's jurisdiction was limited to "follow-on" claims, i.e. claims that follow on from 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 Articles 101 or 102 of the TFEU). Furthermore, the Tribunal can hear collective actions for damages on both an "opt-in" and "opt-out" basis and also (except in Scottish cases) has power to grant injunctive relief in order to prevent or curtail infringements of competition law.

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 relation to cases in England and Wales, the Court of Session in respect of Scottish cases or, with regard to Northern Irish cases, the Court of Appeal in Northern Ireland.

¹ The sector regulators with concurrent powers are set out in section 54(1) of the Competition Act 1998 (as amended) and include: (1) the Office of Communications; (2) the Gas and Electricity Markets Authority; (3) the Water Services Regulation Authority; (4) the Office of Rail and Road; (5) the Northern Ireland Authority for Utility Regulation; (6) the Civil Aviation Authority; (7) Monitor (now operating under the umbrella of NHS Improvement); (8) the Payment Systems Regulator; and (9) the Financial Conduct Authority.

MEMBERSHIP OF THE TRIBUNAL

The Tribunal's membership comprises:

President

The Hon. Mr Justice Roth

Chairmen

The Hon. Mr Justice Mann
 The Hon. Mr Justice Henderson
 The Hon. Mrs Justice Proudman
 The Hon. Mr Justice Arnold
 The Hon. Mr Justice Newey
 The Hon. Mr Justice Hildyard
 The Hon. Mrs Justice Asplin
 The Hon. Mr Justice Birss
 The Hon. Mrs Justice Rose
 The Hon. Mr Justice Nugee
 The Hon. Mr Justice Barling
 The Hon. Lord Doherty
 The Hon. Mr Justice Green
 The Hon. Mr Justice Snowden
 The Hon. Mr Justice Carr
 Heriot Currie QC
 Peter Freeman CBE, QC (Hon)
 Andrew Lenon QC
 Hodge Malek QC
 Marcus Smith QC

Ordinary Members

William Allan
 Professor John Beath OBE
 Timothy Cowen
 Margot Daly
 Dr Clive Elphick
 Dermot Glynn
 Stephen Harrison
 Brian Landers
 Jonathan May*
 Professor Colin Mayer
 Clare Potter

Professor Gavin Reid
 Dr Joanne Stuart OBE
 Professor Stephen Wilks

**Until 30 May 2016*

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 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, the Registrar and a non-executive member, Susan Scholefield CMG, who is also chair of the CS Audit and Risk Committee. Ilia Bowles is the Tribunal/CS Director, Operations.

REGISTER OF INTERESTS

The CS holds a Register of Interests detailing any directorships or other significant interests held by the members of the CS.

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 third statement as President of the Competition Appeal Tribunal. It is made at the end of a year which has seen the most significant changes to the Tribunal's jurisdiction since its creation over 13 years ago.

REFORM OF PRIVATE ENFORCEMENT

On 1 October 2015, the Consumer Rights Act 2015 came into force. The legislation establishes the Tribunal as a major venue for private competition actions in the UK and resolves the jurisdictional difficulties which have blighted the Tribunal's private actions jurisdiction in the past. It expands the Tribunal's jurisdiction to hear standalone private actions, grant injunctive relief (except in Scottish cases) and operate a fast-track regime offering expedited procedures and remedies. The Tribunal is now the exclusive forum for the new opt-out collective actions for breaches of competition law and for an innovative procedure for the approval of collective settlements. This is the first time opt-out collective actions have been introduced in any UK jurisdiction making it a significant development not only for the Tribunal, but also for UK law as a whole and, indeed, for European competition law. As a "first" in the UK, this new regime will present particular challenges.

In conjunction with the enhanced nature of the Tribunal's jurisdiction, another significant development

took place. On 1 October 2015, the Enterprise Act 2002 Regulations 2015 amended the Enterprise Act 2002 so that the High Court in England and Wales, the Court of Session in Scotland and the High Court in Northern Ireland can now transfer any "competition issue" arising in private litigation to the Tribunal for determination.

The Tribunal obviously expects a considerable growth in the volume of cases it receives and is preparing for this increase as well as for the very different types of issues that collective proceedings and collective settlements will bring.

NEW PROCEDURAL RULES AND GUIDE

On 1 October 2015, the Tribunal's new procedural rules came into force. As I mentioned in my previous statement, the new rules were the subject of a long and detailed process involving an independent review led by a retired Lord Justice of Appeal, Sir John Mummery, and consultation with the Tribunal's User Group. The new rules go well beyond updating the previous rules and include new or expanded sections to enable the Tribunal to manage effectively the increased volume and variety of cases which are expected now that the Consumer Rights Act 2015 has come into force. By way of example, there are new rules concerning fresh evidence on appeals, settlement offers, a fast-track procedure, disclosure and injunctions.

At the same time, a new and extensive guide to proceedings was published. The guide has the status of a practice direction and reflects the new rules. It is intended to provide detailed practical guidance to parties on the conduct of proceedings before the Tribunal.

I am confident that the new rules provide a robust but flexible framework within which the Tribunal can case-manage, hear and determine the complex and challenging cases that are now being brought before it, as well as enhancing access to remedies for consumers and SMEs that have suffered from infringements of competition law.

IMPLEMENTATION OF THE EU DAMAGES DIRECTIVE

Yet further reform of the UK competition system will take place when the Government implements the European Union (EU) Damages Directive (directive 2014/104/EU). The purpose of the Directive is to bring a more standardised approach to redress throughout the EU and to make it easier for victims of anti-competitive behaviour to claim compensation. The UK is required to transpose the Directive by 27 December 2016.

BIS published its consultation on implementing the Damages Directive on 28 January 2016. The deadline for responses expired on 9 March and I understand that BIS plans to publish its response soon.

Many of the requirements set out by the Directive already exist in our domestic law. Nevertheless, some significant changes will need to be made to the Competition Act 1998 and the Tribunal rules, as well as to the law on limitation (or prescription) governing competition claims. The Tribunal will be working with BIS on the implementation of the Damages Directive. For this process, the Tribunal is greatly assisted by discussion in its User Group, to which I refer below.

CASES

The past year has seen a number of interesting cases including: four appeals under section 192 of the Communications Act 2003; a review of a CMA merger decision; and six actions for damages (all of which were commenced after 1 October 2015 when the Consumer Rights Act came into force). During the period under review, the decision of the Tribunal in *Eurotunnel* was upheld by the Supreme Court.

December 2015 saw the first application by a claimant seeking fast-track designation in the case of *NCRQ Ltd v Institution of Occupational Safety and Health*. The claimant was a company that had developed health and safety qualifications, including a diploma in applied health and safety. It alleged that the defendant, a health and safety membership organisation, held a dominant position in the market for the accreditation of qualifications in the health and safety sector, and that the

defendant's refusal to accredit the claimant's diploma qualification was an abuse of its alleged dominant position. The claim settled before the application was determined.

A second claim seeking fast track designation was filed at the Tribunal in February 2016: *Latif and Waheed v Tesco Stores Ltd*. This related to a restrictive covenant over the claimant's land which, it was alleged, restricted competition in the local grocery market in breach of the Competition Act 1998. Again, the claim settled before the application was determined.

Although early settlement meant that neither of these cases presented a thorough test of the new procedure, they do provide an insight into the kind of matters that will now start to feature in the Tribunal's caseload being brought by SMEs and others who might not previously have been in a position to seek recourse in respect of infringements of competition law.

This year also saw the first case to be transferred from the High Court to the Tribunal: *Sainsbury's v MasterCard*. In November 2015, Mr Justice Barling made a transfer order on the Court's own initiative after hearing the parties. The factors that militated in favour of the transfer were: (i) the specialist nature of the Tribunal with its multi-disciplinary constitution; (ii) the logistical and legal support provided by Tribunal staff and *Référendaires*; and (iii) the fact that most High

Court Judges of the Chancery Division are Tribunal Chairmen and have sat in the Tribunal. This enables continuity to be maintained in cases where there is a transfer of proceedings some time after the case has commenced, since the same Judge can then act as the Chairman of the Tribunal hearing the case.

The Tribunal handed down 13 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.

In the light of the outcome of the 23 June referendum, the Tribunal expects to be working closely with its sponsoring department, BIS, to assess any implications for its workload.

CHAIRMEN

I must, first, thank Peter Freeman CBE, QC (Hon) for his invaluable contribution to the Tribunal, not only in its casework but also in promoting the reputation of the Tribunal by speaking at a number of conferences and other events in his capacity as a Chairman, and assisting the Board of the CS by his attendance at our meetings.

We also greatly 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, Sir Terence Etherton, for the support

which he and the Judges of that Division have rendered to the Tribunal during the period under review.

As my predecessor, Mr Justice Barling, made clear on many occasions, the Tribunal has long pushed for arrangements to be put in place to enable certain suitably qualified Judges in Scotland and Northern Ireland to sit as Chairmen of the Tribunal. In that regard, the Consumer Rights Act 2015 made a significant amendment to the Enterprise Act 2002 that as a result now allows the heads of the three UK judiciaries to nominate Judges sitting in their respective High Courts or the Court of Session to sit as Chairmen of the Tribunal. This change will better equip the Tribunal to deal with its expanded jurisdiction and will also allow for the participation of Judges from other parts of the UK which is important as the Tribunal is a UK wide tribunal.

Indeed, in July 2015, I was pleased to welcome a new Chairman from the Scottish legal system: Lord Doherty, a Senator of the College of Justice and a Judge of the Outer House of the Court of Session. In addition, I am delighted that Mr Justice Mann, Mr Justice Henderson, Mrs Justice Rose and Mr Justice Green have all been nominated by the Lord Chief Justice of England and Wales to sit as Chairmen of the Tribunal.

MEMBERS

Perhaps, the most distinctive feature of the Tribunal is that cases are heard by a legal Chairman and two Ordinary Members, many of whom are not lawyers, who all have an equal voice in the decision. The Members bring their diverse skills and experience to the work of the Tribunal. I continue to be impressed by their enthusiasm and conscientiousness and they provide great help and support to me and all the Tribunal Chairmen.

I wish to take this opportunity to thank Dr Adam Scott OBE, TD for his work as the Tribunal's Director of Studies. His organisation of, and contributions to, the interesting and informative training sessions of the Members and Chairmen are invaluable, as is his dedication in ensuring the effective operation of the Association of European Competition Law Judges (AECLJ) and in receiving visitors to the Tribunal.

I would also like to thank our non-executive member, Susan Scholefield CMG, for chairing the Board meetings of the CS as well as the Audit and Risk Committee.

Last, and by no means least, indeed in many respects most, I would like to express my immense gratitude to the Tribunal's Registrar, Charles Dhanowa OBE, QC (Hon). His knowledge of the Tribunal's working is unparalleled and he manages the Tribunal's staff and its daily operations with great skill. Charles has played a prominent role in

dealing with the policy and legislative issues that have arisen over the past year, particularly in the drafting of the Tribunal rules to reflect the Tribunal's new jurisdiction and the new and extensive procedural guide.

NEW FUNCTIONS

The Payment Card Interchange Fee Regulations 2015 implement Regulation (EU) 2015/751 of 29 April 2015 on interchange fees for card-based payment transactions. Since 9 December 2015, certain decisions of the Payment Systems Regulator have been subject to appeal to the Tribunal. These include decisions to give directions in relation to regulated payment systems or to impose penalties in respect of compliance failures.

OTHER ACTIVITIES

Conferences and seminars

Once again, it has been a very busy year for outside speaking engagements. Amongst events in the period under review, I chaired a panel session at the annual conference of the AECLJ on the transposition of the Damages Directive. I also gave a keynote address at the Global Competition Review conference on the Tribunal's new rules of procedure, the new UK regime and the wider EU perspective on collective actions.

I gave a keynote speech at the European Forum on Competition Litigation on the landscape change in competition law, public enforcement and private litigation.

I also chaired a panel discussion at the Economic Developments in European Competition Policy conference in Brussels on "Private damages litigation beyond cartels: the competitive counterfactual in complex antitrust cases".

I spoke at a conference organised by the Italian competition authority in Rome on the role of competition authorities in fostering growth and consumer welfare and the effect of the Damages Directive on disclosure. I was also involved in a conference between the European Commission and national competition law judges in Brussels on the implementation of the Damages Directive. Finally, I delivered a speech at the International Bar Association conference in Vienna on "Collective redress and competition claims: the UK perspective and background to the new regime and issues that may arise".

Amongst the activities undertaken by my colleagues at the Tribunal, Peter Freeman CBE, QC (Hon) gave addresses and speeches at a number of conferences and events. He gave a keynote speech on private enforcement in the UK at the Law Society Annual Competition Section Conference in London and he also delivered a speech to the European Parliament in Brussels on the theory behind the need for competition law including consumer welfare, consumer harm and the benefits. He spoke to the CMA at their annual judicial review conference in relation to both public and private aspects of competition

law. He also gave a speech on the EU settlement procedure and the implications of settlements for follow-on damages actions at a Simmons & Simmons LLP and Concurrences seminar. Finally, he was involved in the ENTrANCE national judges workshop in Florence, where he gave an overview of the functions of the Tribunal and provided an update on the Tribunal's recent case law.

In September 2015, Marcus Smith QC and one of our members, William Allan, spoke about the Tribunal's new jurisdiction in private actions and collective proceedings at a seminar on competition litigation in the Tribunal which was organised by MLex, Brick Court Chambers and Freshfields Bruckhaus Deringer LLP. Continuing the theme of the Tribunal's new and expanded jurisdiction, in November 2015, Mr Justice Barling gave a speech at The New Antitrust Damages Directive seminar in Paris on collective proceedings and collective settlements in the Tribunal. Finally, the Registrar gave a keynote speech at the IBC Legal Private Enforcement in Competition Law conference in London on "Competition law litigation in the Competition Appeal Tribunal: the introduction of the Consumer Rights Act 2015 and the impact on the Tribunal".

AECLJ

In its capacity as the *de facto* Secretariat for the 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 the European Commission and some national competition authorities.

The AECLJ's annual conference was hosted in Sweden, by the University of Uppsala, in June 2015, and centred around the theme "Multi-Sided Markets: Economic Insight & Legal Experience" as well as looking ahead to the transposition of the Damages Directive. The conference welcomed a number of distinguished guest speakers, including: Carl Wetter, Swedish Judge in the General Court of the EU; Kris Dekeyser, Eddy De Smijter and Anna Tissot-Favre from the European Commission; Gunnar Niels, an economist with Oxera; Alfonso Lamadrid de Pablo, a lawyer with Garrigues' Brussels team; Julie Bon from the UK's CMA; and Hanna Lekås from the Swedish Competition Authority. They were complemented by Gabriella Muscolo, former Judge, and now a member of the Italian national competition authority, Ulrika Persson, a Swedish Judge before becoming an agent of the Swedish State before the EU Courts, and Magnus Strand of the University's Law faculty.

Visitors to the Tribunal

I consider it important that, wherever possible, the Tribunal should exchange views with competition judges and enforcement authorities from other

jurisdictions. We had several such visitors to the Tribunal during the year.

In May 2015, we welcomed visitors from the Scottish Government. In February 2016, one of our Référendaires, Renella Reumerman, and Dr Adam Scott, provided an insight to the role and work of the Tribunal to a group of law students from Queen Mary University. Also in February 2016, we were visited by members of the Canadian International Trade Tribunal. In March 2016, we welcomed visitors from RBB Economics and Cuatrecasas Goncalves Pereira who are preparing a study on pass-on for the European Commission as a precursor to future guidelines under the Damages Directive. I had a discussion with them about their research.

Finally, the Tribunal hosted the Jordans 10th Junior Competition Conference in April 2016.

User Group

The meetings of the Tribunal's User Group continue to provide an important forum for sharing information and ideas about the Tribunal's practice and procedure, and discussing important policy developments and how they might effectively be implemented. 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.

CONCLUDING REMARKS

I would like to express my thanks to the Tribunal's staff as a whole for the support they have given to me as President and for all they have done over the last year to enable the Tribunal to provide a consistently high standard of service.

Finally, we received the very sad news that one of our Ordinary Members, Jonathan May, died on 30 May 2016 after living bravely with cancer for over two years. Jonathan was appointed to the Tribunal in January 2011, after being closely involved with competition and regulatory policy since the mid-1990s. He sat on a number of important cases brought before the Tribunal, and his determination and valuable contribution to the Tribunal's work will be greatly missed.

Sir Peter Roth
President
12 July 2016

NOTABLE CASES

The following are some of the notable cases determined by the Tribunal in the period covered by this report.

Enterprise Act 2002 (2002 Act) Ryanair Holdings plc v Competition and Markets Authority

The Tribunal's judgment in this case follows two decisions of the CMA: (i) the finding that there had been no material change of circumstances since the Competition Commission's (CC) final report of 28 August 2013 concerning Ryanair's acquisition of a minority shareholding in Aer Lingus Group plc (Aer Lingus); and (ii) the CMA's remedies order requiring the appointment of a divestiture trustee to manage the partial disposal of Ryanair's stake in Aer Lingus. In its decision, the CMA concluded that the public takeover bid for Aer Lingus by International Consolidated Airlines Group, S.A. (IAG) was not a material change of circumstances that required it to consider remedial action different from that set out in the final report. The Tribunal upheld the decision of the CMA and found that the 2002 Act did not require the CMA to conduct a fresh proportionality assessment when considering the implementation of the remedies it had already found to be proportionate in its final report. The Tribunal concluded that the CMA's conclusion, that the IAG proposed bid and formal offer did not constitute a material change of circumstances, was one in its discretion that it was entitled to reach.

Federation of Independent Practitioner Organisations v Competition and Markets Authority

In April 2015, the Tribunal dismissed an application for review of the CMA's final report on its investigation of the private healthcare market by the Federation of Independent Practitioner Organisations (FIPO). That report concluded, inter alia, that the market power of private medical insurers did not give rise to an adverse effect on competition; it also imposed an information remedy pursuant to which healthcare facility operators and consultants would be required to publish information about consultants' fees. FIPO challenged these findings on seven grounds. The Tribunal unanimously dismissed three of these grounds; however, there was a dissenting judgment on the remaining four. In light of this, FIPO was given permission to appeal to the Court of Appeal.

Groupe Eurotunnel S.A. v Competition and Markets Authority; Société Coopérative de Production Sea France S.A. v Competition and Markets Authority

In December 2015, the Supreme Court handed down judgment in this case, reversing the decision of the Court of Appeal which, in turn, had set aside the Tribunal's judgment of 9 January 2015. The Tribunal had upheld the CMA's decision that what Eurotunnel acquired from SeaFrance constituted an "enterprise" within the meaning of the 2002 Act and

therefore a relevant merger situation arose which the CMA had jurisdiction to review.

Communications Act 2003 (2003 Act)

British Telecommunications plc v Office of Communications (VULA)

In March 2016, the Tribunal issued its judgment on non-specified price control matters in an appeal by BT against Ofcom's decision on the VULA margin. That decision imposed a price control on BT regulating the difference between the wholesale price of VULA (the wholesale product through which communications providers have access to BT's network supporting the provision of superfast broadband services to consumers) and the price of BT's retail packages that use VULA as an input. The Tribunal dismissed BT's appeal, which alleged errors of law in the interpretation of Section 88 of the 2003 Act and errors in the market analysis which Ofcom had carried out. The Tribunal disagreed that the jurisprudence relating to Article 102 TFEU restricted Ofcom's power to impose a price control in the way that BT alleged. Specified price control matters in this appeal were referred to the CMA for determination by July 2016 (at the same time as those raised in an appeal by TalkTalk Telecom Group PLC of Ofcom's decision on the VULA margin).

Performance report

OVERVIEW

The purpose and activities of the Tribunal and CS

The Tribunal is a specialist judicial body with cross-disciplinary expertise in law, economics, business and accountancy whose function is to hear and decide cases involving competition or economic regulatory issues.

The CS's purpose is to fund and provide support services to the Tribunal in order to facilitate the carrying out of its statutory functions. The latter constitutes the CS's only business objective.

A full description of the purpose and activities of the Tribunal and CS can be found in the Introduction to this report.

Cases

During the year, the Tribunal handed down 13 judgments, rulings and reasoned orders and received 11 cases including: a review of a CMA merger decision; four appeals under section 192 of the Communications Act 2003; and six actions for damages, comprising two applications for fast track designation (all of which were commenced after 1 October 2015 when the Consumer Rights Act came into force). Details of the Tribunal's judicial work during the year can be found in the Cases section of this report; the President's statement mentions some of the noteworthy points that emerged from proceedings

before the Tribunal. As at 31 March 2016, one judgment was pending and ten cases were carried forward to the next year.

Tribunal: other activities

In addition to its judicial work, the Tribunal was involved in a number of other activities during the year that are related to or arise out of its role in the UK competition law system. Broadly, such activities encompassed: speaking at seminars in the UK and abroad; participation in the work of the AECLJ and acting as its secretariat; liaising with BIS and other Government departments with regard to proposed legislative changes in the competition and regulatory framework; working in detail on legislative changes that directly affect the work of the Tribunal; running a training programme for Tribunal members and other members of the judiciary who deal with competition law issues; and liaising with stakeholders in the Tribunal's work through the Tribunal's User Group and other fora.

Details of the most significant developments in respect of these activities can be found in the President's statement. The year saw the culmination of two major projects being the publication in October 2015 of new and expanded rules of procedure and a new guide to proceedings before the Tribunal.

Personnel

The President's statement mentions the nomination of new Chairmen for

the Tribunal. It is currently planned to commence a competition for new Ordinary Members during 2016/17. It is envisaged that around six to eight additional Ordinary Members will be appointed to deal with the increased work arising from the widening of the Tribunal's jurisdiction in respect of private claims and to ensure continuity when the current cadre of Ordinary Members retires at the end of 2018.

Staff departures in the year included Denice Dever, one of our longest serving colleagues, who left us to embark on a career in art. Denice has worked at the Tribunal/CS since its inception, initially as a Caseworker and more recently in the Information/IT team. We will all miss having Denice as part of the team and wish her all the best in her new career. Also moving on in the last year were Jennifer Reeves, one of the Tribunal's Référéndaires, and Polly Henson, PA Executive Assistant, who both left to take up positions with two major law firms. We all very much enjoyed working with Jennifer and Polly and wish them well in their new roles.

This year, we recruited four new members of staff namely David George and Hilary Boyle, Référéndaires, Rebecca Cox, Caseworker, and Georgina Partida, Office Administrator. We were also pleased to welcome back Jason Blackford, IT Support Manager, from a period of convalescence and would like to take this opportunity to thank Damian Oxley who joined

us on a temporary basis to help the Information/IT team during Jason's absence. Finally, we would like to congratulate Salina Hoang and Juan Carlos on taking up Polly's and Denice's posts respectively.

The staff team now comprises 15 people (with one of them working part-time), a number of whom multi-task across several roles. As in previous years, the staff absence rate (one per cent of working days) was far below the average for both the private and public sectors.

Information Technology

This year, the Tribunal/CS completed an overhaul of the organisation's IT infrastructure, which included: the upgrade of the Tribunal/CS electronic document and record management system; the upgrade of users' workstations in parallel with a move to Windows 7 and Microsoft Office 2010; and the uplift of the security elements of the former Tribunal/CS IT infrastructure to ensure OFFICIAL security standards were met.

Under the new arrangements, the Tribunal/CS shares services with BIS and the Department of Energy and Climate Change (DECC) through their tower-based platform (iTECC). That platform was developed with the Government Digital Service of the Cabinet Office in light of the Government's review of its IT strategy and its recommendation of a cloud-based approach for IT services in the public sector.

Under iTECC, cloud back-end servers (for services such as email and document management) are provided by the trading fund of the Foreign and Commonwealth Office, whilst IT managed services (for example, workstation configuration and support, users' helpdesk and remote access) are provided by a G-cloud provider, CGI IT UK Ltd.

Financial

In financial year 2015/16, the grant-in-aid received from BIS was £3,530,000 (2014/15: £4,253,000). Running costs of the Tribunal/CS for 2015/16 were £3,616,000 (2014/15: £3,380,000); fixed costs (mainly rent, service charge and business rates) comprised £1,677,000 or 46 per cent of the total.

The programme and administration funding allocation from BIS for 2015/16 was £4,391,000 for resource expenditure (net of any income from other sources) including £72,000 for capital expenditure.

Actual resource expenditure for the year was £3,616,000 and capital expenditure was £126,000. Tribunal's actual expenditure was £534,000 (2014/15: £436,000); CS's actual expenditure increased to £3,082,000, (2014/15: £2,943,000). The main changes in the CS's costs are set out in the table below. Full details are set out in the Statement of Comprehensive Net Expenditure on page 68.

Increase/(Decrease) in costs	2015/16 £'000
Costs of the Tribunal	98
Staff costs	4
Total increase in cash costs	102
Depreciation and loss on disposals	134
Total increase in operating costs	236

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.

The Tribunal's statement of financial position shows only those liabilities at 31 March 2016 relating to the activities of the Tribunal. Those liabilities are paid by the CS. The liabilities in the CS's statement of financial position therefore also include liabilities that relate to the activities of the Tribunal.

The book value of the CS's non current assets reduced from £449,000 to £417,000, as a result of depreciation and amortisation charges of £158,000 exceeding capital expenditure.

Capital expenditure, during the year, amounted to £126,000 and related to remaining software and consultancy costs associated with the IT infrastructure upgrade project mentioned above, which was largely carried out in the preceding financial year.

The total assets of the CS decreased to £1,212,000 from £1,542,000. Closing cash balances were £740,000 (2014/15: £749,000).

The annual accounts set out later in this report record the detailed disposition of grant-in-aid during the year.

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.

Tribunal Chairmen's appointments are pensionable; Ordinary Members' appointments are non-pensionable.

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 (FRoM) in force for financial year 2015/16.

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.

The future financing of the Tribunal/CS's liabilities is to be met by future grants of supply and the application of future income, both approved annually by Parliament. Approval for the amounts required in respect of the year to 31 March 2016 was given in April 2015. It has accordingly been considered appropriate to adopt a going concern basis for the preparation of the Tribunal/CS financial statements, in accordance with the FRoM issued by HM Treasury.

The Resource Departmental Expenditure Limit (RDEL) submitted to BIS for 2016/17 includes a broad estimate of the increased costs expected to arise as a result of the recent legislative changes to the Tribunal's jurisdiction in respect of private actions, planned enhancements of the Tribunal/CS website, and replacement of the current telephone system and audio visual equipment. Although there is no firm data yet on which to guide our estimate of increased costs, some conservative assumptions have been incorporated in the budget.

The RDEL bid is split between £4,019,000, in respect of resource expenditure, and £159,000, in respect of capital expenditure. Nearly 80 per cent of the Tribunal/CS resource expenditure is composed of fixed costs. Accommodation costs (specialised courtrooms and associated facilities) are more than 42 per cent of the RDEL.

Governance

The President and the Registrar, together with a non-executive member, Susan Scholefield CMG, constitute the "membership" of the CS (the term used by paragraph 1 of Schedule 3 of the Enterprise Act 2002). The members of the CS essentially constitute its Board. During 2015/16, the Board met two times.

The CS Audit and Risk Committee meets under the chairmanship of Susan Scholefield CMG. Stephen Harrison and Brian Landers, both Tribunal Members with considerable accounting experience, are also members of the Committee. During 2015/16, the Audit and Risk Committee met three times.

Further information can be found in the Corporate Governance Statement later in this report.

Data security

There was one incident involving data security in the year under review. The event involved the loss of an encrypted memory stick containing confidential information (but not personal data) while in transit by post to one of the Tribunal Members. The incident was reported to the Audit and Risk Committee and all affected external parties. Tribunal/CS procedures have been reviewed in the light of this incident and additional staff training undertaken. We are examining ways of using information technology to minimise or render unnecessary the transfer of information by memory sticks or similar devices.

Key issues and risks

The Tribunal/CS has no control over the demand for the Tribunal's services and this increases the uncertainty in planning and budgeting resources.

Fluctuations in workload can be pronounced and arise unexpectedly being driven by the activities of the competition and economic regulators, factors in the wider economy and in particular business sectors determining the propensity and ability of businesses to litigate competition law issues.

It is often impossible to predict when cases may arrive at the Tribunal because they may arise from confidential investigations carried out by the competition authorities or, in the case of private actions, spring from decisions taken by businesses without any prior publicity.

It is also 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. Frequently, cases may be extremely urgent, raising issues of fundamental importance for the businesses concerned and the wider economy, and require the instant mobilisation of resources to deal with them.

The Tribunal's jurisdiction has been considerably widened by the Consumer Rights Act 2015 and the range of cases that can now be

brought before the Tribunal has increased. However, the resourcing of the Tribunal in terms of funding, staff (numbers and remuneration) and other aspects has remained at or below the level when the Tribunal was first established in 2003. Furthermore, there has been no increase in remuneration levels for Chairmen and Ordinary Members.

ANALYSIS

The section of this report, dealing with case activity, sets out the detailed performance of the Tribunal with regard to its casework.

As mentioned, the casework of the Tribunal is entirely demand led. Over most of the year, there were relatively few decisions by the UK competition authorities and consequently there were fewer appeals to the Tribunal than in previous years. It was also a quiet year for appeals from Ofcom decisions on telecoms regulatory matters. However, activity rose markedly in the last quarter of the year, with an influx of private actions following the coming into force in October 2015 of the Consumer Rights Act, and is expected to continue to increase during 2016/17.

As well as an increase in private actions originating in the Tribunal, the Consumer Rights Act 2015 has made it easier for the High Court (and its equivalents in Scotland and Northern Ireland) to transfer competition law cases to the Tribunal. Some of these can be very substantial as can be

seen by the case of *Sainsbury's v MasterCard* which was heard over 23 days. Finally, the introduction of a new fast track procedure for private claims has already attracted widespread interest with four cases seeking fast track designation being lodged with the Tribunal since December 2015.

This pattern of activity was not unexpected. The relatively low level of competition decisions (and appeals) was largely due to the CMA still establishing a pipeline of enforcement work following its formation in 2014 and it is likely that more appeals will be generated in future years as cases filter through the system. However, use of competition enforcement powers by other regulators continued, as in previous years, to be uncommon. The increase in private actions is expected to accelerate markedly over the next few years, reflecting a trend that has already been seen in the High Court.

In that regard, the Tribunal/CS's present level of funding (being a miniscule proportion of the amount spent on the UK's system of competition enforcement) will need to be reviewed to ensure that it is suitable for the long term pressures to which the Tribunal will be subject and to ensure that its widely acknowledged efficiency can be maintained.

As noted in previous years, 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. 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. It is also essential for our efficient operation that we maintain large modern courtrooms that are suitable for the multi-party and document heavy cases heard by the Tribunal. This means that our specialised court accommodation is by far our largest expense constituting 46 per cent of our financial resources. In the light of this, we have sought to increase the utilisation of the courtroom space by making it available, free of charge, to other tribunals and organisations when not in use by the Tribunal/CS. The practice has also now developed of allowing the CMA to make use of our meeting rooms when their own facilities are fully utilised.

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.

A particularly pressing matter is the fact that the daily rate of remuneration 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. As mentioned last year, this, coupled with the fact that staff pay has been frozen or restricted for over five years and that remuneration levels at other bodies involved in the competition/regulatory sphere are much higher on average, means that we remain concerned about our ability to continue to attract members and staff of the high calibre needed for the difficult and challenging work of the Tribunal.

The last year has seen the Tribunal/CS complete some very significant projects in addition to its casework. The IT infrastructure project mentioned above was a highly complex programme of work and bringing it to a successful conclusion (substantially on budget, on time and delivering the expected technical capability and improvements) whilst continuing to maintain business as usual, was a significant achievement with the limited internal resources we have

available. Drafting new procedural rules and accompanying guide also required a substantial amount of work, much of it outside working hours and in addition to our casework.

As can be seen from the President's statement, the Tribunal is involved in a wide range of activities such as conferences and seminars that contribute to the wider understanding and knowledge of competition law and policy within the UK, Europe and the wider world.

Charles Dhanowa OBE, QC (Hon)

Registrar and Accounting Officer

12 July 2016

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 Master of Laws (LLM) 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 Hon. Mr Justice Mann
 The Hon. Mr Justice Henderson
 The Hon. Mrs Justice Proudman
 The Hon. Mr Justice Arnold
 The Hon. Mr Justice Newey
 The Hon. Mr Justice Hildyard
 The Hon. Mrs Justice Asplin
 The Hon. Mr Justice Birss
 The Hon. Mrs Justice Rose
 The Hon. Mr Justice Nugee
 The Hon. Mr Justice Barling
 The Hon. Lord Doherty
 The Hon. Mr Justice Green
 The Hon. Mr Justice Snowden
 The Hon. Mr Justice Carr

Heriot Currie QC (Scotland)



Heriot Currie practises as a Queen's Council (QC) at the Scottish Bar. He commenced practice in 1979 and was Standing Junior

in Scotland to the Department of Trade and Industry, between 1987 and 1992. He was called to the English Bar (Gray's Inn) in 1991. In 1992, he was appointed QC in Scotland. Between 2005 and 2014, he was in practice at the English Bar as 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 Competition Commission, 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 Board of the International Competition Forum, University of St Gallen, and the Scientific Board of Concurrenca e Regulacao, Lisbon; he is also a governor of Kingswood School, Bath.

Andrew Lenon QC



Andrew Lenon was called to the Bar in 1982 and was appointed QC 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 Commercial Arbitrator.

Hodge Malek QC



Hodge Malek was called to the Bar in 1983 and appointed QC in 1999. He is a member of 39 Essex 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, a Bencher of Gray's Inn, and was a member of the Inns of Court Conduct Committee until 2015.

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 QC 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 and telecommunications, professional negligence and sports. He is the author of the leading textbook in the area of intangible property "The Law of Assignment" 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. Since November 2015, he has been the chair of the Appeals Committee of the Human Fertilisation and Embryology Authority.

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 taught competition law as an affiliated lecturer in the Faculty of Law at Cambridge University, since 2004.

Professor John Beath OBE



John Beath is 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, competition and regulation, and in public finance. Previous public appointments have included membership of the Review Body on Doctors' and Dentists' Pay Remuneration, the Prison Service Pay Review Body and the Economic and Social Research Council, chairing both its Research Grants Board and its Training and Skills Committee. He was also chair of the Economic Research Institute of Northern Ireland. He is an honorary Vice-President of the Royal Economic Society, having served as its Secretary-General between 2008

and 2015. A Fellow of the Royal Society of Edinburgh, the Royal Society of Arts and the Academy of Social Sciences, he was appointed OBE in the 2015 Birthday Honours list.

Timothy Cowen



Timothy Cowen is a partner at Preiskel & Co. From 2001 to 2009, he served as General Counsel and a board member for BT's international business. 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 a global operating background and financial and fundraising experience with a heavy emphasis on digital media, disruptive technology, strategy and business transformation. She is a qualified CEDR dispute resolution mediator and serves on boards in the UK sports sector dealing with dispute resolution, anti-doping and safeguarding and in the gaming sector focussing on harm

prevention. She serves as a commercial adjudicator in the telecoms and media industry.

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, a 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 read PPE as an Exhibitioner at Balliol. He then taught economics and business studies and became a research consultant to the Department of Applied Economics at Cambridge and member of the Economics Faculty. He became Economic Director of the CBI,

Chief Economist at KPMG and UK Managing Director of NERA before founding Europe Economics in 1998. He remains a senior adviser to the firm.

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 and 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 and a college, and is an advisor to a number of private companies.

Brian Landers



Brian Landers is Chairman of Companies House. 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 an Audit Commissioner, a 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 was 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, between 2001 and 2010, the Office of Fair Trading (OFT). As an OFT board member from 2006, he was responsible for delivery and policy on most competition and consumer issues. He was a member of the Financial Services Consumer Panel between 2012 and 2015, a member of the Consumer Futures' board from 2013 to 2014, and a member of Ofgem's Enforcement Decision Panel from 2014 to 2015. Sadly, after a period of illness, Jonathan passed away on 30 May 2016.

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 Oriol College, Oxford, and of St Anne's College, Oxford, a

professorial fellow of Wadham College, Oxford, a fellow of the British Academy, and an inaugural fellow of the European Corporate Governance Institute. He is a member of the UK Government Natural Capital Committee and of the international advisory board of the Securities and Exchange Board of India. 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 Libre 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, he is a director of Aurora Energy Research Limited 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 was Professor of Economics at the University of St Andrews from 1991 to 2013, where he is now Honorary

Professor in Economics & Finance. From 2007 to 2015, he was also Visiting Professor in Accounting and Finance at Strathclyde University Business School. In 2014, he was appointed Head of Dundee Business School, Abertay University. 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. Since 2009, he has been Adviser to the Centre for Business Research, Judge Business School, Cambridge University. In recent years, he has received an honorary Doctor of Business Administration from the University of Abertay, for his research in business economics, and a Doctor of Letters from Aberdeen University for his research on small business enterprise. His current research areas include financial reporting standards, corporate governance and intellectual property.

Dr Joanne Stuart OBE



Joanne Stuart, who has over 25 years experience working in the IT industry, is the Director of Development at the Northern Ireland

(NI) Science Park. In this role, she is responsible for the development of strategic relationships to support the growth of the NI Science Park and the knowledge economy in NI. A former Chairman of the Institute of Directors NI (from 2008 to 2011), she chaired an independent review on university fees, at the request of the Minister of Employment and Learning, which led to a published report in February 2011. She is the NI Champion for STEM (Science, Technology, Engineering and Mathematics), appointed by the Minister for Employment and Learning and the Minister for Education in 2011 to encourage more young people to study the STEM subjects and consider careers within the STEM industries. She is currently on a number of charitable boards, she is Chairman of Arts & Business NI, Treasurer of Angel Eyes NI and Treasurer of Tides Training.

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. His most recent book is "The Political Power of the Business Corporation" published by Edward Elgar in 2013. From 2001 to 2009, he was a member of the CC and served on 12 merger inquiries.

CS: NON-EXECUTIVE MEMBER

Susan Scholefield CMG



Susan Scholefield was the Secretary and Chief Legal Officer at the London School of Economics and Political Science

until September 2014. 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 2015/2016

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Judgments handed down within the period 1 April 2015 to 31 March 2016

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 Competition Appeal Reports or on the website of the Competition Appeal Tribunal.

Judgment	Tribunal	Subject matter
<p>1. DSG Retail Limited and Another v MasterCard Incorporated and Others [2015] CAT 7 22 April 2015</p>	The President	<p>Ruling of the President on an application by the claimants for permission to serve out of the jurisdiction proceedings brought under section 47A of the 1998 Act, made pursuant to the Tribunal's Practice Direction (2014) relating to the commencement of damages claims.</p> <p>The claim is a follow-on action based on the decision of the European Commission in MasterCard, issued on 19 December 2007, which found that the legal entities representing the MasterCard organisation infringed what was then Article 81 of the EU Treaty (now Article 101 of the Treaty on the Functioning of the European Union (TFEU)). The claim was brought against all three addressees of that decision. The 3rd defendant is a Belgian company domiciled in Belgium; jurisdiction is governed by Regulation (EU) 1215/2012 (the recast Brussels Regulation), and no permission was needed for service out of the jurisdiction on this defendant.</p> <p>The 1st and 2nd defendants are both domiciled in the USA, and permission of the Tribunal was needed for service out of the jurisdiction on these defendants. As the proceedings were likely to be treated as proceedings in England and Wales, the Tribunal applied the same approach as that which applies to civil claims in the High Court. Applying that approach and the governing principles as set out in <i>VTB Capital Plc v Nutritek International Corp</i> [2012] EWCA Civ 808, permission was refused for service of the claim as pleaded alleging infringing acts by the defendants after 22 June 2008, but was otherwise granted on the basis that the pleadings be amended in accordance with the Ruling.</p>
<p>2. Federation of Independent Practitioner Organisations v Competition and Markets Authority [2015] CAT 8 29 April 2015</p>	Lord Justice Sales Dermot Glynn Clare Potter	<p>Judgment of the Tribunal by a majority (Sales LJ and Clare Potter), dismissing an application for review under section 179 of the 2002 Act brought by FIPO.</p> <p>FIPO challenged parts of the CMA's final report on its investigation of the private healthcare market dated 2 April 2014 (the "Report"). In that Report, the CMA concluded that:</p> <ul style="list-style-type: none"> i) the market power of private medical insurers ("PMIs") did not give rise to an AEC (the "PMI Decision"); and ii) there was an AEC arising from the lack of independent publicly available performance and fee information on consultants, which should be remedied by requiring healthcare facility operators and consultants to publish information about consultants' fees and other aspects of their practice (the "Information Remedy"). <p>By its application, FIPO challenged the CMA's PMI Decision on six grounds and the Information Remedy on one ground. FIPO's grounds of review, together with the Tribunal's conclusions in relation to each ground, are summarised below.</p>

Judgment	Tribunal	Subject matter
		<p>(1) FIPO claimed that the PMI Decision was based on the factually erroneous and/or irrational finding that consumer choice was not restricted by the PMI's practice of directing policyholders to consultants whose fees were within their caps. The Tribunal, by majority, dismissed this challenge on the basis that the CMA had well in mind that the practical availability for policyholders (who did not hold open referral policies) of payment of top-up fees could be substantially constrained by reason of the restrictions on the freedom of action of consultants.</p> <p>(2) FIPO argued that the PMI Decision was based on the finding that consultants could compete below the fee caps, such finding being unsupported by probative evidence. Therefore, FIPO argued that this finding was irrational and/or amounted to a fundamental error of fact. FIPO also contended that the PMI Decision was procedurally unfair as that finding had not been put to it. For the reasons set out in the Judgment, the Tribunal, by majority, dismissed both the rationality and procedural challenges. The CMA had made a detailed study of the relevant market and was well placed to assess what scope there could be for competition between consultants on price and quality. Based on this evidence, it was entitled to conclude that there was a real prospect of consultants being able to compete on price even below the cap. As to the procedural challenge, the CMA had set out the relevant theories of harm in its Statement of Issues and thus it was obvious that if FIPO wished to present a case that, for example, reimbursement rates were so low as to preclude any competition between consultants below those rates, it should have done so. Moreover, the CMA's position was made clear in subsequent documents provided to FIPO, and FIPO made representations on several occasions. Therefore, the Tribunal concluded that the CMA satisfied its obligation to consult fairly pursuant to section 169 of the 2002 Act and the general requirements of fairness in public law.</p> <p>(3) – (4) FIPO submitted that the PMI Decision was reached on the basis of a factually erroneous finding that the buyer power of the PMIs had not resulted in a reduction in the overall number of consultants in private practice when, in fact, the numbers had reduced. FIPO also argued that the CMA irrationally failed to conduct any investigation into whether the number of consultants was likely to fall significantly in the future. The Tribunal unanimously dismissed both of these grounds and concluded that the CMA's assessment was both rational and lawful. The CMA had conducted a careful analysis of what had been happening in relation to consultant numbers generally and in private practice; and it also addressed what was likely to happen in the future.</p> <p>(5) FIPO contended that the PMI Decision was based on the unevidenced finding that the fee constraints imposed by PMIs would benefit customers insofar as premiums would be reduced for policyholders. For the reasons set out in the Judgment, the Tribunal unanimously concluded that the CMA's reasoning, albeit thin, was clearly rational.</p>

Judgment	Tribunal	Subject matter
		<p>(6) FIPO claimed that the PMI Decision was based on the unevidenced assumption that it was in the interests of the PMIs to ensure that there were high-quality consultants in private practice. As explained in the Judgment, the Tribunal, by majority, rejected this ground of challenge. The CMA's assessment was based on straightforward reasoning which could not be said to be irrational, and was also supported by evidence.</p> <p>(7) FIPO contended that the Information Remedy was not an effective remedy. However, it conceded at the hearing that this challenge could not succeed unless the Tribunal was persuaded that the PMI Decision was unlawful. As the Tribunal dismissed, by majority, FIPO's application for review in connection with the CMA's PMI Decision, this ground of challenge was dismissed, by majority, as well.</p> <p>For the reasons set out in the dissenting Judgment, one member of the Tribunal, Dermot Glynn, would have allowed FIPO's Grounds 1, 2, 6 and 7, quashed both the PMI Decision and Information Remedy and referred the matter back to the CMA.</p> <p>Accordingly, by a majority, the Tribunal dismissed FIPO's application for review.</p>
<p>3. Virgin Media, Inc. v Office of Communications The Football Association Premier League Limited v Office of Communications British Sky Broadcasting Limited v Office of Communications British Telecommunications plc v Office of Communications [2015] CAT 9 6 May 2015</p>	<p>Mr Justice Barling Professor John Beath OBE Michael Blair QC (Hon)</p>	<p>Ruling of the Tribunal concerning the constitution of the Tribunal for the purpose of hearing the matter remitted by the Court of Appeal in its Judgment of 17 February 2014 ([2014] EWCA Civ 133).</p> <p>Sky and the FAPL contended that the remitted matter should be heard by the panel that heard the appeals culminating in the Tribunal's Pay TV Judgment ([2012] CAT 20). BT and Ofcom contended that a new panel should be constituted. Their objections to the original panel focused mainly on allegations of apparent bias.</p> <p>Applying the test in <i>Porter v Magill</i> [2002] 2 AC 357, the Tribunal considered whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the panel was biased against BT and/or Ofcom or in favour of Sky/FAPL. For the reasons set out in the Ruling, the Tribunal concluded that the objections raised by BT and Ofcom to the panel as a whole provided no grounds on which it would be appropriate for the panel to recuse themselves from hearing and determining the remitted matter. The Chairman recused himself from hearing and determining the remitted matter in light of the specific objections in respect of the Chairman alone made by Ofcom, supported by BT. However, the specific objections in respect of the Chairman alone provided no basis for the recusal of the other two members of the original panel.</p>
<p>4. Federation of Independent Practitioner Organisations v Competition and Markets Authority [2015] CAT 10 3 June 2015</p>	<p>Lord Justice Sales Dermot Glynn Clare Potter</p>	<p>Ruling of the Tribunal in connection with an application by the CMA for its costs of successfully defending the challenge brought by FIPO. By majority, the Tribunal granted the CMA's application and ordered FIPO to pay the CMA's costs.</p>

Judgment	Tribunal	Subject matter
<p>5. Federation of Independent Practitioner Organisations v Competition and Markets Authority [2015] CAT 11 15 June 2015</p>	<p>Lord Justice Sales Dermot Glynn Clare Potter</p>	<p>Ruling of the Tribunal granting FIPO permission to appeal the Tribunal's substantive Judgment of 29 April 2015 ([2015] CAT 8).</p>
<p>6. Virgin Media, Inc. v Office of Communications The Football Association Premier League Limited v Office of Communications British Sky Broadcasting Limited v Office of Communications British Telecommunications plc v Office of Communications [2015] CAT 12 22 June 2015</p>	<p>Peter Freeman CBE, QC (Hon) Professor John Beath OBE Michael Blair QC (Hon)</p>	<p>Ruling of the Tribunal refusing BT permission to appeal the Tribunal's Ruling of 6 May 2015 ([2015] CAT 9).</p>
<p>7. TalkTalk Telecom Group PLC v Office of Communications (VULA) British Telecommunications plc v Office of Communications (VULA) [2015] CAT 13 29 June 2015</p>	<p>Andrew Lenon QC William Allan Professor Colin Mayer</p>	<p>Ruling of the Tribunal on: (i) applications for permission to intervene by Sky and TalkTalk, (ii) confidentiality and disclosure; (iii) classification of the grounds of appeal as raising either specified price control matters or non-specified price control matters; and (iv) the timetable for the proceedings, including the reference of specified price control matters to the CMA.</p>
<p>8. Ryanair Holdings plc v Competition and Markets Authority [2015] CAT 14 15 July 2015</p>	<p>Hodge Malek QC Professor Colin Mayer Clare Potter</p>	<p>Judgment of the Tribunal on an application by Ryanair for review of the following decisions of the CMA of 11 June 2015: (i) the finding that there had been no material change of circumstances ("the MCC Decision") since the CC's final report of 28 August 2013 concerning Ryanair's acquisition of a minority shareholding in Aer Lingus ("the Final Report"); and (ii) the CMA's remedies Order requiring the appointment of a Divestiture Trustee to manage the partial disposal of Ryanair's stake in Aer Lingus ("the Final Order").</p> <p>In its Final Report, the CC concluded that the minority shareholding gave Ryanair material influence over Aer Lingus and resulted in a 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>

Judgment	Tribunal	Subject matter
		<p>In the MCC Decision, the CMA concluded that the public takeover bid for Aer Lingus by IAG was not a material change of circumstances that required it to consider remedial action different from that set out in the Final Report.</p> <p>By its application, Ryanair challenged the lawfulness of the MCC Decision and Final Order on three grounds. Ryanair's grounds of review, together with the Tribunal's conclusions in relation to each ground, are summarised briefly below.</p> <p>1. Ryanair submitted that the MCC Decision and the decision to impose a Final Order were unlawful because, in reaching those decisions, the CMA misconstrued and misapplied the legal test under section 41(2) of the 2002 Act. Broadly, section 41(2) relates to the action that the CMA must take to remedy, mitigate or prevent the SLC identified.</p> <p>For the reasons set out in the Judgment, the Tribunal rejected this ground. In particular, the Tribunal held that the 2002 Act did not require the CMA to conduct a fresh proportionality assessment when considering the implementation of the remedies it had already found to be proportionate in its Final Report. The Tribunal considered that the first step was for the CMA to consider whether a change is material in the sense that it may result in a different decision on remedy. The second stage is to consider what the decision on remedy ought to be in the light of that material change in circumstances, if any.</p> <p>In this case, the CMA considered whether there had been any material changes in circumstances which would justify departing from the CC's conclusions on remedies in the Final Report. Having found no such changes in circumstances, the CMA rightly decided to implement the remedies that it considered to be comprehensive and proportionate.</p> <p>2. Ryanair argued that the MCC Decision was irrational because no reasonable competition authority could fail to conclude that there had been a material change of circumstances when the very thing it predicted would not happen (a bid for Aer Lingus), and which was critical to its original assessment, had in fact taken place.</p> <p>For the reasons set out in the Judgment, the Tribunal also rejected this ground. In particular, the Tribunal found that the CMA's conclusion that the IAG proposed bid and formal offer did not constitute a material change of circumstances was one in its discretion it was entitled to reach.</p> <p>3. Ryanair contended that the CMA's decision to impose a Final Order was unreasonable, disproportionate and breached Ryanair's legitimate expectations. This ground was withdrawn prior to the hearing in the proceedings and was therefore not considered in the Judgment.</p> <p>Accordingly, and for the reasons set out in the Judgment, the Tribunal unanimously dismissed Ryanair's application for review.</p>

Judgment	Tribunal	Subject matter
9. Ryanair Holdings plc v Competition and Markets Authority [2015] CAT 15 15 July 2015	Hodge Malek QC Professor Colin Mayer Clare Potter	Ruling of the Tribunal in relation to costs and an application by Ryanair for permission to appeal the Tribunal's Judgment of 15 July 2015 ([2015] CAT 14).
10. Virgin Media, Inc. v Office of Communications The Football Association Premier League Limited v Office of Communications British Sky Broadcasting Limited v Office of Communications British Telecommunications plc v Office of Communications [2015] CAT 16 2 December 2015	Peter Freeman CBE, QC (Hon) Professor John Beath OBE Michael Blair QC (Hon)	Ruling of the Tribunal refusing a request by BT for disclosure, for the purpose of facilitating consideration of relevant issues at a case management conference, of the confidential version of Ofcom's Review of the pay TV wholesale must-offer obligation dated 19 November 2015.
11. British Telecommunications plc v Office of Communications (WMO) [2016] CAT 1 24 February 2016	Peter Freeman CBE, QC (Hon) Professor Colin Mayer Clare Potter	Reasoned Order of the Tribunal which established a confidentiality ring in the proceedings and also considered, in particular, the position of in-house solicitors.
12. Sainsbury's Supermarkets Limited v MasterCard Incorporated and Others [2016] CAT 2 9 February 2016	Mr Justice Barling Marcus Smith QC Professor John Beath OBE	Ruling of the Tribunal in respect of applications made by the parties for: (i) specific disclosure; and (ii) the admission of a supplemental witness statement.
13. TalkTalk Telecom Group PLC v Office of Communications (VULA) British Telecommunications plc v Office of Communications (VULA) [2016] CAT 3 24 March 2016	Andrew Lenon QC William Allan Professor Colin Mayer	Judgment of the Tribunal on the non-specified price control matters in an appeal by BT against the decision of Ofcom contained in its Statement entitled "Fixed Access Market Reviews: Approach to the VULA margin" dated 19 March 2015 (the "Statement"). VULA stands for "Virtual Unbundled Local Access"; it is the wholesale product through which CPs have access to BT's next (or second) generation network, which supports the provision of superfast broadband ("SFBB") services to consumers. The Statement imposed a price control on BT which regulates the VULA margin (the difference between the wholesale price of VULA and the price of BT's retail packages that use VULA as an input). The price control was intended to ensure that other CPs have sufficient margin to be able to compete with BT in the provision of SFBB packages to consumers.

Judgment	Tribunal	Subject matter
		<p>Ofcom's power to impose a price control on an operator with significant market power is subject to section 88 of the 2003 Act. This provides that Ofcom shall not set a price control unless it appears to them from the market analysis carried out for that purpose that "there is a relevant risk of adverse effects arising from price distortion". There is such a risk if the dominant provider (in this case BT) "might so impose a price squeeze as to have adverse consequences for end-users".</p> <p>BT's grounds, and the Tribunal's conclusions in relation to each of them, are summarised briefly below.</p> <p>(1) BT submitted that Ofcom had adopted the wrong approach to the assessment of relevant risk of adverse effects arising from a price distortion. More specifically: (i) Ofcom's power to impose a price control should be interpreted restrictively; and (ii) section 88 should be interpreted in light of the European jurisprudence on Article 102 of the TFEU. On that view, a section 88 price squeeze should be equated with an Article 102 margin squeeze and, in the circumstances under consideration, Ofcom would only be able to impose a price control where adverse effects on end users were probable or likely.</p> <p>The Tribunal held that BT had not shown that Ofcom had erred in this regard. First, the reasons BT put forward in support of its view that Ofcom's powers to impose a price control were to be interpreted restrictively, were not convincing. Neither the purpose nor the specific drafting of the legislation supported such a view; the other materials to which BT referred (namely, case law and policy documents) were also not found to limit the scope of Ofcom's powers in the way that BT alleged. Secondly, the Tribunal was not persuaded that the case law of the European courts on margin squeeze under Article 102 is applicable in the context under consideration and it therefore does not limit Ofcom's powers in the manner suggested by BT.</p> <p>(2) BT submitted that Ofcom erred in failing to take account in its market analysis the legal and regulatory constraints affecting BT, namely: (i) the deterrent effect of ex post competition law; (ii) the effect of undertakings in lieu of reference that BT had given in 2005 under the 2002 Act; and (iii) the FRAND obligation for VULA to which BT was already subject.</p> <p>The Tribunal disagreed with BT that Ofcom had erred in considering these legal and regulatory constraints in Section 4 of its Statement (which dealt with the manner in which Ofcom's concerns regarding the VULA margin should be addressed) rather than in Section 3 (which set out Ofcom's market analysis). The Tribunal concluded that the approach taken by Ofcom was reasonable. Moreover, even if Ofcom had taken the approach which BT argued it should have taken, the conclusions reached were unlikely to have been any different. The Tribunal also found that Ofcom had given sufficient weight to these legal and regulatory constraints.</p>

Judgment	Tribunal	Subject matter
		<p>(3) BT submitted that Ofcom had erred in analysing the incentives for BT to implement a price squeeze. In particular, Ofcom had failed to investigate sufficiently a number of competitive constraints acting on BT in the retail broadband market. Ofcom also did not take proper account of BT's past conduct or the risk associated with regulating the VULA margin; finally, Ofcom had failed to carry out a quantitative analysis of BT's incentives.</p> <p>The Tribunal rejected all of these arguments and concluded that BT had not shown that Ofcom had erred in its market analysis.</p> <p>Accordingly, and for the reasons set out in the Judgment, the Tribunal unanimously dismissed the non-specified price control matters raised in BT's appeal.</p>

Glossary of defined terms in use in the summaries of Judgments

Defined Term	Meaning
1998 Act	Competition Act 1998
2002 Act	Enterprise Act 2002
2003 Act	Communications Act 2003
AEC	Adverse effect on competition
Aer Lingus	Aer Lingus Group plc
BT	British Telecommunications plc
CC	Competition Commission (now the CMA)
CMA	Competition and Markets Authority (successor body to the OFT and CC)
CPs	Communications providers
FAPL	The Football Association Premier League Limited
FIPO	The Federation of Independent Practitioner Organisations
IAG	International Consolidated Airlines Group, S.A.
Ofcom	Office of Communications
Ryanair	Ryanair Holdings plc
Sky	Sky UK Limited (formerly British Sky Broadcasting Limited)
SLC	Substantial lessening of competition
SMP	Significant market power
TalkTalk	TalkTalk Telecom Group PLC
Virgin	Virgin Media, Inc.

Activity by case within the period 1 April 2015 to 31 March 2016

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 2016
British Sky Broadcasting Limited v Office of Communications (Interim Relief) Case: 1152/8/3/10 (IR) 16 April 2010	10-11 11-12 12-13 13-14 14-15 15-16			2 5.5	1			Closed
Notes:								
On 31 March 2010, Ofcom published its “Pay TV Statement” containing its decision to vary the conditions in the broadcasting licences of British Sky Broadcasting Ltd (Sky) for its core premium sports channels, Sky Sports 1 and Sky Sports 2. The new conditions required Sky to offer to wholesale its core premium sports channels to retailers on other broadcasting platforms and, in the case of standard definition versions of the channels, offer them at wholesale prices set by Ofcom. This condition is referred to as “the wholesale must-offer obligation” or “WMO Remedy”. Sky appealed the Pay TV Statement (see Cases: 1156-59, 1170 and 1179/8/3/10). It also applied for urgent interim relief.								
Following a hearing in April 2010, the parties agreed to a form of interim relief that modified Sky’s obligations under the WMO in respect of certain specified platform operators and otherwise suspended the decision contained in the Pay TV Statement. Following an application by British Telecommunications plc, the interim relief Order was varied: see the Ruling of the President dated 5 November 2014 ([2014] CAT 17).								
On 19 November 2015, Ofcom published its WMO Statement, in which it decided to remove the WMO Remedy. In light of this, the parties decided to withdraw their respective appeals against the 2010 Pay TV statement. This was done by an Order, dated 18 December 2015.								
Virgin Media, Inc. v Office of Communications Case: 1156/8/3/10 28 May 2010	10-11 11-12 12-13 13-14 14-15 15-16	12	2	1 1 1 37 1 1 1 2	1 3 2 3	8 Aug 2012 (26.4)	1 1 1	Closed
Notes:								
Appeals were brought by each of British Sky Broadcasting Limited (Sky), The Football Association Premier League, Virgin Media, Inc. and British Telecommunications plc (BT) against a decision of Ofcom, contained in a document entitled “Pay TV Statement” and published on 31 March 2010 to vary the conditions in the licences granted to Sky for its core premium sports channels, Sky Sports 1 and Sky Sports 2 (CPSCs). The new conditions required Sky to offer to wholesale its CPSCs to retailers on other broadcasting platforms and, in the case of standard definition versions of the channels, offer them at wholesale prices set by Ofcom. This condition is referred to as “the wholesale must-offer obligation” or “WMO Remedy”.								
By its Judgment dated 8 August 2012 ([2012] CAT 20), the Tribunal concluded that Ofcom’s core competition concern (that Sky had deliberately withheld from other retailers wholesale supply of its premium channels) was unfounded. BT appealed the Tribunal’s Judgment to the Court of Appeal ([2014] EWCA Civ 133) and that Court remitted the Pay TV appeals back to the Tribunal to consider the issue of whether the rate card prices charged by Sky for wholesale supply of the CPSCs would impede fair and effective competition. A hearing took place on 26 and 27 March 2015 to determine whether the original Tribunal should deal with the remitted question or whether a new Tribunal should be constituted. By a Ruling dated 6 May 2015 ([2015] CAT 9), the Chairman recused himself from hearing and determining the remitted matter. An application by BT for permission to appeal the Ruling was dismissed ([2015] CAT 12).								
On 19 November 2015 Ofcom published its WMO Statement, in which it decided to remove the WMO Remedy. In light of this, the parties decided to withdraw their respective appeals against the 2010 Pay TV statement. This was dealt with by an Order, dated 18 December 2015.								

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 2016
The Football Association Premier League Limited v Office of Communications Case: 1157/8/3/10 1 June 2010	10-11 11-12 12-13 13-14 14-15 15-16							Closed
Notes: See the notes in relation to Virgin Media (Case: 1156/8/3/10).								
British Sky Broadcasting Limited v Office of Communications Case: 1158/8/3/10 1 June 2010	10-11 11-12 12-13 13-14 14-15 15-16							Closed
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 June 2010	10-11 11-12 12-13 13-14 14-15 15-16							Closed
Notes: See the notes in relation to Virgin Media (Case: 1156/8/3/10).								

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 2016
British Sky Broadcasting Limited v Office of Communications (Linear-only Set Top Boxes) Case: 1170/8/3/10 11 October 2010	10-11 11-12 12-13 13-14 14-15 15-16	4						Closed
Notes: This case was heard concurrently with the Pay TV appeals mentioned above. See the notes to Virgin Media (Case: 1156/8/3/10).								
British Sky Broadcasting Limited v Office of Communications (Conditional Access Modules) Case: 1179/8/3/11 14 February 2011	10-11 11-12 12-13 13-14 14-15 15-16	4						Closed
Notes: This case was heard concurrently with the Pay TV appeals mentioned above. See the notes to Virgin Media (Case: 1156/8/3/10).								
British Telecommunications plc v Office of Communications (Termination charges: NCCNs 1046, 1101 and 1107) Case: 1211/3/3/13 24 May 2013	13-14 14-15 15-16	5 1	1	1	2	2		Withdrawn
Notes: On 4 April 2013, Ofcom resolved certain disputes between British Telecommunications plc (BT) on the one hand and each of Everything Everywhere, Telefónica UK Limited (Telefónica), Hutchison 3G UK Limited (Three) and Vodafone Group Services Limited (collectively, the MNOs). The dispute between BT and the MNOs was essentially as to whether BT was permitted to introduce new wholesale termination charges for calls to certain numbers on BT's network. These changes were set out in various Network Charge Change Notices (NCCNs), namely NCCNs 1101, 1107 and 1046. BT applied to the Tribunal to stay its appeal against the Decision until the Supreme Court had handed down its Judgment in relation to BT's appeal in the 08x Determinations (BT had successfully appealed the 08x Determinations to the Tribunal (Cases: 1151/3/3/10, 1168/3/3/10 and 1169/3/3/10), but the Tribunal's Judgment of 1 August 2011 ([2011] CAT 24) was overturned on appeal by the Court of Appeal by its Judgment of 25 July 2012 ([2012] EWCA Civ 1002)). By an Order dated 25 June 2013, the President granted BT's application for a stay. On 9 July 2014, the Supreme Court gave Judgment ([2014] UKSC 42) allowing BT's appeal and restoring the Tribunal's Judgment of 1 August 2011. On 11 December 2014, the Tribunal made a Reasoned Order ([2014] CAT 22) granting TalkTalk Telecom Group PLC permission to intervene. On 17 March 2015, the Tribunal gave a Ruling on the questions of admissibility and new evidence which the interveners in support of Ofcom (Three and Telefónica) sought to adduce in the proceedings ([2015] CAT 6). By an Order dated 27 April 2015, the Tribunal granted BT permission to withdraw its appeal.								

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 2016
Lafarge Tarmac Holdings Limited v Competition Commission Case: 1222/6/8/13 22 October 2013	13-14 14-15 15-16		1		1			Withdrawn
Notes: Lafarge Tarmac Holdings Limited (Lafarge) applied to the Tribunal for a review of a decision made by the CC refusing to grant access to certain information and documents relating to the CC's on-going investigation into the markets for the supply and acquisition of aggregates, cement and ready-mix concrete in Great Britain. By an Order dated 18 November 2013, the Tribunal directed that the application be stayed pending the publication of the CC's final report in the Aggregates market investigation. The CC's final report was published on 14 January 2014. On 4 April 2014, the Tribunal made an Order staying the proceedings until the handing down of the Tribunal's Judgment in Cases: 1224 and 1225/6/8/14. By an Order dated 4 August 2015, the Tribunal granted Lafarge permission to withdraw its application.								
Lafarge Tarmac Holdings Limited v Competition Commission (No. 2) Case: 1224/6/8/14 12 March 2014	13-14 14-15 15-16	1	1		1			Withdrawn
Notes: Lafarge Tarmac Holdings Limited (Lafarge) and Hope Construction Materials Limited (Hope) challenged a decision of the CC contained in a report published on 14 January 2014 entitled "Aggregates, cement and ready-mix concrete market investigation: Final report". The CC found that there was, amongst other things, a combination of structural and conduct features in the cement markets in Great Britain that gave rise to an adverse effect on competition. On 22 April 2014, the Tribunal made an Order granting Lafarge permission to amend its notice of application. By Orders, dated 11 September 2014 and 23 February 2015, the applications were stayed pending the outcome of a European Commission investigation involving the proposed merger between Lafarge SA and Holcim Limited. By an Order dated 4 August 2015, the Tribunal granted Lafarge and Hope permission to withdraw their applications.								
Hope Construction Materials Limited v Competition Commission Case: 1225/6/8/14 13 March 2014	13-14 14-15 15-16	1						Withdrawn
Notes: See the notes in relation to Lafarge (Case: 1224/6/8/14).								

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 2016
AXA PPP Healthcare Limited v Competition and Markets Authority Case: 1228/6/12/14 30 May 2014	14-15 15-16	7	1	1 2	2	13 Mar 2015 (9.4)		Closed
Notes: This matter has been case managed with HCA International Limited and Federation of Independent Practitioner Organisations (Cases: 1129/6/12/14 and 1230/6/12/14) and the details of the case management process preceding the hearing of the application (on 23 January 2015) are recorded against HCA International Limited. AXA PPP Healthcare Limited (AXA) challenged certain parts of the CMA's final report on its investigation of the private healthcare market dated 2 April 2014. In the report, the CMA concluded that the formation and operation of consultant groups did not give rise to an adverse effect on competition. By its Judgment dated 13 March 2015 ([2015] CAT 5), the Tribunal dismissed AXA's application. By an Order dated 16 April 2015, the Tribunal ordered AXA to pay the CMA's costs of defending grounds 3-5 of AXA's application for review.								
HCA International Limited v Competition and Markets Authority Case: 1229/6/12/14 30 May 2014	14-15 15-16	4	1	1 1	4	23 Dec 2014 (6.8)	1	Closed
Notes: HCA International Limited (HCA) challenged certain decisions of the CMA contained in a report published on 2 April 2014 entitled "Private healthcare market investigation: Final report". The CMA decided that HCA's hospitals in central London faced weak competitive constraints and were protected by high barriers to entry and expansion, thereby giving rise to adverse effect on competition (AEC). In order to remedy the AEC, the CMA required HCA to divest itself of two of its six central London hospitals. On 2 July 2014, the Chairman made an Order suspending the effect of certain aspects of the final report in relation to HCA. A case management conference took place on 8 July 2014, at which the Tribunal refused an application to adduce expert evidence. The Tribunal's reasons for dismissing the application are set out in a Ruling of 9 July 2014 ([2014] CAT 10). By a Ruling dated 25 July 2014, the Tribunal granted HCA's application for disclosure of materials relating to the CMA's investigation ([2014] CAT 11). On 30 July 2014, the Chairman made an Order in relation to disclosure and the creation of a data room. On 29 October 2014, the Chairman made an Order: (1) granting HCA permission to amend its notice of application; and (2) revising the procedural timetable. On 23 December 2014, the Tribunal gave a Ruling following a directions hearing on 15 December 2014, at which the Tribunal decided to quash and remit part of the CMA's report back to the CMA ([2014] CAT 23). The Ruling set out (i) the parts of the report that were to be quashed and remitted back to the CMA; and (ii) dealt with a number of issues such as the refusal of HCA's application that the remitted matter be considered by a new CMA investigative group and costs. On 11 February 2015, the Tribunal issued a Ruling ([2015] CAT 3) granting HCA permission to appeal the Tribunal's refusal to direct that a new CMA investigative group consider the matter but refused permission for HCA to appeal its Ruling of 23 December 2014 with respect to costs. On 5 March 2015, the Court of Appeal granted HCA permission to appeal. On 21 May 2015, the Court of Appeal dismissed HCA's appeal ([2015] EWCA Civ 492).								

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 2016
Federation of Independent Practitioner Organisations v Competition and Markets Authority Case: 1230/6/12/14 2 June 2014	14-15 15-16	2		1 2	3	29 Apr 2015 (10.9)	1	Closed
Notes: The Federation of Independent Practitioner Organisations (FIPO) challenged certain parts of the CMA's final report on its investigation of the private healthcare market dated 2 April 2014. In the report, the CMA concluded that: the market power of private medical insurers did not give rise to an adverse effect on competition (AEC); and there was an AEC arising from the lack of independent publicly available performance and fee information on consultants, which should be remedied by requiring healthcare facility operators and consultants to publish information about consultants' fees and other aspects of their practice. On 15 June 2014, the Chairman made an Order granting permission to amend the notice of application. In its Judgment dated 29 April 2015 ([2015] CAT 8), the Tribunal (by a majority) dismissed FIPO's application. On 3 June 2015, the Tribunal issued a Ruling in relation to costs ([2015] CAT 10) and, on 15 June 2015, the Tribunal granted FIPO permission to appeal the Tribunal's Judgment. That appeal is currently pending before the Court of Appeal.								
Gamma Telecom Holdings Limited v Office of Communications Case: 1234/3/3/14 23 July 2014	14-15 15-16							Stayed
Notes: Gamma Telecom Holdings Limited (Gamma) challenged a determination by Ofcom contained in a document dated 23 May 2014 and entitled "Determination to resolve dispute between Gamma and BT concerning BT's charges for Interconnect Extension Circuits". Ofcom determined a dispute between British Telecommunications plc (BT) and Gamma, concerning BT's historic charges for certain wholesale interconnection products, namely Interconnect Extension Circuits. Gamma considered that it had been overcharged by BT because BT's charges did not comply with BT's cost orientation obligation. Ofcom concluded in the Determination that BT had not overcharged Gamma. By an Order dated 13 August 2014, the Chairman stayed the appeal pending developments in the case registered at the Court of Appeal under case number C3/2014/4185 (an appeal by TalkTalk Telecom Group PLC against the decision of the Tribunal ([2014] CAT 14) in British Sky Broadcasting Limited and TalkTalk Telecom Group PLC v Ofcom (Case: 1207/3/3/13)). By an Order dated 24 November 2015, that stay was continued until five days after the Court of Appeal hands down Judgment in that case.								
DSG Retail Limited and Another v MasterCard Incorporated and Others Case: 1236/5/7/15 11 February 2015	14-15 15-16			1 1 1	1			Ongoing
Notes: Claim for damages under section 47A of the Competition Act 1998 based on the decision of the European Commission dated 19 December 2007 relating to a proceeding under Article 81 of the EC Treaty (now Article 101 of the TFEU) and Article 53 of the EEA Agreement (COMP/34.579 MasterCard, COMP/36.518 EuroCommerce and COMP/38.580 Commercial Cards). An application for permission to serve the claim form out of the jurisdiction on two Defendants was heard on 24 March 2015. The Ruling in respect of that application was given on 22 April 2015 ([2015] CAT 7).								

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 2016
TalkTalk Telecom Group PLC v Office of Communications (VULA) Case: 1237/3/3/15 19 May 2015 Notes: See the notes in relation to BT (Case: 1238/3/3/15).	15-16	1			1			Ongoing
British Telecommunications plc v Office of Communications (VULA) Case: 1238/3/3/15 19 May 2015 Notes: Appeal by British Telecommunications plc (BT) against the decision of Ofcom contained in its Statement entitled “Fixed Access Market Reviews: Approach to the VULA margin” dated 19 March 2015. VULA stands for “Virtual Unbundled Local Access”; it is the wholesale product through which communications providers (CPs) have access to BT’s next generation network, which supports the provision of superfast broadband services to consumers. The Statement imposed a price control on BT that regulates the VULA margin (the difference between the wholesale price of VULA and the price of BT’s retail packages that use VULA as an input). The price control is intended to ensure that CPs have sufficient margin to be able to compete with BT in the provision of superfast broadband packages to consumers. A case management conference in respect of this case and TalkTalk Telecom Group PLC (Case: 1237/3/3/15) took place on 18 June 2015. A Ruling concerning matters considered at the case management conference (intervention, confidentiality, disclosure and classification of specified price control matters) was given on 29 June 2015 ([2015] CAT 13). By an Order dated 5 January 2016, the specified price control matters were referred to the CMA for determination. On 24 March 2016, the Tribunal unanimously dismissed the non-price control matters raised in BT’s appeal ([2016] CAT 3).	15-16	2	1		1	24 Mar 2016 (10.2)		Ongoing
Ryanair Holdings plc v Competition and Markets Authority Case: 1239/4/12/15 18 June 2015 Notes: Ryanair Holdings plc (Ryanair) challenged two decisions of the CMA finding that: (i) there had been no material change of circumstances since the CC’s final report of 28 August 2013 concerning Ryanair’s acquisition of a minority shareholding in Aer Lingus Group plc; and (ii) a divestiture trustee should be appointed to manage the partial disposal of Ryanair’s stake in Aer Lingus. In its decision, the CMA concluded that the public takeover bid for Aer Lingus by the International Consolidated Airlines Group, S.A. was not a material change of circumstances that required it to consider remedial action different from that set out in the final report. By an Order of the President, dated 19 June 2015, the time for applying for permission to intervene was abridged until 23 June 2015. A case management conference took place on 24 June 2015. The main hearing took place on 3 July 2015. The Tribunal unanimously dismissed Ryanair’s application for review on 15 July 2015 ([2015] CAT 14) and, during a hearing which took place on the same day, the Tribunal gave a Ruling dealing with costs and permission to appeal ([2015] CAT 15).	15-16	1	1	1 1	2	15 Jul 2015 (0.9)	1	Closed

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 2016
Deutsche Bahn AG and Others v MasterCard Incorporated and Others Case: 1240/5/7/15 12 November 2015 Notes: Claim for damages under section 47A of the Competition Act 1998 based on the decision of the European Commission dated 19 December 2007 relating to a proceeding under Article 81 of the EC Treaty (now Article 101 of the TFEU) and Article 53 of the EEA Agreement (COMP/34.579 MasterCard, COMP/36.518 EuroCommerce and COMP/38.580 Commercial Cards). An application for permission to serve the claim form out of the jurisdiction on two Defendants was determined on the papers by the President on 1 December 2015. The Defendants have filed applications to challenge the jurisdiction of the Tribunal.	15-16							Ongoing
Sainsbury's Supermarkets Ltd v MasterCard Incorporated and Others Case: 1241/5/7/15 (T) 2 December 2015 Notes: Claim for damages brought in respect of an alleged infringement of the Chapter I prohibition in the Competition Act 1998 Act and Article 101(1) of the TFEU. The proceedings were transferred from the High Court to the Tribunal by Order of Mr Justice Barling dated 1 December 2015. A pre-trial review was held on 14 December 2015. The substantive hearing of this matter took place over 23 days, between 25 January and 16 March 2016. Judgment is pending.	15-16			1	23	1		Ongoing
NCRQ Ltd v Institution of Occupational Safety and Health Case: 1242/5/7/15 (IN) 17 December 2015 Notes: See the notes in relation to NCRQ (Case: 1243/5/7/15).	15-16							Closed
NCRQ Ltd v Institution for Occupational Safety and Health Case: 1243/5/7/15 17 December 2015 Notes: Claim for damages brought in respect of an alleged infringement of the Chapter II prohibition in the Competition Act 1998 and the prohibition in Article 102 of the TFEU. The Claimant applied for fast-track designation and an interim injunction application was also filed (see Case: 1242/5/7/15 (IN)). Following a settlement agreed by the parties, the proceedings were closed by an Order of the President dated 11 January 2016.	15-16							Closed

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 2016
Peugeot Citroën Automobiles UK Ltd and Others v Pilkington Group Limited and Others Case: 1244/5/7/15 18 December 2015 Notes: Claim for damages brought under section 47A of the Competition Act 1998 based on the decision of the European Commission dated 12 November 2008 relating to a proceeding under Article 81 of the EC Treaty (now Article 101 of the TFEU) and Article 53 of the EEA Agreement (COMP/39.125 Carglass). On 22 January 2016, the Defendants applied for a stay of proceedings and an extension of the time for making an application to dispute the Tribunal's jurisdiction under Rule 34. The President listed a hearing on 10 February 2016 to hear the stay application and, by Order dated 25 January 2016, extended the Rule 34 time limit until the determination of the stay application. On 28 January 2016, the Claimants applied for the resolution of a preliminary issue relating to the application of the Foreign Limitation Periods Act 1984 to the claim. On 10 February 2016, the President made an Order giving various case management directions. A hearing of the preliminary issue was heard jointly with Deutsche Bahn AG (Case: 1240/5/7/15) on 29 April 2016.	15-16			1 1				Ongoing
British Telecommunications plc v Office of Communications (BT's APCCs) Case: 1245/3/3/16 15 January 2016 Notes: British Telecommunications plc (BT) challenged a determination made by Ofcom on 11 November 2015 in connection with two disputes concerning BT's average porting conveyance charges (APCCs). In its determination, Ofcom concluded that BT had overcharged each of Gamma and Vodafone for the provision of number portability services. A case management conference took place on 11 February 2016. By an Order dated 12 February 2016, the Chairman made various directions concerning the future conduct of the case. The substantive hearing took place between 18 and 25 May 2016 (outside of the period covered by this report).	15-16	4	1					Ongoing
British Telecommunications plc v Office of Communications (WMO) Case: 1246/8/3/16 20 January 2016 Notes: British Telecommunications plc (BT) challenged a decision by Ofcom contained in its statement entitled "Review of the pay TV wholesale must-offer obligation" dated 19 November 2015 (the WMO Statement). In the WMO Statement, Ofcom reviewed the conditions in the broadcasting licences held by Sky for Sky Sports 1, Sky Sports 2, Sky Sports 1 HD and Sky Sports 2 HD, which Ofcom had imposed in 2010 (the WMO Remedy). Ofcom considered whether Sky UK Limited might limit wholesale distribution channels carrying key sports content to competing pay TV retailers and whether that would prejudice fair and effective competition. Ofcom concluded that further regulation was not appropriate and removed the WMO Remedy. A case management conference took place on 18 February 2016 and case management directions were given in a reasoned Order dated 25 February 2016. On 11 and 14 April 2016, the Tribunal made Orders on disclosure. A further case management conference took place on 7 July 2016; the hearing will take place from 3 to 14 October 2016 (outside of the period covered by this report).	15-16	1	1		1			Ongoing

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 2016
Shahid Latif & Mohammed Abdul Waheed v Tesco Stores Limited Case: 1247/5/7/16 5 February 2016 Notes: Claim for damages in respect of an alleged infringement of the prohibitions contained in the Competition Act 1998. The Claimant applied for fast-track designation. Following a settlement agreed by the parties, the proceedings were closed by an Order of the President dated 17 March 2016.	15-16							Closed
Peugeot S.A. and Others v NSK Ltd and Others Case: 1248/5/7/16 25 February 2016 Notes: Claim for damages under section 47A of the Competition Act 1998 based on the decision of the European Commission dated 19 March 2014 relating to a proceeding under Article 101 of the TFEU and Article 53 of the EEA Agreement (COMP/39922 - Bearings). An application for permission to serve the claim form out of the jurisdiction on three Defendants was determined on the papers by the President on 3 March 2016.	15-16							Ongoing
Total	15-16	9	4	3	25	13	4	

Overall case activity within the period 1 April 2015 to 31 March 2016

	2015/16	2014/15	2013/14
Appeals, applications and claims received	11	10	19
of which:			
section 46 Competition Act 1998 ¹	0	0	2
section 47 Competition Act 1998 ²	0	0	1
section 47A Competition Act 1998 ³	6	3	1
section 47B Competition Act 1998 ⁴	0	0	0
section 120 Enterprise Act 2002 ⁵	1	3	4
section 179 Enterprise Act 2002 ⁶	0	3	6
section 192 Communication Act 2003 ⁷	3	1	5
section 317 Communications Act 2003 ⁸	1	0	0
applications for interim relief	0	0	0
Applications to intervene	9	26	24
Case management conferences held	4	6	8
Hearings held (sitting days)	3(25)	10(16)	8(28)
Judgments handed down	13	25	28
of which:			
Judgments disposing of main issue or issues	3	5	7
Judgments on procedural and interlocutory matters	6	10	14
Judgments on ancillary matters (e.g. costs)	4	10	7
Orders made	52	114	106

1. An appeal by a party to an agreement or conduct in respect of which the CMA (or one of the other regulators with concurrent powers to apply the 1998 Act) has made an "appealable decision".

2. An appeal against an "appealable decision" made by the CMA 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.

3. A claim for damages, any other claim for a sum of money or, in proceedings in England, Wales or Northern Ireland, a claim for an injunction by a person who has suffered loss or damage as a result of an infringement or an alleged infringement of the 1998 Act or of EU competition law.*

4. Until 1 October 2015, a claim for damages or other claim for a sum of money brought by a "specified body" on behalf of two or more consumers. After 1 October 2015, proceedings brought before the Tribunal combining two or more claims to which section 47A applies ("collective proceedings").*

5. An application by "any person aggrieved" by a decision of the CMA 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.

6. An application by "any person aggrieved" by a decision of the CMA or the Secretary of State in connection with a market investigation reference or possible market investigation reference under the 2002 Act.

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.

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).

*On the 1 October 2015, the Consumer Rights Act 2015 came into force. This amended sections 47A and 47B of the 1998 Act.



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Tribunal's and CS's Accountability Report for the year ended 31 March 2016

DIRECTOR'S REPORT

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 Tribunal's membership comprises: the President, Sir Peter Roth; the panel of Chairmen, comprising Judges of the Chancery Division of the High Court and five Fee-paid Chairmen, namely Herriot Currie QC, Peter Freeman CBE, QC (Hon), Andrew Lenon QC, Hodge Malek QC and Marcus Smith QC; the panel of Ordinary Members; and the Registrar, Charles Dhanowa OBE, QC (Hon).

The President, the Registrar and a non-executive member, Susan Scholefield CMG, constitute the Board of the CS. Iliia Bowles, Tribunal/CS Director, Operations, acts as the secretary to the meetings. The Board ensures 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.

The CS holds a Register of Interests detailing any directorships or other significant interests held by CS Board members.

The work of the Tribunal/CS 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.

STATEMENT OF THE ACCOUNTING OFFICER'S RESPONSIBILITIES IN RESPECT OF THE TRIBUNAL AND THE CS

Under Paragraph 12 of Schedule 3 of the Enterprise Act 2002 (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, cash flows and total recognised gains and losses 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. The responsibilities of the Accounting Officer (which include 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.

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;
- 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 establish that the Tribunal/CS's external auditors are aware of that information;
- this annual report and accounts, as a whole, is fair, balanced and understandable;
- I take personal responsibility for this annual report and accounts and the judgement required for determining that it is fair, balanced and understandable.

GOVERNANCE STATEMENT

Purpose

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 performance 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 also informs the Accounting Officer how well internal controls operated in the year and assists in making informed decisions about progress against the Business Plan.

Scope of responsibility

As Accounting Officer, I have ensured that a 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 the Audit and Risk Committee of the CS to which reports are regularly made. In addition, our internal auditors, Government Internal Audit Agency (GIAA), 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 also available from our sponsor team in BIS. In my role as Accounting Officer, I am directly responsible to the Accounting Officer of BIS and, ultimately, to Parliament.

CS's governance structure

The President, a non-executive member (Susan Scholefield CMG) and I constitute the formal membership of the CS Board, which usually meets three to four times a year to consider the strategic direction of the organisation. On an ad hoc basis, and pending his formal appointment to the CS Board, Peter Freeman (a member of the Tribunal's panel of chairmen) also attends board meetings. The President and I have a detailed knowledge of the working of the Tribunal and the CS, and Susan Scholefield and Peter Freeman provide the Board with wider knowledge and experience of strategic organisational and corporate governance matters. The Director, Operations acts as secretary to the Board. Reports on workload, financial and administrative matters and the work of the Audit and Risk Committee are standing agenda items for Board meetings. All Board meetings during the year were fully attended.

The Audit and Risk Committee is chaired by Susan Scholefield and also comprises two Members of the Tribunal, Stephen Harrison and Brian Landers, with considerable accounting experience. Meetings of the Audit and Risk

Committee are attended by representatives of both the CS's internal and external auditors and often by a representative of our sponsor team at BIS. The Audit and Risk Committee reviews the financial performance of the Tribunal/CS and examines the annual report and accounts prior to publication. At each meeting, auditors and 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 acts as secretary to the Audit and Risk Committee. A majority of the members of the Committee attended each of its meetings during the year.

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.

Risk and internal control framework

The CS maintains a risk register which highlights the strategic risks faced by the organisation. Risks are rated according to their impact and likelihood. The register is kept under review by the Registrar and the Director, Operations and is examined regularly by the Audit and Risk Committee. The CS endeavours to ensure that there is a strong understanding of risk throughout the organisation and that Tribunal Members and CS staff are fully aware of risks in the performance of their duties.

Detailed monthly management accounts are circulated to the Registrar, Director, Operations, Audit and Risk Committee members and attendees and BIS sponsor team. Quarterly grant-in-aid requests provide BIS with highly detailed information on the CS's financial position. In addition, CS's senior management meets BIS staff regularly to share management and financial information.

Each year, a Business Plan is produced, which identifies the work objectives for the year. The plan is approved by the CS Board and copied to BIS for information. The key business objective of the CS is the performance of its statutory purpose to fund and provide support services to the Tribunal. The work of the Tribunal can be subject to pronounced and unexpected fluctuations driven by the activities of the competition and economic regulators, factors in particular business sectors and the wider economy, and the propensity and ability of businesses to litigate competition law issues.

The majority of CS contractors are selected from the Crown Commercial Service (CCS), an executive agency sponsored by the Cabinet Office, that provides centralised commercial and procurement services for the Government and the UK public sector.

In accordance with BIS policy, the CS has put in place preventative measures to lessen the risk of fraud.

During the year under review, one individual providing services to the CS was not paid through the payroll system. However, steps were taken to verify full compliance with tax requirements regarding this matter.

Internal audit review

The internal auditors report on the adequacy and effectiveness of the CS's systems of internal control and provide recommendations for improvement to senior management who undertake to respond within agreed timescales. As stated above, internal audit services are provided by GIAA and their work complies with Public Sector Internal Audit Standards.²

In the financial year ended 31 March 2016, Internal Audit work included the usual audit of key financial and accounting controls as well as an audit of the HR function. The Head of Internal Audit provided a substantial (green) opinion on the adequacy and effectiveness of both fields of work.

Data security

I am the Senior Information Risk Owner, supported by a Departmental Security Officer and an IT Security Officer.

During the year, there was one incident involving the loss of an encrypted memory stick containing confidential information (although not including any personal data) which had been sent by post to one of the Tribunal Members in contravention of the CS's policy with regard to the transmission of such material. The incident was reported to the Audit and Risk Committee and all affected external parties. There were no incidents involving loss of personal data during the year.

Although all members of staff routinely and once a year complete the online information awareness training made available by the Civil Service Learning via BIS, in the light of the above incident, a number of steps were taken to increase staff awareness of the CS's policies and procedures concerning confidential information and the need to adhere closely to them.

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 and Risk Committee and the external auditors' reports.

My overall conclusion is that the CS has established a solid governance structure and put in place a range of systems and processes to support this. However, these, of course, remain subject to continuous review and further work to deal with any emerging issues.

² <http://www.cipfa.org/policy-and-guidance/standards/public-sector-internal-audit-standards>

REMUNERATION AND STAFF REPORT FOR THE TRIBUNAL AND THE CS FOR THE YEAR ENDED 31 MARCH 2016

Remuneration policy

The remuneration of the President and the Registrar are determined by the Secretary of State under Schedule 2 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 2015/16, the salary of the Registrar increased by 1 per cent in accordance with government pay limits.

The salary costs of the President are charged to the Tribunal's Statement of Comprehensive Net Expenditure. The salary costs of the Registrar are charged to the CS's Statement of Comprehensive Net Expenditure.

Fee-paid Tribunal Chairmen (i.e. those Tribunal Chairmen who do not hold full time judicial office) are remunerated at a rate of £600 *per diem*, a rate which was set at the inception of the Tribunal in 2003. Ordinary Members are remunerated at a rate of £350 *per diem*, which has remained unchanged since 2006. The cost of remuneration of Fee-paid Tribunal Chairmen and Ordinary Members is charged to the Tribunal's Statement of Comprehensive Net Expenditure.

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 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 Statement of Comprehensive Net Expenditure.

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 2015 (SI 2015 No 1648).

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.

Single total figure of remuneration

	Salary (£'000)		Pension benefits (to nearest £1,000) ³		Total (£'000)	
	2015/16	2014/15	2015/16	2014/15	2015/16	2014/15
President	175 - 180	175 - 180	91,000	92,000	265 - 270	265 - 270

In 2015/16, the full-time equivalent salary for the President's post was £175,000 - £180,000 (2014/15: £175,000 - £180,000).

Single total figure of remuneration

	Salary (£'000)		Pension benefits (to nearest £1,000) ³		Total (£'000)	
	2015/16	2014/15	2015/16	2014/15	2015/16	2014/15
Registrar (Highest Paid Officer)	95 - 100	95 - 100	32,000	23,000	130 - 135	120 - 125
Median Total Remuneration (£)					40,838	39,486
Ratio					2.41	2.47

In 2015/16, the full-time equivalent salary for the Registrar's post was £95,000 - £100,000 (2014/15: £95,000 - £100,000).

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. For 2014/15, as there were an even number of employees, the median total remuneration was calculated as the average of the middle two employees' total remuneration.

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

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

The non-executive member of the CS is remunerated at a rate of £350 per day (2014/15: £350 per day) and, as noted above, the rate is unchanged since 2003. Total remuneration in 2015/16 was £4,025 (2014/15: £4,375).

Benefits in kind

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

³ The value of pension benefits accrued during the year is calculated as (the real increase in pension multiplied by 20) plus (the real increase in any lump sum) less (the contributions made by the individual). The real increases exclude increases due to inflation or any increases or decreases due to a transfer of pension rights.

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 reduced by £2,000 to £20,000 in 2015/16 but only 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 CS's general fund.

STAFF REPORT

Tribunal

(a) Remuneration costs for the Fee-paid Tribunal Chairmen are shown in the table below.

	2015/16 £	2014/15 £
Heriot Currie QC	1,757	600
Peter Freeman CBE, QC (Hon)	27,686	26,468
Andrew Lenon QC	21,600	4,714
Hodge Malek QC	5,846	1,629
Marcus Smith QC	44,957	7,935

Fee-paid Tribunal Chairmen are remunerated at a rate of £600 per day (2014/15: £600 per day) or pro rata. Their remuneration costs are included in the table in note (d) below.

Salary costs of those Judges who hold full time judicial office and have been appointed or nominated to sit as Tribunal Chairmen are paid by the MOJ (in respect of Judges of the High Court of England and Wales) or the Supreme Courts of Scotland (in respect of Judges of the Court of Session).

(b) Ordinary Members are remunerated at a rate of £350 per day (2014/15: £350 per day). Total remuneration of £55,277 paid to Ordinary Members in 2015/16 (2014/15: £62,788) is included in the table in note (d) below.

(c) Total cost of Members' remuneration is shown in the table below.

(d) In 2015/16, benefits in kind of £1,479 were paid to Heriot Currie QC (2014/15: £179). In 2014/15, Peter Freeman CBE, QC (Hon) received £142 benefits in kind. No other Chairmen have received benefits in kind.

	2015/16 £'000	2014/15 £'000
Members' remuneration (including the President, Chairmen and Ordinary Members)	335	279
Social security costs	38	31
Pension contributions for the President	68	57
Total Members' remuneration	441	367

CS

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

	Total 2015/16 £'000	Permanently employed staff 2015/16 £'000	Temporary employed staff 2015/16 £'000	Total 2014/15 £'000
Wages and salaries	657	634	23	655
Social security costs	55	55	-	56
Other pension costs	136	136	-	133
Total employee costs	848	825	23	844

(b) There were no losses and special severance payments made in 2015/16.

(c) The average number of staff employed during the year (full time and part time) was 16 (unchanged from the previous year). One temporary agency staff was employed between February and September 2015.

(d) The Tribunal/CS continues to maintain a diverse workforce. As at 31 March 2016, the gender breakdown of the 16 permanent staff members were: 6 male (37.5 per cent) and 10 female (62.5 per cent). One member of staff is a SCS equivalent.

(e) The staff absence rate (1 per cent of working days or 2.4 days sick days per annum per staff) is below the average for both the private and public sectors.

(f) We operate a fair recruitment policy which is based on merit and open to all, including those with a disability.

PENSIONS APPLICABLE TO THE TRIBUNAL AND THE CS

Judicial pensions

The majority of the terms of the judicial 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 2015/16, has been assessed at 38.45 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 Ministry of Justice (MoJ): JPS can be found on the MoJ website.⁴

⁴ www.gov.uk/government/publications/Judicial-pension-scheme-accounts-2014-to-2015

The Judicial Pension Scheme 2015 (JPS 2015) came into effect on 1 April 2015 and applies to all new members appointed from that date onwards and to those members and Fee-paid judicial office-holders who are currently in service and who do not have transitional protection to allow them to continue as a member in the previous scheme.

Civil Service pensions

Pension benefits are provided through the Civil Service pension arrangements. From 1 April 2015, a new pension scheme for civil servants was introduced – the Civil Servants and Others Pension Scheme or alpha, which provides benefits on a career average basis with a normal pension age equal to the member's State Pension Age (or 65 if higher). From that date, all newly appointed civil servants and the majority of those already in service joined alpha. Prior to then, civil servants participated in the Principal Civil Service Pension Scheme (PCSPS), which included four sections: three providing benefits on a final salary basis (classic, premium or classic plus), with a normal pension age of 60; and one providing benefits on a whole career basis (nuvos), with a normal pension age of 65. These statutory arrangements are unfunded with the cost of benefits met by monies voted by Parliament each year.

Pensions payable under classic, premium, classic plus, nuvos and alpha are increased annually in line with Pensions Increase legislation. Existing members of the PCSPS, who were within 10 years of their normal pension age on 1 April 2012, remained in the PCSPS after 1 April 2015. Those who were between 10 years and 13 years and 5 months from their normal pension age on 1 April 2012 are expected to switch into alpha sometime between 1 June 2015 and 1 February 2022. All members who switch to alpha have their PCSPS benefits "banked", with those with earlier benefits in one of the final salary sections of the PCSPS having those benefits based on their final salary when they leave alpha.

Employee contributions are salary related and range between 3 per cent and 8.05 per cent of pensionable earnings for members of classic (and members of alpha, who were members of classic immediately before joining alpha) and between 4.6 per cent and 8.05 per cent for members of premium, classic plus, nuvos and alpha.

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. Benefits in alpha build up in a similar way to nuvos, except that the accrual rate is 2.32 per cent. 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.

Further information regarding the PCSPS is included in note 5 of the CS's accounts.

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).

The partnership pension account is a stakeholder pension arrangement, where employers make a basic contribution of between 8 per cent and 14.75 per cent (3 per cent and 12.5 per cent until 30 September 2015), depending on the age of the member, into a stakeholder pension product chosen by the employee from a panel of 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 0.5 per cent of pensionable salary (0.8 per cent until 30 September 2015) to cover the cost of centrally-provided risk benefit cover (death in service and ill health retirement).

The accrued pension figures quoted for members are the pension that those members are entitled to receive when they reach pension age or when they cease to be an active member of the scheme if they are already at or over pension age. The figures show pension earned in PCSPS or alpha, as appropriate. Where the official has benefits in both schemes, the figure quoted is the combined value of their benefits in the two schemes but part of that pension may be payable from a different age.

Further details about the Civil Service pension arrangements can be found at www.civilservicepensionscheme.org.uk

Cash Equivalent Transfer Values

A Cash Equivalent Transfer Value (CETV) is the cash value of the pension scheme benefits accrued by a member at a particular point in time and is the amount that is available to transfer to another pension scheme when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The benefits values are the member's accrued benefits and any contingent spouse's pension payable from the scheme.

CETVs are calculated 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.

For the President (a member of the JPS), the pension figure shown below relates to the benefits that the post holder has accrued since being appointed as President of the Tribunal in November 2013. For the Registrar (a member of the PCSPS), the pension figure shown below relates to the benefits that the individual has accrued as a consequence of his entire membership to the pension scheme, not just his service in a senior capacity to which disclosure applies. The figure includes the value of any pension benefits in another scheme or arrangement which the member has transferred to the Civil Service pension arrangements. It also includes any additional pension benefits accrued to the member as a result of buying additional pension benefits at his own cost.

Real increase in CETV

The real increase in CETV 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 2015/16, employer contributions of £68,000 (2014/15: £57,000) were payable to the JPS at a rate of 38.45 per cent (2014/15: 32.15 per cent) of pensionable pay.

The following part of the Remuneration Report has been audited.

	Accrued pension as at 31 March 2016 and related lump sum £'000	Real increase in pension and related lump sum as at 31 March 2016 £'000	CETV at 31 March 2016 £'000	CETV at 31 March 2015 £'000	Employee contributions and transfers £'000	Real increase in CETV £'000
President	10 - 15 20 - 25	2.5 - 5 7.5 - 10	218	122	8	86

(b) Registrar's pension benefits

The Registrar's pension benefits are provided through the Civil Service Pension arrangements. For 2015/16, employer contributions of £24,000 (2014/15: £24,000) were payable to the PCSPS at a rate of 24.5 per cent (2014/15: 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 March 2016 and related lump sum £'000	Real increase in pension and related lump sum at age 60 £'000	CETV at 31 March 2016 £'000	CETV at 31 March 2015 £'000	Employee contributions and transfers £'000	Real increase in CETV £'000
Registrar	35 - 40 105 - 110	0 - 2.5 5 - 7.5	714	621	21	26

PARLIAMENTARY ACCOUNTABILITY REPORT

Apart from fees and charges, and remote contingent liabilities data, the Parliamentary Accountability Report does not apply to the Tribunal/CS.

Charles Dhanowa OBE, QC (Hon)

Registrar and Accounting Officer

12 July 2016

Tribunal's Audit Report

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 2016 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 and Staff Report and the Parliamentary Accountability Disclosures that is described in that report as having been audited.

Respective responsibilities of the Board, 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 the 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 2016 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's directions issued thereunder.

Opinion on other matters

In my opinion:

- the part of the Remuneration and Staff Report and the Parliamentary Accountability Disclosures to be audited have been properly prepared in accordance with Secretary of State's directions made under the Enterprise Act 2002; and
- the information given in the Performance Report and Accountability Report 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 and Staff Report and the Parliamentary Accountability Disclosures 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.

Sir Amyas C E Morse

13 July 2016

Comptroller and Auditor General

National Audit Office
157-197 Buckingham Palace Road
Victoria
London
SW1W 9SP

Tribunal's Statement of Comprehensive Net Expenditure as at 31 March 2016

	Note	2015/16 £'000	2014/15 £'000
Expenditure:			
Members' remuneration costs	3(b)	(441)	(367)
Other operating charges	4(a)	(93)	(69)
Total Expenditure		(534)	(436)
Income		–	–
Net Expenditure for the financial year		(534)	(436)

The notes on pages 62 to 65 form part of these accounts.

Tribunal's Statement of Financial Position as at 31 March 2016

	Note	31 March 2016 £'000	31 March 2015 £'000
Non current assets:			
Trade receivables and other receivables	5(a)	63	55
Total non current assets		63	55
Current assets:			
Trade receivables and other receivables	5(a)	112	59
Cash and cash equivalents		–	–
Total current assets		112	59
Total assets		175	114
Current liabilities:			
Trade payables and other payables	6(a)	(112)	(59)
Total current liabilities		(112)	(59)
Total assets less current liabilities		63	55
Non current liabilities:			
Other financial liabilities		–	–
Provisions	7	(63)	(55)
Total non current liabilities		(63)	(55)
Assets less liabilities		–	–
Taxpayers' equity:			
General fund		–	–
Total taxpayers' equity		–	–

The notes on pages 62 to 65 form part of these accounts.

Charles Dhanowa OBE, QC (Hon)

Registrar and Accounting Officer

12 July 2016

Tribunal's Statement of Cash Flows for the year ended 31 March 2016

	Note	2015/16 £'000	2014/15 £'000
Cash flows from operating activities:			
Net operating cost		(534)	(436)
(Increase) in receivables		(61)	(1)
Increase/(Decrease) in payables		53	(7)
Increase in provisions		8	8
Net cash (outflow) from operating activities		(534)	(436)
Cash flows from financing activities:			
Grant-in-aid	2	534	436
Increase/(Decrease) in cash in the period		—	—

The notes on pages 62 to 65 form part of these accounts.

Tribunal's Statement of Changes in Taxpayers' Equity for the year ended 31 March 2016

	General Fund £'000
Balance at 31 March 2014	0
Net operating cost for 2014/15	(436)
Net financing from BIS for 2014/15	436
Balance at 31 March 2015	0
Net operating cost for 2015/16	(534)
Net financing from BIS for 2015/16	534
Balance at 31 March 2016	0

The notes on pages 62 to 65 form part of these accounts.

Tribunal's notes to the accounts

1. Basis of preparation and statement of accounting policies

These financial statements have been prepared in accordance with the 2015/16 Government Financial Reporting Manual (FRoM). The accounting policies contained in the FRoM 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 a duty, under the Enterprise Act 2002, to meet all the expenses of operating the Tribunal. Accordingly, the Tribunal has no assets, liabilities, funds or cash flows.

Under an accounts directive contained in the FRoM, the Tribunal is to prepare accounts on the basis that it has directly incurred the expenses relating to its activities. On that basis therefore, the accounts of the Tribunal include those assets, liabilities and cash flows of the CS which relate to the Tribunal's activities.

Where the FRoM 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 FRoM 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. The debtor balance of £112,000, shown in note 5a below, is of the equal amount to the liability of £112,000, shown in note 6a below, which represents the amount that the CS shall transfer to meet those liabilities.

(c) Pensions

Pension arrangements for the President are mentioned separately in the Remuneration Report.

Fee-paid Tribunal Chairmen appointments are pensionable; Ordinary Members appointments are non-pensionable. We are awaiting information from MoJ to ascertain whether we are liable for the judicial pension contributions in relation to our Fee-paid Chairmen.

(d) Going concern

The financing of the Tribunal's liabilities is to be met by future grants of supply and the application of future income, both approved annually by Parliament. Approval for the amounts required in respect of the year to 31 March 2016 was given in April 2015. It has therefore been considered appropriate to adopt a going concern basis for the preparation of these accounts.

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 in financial year 2015/16 was £534,000 (2014/15: £436,000).

3. Members' remuneration

(a) The President and Chairmen are appointed by the Lord Chancellor upon the recommendation of the JAC. In addition, judges of the High Court of England and Wales, the Court of Session of Scotland and the High Court of Northern Ireland can be nominated (by the head of the judiciary for the relevant part of the United Kingdom) to sit as Tribunal Chairmen. Ordinary Members are appointed by the Secretary of State for a fixed term of up to eight years. The membership of the Tribunal is set out in the Introduction to this report.

(b) Members' remuneration costs are shown in the table below.

	2015/16 £'000	2014/15 £'000
Members' remuneration (including the President, Chairmen and Ordinary Members)	335	279
Social security costs	38	31
Pension contributions for the President	68	57
Total Members' remuneration	441	367

4. Other operating charges

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

	2015/16 £'000	2014/15 £'000
Members' travel and subsistence	30	13
Members' PAYE and National Insurance on travel and subsistence expenses	16	5
Members' training	33	37
Long service award	8	8
Audit fees*	6	6
Total other operating charges	93	69

*Audit fees relate to statutory audit work.

(b) The long service award is explained in note 7 below.

5. Trade receivables and other receivables

(a) Analysis by type

	31 March 2016 £'000	31 March 2015 £'000
Amounts falling due within one year:		
Trade receivables and other receivables with the CS	112	59
Amounts falling due after more than one year:		
Trade receivables and other receivables with the CS	63	55
Total trade receivables and other receivables	175	114

6. Trade payables and other payables

(a) Analysis by type

	31 March 2016 £'000	31 March 2015 £'000
Amounts falling due within one year:		
Taxation and social security	25	5
Trade payables	–	5
Accruals	87	49
Total trade payables and other payables	112	59

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.

7. Provisions for liabilities and charges

	Long service award costs £'000
Balance at 31 March 2015	55
Provided in the year	8
Balance at 31 March 2016	63

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 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 of the JPS on his retirement lump sum. For this year's disclosures the GAD have assumed that tax is paid on the lump sum at a rate of 45 per cent, the prevailing tax rate as at 31 March 2016. However, if the President is required to pay 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 current President is £19,000. The remaining provision held of £44,000 is payable to the previous holder of the office of President, at their retirement date.

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. These financial statements were authorised for issue on 13 July 2016, the date of certification by the Comptroller and Auditor General.

CS's Audit Report

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 2016 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 and Staff Report and the Parliamentary Accountability Disclosures that is described in that report as having been audited.

Respective responsibilities of the Board, 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 the 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 2016 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 the Secretary of State's directions issued thereunder.

Opinion on other matters

In my opinion:

- the part of the Remuneration and Staff Report and the Parliamentary Accountability Disclosures to be audited have been properly prepared in accordance with the Secretary of State's directions made under the Enterprise Act 2002; and
- the information given in the Performance Report and Accountability Report 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 and Staff Report and the Parliamentary Accountability Disclosures 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.

Sir Amyas C E Morse

13 July 2016

Comptroller and Auditor General

National Audit Office
157-197 Buckingham Palace Road
Victoria
London
SW1W 9SP

CS's Statement of Comprehensive Net Expenditure as at 31 March 2016

	Note	2015/16 £'000	2014/15 £'000
Expenditure:			
Funding the activities of the Tribunal		(534)	(436)
CS and Audit and Risk Committee Members' remuneration	3(a)	(8)	(7)
Staff costs	4(a)	(848)	(844)
Other expenditure	6	(2,067)	(2,068)
Depreciation	6	(158)	(25)
Loss on disposal of property, plant and equipment	6	(1)	–
Total expenditure		(3,616)	(3,380)
Income:			
Other income	7	5	5
Net expenditure		(3,611)	(3,375)
Interest received	7	1	2
Net expenditure after interest		(3,610)	(3,373)
Taxation	8	(0)	(0)
Net expenditure after taxation		(3,610)	(3,373)

All activities were continuing during the year.

The notes on pages 71 to 82 form part of these accounts.

CS's Statement of Financial Position as at 31 March 2016

	Note	31 March 2016 £'000	31 March 2015 £'000
Non current assets:			
Property, plant and equipment	9	83	106
Intangible assets	10	334	343
Total non current assets		417	449
Current assets:			
Trade receivables and other receivables	11(a)	55	344
Cash and cash equivalents	12	740	749
Total current assets		795	1,093
Total assets		1,212	1,542
Current liabilities:			
Trade payables and other payables	13(a)	(293)	(430)
Total current liabilities		(293)	(430)
Total assets less current liabilities		919	1,112
Non current liabilities:			
Financial liabilities	13(a)	(1,561)	(1,682)
Provisions	14	(63)	(55)
Total non current liabilities		(1,624)	(1,737)
Assets less liabilities		(705)	(625)
Taxpayers' equity:			
General fund		(705)	(625)
Total taxpayers' equity		(705)	(625)

The notes on pages 71 to 82 form part of these accounts.

Charles Dhanowa OBE, QC (Hon)

Registrar and Accounting Officer

12 July 2016

CS's Statement of Cash Flows for the year ended 31 March 2016

	Note	2015/16 £'000	2014/15 £'000
Cash flows from operating activities:			
Net deficit before interest		(3,611)	(3,375)
Adjustments for non-cash transactions	6	159	25
Decrease/(Increase) in receivables		289	(295)
(Decrease) in payables		(259)	(40)
Increase in provisions	14	8	8
Net cash (outflow) from operating activities		(3,414)	(3,677)
Cash flows from investing activities:			
Interest received	7	1	2
Taxation	8	–	–
Property, plant and equipment purchases	9	(12)	(60)
Intangible asset purchases	10	(115)	(219)
Proceeds of disposal of property, plant and equipment		1	–
Net cash generated from/(used in) investing activities		(125)	(277)
Cash flows from financing activities:			
Grant-in-aid from BIS	2	3,530	4,253
Net Increase in cash and cash equivalents in the period	12	(9)	299
Cash and cash equivalents at the beginning of the period	12	749	450
Cash and cash equivalents at the end of the period	12	740	749

The figure for purchase of assets represents the cash paid in the year. The payables amount is net of non-operating expenses relating to corporation tax accrued at 31 March 2016.

The notes on pages 71 to 82 form part of these accounts.

CS's Statement of Changes in Taxpayers' Equity for the year ended 31 March 2016

	General Fund £'000
Balance at 31 March 2014	(1,505)
Net operating cost for 2014/15	(3,373)
Net financing from BIS for 2014/15	4,253
Balance at 31 March 2015	(625)
Net operating cost for 2015/16	(3,610)
Net financing from BIS for 2015/16	3,530
Balance at 31 March 2016	(705)

The notes on pages 71 to 82 form part of these accounts.

CS's notes to the accounts

1. Statement of accounting policies

These financial statements have been prepared in accordance with the 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

A going concern basis has been adopted 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 referred to in Note 13 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 according to 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 for the Tribunal; all relevant costs related to these activities are included in the CS's accounts. Direct costs specifically attributable to the Tribunal are incurred initially by the CS but shown in the Tribunal's accounts.

Schedule 3 of the Enterprise Act 2002 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 for all non current assets using the straight line method at rates calculated to write off, in equal instalments, the cost of the asset at the beginning of the year over its expected useful life. Non current assets are depreciated from the month following acquisition and are 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

(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. 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 or alpha scheme. The CS recognises the expected costs of PCSPS and alpha pensions on a systematic and rational basis over the period during which it benefits from employees' services by payment to the PCSPS or alpha scheme of amounts calculated on an accruing basis. Liability for payment of future benefits is a charge on the PCSPS and alpha scheme.

In respect of the defined contribution element of the schemes, the CS recognises contributions payable in the year. The PCSPS and alpha scheme are therefore treated as defined contribution schemes and the contributions recognised as they are paid each year.

(i) Income

The CS's main source of income is from website and library service (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 Memorandum of Terms of Occupation (MOTO), in respect of the Tribunal/CS's accommodation in Victoria House.

(k) Financial instruments

Financial instruments play a limited role in creating and managing risk. The majority of the financial instruments for the CS relate to the purchase of non financial items and therefore expose little credit, liquidity or market risk.

(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 has financial liabilities which comprise payables and non-current payables. The current payables 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, for both current and non-current payables.

(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 makes provision 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. There is no discount applied to the provision.

Specific assumptions are given in note 14.

2. Government grant-in-aid

	2015/16 £'000	2014/15 £'000
Allocated by BIS	4,463	4,353
Total drawdown	3,530	4,253

3. The CS and Audit and Risk Committee Members' remuneration

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

	2015/16 £'000	2014/15 £'000
CS and Audit and Risk Committee Members' remuneration	8	7
Social security costs	–	–
Total CS and Audit and Risk Committee Members' remuneration	8	7

(b) The President's and the Registrar's salary costs are mentioned in the Remuneration and Staff Report.

(c) The remuneration of Susan Scholefield, the CS non-executive member and Chairman of the CS Audit and Risk Committee and CS Board, of £4,025 (2014/15: £4,375) is mentioned 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) Information on staff related costs is shown in the table below.

	Total 2015/16 £'000	Permanently employed staff 2015/16 £'000	Temporary employed staff 2015/16 £'000	Total 2014/15 £'000
Wages and salaries	657	634	23	655
Social security costs	55	55	-	56
Other pension costs	136	136	-	133
Total employee costs	848	825	23	844

5. Pension costs

The PCSPS and alpha scheme are unfunded multi-employer defined benefit schemes and the CS is therefore 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.civilservicepensionscheme.org.uk).

For 2015/16, employer contributions of £134,000 (2014/15: £132,000) were payable to the PCSPS and alpha scheme at one of the four rates available in the range of 20 to 24.5 per cent (2014/15: 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.

Employees can opt to open a partnership pension account, which is a stakeholder pension with an employer contribution. Employers' contributions of £1,465 (2014/15: £1,278) were paid to Standard Life, one of the PCSPS appointed stakeholder pension provider. Employer contributions are age-related and range from 3.0 to 12.5 per cent of pensionable pay until 30 September 2015 and 8.0 to 14.75 per cent of pensionable pay from 1 October 2015 onwards (2014/15: 3.0 to 12.5 per cent). Employers match employee contributions up to 3 per cent of pensionable pay. In addition, employer contributions of £100 of pensionable pay (2014-15: £136), were payable to the PCSPS to cover the cost of the future provision of lump sum benefits on death in service and ill health retirement of these employees (these contributions are calculated at 0.8 per cent until 30 September 2015 and 0.5 per cent from 1 October 2015).

6. Other expenditure

	2015/16 £'000	2014/15 £'000
Hire of plant and machinery	4	2
Other operating leases*	936	947
Non case related expenditure including internal audit fees	13	9
IT service fees	111	117
Accommodation and utilities**	741	752
Travel, subsistence and hospitality	20	11
Other administration including case related expenditure	221	212
Audit fees***	21	18
Non cash item		
Depreciation and loss on disposed of property, plant and equipment	159	25
Total other expenditure	2,226	2,093

* Other operating lease costs relate to the rental of office space at Victoria House, where the CS is a tenant of the CMA under a MOTO arrangement. The MOTO lasts for the duration of the CMA's 20 year lease, which commenced in September 2003.

** It is the CS's policy not to charge HMCTS and other government bodies for using Tribunal/CS's court facilities.

*** Audit fees relate to statutory audit work.

7. Tribunal/CS's income and interest received

	2015/16 £'000	2014/15 £'000
Website and library service income	5	5
Gross interest received	1	2
Total income	6	7

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

The website income relates to a contract with Bloomberg, a US publisher, for non-exclusive use of information published on the website. The library service income relates to a contract with LexisNexis Butterworths for inclusion of the Tribunal's Guide to Proceedings in one of their publications.

8. Taxation

As in the previous year, a negligible amount of corporation tax was payable. Corporation tax payable is based on 20 per cent of gross interest receivable (2014/15: 20 per cent).

9. Property, plant and equipment

	Information Technology (IT) £'000	Furniture and Fittings (F&F) £'000	Office Machinery £'000	Assets Under Construction £'000	Total £'000
Cost or valuation:					
At 31 March 2014	325*	337*	38	–	700
Additions	4	1	1	62	68
Disposals	90	–	–	–	90
At 31 March 2015	239	338	39	62	678
Depreciation:					
At 31 March 2014	308	322	15	–	645
Charged in year	7	4	6	–	17
Disposals	90	–	–	–	90
At 31 March 2015	225	326	21	–	572
Net book value at 31 March 2014	17	15	23	–	55
Asset financing:					
Owned	17	15	23	–	55
Net book value at 31 March 2015	14	12	18	62	106
Asset financing:					
Owned	14	12	18	62	106

* Included in the cost of fixed assets, shown in the table above, are IT assets with a value of £214,510 and F&F assets with a value of £183,201 which have been fully written down but are still in use.

	Information Technology (IT) £'000	Furniture and Fittings (F&F) £'000	Office Machinery £'000	Assets Under Construction £'000	Total £'000
Cost or valuation:					
At 31 March 2015	239*	338*	39	62	678
Capitalisation of assets under construction	62			(62)	–
Additions	9	1	2	–	12
Disposals	47	13	–	–	60
At 31 March 2016	263	326	41	–	630
Depreciation:					
At 31 March 2015	225	326	21	–	572
Charged in year	23	4	7	–	34
Disposals	44	15	–	–	59
At 31 March 2016	204	315	28	–	547
Net book value at 31 March 2015	14	12	18	62	106
Asset financing:					
Owned	14	12	18	62	106
Net book value at 31 March 2016	59	11	13	–	83
Asset financing:					
Owned	59	11	13	–	83

* Included in the cost of fixed assets, shown in the table above, are IT assets with a value of £176,053 and F&F assets with a value of £179,196 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 2014	241	12	253
Additions	5	321	326
At 31 March 2015	246	333	579
Amortisation:			
At 31 March 2014	228	–	228
Charged in the year	7	–	7
At 31 March 2015	235	–	235
Net book value at 31 March 2014	13	12	25
Net book value at 31 March 2015	11	333	344

	Purchased software licences £'000	SharePoint £'000	Assets under construction £'000	Total £'000
Cost or valuation:				
At 31 March 2015	246	–	333	579
Capitalisation of assets under construction	256	77	(333)	–
Additions	65	49	–	114
At 31 March 2016	567	126	–	693
Amortisation:				
At 31 March 2015	235	–	–	235
Charged in the year	94	30	–	124
At 31 March 2016	329	30	–	359
Net book value at 31 March 2015	11	–	333	344
Net book value at 31 March 2016	238	96	–	334

11. Trade and other receivables

(a) Analysis by type

	31 March 2016 £'000	31 March 2015 £'000
Amounts falling due within one year:		
Deposits and advances	9	8
Prepayments and accrued income	46	336
Total trade receivables and other receivables	55	344

There were no intra-government balances falling due after one year.

12. Cash and cash equivalents

	2015/16 £'000	2014/15 £'000
Balance at 1 April	749	450
Net change in cash balances	(9)	299
Balance at 31 March	740	749
The following balances were held at 31 March:		
Commercial banks	740	748
Cash in hand	0	1
Balance at 31 March	740	749

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

(a) Analysis by type

	31 March 2016 £'000	31 March 2015 £'000
Amounts falling due within one year:		
Payables representing activities of the Tribunal at 31 March	112	59
Taxation and social security	19	18
Trade payables	–	111
Accruals	102	175
Untaken leave accrual	37	44
Deferred income rent free	23	23
Total amounts falling due within one year	293	430
Amounts falling due after more than one year:		
Deferred income rent free	148	170
Operating lease liability	1,413	1,512
Total amounts falling due after more than one year	1,561	1,682

(b) 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 five month rent-free period for Victoria House over the expected full 20 year length of the MOTO 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 and 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 MOTO arrangement. From 1 April 2014, VAT is no longer payable on the operating lease liability obligations.

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

14. Provisions for liabilities and charges

	Long service award costs £'000
Balance at 31 March 2015	55
Provided in the year	8
Balance at 31 March 2016	63

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 has been 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 President on his retirement lump sum. For this year's disclosures, the GAD have assumed that tax is paid on his lump sum at a rate of 45 per cent, the prevailing tax rate as at 31 March 2016. However, if the President is required to pay 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 current office holder is £19,000. The remaining provision of £44,000 is payable to the previous office holder.

15. Commitments under operating leases

Commitments under operating leases show the rentals payable during the year following the year of these accounts; these rentals are given in the table below.

	31 March 2016 £'000	31 March 2015 £'000
Obligations under operating leases comprise:		
Buildings:		
Not later than one year	1,059	842
Later than one year and not later than five years	4,584	4,445
Later than five years	2,990	4,188
Other:		
Not later than one year	3	3
Later than one year and not later than five years	6	–
Later than five years	–	–
Total obligations under operating leases	8,642	9,478

The obligations under operating leases include an increase of 2.5 per cent compounded over every five years and equating to 13 per cent applied from September 2008 for land and buildings. Note 6 of these accounts 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 that financial instruments have had during the period in creating or changing the risks that 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, 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. As all material assets and liabilities are denominated in sterling, the CS 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 £740,000 as at 31 March 2016.

17. Related party transactions

During the year, the CS had various material transactions with the CMA relating mainly to the occupancy of Victoria House.

The CS's sponsor department is BIS from which it receives grant-in-aid. During the year, the CS had various other material transactions with BIS. In addition, the CS had material transactions with the MoJ and the Cabinet Office to which accruing superannuation liability charges and employee contributions are paid for the President and permanent staff respectively. Salary and national insurance for the President are also 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. Events after the reporting period

There were no events after the reporting period to report. These financial statements were authorised for issue on 13 July 2016, the date of certification by the Comptroller and Auditor General.

Competition Appeal Tribunal
Victoria House, Bloomsbury Place
London, WC1A 2EB
Telephone: 020 7979 7979
Facsimile: 020 7979 7978

www.catribunal.org.uk