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# Introduction

The Competition Appeal Tribunal (“CAT”) comprises the President, Sir Christopher Bellamy; a panel of chairmen (comprising each of the judges of the Chancery Division of the High Court and Marion Simmons QC); a panel of 19 ordinary members (with backgrounds in law, economics, accountancy, business and other related areas); and the Registrar, Charles Dhanowa. Four legally qualified Referendaires assist the CAT in the conduct of cases.

The CAT hears appeals against decisions of the Office of Fair Trading (OFT) under Chapters I and II of the Competition Act 1998 and since 1 May 2004 Articles 81 and 82 of the EC Treaty; decisions of regulators in the main utility, railway and air traffic service sectors under those provisions; decisions made by the Office of Communications (OFCOM) under the Communications Act 2003; and decisions of the OFT, the Competition Commission or the Secretary of State on merger cases and market investigations under the Enterprise Act 2002. The CAT can also hear certain actions for damages arising out of an infringement of UK or EC competition law. Each case is decided by the President or a chairman, and two ordinary members.

The decisions of the CAT can be appealed to the Court of Appeal, the Court of Session in Scotland or the Court of Appeal in Northern Ireland.

The Competition Service (CS) is an executive Non Departmental Public Body, also set up under the Enterprise Act 2002, to provide the administrative staff, finance and accommodation that the CAT needs in order to carry out its functions. The membership of the CS comprises the President, the Registrar and a non-executive member, Janet Rubin who is also chair of the Audit Committee. The Director, Operations is Jeremy Straker.

## Premises

The CAT operates from premises in Victoria House, Bloomsbury Square, where it has two modern courtrooms at its disposal.

## Recruitment of Members

Ordinary members are recruited in open competition according to the guidelines of the Office of the Commissioner of Public Appointments (OCPA) and are appointed by the Secretary of State for Trade and Industry. The President and chairmen are appointed by the Lord Chancellor, by open competition as appropriate.

## Finance and Workload

The work of the CAT is financed entirely through grant-in-aid from the Department of Trade and Industry and administered by the CS. The Registrar is the accounting officer and therefore responsible for the proper use of these funds.

# President's statement



## The case load

The last year has again been a busy period for the CAT. A total of 20 new cases were received in the year to 31 March 2005, including the first two appeals under the Communications Act 2003 and two applications for review under the merger provisions of the Enterprise Act 2002.

Altogether, some 26 judgments and rulings were handed down. These included three substantive decisions in relation to anti-competitive agreements or concerted practices concerning football replica shirts (JJB and Allsports), toys (Argos and Littlewoods) and flat roofing (Apex Asphalt and Richard W Price). In those judgments the CAT has had occasion to apply the law relating to agreements and concerted practices caught by the Chapter I prohibition of the Competition Act 1998 ("the 1998 Act") to cases of considerable factual complexity.

In the context of the JJB and Allsports cases, the CAT took the opportunity to clarify the law relating to the standard of proof applicable to such appeals under the Act. The Apex Asphalt and Richard W Price cases were notable in that they were the first cases in which the CAT has had occasion to consider the application of the Chapter I prohibition to collusive tendering situations (an area which has rarely been the subject of case law of the Community courts). In these various cases the CAT also considered the principles to be applied when setting the penalty.

With regard to the communications sector, the CAT also handed down its first two substantive decisions in relation to the Communications Act 2003 (both in respect of appeals brought by BT) and, in the Floe Telecom case, decided to remit to OFCOM its decision that Vodafone had not infringed the Chapter II prohibition of the 1998 Act. In the latter case the CAT considered the requirement for providers of telecommunications services to be licensed under the Wireless Telegraphy Act 1949 ("WTA"), the scope of the licences issued under section 1 of the WTA and the circumstances in which a dominant undertaking can be objectively justified in taking enforcement action under the WTA without first referring the matter to the regulatory authority.

Just as last year, there have been a number of significant judgments dealing with issues of procedure. In Pernod-Ricard the CAT gave further guidance on what is to be considered an appealable decision and on the position of third parties in the administrative procedure before the UK competition authorities.

A number of other judgments have dealt with issues as diverse as costs, confidentiality and disclosure of documents, the binding commitments regime established under s31A of the 1998 Act, and the circumstances in which an appellant will be permitted to amend his notice of appeal.

The CAT has continued its policy of hearing cases with a particular regional interest in that region. In January of this year, the CAT sat in the Sheriff Court in Edinburgh to hear the latest stage of the Claymore Chapter II case. The practice of making site visits to view particular facilities or installations that form part of the important factual background to cases has also continued with the CAT visiting water treatment facilities in North Wales in connection with the Albion Water/ Dŵr Cymru case.

The last year has also seen the conclusion of the first "follow-on" damages actions under s47A of the 1998 Act, which were commenced in February 2004 on the back of the European Commission's Vitamins cartel decision issued in 2001. During the year the CAT gave interlocutory judgments on applications for permission to join parties to existing proceedings and security for costs. The main hearing in those proceedings was due to take place in February 2005 but, in the event, the parties agreed a settlement and the actions were dismissed by consent in early April 2005.

## The CAT's jurisdiction

The modernisation of European competition law pursuant to the entry into force of Regulation No. 1/2003 on 1 May 2004, which I briefly mentioned last year, has now taken full effect in the UK. The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 ("the 2004 Regulations") have now amended

**President's statement (continued)**



the 1998 Act to give the CAT jurisdiction to hear appeals on the merits in respect of decisions taken by the OFT and other regulators under Articles 81 and 82 of the Treaty in addition to their decisions taken pursuant to the Chapter I and Chapter II prohibitions in the 1998 Act (the national law equivalents of those provisions). The changes to the European and national competition law regimes have also meant that the OFT and other regulators now have power to accept binding commitments from undertakings with a view to bringing infringements of the European or national law prohibitions to an end. The exercise of those powers are subject to judicial review by the CAT.

Another important change to the CAT's jurisdiction arising out of the 2004 Regulations was the introduction of a right of appeal by third parties in respect of a refusal by the OFT or other regulator to order interim measures. This is a very important development, because it allows the CAT to preserve a particular state of affairs pending a further investigation by the relevant authority or appeal to the CAT on the merits. This may be of particular importance to the short term financial viability of small and medium-sized businesses properly raising competition concerns with regard to particular agreements or conduct. The CAT has already been faced with such considerations in two cases this year (Albion Water/Dŵr Cymru and Burgess) where short term

arrangements were agreed between the parties against the background of the possible exercise of the CAT's power to order interim measures pending the hearing of the substantive issues under appeal.

Finally in relation to the CAT's jurisdiction under the Communications Act 2003, amendments were made to the CAT's rules of procedure pursuant to the Competition Appeal Tribunal (Amendment and Communications Act Appeals) Rules 2004 to make detailed provision for the determination of price control matters.

### Membership

There has been no change to the membership during the year, a fact which I welcome for it means that our present membership continues to increase its experience of hearing cases and we can maximise the effort we put into the training programme (which I mention below). I remain extremely grateful to all the members for the time and effort they put into reading and preparing to decide cases. All of them take their duties extremely seriously and have always been prepared to reschedule their commitments to fit the demanding requirements of case timetables.

We have been grateful for the assistance of the judges of the Chancery Division who have started to sit as chairmen of the CAT. I have also been greatly assisted by the other member of our panel of chairmen, Marion Simmons QC who has been responsible for a

number of important cases during the year. This, together with the fact that we intend, with the assistance of the Department of Constitutional Affairs, to launch a competition to recruit other part-time chairmen should over the next year lead to a further increase in the efficiency of the CAT.

### Training

The CAT has always attached importance to the provision of a continuing programme of training for its members. In the early stages, the focus was on familiarising all members with the requirements of the legal framework within which the appeal process must operate. In subsequent years, a good deal of effort has been put into tracking the rapid pace of legislative change in both the UK and the EC and into alerting members to its implications for the CAT.

At the beginning of 2004, I approved a formal training strategy to cover the period up to March 2005. This provided for an ongoing training programme built around the objectives of:

- (a) keeping members abreast of continuing legislative changes and of major developments in competition law and in economic regulation;
- (b) enabling members to deepen their understanding of the economic and legal concepts underlying competition law;

## President's statement (continued)

(c) providing a forum for members to review the evolving jurisprudence of the CAT; and

(d) assisting members to develop their IT skills and to take full advantage of the resources available through the CAT library.

The principal vehicle through which these objectives have been carried forward is a series of bi-monthly seminars attended by all members and senior staff and, most recently, by some of the Judges of the Chancery Division. We have had a number of external speakers, but we have also been able to call on the economist members of the CAT to explain economic concepts and techniques of analysis.

### Speeches and seminars

In addition to a busy year in terms of CAT business, I was pleased to be invited to assist the European Commission in its consideration of the subject of private enforcement. I was also asked to attend a meeting of the OECD Competition Committee in Paris on the same subject.

In October 2004 I gave a public lecture on the work of the CAT as part of the Beesley Lectures on Regulation organised jointly by the Institute of Economic Affairs and the London Business School at the Royal Society. I also chaired a conference at the British Institute of International and Comparative Law in London on developments in competition litigation and spoke at several other conferences, including a seminar organised by the Utility

Strategy Group on utility price controls.

In November 2004 Adam Scott spoke at a seminar held by the European Institute for Public Administration in Maastricht on national legal systems and the new regulatory framework in Electronic Communications.

### Association of European Competition Law Judges (AECLJ)

As indicated in last year's review I had the honour of being re-elected as the President of the AECLJ which brings together judges from across the European Community with a role in deciding competition law cases. The CAT provides the secretariat for the AECLJ and during the year organised its third conference which took place on 18 and 19 July 2004 in the magnificent surroundings of the Grand Salle at the Cour de Cassation in Paris. We were fortunate enough to attract distinguished speakers including Professor Frederic Jenny, Professor Sir John Vickers, Professor Walter Van Gerven and Professor Christian von Weizsäcker. The AECLJ will be holding its fourth conference in London this year at the CAT.

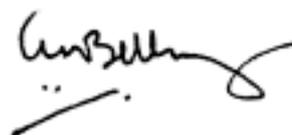
### Visits from overseas delegations

During the year the CAT received delegations from the Singapore Ministry of Trade and the Department of Foreign Affairs, Ministry of Justice and Supreme People's Court of the Republic of China. We were also fortunate to receive visits from the President of the Court of First Instance of

the European Communities and Judge Lenaerts of the European Court of Justice as well as the President of the Competition Council of Romania and the Chairman of the Irish Competition Authority.

### Council on Tribunals

An observer from the Council on Tribunals attended a hearing at the CAT during May 2004. I am pleased to report that the observer commended the efficiency and effectiveness of the Registry team and commented positively on the rapid progress made by the CAT since its inception. The observer was particularly impressed by the quality of support enjoyed by the CAT and the good working relationships that exist between CAT members and staff which set a standard to be emulated. We of course are delighted to receive such comments and I would like in particular to express my thanks to all the CAT's staff who have worked magnificently throughout the year.



Sir Christopher Bellamy  
President

# Registrar's statement



The year April 2004 to March 2005 has primarily been one of consolidation and settling the Competition Appeal Tribunal (CAT) and the Competition Service (CS) into the new premises at Victoria House (following the move from New Court in February 2004), whilst at the same time dealing with the demands of a rising caseload.

As the CAT is still a relatively new body our working procedures and practice continue to evolve rapidly as speedy and effective mechanisms are needed to deal with the new practical issues thrown up by the cases on a daily basis. Our aim is to consolidate the practice and procedure of the CAT in a new version of the guide to appeals to be published later this year.

We continue to integrate information technology into our methods of operation both in terms of case handling and general administration. To this end we have initiated detailed reviews of both our IT systems and our audio visual systems in our courtrooms to assist us both in making fuller use of the equipment we already have and in planning for our future requirements in terms of maintenance, replacement and development. In addition, we are currently investing in an electronic document records management system, which will allow us to store and search documents more efficiently, hone the efficiency of workflow patterns and the tracking of cases.

Of course we are mindful of the need to operate within tight financial restraints. Last year we achieved large efficiency savings through a variety of measures. Many of our costs are now fixed and those that are variable largely depend on the number of cases handled by the CAT during the year. However we continue to examine ways of keeping costs to the necessary minimum. In line with the policy of the Gershon review of public sector efficiency the CS currently shares facilities management services with the Competition Commission (CC), which is also based in Victoria House, on a basis which safeguards the independence of the CAT.

As the President has mentioned, of fundamental importance to the work of the CAT is its cadre of dedicated, committed and able staff. The fact that the staff absence rate for most of the last year was less than 1% is testament to their motivation and commitment as is the fact that the CAT staff are willing to work flexibly in order to accommodate the demands of cases, as for example in the Vitamins damages actions where, on occasion, the CAT had to sit into the early evening to deal with case management issues.

To ensure that we are able to use the skills of our staff to best effect, we have commissioned a training needs analysis, which has highlighted where we need to concentrate our training effort and upon which we have based

our training plan for the forthcoming year. Also, we have designed and implemented a new staff appraisal system, which is intended to be more transparent and objective and which will inform the next performance related pay award.

We have welcomed a number of new staff during the year. Two new Referendaires (legally qualified staff who assist the CAT in the conduct of cases) Collette Rawnsley and Gerry Darbon have been appointed to replace Ben Rayment, who has returned to the Bar to specialize in competition law, and Mark Jephcott, who has returned to private practice in the City of London. Elizabeth Kuiper has taken over from Catherine Webb as personal secretary to the President and Anthony Lewis has joined us as a case worker in the place of Paulina Spencer. Two further newcomers are Ritu Shah and Kimberley Smith as information and operations assistants. Overall our current complement of staff numbers 17 and we would expect to maintain that level for the foreseeable future based on our current range of functions.

A handwritten signature in black ink, appearing to read 'Charles Dhanowa'.

Charles Dhanowa  
Registrar

# Membership



## PRESIDENT

### **Sir Christopher Bellamy**

Sir Christopher Bellamy is President of the Competition Appeal Tribunal. After qualifying as a barrister, he practised mainly in the fields of competition law, EC law and public law. He was appointed Queen's Counsel in 1986. From 1992 to 1999 he was a judge of the Court of First Instance of the European Communities. He is also authorised to sit as a High Court judge, a judge of the Employment Appeal Tribunal, and a Recorder of the Crown Court.

## CHAIRMEN

### **The following judges of the Chancery Division of the High Court:**

The Honourable Mr Justice Lindsay  
The Honourable Mr Justice Evans-Lombe  
The Honourable Mr Justice Blackburne  
The Honourable Mr Justice Lightman  
The Honourable Mr Justice Rimer  
The Honourable Mr Justice Laddie  
The Honourable Mr Justice Lloyd  
The Honourable Mr Justice Park  
The Honourable Mr Justice Pumfrey  
The Honourable Mr Justice Hart  
The Honourable Mr Justice Lawrence Collins  
The Honourable Mr Justice Patten  
The Honourable Mr Justice Etherton  
The Honourable Mr Justice Smith  
The Honourable Mr Justice Lewison  
The Honourable Mr Justice David Richards  
The Honourable Mr Justice Mann

### **Marion Simmons QC**

Marion Simmons QC is a practising barrister. She was called to the Bar in 1970, and was appointed QC in 1994. She was appointed an Assistant Recorder in 1990 and has been a Recorder of the Crown Court since 1998 (sitting in criminal and civil cases). She is the Vice-Chairman of the Appeals Committee of the Institute of Chartered Accountants of England and Wales, a member of the Mental Health Review Tribunal (Restricted Patients Presidents Panel), a member of the Panel of Chairmen of the Disciplinary and Appeal Tribunals of the Accountancy Investigation and Disciplinary board and an Assistant Boundary Commissioner. Her main areas of practice are business, financial and commercial law, including banking, insurance, contract, partnership, financial services, professional negligence and discipline, the commercial aspects of company law, insolvency and the regulation and disciplinary functions of professional and equivalent bodies.



## MEMBERS

### Professor Andrew Bain OBE

Professor Andrew Bain OBE has held full professorships in economics at the universities of Glasgow, Strathclyde and Stirling, was for 6 years Group Economic Adviser at Midland Bank and has also worked as an economic consultant. Previous public appointments include membership of the Committee to Review the Functioning of Financial Institutions (the Wilson Committee on the City), the Monopolies and Mergers Commission, the Secretary of State for Scotland's Panel of Economic Consultants and the Board of Scottish Enterprise.

### Michael Blair QC

Michael Blair QC is a practising barrister with chambers in Gray's Inn and the Chairman of the Doctors' and Dentists' Pay Review Body. Until 2000 he was General Counsel to the Financial Services Authority. He served on the Bar Council for 9 years (including as Treasurer for four) and was employed as a civil servant in the Lord Chancellor's Department for 20 years. He is a past Chairman of the Bar Association for Commerce, Finance and Industry.

### Peter Clayton

Peter Clayton is a fellow of the Institute of Chartered Accountants in England and Wales. He has held senior financial positions in major FTSE 100 companies such as Group General Manager Finance of General Accident PLC and Group Financial Controller of Forte PLC. He was also Secretary of the Technical Committee of The Hundred Group of Finance Directors.

### Barry Colgate

Barry Colgate is a non-executive Director of The Michael Shanly Group. He has been Chairman of Harrington Food Group Ltd. and used to be Group Director of Planning/Legal and Business Advisor in Ranks Hovis McDougall. He is a Fellow of the Institute of Chartered Secretaries and Administrators. He was a Member of the Restrictive Practices Court.

### Michael Davey

Michael Davey is a solicitor of the Supreme Court of Northern Ireland and former chief executive of the Law Society of Northern Ireland. He has extensive experience of private commercial practice and is a Chairman of Industrial Tribunals and of the Social Security Appeal Tribunals.

### Peter Grant-Hutchison

Peter Grant-Hutchison is a Scottish advocate. He is a part-time chairman of the Social Security Appeal Tribunals and the Disability Appeal Tribunals and a part-time Immigration Adjudicator and a legally qualified member of the Mental Health Tribunal of Scotland.

### Professor Peter Grinyer

Professor Peter Grinyer is Emeritus Professor of Economics at the University of St Andrews, where he was also Vice-Principal, and is a visiting professor at Imperial College, London. He was, for some years, a visiting professor of New York University and has also held a chair at the City University. For eight years he was a member of the Scottish Legal Aid Board and has been non-executive director of a number of companies including McIlroy Coates and John Brown PLC. He is a member of the editorial boards of several journals on managerial economics and strategy.

### Sheila Hewitt

Sheila Hewitt is on the board of the Legal Services Commission. She is a JP, a member of the General Medical Council and a member of the Immigration Appeals Tribunal. She is an Associate of the Chartered Institute of Bankers, and an Independent Assessor for the Office of the Commissioner for Public Appointments.

## Membership (continued)



### **Ann Kelly**

Ann Kelly is an Independent Member of the Ministry of Defence Police Committee, a Deputy Electoral Commissioner, a Lay Member of the Discipline and Appeal Boards of the Royal Institution of Chartered Surveyors, a Lay Member of the Compliance Board and the Adjudication Panel of the Law Society of England and Wales and a Lay Member of the Registration and Conduct Committees of the General Social Care Council. She was Chairman of the West Berkshire Priority Care Service NHS Trust and a Member of the Police Complaints Authority. She is a Fellow of the Chartered Management Institute.

### **The Honourable Antony Lewis**

The Honourable Antony Lewis is a barrister and Chairman of the Mid Wales Food and Land Trust Ltd. From 1996 to 2003 he was Chairman of Powys Health Care NHS Trust and prior to that, Chairman of Powys Family Health Services Authority. He has been a lecturer in law at University College, Cardiff and a JP. He is widely involved in the charity sector, eg. as a trustee of the Frank Buttle Trust for Children and Young People, the Community Foundation in Wales and the Institute of Rural Health.

### **Graham Mather**

Graham Mather is a solicitor and President of the European Policy Forum, an independent international research institute. He has been Visiting Fellow of Nuffield College, Oxford and a reporting panel member of the Monopolies and Mergers Commission, now the Competition Commission. He has also been General Director of the Institute of Economic Affairs and Head of the Policy Unit of the Institute of Directors. He was MEP for Hampshire North and Oxford from 1994 to 1999. He is an advisor to Tudor Investment Corporation, a director of Greenham Common Trust and a member of the OFCOM Consumer Panel.

### **Professor John Pickering**

Professor John Pickering is an economic and Business Consultant and chairman of an educational trust. Former appointments have included: Dean, Vice-Principal and Professor of Industrial Economics at UMIST, Deputy Vice-Chancellor of the University of Portsmouth and Professor of Business Strategy at the University of Bath School of Management; visiting Professor at the Universities of Durham and Southampton. He served for nine years as a member of the Monopolies and Mergers Commission. He has also held various external positions of responsibility such as Church Commissioner and director of several companies.

### **Richard Prosser OBE**

Richard Prosser OBE has considerable experience of the small business sector. He currently holds non-executive directorships in engineering and agricultural supply businesses. He was until recently a reporting panel member of the Competition Commission and has served on a considerable number of inquiries.

### **Dr Arthur Pryor CB**

Dr Arthur John Pryor CB is an independent Consultant working on competition policy issues in developing countries. He is a former civil servant, and was Head of Competition Policy at the Department of Trade and Industry until his retirement in 1996. During his career in the Civil Service his senior positions included Director General of British National Space Centre and DTI Regional Director for the West Midlands.



### **Patricia Quigley WS**

Patricia S. Quigley WS is a solicitor and Writer to the Signet. She has been an in-house solicitor with the former Lothian Regional Council and practised in firms in Glasgow and Edinburgh before setting up her own law practice in 1986. She has been a Voluntary Legal Adviser with the Citizens Advice Bureau and part-time Chairman of The Appeals Service (for Social Security Appeals). She presently holds part-time positions as an Immigration Judge and as a Reporter to the Client Relations Office of the Law Society of Scotland. She is a member of the International Association of Refugee Law Judges.

### **Adam Scott**

Adam Scott TD is a Senior Research Fellow at the University of St Andrews where his interests include economic and legal regulation of competition and of utilities, team working and scenario planning. He has also worked in these fields for various private and public sector organisations. After qualifying at the Bar with an intellectual property background, he worked mainly in the telecommunications industry, being corporate planner in the creation and privatisation of British Telecommunications PLC, then heading BT's international affairs and latterly its apparatus business. He is a Fellow of the Institution of Electrical Engineers and he is a member of Guernsey's Utility Appeals Panel.

### **Vindelyn Smith-Hillman**

Vindelyn Smith-Hillman is a Senior Economics Lecturer at University College of Northampton having previously been a lecturer with the Open University and the Jamaica Institute of Management. She was a Senior Economist at the Bank of Jamaica in Kingston and is a listed Assistant Examiner with Cambridge and London Examining Boards.

### **Professor Paul Stoneman**

Professor Paul Stoneman is Research Professor in Warwick Business School. He has been an ESRC Senior Research Fellow, a Visiting Professor at Stanford University and a Visiting Fellow at Nuffield College, Oxford. He has held many external positions of responsibility and has been on various editorial boards. He is or has been an external examiner for several academic institutions. He has published extensively.

### **David Summers**

David Summers is a publishing and media consultant and a JP. He is non-executive chairman of Wilmington Group PLC. He also serves on The Lord Chancellor's Advisory Sub-Committee for Kent. He used to be managing director of Butterworths, the publishers and was formerly a member of the Restrictive Practices Court.

## **APPOINTED MEMBER OF THE COMPETITION SERVICE**

### **Janet Rubin**

Janet Rubin has a professional background in Human Resources. She has worked as a HR Director and held senior HR corporate positions in Arcadia Group, B & Q PLC, W H Smiths, and the Littlewoods organisation. More recently she has held a number of private and public sector appointments as a non-executive director of Bonmarche Limited, of the Strategic Rail Authority and of the SHL Group PLC. Amongst other non-executive appointments, she has previously been a member of the Employment Appeals Tribunal, a Civil Service and an Equal Opportunities Commissioner and is currently an Independent Assessor for the Office of the Commissioner for Public Appointments and a member of the Civil Service Arbitration Tribunal, the Diplomatic Service Appeal Board, the Rail Passenger Council and the Senior Salaries Review Body.





# Case statistics

Review 2004/05

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Judgments handed down in  
the year ended 31 March 2005

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Activity by case in the  
year ended 31 March 2005

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Overall case activity in the  
year ended 31 March 2005

# Judgments handed down in the year ended 31 March 2005

Judgment	Tribunal	Subject matter
<p><b>1. IBA Health Limited v Office of Fair Trading</b> [2004] CAT 6 28 April 2004</p>	<p>Sir Christopher Bellamy, Peter Clayton, Adam Scott TD</p>	<p>Judgment on costs.</p>
<p><b>2. Floe Telecom Limited (in administration) v OFCOM</b> [2004] CAT 7 30 April 2004</p>	<p>Sir Christopher Bellamy, Michael Davey, Sheila Hewitt</p>	<p>Judgment granting the appellant permission to amend its notice of appeal. This was the first judgment of the Tribunal to consider the provisions of Rule 11 of the Tribunal's rules governing the limited circumstances in which appellants may be permitted to amend a notice of appeal.</p>
<p><b>3. British Telecommunications PLC v Director General of Telecommunications</b> [2004] CAT 8 12 May 2004</p>	<p>Sir Christopher Bellamy, Michael Blair, Dr Arthur Pryor CB</p>	<p>Judgment on an appeal by British Telecommunications PLC ("BT") against a direction issued by the Director General of Telecommunications purporting to resolve a "dispute concerning interconnection" pursuant to regulation 6(6) of the Telecommunications (Interconnection) Regulations 1997 between BT and Vodafone Limited. This appeal was the first appeal to the Tribunal pursuant to section 192 of the Communications Act 2003 ("the 2003 Act").</p> <p>The only issue in the case was whether the supply by BT of "Radio Base Station (RBS) backhaul circuits" to Vodafone Limited and O<sub>2</sub> (UK) Limited was "interconnection" within the meaning of the Interconnection Directive or the Interconnection Regulations. The Tribunal allowed BT's appeal and found that the supply by BT of RBS backhaul circuits did not fall within the scope of the Interconnection Directive or the Interconnection Regulations and was not analogous to a "leased line" within the meaning of the Interconnection Directive. Pursuant to section 195(2) of the 2003 Act the direction was declared to be without legal effect and was remitted with a direction to OFCOM to take no further action pursuant to the Interconnection Regulations as regards the dispute between BT and Vodafone which formed the subject matter of the direction.</p>
<p><b>4. Albion Water Limited v Director General of Water Services</b> [2004] CAT 9 29 April 2004</p>	<p>Sir Christopher Bellamy, The Honourable Antony Lewis, Professor John Pickering</p>	<p>Ruling of the Tribunal regarding adjournment and case management.</p>

Judgment	Tribunal	Subject matter
<p><b>5. Pernod-Ricard SA and Campbell Distillers Limited v Office of Fair Trading</b> [2004] CAT 10 10 June 2004</p>	<p>Sir Christopher Bellamy, David Summers, Professor Paul Stoneman</p>	<p>Judgment on the admissibility of an appeal by Pernod-Ricard SA (“Pernod”) against the OFT’s decision to close its file in relation to a complaint by Pernod as to an alleged abuse of a dominant position by Bacardi-Martini Limited (“Bacardi”) in relation to the supply of light rum for on-sale in the UK, following receipt of voluntary assurances from Bacardi acceptable to the OFT. The Tribunal held that the appeal was admissible. It found that the OFT had taken a decision that the Chapter II prohibition contained in section 18 of the Competition Act 1998 was not infringed and would not be infringed as long as the assurances were observed. The Tribunal also found that the OFT should have provided to Pernod a non-confidential version of the Rule 14 notice and given Pernod the opportunity to submit observations before deciding to close its file on the complaint.</p>
<p><b>6. Federation of Wholesale Distributors v Office of Fair Trading</b> [2004] CAT 11 7 May 2004</p>	<p>Sir Christopher Bellamy, Michael Blair QC, Professor Paul Stoneman</p>	<p>Judgment granting the Federation of Wholesale Distributors permission to withdraw its appeal and determining the question of costs. In the judgment the Tribunal considered inter alia Rule 26 of the Tribunal’s Rules concerning the time for commencing proceedings for review by the Tribunal under section 120 of the Enterprise Act 2002, holding that the date of publication of the decision, within the meaning of that rule, is the date of publication of the reasons for the decision and not the date of the announcement by the OFT of the fact of the decision.</p>
<p><b>7. Pernod-Ricard SA and Campbell Distillers Limited v Office of Fair Trading</b> [2004] CAT 14 22 July 2004</p>	<p>Sir Christopher Bellamy, David Summers, Professor Paul Stoneman</p>	<p>Judgment on the future course of proceedings following the Tribunal’s judgment on admissibility (see above).</p>
<p><b>8. Wanadoo (UK) PLC (formerly Freeserve.com PLC) v OFCOM</b> [2004] CAT 15 2 August 2004</p>	<p>Sir Christopher Bellamy, Patricia S. Quigley WS, Professor John Pickering</p>	<p>Judgment on case management issues.</p>
<p><b>9. Claymore Dairies Limited and Arla Foods UK PLC v Office of Fair Trading</b> [2004] CAT 16 24 September 2004</p>	<p>Sir Christopher Bellamy, Peter Clayton, Peter Grant-Hutchison</p>	<p>Judgment on the appellants’ request for recovery and inspection (disclosure) of certain information in connection with a witness statement provided by the OFT in elucidation of its decision to the effect that Robert Wiseman Dairies PLC and Robert Wiseman and Son Limited (“Wiseman”) had not infringed the Chapter II prohibition contained in section 18 of the Competition Act 1998.</p>

## Judgments handed down in the year ended 31 March 2005 (continued)

Judgment	Tribunal	Subject matter
<p><b>10. JJB Sports PLC v Office of Fair Trading and Allsports Limited v Office of Fair Trading</b> [2004] CAT 17 1 October 2004</p>	<p>Sir Christopher Bellamy, Barry Colgate, Richard Prosser OBE</p>	<p>Judgment on the liability aspects of appeals brought by JJB Sports PLC (“JJB”) and Allsports Limited (“Allsports”) against a decision of the OFT that JJB and Allsports, together with other undertakings, had infringed the Chapter I prohibition contained in section 2 of the Competition Act 1998 by entering into certain agreements and concerted practices designed to fix the prices of certain replica football shirts during 2000 and 2001. The Tribunal dismissed the appeal on liability brought by Allsports in its entirety and partly allowed the appeal on liability brought by JJB.</p> <p>The Tribunal found that JJB and Allsports, respectively, were party to agreements or concerted practices contrary to the Chapter I prohibition having as their object or effect the maintenance of retail prices of the England replica shirt in the period immediately prior to the Euro 2000 football tournament and of the Manchester United home shirt launched on 1 August 2000. The Tribunal further found that JJB was party to an agreement or concerted practice contrary to the Chapter I prohibition having as its object or effect the maintenance of retail prices of the Manchester United Centenary shirt from its launch on 20 July 2001 until the OFT conducted “dawn raids” at the end of August 2001.</p> <p>This was the first judgment dealing with a cartel case. It provides detailed guidance on the standard required to discharge the burden on the OFT of proving an infringement and on the law relating to agreements and concerted practices.</p>
<p><b>11. Floe Telecom Limited (in administration) v OFCOM</b> [2004] CAT 18 19 November 2004</p>	<p>Marion Simmons QC, Michael Davey, Sheila Hewitt</p>	<p>Judgment on an appeal against a decision of the Director General of Telecommunications dated 3 November 2003 that Vodafone Limited had not infringed the Chapter II prohibition of the Competition Act 1998 by disconnecting on or about 18 March 2003 the telecommunications services that Vodafone was supplying to Floe. The case concerned the provision of services over telecommunications devices known as “GSM gateways”. The decision had found that Vodafone had been objectively justified in disconnecting Floe as Floe was providing services over GSM gateways without a licence to do so under the Wireless Telegraphy Act 1949 (“WTA”).</p> <p>The Tribunal set aside the Director’s decision and remitted the matter to OFCOM. The Tribunal found that the Director’s reasoning in the decision that Floe had not been authorised by Vodafone to provide “Public GSM Gateway” services under the terms of a licence issued to Vodafone under the WTA was incorrect and/or flawed. During the course of the appeal OFCOM abandoned a large part of the original reasoning in the decision</p>

Judgment	Tribunal	Subject matter
		and advanced a new case before the Tribunal concerning the true construction of Vodafone's licence under the WTA. The Tribunal was not able to find that OFCOM's new argument, which had potentially wide ramifications for mobile network operators generally, was correct. The Tribunal further found that given the uncertainty and complexity of the legal position a serious issue arose as to whether Vodafone was objectively justified, for the purposes of the Chapter II prohibition, in disconnecting Floe.
<b>12. Aquavitae (UK) Limited v Director General of Water Services (Dŵr Cymru/Shotton Paper)</b> [2004] CAT 19 16 November 2004	Sir Christopher Bellamy, The Honourable Antony Lewis, Professor John Pickering	Ruling of the Tribunal regarding permission to intervene.
<b>13. Wanadoo (UK) PLC (formerly Freeserve.com PLC) v OFCOM</b> [2004] CAT 20 29 November 2004	Sir Christopher Bellamy, Patricia S. Quigley WS, Professor John Pickering	Judgment on case management issues, containing observations on matters of procedure and the new regime for the acceptance of binding commitments pursuant to section 31A of the Competition Act 1998.
<b>14. Albion Water Limited v Director General of Water Services (Thames Water/Bath House)</b> [2004] CAT 21	Sir Christopher Bellamy, The Honourable Antony Lewis, Professor John Pickering	Ruling of the Tribunal regarding an application to stay the appeal.
<b>15. Floe Telecom Limited (in administration) v OFCOM</b>	Marion Simmons QC, Michael Davey, Sheila Hewitt	Ruling of the Tribunal regarding orders and directions following judgment.
<b>16. VIP Communications Limited v OFCOM</b> [2004] CAT 22 1 December 2004		
<b>17. British Telecommunications PLC v OFCOM (CPS save activity)</b> [2004] CAT 23 9 December 2004	Sir Christopher Bellamy, Ann Kelly, Marion Simmons QC	Appeal by British Telecommunications PLC ("BT") pursuant to section 192 of the Communications Act 2003 (the "2003 Act") against a notification by the Director General of Telecommunications. The contested notification found that the Director General had reasonable grounds for believing that BT was acting in contravention of General Condition 1.2 of the General Conditions of Entitlement made by the Director General pursuant to section 48(1) of the 2003 Act. BT's contravention of General Condition 1.2 was said to arise from its use of customer-

## Judgments handed down in the year ended 31 March 2005 (continued)

Judgment	Tribunal	Subject matter
<p><b>18. Argos Limited &amp; Littlewoods Limited v Office of Fair Trading</b> [2004] CAT 24 14 December 2004</p>	<p>Sir Christopher Bellamy, The Honourable Antony Lewis, Vindelyn Smith-Hillman</p>	<p>specific information in the context of Carrier Pre-Selection or “CPS”. CPS is a service that permits customers to transfer some or all of their calls to an alternative communications provider while retaining an existing BT telephone line and without it being necessary to dial additional codes or use special equipment. BT wished to use information gained from alternative providers to conduct marketing activity during a 10-day “cooling-off period” in an attempt to persuade customers not to transfer to the alternative provider. The Tribunal upheld the notification subject to possible further consideration of the definition of “marketing activity” set out in the contested notification. Following a further hearing on 10 March 2005 OFCOM and BT agreed the terms of BT’s “Notification of Transfer Letter” sent to BT customers during the cooling-off period.</p>
<p><b>19. Wanadoo (UK) PLC (formerly Freeserve.com PLC) v OFCOM</b> [2004] CAT 25 9 December 2004</p>	<p>Sir Christopher Bellamy, Patricia S. Quigley WS, Professor John Pickering</p>	<p>Judgment on the liability aspects of an appeal brought by Argos Limited and Littlewoods Limited against a decision of the OFT finding that Argos and Littlewoods had, together with Hasbro (UK) Limited (“Hasbro”) infringed the Chapter I prohibition contained in section 2 of the Competition Act 1998 by entering into agreements and/or concerted practices which fixed prices at which certain toys and games manufactured by Hasbro would be retailed by Argos and Littlewoods. The Tribunal dismissed the appeals on liability in their entirety, finding that there had been bilateral agreements or concerted practices between, on the one hand, Hasbro and Argos and, on the other, Hasbro and Littlewoods, and a trilateral concerted practice between all three undertakings.</p> <p>Ruling of the Tribunal relating to future case management.</p>





## Judgments handed down in the year ended 31 March 2005 (continued)

Judgment	Tribunal	Subject matter
<p>20. (1)BCL Old Co Limited (2)DFL Old Co Limited (3) PFF Old Co Limited v (1) Aventis SA (2) Rhodia Limited (3) F Hoffman-La Roche AG (4) Roche Products Limited [2005] CAT 1 28 January 2005</p>	<p>Sir Christopher Bellamy, Professor Andrew Bain OBE, Marion Simmons QC</p>	<p>Interlocutory judgment of the Tribunal in an action for damages pursuant to section 47A of the Competition Act 1998. The Tribunal considered an application by the Defendants to strike out the claims against them on the basis that the claims had been assigned to other parties (the “Purchasers”) in sale and purchase agreements and that the Purchasers could not be joined to the action as the limitation period in Rule 31 of the Tribunal’s Rules had expired. The Tribunal ruled that on a true construction of the Tribunal’s Rules, in particular Rule 35, the Tribunal had the power to join the Purchasers to the action and that the Tribunal should exercise its discretion to grant the Claimants permission to join the Purchasers as defendants to the action.</p>
<p>21. (1)BCL Old Co Limited (2)DFL Old Co Limited (3) PFF Old Co Limited v (1) Aventis SA (2) Rhodia Limited (3) F Hoffman-La Roche AG (4) Roche Products Limited [2005] CAT 2 28 January 2005</p>	<p>Sir Christopher Bellamy, Professor Andrew Bain OBE, Marion Simmons QC</p>	<p>Further interlocutory judgment of the Tribunal on an application by the Defendants for security for costs under Rule 45 of the Tribunal’s Rules. The Tribunal was not satisfied that it was just to make an order for security for costs in favour of the Defendants in particular because, at that stage in the proceedings, the Tribunal was unable to be satisfied that there was a substantial likelihood that the Defendants would, in due course, benefit from a costs order in their favour. On the contrary, the Claimants had, at first sight, a good claim and the only reason for awarding costs against the Claimants would be if “passing on” was a good defence to the claims. Therefore the Tribunal considered it just that the possible risk as to costs should be borne by the Defendants who were before the Tribunal as infringers of a public law prohibition rather than the Claimants in whose favour liability was, at least prima facie, established.</p>
<p>22. Unichem Limited v Office of Fair Trading [2005] CAT 3 31 January 2005</p>	<p>Sir Christopher Bellamy, Graham Mather, Professor Paul Stoneman</p>	<p>This ruling considered, for the purposes of a review of a merger decision pursuant to section 120 of the Enterprise Act 2002, the confidentiality in proceedings before the Tribunal, of an application by the appellant to the OFT for confidential guidance. The Tribunal ruled that these difficult matters should be approached on a case-by-case basis but that it was appropriate, in this case, to make an order that the application for confidential guidance and the guidance eventually given to the appellant be disclosed to the Intervener.</p>

Judgment	Tribunal	Subject matter
<p><b>23. Apex Asphalt and Paving Co. Limited v Office of Fair Trading</b> [2005] CAT 4 24 February 2005</p>	<p>Marion Simmons QC, Dr Arthur Pryor CB, David Summers</p>	<p>Judgment on an appeal brought by Apex Asphalt and Paving Co Limited (“Apex”) against a decision of the OFT finding that various undertakings, including Apex, had entered into various discrete concerted practices contrary to the Chapter I prohibition contained in section 2 of the Competition Act 1998 in relation to the making of tender bids for flat roofing contracts in the West Midlands.</p> <p>The Tribunal dismissed the appeal. The judgment contains discussion of certain procedural rights enjoyed by undertakings suspected of having committed infringements of the Chapter I or II prohibitions, and of the law relating to concerted practices.</p>
<p><b>24. Richard W. Price (Roofing Contractors) Limited v Office of Fair Trading</b> [2005] CAT 5 24 February 2005</p>	<p>Marion Simmons QC, Dr Arthur Pryor CB, David Summers</p>	<p>Judgment on an appeal brought by Richard W. Price (Roofing Contractors) Limited (“Price”) against a decision of the OFT finding that various undertakings, including Price, had entered into various discrete concerted practices contrary to the Chapter I prohibition contained in section 2 of the Competition Act 1998 in relation to the making of tender bids for flat roofing contracts in the West Midlands.</p> <p>The Tribunal dismissed Price’s appeal as to liability but allowed the appeal in so far as it reduced the amount of the penalty imposed on Price from £18,000 to £9,000, on the grounds that the principle of equal treatment was not applied by the OFT when setting that penalty.</p>
<p><b>25. Double Quick Supplyline Limited v Office of Fair Trading</b> [2005] CAT 6 8 March 2005</p>	<p>Marion Simmons QC, Peter Grant-Hutchison, Graham Mather</p>	<p>Ruling of the Tribunal regarding an application to remit the decision.</p>
<p><b>26. Wanadoo (UK) PLC (formerly Freeserve.com PLC v OFCOM</b> [2005] CAT 7 18 March 2005</p>	<p>Sir Christopher Bellamy, Professor John Pickering, Patricia Quigley</p>	<p>Ruling of the Tribunal regarding the main hearing of the appeal.</p>

# Activity by case

## in the year ended 31 March 2005

Figures in bold relate to the year under review;

( ) relate to sitting days;

[ ] relate to events prior to the year under review;

{ } relate to events immediately after the year under review.

Case name, number and date lodged	Number of applications to intervene	Number of case management conferences	Number of site visits	Number of hearings and sitting days <sup>1</sup>	Number of judgments <sup>2</sup> within this period.	Date of judgment on the main issues within this period.	Duration: months from registration of proceedings to judgment on the main issues or termination of the case without a main hearing	Requests for permission to appeal	Status as at 31 March 2005
<b>Claymore Dairies Limited (Chapter II) and Express Dairies PLC v Director General of Fair Trading</b> Case No. 1008/2/1/02 6 November 2002	- [1]	<b>3</b> [4]	-	<b>1</b> (3) [1] (1)	<b>1</b> [4]	-	-	-	Ongoing at 31 March 2005
<b>Claymore Dairies Limited (Chapter I) and Express Dairies PLC v Director General of Fair Trading</b> Case No. 1011/2/1/03 3 February 2003	- [1]	- [2]	-	-	-	-	-	-	Stayed
<b>Argos Limited and Littlewoods Limited v Office of Fair Trading<sup>3</sup></b> Case Nos. 1014/1/1/03 and 1015/1/1/03 17 April 2003	-	- [5]	-	<b>2</b> (8) [1] (1)	<b>1</b> [4]	14 December 2004	<b>20</b> <sup>4</sup>	-	Ongoing with regard to penalty and costs at 31 March 2005
<b>Genzyme Limited v Office of Fair Trading</b> Case No. 1016/1/1/03 20 May 2003	-	<b>2</b> [2]	-	<b>2</b> (2) [3] (5)	- [1]	- [11 March 2004]	<b>10</b>	-	Ongoing at 31 March 2005
<b>Pernod-Ricard SA and Campbell Distillers Limited v Office of Fair Trading</b> Case No. 1017/2/1/03 15 July 2003	- [1]	<b>1</b> [1]	-	- [2] (2)	<b>2</b> [1]	10 June 2004	<b>11</b>	-	Ongoing at 31 March 2005
<b>British Telecommunications PLC v Director General of Telecommunications</b> Case No. 1018/3/3/03 21 August 2003	-	- [1]	-	- [1] (2)	<b>1</b> [1]	12 May 2004	<b>9</b>	-	Ongoing at 31 March 2005
<b>Umbro Holdings Limited v Office of Fair Trading<sup>5</sup></b> Case No. 1019/1/1/03 30 September 2003	-	-	-	-	-	-	-	-	
<b>Manchester United PLC v Office of Fair Trading</b> Case No. 1020/1/1/03 1 October 2003	-	-	-	-	-	-	-	-	

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Case name, number and date lodged	Number of applications to intervene	Number of case management conferences	Number of site visits	Number of hearings and sitting days <sup>1</sup>	Number of judgments <sup>2</sup> within this period.	Date of judgment on the main issues within this period.	Duration: months from registration of proceedings to judgment on the main issues or termination of the case without a main hearing	Requests for permission to appeal	Status as at 31 March 2005
<b>Allsports Limited v Office of Fair Trading</b> Case No. 1021/1/1/03 1 October 2003									
<b>JJB Sports PLC v Office Of Fair Trading</b> Case No. 1022/1/1/03 1 October 2003	- [1]	<b>1</b> [5]	-	<b>1</b> (4) [5] (18)	<b>1</b> [9]	1 October 2004 <sup>6</sup>	<b>12</b>	-	Ongoing with regard to penalty and costs at 31 March 2005
<b>IBA Health Limited v Office of Fair Trading</b> Case No. 1023/4/1/03 21 November 2003	- [2]	-	-	- [1] (1)	<b>1</b> [2]	- [3 December 2003]	<b>0.5</b>	-	Case closed
<b>Floe Telecom Limited (in administration) v OFCOM</b> Case No. 1024/2/3/04 2 January 2004	- [1]	<b>3</b>	-	<b>2</b> (3)	<b>3</b> [1]	19 November 2004	<b>10</b>	-	Ongoing at 31 March 2005
<b>British Telecommunications PLC (CPS save activity) v OFCOM</b> Case No. 1025/3/3/04 7 January 2004	- [2]	<b>1</b>	-	<b>2</b> (3)	<b>1</b>	9 December 2004	<b>11</b>	-	Ongoing with regard to costs at 31 March 2005
<b>Wanadoo (UK) PLC (formerly Freeserve.com PLC) v OFCOM</b> Case No. 1026/2/3/04 20 January 2004	- [1]	<b>5</b>	-	-	<b>4</b>	-	-	-	Ongoing at 31 March 2005
<b>VIP Communications Limited v OFCOM</b> Case No. 1027/2/3/04 20 February 2004	- [1]	<b>2</b>	-	<b>1</b> (1)	<b>1</b>	19 November 2004	<b>9</b>	-	Ongoing at 31 March 2005
<b>BCL Old Co Limited and Others v Office of Fair Trading</b> Case No. 1028/5/7/04 26 February 2004	<b>6</b>	<b>4</b>	-	<b>1</b> (1)	<b>2</b>	-	<b>11</b> <sup>7</sup>	-	Case closed
<b>Deans Food Limited and Others v Office of Fair Trading</b> Case No. 1029/5/7/04 26 February 2004	-	<b>5</b>	-	-	-	-	<b>11</b> <sup>8</sup>	-	Case closed

# Activity by case

## in the year ended 31 March 2005 (continued)

Figures in bold relate to the year under review;

( ) relate to sitting days;

[ ] relate to events prior to the year under review;

{ } relate to events immediately after the year under review.

Case name, number and date lodged	Number of applications to intervene	Number of case management conferences	Number of site visits	Number of hearings and sitting days <sup>1</sup>	Number of judgments <sup>2</sup> within this period.	Date of judgment on the main issues within this period.	Duration: months from registration of proceedings to judgment on the main issues or termination of the case without a main hearing	Requests for permission to appeal	Status as at 31 March 2005
<b>Federation of Wholesale Distributors v The Office of Fair Trading</b> Case No. 1030/4/1/04 2 April 2004	<b>1</b>	<b>1</b>	-	-	<b>1</b>	7 May 2004	<b>1</b> <sup>9</sup>	-	Case closed
<b>Albion Water Limited v Director General of Water Services</b> Case No. 1031/2/4/04 1 April 2004	<b>2</b>	<b>2</b>	-	-	<b>1</b>	-	-	-	Stayed
<b>Apex Asphalt and Paving Co. Limited v Office of Fair Trading</b> <sup>10</sup> Case No. 1032/1/1/04 14 May 2004					<b>1</b>	24 February 2005	<b>9</b>	-	Ongoing at 31 March 2005
<b>Richard W. Price (Roofing Contractors) Limited v Office of Fair Trading</b> Case No. 1033/1/1/04 24 May 2004	-	<b>1</b>	-	<b>1 (2)</b>	<b>1</b>	24 February 2005	<b>9</b>	-	Ongoing at 31 March 2005
<b>Albion Water Limited v Director General of Water Services</b> Case No. 1034/2/4/04 (IR) 28 May 2004	<b>2</b>	<b>1</b>	-	-	-	-	<b>0.25</b>	-	Case Closed
<b>The Racecourse Association &amp; Others v Office of Fair Trading</b> Case No. 1035/1/1/04 7 June 2004	-	<b>3</b>	-	<b>1 (3)</b>	-	-	-	-	Ongoing at 31 March 2005
<b>Association of British Insurers v Office of Fair Trading</b> Case No. 1036/1/1/04 22 June 2004	<b>1</b>	<b>2</b>	-	-	-	-	<b>1</b> <sup>11</sup>	-	Case closed

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 { } relate to events immediately after the year under review.

Case name, number and date lodged	Number of applications to intervene	Number of case management conferences	Number of site visits	Number of hearings and sitting days <sup>1</sup>	Number of judgments <sup>2</sup> within this period.	Date of judgment on the main issues within this period.	Duration: months from registration of proceedings to judgment on the main issues or termination of the case without a main hearing	Requests for permission to appeal	Status as at 31 March 2005
ME Burgess JJ Burgess and SJ Burgess (trading as JJ Burgess & Sons) v The Office of Fair Trading Case No. 1037/2/1/04 (1R) 24 June 2004	-	<b>2</b>	-	-	-	-	-	-	Stayed
ME Burgess JJ Burgess and SJ Burgess (trading as JJ Burgess & Sons) v The Office of Fair Trading Case No. 1038/2/1/04 23 June 2004	-	<b>2</b>	-	-	-	-	-	-	Stayed
Powerbonds Adhesive Limited v Office of Fair Trading Case No. 1039/1/1/04 24 June 2004	-	-	-	-	-	-	<b>1</b>	-	Case closed
British Telecommunications PLC v OFCOM Case No. 1040/3/3/04 09 July 2004	-	-	-	<b>1</b> (1)	-	-	-	-	Stayed
The British Horseracing Board v Office of Fair Trading Case No. 1041/2/1/04 12 July 2004	-	<b>3</b>	-	<b>1</b> (3)	-	-	-	-	Ongoing at 31 March 2005
Albion Water Limited (Thames Water/Bath House) v Director General of Water Services Case No. 1042/2/4/04 12 July 2004	<b>1</b>	<b>3</b>	-	-	<b>1</b>	-	-	-	Ongoing at 31 March 2005
Association of British Insurers v Office of Fair Trading Case No. 1043/1/1/04 (1R) 28 June 2004	-	-	-	-	-	-	<b>0.25</b> <sup>12</sup>	-	Case closed
ME Burgess JJ Burgess and SJ Burgess (trading as JJ Burgess & Sons) v The Office of Fair Trading Case No. 1044/2/1/04 15 July 2004	<b>3</b>	<b>1</b>	-	<b>1</b> (2)	-	-	-	-	Ongoing at 31 March 2005

# Activity by case

## in the year ended 31 March 2005 (continued)

Figures in bold relate to the year under review;

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[ ] relate to events prior to the year under review;

{ } relate to events immediately after the year under review.

Case name, number and date lodged	Number of applications to intervene	Number of case management conferences	Number of site visits	Number of hearings and sitting days <sup>1</sup>	Number of judgments <sup>2</sup> within this period.	Date of judgment on the main issues within this period.	Duration: months from registration of proceedings to judgment on the main issues or termination of the case without a main hearing	Requests for permission to appeal	Status as at 31 March 2005
<b>Aquavitae (UK) Limited (Dŵr Cymru / Shotton Paper) v Director General of Water Services</b> Case No. 1045/2/4/04 21 July 2004	-	<b>1</b>	-	-	<b>1</b>	-	-	-	Stayed
<b>Albion Water Limited (Dŵr Cymru / Shotton Paper) v Director General of Water Services</b> Case No. 1046/2/4/04 23 July 2004	<b>3</b>	<b>2</b>	<b>1</b>	-	-	-	-	-	Ongoing at 31 March 2005
<b>Hutchison 3G (UK) Limited v OFCOM</b> Case No. 1047/3/3/04 28 July 2004	<b>1</b>	<b>3</b>	-	-	-	-	-	-	Ongoing at 31 March 2005
<b>Double Quick Supplyline Limited v Office of Fair Trading</b> Case No. 1048/1/1/05 10 January 2005	-	<b>2</b>	-	-	<b>1</b>	-	-	-	Ongoing at 31 March 2005
<b>Unichem Limited v The Office of Fair Trading</b> Case No. 1049/4/1/05 19 January 2005	<b>1</b>	<b>1</b>	-	<b>1</b> (2)	<b>1</b>	- {1 April 2005}	<b>3</b>	-	Ongoing at 31 March 2005
<b>Total</b>	<b>21</b> [11]	<b>57</b> [20]	<b>1</b>	<b>18</b> (38) [14] (30)	<b>26</b> [23]			<b>0</b>	

1 Excludes days limited to formal handing down of judgments.

2 Includes judgments on interlocutory issues, final judgments and ancillary matters such as costs and refusal or grant of permission to appeal.

3 These two cases were formally consolidated by an Order of the President dated 22 May 2003.

4 These cases were remitted to the OFT for further investigation during the period 30 July - 21 November 2003.

5 Although the appeals by Umbro Holdings Limited, Manchester United PLC, Allsports Limited and JJB

Sports PLC were not formally consolidated, for practical purposes they were heard concurrently. The figures shown therefore relate to all four cases.

6 The judgment handed down on 1 October 2004 related to the liability aspects of the appeals brought by JJB PLC and Allsports Limited: the proceedings were still ongoing as at 31 March 2005 in respect of the penalties imposed on the appellants by the OFT.

7 Case settled shortly before date of the hearing of the main issues.

8 Case settled shortly before date of the the hearing of the main issues.

9 Appeal withdrawn.

10 Although the appeals by Apex Asphalt and Paving Co. Limited and Richard W. Price (Roofing Contractors) Limited were not formally consolidated, for practical purposes they were heard concurrently. The figures shown for the case management conference and hearings therefore relate to both cases.

11 Following the OFT deciding not to contest the Notice of Appeal the original Decision was set aside by Order dated 30 July 2004.

12 The appellant's application for interim relief was disposed of by way of a Consent Order dated 6 July 2004.

# Overall case activity in the year ended 31 March 2005

<b>Appeals received</b>	<b>20</b>
of which	
section 46 Competition Act 1998 <sup>1</sup>	6
section 47 Competition Act 1998 <sup>2</sup>	7
section 47A Competition Act 1998 <sup>3</sup>	-
section 120 Enterprise Act 2002 <sup>4</sup>	2
section 192 Communications Act 2003 <sup>5</sup>	2
applications for interim relief	3
<hr/>	
<b>Applications to intervene</b>	<b>21</b>
<hr/>	
<b>Case management conferences held</b>	<b>57</b>
<hr/>	
<b>Judgments handed down</b>	<b>26</b>
of which	
judgments disposing of main issue or issues	8
judgment on procedural and interlocutory matters	17
judgments on ancillary matters (eg. costs)	1
<hr/>	
<b>Orders made</b>	<b>106</b>
<hr/>	

1 An appeal by a party to an agreement or conduct in respect of which the Office of Fair Trading (or one of the other regulators with concurrent powers to apply the Competition Act 1998 (“the Competition Act”)) has made an “appealable decision”. During the period to 31 March 2005 appealable decisions included a decision as to whether the Chapter I prohibition or Chapter II prohibition of the Competition Act had been infringed, as to whether Articles 81 or 82 of the EC Treaty had been infringed and the imposition of a penalty for infringement of those provisions or the amount of such infringement.

2 An appeal against an “appealable decision” made by the Office of Fair Trading or other regulator with concurrent powers to apply the Competition Act 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 Competition Act.

3 A claim for damages or other claim for a sum of money by a person who has suffered loss or damage as a result of the infringement of the Competition Act or of European competition law.

4 An appeal by “any person aggrieved” by a decision of the OFT, OFCOM, the Secretary of State or the Competition Commission in connection with a reference or possible reference in relation to a relevant merger situation or special merger situation under the Enterprise Act 2002. In determining appeals under this section the Tribunal applies the same principles as would be applied by a court on an application for judicial review.

5 An appeal by “a person affected” by a decision of OFCOM or of the Secretary of State in relation to certain specified communications matters set out in that section.





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# Accounts

## Foreword to Accounts in respect of the CAT and the CS

### 1. Background

The Enterprise Act 2002 provided for the establishment of the Competition Appeal Tribunal (CAT) and the Competition Service (CS). The CAT and the CS came into being on 1 April 2003. The purpose of the CS is to fund and support the activities of the CAT.

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 CAT. There is therefore a statutory requirement to produce separate statements of accounts for the CAT and for the CS.

### 2. Format of accounts

The accounts for the CAT and for the CS have been prepared in accordance with the separate Accounts Directions given by the Secretary of State for Trade and Industry with the consent of the Treasury in accordance with Schedule 3 of the Enterprise Act 2002.

The Accounts Direction for the CAT states that the Foreword to the accounts, the Statement of Accounting Officer's Responsibilities and Statement on Internal Control are combined with those of the CS.

The accounts of the CAT include only the direct costs specifically attributable to the CAT. All support costs are included in the CS accounts in line with its statutory purpose as set out in section 3 below.

The CAT does not have any assets and its costs are incurred initially by the CS so the production of a separate Balance Sheet and Cash flow statement for the CAT is not appropriate.

### 3. Principal activities

The current functions of the CAT are:

- To hear appeals on the merits in respect of decisions made under the Competition Act 1998 by the Office of Fair Trading (OFT) and the regulators in the telecommunications, electricity, gas, water, railways and air traffic services sectors.
- To hear claims for damages and other monetary claims under the Competition Act 1998.
- To review decisions made by the Secretary of State, OFT and the Competition Commission in respect of merger and market references under the Enterprise Act 2002.
- To hear appeals against certain decisions made by OFCOM and the Secretary of State relating to the exercise by OFCOM of its functions under Part 2 (networks, services and the radio spectrum) and sections 290 to 294 and Schedule 11 (networking arrangements for Channel 3) of the Communications Act 2003.
- To hear appeals in respect of decisions made by the OFT under the EC Competition Law (Articles 84 and 85) Enforcement Regulations 2001 (as amended).

The CS is a body corporate and executive Non Departmental Public Body whose purpose is to fund and provide support services to the CAT. The term "support services" encompasses everything necessary to facilitate the carrying out by the CAT of its statutory functions such as administrative staff, accommodation and office equipment.

### 4. Membership of the CAT

The CAT consists of the President, Sir Christopher Bellamy, the panel of chairmen and 19 ordinary members. The President and chairmen are appointed by the Lord Chancellor and the ordinary members are appointed by the Secretary of State. The President, chairmen and the 19 ordinary members were in post throughout the financial year.

Cases are heard before a tribunal consisting of three members (either the President or a member of the panel of chairmen and two ordinary members).

The names, responsibilities, and biographical details of the CAT membership are given in the Annual Review.

Remuneration details of the President are disclosed in note 3 on page 42 of the CAT's accounts. Remuneration details for the CAT panel of chairmen and ordinary members are disclosed in note 2 on page 41 of the CAT's accounts.

## 5. Membership of the CS

The membership of the CS consists of the President of the CAT, Sir Christopher Bellamy, the Registrar of the CAT, Mr Charles Dhanowa and one appointed member, Mrs Janet Rubin, appointed by the Secretary of State. The membership of the CS was in post throughout the financial year.

Remuneration details of the Registrar are disclosed in note 3 on page 50 of the CS' accounts. Remuneration details of the appointed member are disclosed in note 4 on page 51 of the CS' accounts.

## 6. Review of activities

The President's and Registrar's statements in the Annual Review outline the activities of the CAT and the CS in 2004/05.

## 7. Financial results

The activities of the CS are funded by grant-in-aid provided by the Department of Trade and Industry (DTI). Expenses of the CAT are paid by the CS.

In 2004/05 the CS had an excess of income over expenditure (after interest and taxation) of £349,000 (2003/04: deficit £171,000) after receiving a revenue grant-in-aid of £3,550,000 (2003/04: £2,359,000) and a transfer from Deferred Government Grant Reserve of £135,000 (2003/04: £41,000).

The surplus on the CS' income and expenditure account arose

primarily as a result of the reversal of accrued Stamp Duty (no longer required) of £147,000 and the drawing down of grant-in-aid of £104,000 in March 2005 to fund the Electronic Document and Records Management project in 2005/06.

In 2004/05 operating costs for the CAT were £682,000 (2003/04: £499,000). The operating costs for the CS were £2,692,000 (2003/04: £2,093,000).

The CS had no provisions or contingent liabilities as at 31 March 2005.

## 8. Fixed Assets

During the year further investment was undertaken to complete the relocation to the new premises at Victoria House, Bloomsbury Place, London WC1A 2EB.

## 9. Post year end events

There have been no events of exceptional financial significance since the end of the financial year.

## 10. Equality and diversity

The CS is an equal opportunities employer and treats all staff fairly irrespective of gender, ethnic origin, marital status, religious belief, age, sexual orientation or disability.

## 11. Employee involvement

As a small organisation a policy of full employee participation is actively encouraged by the CS. In April 2004 a number of groups were established to focus on specific areas of activity

including casework, information and finance. These groups met at regular intervals throughout the year. The Registrar holds weekly meetings attended by all staff where current issues and future developments for the organisation are discussed on an informal basis.

## 12. Staff training

The CS is committed to enabling staff to fully meet the requirements of their role and maximise their capabilities through the provision of training where a specific need is identified.

In February 2005 the CS instructed a specialist consultant to conduct a training needs analysis. All staff were interviewed and from this a report was produced identifying the skills gaps that currently existed within the organisation. The CS has responded to this by establishing a formal training structure with adequate funding to ensure that all staff have the opportunity to develop their skills.

## 13. Charitable donations

The CAT and the CS do not make any charitable donations.

## 14. Payment of creditors

The CS is committed to pay all supplier invoices by the due date or within 30 days of receipt if no due date has been agreed. Throughout the year the average payment period was 10 days (2003/04: 11 days) and 99.4 percent of (undisputed) invoices were settled within 30 days (2003/04: 97.7 per cent).

### 15. Future developments

The number of cases expected to be received by the CAT in 2005/06 is likely to remain consistent with the number of cases received in 2004/05.

### 16. Audit Committee

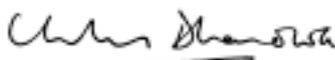
The Audit Committee is chaired by Mrs Janet Rubin, a non-executive member of the CS. Two CAT ordinary members have been appointed to sit as members of the Committee. Audit Committee guidelines are in place in accordance with Treasury guidance.

The Audit Committee met four times during the year.

### 17. Auditors

The financial statements of the CAT and the CS are audited under Schedule 3 paragraph 12(4) of the Enterprise Act 2002 by the Comptroller and Auditor General. The cost of the external statutory audit was £5,000 for the CAT (2003/04: £6,000) and £20,000 for the CS (2003/04 £20,000).

In 2004/05 the DTI's Internal Audit Directorate continued to provide internal audit services to the CS. The cost of providing this function in 2004/05 was £18,000 (2003/04: £26,000).



Charles Dhanowa  
Registrar  
Competition Appeal Tribunal  
Accounting Office  
29 June 2005

## Statement of the Accounting Officer's responsibilities in respect of the CAT and the CS

Under Paragraph 12 of Schedule 3 of the Enterprise Act 2002 the CS is required to prepare a statement of accounts for the CAT, and the CS, for each financial year in the form and basis determined by the Secretary of State, with the consent of the 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 CAT and CS at the year end and of income and expenditure, total recognised gains and losses and cash flows for the financial year.

In preparing the accounts for the CAT 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 presume that the CAT and the CS will continue in operation.

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

## Statement on Internal Control for the CAT and the CS

### Scope of responsibility

As Accounting Officer I have responsibility for maintaining a sound system of internal control that supports the achievement of the policies, aims and objectives of the CAT and those of the CS, whilst safeguarding public funds and assets for which I am personally responsible, in accordance with the responsibilities assigned to me in Government Accounting. The CS was set up to provide administrative support to the CAT to enable it to carry out its functions.

As Accounting Officer I have responsibility to the DTI and ultimately to Parliament for the proper handling of the CAT's and the CS' finances in accordance with the responsibilities assigned to me in Government Accounting. The CS receives its funds solely from government in the form of grant-in-aid. Once the budget is agreed with the DTI the CS has discretion as to how funds are allocated for specific requirements within certain given limits. These limits, and the relationship generally with the DTI, are defined in the Memorandum of Understanding agreed with the DTI and the Management Statement and Financial Memorandum.

### The purpose of the system of internal control

The system of internal control is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives; it can therefore only provide reasonable and not absolute assurance of effectiveness. The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of the CAT's and the CS' policies, aims and objectives; to evaluate the likelihood of those risks being realised and the impact should they be realised; and to manage them efficiently, effectively and economically. The system of internal control for the CAT and the CS has been in place for the year ended 31 March 2005 and up to the date of the approval of the annual review and accounts, and accords with Treasury guidance.

### Capacity to handle risk

The CAT and CS have formalised a number of measures designed to act as a risk management process and to ensure that staff are trained or equipped to manage risk in a way appropriate to their authority and duties.

(i) the Finance Committee, which meets monthly, discusses risk management as part of its standing agenda;

(ii) the Director, Operations reports quarterly to the Audit Committee on the progress made in addressing key risks;

(iii) groups focusing on specific organisational activities including casework, information technology and accommodation meet at regular intervals throughout the year;

(iv) the Finance Manager is responsible for maintaining the CS' risk register. The risk register groups risks into ten generic risk categories and ranks each risk in terms of risk and likelihood. The risk register is updated on a quarterly basis;

(v) the Director, Operations is a member of the DTI Agencies Risk Management Network, a forum by which senior management from across the DTI's agencies can discuss risk and receive guidance on achieving best practice;

(vi) a Departmental Security Officer and Information Technology Security Officer ensure that the CS complies with Cabinet Office and National Infrastructure Security Coordination Centre standards (BS7799) on security procedures; and

(vii) Risk guidance is available to all staff and the CS provides training to all staff responsible for risk management.

### The risk and control framework

The CS has continued the process of embedding the system of internal control and developing the risk management framework that was created following the establishment of the CAT and CS on 1 April 2003.

The following processes are in place to manage the risk and control framework:

(i) the membership of the CS and senior management have taken action to address the organisation's key risk. The key risk that was identified was that with only the President acting as CAT Chairman in the majority of cases (largely as a result of there being no other member of the panel of chairmen at the time the cases were received by the CAT) the judicial process could be held up if he were unavailable or the number of cases involving the President was too great. As a result of this, during the year steps were taken to spread the President's workload to other members of the panel of chairmen. In addition the Department for Constitutional Affairs will be undertaking a recruitment exercise for additional people to be appointed to the panel of chairmen to reduce the risk to an acceptable level;

(ii) the CS receives internal audit services from the DTI's internal audit directorate. During the year to 31 March 2005 internal audit assessed the adequacy of the CS's financial and accounting system and the processes employed in managing casework. The CS responds to the recommendations

made by internal audit within agreed timescales in order to achieve best practice;

(iii) financial control is maintained by a monthly financial reporting system to senior management, the Audit Committee and the membership of the CS. In 2005/06 the CS shall report its financial performance to the DTI on a monthly basis and shall hold meetings with officials from the DTI on a quarterly basis; and

(iv) an annual business plan is drafted identifying the objectives for the year ahead and is agreed with the DTI.

### Review of effectiveness

As Accounting Officer, I have responsibility for reviewing the effectiveness of the system of internal control. My review of the effectiveness of the system of internal control is informed by the work of the internal auditors and the managers within the CS who have responsibility for the development and maintenance of the internal control framework, and comments made by the external auditors in their management letter and other reports. I have been advised on the implications of the results of my review of effectiveness by the Audit Committee and the membership of the CS and a plan to address weaknesses and ensure continuous improvement of the system is in place.

There are a number of processes and controls present within both the CAT and the CS that have been established to ensure that

the system of internal control is constantly monitored and reviewed.

The following processes are in place to further maintain and review the effectiveness of the system of internal control:

(i) the membership of the CS meets four times a year to discuss the strategic direction of the CAT and the CS;<sup>1</sup>

(ii) the Audit Committee chaired by the non-executive member of the CS meets four times a year to scrutinise financial performance, progress made in addressing the organisation's key risks and the adequacy of internal and external audit arrangements;<sup>2</sup>

(iii) the DTI's internal audit directorate was retained in 2004/05 to review the progress that the CS had made in addressing issues identified in the control framework and risk management in 2003/04. A programme of work for internal audit has been agreed for 2005/06 and shall cover areas including the finance and accounting system, corporate governance and information management.



Charles Dhanowa  
Registrar  
Competition Appeal Tribunal  
Accounting Officer  
29 June 2005

<sup>1</sup>The membership of the CS comprises the President of the CAT, the Registrar of the CAT and one appointed member.

<sup>2</sup>The Audit Committee comprises one appointed member and two members of the CAT.

# Competition Appeal Tribunal

## The Certificate and Report of the Comptroller and Auditor General to the Houses of Parliament

I certify that I have audited the financial statements on pages 40 to 43 under the Enterprise Act 2002. These financial statements have been prepared under the historic cost convention and the accounting policies set out on page 41.

### Respective responsibilities of the Service, the Accounting Officer and the Auditor

As described on page 35, the CS and its Accounting Officer are responsible for the preparation of the CAT's financial statements in accordance with the Enterprise Act 2002 and directions made thereunder and for ensuring the regularity of financial transactions. The CS and the Accounting Officer are also responsible for the preparation of the Foreword. My responsibilities, as independent auditor, are established by statute and I have regard to the standards and guidance issued by the Auditing Practices Board and the ethical guidance applicable to the auditing profession.

I report my opinion as to whether the financial statements give a true and fair view and are properly prepared in accordance with the Enterprise Act 2002 and directions made thereunder, and whether in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them. I also report if, in my opinion, the Foreword is not consistent with the financial

statements, if the CAT has not kept proper accounting records, or if I have not received all the information and explanations I require for my audit.

I read the other information contained in the Accounts and consider whether it is consistent with the audited financial statements. I consider the implications for my certificate if I become aware of any apparent misstatements or material inconsistencies with the financial statements.

I review whether the joint statement on pages 36 and 37 reflects the CS' compliance with Treasury's guidance on the Statement on Internal Control. I report if it does not meet the requirements specified by Treasury, or if the statement is misleading or inconsistent with other information I am aware of from my audit of the financial statements. I am not required to consider, nor have I considered, whether the Accounting Officer's Statement on Internal Control covers all risks and controls. I am also not required to form an opinion on the effectiveness of the CS' corporate governance procedures or its risk and control procedures.

### Basis of Audit Opinion

I conducted my audit in accordance with United Kingdom Auditing Standards issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts, disclosures and regularity of financial transactions included in the financial statements. It also includes an assessment of the significant estimates and judgements made by the CS and the Accounting Officer in the preparation of the financial statements, and of whether the accounting policies are appropriate to the CAT's circumstances, consistently applied and adequately disclosed.

I planned and performed my audit so as to obtain all the information and explanations which I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the financial statements are free from material mis-statement, whether caused by error, or by fraud or other irregularity and that, in all material respects, the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them. In forming my opinion I also evaluated the overall adequacy of the presentation of information in the financial statements.

## Opinion

In my opinion:

- the financial statements give a true and fair view of the state of affairs of the CAT at 31 March 2005 and of its results, total recognised gains and losses and cash flows for the year then ended and have been properly prepared in accordance with the Enterprise Act 2002 and with directions made thereunder, and;
- in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

I have no observations to make on these financial statements.

John Bourn  
Comptroller and Auditor General  
6 July 2005  
National Audit Office  
157-197 Buckingham Palace Road  
Victoria  
London  
SW1W 9SP

## Supplementary statement

Supplementary statement by the Comptroller and Auditor General in respect of material included at pages 1 to 29 of this Annual Review, not included with the financial statements to which the audit opinion above relates

In respect alone of my responsibility under United Kingdom auditing standards to read the other information included with financial statements on which I express an audit opinion, I have read the additional information on pages 1 to 29 which was not included with the financial statements on which I reached the audit opinion set out in my Certificate above and considered whether it is consistent with the audited financial statements. I have considered the implications for my audit opinion if I have thereby become aware of any apparent mis-statement or material inconsistencies with the financial statements. I have not considered the effects of any events since the date of my Certificate.

In this regard, my audit opinion on the financial statements is unchanged.

John Bourn  
Comptroller and Auditor General  
6 July 2005  
National Audit Office  
157-197 Buckingham Palace Road  
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London  
SW1W 9SP

# Competition Appeal Tribunal

## Income and expenditure account for the year ended 31 March 2005

	Note	2004/05 £'000	2003/04 £'000
<b>Income</b>			
Allocation of grant-in-aid from Competition Service		682	499
		<b>682</b>	<b>499</b>
<b>Expenditure</b>			
Members' remuneration costs	2	564	400
Other operating charges	4	118	99
		<b>682</b>	<b>499</b>
<b>Surplus/(deficit) for the financial year</b>		<b>–</b>	<b>–</b>

There were no gains or losses in the year other than those included in the income and expenditure account.

All income and expenditure are derived from continuing operations.

The notes on pages 41 to 43 form part of the financial statements.

# Competition Appeal Tribunal

## Notes to the accounts

### 1 Statement of accounting policies

#### (a) Accounting convention

The financial statements have been prepared under the modified historic cost convention in accordance with the Executive Non-Departmental Public Bodies: Annual Reports and Accounts Guidance issued by HM Treasury and applicable accounting standards. The particular policies adopted by the CAT are described below. They have been applied consistently in dealing with the items considered material to the accounts.

#### (b) Basis of preparation of accounts

There is a statutory requirement for the CS to produce separate accounts for the CAT and the CS. The accounts of the CAT include only the direct costs specifically attributable to the CAT. The CAT has no bank account or other assets and liabilities; as all costs are paid by the CS the production of a Balance Sheet and Cash Flow Statement for the CAT is not appropriate. The CAT's accounts therefore comprise an Income and Expenditure account and supporting notes. In accordance with Accounts Directions issued by the Secretary of State with the approval of the Treasury, the CAT and the CS have prepared a joint Foreword, Statement of Accounting Officer's responsibilities and Statement on Internal Control.

#### (c) Income

Under the terms of the Enterprise Act 2002, the expenses of the CAT are paid by the CS. The CS is funded by grant-in-aid from the DTI. In making requests for funding the CS draws down sums appropriate to fund the activities of the CAT and to carry out its other activities.

#### (d) Pensions

The President is a member of the Judicial Pension Scheme (JPS).

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

The JPS is an un-funded 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 2004/05 has been assessed as 29.25% of the relevant judicial salary. This includes an element of 0.25% as a contribution towards the administration costs of the scheme.

The liability for future payment is not chargeable to the CS but is a charge on the JPS. The CS is unable to identify its share of the underlying assets and liabilities. There is a separate scheme statement for the JPS as a whole and a full actuarial valuation as at 31 March 2005 is being carried out. Details of the 2003/04 Resource Accounts of the Department for Constitutional Affairs: Judicial Pensions Scheme can be found on the Department for Constitutional Affairs website ([www.dca.gov.uk](http://www.dca.gov.uk)).

The appointment of CAT chairmen and ordinary members is non-pensionable.

#### (e) Going concern

The accounts have been prepared on a going concern basis.

# Competition Appeal Tribunal

## Notes to the accounts (continued)

### 2. Members' remuneration

(a) The cost of members' remuneration was:

	2004/05 £'000	2003/04 £'000
Members' remuneration (including the President and chairmen)	463	319
Social security costs	52	34
Pension contributions for the President	49	47
	<b>564</b>	<b>400</b>

(b) Members of the CAT during the year are listed in the Annual Review. The President and the Chairmen are appointed by the Lord Chancellor. Ordinary members are appointed by the Secretary of State. The appointments are for a fixed term of up to eight years.

(c) Marion Simmons QC is a member of the panel of chairmen, and is remunerated on a per diem basis at a rate of £600 per day. Her remuneration of £94,200 (2003/04: £4,800) is included in note 2 (a).

The salary costs of the judges of the Chancery Division of the High Court when sitting as tribunal chairmen are paid by the Department for Constitutional Affairs.

(d) The ordinary members are remunerated at a rate of £300 per day. The total remuneration payable to ordinary members of £202,350 (2003/04: £152,200) is included in note 2 (a).

### 3. President's remuneration

(a) The President's remuneration and pension details.

(b) The President's salary for 2004/05 was in the range £165,000 - £170,000 (2003/04: in the range £160,000 - £165,000). The President's salary is set by the DTI. There are no additional allowances paid.

	Salary £'000	Real increase in pension £'000	Real increase in lump sum £'000	Pension at 31/03/05 £'000	Lump sum at 31/03/05 £'000	CETV at 31/03/04 (nearest £'000)	CETV at 31/03/05 (nearest £'000)	Employee contributions and transfers- in £'000	Real increase in CETV as funded by employer (nearest £'000)
Sir Christopher Bellamy	165 - 170	2.5 - 5	7.5 - 10	20 - 25	40 - 45	287	367	2.5 - .5	72

(c) There were no benefits in kind provided to the President during 2004/05.

(d) The President is a member of the Judicial Pension Scheme (JPS). For 2004/05, employer contributions of £49,000 (2003/04: in the range £47,000) were payable to the JPS at a rate of 29.25 per cent of pensionable pay. Further information regarding the JPS is included in note 1(d).

#### 4. Other operating charges

	2004/05	2003/04
	£'000	£'000
Members' travel and subsistence	54	48
Members' PAYE and National Insurance on travel and subsistence expenses	49	37
Members' training	10	8
Audit fees*	5	6
	<b>118</b>	<b>99</b>

\*Audit fees related only to statutory audit work.

#### 5. Related party transactions

All expenses of the CAT are paid by the CS.

The President and the chairman did not undertake any material transactions with the CS during the year.

# Competition Service

## The Certificate and Report of the Comptroller and Auditor General to the Houses of Parliament

I certify that I have audited the financial statements on pages 46 to 62 under the Enterprise Act 2002. These financial statements have been prepared under the historic cost convention as modified by the revaluation of certain fixed assets and the accounting policies set out on pages 49 to 50.

### Respective responsibilities of the Service, the Accounting Officer and the Auditor

As described on page 35, the CS and its Accounting Officer are responsible for the preparation of the financial statements in accordance with the Enterprise Act 2002 and directions made thereunder and for ensuring the regularity of financial transactions. The CS and the Accounting Officer are also responsible for the preparation of the Foreword. My responsibilities, as independent auditor, are established by statute and I have regard to the standards and guidance issued by the Auditing Practices Board and the ethical guidance applicable to the auditing profession.

I report my opinion as to whether the financial statements give a true and fair view and are properly prepared in accordance with the Enterprise Act 2002 and directions made thereunder, and whether in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern

them. I also report if, in my opinion, the Foreword is not consistent with the financial statements, if the CS has not kept proper accounting records, or if I have not received all the information and explanations I require for my audit.

I read the other information contained in the Accounts and consider whether it is consistent with the audited financial statements. I consider the implications for my certificate if I become aware of any apparent misstatements or material inconsistencies with the financial statements.

I review whether the joint statement on pages 36 and 37 reflects the CS' compliance with the Treasury's guidance on the Statement on Internal Control. I report if it does not meet the requirements specified by Treasury, or if the statement is misleading or inconsistent with other information I am aware of from my audit of the financial statements. I am not required to consider, nor have I considered, whether the Accounting Officer's Statement on Internal Control covers all the risks and controls. I am also not required to form an opinion on the effectiveness of the CS' corporate governance procedures or its risk and control procedures.

### Basis of Audit Opinion

I conducted my audit in accordance with United Kingdom Auditing Standards issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to amounts, disclosures and regularity of financial transactions included in the financial statements. It also includes an assessment of the significant estimates and judgements made by the CS and the Accounting Officer in the preparation of the financial statements, and of whether the accounting policies are appropriate to the CS' circumstances, consistently applied and adequately disclosed.

I planned and performed my audit so as to obtain all the information and explanations which I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by error, or by fraud or other irregularity and that, in all material respects, the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them. In forming my opinion I also evaluated the overall adequacy of the presentation of information in the financial statements.

## Opinion

In my opinion:

- the financial statements give a true and fair view of state of affairs of the CS at 31 March 2005 and of the surplus, total recognised gains and losses and cash flows for the year then ended and have been properly prepared in accordance with the Enterprise Act 2002 and with directions made thereunder, and;
- in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

I have no observations to make on these financial statements.

John Bourn  
Comptroller and Auditor General  
6 July 2005  
National Audit Office  
157-197 Buckingham Palace Road  
Victoria  
London  
SW1W 9SP

## Supplementary statement

Supplementary statement by the Comptroller and Auditor General in respect of material included at pages 1 to 29 of this Annual Review, not included with the financial statements to which the audit opinion above relates

In respect alone of my responsibility under United Kingdom auditing standards to read the other information included with financial statements on which I express an audit opinion, I have read the additional information on pages 1 to 29 which was not included with the financial statements on which I reached the audit opinion set out in my Certificate above and considered whether it is consistent with the audited financial statements. I have considered the implications for my audit opinion if I have thereby become aware of any apparent mis-statement or material inconsistencies with the financial statements. I have not considered the effects of any events since the date of my Certificate.

In this regard, my audit opinion on the financial statements is unchanged.

John Bourn  
Comptroller and Auditor General  
6 July 2005  
National Audit Office  
157–197 Buckingham Palace Road  
Victoria  
London  
SW1W 9SP

# Competition Service

## Income and expenditure account for the year ended 31 March 2005

	Note	2004/05 £'000	2003/04 £'000
<b>Income</b>			
Gross income: Grant-in-Aid	2	3,550	2,359
Transfer from Deferred Government Grant Reserve	15	135	41
		<b>3,685</b>	<b>2,400</b>
Less allocation to cover costs of the CAT		(682)	(499)
		<b>3,003</b>	<b>1,901</b>
<b>Expenditure</b>			
CS and Audit Committee members' remuneration	4	11	4
Staff salary costs	5	762	615
Depreciation	10,11	121	21
Permanent diminution in value of fixed assets	11	14	20
Other operating charges	7	1,784	1,433
		<b>2,692</b>	<b>2,093</b>
<b>Surplus/(deficit) on ordinary activities before interest and taxation</b>		<b>311</b>	<b>(192)</b>
Interest receivable	8	47	26
Notional cost of capital	8	(17)	(5)
<b>Surplus/(deficit) on ordinary activities before taxation</b>		<b>341</b>	<b>(171)</b>
Corporation tax	9	(9)	(5)
<b>Surplus/(deficit) for the financial year after taxation</b>		<b>332</b>	<b>(176)</b>
Add back – notional cost of capital	8	17	5
<b>Overall surplus/(deficit) for the financial year</b>		<b>349</b>	<b>(171)</b>

All income and expenditure are derived from continuing operations.

### Statement of total recognised gains and losses for the year ended 31 March 2005

	2004/05 £'000	2003/04 £'000
Unrealised surplus on revaluation of tangible fixed assets (note 16)	6	-
<b>Recognised gains for the year</b>	<b>6</b>	<b>-</b>

Accounting policies and notes forming part of these accounts are on pages 49 to 62.

# Competition Service

## Balance Sheet as at 31 March 2005

	Note	31 March 2005 £'000	31 March 2005 £'000	31 March 2004 £'000	31 March 2004 £'000
<b>Fixed assets</b>					
Intangible fixed assets	10	20		–	
Tangible fixed assets	11	440		484	
			<b>460</b>		<b>484</b>
<b>Current assets</b>					
Debtors	12	70		26	
Cash at bank and in hand	13	686		854	
			<b>756</b>		<b>880</b>
<b>Current liabilities</b>					
Creditors: Amounts falling due within one year	14a		(238)		(623)
<b>Net current assets</b>			<b>518</b>		<b>257</b>
<b>Total assets less current liabilities</b>			<b>978</b>		<b>741</b>
<b>Creditors: Amounts falling due after more than one year</b>					
Deferred income	14a		(340)		(428)
<b>Total assets less total liabilities</b>			<b>638</b>		<b>313</b>
<b>Financed by</b>					
Deferred government grant reserve	15		454		484
Revaluation reserve	16		6		-
Income and expenditure account	17		178		(171)
			<b>638</b>		<b>313</b>

Accounting policies and notes forming part of these accounts are on pages 49 to 62.



Charles Dhanowa  
Registrar  
Competition Appeal Tribunal  
Accounting Officer  
29 June 2005

# Competition Service

## Cash flow statement for the year ended 31 March 2005

	Note	2004/05 £'000	2003/04 £'000
Net cash (outflow)/inflow from operating activities	(i)	(1)	620
Capital expenditure	(ii)	(314)	(316)
Returns on investments and servicing of finance	(ii)	47	25
Financing	(ii)	105	525
Taxation		(5)	-
<b>(Decrease)/increase in cash</b>	<b>(iii)</b>	<b>(168)</b>	<b>854</b>

### Note (i) Reconciliation of operating deficit to operating cash flows

Operating surplus/(deficit)	311	(192)
-----------------------------	-----	-------

### Movements not involving cash

Depreciation	121	21
Permanent diminution in value of fixed assets	14	20
(Increase) in debtors	(47)	(25)
(Decrease)/increase in creditors	(265)	837
Transfer from capital grant-in-aid	(135)	(41)
<b>Net cash (outflow)/inflow from operating activities</b>	<b>(1)</b>	<b>620</b>

### Note (ii) Analysis of cash flows for headings netted in the cash flow statement

Purchase of tangible fixed assets	(314)	(316)
-----------------------------------	-------	-------

### Return on investments and servicing of finance

Interest received	47	25
-------------------	----	----

### Financing

Deferred income – capital grant-in-aid	105	525
--	-----	-----

### Note (iii) Analysis of changes in net funds

	At 1 April 2004 £'000	Cash flow £'000	At 31 March 2005 £'000
Cash in hand and at bank	854	(168)	686

The amount shown for debtors in Note (i) excludes bank interest accrued as this is not operating income.

The creditors amount is net of non-operating expenses relating to corporation tax and fixed asset purchases accrued at 31 March 2005.

The purchase of fixed assets represents the cash paid in year. The deferred income represents capital expenditure accrued and paid for.

Accounting policies and notes forming part of these accounts are on pages 49 to 62.

# Competition Service

## Notes to the accounts

### 1. Statement of accounting policies

#### (a) Accounting convention

The financial statements have been prepared under the modified historic cost convention in accordance with the Executive Non-Departmental Public Bodies: Annual Reports and Accounts Guidance issued by HM Treasury and applicable accounting standards. The particular policies adopted by the CS are described below. They have been applied consistently in dealing with the items considered material to the accounts.

#### (b) Basis of preparation of accounts

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

In accordance with Accounts Directions issued by the Secretary of State with the approval of the Treasury, the CAT and the CS have prepared a joint Foreword, Statement of Accounting Officer's responsibilities and Statement on Internal Control.

#### (c) Income

The CS is funded by grant-in-aid from the DTI. The revenue portion of the grant-in-aid is credited to income in the year to which it related. The portion receivable for capital expenditure

is credited to a deferred government grant account and released to the income and expenditure account over the expected useful lives of the relevant assets. In drawing down grant-in-aid the CS draws down sums considered appropriate for the purpose of enabling the CAT to perform its functions.

#### (d) Fixed assets

All assets are held by the CS in order to provide support services to the CAT.

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. The capitalisation threshold was reduced to £500 in 2004/05 to ensure that the additional furniture purchased to complete the fit-out of the Victoria House premises was treated consistently with similar items purchased in 2003/04. There is no effect on the previous year's accounts as a result of the change in the capitalisation threshold.

Assets are reviewed annually using relevant producer price indices.

#### (e) Depreciation

Depreciation is provided on all fixed assets, using the straight line method, at rates calculated to write off, in equal instalments, the current replacement cost less any estimated residual value of each asset over its expected useful life. Fixed assets are depreciated from the month following acquisition.

#### Tangible fixed assets:

Information Technology

- Desktop and laptop computers and printers  
3 years

- Audio Visual equipment  
5 years

Office equipment

- 5 years

Furniture

- 7 years

#### Intangible fixed assets:

Information Technology

- Software licences  
1 to 3 years

#### (f) Capital charge

In accordance with Treasury requirements, a charge reflecting the cost of capital utilised by the CS is included in operating costs. The charge is calculated at the Government's standard rate of 3.5 per cent (2003/04: 3.5 per cent) on the average value of items comprising capital employed over the year.

#### (g) Taxation

- The CS is liable for corporation tax on interest earned on bank deposits.
- The CS is not registered for VAT, and therefore did not recover any VAT. Expenditure in the income and expenditure account is shown inclusive of VAT, and VAT on the purchase of fixed assets is capitalised.

# Competition Service

## Notes to the accounts (continued)

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### (h) Pension costs

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

No recognition of the PCSPS scheme occurs in the CS' accounts as the liability to pay future benefits does not lie with the CS. The PCSPS is an unfunded, multi-employer defined benefit scheme and the CS is unable to identify its share of the underlying assets and liabilities.

### (i) Operating leases

Rentals payable under operating leases are charged to the income and expenditure account on a straight-line basis over the term of the lease.

### (j) Going concern

There is no reason to believe that future sponsorship from the DTI will not be forthcoming within the capital and resource budgets set by Spending Review Settlements and fluctuations in the level of workload. It has accordingly been considered appropriate to adopt a going concern basis for the preparation of these financial statements.

### (k) Provisions

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

## 2. Government grant-in-aid

	2004/05 £'000	2003/04 £'000
Allocated by the DTI	4,717	3,888
Drawn down	3,655	2,884
Revenue - to income	3,550	2,359
Capital - to deferred Government grant reserve	105	525
<b>Net grant-in-aid</b>	<b>3,655</b>	<b>2,884</b>

The reconciliation to the cash drawn from the DTI was:

Net cash drawn from the DTI	3,655	2,884
Balance on account	-	-
<b>Net grant-in-aid</b>	<b>3,655</b>	<b>2,884</b>

## 3. Registrar's remuneration

(a) The Registrar's remuneration and pension details:

	Salary £'000	Real increase in pension £'000	Real increase in lump sum £'000	Pension at 31/03/05 £'000	Lump sum at 31/03/05 £'000	CETV at 31/03/04 (nearest £'000)	CETV at 31/03/05 (nearest £'000)	Employee contributions and transfers- in £'000	Real increase in CETV as funded by employer (nearest £'000)
Mr Charles Dhanowa	75-80	0 - 2.5	2.5 - 5	10 - 15	30 - 35	114	136	5 - 7.5	9

(b) The Registrar's salary is set by the DTI. There are no additional allowances paid. The Registrar's remuneration is included in staff payroll under note 5.

(c) There were no benefits in kind provided to the Registrar during 2004/05.

(d) The Registrar's pension benefits are provided through the PCSPS. For 2004/05, employer contributions of £14,000 (2003/04: £13,000) were payable to the PCSPS scheme at a rate of 18.5 per cent of pensionable pay. Further information regarding the PCSPS is included in note 6.

Columns 6 and 7 of the above table shows the member's cash equivalent transfer value (CETV) accrued at the beginning and the end of the reporting period. Column 9 reflects the increase in CETV effectively funded by the employer. It takes account of the increase in accrued pension due to inflation, contributions paid by the employee (including the value of any benefits

# Competition Service

## Notes to the accounts (continued)

transferred from another pension scheme or arrangement) and uses common market valuation factors for the start and end of the period.

A CETV is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in the former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies. The CETV figures, and from 2003/04 the other pension details, include the value of any pension benefit in another scheme or arrangement which the individual has transferred to the CSP arrangements and for which the CS Vote has received a transfer payment commensurate to the additional pension liabilities being assumed. They also include any additional pension benefit accrued to the member as a result of their purchasing additional years of pension service in the scheme at their own cost. CETV's are calculated within the guidelines and framework prescribed by the Institute and Faculty of Actuaries.

#### 4. CS and Audit Committee members' remuneration

(a) The cost of CS and Audit Committee members' remuneration was:

	2004/05 £'000	2003/04 £'000
CS and Audit Committee members' remuneration	10	4
Social security costs	1	-
	<b>11</b>	<b>4</b>

(b) The membership of the CS is chaired by Sir Christopher Bellamy, President of the CAT. The President's salary costs are shown in note 3 of the CAT's accounts. Charles Dhanowa is also a member of the CS. His salary costs are shown in note 3 (a) and are included in note 5 (a).

Mrs Janet Rubin is a non-executive member of the CS. This is a fixed term of up to four years. Mrs Rubin is also Chairman of the CS' Audit Committee. Her appointment is not pensionable. Mrs Rubin is remunerated at a rate of £350 per day. Her remuneration of £5,250 in the year (2003/04: £2,100) is included in note 4 (a).

The Audit Committee's two other members are Mr Peter Clayton and Mr Barry Colgate. Both are CAT ordinary members. Each is remunerated at a rate of £300 per day. The total remuneration payable in 2004/05 of £5,100 is included in note 4 (a).

## 5. Staff salary costs

(a) The cost of staff remuneration was:

	2004/05 £'000	2004/05 £'000
Salaries	607	472
Social security costs	54	43
Pension contributions	91	72
Total employee costs	752	587
Temporary staff costs	10	28
<b>Total staff costs</b>	<b>762</b>	<b>615</b>

(b) Included in total employee costs in note 5 (a) is £70,000 representing the cost of one staff member on secondment from the DTI.

(c) The average number of employees and the average number of temporary staff is shown below:

	2004/05	2003/04
Employed on cases	9	6
Support staff	8	7
Total employees	17	13
Temporary staff	1	1
<b>Total staff</b>	<b>18</b>	<b>14</b>

# Competition Service

## Notes to the accounts (continued)

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### 6. Pension costs

Pension benefits for all CS staff are provided through the PCSPS.

From 1 October 2002, civil servants may be in one of three statutory based “final salary” defined benefit schemes (classic, premium and classic plus). The Schemes are unfunded with the cost of benefits met by monies voted by Parliament each year. Pensions payable under classic, premium and classic plus are increased annually in line with changes in the Retail Prices Index. New entrants from 1 October 2002 may choose between membership of premium or joining a good quality “money purchase” stakeholder arrangement with a significant employer contribution (partnership pension account).

Employee contributions are set at the rate of 1.5% of pensionable earnings for classic and 3.5% for premium and classic plus. Benefits in classic accrue at the rate of 1/80th of pensionable salary for each year of service. In addition, a lump sum equivalent to three years’ 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 (but members may give up (commute) some of their pension to provide a lump sum). Classic plus is essentially a variation of premium, but with benefits in respect of service before 1 October 2002 calculated broadly as per classic.

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

Further details about the PCSPS arrangements can be found at the website [www.civilservice-pensions.gov.uk](http://www.civilservice-pensions.gov.uk)

For 2004/05, employer contributions of £91,000 (2003/04: £72,000) were payable to the PCSPS at one of four rates in the range 12 to 18.5 per cent of pensionable pay, based on salary bands. For 2005/06, employer contributions shall be payable to the PCSPS at one of four rates in the range 16.2 to 24.6 per cent.

## 7. Other operating charges

	2004/05	2003/04
	£'000	£'000
Hire of plant and machinery	12	12
Other operating leases	953	149
Consultants fees – not case related	51	69
Consultants fees – IT	123	137
Accommodation	449	670
Travel, subsistence and hospitality	14	6
Audit fees	20	20
Other administration	162	370
	<b>1,784</b>	<b>1,433</b>

Other operating lease costs relate to the rental of office space at Victoria House, where the CS is a tenant of the Competition Commission. It is expected that a formal tenancy agreement between the CS and the Competition Commission, under a Memorandum of Terms of Operation (MOTO) arrangement, will be signed during 2005/06. This MOTO will be for the duration of the Competition Commission's 20- year lease with the Victoria House landlord, which commenced in September 2003.

Audit fees related only to statutory audit work.

## 8. Interest

	2004/05	2003/04
	£'000	£'000
Interest receivable	47	26
Notional cost of capital	(17)	(5)
	<b>30</b>	<b>21</b>

Interest was received on funds deposited in the CS' bank accounts. In accordance with Treasury guidelines, notional interest payable on capital employed was calculated at 3.5 per cent on the average capital employed by the CS for the year (2003/04: 3.5 per cent).

# Competition Service

## Notes to the accounts (continued)

### 9. Taxation

	2004/05 £'000	2003/04 £'000
Corporation tax payable	9	5

Corporation tax payable is based on 19 per cent of gross interest receivable (2003/04: 19 per cent).

### 10. Intangible fixed assets

	Purchased software licences £'000
<b>Current cost</b>	
At 1 April 2004	–
Additions at cost	27
Disposals	–
<b>At 31 March 2005</b>	<b>27</b>
<b>Amortization</b>	
At 1 April 2004	–
Provision for the year	7
Released on disposal	–
<b>At 31 March 2005</b>	<b>(7)</b>
<b>Net book value</b>	
1 April 2004	–
<b>31 March 2005</b>	<b>20</b>

## 11. Tangible fixed assets

	Information technology £'000	Furniture and fittings £'000	Office machinery £'000	Assets under construction £'000	Total £'000
<b>Current cost</b>					
At 1 April 2004	270	232	3	–	505
Additions at cost	11	51	4	12	78
Disposals	–	–	–	–	–
Revaluation	(33)	6	–	–	(27)
<b>At 31 March 2005</b>	<b>248</b>	<b>289</b>	<b>7</b>	<b>12</b>	<b>556</b>
<b>Depreciation</b>					
At 1 April 2004	19	2	–	–	21
Provision for the year	74	39	1	–	114
Released on disposal	–	–	–	–	–
Revaluation	19	–	–	–	19
<b>At 31 March 2005</b>	<b>74</b>	<b>41</b>	<b>1</b>	<b>–</b>	<b>116</b>
<b>Net book value</b>					
1 April 2004	251	230	3	–	484
<b>31 March 2005</b>	<b>174</b>	<b>248</b>	<b>6</b>	<b>12</b>	<b>440</b>

Assets under construction relate to an electronic documents and records management system. This asset shall consist of hardware, consultancy fees and software licences.

This project is due for completion in 2005/06.

## 12. Debtors: Amounts falling due within one year

	31 March 2005 £'000	31 March 2004 £'000
Staff travel advances	4	4
Trade debtors:		
Intra-government	24	–
External	10	–
Prepayments	31	21
Interest accrued	1	1
	<b>70</b>	<b>26</b>

# Competition Service

## Notes to the accounts (continued)

### 13. Cash at bank and in hand

	31 March 2005 £'000	31 March 2004 £'000
Office of HM Paymaster General	195	291
Commercial bank and cash in hand	491	563
	<b>686</b>	<b>854</b>

### 14. Creditors and accruals

(a) Amounts falling due within one year:

	31 March 2005 £'000	31 March 2004 £'000
Trade creditors and accruals:		
Intra-government	18	291
External	140	120
PAYE and National Insurance	52	37
Tax on interest received	9	5
Stamp Duty payable on leasehold	-	147
Deferred income	19	23
	<b>238</b>	<b>623</b>

(b) Amounts falling due after more than one year:

Deferred income	340	428
	<b>578</b>	<b>1,051</b>

(b) The deferred income represents the value of the rent-free period for Victoria House.

In accordance with the principles of SSAP21 (Accounting for leases and higher purchase contracts) and the supplementary guidance specified in UITF abstract 28 (Operating lease incentives) the CS has spread the value of the nine month rent-free period for Victoria House over the expected full 20-year length of the tenancy agreement.

#### 15. Deferred government grant reserve

	2004/05 £'000	2003/04 £'000
Balance at 1 April	484	–
Capital grant received (note 2)	105	525
Transferred to income and expenditure account	(135)	(41)
<b>Balance at 31 March</b>	<b>454</b>	<b>484</b>

#### 16. Movement on revaluation reserve

	2004/05 £'000	2003/04 £'000
Balance at 1 April	–	–
Arising on revaluation of furniture and fittings	6	–
<b>Balance at 31 March</b>	<b>6</b>	<b>–</b>

#### 17. Income and expenditure account

	2004/05 £'000	2003/04 £'000
Balance at 1 April	(171)	–
Surplus/(deficit) for year	349	(171)
<b>Balance at 31 March</b>	<b>178</b>	<b>(171)</b>

# Competition Service

## Notes to the accounts (continued)

### 18. Capital Commitments

	2004/05 £'000	2003/04 £'000
Contracted capital commitments at 31 March for which no provision has been made	92	–

In March 2005 the CS signed a contract with a company to supply an electronic documents and records management system. The contract had a value of £104,000. At 31 March 2005, the CS had paid £12,000 in consultancy fees to the contractor.

### 19. Commitments under operating leases

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

	2004/05 £'000	2003/04 £'000
<b>Obligations under operating leases comprise:</b>		
Land and buildings		
Expiry within 1 year	-	-
Expiry after 1 year but not more than 5 years	-	-
Expiry thereafter	1,028	1,047
<b>Other:</b>		
Expiry within 1 year	-	14
Expiry after 1 year but not more than 5 years	13	-
Expiry thereafter	-	-
	<b>1,041</b>	<b>1,061</b>

The footnote to note 7 gives further details of the lease arrangements in respect of land and buildings.

## 20. Related party transactions

During the year the CS had various material transactions with the Competition Commission relating to the purchase of fixed assets, provision of IT support to the CS and the occupancy of Victoria House.

The CS also had various material transactions with the DTI including payroll, pension administration and internal audit services.

In addition, the CS has had various material transactions with other Government Departments and other central Government bodies.

No CS member, key manager or other related parties has undertaken any material transactions with the CS during the year.

## 21. Financial instruments

FRS 13, Derivatives and Other Financial Instruments, requires disclosure of the role which financial instruments have had during the period in creating or changing the risks an entity faces in undertaking its activities. The CS has limited exposure to risk in relation to its activities. As permitted by FRS 13, debtors and creditors which mature or become payable within 12 months from the balance sheet date have been omitted from this disclosure note.

The CS has no borrowings and relies on grant in aid from the DTI for its cash requirements, and is therefore not exposed to liquidity risks. The CS has no material deposits other than cash balances held in current accounts with the Office of HM Paymaster and at a commercial bank, and all material assets and liabilities are denominated in sterling, so it is not exposed to interest rate risk or currency risk.

Set out below is a comparison by category of book values and fair values of the CS' financial assets as at 31 March 2005.

	Book value £'000	Fair value £'000
Cash at bank	686	686

# Competition Service

## Notes to the accounts (continued)

### 22 Intra-government balances

	Debtors: amounts falling due within one year £'000	Debtors: amounts falling due after more than one year £'000	Creditors: amounts falling due within one year £'000	Creditors: amounts falling due after more than one year £'000
Balances with other central government bodies	24	-	98	340
Balances with bodies external to government	46	-	140	-
<b>At 31 March 2005</b>	<b>70</b>	<b>-</b>	<b>238</b>	<b>340</b>
Balances with other central government bodies	-	-	503	428
Balances with bodies external to government	26	-	120	-
<b>At 31 March 2004</b>	<b>26</b>	<b>-</b>	<b>623</b>	<b>428</b>



1 Orla Weston, 2 Collette Rawnsley, 3 James Aitken, 4 Cerry Darbon, 5 Anthony Lewis, 6 Kimberley Smith, 7 Christopher Brown, 8 Jeremy Straker, 9 Kathryn Hitchings, 10 Julie Hamilton, 11 Peter Alberts, 12 Marion Simmons, 13 Charles Dhanowa

