



COMPETITION APPEAL TRIBUNAL

# Annual Review and Accounts

**2006/2007**

VICTORIA HOUSE



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# COMPETITION APPEAL TRIBUNAL



# Introduction

**The Enterprise Act 2002 provided for the establishment of the Competition Appeal Tribunal (the Tribunal) and the Competition Service (the CS).**

## Principal activities of the Tribunal

To hear 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 Tribunal 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 Tribunal can be appealed, on a point of law and/or as to the amount of any penalty, to the Court of Appeal, the Court of Session in Scotland or the Court of Appeal in Northern Ireland.

## Membership of the Tribunal

The Tribunal comprises the President, (this post is currently vacant following the retirement of Sir Christopher Bellamy QC and a successor will be appointed shortly); the panel of Chairmen (comprising each of the Judges of the Chancery Division of the High Court and three other members, namely Marion Simmons QC, Lord Carlile of Berriew QC and Vivien Rose); and a panel of 17 Ordinary Members.

## The Tribunal membership in 2006/07 comprised:

### President

Sir Christopher Bellamy (until 2 February 2007)

### Panel of Chairmen

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 Pumfrey  
The Honourable Mr Justice Patten  
The Honourable Mr Justice Etherton  
The Honourable Mr Justice Peter Smith  
The Honourable Mr Justice Lewison  
The Honourable Mr Justice David Richards  
The Honourable Mr Justice Mann  
The Honourable Mr Justice Warren  
The Honourable Mr Justice Kitchin  
The Honourable Mr Justice Briggs  
The Honourable Mr Justice Henderson  
Marion Simmons QC  
Lord Carlile of Berriew QC  
Vivien Rose

### Ordinary Members

Professor Andrew Bain OBE  
Michael Blair QC  
Peter Clayton  
Michael Davey  
Peter Grant-Hutchison  
Professor Peter Grinyer  
Sheila Hewitt  
Ann Kelly  
The Honourable Antony Lewis  
Graham Mather  
Professor John Pickering  
Richard Prosser OBE  
Dr Arthur Pryor CB  
Adam Scott TD  
Vindelyn Smith-Hillman  
Professor Paul Stoneman  
David Summers

## Recruitment

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 for State for Trade and Industry. The President and Chairmen are appointed by the Lord Chancellor upon the recommendation of the Judicial Appointments Commission and after open competition as appropriate. The Registrar is appointed by the Secretary of State.

## The Competition Service (CS)

The CS is an executive Non Departmental Public Body (NDPB), set up under the Enterprise Act 2002, to provide the administrative staff, finance and accommodation that the Tribunal requires in order to carry out its functions.

## Membership of the CS

The membership of the CS comprises the President, the Registrar (Charles Dhanowa), and a non-executive member (Janet Rubin), who is also chair of the Audit Committee. The Director, Operations is Jeremy Straker.

## Register of Interests

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

## Premises

The Tribunal and the CS operate from premises in Victoria House, Bloomsbury Place, London, WC1A 2EB.

## Finance and workload

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



## President's statement

### The cases

The Tribunal has had a busy year, handing down a total of 44 judgments, rulings and reasoned orders. A case-by-case summary of the judgments handed down can be found later in this review, where the relevant case references can be found. During the year under review 20 new cases were received.

Potentially the most important appeals to come before the Tribunal under the Chapter I prohibition, and also the first appeals concerning the application by the OFT of Article 81 of the EC Treaty, were those concerning the domestic interchange fees in the *MasterCard* case.

After an administrative procedure lasting over five years the OFT changed the basis of its case before the Tribunal, and then withdrew its decision. In making the subsequent order for costs against the OFT, the Tribunal expressed regret at this turn of events.

Other Chapter I cases have included appeals against OFT decisions imposing fines in *Makers UK Limited*, *Prater Limited*, *Achilles Paper Group Limited* and *Double Quick Supplyline Limited*.

The appeal in *Prater*, later withdrawn, included the Tribunal's ruling on the circumstances in which the time for lodging an appeal could be extended.

The year also saw the closure of the long running Chapter I *Claymore* case, which was a complainant's appeal against the OFT's refusal to find a cartel in relation to the supply of milk to middle ground retailers in the central belt of Scotland. The case was closed following the OFT's announcement of its intention to issue a statement of objections some six years after the events originally complained of.

As regards Chapter II cases, the various *Albion Water* cases are of some significance for the water industry. In the principal case (*Dŵr Cymru/Shotton Paper*) the Tribunal exercising its power under paragraph 3 (2) of Schedule 8 of the Competition Act 1998 found both dominance and abuse (on the issue of margin squeeze in common carriage) in circumstances where the original non-infringement decision had expressed doubts on the issue of dominance and made no finding on abuse.



A second alleged abuse regarding an allegedly excessive common carriage price was remitted to the Water Services Regulation Authority for further investigation. The Tribunal further found that the provisions of the Chapter II prohibition were not displaced by the industry-specific provisions contained in the Water Act 2003. These cases are also of interest as regards the handling of economic evidence before the Tribunal: two distinguished economists prepared reports and were cross-examined during the hearings.

During the year the long-running Chapter II case of *Floe Telecom Limited* concluded with the rejection of the appeal, notwithstanding that the Tribunal set aside part of OFCOM's reasoning. The related case of *VIP Communications Limited* is still pending, an application for interim relief having been rejected.

In respect of interim measures under the Chapter II prohibition, during the year the OFT adopted an interim measures decision against the *London Metal Exchange* (LME), but then withdrew that decision following the lodging of an appeal by the LME. In awarding the LME its costs, the Tribunal criticised the basis upon which the OFT had made its original interim measures decision.

The first appeal against a decision of the Office of Rail Regulation under the Competition Act 1998, was lodged in January 2007.

Complainants have continued to appeal to the Tribunal alleging that the OFT or regulator has failed to take an infringement decision, or wrongly taken, expressly or by implication, a decision of non-infringement.

This issue arose in one form or another in *Casting Books Limited*, *Independent Water Company*, *Terry Brannigan* and *Cityhook Limited*.

The problem arises because of the narrow definition of "appealable decision" under the Competition Act 1998, as contrasted with the much more broadly expressed equivalent provisions under the Enterprise Act 2002 and the Communications Act 2003.

My own view, as President, is that, in contrast to the position before the CFI in Europe, there remains a gap in the legal protection afforded to complainants under the Competition Act 1998; and that the invidious choice often faced by the latter as to whether to proceed before the Tribunal or by way of judicial review – reminiscent of the procedural choices faced by litigants in the mid 19<sup>th</sup> century – should have no place in a modern legal system.







Turning to cases under the Enterprise Act 2002, in *Celesio* the Tribunal upheld the OFT's decision not to refer the Boots/Unichem merger to the Competition Commission, although the Tribunal refused the OFT its costs because of the opacity of the reasoning in the original decision. In the *Stericycle* cases, the judgments in which were published later for reasons of confidentiality, the Tribunal rejected challenges to various "hold separate" rules made by the Competition Commission in a completed merger which the OFT had referred to the Competition Commission.

Various cases were received under the Communications Act 2003.

The Tribunal rejected an appeal by *Media Marketing Promotions* against a determination against that company by OFCOM of a breach of the General Conditions governing their activities.

An appeal by *Hutchison 3G (UK) Limited* was withdrawn following OFCOM's announced intention to consider in depth the issue of "number portability" in relation to mobile phones.

With regard to the Tribunal's damages jurisdiction; in *Healthcare at Home v Genzyme Limited* the Tribunal made an interim award of £2 million in a "follow-on" action; believed to be the first such formal award by a court in the United Kingdom. The first "consumer" action; *The Consumers Association v JJB Sports Plc*, brought under section 47B of the Competition Act 1998 was received shortly before the close of the year, as was a "follow-on" action based on a decision of the European Commission in

relation to a cartel in electrical and mechanical carbon and graphite products, in which the claimants are various US and European companies.

In addition to the foregoing, the Tribunal has continued to be concerned with procedural issues such as extension of time to appeal (*Prater Limited*), disclosure (*Cityhook Limited*, *Prater Limited* and *Makers UK Limited*), summary rejection under Rule 10 (*Terry Brannigan*) and intervention out of time (*Cityhook Limited*). A number of important judgments on costs were also delivered, notably in *Celesio AG*, *LME*, *MasterCard* and *Hutchison 3G (UK) Limited*.

At the level of the Court of Appeal, the latter rejected appeals lodged by *JJB Sports Plc*, *Argos Limited* and *Littlewoods Limited* against the Tribunal's decisions in the replica football shirts and toys appeals, on both liability and penalty. In *Floe Telecom Limited*, the Court of Appeal found that the Tribunal lacked jurisdiction to impose a timetable on OFCOM when remitting a decision, in circumstances where the decision had already been set aside. Permission to appeal sought by *Dŵr Cymru* in relation to the *Dŵr Cymru/Shotton Paper* case, referred to above, was refused on the papers, although at the time of writing the appellant has sought an oral hearing. The Tribunal refused permission to appeal on certain issues in the *Floe Telecom Limited* and *VIP Communications Limited* cases and, at the time of writing, parties in the *Floe* case are seeking permission from the Court of Appeal.

## Membership and training

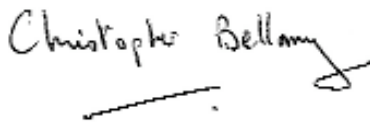
The two Chairmen appointed last year, Lord Carlile of Berriew QC and Vivien Rose, have been active this year and, together with Marion Simmons QC, have between them chaired a substantial proportion of cases pending before the Tribunal. I am extremely grateful to them and to the members of the Tribunal who devote substantial efforts to hearing cases, attending the Tribunal's regular training sessions and representing the Tribunal in various forms in this country and abroad. Mr Adam Scott TD continued his valuable work as chairman of the training committee.

## Other activities

The Tribunal has continued to play a full role in the Association of European Competition Law Judges, the annual conference of which was held last year near Berlin, and this coming year will be held in The Hague. The President and others undertook a number of speaking engagements in Europe and Asia, and a number of overseas visitors were received. The President and Registrar gave evidence to the House of Lords (Sub Committee E) inquiry into the need for a European Competition Court. In December 2006 the Tribunal hosted the Junior Competition Lawyers Conference which gives junior lawyers a chance to speak on issues in competition law before an audience of their peers.

## Envoi

This is my last report as President of the Tribunal and its predecessor the CCAT. It has been a privilege to be involved in establishing a new institution. Whatever has been achieved in the seven years since the coming into force of the Competition Act 1998 could not have been achieved without the efficiency, enthusiasm, hard work and common sense and professionalism of the Chairmen, Members and staff of the Tribunal and, in particular, Charles Dhanowa, the Registrar. I am also particularly grateful to Marion Simmons QC, the Senior Chairman; Janet Rubin, the independent member of the Competition Service; and Orla Weston, the Assistant Registrar, our longest-serving member of staff. But my best thanks go to everyone involved with the Tribunal, past and present, who have shown what can be achieved by dedicated and effective team work. I wish my successor, and all those who continue to serve the Tribunal, the very best for the future.



Sir Christopher Bellamy QC  
President







## Registrar's statement

### Departure of the Tribunal's first President

As already noted in this Review, Sir Christopher Bellamy QC retired as President of the Tribunal in February 2007. It is something of an understatement to say that he will be missed by the Chairmen, Members and staff of the Tribunal. We have all regarded it as a privilege and a pleasure to have collaborated with him in forming and developing the Tribunal. His innovative work at the Tribunal has provided deep foundations for the establishment, in the field of competition law, of a case law system in the United Kingdom which serves both the interests of justice and the promotion of pro-competitive outcomes.

Sir Christopher's successor as President of the Tribunal will be appointed by the Lord Chancellor on the recommendation of the Judicial Appointments Commission later this year.

### The Competition Service (CS)

The CS is the support organisation for the Tribunal. A description of its role can be found in the Introduction.

The strategic direction of the CS continues to be set by the membership of the CS, whose members are the President, Janet Rubin and myself. The membership of the CS meets four times a year under the chairmanship of the President and is supported by Jeremy Straker, our Director, Operations, who acts as secretary. The membership of the CS was in post until Sir Christopher left at the beginning of February. The CS membership will continue with two members until the new President is appointed.

### Future developments

The CS anticipates that the Tribunal shall handle a caseload consistent with that of previous years. The CS remains conscious of the need to operate with economy, particularly with the restrictions that have been placed upon expenditure growth across government departments and their agencies.

The CS has reviewed expenditure requirements across the organisation and, in addition to the annual budget, has made submissions to the government's Comprehensive Spending Review 2007, explaining where cost savings have already been achieved.

### Information technology

In accordance with government policy we have commissioned an Electronic Document and Records Management System (EDRMS), which is commencing operation. At the balance sheet date, equipment and services purchased to build this system are recognised as assets under the course of construction in the CS's accounts.

During this year we intend to turn our attention to the Tribunal's website. Although the current website was set up on a low cost basis, it has functioned efficiently. Those visiting the website will find summaries of both past and present cases before the Tribunal and transcripts of all hearings, together with full copies of all judgments and orders. This provides perhaps the greatest degree of transparency to be found in any institution, particularly of a judicial nature, dealing with competition issues. Nevertheless, there are several ways in which functionality and ease of use can be improved in areas of the website and we intend to examine those in detail in the forthcoming year.

## Administration

It is a necessary and continuing challenge to identify means of making financial savings in order to stay within the tightening budgetary constraints imposed on us by central government. We have made many cost savings in previous years and that necessarily means that the scope for making further savings, without any effect on the performance of the Tribunal's functions, is reducing. We now perform most previously outsourced HR functions in-house without extra staff and we continue to share certain facilities support with our landlord, the Competition Commission, while strictly maintaining our independence. Discussions are also under way to rent out one of our courtrooms to other bodies when not required, in order to maximise the use of our assets.

Naturally, the CS attaches importance to ensuring best value, in terms of price and quality, from its contractors and suppliers. An example of this is the EDRMS project (our most significant investment in IT), where the goods and services were purchased at significantly less than the projected cost and which will be finished on budget.

The financial performance of the Tribunal and CS in 2006/07 is discussed in greater detail in the management commentary on pages 40-41 and the financial statements and accompanying notes to the accounts on pages 49-69.

## Staffing and training

The new staff appraisal system has proved successful and is now being used for the second time. We continue to monitor staff training needs closely and provide suitable training where appropriate and if the budget allows.

The staff sickness absence rate has, as in previous years, been far below the average for both the private and public sectors.

The rate of staff turnover has been much higher than last year. During the year three of our referendaires, Cerry Darbon, James Aitken and Christopher Brown (who had each been with the Tribunal for several years) left to take up posts in well-known law firms. Despite this being a significant immediate loss to the Tribunal, overall, it is a beneficial result of the nature of the role of referendaire (being to provide vital support for the President, Members and Registrar of the Tribunal in the conduct and analysis of cases), since it demonstrates that time spent by talented and motivated lawyers with the Tribunal will be positive in terms of career development.

Also leaving this year were: Tanya O'Rourke, the Information Manager, who had been with us from the beginning and who has taken up a post with a major publishing firm; Anthony Lewis, a caseworker, who we assisted with financial training and who has now joined a major accountancy firm; Kimberley Smith, our HR Executive Assistant who, again, had been with us for several years and had assisted with training in IT and HR issues, who went to a firm of recruitment consultants; and Peter Alberts, also a caseworker, who has returned to his home town in the Netherlands.

With those changes, the Tribunal is, to some extent, engaged in renewing itself and we are pleased to welcome from major law firms Robert Wells and David Bailey (who is also a lecturer in competition law at King's College, London) as referendaires; Ilia Lala as the new Information Manager; and Sophie Jenkins as HR Executive Assistant.

We are an equal opportunities employer and strive to treat all our staff fairly irrespective of gender, ethnic origin, marital status, religious belief, age, sexual orientation or disability.

We regard our willingness to identify and invest in the training needs of staff as a means of attracting and retaining, for a reasonable period, highly motivated personnel committed to delivering a high standard of service in the public interest.



## Pensions

Present and past employees of the CS are covered under the provisions of the Principal Civil Service Pension Scheme (PCSPS). The PCSPS is non-contributory (except in respect of dependants' benefits and additional employee contributions to the Classic and Premium schemes). Liability for payment of future benefits is a charge on the PCSPS. Employer contributions are charges to the CS's income and expenditure account. Further information on the terms of the scheme is provided in the remuneration report and note 5 of the CS's accounts.

## The CS Audit Committee

The CS Audit Committee meets four times a year under the chairmanship of Janet Rubin who has held various non-executive director roles in other organisations, including having chaired remuneration committees and been a member of several audit committees. The other members of the Audit Committee are Peter Clayton, a Tribunal member as well as being a chartered accountant with extensive experience of operating with audit committees of major FTSE 100 companies; and David Summers, who is also a Tribunal member, and has many years experience of being a board member of several public limited companies.

## Format of accounts

The accounts for the Tribunal and for the CS have been prepared in accordance with the 2006-07 Government Financial Reporting Manual (FReM) and the separate Accounts Directions for the Tribunal and the CS 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 Tribunal states that the Statement of Accounting Officer's Responsibilities and Statement on Internal Control are combined with those of the CS.

The accounts of the Tribunal include only the direct costs specifically attributable to the Tribunal. All support costs are included in the CS accounts in line with its statutory purpose set out in the Introduction.

Following an amendment to the FReM, the CS has been required to change the way grant-in-aid is recognised in the Tribunal's and CS's financial statements. As a consequence there is now a requirement to produce a separate balance sheet and cash flow statement for the Tribunal.

Further information regarding this change in accounting policy and its effect on the Tribunal's and CS's financial statements is provided in the management commentary and note 1 in each of the Tribunal's and CS's accounts.



## Auditors

The financial statements of the Tribunal and the CS are audited under Schedule 3 paragraph 12(4) of the Enterprise Act 2002 by the Comptroller and Auditor General. The cost of the external statutory audit was £5,500 for the Tribunal (2005/06: £5,000) and £21,000 for the CS (2005/06: £19,500).

In 2006/07 the DTI's Internal Audit Directorate continued to provide internal audit services to the CS. The cost of providing this function in 2006/07 was £10,000 (2005/06: £10,000).

## Charitable donations

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

## 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 11 days (2005/06: 10 days) and 100 per cent of (undisputed) invoices were settled within 30 days (2005/06: 99.9 per cent).

## Disclosure of relevant audit information

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

**Charles Dhanowa OBE**  
Registrar and Accounting Officer  
Competition Service  
4 July 2007



# Membership

## President

### Sir Christopher Bellamy QC

**Sir Christopher Bellamy QC was President of the Competition Appeal Tribunal until 2 February, 2007. 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 1992-1999 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 Pumfrey  
The Honourable Mr Justice Patten  
The Honourable Mr Justice Etherton  
The Honourable Mr Justice Peter Smith  
The Honourable Mr Justice Lewison  
The Honourable Mr Justice David Richards  
The Honourable Mr Justice Mann  
The Honourable Mr Justice Warren  
The Honourable Mr Justice Kitchin  
The Honourable Mr Justice Briggs  
The Honourable Mr Justice Henderson

### Marion Simmons QC

Marion Simmons QC is a practising barrister and also sits as an arbitrator. She was called to the Bar in 1970, and was appointed QC in 1994. She was appointed as an Assistant Recorder in 1990 and has been a Recorder of the Crown Court since 1998 (sitting in criminal and civil cases). She was the Vice-Chairman of the Appeals Committee of the Institute of Chartered Accountants of England and Wales (2000-2005). She is 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, the Chairman of the Disciplinary Committee of the Taxation 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.

### Lord Carlile of Berriew QC

Lord Carlile QC is Head of Chambers at 9-12 Bell Yard, London, specialising in criminal and civil aspects of commercial fraud. He was called to the Bar in 1970 and took silk in 1984. He is a Bencher of Gray's Inn. He is also a Fellow of King's College, London. He is the Independent Reviewer of Terrorism Legislation for the government and is responsible for advising on the merits and viability of pre-legislative proposals connected with counter-terrorism. He was Chair of the Welsh Assembly Review of the Safety of Children in the NHS in Wales and in 2004-5 was Chairman of the Joint Select Scrutiny Committee on the government's draft Mental Health Bill. From 1989-99 he was a lay member of the General Medical Council. He is a director and trustee of several charities. From 1983-97 he was the Liberal, then Liberal Democrat, MP for Montgomery. During that time he was, variously, spokesman on Home Affairs, Health, Trade and Industry, and Wales. From 1992-7 he was Leader of the Liberal Democrats in Wales. He was created a life peer in 1999. He is a non-executive director of Wynnstay Group Plc, an agri-feed and supplies company. He has written, lectured and spoken on a wide range of issues. Recently he was a contributing observing member of a committee formed by the John F Kennedy School of Government at Harvard University to produce a report on US counter-terrorism legislation.



## Vivien Rose

Vivien Rose was called to the Bar in 1984 and was a member of Monckton Chambers, London, for 10 years. She was appointed Standing Counsel to the Director General of Fair Trading in 1992. In 1995 she left private practice and joined the Government Legal Service working for several years in HM Treasury advising on financial services regulation. Between 2002 and 2005 she worked in the Ministry of Defence advising on international law of armed conflict. She was the editor of the forth edition of *Bellamy & Child European Community Law of Competition* (1993) and an author of the chapter on restrictive agreements in *Chitty on Contracts*. She was also on the editorial board of the *European Competition Law Review* for many years. She currently works part-time as a legal adviser to the Clerk's Department of the House of Commons and is co-editor of the planned 6<sup>th</sup> edition of *Bellamy & Child*.

## Members

### Professor Andrew Bain OBE

Andrew Bain has held full professorships in economics at the Universities of Glasgow, Strathclyde and Stirling, was for six 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 3 Verulam Buildings, Gray's Inn and is the Deputy Treasurer of his Inn of Court, the Middle Temple. He was the Chairman of the Doctors' and Dentists' Pay Review Body from 2001-2007. He is the Deputy Chairman of virt-x Exchange Ltd, the London exchange where the major Swiss equities are traded, and President of the Guernsey Financial Services Tribunal. Until 2000 he was General Counsel to the Financial Services Authority. He served on the Bar Council for nine years (including as Treasurer for four years) and had earlier been employed as a civil servant in the Lord Chancellor's Department for 20 years.

## Peter Clayton

Peter Clayton is a Fellow of the Institute of Chartered Accountants in England and Wales. He has held senior financial management positions in FTSE 100 companies such as Group General Manager, Finance of General Accident Plc and Group Financial Controller of Forte Plc. He is a director of Walking on Air Ltd – a charity providing gliding training for disabled people.

### 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 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.

## Professor Peter Grinyer

Peter Grinyer is Emeritus Professor 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 a JP, a member of the General Medical Council and a member of the Asylum and Immigration Tribunal. She is an Associate of the Chartered Institute of Bankers, and an Independent Assessor for OCPA (the Office of the Commissioner for Public Appointments).

### **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 Adjudication Panel of the Law Society 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**

Antony Lewis is a barrister and Chairman of the Mid Wales Food and Land Trust Ltd. From 1996-2003 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 Community Foundation in Wales, the Institute of Rural Health, Rekindle – a mental health charity, and the Powys Association of Voluntary Organisations.

### **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 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**

John Pickering is an economic and business consultant. 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 as Church Commissioner and director of several companies.

### **Richard Prosser OBE**

Richard Prosser has considerable experience of the small business sector. He currently holds non-executive directorships in engineering and agricultural supply businesses. He has been a member of the Monopolies and Mergers Commission and has served on a considerable number of inquiries.





### **Dr Arthur Pryor CB**

Arthur Pryor 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.

### **Adam Scott TD**

Adam Scott 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 Chartered Engineer, a Fellow of the Institution of Engineering and Technology and a member of Guernsey's Utility Appeal Panel.

### **Vindelyn Smith-Hillman**

Vindelyn Smith-Hillman is a Senior Economics Lecturer at The University 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. She is a listed Assistant Examiner with Cambridge and London Examining Boards and also an assessor with the Government Economic Service.

### **Professor Paul Stoneman**

Paul Stoneman is an economist, currently 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 Committee for Kent. He used to be managing director of Butterworths, the publisher, and was formerly a member of the Restrictive Practices Court. He is chairman of St Bedes School Trust, Sussex.

## **Appointed member of the Competition Service**

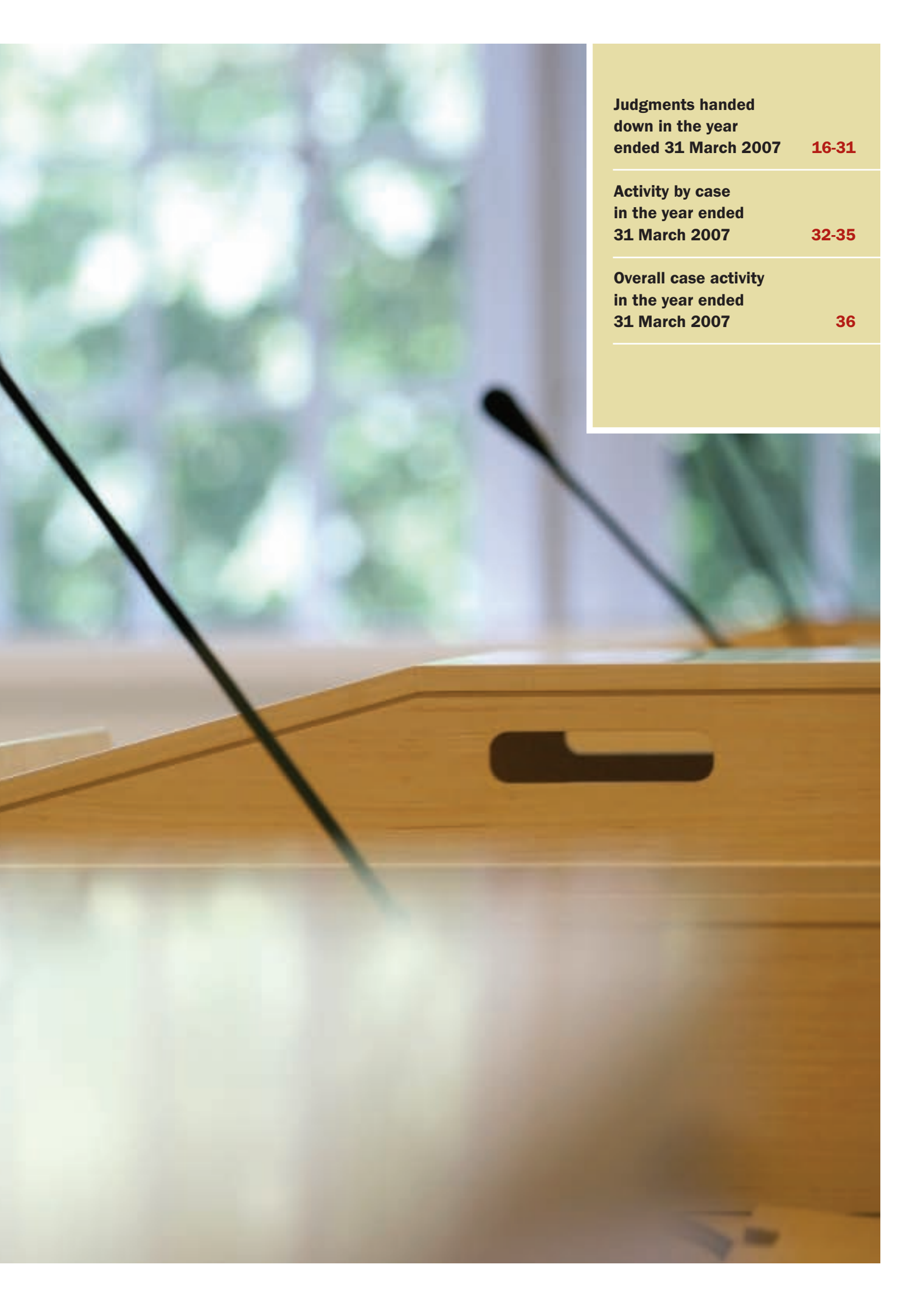
### **Janet Rubin**

Janet Rubin has a professional background in Human Resources. She has worked as an HR Director and held senior HR corporate positions in Arcadia Group, B&Q Plc, WH Smith, 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, Independent Assessor for the Office of the Commissioner for Public Appointments, a member of the Civil Service Arbitration Tribunal, the Diplomatic Service Appeal Board, the Rail Passenger Council and the Senior Salaries Review Body.





**Cases: year ended 31 March 2007**



**Judgments handed  
down in the year  
ended 31 March 2007** **16-31**

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**Activity by case  
in the year ended  
31 March 2007** **32-35**

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**Overall case activity  
in the year ended  
31 March 2007** **36**

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# Judgments

## Judgments handed down within the period 1 April 2006 to 31 March 2007

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

### Judgment

**1. Celesio AG  
v Office of Fair  
Trading**  
[2006] CAT 9  
09-May-06

### Tribunal

Marion Simmons QC  
Vivien Rose  
Professor Andrew Bain OBE

### Subject matter

Judgment on an application pursuant to section 120 of the Enterprise Act 2002 for judicial review of a decision of the OFT not to refer the anticipated acquisition of Alliance UniChem Plc by Boots Group Plc to the Competition Commission.

The Tribunal applied principles established in the *IBA Healthcare* and *Unichem* cases as to the review of an application under section 120. Whilst noting the desirability of the publication by the OFT of a fully reasoned decision, the Tribunal ruled that the witness statement of the OFT's Director of Mergers (which explained in detail the OFT's reasoning) was admissible as elucidation of the OFT's decision to the extent that it did not contradict that decision.

The Tribunal refused the application.

Contrary to the contention of the applicant, the Tribunal found that the reasons given in the OFT's decision were capable of sustaining the conclusion that with regard to retail pharmacies, a reduction in fascia numbers from four to three, or higher, in local retail markets would not give rise to a substantial lessening of competition and that the continued presence of at least two independent competitors would be expected to be sufficient to prevent any substantial reduction in competitive interaction between the retail pharmacies in the relevant area. It was therefore not unreasonable for the OFT to arrive at its decision without considering the proximity of Boots and Unichem outlets in four to three areas.

**2. MasterCard  
UK Members  
Forum Limited;  
MasterCard  
International  
Incorporated and  
MasterCard Europe  
Sprl; and Royal  
Bank of Scotland  
Group v Office of  
Fair Trading**  
[2006] CAT 10  
09-May-06

Sir Christopher Bellamy QC  
Dr Arthur Pryor CB  
David Summers

Reasoned order of the Tribunal requiring the OFT to file a schedule indicating which paragraphs of its infringement decision regarding the MasterCard interchange fee agreement, in the context of the proceedings, were not relied on, were withdrawn or qualified or in respect of which no positive case was being made in the proceedings.

The Tribunal considered that the findings in an infringement decision, which are binding on the addressees, have significant legal consequences, including exposure to potential damages actions. In those circumstances, it was particularly important to be able to identify the findings in issue and the basis for those findings.

## Judgment

## Tribunal

## Subject matter

### **3. Prater Limited v Office of Fair Trading**

[2006] CAT 11  
16-May-06

Marion Simmons QC  
Michael Blair QC  
Vivien Rose

The Tribunal found that it was necessary for there to be the utmost clarity about the OFT's position where, on the documents before the Tribunal, it was apparent that the case made in the OFT's defence was, in several respects, materially different from the case made in the infringement decision.

Reasoned Order of the President, sitting alone, retrospectively extending the time in which the appellant was to file its notice of appeal on the basis that the particular facts of the case constituted an exceptional circumstance for the purposes of Rule 8(2) of the Tribunal's Rules.

### **4. Media Marketing Promotions v Office of Communications**

[2006] CAT 12  
15-May-06

Marion Simmons QC  
Ann Kelly  
Vindelyn Smith-Hillman

Judgment on an appeal by Media Marketing Promotions ("MMP") under section 192 of the Communications Act 2003 against the determination by OFCOM that: MMP was an electronic communications provider bound by General Condition 18; that it had contravened its obligation to provide "number portability" at the request of a subscriber, Prime Time Radio ("PTR"), and "portability" at the request of another communications provider, Uniworld Communications ("Uniworld"); and requiring MMP to provide number portability in respect of specified numbers as soon as reasonably practicable.

The Tribunal found that the principal feature of the service which MMP agreed to provide to PTR was to procure the routing of callers to PTR, which fell within the definition of an electronic communications service. The Tribunal further found on the basis of the natural meaning of the word "provide" and as a matter of statutory interpretation that MMP was providing an electronic communications service to PTR. Accordingly MMP was an electronic communications provider for the purposes of General Condition 18.

The Tribunal also found that, insofar as PTR had a contract with MMP for the supply of Publicly Available Telephone Services, it was a subscriber for the purposes of General Condition 18 and, accordingly, was entitled to request number portability from MMP.

The Tribunal held that OFCOM had been correct to find that MMP was required to provide number portability to PTR as soon as was reasonably practicable on reasonable terms and that MMP was obliged to provide portability to Uniworld.

# Judgments

Judgments handed down within the period **1 April 2006 to 31 March 2007**

## Judgment

## Tribunal

## Subject matter

**5. Makers UK Limited v Office of Fair Trading Prater Limited v Office of Fair Trading**

[2006] CAT 13  
23-Jun-06

Marion Simmons QC  
Vivien Rose  
Michael Blair QC

Ruling of the Tribunal concerning the disclosure in the proceedings of third party information in the possession of the OFT which related to the calculation of penalty but which had been redacted from the published version of the OFT decision.

The Tribunal noted that, pursuant to schedule 4 of the Enterprise Act 2002, it should have regard to the need for excluding, so far as was possible, disclosure of information which would significantly harm the legitimate business interests of the undertaking to which it relates. In that regard, the Tribunal observed that the third parties who had not consented to the disclosure of their information had not explained why such disclosure might significantly harm their legitimate business interests, other than by stating in broad terms that disclosure of their turnover figures might enable competitors to gain insights into their strategy and business plan.

The Tribunal held that disclosure of the redacted material should be allowed as it was relevant to the issues before the Tribunal, but that the disclosure would be limited to the external advisers of the appellants.

**6. MasterCard UK Members Forum Limited; MasterCard International Incorporated and MasterCard Europe Srl; and Royal Bank of Scotland Group v Office of Fair Trading**

[2006] CAT 14  
10-Jul-06

Sir Christopher Bellamy QC  
Dr Arthur Pryor CB  
David Summers

Judgment setting out the Tribunal's reasons for setting aside the OFT's decision following an indication from the OFT that it wished to withdraw that decision.

In respect of MasterCard International's request for a declaration that the MasterCard Members Forum multilateral interchange fee did not constitute a restriction of competition within Article 81(1)/Chapter I, or alternatively, that it satisfied the requirements of Article 81(3)/Section 9 of the Competition Act 1998, the Tribunal did not consider that it was appropriate to continue with the appeals solely for the purpose of considering whether to exercise its discretion to grant the declaratory relief sought.

The Tribunal noted that, whilst the end result of a withdrawal of the decision by the OFT or an order to set aside by the Tribunal were similar, it was appropriate to make an order to set aside the decision pursuant to paragraph 3(2) of schedule 8 to the Competition Act 1998, in the interests of legal certainty and clarity.



## Judgment

**7. MasterCard UK Members Forum Limited; MasterCard International Incorporated and MasterCard Europe Srl; and Royal Bank of Scotland Group v Office of Fair Trading**  
[2006] CAT 15  
28-Jul-06

## Tribunal

Sir Christopher Bellamy QC  
Dr Arthur Pryor CB  
David Summers

## Subject matter

Judgment on costs following the setting aside of the OFT's decision.

The Tribunal held that where the OFT found itself unwilling or unable to support a decision before the Tribunal, the proper course was to notify the Tribunal and the other parties as soon as possible. The OFT had conceded, at a case management conference held on 31 March 2006, that the way in which it reached its conclusions on the infringement in its defence differed from that in its original decision. However, the OFT failed to notify its intention to withdraw its decision until just before the hearing on 19 June 2006. In those circumstances, the costs after 31 March 2006 need not have been incurred.

The Tribunal found that the OFT's decision to continue despite the changes to its case was foreseeably risky and held that the appellants and the intervener were entitled to their reasonable and proportionate costs incurred after 31 March 2006.

The Tribunal considered that, although the appellants and the intervener, Visa, had been put to expense, the outcome of the proceedings had not been commercially disadvantageous for them and, accordingly, the Tribunal held that the costs up to and including 31 March 2006 should lie where they fell.

**8. Casting Book Ltd (in administration) v Office of Fair Trading**  
[2006] CAT 16  
13-Jul-06

Marion Simmons QC  
Peter Clayton  
David Summers

Ruling on an application as to whether the appellant's notice of appeal was filed within two months of being notified of the OFT's decision pursuant to Rule 8 of the Tribunal's Rules.

The Tribunal held that, on the balance of probabilities, the OFT's letter notifying the appellant of its provisional decision to close the case on the basis that it was not an administrative priority was not received until after 28 February 2006 and accordingly, the appeal filed on 28 April 2006 was in time.

**9. Floe Telecom Limited (in administration) v Office of Communications**  
[2006] CAT 17  
31-Aug-06

Marion Simmons QC  
Michael Davey  
Sheila Hewitt

Judgment on an appeal against a decision of OFCOM that Vodafone Limited ("Vodafone") had not infringed section 18 of the Competition Act 1998 or Article 82 of the EC Treaty by disconnecting the services it was providing to the appellant for use in telecommunications equipment known as "GSM gateways".

The Tribunal upheld OFCOM's decision that Vodafone had not abused a dominant position when disconnecting the services provided to the appellant and accordingly dismissed the appeal.

The Tribunal found that OFCOM's decision contained inadequate reasoning in a number of areas but concluded that this did not vitiate OFCOM's conclusion. In those circumstances, the Tribunal did not consider it necessary to remit any matter in this appeal to OFCOM for re-investigation. The Tribunal set aside those parts of OFCOM's decision which were inconsistent with the judgment.

# Judgments

Judgments handed down within the period **1 April 2006 to 31 March 2007**

## Judgment

## Tribunal

## Subject matter

**10. Floe Telecom Limited (in administration) v Office of Communications**  
[2006] CAT 18  
31-Aug-06

Marion Simmons QC  
Michael Davey  
Sheila Hewitt

Ruling in respect of the assessment of costs incurred up to the date of the Tribunal's judgment of 19 November 2004, [2004] CAT 18.

Following an order of the Tribunal made on 1 December 2004 requiring OFCOM to bear the appellant's costs, OFCOM paid on account 80 per cent of the appellant's legal fees and 25 per cent of the combined fees of two advisers to the appellant on technical and other matters. This payment was rejected by the appellant as a full and final settlement of its costs of the appeal. OFCOM then applied to the Tribunal for an assessment of the appellant's claimed costs.

The Tribunal was not satisfied that the work done by two of the appellant's advisers was work of an independent expert nature which was capable of being the subject of an order for costs. Further, in relation to one of the advisers, the appellant had not provided any evidence to show that the costs incurred were reasonable or proportionate.

The Tribunal held that OFCOM should make a further payment of £6,000 in respect of the fees and disbursements of the appellant's legal advisers.

**11. The London Metal Exchange v Office of Fair Trading**  
[2006] CAT 19  
08-Sep-06

Marion Simmons QC  
Peter Clayton  
David Summers

Judgment of the Tribunal in respect of the appellant's application to recover its costs following the OFT's withdrawal of its interim measures direction ("IMD") at the outset of the appeal proceedings.

The Tribunal held that the OFT should pay the appellant's reasonable and proportionate costs of (i) preparing the notice of appeal; (ii) attending the case management conference on 15 May 2006 very shortly before which the OFT had indicated that the IMD had been withdrawn; and (iii) the costs application and the costs hearing.

**12. Celesio AG v Office of Fair Trading**  
[2006] CAT 20  
08-Sep-06

Marion Simmons QC  
Vivien Rose  
Professor Andrew Bain OBE

Judgment of the Tribunal in respect of the OFT's application to recover its costs of successfully defending the application to review its decision not to refer the anticipated acquisition of Alliance UniChem Plc by Boots Plc to the Competition Commission.

The Tribunal held that, taking into account the circumstances of the case, in particular that key passages of the decision were unclear without the elucidation provided by the witness statement of the OFT's Director of Mergers, the most appropriate course was for there to be no order for costs.

## Judgment

### **13. Stericycle International LLC; Stericycle International Limited; Sterile Technologies Group Limited v Competition Commission**

[2006] CAT 21  
19-Sep-06

## Tribunal

Sir Christopher Bellamy QC  
Michael Davey  
Richard Prosser OBE

## Subject matter

Judgment of the Tribunal on an application pursuant to section 120 of the Enterprise Act 2002 by Stericycle International LLC, Stericycle International Limited and Sterile Technologies Group Limited for judicial review of a decision of the Competition Commission, made under section 81 of the Enterprise Act, to impose certain arrangements, in particular the appointment of a “hold separate manager”, pending the outcome of an inquiry into a completed merger of the businesses of Stericycle International Limited and Sterile Technologies Group Limited. The applicants had earlier applied to the Tribunal for interim relief but that application had been stayed generally upon the Competition Commission agreeing not to enforce its decision prior to receiving a report from a Monitoring Trustee also appointed pursuant to the Competition Commission’s decision.

The appellants challenged the decision on the basis that it was beyond the scope of the Competition Commission’s powers under section 81 and that it was disproportionate or unreasonable.

The Tribunal held that the Competition Commission had acted reasonably and within its considerable margin of appreciation under section 81 in deciding to appoint a hold separate manager to ensure the separation of the businesses during its inquiry.

### **14. Stericycle International LLC; Stericycle International Limited; Technologies Group Limited v Competition Commission**

[2006] CAT 22  
19-Sep-06

Sir Christopher Bellamy QC  
Michael Davey  
Richard Prosser OBE

Ruling on costs.

The Tribunal held that the parties should bear their own costs of the interim relief application since there was a lack of clarity with regard to some of the obligations that were imposed by the Competition Commission’s “hold separate” order and that it had not been, in the circumstances, an unreasonable step for the applicants to apply for interim relief. However the Tribunal ruled that the Competition Commission should be awarded its costs in relation to the main application under section 120 of the Enterprise Act 2002.



# Judgments

Judgments handed down within the period **1 April 2006 to 31 March 2007**

## Judgment

## Tribunal

## Subject matter

**15. Albion Water Limited v Water Services Regulation Authority (formerly the Director General of Water Services) (Dŵr Cymru/ Shotton Paper)**  
[2006] CAT 23  
06-Oct-06

Sir Christopher Bellamy QC  
The Honourable  
Antony Lewis  
Professor John Pickering

Judgment in respect of an appeal by Albion Water Limited against a decision of the Director General of Water Services (now the Water Services Regulation Authority) finding that Dŵr Cymru had not infringed the Chapter II prohibition of the Competition Act 1998.

The Tribunal found that the Director had made a number of errors in concluding that Dŵr Cymru's charges to Albion (in respect of the common carriage of non-potable water, purchased by Albion from United Utilities, through a pipeline and water treatment plant owned by Dŵr Cymru and on to Albion's customers) were not excessive.

In particular the Tribunal found that the distribution cost of non-potable water on an average accounting basis had not been sufficiently investigated in that: no accounting information could be provided to explain the distribution cost element of Dŵr Cymru charges; the proposition that the cost of distribution for potable and non-potable water are the same could not be supported; a regional average approach to charging could not be justified; there was no reason why location related charging was not permissible for non-potable systems.

Furthermore the Tribunal concluded that the Director should not have used the Efficient Component Pricing Rule (ECPR) methodology in the circumstances of this case, where inter alia: the retail price used in the calculation was not cost related with regard to the distribution cost element of that price; where the evidence strongly suggested that the retail price was excessive; and using the ECPR would, effectively, preclude any competition or market entry.

The Tribunal also found that the Director's conclusion that there was no margin squeeze contrary to Chapter II of the Competition Act 1998 was incorrect in that: the access price offered by Dŵr Cymru was not shown to be cost related and the evidence suggested it was excessive; Albion could not earn a normal profit when paying the access price offered by Dŵr Cymru; the margin squeeze could not be justified on the basis of the ECPR; no account was taken of the nature of the services being provided by Albion and the additional value they offered through the provision of water efficiency services; and that the approach taken by the Director in determining this matter was contrary to the established practice of the OFT and European Commission.

**16. Achilles Paper Group v Office of Fair Trading**  
[2006] CAT 24  
31-Oct-06

Vivien Rose  
Michael Blair QC  
Michael Davey

Judgment of the Tribunal on an appeal brought by Achilles Paper Group Limited ("Achilles") in respect of the amount of the penalty imposed on it in the OFT's decision finding that Achilles, together with two other undertakings, had infringed the Chapter I prohibition of the Competition Act 1998 by being a party to an agreement and/or concerted practice designed to fix the prices for the sale of stock check pads.

## Judgment

## Tribunal

## Subject matter

**17. Albion Water Limited v Water Services Regulation Authority (formerly the Director General of Water Services) (Dŵr Cymru/ Shotton Paper**  
[2006] CAT 25  
24-Oct-06

Sir Christopher Bellamy QC  
The Honourable  
Antony Lewis  
Professor John Pickering

The only issue in the appeal was whether the OFT should have reduced the penalty imposed to take account of Achilles' alleged financial hardship.

The Tribunal dismissed the appeal in its entirety.

The Tribunal concluded that a principle that the OFT must limit the fines it imposes under the Competition Act 1998 in order to maintain a certain number of competitors in a relevant market would be unworkable. The OFT's consideration of how to balance the need for fines to operate as an effective deterrent against the possibility of adverse effects on the structure of the market as a result of those fines is a consideration that is within the OFT's margin of appreciation.

Reasoned ruling on the future conduct of the proceedings.

**18. Cityhook Limited v Office of Fair Trading**  
[2006] CAT 26  
23-Oct-06

Marion Simmons QC  
Professor Peter Grinyer  
David Summers

Ruling of the Tribunal in respect of applications by NTL Group Limited and Global Marine Systems Limited for permission to intervene in the proceedings outside the time limit prescribed by Rule 15(2)(f) of the Tribunal's Rules.

The Tribunal reluctantly granted the applications on the basis that (i) the appellant did not oppose the applications; and (ii) there were circumstances in the case which might give rise to prejudice to the appellant if the applications were refused.

The Tribunal indicated that it was no excuse that the Tribunal's Rules had not been properly read or implemented by the parties' legal representatives; nor can it be any excuse that parties' legal representatives do not organise their timetable so as to make sure that they comply with the Rules.

**19. VIP Communications Limited (in administration) v Office of Communications**  
[2006] CAT 27  
01-Nov-06

Marion Simmons QC  
Michael Davey  
Sheila Hewitt

Ruling on costs.

# Judgments

Judgments handed down within the period **1 April 2006 to 31 March 2007**

## Judgment

## Tribunal

## Subject matter

### **20. Terry Brannigan v Office of Fair Trading**

[2006] CAT 28  
15-Nov-06

Sir Christopher Bellamy QC  
Graham Mather  
Vindelyn Smith-Hillman

Judgment setting out the Tribunal's reasons for deciding, at that point in time, not to exercise its power under Rule 10 of the Tribunal's Rules to reject an appeal against a decision of the OFT to reject a complaint of alleged infringements of the Chapter I and Chapter II prohibitions of the Competition Act 1998.

### **21. Healthcare at Home Limited v Genzyme Limited**

[2006] CAT 29  
15-Nov-06

Marion Simmons QC  
Professor Andrew Bain OBE  
Graham Mather

Judgment on the claimant's application for an interim payment pursuant to Rule 46 of the Tribunal's Rules on account of the damages that the Tribunal might hold the defendant liable to pay.

The Tribunal found that, on a true construction of section 47A of the Competition Act 1998, the damages which could be claimed as a result of an infringement of the Chapter I and/or Chapter II prohibitions were not restricted to the period during which the OFT or the Tribunal had held that the relevant prohibition had been infringed.

The Tribunal was satisfied, on the basis of the material before it, that the claimant would be able to obtain a substantial amount of money in relation to its claim for damages against the defendant and granted the claimant an interim payment in the sum of £2 million.

This was the first time the Tribunal has ordered an interim payment in a damages claim under section 47A.

### **22. Healthcare at Home Limited v Genzyme Limited**

[2006] CAT 30  
15-Nov-06

Marion Simmons QC  
Professor Andrew Bain OBE  
Graham Mather

Judgment setting out the Tribunal's reasons for rejecting the defendant's request for a split trial.

### **23. Claymore Dairies Limited and Arla Foods UK PLC v Office of Fair Trading**

[2006] CAT 31  
20-Nov-06

Sir Christopher Bellamy QC  
Peter Clayton  
Peter Grant-Hutchison

Reasoned Order of the Tribunal in respect of (i) the discontinuance of the proceedings; and (ii) expenses.

The proceedings had been stayed pending the re-opening of the OFT's investigation into alleged price fixing and market sharing in the Scottish dairy industry. Following the issue by the OFT of a statement of objections in the new investigation, the Tribunal decided that nothing remained to be dealt with in the proceedings (save expenses) and that they should be discontinued. Any issues arising out of the re-opened investigation could, if necessary, be considered in the context of any new appeal from a fresh decision of the OFT on the findings of the investigation.

The Tribunal ordered that there be no order as to expenses.



## Judgment

### **24. Cityhook Limited v Office of Fair Trading**

[2006] CAT 32  
20-Nov-06

## Tribunal

Marion Simmons QC  
Peter Grinyer  
David Summers

## Subject matter

Ruling of the Tribunal in respect of the appellant's application for disclosure of certain, mainly internal, OFT documents relating to the decision not to pursue an investigation into alleged infringements of the Chapter I prohibition.

The Tribunal rejected the application, finding that there was no basis for ordering disclosure of any of the documents.

The Tribunal was not satisfied that disclosure of the documents was necessary, relevant or proportionate to the determination of the issues before it. Nor did the Tribunal consider that disclosure was required to secure the just, expeditious and economical conduct of the proceedings.

### **25. Albion Water Limited v Water Services Regulation Authority (formerly the Director General of Water Services) (Interim Relief)**

[2006] CAT 33  
20-Nov-06

Sir Christopher Bellamy QC  
The Honourable  
Antony Lewis  
Professor John Pickering

Ruling of the Tribunal on an application by Albion Water seeking a variation of an existing order for interim relief, requiring Dŵr Cymru to reduce the price of water supplied to Albion under a "bulk supply" agreement between the parties.

### **26. VIP Communications Limited (in administration) v Office of Communications (Interim Relief)**

[2006] CAT 34  
13-Dec-06

Marion Simmons QC  
Sheila Hewitt  
Michael Davey

Ruling of the President, sitting alone, on the admissibility of a witness statement filed on behalf of T-Mobile, an intervener in the proceedings, which contained information that the appellant alleged was "without prejudice".

The President held that the "without prejudice" rule is not intended to cover the mere fact that an approach has been made from one party to another in an attempt to enter into negotiations.

Insofar as the witness statement only indicated that such an approach had been made it did not fall within the "without prejudice" rule. Furthermore, the witness statements contained material that might have been relevant to other facts in issue in the proceedings. The Tribunal would require considerable persuasion to exclude potentially relevant material unless the application of the "without prejudice" rule was clearly established. Accordingly the witness statement was found to be admissible.

# Judgments

Judgments handed down within the period **1 April 2006 to 31 March 2007**

## Judgment

## Tribunal

## Subject matter

**27. Casting Book Limited (in administration) v Office of Fair Trading**  
[2006] CAT 35  
14-Dec-06

Marion Simmons QC  
Peter Clayton  
David Summers

Judgment on an appeal against a decision of the OFT to close its investigation into an alleged collective boycott.

The Tribunal found that the decision to close the case was taken at a very early stage in the investigation for administrative priority reasons that were genuinely independent of the merits of the case and without having reached any conclusion on the merits.

The Tribunal held that, on the particular facts of the case, the OFT had not taken an appealable decision and that the appeal was inadmissible.

**28. Albion Water Limited v Water Services Regulation Authority (formerly the Director General of Water Services) (Dŵr Cymru/Shotton Paper)**  
[2006] CAT 36  
18-Dec-06

Sir Christopher Bellamy QC  
The Honourable  
Antony Lewis  
Professor John Pickering

Judgment of the Tribunal concluding that Dŵr Cymru had a dominant position on the relevant market (the transportation and partial treatment via a particular pipeline of water abstracted from a particular abstraction facility on the River Dee for supply to two industrial plants) for the purposes of the Chapter II prohibition.

In making this finding the Tribunal considered: Dŵr Cymru's market share of 100 per cent throughout the period considered by the decision; the fact that there are substantial barriers to entry in the relevant market; the lack of any potential competition which could act as an effective restraint on the price Dŵr Cymru proposed to charge to Albion. These factors pointed overwhelmingly to the existence of a dominant position. The Tribunal therefore set aside those aspects of the Director's original decision which had reached a contrary view of dominance.

With regard to other matters: (i) the Tribunal decided to remit certain matters to the Water Services Regulation Authority for further investigation before reaching its own decision on the question of whether Dŵr Cymru had abused its dominant position by charging Albion Water an excessive access price; (ii) the Tribunal concluded that the Director's decision must be set aside insofar as it related to the issue of a margin squeeze. The Tribunal concluded that it was clear on the evidence that neither Albion Water nor any other reasonably efficient operator could earn a normal return whilst paying the access price being charged by Dŵr Cymru.

In considering a submission that it had no jurisdiction to maintain an existing order for interim relief in respect of the bulk supply price paid by Albion Water to Dŵr Cymru (which was not the subject of the Director's decision but which the Tribunal observed raised substantially the same issues as the access price) the Tribunal noted that the interim order had been made under the Tribunal's self-standing power under Rule 61 of the Tribunal's Rules and its maintenance was both urgent and necessary to protect the public interest by preserving the possibility of competitive supplies of water.

## Judgment

## Tribunal

## Subject matter

**29. Albion Water Limited v Water Services Regulation Authority (formerly the Director General of Water Services) (Dŵr Cymru/Shotton Paper)**

[2007] CAT 01  
08-Jan-07

Sir Christopher Bellamy QC  
The Honourable  
Antony Lewis  
Professor John Pickering

Judgment on costs.

The Tribunal held that the appellant should recover its reasonable and proportionate costs of the proceedings, which the Tribunal assessed in the amount of £275,000. This covered £245,000 for counsels' fees, £28,000 for internal costs (to cover costs incurred where the appellant was acting without solicitors) and £2,000 for disbursements, to be apportioned between the Water Services Regulation Authority and Dŵr Cymru.

The judgment considered issues relating to the recovery of internal costs by the appellant, who did not appoint solicitors; conditional fee agreements; and the recovery of counsels' fees and expert witness costs.

**30. Albion Water Limited v Water Services Regulation Authority (formerly the Director General of Water Services) (Thames Water/Bath House)**

[2007] CAT 02  
08-Jan-07

Sir Christopher Bellamy QC  
The Honourable  
Antony Lewis  
Professor John Pickering

As the appellant had been successful in respect of part of the appeal, the Tribunal held that the Water Services Regulation Authority should pay to the appellant £39,000, which represented around 50 per cent of the appellant's recoverable costs (assessed by the Tribunal at £77,100).

**31. VIP Communications Limited (in administration) v Office of Fair Trading**

[2007] CAT 03  
22-Jan-07

Marion Simmons QC  
Michael Davey  
Sheila Hewitt

Judgment on the Tribunal's jurisdiction to grant the relief requested by the appellant by exercising its powers under paragraph 3(2) of Schedule 8 of the Competition Act 1998 to make any decision which OFCOM could itself have made.

The Tribunal found that, on the proper construction of paragraph 3(2)(e), it had full jurisdiction to make an infringement decision in the context of the appeal (notwithstanding that OFCOM had not served a statement of objections or taken the other procedural steps required prior to the issue by OFCOM of an infringement decision) as the Tribunal's jurisdiction to hear appeals on their merits sufficiently protected the rights of defence of interveners.



# Judgments

Judgments handed down within the period **1 April 2006 to 31 March 2007**

## Judgment

## Tribunal

## Subject matter

**32. Aquavitae (UK) Limited v Water Services Regulation Authority (formerly Director General of Water Services)**

[2007] CAT 04  
12-Jan-07

Sir Christopher Bellamy QC  
The Honourable  
Antony Lewis  
Professor John Pickering

Reasoned Order of the Tribunal on: (i) the discontinuance of proceedings; and (ii) costs.

The Tribunal concluded that there was no purpose in the appeal since the issues raised by the appellant had been addressed by the Tribunal in its judgment of 18 December 2006 ([2006] CAT 36) in *Dŵr Cymru/Shotton Paper* in which Aquavitae (UK) Limited had participated as an intervener.

The only issue remaining was costs which the Tribunal decided should lie where they fell since Aquavitae's costs as an intervener in the *Dŵr Cymru/Shotton Paper* case had already been dealt with by agreement.

**33. Albion Water Limited v Water Services Regulation Authority (formerly the Director General of Water Services)**

[2007] CAT 05  
19-Jan-07

Sir Christopher Bellamy QC  
The Honourable  
Antony Lewis  
Professor John Pickering

Reasoned Order of the Tribunal that: (i) the case, which was formally stayed on 21 March 2004, should not proceed; and (ii) there should be no order as to costs.

The Tribunal concluded that this case had been overtaken by the consideration of the issues in other proceedings before the Tribunal involving the parties (notably *Dŵr Cymru/Shotton Paper*).

**34. Independent Water Company Ltd v Water Services Regulation Authority (formerly the Director General of Water Services)**

[2007] CAT 06  
26-Jan-07

Sir Christopher Bellamy QC  
Marion Simmons QC  
Ann Kelly  
Michael Blair QC

Judgment on an appeal in respect of a refusal by the Director General of Water Services to investigate the appellant's complaint of an abuse of a dominant position by Bristol Water Plc.

The Tribunal held that the appeal was inadmissible.

The Tribunal found that the Director had not made a decision to the effect that Bristol Water had, in the particular circumstances of the case, abstained from expressing a view, one way or the other, on the question of whether there had been an infringement of the Chapter II prohibition. Accordingly, there was no appealable decision under sections 46 and 47 of the Competition Act 1998.

The Tribunal also found that the appellant's attempt to challenge the Director's refusal to grant interim measures was inadmissible as it had not been included in the original notice of appeal.

## Judgment

### **35. Hutchison 3G (UK) Limited v Office of Communications**

[2007] CAT 07  
23-Jan-07

### **36. Albion Water Limited v Water Services Regulation Authority (formerly the Director General of Water Services) (Dŵr Cymru/ Shotton Paper)**

[2007] CAT 08  
02-Feb-07

### **37. Stericycle International LLC and Stericycle International Limited v Competition Commission**

[2007] CAT 09  
17-Jan-07

### **38. Cityhook Limited v Office of Fair Trading**

[2007] CAT 10  
20-Nov-06

## Tribunal

Sir Christopher Bellamy QC  
Lord Carlile QC  
Vivien Rose

Sir Christopher Bellamy QC  
The Honourable  
Antony Lewis  
Professor John Pickering

Sir Christopher Bellamy QC  
Lord Carlile QC  
Professor Andrew Bain

Marion Simmons QC  
Professor Peter Grinyer  
David Summers

## Subject matter

Reasoned Order on: (i) the withdrawal of the appeal following publication of OFCOM's consultation into mobile number portability (which concerned the matter at issue in the proceedings); and (ii) costs.

Judgment refusing Dŵr Cymru permission to appeal the Tribunal's judgments [2006] CAT 23 and [2006] CAT 36 on the grounds that: (i) many of the points raised in the application for permission were not points of law, but points of fact; (ii) insofar as the applicant raised points of law, those points had no real prospect of success; and (iii) the appeal was premature (given that the Tribunal had remitted the matter back to the Water Services Regulation Authority for further investigation concerning the issue of excessive pricing).

Ruling on an application by Stericycle International LLC and Stericycle International Limited ("Stericycle") for a stay of its appeal, filed on 8 January 2007, under section 120 of the Enterprise Act 2002, for a review of a decision of the Competition Commission in relation to Stericycle's completed acquisition of Sterile Technologies Group.

The Tribunal declined to order a stay, preferring to extend the time for filing the defence until after the occurrence of a key date in the divestment procedure which had been agreed between Stericycle and the Competition Commission.

The Tribunal indicated that in general terms it is not likely to favour applications for a general stay in circumstances such as those in this case (where the parties hoped to implement an agreed remedy). The Tribunal would only in exceptional circumstances divert from its normal timetable. The Tribunal indicated that in taking this view its concern was to protect the system of merger control generally.

Ruling refusing the appellant's renewed request for disclosure.

# Judgments

Judgments handed down within the period **1 April 2006 to 31 March 2007**

## Judgment

## Tribunal

## Subject matter

**39. Makers UK Limited v Office of Fair Trading**  
[2007] CAT 11  
22-Feb-07

Marion Simmons QC  
Vivien Rose  
Michael Blair QC

Judgment on an appeal against an OFT decision finding that the appellant, together with a number of other contractors, had colluded in relation to the making of tender bids for flat roof and car park surfacing contracts using mastic asphalt, thereby infringing the Chapter I prohibition of the Competition Act 1998.

The Tribunal unanimously dismissed the appeal on liability.

The Tribunal held that the appellant had not put forward a plausible explanation that would displace the inferences that the OFT had drawn to the effect that the appellant had been involved in collusion. Even if the Tribunal had accepted Makers' own version of events, it would have upheld the OFT's decision on liability.

In respect of the penalty aspects of the appeal, the Tribunal (i) unanimously found that the OFT's application of a minimum deterrent threshold was appropriate, although the Tribunal considered that the details of the OFT's methodology should have been included in the original decision; and (ii) by majority, held that the penalty should not be reduced to take account of the fact that penalty imposed on another contractor (who had not appealed) was lower than it should have been on the basis of a mistake by the OFT.

**40. VIP Communications Limited (in administration) v Office of Communications (Interim Relief)**  
[2007] CAT 12  
28-Feb-07

Marion Simmons QC  
Sheila Hewitt  
Michael Davey

Judgment on an application by the appellant for interim relief (regarding the reconnection to T-Mobile's network of certain telecommunications equipment owned by the appellant and the resumption of the supply of T-Mobile SIM cards to the appellant) pending determination of its substantive appeal against a decision of OFCOM.

The Tribunal found that the appellant had not provided sufficient evidence to support its application.

The Tribunal held that the application for interim relief was manifestly unfounded and that, in any event, it would not have been appropriate to grant the interim order requested.

**41. Double Quick Supplyline Limited and Precision Concepts Limited v Office of Fair Trading**  
[2007] CAT 13  
09-Mar-07

Lord Carlile QC  
Dr Arthur Pryor CB  
Adam Scott TD

Judgment on an appeal by Double Quick Supplyline Limited (DQS) and its parent company Precision Concepts Limited (PCL) against the amount of the penalty imposed on them in the OFT's decision finding that they, together with other undertakings, had infringed the Chapter I prohibition of the Competition Act 1998 by being a party to an agreement and/or concerted practice designed to fix and/or maintain resale prices and share the market for the sale of aluminium spacer bars used in double-glazing.



## Judgment

## Tribunal

## Subject matter

### **42. Double Quick Supplyline Limited and Precision Concepts Limited v Office of Fair Trading**

[2007] CAT 14  
09-Mar-07

Lord Carlile QC  
Dr Arthur Pryor CB  
Adam Scott TD

The Tribunal found that the OFT had been correct in concluding that DQS and PCL should be jointly and severally liable on the basis that they formed a single economic entity.

The Tribunal held that, in all the circumstances of the case, the penalty imposed was appropriate and proportionate.

The Tribunal noted that where an undertaking is seeking to argue before the OFT that its penalty should be reduced (whether in respect of a leniency application, financial difficulty or otherwise) the onus is on the undertaking to provide to the OFT all relevant information and documents supporting its plea. There is no obligation on the part of the OFT to seek production of such material.

The Tribunal unanimously dismissed the appeal.

Ruling that Double Quick Supplyline Limited and Precision Concepts Limited pay the OFT's costs in respect of their appeal.

### **43. Floe Telecom Limited (in administration) v Office of Communications**

[2007] CAT 15  
15-Mar-07

Marion Simmons QC  
Michael Davey  
Sheila Hewitt

Judgment setting out the reasons for refusing OFCOM's application for permission to appeal the judgment of the Tribunal handed down on 31 August 2006 ([2006] CAT 17).

The Tribunal did not consider that any of the grounds of appeal advanced by OFCOM had a realistic prospect of success and there was no other compelling reason to grant permission to appeal.

### **44. Floe Telecom Limited (in administration) v Office of Communications**

[2007] CAT 16  
15-Mar-07

Marion Simmons QC  
Michael Davey  
Sheila Hewitt

Judgment setting out the Tribunal's reasons for refusing T-Mobile's application for permission to appeal from the judgment of the Tribunal handed down on 31 August 2006 ([2006] CAT 17).

The Tribunal did not consider that any of the grounds of appeal advanced by T-Mobile had a realistic prospect of success nor was there any other compelling reason to grant permission to appeal.

# Activity by case

Within the period 1 April 2006 to 31 March 2007

Figures in bold relate to the year under review

Plain figures relate to events in years prior to the year under review

Case name, number and date registered	Number of applications to intervene	Number of case management conferences	Number of hearings (sitting days in brackets) <sup>(a)</sup>	Number of judgments <sup>(b)</sup>	Date of judgment on the main issues <sup>(c)</sup>	Duration <sup>(d)</sup>	Requests for permission to appeal	Status at 31 March 2007
<b>Claymore Dairies Limited (Chapter I) and Arla Foods UK Plc v Office of Fair Trading</b> Case No. 1011/2/1/03 3 February 2003	1	- 2	- -	<b>1</b> 1	<b>20 November 2006</b> -	<b>45.5</b> -	- -	<b>Case closed</b>
<b>Floe Telecom Limited (in administration) v Office of Communications<sup>1</sup></b> Case No. 1024/2/3/04 5 January 2004	4	- 14	<b>1 (1)</b> 5 (10)	<b>4</b> 9	<b>31 August 2006</b> 19 November 2004	<b>32</b> 10.5	<b>2</b> 1	<b>Stayed as at 31 March 2007</b>
<b>Wanadoo UK Plc (formerly Freeserve.com Plc) v Office of Communications</b> Case No. 1026/2/3/04 20 January 2004	1	- 7	- -	- 5	- -	- -	- -	<b>Ongoing at 31 March 2007<sup>2</sup></b>
<b>VIP Communications Limited v Office of Communications<sup>3</sup></b> Case No. 1027/2/3/04 20 February 2004	-	<b>1</b> -	<b>2 (2)</b> -	<b>2</b> 1	<b>22 January 2006</b> 19 November 2004	<b>35<sup>4</sup></b> 10.5	- -	<b>Ongoing at 31 March 2007</b>
<b>Albion Water Limited v Water Services Regulation Authority (formerly the Director General of Water Services)</b> Case No. 1031/2/4/04 2 April 2004	2	- 2	<b>2<sup>5</sup> (2)</b> -	<b>1<sup>6</sup></b> 1	<b>19 January 2007</b> -	<b>33.5</b> -	- -	<b>Case closed</b>
<b>Albion Water Limited v Water Services Regulation Authority (formerly the Director General of Water Services) (Interim Relief)</b> Case No. 1034/2/4/04 (IR) 28 May 2004	2	- 1	<b>.7</b> -	<b>1</b> 1	<b>20 November 2006</b> 11 May 2005 2 June 2004	-	- -	<b>Ongoing at 31 March 2007</b>
<b>Albion Water Limited v Water Services Regulation Authority (formerly the Director General of Water Services) (Thames Water/Bath House)</b> Case No. 1042/2/4/04 12 July 2004	1	- 3	- 1 (2)	<b>1</b> 3	- 31 March 2006	- 20.5	- -	<b>Case closed</b>
<b>Aquavitae (UK) Limited v Water Services Regulation Authority (formerly the Director General of Water Services)</b> Case No. 1045/2/4/04 21 July 2004	-	- 1	<b>.8</b> -	<b>1<sup>9</sup></b> 1	<b>12 January 2007</b> -	<b>30</b> -	- -	<b>Appeal discontinued<sup>10</sup></b>
<b>Albion Water Limited v Water Services Regulation Authority (formerly the Director General of Water Services) (Dŵr Cymru / Shotton Paper)</b> Case No. 1046/2/4/04 23 July 2004	3	<b>2</b> 4	<b>3 (8)</b> 1 (3)	<b>5</b> 2	<b>18 December 2006</b> <b>6 October 2006</b> 21 December 2005	<b>29</b> <b>26.5</b> 17	<b>1</b> -	<b>Ongoing at 31 March 2007</b>
<b>Media Marketing Promotions v Office of Communications</b> Case No. 1053/3/3/05 25 October 2005		- 2	- 2 (3)	<b>1</b> -	<b>15 May 2006</b> -	<b>6.5</b> -	- -	<b>Case closed</b>

Case name, number and date registered	Number of applications to intervene	Number of case management conferences	Number of hearings (sitting days in brackets) <sup>(a)</sup>	Number of judgments <sup>(b)</sup>	Date of judgment on the main issues <sup>(c)</sup>	Duration <sup>(d)</sup>	Requests for permission to appeal	Status at 31 March 2007
<b>MasterCard UK Members Forum Limited v Office of Fair Trading<sup>11</sup></b> Case No. 1054/1/1/05 2 November 2005								
<b>MasterCard International Incorporated and MasterCard Europe Sprl v Office of Fair Trading</b> Case No. 1055/1/1/05 2 November 2005								
<b>Royal Bank of Scotland Group v Office of Fair Trading</b> Case No. 1056/1/1/05 2 November 2005	2	- 3	1 (1) 1 (1)	3 1	10 July 2006 -	8 -	- -	Case closed
<b>The Number (UK) limited v Office of Communications</b> Case No. 1057/3/3/05 30 November 2005	-	- -	- -	- -	28 April 2006 -	5 -	- -	Appeal withdrawn
<b>Independent Water Company Ltd v Water Services Regulation Authority (formerly the Director General of Water Services)</b> Case No. 1058/2/4/06 12 January 2006	2	1 1	1 (1) -	1 -	26 January 2007 -	12.5 -	- -	Ongoing at the 31 March 2007 with regards to costs
<b>Celesio AG v Office of Fair Trading</b> Case No. 1059/4/1/06 21 March 2006	2	- 1	1 (1) -	2 -	9 May 2006 -	1.5 -	- -	Case closed
<b>Healthcare at Home v Genzyme Limited</b> Case No.1060/5/7/06 5 April 2006	-	3	-	2	11 January 2007	9	-	Appeal withdrawn
<b>Makers UK Limited v Office of Fair Trading</b> Case No. 1061/1/1/06 21 April 2006	-	1	2 (2)	2	22 February 2007	10	-	Case closed
<b>London Metal Exchange v Office of Fair Trading</b> Case No. 1062/1/1/06 26 April 2006	-	1	1 (1)	1	8 September 2006	4.5	-	Appeal withdrawn
<b>British Telecommunications Plc v Office of Communications (The Number (UK) Limited)</b> Case No. 1063/3/3/06 8 May 2006	1	1	-	-	-	-	-	Stayed as at 31 March 2007

# Activity by case

Within the period 1 April 2006 to 31 March 2007

Figures in bold relate to the year under review

Plain figures relate to events in years prior to the year under review

Case name, number and date registered	Number of applications to intervene	Number of case management conferences	Number of hearings (sitting days in brackets) <sup>(a)</sup>	Number of judgments <sup>(b)</sup>	Date of judgment on the main issues <sup>(c)</sup>	Duration <sup>(d)</sup>	Requests for permission to appeal	Status at 31 March 2007
<b>British Telecommunications Plc v Office of Communications (Conduit Enterprises Limited)</b> Case No. 1064/3/3/06 8 May 2006	<b>1</b>	<b>1</b>	-	-	-	-	-	Stayed as at 31 March 2007
<b>Prater Limited v Office of Fair Trading</b> Case No. 1065/1/1/06 24 April 2006	-	<b>1</b>	<b>1</b> (1)	<b>1</b>	<b>23 October 2006</b> <sup>12</sup>	<b>6</b>	-	Appeal withdrawn
<b>Hutchison 3G UK Limited v Office of Communications</b> Case No. 1066/3/3/06 30 May 2006	-	<b>1</b>	-	<b>1</b>	<b>23 January 2007</b>	<b>8</b>	-	Appeal withdrawn
<b>Achilles Paper Group Limited v Office of Fair Trading</b> Case No. 1067/1/1/06 5 June 2006	-	<b>1</b>	<b>1</b> (1)	<b>1</b>	<b>31 October 2006</b>	<b>5</b>	-	Case closed
<b>Casting Book Limited (in administration) v Office of Fair Trading</b> Case No. 1068/2/1/06 13 July 2006	-	-	<b>1</b> (1)	<b>2</b>	<b>14 December 2006</b>	<b>5</b>	-	Case closed
<b>Stericycle International LLC; Stericycle International Limited; Sterile Technologies Group Limited v Competition Commission (Interim Relief)</b> Case No. 1069/4/8/06 (IR) 19 July 2006	-	-	<b>1</b> (1)	-	<b>19 September 2006</b> <sup>13</sup>	<b>2</b>	-	Case closed
<b>Stericycle International LLC; Stericycle International Limited; Sterile Technologies Group Limited v Competition Commission</b> Case No. 1070/4/8/06 21 July 2006	-	-	<b>2</b> (2)	<b>3</b>	<b>19 September 2006</b>	<b>2</b>	-	Case closed
<b>Cityhook Limited v Office of Fair Trading</b> Case No. 1071/2/1/06 23 August 2006	<b>8</b>	<b>2</b>	<b>2</b> (3)	<b>3</b>	-	-	-	Ongoing at 31 March 2007
<b>Double Quick Supplyline Limited and Precision Concepts Limited v Office of Fair Trading</b> Case No. 1072/1/1/06 29 August 2006	-	<b>1</b>	<b>2</b> (2)	<b>2</b>	<b>9 March 2007</b>	<b>6.5</b>	-	Ongoing at 31 March 2007
<b>Terry Brannigan v Office of Fair Trading</b> Case No. 1073/2/1/06 26 October 2006	-	<b>1</b>	<b>2</b> (2)	<b>1</b>	-	-	-	Ongoing at 31 March 2007



Case name, number and date registered	Number of applications to intervene	Number of case management conferences	Number of hearings (sitting days in brackets) <sup>(a)</sup>	Number of judgments <sup>(b)</sup>	Date of judgment on the main issues <sup>(c)</sup>	Duration <sup>(d)</sup>	Requests for permission to appeal	Status at 31 March 2007
<b>VIP Communications Limited (in administration) v Office of Communications (Interim Relief)</b> Case No. 1074/2/3/06 (IR) 9 November 2006	1	-	3 (3)	2	28 February 2007	3.5	-	Ongoing at 31 March 2007
<b>Stericycle International LLC and Stericycle International Limited v Competition Commission</b> Case No. 1075/4/8/07 8 January 2007	-	1	-	-	22 March 2007 <sup>14</sup>	2.5	-	Application withdrawn
<b>E.ON UK plc v Office of Rail Regulation</b> Case No. 1076/2/5/07 17 January 2007	1	1	-	-	-	-	-	Ongoing at 31 March 2007
<b>Emerson Electric Co and others v Morgan Crucible Company Plc and others</b> Case No. 1077/5/7/07 9 February 2007	-	1	-	-	-	-	-	Ongoing at 31 March 2007
<b>The Consumers' Association v JJB Sports PLC</b> Case No. 1078/7/9/07 5 March 2007	-	-	-	-	-	-	-	Ongoing at 31 March 2007
<b>Bracken Bay Kitchens Limited v Office of Communications</b> Case No. 1079/3/3/07 29 March 2007	-	-	-	-	-	-	-	Ongoing at 31 March 2007
<b>TOTAL</b>	12 20	21 41	29 (35) 10 (19)	44 25			3 1	

(a) Excludes days limited to formal handing down of judgments.

(b) Includes judgments on interlocutory issues, final judgments and ancillary matters such as costs and permission to appeal.

(c) This covers judgments on the substantive issues.

(d) In terms of months from registration of proceedings to judgment on the main issues or termination of the case without a main hearing.

1 Up to 13 September 2006 this case was heard concurrently with Case No. 1027/2/3/04. The figures for case management conferences and hearings in years prior to the year under review therefore relate to both cases.

2 The hearing of this appeal has been adjourned generally at the request of the parties.

3 See Case No. 1024/2/3/04 for details of applications to intervene, case management conferences, number of hearings and number of judgments up to 13 September 2006.

4 Proceedings in this appeal were stayed between 20 September 2005 and 13 September 2006.

5 This case was largely heard concurrently with Case No. 1046/2/4/04.

6 The issues in this case were largely considered in the context of Case No. 1046/2/4/04.

7 This case was heard concurrently with Case No. 1046/2/4/04.

8 This case was heard concurrently with Case No. 1046/2/4/04.

9 The issues in this case were largely considered in the context of Case No. 1046/2/4/04.

10 Appeal was stayed on 2 June 2004 and discontinued following determination of the issues in the judgments in Case No. 1046/2/4/04.

11 These cases were consolidated and were heard together.

12 This date relates to the Tribunal's Order granting permission for the appellant to withdraw the appeal.

13 The Tribunal issued a costs judgment in this case on 19 September 2006. That judgment also dealt with costs in Case No. 1070/4/8/06.

14 This date relates to the Tribunal's Order granting permission for the applicants to withdraw their application.

# Overall case activity

Within the period 1 April 2006 to 31 March 2007

2006/07 2005/06 2004/05

<b>Appeals, applications and claims received</b>	<b>20</b>	<b>10</b>	<b>20</b>
of which			
section 46 Competition Act 1998 <sup>1</sup>	<b>5</b>	3	6
section 47 Competition Act 1998 <sup>2</sup>	<b>4</b>	2	7
section 47A Competition Act 1998 <sup>3</sup>	<b>2</b>	-	-
section 47B Competition Act 1998 <sup>4</sup>	<b>1</b>	-	-
section 120 Enterprise Act 2002 <sup>5</sup>	<b>2</b>	2	2
section 179 Enterprise Act 2002 <sup>6</sup>	-	1	-
section 192 Communications Act 2003 <sup>7</sup>	<b>4</b>	2	2
applications for interim relief	<b>2</b>	-	3
<b>Applications to intervene</b>	<b>12</b>	<b>9</b>	<b>21</b>
<b>Case management conferences held</b>	<b>21</b>	<b>24</b>	<b>57</b>
<b>Hearings held (Sitting days)</b>	<b>29 (35)</b>	<b>15 (25)</b>	<b>18 (38)</b>
<b>Judgments handed down</b>	<b>44</b>	<b>41</b>	<b>26</b>
of which			
judgments disposing of main issue or issues	<b>14</b>	13	8
judgment on procedural and interlocutory matters	<b>22</b>	11	17
judgments on ancillary matters (eg. costs)	<b>8</b>	17	1
<b>Orders made</b>	<b>105</b>	<b>96</b>	<b>106</b>

- 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 2007 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 as to the amount of such penalty.
- 2 An appeal against an "appealable decision" taken by the Office of Fair Trading or other regulator with concurrent powers to apply the Competition Act and made by a third party with a sufficient interest in the decision not otherwise entitled to appeal the decision pursuant to section 46 of the 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 A claim for damages or other claim for a sum of money brought by "a specified body" on behalf of two or more "consumers".
- 5 An application by "any person aggrieved" by a decision of the Office of Fair Trading, the Office of Communications, the Competition Commission or the Secretary of State in connection with a reference or possible reference in relation to a relevant merger situation or special merger situation under the Enterprise Act 2002. In determining applications under this section the Tribunal applies the same principles as would be applied by a court on an application for judicial review.
- 6 An application by "any person aggrieved" by a decision of the Office of Fair Trading, the Competition Commission or the Secretary of State in connection with a market investigation reference or possible market investigation reference. In determining applications under this section the Tribunal applies the same principles as would be applied by a court on an application for judicial review.
- 7 An appeal by "a person affected" by a decision of the Office of Communications or of the Secretary of State in relation to certain specified communications matters set out in that section.



**Competition Appeal Tribunal  
and Competition Service  
Annual Accounts: year ended  
31 March 2007**







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# Management commentary in respect of the Tribunal and the CS

The principal activities of the Tribunal and the CS are explained in the Introduction to the Annual Review. Similarly, the performance of the Tribunal and the CS in carrying out their respective functions are discussed in the statements of the President and Registrar.

The Tribunal and the CS aim to ensure that proceedings are conducted efficiently and economically whilst observing the requirements of justice.

## Financial performance

The DTI's programme funding allocation for 2006/07 was £3,830,000 for resource expenditure (net of any income from other sources) and £124,000 for capital expenditure. The capital expenditure allocation is for the CS only.

Actual resource expenditure for the year was £3,628,000 and capital expenditure was £73,000.

Actual expenditure for the Tribunal rose from £646,000 (2005/06) to £761,000 in 2006/07. The increase in expenditure is due to a higher caseload in 2006/07 (that is to say a greater number of new cases were received in the year coupled with several cases being of an extended duration when compared with the previous year) and an increase in the daily rate for Ordinary Members from 1 April 2006. The amendment of the daily rate was the first since April 2003 and was approved by the DTI following a detailed review and consultation exercise undertaken by the CS's Remuneration Committee.

The daily rate for the panel of Chairmen was unchanged in 2006/07. However a greater number of days was needed from the panel in order to handle the higher caseload particularly to ensure the efficient conduct of cases in the period after the departure of the President was announced.

Actual expenditure for the CS (which includes funding of the CAT) was £3,601,000 in 2006/07 as compared with £3,568,000 in 2005/06. This increase reflects the increased workload and remuneration of Members and it is partly offset by the receipt of a refund of business rates following a successful appeal made by the CS's landlord to the local council against charges in the preceding two years.

In 2006/07 the CS obtained approval from the DTI for a two year staff pay proposal. The CS's pay remit, whilst remaining within Treasury limits for pay bill growth, is intended to reward performance and attract and retain suitably qualified staff to the CS. The total pay bill for staff (excluding the

Registrar whose pay is determined by the Secretary of State and is discussed in the Remuneration Report) actually fell by 1.4 per cent in 2006/07. This reduction was attained following staff changes during the year where there was often a time lag between staff leaving the CS and new appointments taking up their posts. In addition, since January 2007 the CS has been operating with one less referendaire and this has produced further savings. However, should the caseload increase significantly in the future then the CS intends to return to its full complement of four referendaires.

The CS can report a reduction in administrative support costs. During the year, as part of the Comprehensive Spending Review 2007 exercise, the CS evaluated all areas of expenditure in order to identify potential savings. To this end, the CS has been active both in ensuring that it sources suppliers that offer the most competitive prices on purchases and also in reducing expenditure wherever possible whilst at the same time ensuring that a high standard of service is provided to the Tribunal. In particular, a significant cost reduction was made on IT consultancy where expenditure fell by £47,000 in 2006/07.

## Financing of activities

The way in which grant-in-aid is recognised in the accounts of the Tribunal and CS changed in 2006/07 following amendments to the Government Financial Reporting Manual (FReM).

In previous years grant-in-aid had been treated as income and any excess or shortfall of income over expenditure resulted in a surplus or deficit. From 2006/07 this has changed. As an NDPB, the CS must now record grant-in-aid as financing received from the DTI. Therefore any imbalance between grant-in-aid received and expenditure during the year will result in a movement in the CS's reserves on the balance sheet.

## Balance sheet

The Tribunal's balance sheet shows only those liabilities at 31 March 2007 that are directly attributable to the Tribunal. There is a debtor balance of an equal amount representing the amount that the CS shall transfer to meet those liabilities. The liabilities in the balance sheet of the CS therefore include the liabilities of the Tribunal.

The value of the CS's fixed assets fell from £507,000 to £438,000. Capital expenditure during the year amounted to £73,000. The main items of expenditure were on 10 PCs to replace obsolete equipment (representing one third of the total number) and on the renewal of software licensing for all computer equipment.

Net current assets fell by £196,000 to £114,000. This fall is largely as a result of the decrease in cash balances held. Closing cash balances were £292,000 (2005/06: £483,000). The reduction in the amount of cash that the CS holds (which was achieved by not drawing down grant-in-aid to cover liabilities that are certain not to fall due for payment until after year-end) is intended to ensure that the CS does not hold unnecessarily high levels of cash which could restrict funding opportunities in other areas of DTI activity.

In 2006/07, the CS's general fund (which represents the total assets less liabilities of the CS to the extent that the total is not represented by other reserves and financing items) fell by £228,000. This followed further efforts during the year to utilise excess reserves to fund the activities of the Tribunal and the CS for the reason outlined above.

### Future developments

For the 2007/08 resource request, the CS has continued to restrict growth in expenditure and make savings wherever it is prudent to do so without impairing the Tribunal's and the CS's abilities to carry out their respective statutory functions.

The budget proposal for next year, submitted to the DTI in January 2007, was approved with some minor amendments in April 2007. For 2007/08, the Tribunal and the CS have a combined Resource Departmental Expenditure Limit of £4,072,000 and a further £122,000 has been allocated for the capital expenditure programme.

Resource costs for the CS are budgeted to rise by £270,000 when compared with the 2006/07 outturn. However, when the outturn is adjusted to remove the effects of the refund of business rates discussed in the financial performance section of this commentary and the Treasury's permitted uplift for annual inflation, costs are budgeted to rise by 3.1 per cent. This increase can be attributed to two specific areas. First the CS intends to comprehensively update the Tribunal's website which has had no significant investment since 2003, and secondly, in 2007/08 depreciation charges shall commence on assets purchased as part of the EDRMS project.

The rent for the premises occupied by the Tribunal and CS is scheduled to be reviewed with new charges applied from 2008/09. The CS intends to play an active role in negotiating the new rental charges and has included an element in its budget proposal for that year and beyond to meet the likely additional cost.

The Tribunal is unable to determine its own caseload and must therefore ensure that it is able to react to fluctuations in caseload. The CS, as the support organisation for the Tribunal must ensure that the required resources are made available to meet the needs of the Tribunal. For 2007/08, with increasing pressures to reduce expenditure, the CS has planned on the basis of a moderate workload on the understanding that the DTI will look favourably on the position of the Tribunal and the CS if the actual caseload rises above the budgeted level.

## Remuneration report

### Remuneration policy

The remuneration of the President (prior to his departure) and Registrar are determined by the Secretary of State under Schedule 2 of the Enterprise Act 2002. The remuneration of the non-executive member of the CS is determined by the Secretary of State under Schedule 3 of the Enterprise Act 2002.

In determining the President's salary for 2006/07, the Secretary of State considered the recommendations of the Senior Salaries Review Body (SSRB) which makes recommendations about the pay of the senior civil service, senior military personnel and the judiciary. For 2006/07, the salary of the President was increased by 4.2 per cent in line with the SSRB's recommendation.

The salary of the Registrar was the subject of a thorough review by the CS's Remuneration

Committee. In determining the salary of the Registrar the Secretary of State considered the proposal of the Remuneration Committee which was based on professional advice from a leading company. For 2006/07, the Secretary of State determined that the salary of the Registrar should be increased by 7.6 per cent. This increase reflected that the Registrar's salary was based upon a new pay scale.

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

The non-executive member of the CS is remunerated on a per diem basis at a rate determined by the Secretary of State. The remuneration costs of the non-executive member are charged to the CS's operating cost statement.

## Remuneration Committee

The CS's Remuneration Committee during the year under review comprised Janet Rubin and a former Tribunal member, Professor Graham Zellick.

In 2006/07 the Secretary of State considered the recommendations made by the Committee in its proposal submitted in March 2006. These recommendations were based on a detailed analysis undertaken by PricewaterhouseCoopers of the remuneration of members employed by similar bodies.

In September 2006, the Secretary of State approved an increase in the daily rate for Ordinary Members to £350 back dated to 1 April 2006. The Secretary of State did not amend the daily rate for the panel of Chairmen or the non-executive member of the CS.

In December 2006, the Secretary of State approved a change in the way that the Registrar's salary is linked to the judicial pay-scale. The change is being phased over a period of three years from 1 April 2006.

## Service contract, salary and pension entitlements

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

## Service contracts

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

Sir Christopher Bellamy QC resigned as President on 2 February 2007. In his final month of service as President he received a long-service award from the CS totalling £22,821. The value of the award was calculated by the Department for Constitutional Affairs and reflected Sir Christopher's length of service and judicial grade. No other compensation was paid to him on his departure and the CS does not have any liability to make any further payments to him.

The Registrar's appointment must satisfy the requirements of Rule 4 of the Competition Appeal Tribunal Rules 2003 (SI. 2003 No 1372) with regard to the possession of a legal qualification. The normal retirement age for this appointment is 60.

The non-executive member of the CS is appointed by the Secretary of State under Schedule 3 of the Enterprise Act 2002. The term of appointment of the present post-holder is due to expire in September 2007 but, with the approval of the Secretary of State, can be extended for a further four years. The appointment carries no right of pension, gratuity or allowance on its termination.

## Remuneration

The following part of the Remuneration Report has been audited.

	2006/07 Salary £'000	2006/07 Benefits in kind (to nearest £100)	2006/07 Long-Service Award £'000	2005/06 Salary £'000	2005/06 Benefits in kind (to nearest £100)
President	145 – 150	-	23	170 – 175	-
(until 2 February 2007)	170 – 175				
(full year equivalent)					

	2006/07 Salary £'000	2006/07 Benefits in kind (to nearest £100)	2005/06 Salary £'000	2005/06 Benefits in kind (to nearest £100)
Registrar	80 – 85	-	75 – 80	-

'Salary' for the President and Registrar consists of gross salary only. There are no additional allowances paid.

The non-executive member of the CS is remunerated at a rate of £350 per day (2005/06: £350 per day). Total remuneration payable in 2006/07 was £4,725 (2005/06: £6,125).



## Benefits in kind

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

## President's pension benefits

	Accrued pension at age 60 as at 31/03/07 and related lump sum £'000	Real increase in pension and related lump sum at age 60 £'000	CETV at 31/03/07 £'000	CETV at 31/03/06 £'000	Employee contributions and transfers in £'000	Real increase in CETV £'000
President	30 – 35 65 – 70	3 – 3.5 7.5 – 8	540	461	1.5 – 2	67

## Judicial pensions

The President was a member of the Judicial Pension Scheme (JPS). For 2006/07, employer contributions of £45,000 (2005/06: £50,000) were payable to the JPS at a rate of 30.75 per cent of pensionable pay (2005/06: 29.75 per cent).

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 2006/07 has been assessed as 30.75 per cent of the relevant judicial salary. This includes an element of 0.25 per cent as a contribution towards the administration costs of the scheme.

Sir Christopher Bellamy QC decided to draw his pension down immediately following his departure from the office of President. The liability for this 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 2007 is being carried out. Details of the 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).

## Registrar's pension benefits

	Accrued pension at age 60 as at 31/03/07 and related lump sum £'000	Real increase in pension and related lump sum at age 60 £'000	CETV at 31/03/07 £'000	CETV at 31/03/06 £'000	Employee contributions and transfers in £'000	Real increase in CETV £'000
Registrar	10 – 15 40 – 45	0 – 2.5 5 – 7.5	224	194	7.5 – 10	19

The Registrar's pension benefits are provided through the Civil Service Pension arrangements. For 2006/07, employer contributions of £21,000 (2005/06: £19,000) were payable to the PCSPS scheme at a rate of 25.5 per cent (2005/06: 24.6 per cent) of pensionable pay.

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 after 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 per cent of pensionable earnings for Classic and 3.5 per cent 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 per cent and 12.5 per cent (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 per cent of pensionable salary (in addition to the employer's basic contribution). Employers also contribute a further 0.8 per cent of pensionable salary to cover the cost of centrally-provided risk benefit cover (death in service and ill health retirement).

The accrued pension quoted is the pension the member is entitled to receive when they reach 60, or immediately on ceasing to be an active member of the scheme if they are already 60.

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

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

## Cash Equivalent Transfer Values

A Cash Equivalent Transfer Value (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 their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies. The 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 Cabinet Office's Civil Superannuation 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. CETVs are calculated within the guidelines and framework prescribed by the Institute and Faculty of Actuaries.

## Real increase in CETV

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



**Charles Dhanowa OBE**  
**Registrar and Accounting Officer**  
**Competition Service**  
**4 July 2007**

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

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

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

- observe the Accounts Directions issued by the Secretary of State, including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis;
- make judgements and estimates on a reasonable basis;

- state whether applicable accounting standards have been followed, and disclose and explain any material departures in the financial statements; and
- prepare the financial statements on a going concern basis, unless it is inappropriate to presume that the Tribunal and the CS will continue in operation.

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

## Statement on Internal Control for the Tribunal 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 Tribunal 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 Tribunal 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 Tribunal's and the CS's finances in accordance with the responsibilities assigned to me in Government Accounting. The CS receives its financing 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 Tribunal's and the CS's 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 Tribunal and the CS has been in place for the year ended 31 March 2007 and up to the date of the approval of the annual review and accounts, and accords with Treasury guidance.

## Capacity to handle risk

The membership of the CS and the Audit Committee has continued to play an active role in supporting the CS staff and myself in the risk management process. The CS also benefits from the support and advice given by the DTI through its risk management network and internal audit directorate.

The CS is committed to promoting a strong understanding of risk throughout the organisation and for Tribunal members and CS staff to have a full awareness of risk considerations in the achievement of objectives.

The Audit Committee and the membership of the CS have continued to play an important role in the support of the development of the CS's risk management strategy by challenging current practices and putting forward practical solutions.

The key measures that the CS has put in place to manage risk are:

- (i) the Finance Committee, comprising the Registrar, Director, Operations and the Finance Manager, meets throughout the year and discusses risk management as part of its standing agenda;
- (ii) the Finance Manager reports to the Audit Committee on the progress made in addressing key risks. The Audit Committee discusses the key risks facing the organisation and makes recommendations;
- (iii) groups focusing on specific organisational activities such as casework, information technology and accommodation meet as and when the need arises throughout the year;
- (iv) the Finance Manager is responsible for maintaining the CS's risk register. The risk register groups risks into 10 generic risk categories, ranks each risk in terms of risk and likelihood and prioritises risks for action. From this analysis, risks are assigned to individuals and additional actions are devised and agreed with risk owners;
- (v) the Finance Manager meets throughout the year with risk owners to discuss the progress made in addressing risks, developments are then reported to the Finance Committee, the membership of the CS and the Audit Committee;
- (vi) 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;
- (vii) 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
- (viii) 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 following processes are in place to manage the risk and control framework:

- (i) The CS's highest risk is that following the departure of Sir Christopher Bellamy QC in February 2007, the post of President of the Tribunal is currently vacant and the delay in recruiting a replacement could slow the handling of cases and therefore delay the judicial process.

The recruitment exercise commenced at the end of 2006 with the Judicial Appointments Commission (JAC) made aware, through the Department for Constitutional Affairs, of the need to have a new President in place without unnecessary delay.

Although the responsibility for recruiting for this post is the JAC's, the CS has been active in the recruitment process, meeting officials from the DTI and DCA to ensure that sufficient progress is made.

On an operational level, the Panel of Chairmen are sharing the caseload, with Marion Simmons QC, in particular, taking a more central role. In addition, one case is currently being chaired by a judge from the Chancery Division of the High Court;

- (ii) the CS receives internal audit services from the DTI's internal audit directorate. The CS responds to the recommendations made by internal audit within agreed timescales in order to achieve best practice. During the year to 31 March 2007 internal audit assessed the adequacy of the CS's financial and accounting system and reported its findings to the Audit Committee and the Accounting Officer.
- (iii) financial control is maintained by a monthly financial reporting system to senior management, the Audit Committee and the membership of the CS. The DTI is informed of the CS's financial position through the submission of monthly returns and quarterly grant-in-aid requests;
- (iv) the CS maintains good working relationships with the DTI. Senior management meet officials from Consumer and Competition Policy Directorate to share management and financial information;
- (v) an annual business plan is drafted identifying the objectives for the year ahead and is agreed with the DTI; and
- (vi) where specific services have been outsourced to external contractors, senior management has satisfied itself that these organisations have the appropriate risk management policies in place.



## 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 Tribunal 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 Tribunal and the CS;

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

(iii) the DTI's internal audit directorate was retained in 2006/07. During the year its work programme was reduced as the audit of the EDRMS scheduled to take place in the year was postponed until 2007/08;

(iv) the CS participates in the DTI's group corporate governance submission. This process involves management evaluating the risk management processes currently in place and identifying measures to promote awareness and understanding of issues under eight specific headings throughout the organisation.



**Charles Dhanowa OBE**  
**Registrar and Accounting Officer**  
**Competition Service**  
**4 July 2007**

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

I certify that I have audited the financial statements of the Competition Appeal Tribunal for the year ended 31 March 2007 under the Enterprise Act 2002. These comprise the Operating Cost Statement, the Balance Sheet, the Cash Flow Statement and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

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

The Competition Service and Registrar as Accounting Officer are responsible for preparing the Annual Report, the Remuneration Report and the financial statements in accordance with the Enterprise Act 2002 and the Secretary of State's directions made thereunder and for ensuring the regularity of financial transactions. These responsibilities are set out in the Statement of Accounting Officer's Responsibilities.

My responsibility is to audit the financial statements and the part of the Remuneration Report to be audited in accordance with relevant legal and regulatory requirements, and with International Standards on Auditing (UK and Ireland).

I report to you my opinion as to whether the financial statements give a true and fair view and whether the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the Enterprise Act 2002 and the Secretary of State's directions made thereunder.

I report to you whether, in my opinion, certain information given in the Annual Report, which comprises the President's statement, the Registrar's statement and the Management Commentary, is consistent with the financial statements. I also report 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.

In addition, I report to you if the Competition Service has not kept proper accounting records, if I have not received all the information and explanations I require for my audit, or if

information specified by HM Treasury regarding remuneration and other transactions is not disclosed.

I review whether the Statement on Internal Control reflects the Competition Service's compliance with HM Treasury's guidance, and I report if it does not. I am not required to consider whether this statement covers all risks and controls, or form an opinion on the effectiveness of the Competition Service's corporate governance procedures or its risk and control procedures.

I read the other information contained in the Annual Report and consider whether it is consistent with the audited financial statements. I consider the implications for my report if I become aware of any apparent misstatements or material inconsistencies with the financial statements. My responsibilities do not extend to any other information.

## **Basis of audit opinion**

I conducted my audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. My audit includes examination, on a test basis, of evidence relevant to the amounts, disclosures and regularity of financial transactions included in the financial statements and the part of the Remuneration Report to be audited. It also includes an assessment of the significant estimates and judgments made by the Competition Service and Accounting Officer in the preparation of the financial statements, and of whether the accounting policies are most appropriate to the Competition Appeal Tribunal'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 and the part of the Remuneration Report to be audited are free from material misstatement, whether caused by fraud or error, 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 and the part of the Remuneration Report to be audited.

## Opinions

### In my opinion:

- the financial statements give a true and fair view, in accordance with the Enterprise Act 2002 and directions made thereunder by the Secretary of State, of the state of the Competition Appeal Tribunal's affairs as at 31 March 2007 and of its deficit for the year then ended;
- the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the Enterprise Act 2002 and the Secretary of State's directions made thereunder; and
- information given within the Annual Report, which comprises the President's statement, the Registrar's statement and the Management Commentary is consistent with the financial statements.

### Audit Opinion on Regularity

In my opinion, 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.

### Report

I have no observations to make on these financial statements.

**John Bourn**  
**Comptroller and Auditor General**  
**10 July 2007**

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

## Competition Appeal Tribunal: Operating cost statement for the year ended 31 March 2007

		2006/07	2005/06
	Note	£'000	Restated £'000
<b>Income</b>		<b>0</b>	<b>0</b>
<b>Administrative costs:</b>			
Members' remuneration costs	3a	<b>(651)</b>	(520)
Other operating charges	4a	<b>(110)</b>	(126)
<b>Surplus/(deficit) for the financial year</b>		<b>(761)</b>	<b>(646)</b>

The notes on pages 51-55 form part of these accounts.

## Competition Appeal Tribunal: Balance sheet as at 31 March 2007

	Note	31 March 2007 £'000	31 March 2007 £'000	31 March 2006 Restated £'000	31 March 2006 Restated £'000
<b>Current assets:</b>					
Debtors	5a	113		121	
Cash at bank and in hand		-		-	
			113		121
Creditors: amounts falling due within one year	6a		(113)		(99)
<b>Net current assets</b>			-		22
<b>Total assets less current liabilities</b>			-		22
Creditors: amounts falling due after more than one year			-		-
Provisions for liabilities and charges	7		-		(22)
			-		-
<b>Represented by:</b>					
General fund	8		-		-
			-		-

The notes on pages 51-55 form part of these accounts.



Charles Dhanowa OBE  
Registrar and Accounting Officer  
Competition Service  
4 July 2007

## Competition Appeal Tribunal: Cash flow statement for the year ended 31 March 2007

	Note	2006/07 £'000	2005/06 Restated £'000
<b>Net cash (outflow) from operating activities</b>	9	(761)	(646)
<b>Financing</b>			
Financing from CS	2	761	646
<b>Increase/(decrease) in cash in the period</b>		-	-

The Tribunal does not have a bank account and therefore does not hold any cash. Cash required to fund the activities of the Tribunal is paid into the CS's bank account.

The notes on pages 51-55 form part of these accounts.

# Competition Appeal Tribunal: Notes to the accounts

## 1. Statement of accounting policies

These financial statements have been prepared in accordance with the 2006-07 Government Financial Reporting Manual (FReM). The accounting policies contained in the FReM follow UK generally accepted accounting practice for companies (UK GAAP) to the extent that it is meaningful and appropriate to the public sector.

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

### (a) Accounting convention

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

### (b) Basis of preparation of accounts

There is a statutory requirement for the CS to produce separate accounts for the Tribunal and the CS. The accounts of the Tribunal include only the direct costs specifically attributable to the Tribunal. In accordance with Accounts Directions issued by the Secretary of State with the approval of the Treasury, the Tribunal and the CS have prepared a joint Statement of Accounting Officer's Responsibilities and Statement on Internal Control.

### (c) Change of accounting policy

With effect from the 2006-07 reporting period the FReM required NDPBs to account for grant-in-aid received for revenue purposes as financing because they are regarded as contributions from

a sponsor which gives rise to a financial interest in the residual interest of NDPBs. This is a change in accounting policy from earlier periods when grant-in-aid was recorded as income. This affects the financial statements of the Tribunal insofar as there is now a requirement to produce a balance sheet and cash flow statement for the Tribunal in addition to the operating cost statement.

The way in which the activities of the Tribunal are funded remains unchanged with the CS drawing down grant-in-aid on behalf of the Tribunal to fund its activities. The Tribunal continues to have no bank account, therefore grant-in-aid for the Tribunal and the settlement of the liabilities of the Tribunal flow through the CS's bank account.

The Tribunal's balance sheet shows only those liabilities at 31 March 2007 that are directly attributable to the Tribunal. There is a debtor balance of an equal amount representing the amount that the CS shall transfer to meet those liabilities. The liabilities in the CS's balance sheet therefore include the liabilities of the Tribunal. As a result of this change in accounting policy the comparative figures disclosed in the financial statements and accompanying notes have been restated where appropriate.

This change in accounting policy does not alter the respective statutory requirements of the Tribunal and the CS as set out in the Enterprise Act 2002.

### (d) Pensions

The pension arrangements for the President are discussed separately in the Remuneration Report. The appointments of Tribunal Chairmen and Ordinary Members are non-pensionable.

### (e) Going concern

The accounts have been prepared on a going concern basis.

## 2. Grant-in-aid

	2006/07	2005/06
	£'000	Restated £'000
Allocated by the CS	761	646
	<b>761</b>	<b>646</b>



### 3. Members' remuneration

(a) The total cost of members' remuneration is shown in the table below.

	<b>2006/07 £'000</b>	2005/06 £'000
Members' remuneration (including the President and Chairmen)	<b>544</b>	424
Social security costs	<b>62</b>	46
Pension contributions for the President	<b>45</b>	50
	<b>651</b>	520

(b) Members of the Tribunal during the year are listed in the Introduction. The President and the chairmen are appointed by the Lord Chancellor upon the recommendation of the Judicial Appointments Commission. Ordinary Members are appointed by the Secretary of State. The appointments are for a fixed term of up to eight years.

(c) Remuneration costs for Members of the Panel of Chairmen are shown in the table below.

	<b>2006/07 £</b>	2005/06 £
Marion Simmons QC	<b>143,100</b>	85,800
Lord Carlile of Berriew QC	<b>19,200</b>	1,800
Vivien Rose	<b>27,600</b>	3,300

Marion Simmons QC, Lord Carlile QC and Vivien Rose are remunerated on a per diem basis at a rate of £600 per day (2005/06: £600 per day). Their remuneration costs are included in note 3 (a).

The Academy of European Law in Trier reimbursed the CS £1,428 for Marion Simmons speaking at two conferences. This amount has been included in note 3 (a) but excluded from note 3 (c) above.

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

(d) The Ordinary Members are remunerated at a rate of £350 per day (2005/06: £300 per day). The total remuneration payable to Ordinary Members of £207,125 (2005/06: £162,450) is included in note 3 (a). Ordinary Members are paid when they sit as wing members on Tribunals, for attendance at training seminars and for their participation on various Tribunal Committees.

#### 4. Other operating charges

(a)

	2006/07 £'000	2005/06 £'000
Members' travel and subsistence	58	49
Members' PAYE and National Insurance on travel and subsistence expenses	36	41
Members' training	9	9
Long-service award	1	22
Audit fees*	6	5
	<b>110</b>	126

\*Audit fees related only to statutory audit work.

(b) The long-service award relates to the payment of £22,821 to Sir Christopher Bellamy QC in his final month of service. This is in accordance with amendments made to the terms of the Judicial Pension Scheme by the Lord Chancellor with the agreement of the Treasury. The value of the award was calculated by the Department for Constitutional Affairs and reflected the President's length of service and judicial grade.

#### 5. Debtors

##### (a) Analysis by type

	31 March 2007 £'000	31 March 2006 Restated £'000
<b>Amounts falling due within one year:</b>		
Debtor with CS	113	121
	<b>113</b>	121

##### (b) Intra-government balances

	Amounts falling due within one year 2006/07 £'000	Amounts falling due within one year (restated) 2005/06 £'000	Amounts falling due after more than one year 2006/07 £'000	Amounts falling due after more than one year (restated) 2005/06 £'000
Balances with other central government bodies	113	121	-	-
Balances with bodies external to government	-	-	-	-
<b>Total debtors at 31 March</b>	<b>113</b>	121	-	-

The debtor balance represents the total liabilities outstanding at the balance sheet date that are directly attributable to the activities of the Tribunal. The liabilities of the Tribunal are settled by the CS.

## 6. Creditors

### (a) Analysis by type

	31 March 2007 £'000	31 March 2006 Restated £'000
<b>Amounts falling due within one year:</b>		
Taxation and social security	38	31
Trade creditors	1	1
Accruals	74	67
	<b>113</b>	99

### (b) Intra-government balances

	Amounts falling due within one year 2006/07 £'000	Amounts falling due within one year (restated) 2005/06 £'000	Amounts falling due after more than one year 2006/07 £'000	Amounts falling due after more than one year (restated) 2005/06 £'000
Balances with other central government bodies	43	36	-	-
Balances with bodies external to government	70	63	-	-
<b>Total creditors at 31 March</b>	<b>113</b>	99	-	-

## 7. Provisions for liabilities and charges

	Long-Service Award Costs £'000
Balance at 1 April 2006	22
Provided in the year	-
Provisions utilised in the year	(22)
<b>Balance at 31 March 2007</b>	-

Following the departure of Sir Christopher Bellamy QC in February 2007 and his decision to draw down his pension immediately, the CS was required to pay a long-service award. At 31 March 2006, £22,000 had been provided in the Tribunal's accounts to meet the cost of the award. The actual cost of the award, paid on 28 February 2007, was £22,821.

## 8. General fund

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

	2006/07 £'000	2005/06 Restated £'000
Balance at 1 April	0	0
Net operating cost for the year	(761)	(646)
Net financing from the CS	761	646
<b>Balance at 31 March</b>	<b>0</b>	<b>0</b>

## 9. Notes to the cash flow statement

### Reconciliation of operating cost to operating cash flows

	Note	2006/07 £'000	2005/06 Restated £'000
Net operating cost	15	(761)	(646)
Decrease/(increase) in debtors		8	(10)
Increase/(decrease) in creditors		14	10
Use of provisions	7	(22)	-
<b>Net cash (outflow) from operating activities</b>		<b>(761)</b>	<b>(646)</b>

## 10. Related party transactions

All expenses of the Tribunal are paid by the CS.

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

I certify that I have audited the financial statements of the Competition Service for the year ended 31 March 2007 under the Enterprise Act 2002. These comprise the Operating Cost Statement, the Balance Sheet, the Cash Flow Statement, the Statement of Recognised Gains and Losses and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

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

The Competition Service and Registrar as Accounting Officer are responsible for preparing the Annual Report, the Remuneration Report and the financial statements in accordance with the Enterprise Act 2002 and the Secretary of State's directions made thereunder and for ensuring the regularity of financial transactions. These responsibilities are set out in the Statement of Accounting Officer's Responsibilities.

My responsibility is to audit the financial statements and the part of the Remuneration Report to be audited in accordance with relevant legal and regulatory requirements, and with International Standards on Auditing (UK and Ireland).

I report to you my opinion as to whether the financial statements give a true and fair view and whether the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the Enterprise Act 2002 and the Secretary of State's directions made thereunder.

I report to you whether, in my opinion, certain information given in the Annual Report, which comprises the President's statement, the Registrar's statement, and the Management Commentary, is consistent with the financial statements. I also report 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.

In addition, I report to you if the Competition Service has not kept proper accounting records, if I have not received all the information and explanations I require for my audit, or if

information specified by HM Treasury regarding remuneration and other transactions is not disclosed.

I review whether the Statement on Internal control reflects the Competition Service's compliance with HM Treasury's guidance, and I report if it does not. I am not required to consider whether this statement covers all risks and controls, or form an opinion on the effectiveness of the Competition Service's corporate governance procedures or its risk and control procedures.

I read the other information contained in the Annual Report and consider whether it is consistent with the audited financial statements. I consider the implications for my report if I become aware of any apparent misstatements or material inconsistencies with the financial statements. My responsibilities do not extend to any other information.

## **Basis of audit opinion**

I conducted my audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. My audit includes examination, on a test basis, of evidence relevant to the amounts, disclosures and regularity of financial transactions included in the financial statements and the part of the Remuneration Report to be audited. It also includes an assessment of the significant estimates and judgments made by the Competition Service and Accounting Officer in the preparation of the financial statements, and of whether the accounting policies are most appropriate to the Competition Service'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 and the part of the Remuneration Report to be audited are free from material misstatement, whether caused by fraud or error, 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 and the part of the Remuneration Report to be audited.



## Opinions

### In my opinion:

- the financial statements give a true and fair view, in accordance with the Enterprise Act 2002 and directions made thereunder by the Secretary of State, of the state of the Competition Service's affairs as at 31 March 2007 and of its deficit for the year then ended;
- the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the Enterprise Act 2002 and the Secretary of State's directions made thereunder; and
- information given within the Annual Report, which comprises the President's statement, the Registrar's statement and the Management Commentary is consistent with the financial statements.

### Audit Opinion on Regularity

In my opinion, 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.

### Report

I have no observations to make on these financial statements.

**John Bourn**  
**Comptroller and Auditor General**  
**10 July 2007**

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

## Competition Service: Operating cost statement for the year ended 31 March 2007

		2006/07	2005/06
	Note	£'000	Restated £'000
<b>Expenditure:</b>			
Funding the activities of the Tribunal		(761)	(646)
CS and Audit Committee members' remuneration	3a	(11)	(12)
Staff salary costs	4a	(883)	(857)
Other administrative expenses	6	(1,986)	(2,104)
		<b>(3,641)</b>	(3,619)
Interest received	7	33	40
<b>Net expenditure on ordinary activities before taxation</b>		<b>(3,608)</b>	(3,579)
Taxation	8	(6)	(8)
<b>Net expenditure on ordinary activities after taxation</b>		<b>(3,614)</b>	(3,587)
Reversal of notional cost of capital included above	6	13	19
<b>Net expenditure for the financial year</b>		<b>(3,601)</b>	(3,568)

All activities were continuing during the year.

### Statement of recognised gains and losses for the year ended 31 March 2007

		2006/07	2005/06
	Note	£'000	£'000
Net gain on revaluation of tangible fixed assets	16	3	2
<b>Recognised gains for the year</b>		<b>3</b>	2

The notes on pages 60-69 form part of these accounts.

# Competition Service:

## Balance sheet as at 31 March 2007

	Note	31 March 2007 £'000	31 March 2007 £'000	31 March 2006 Restated £'000	31 March 2006 Restated £'000
<b>Fixed assets:</b>					
Tangible fixed assets	9	395		480	
Intangible fixed assets	10	43		27	
			438		507
<b>Current assets:</b>					
			-		
Debtors	11a	67		59	
Cash at bank and in hand	12	292		483	
			359		542
Creditors: amounts falling due within one year	13a		(245)		(232)
<b>Net current assets</b>			114		310
<b>Total assets less current liabilities</b>			552		817
Creditors: amounts falling due after more than one year	13a		(301)		(320)
Provisions for liabilities and charges	14		-		(22)
			251		475
<b>Represented by:</b>					
General fund	15		240		467
Revaluation reserve	16		11		8
			251		475

The notes on pages 60-69 form part of these accounts.



**Charles Dhanowa OBE**  
**Registrar and Accounting Officer**  
**Competition Service**  
**4 July 2007**

# Competition Service:

## Cash flow statement for the year ended 31 March 2007

	Note	2006/07 £'000	2005/06 Restated £'000
<b>Net cash (outflow) from operating activities</b>	17a	<b>(3,526)</b>	(3,481)
<b>Returns on investment and servicing of finance</b>			
Interest received		<b>33</b>	40
<b>Taxation</b>		<b>(8)</b>	(9)
<b>Capital expenditure and financial investment</b>	17b	<b>(62)</b>	(153)
<b>Financing</b>			
Grant in aid from DTI	17c	<b>3,372</b>	3,400
<b>(Decrease) in cash</b>	12	<b>(191)</b>	(203)

The purchase of fixed assets represents the cash paid in year.

The notes on pages 60-69 form part of these accounts.

# Competition Service: Notes to the accounts

## 1. Statement of accounting policies

These financial statements have been prepared in accordance with the 2006-07 FReM. The accounting policies contained in the FReM follow UK generally accepted accounting practice for companies (UK GAAP) to the extent that it is meaningful and appropriate to the public sector.

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

### (a) Accounting convention

The financial statements have been prepared under the modified historic cost convention modified to account for the revaluation of certain fixed assets.

### (b) Basis of preparation of accounts

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

Schedule 3 of the Enterprise Act 2002 requires the CS to prepare separate statements of accounts in respect of each financial year for itself and for the Tribunal. There is therefore a statutory requirement to produce separate statements of accounts for the Tribunal and for the CS.

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

### (c) Change of accounting policy

With effect from the 2006-07 reporting period the FReM required NDPBs to account for grant-in-aid received for revenue purposes as financing because it is regarded as a contribution from a sponsor which gives rise to a financial interest in the residual interest of NDPBs. This is a change in accounting policy from earlier periods when grant-in-aid was recorded as income. The effect of this change on the certified 2005-06 accounts and the impact of the change on the results of the current year are shown below. Note there is no impact on the net liability position of the CS as a result of this change in policy:

	<b>At 31 March 2006</b> as previously stated <b>£'000</b>	<b>Impact of adopting</b> <b>the new policy</b> <b>£'000</b>	<b>2005/06</b> Restated <b>£'000</b>
Net expenditure 2005/06	(211)	(3,357)	(3,568)
General reserve	(32)	499	467
Government grant reserve	499	(499)	-

This change in accounting policy does not alter the respective statutory requirements of the Tribunal and the CS as set out in the Enterprise Act 2002.

### (c) Grant-in-aid

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

Grant-in-aid is treated as financing and is credited to the general reserve as it is regarded as contributions from a sponsor body.

#### **(d) Fixed assets**

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

Items with a value of £500 or over in a single purchase or grouped purchases where the total group purchase is £500 or more are capitalised.

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
- Servers and audio visual equipment  
5 years
- Office equipment  
5 years
- Furniture  
7 years

Assets under construction relate to an electronic documents and records management system. At the balance sheet date the system was undergoing its final stages of testing before being rolled-out across the organisation. Depreciation shall be charged from the date it becomes operational.

#### **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 (2005/06: 3.5 per cent) on the average value of items comprising capital employed over the year.

#### **(g) Taxation**

(i) The CS is liable for corporation tax on interest earned on bank deposits.

(ii) The CS is not registered for VAT, and therefore 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.

#### **(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 employees' services by payment to the PCSPS of amounts calculated on an accruing basis. Liability for payment of future benefits is a charge on the PCSPS. In respect of the defined contribution element of the schemes, the CS recognises contributions payable in the year.

No recognition of the PCSPS scheme occurs in the CS's 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

	2006/07 £'000	2005/06 Restated £'000
Allocated by the DTI	4,070	3,866
Drawn down	3,372	3,400

## 3. CS and Audit Committee members' remuneration

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

	2006/07 £'000	2005/06 £'000
CS and Audit Committee members' remuneration	10	11
Social security costs	1	1
	11	12

(b) Until his departure on 2 February 2007, the membership of the CS was chaired by Sir Christopher Bellamy QC, President of the Tribunal. The President's salary costs are included in note 3 (a) of the Tribunal's accounts. The Registrar is also a member of the CS. His salary costs are included in note 4 (a) below.

Mrs Janet Rubin is a non-executive member of the CS. Mrs Rubin is also Chairman of the CS's Audit Committee and a member of the CS's Remuneration Committee. Mrs Rubin's appointment is for a fixed term of four years expiring in September 2007. Her appointment is not pensionable. Mrs Rubin is remunerated at a rate of £350 per day. Her remuneration of £4,725 in the year (2005/06: £6,125) is included in note 3 (a) above.

The Audit Committee's two other current members are Mr Peter Clayton and Mr David Summers. Both are Tribunal Ordinary Members. Mr Clayton and Mr Summers are remunerated at a rate of £350 per day (2005/06: £300 per day). The total remuneration payable to these two Members in 2006/07 of £5,250 (2005/06: £4,800) is included in note 3 (a) above.

## 4. Staff numbers and related costs

(a) Staff costs comprise:

	Total 2006/07 £'000	Permanently employed staff 2006/07 £'000	Others 2006/07 £'000	Total 2005/06 £'000
Wages and salaries	683	677	6	665
Social security costs	61	61	-	60
Other pension costs	139	139	-	132
<b>Total employee costs</b>	<b>883</b>	<b>877</b>	<b>6</b>	<b>857</b>

(b) The average number of whole-time persons employed during the year was as follows:

	Total 2006/07	Permanent staff 2006/07	Others 2006/07	Total 2005/06
Employed on cases	8	8	-	9
Support staff	9	9	-	9
<b>Total</b>	<b>17</b>	<b>17</b>	<b>-</b>	<b>18</b>

## 5. Pension costs

The Principal Civil Service Pension Scheme (PCSPS) is an unfunded multi-employer defined benefit scheme but the CS is unable to identify its share of the underlying assets and liabilities. Further information can be found in the resource accounts of the Cabinet Office: Civil Superannuation ([www.civilservice-pensions.gov.uk](http://www.civilservice-pensions.gov.uk)).

For 2006/07, employer contributions of £139,000 (2005/06: £132,000) were payable to the PCSPS at one of four rates in the range 17.1 to 25.5 per cent (2005/06: 16.2 to 24.6 per cent) of pensionable pay, based on salary bands. The scheme's Actuary reviews employer contributions every four years following a full scheme valuation. From 2007-08, the salary bands will be revised but the rates will remain the same. The contribution rates reflect benefits as they are accrued, not when the costs are actually incurred, and reflect past experience of the scheme.

## 6. Other administration costs

	2006/07 £'000	2005/06 Restated £'000
Hire of plant and machinery	13	13
Other operating leases	1,028	1,028
Consultants fees – not case related	16	32
Consultants fees – IT	71	118
Accommodation and utilities	380	448
Travel, subsistence and hospitality	28	26
Audit fees	21	20
Other administration including case related expenditure	274	260
<b>General administrative costs</b>	<b>1,831</b>	<b>1,945</b>
Non cash items:		
Net loss on revaluation	15	13
Depreciation	125	127
Loss on disposal of fixed assets	2	-
Notional cost of capital	13	19
Total non cash	155	159
<b>Total costs</b>	<b>1,986</b>	<b>2,104</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 under a Memorandum of Terms of Occupation (MOTO) arrangement. The MOTO is for the duration of the Competition Commission's 20-year lease with the Victoria House landlord, which commenced in September 2003.

Accommodation costs for 2006/07 are shown net of a receipt of £101,000 from the Competition Commission following a successful appeal made by the Competition Commission on the CS's behalf against business rates charges in 2004/05 and 2005/06.

From 2006/07 catering costs have been recognised under travel, subsistence and hospitality. In previous years this type of expenditure had been recognised under the other administration heading. The prior year comparative figures have been adjusted to reflect this amendment.

Audit fees related only to statutory audit work.

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 (2005/06: 3.5 per cent).

## 7. Interest

	2006/07 £'000	2005/06 £'000
Gross interest receivable	33	40

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

## 8. Taxation

	2006/07 £'000	2005/06 £'000
Corporation tax payable	6	8

Corporation tax payable is based on 19 per cent of gross interest received (2005/06: 19 per cent).

## 9. Tangible fixed assets

	Information technology £'000	Furniture and fittings £'000	Office machinery £'000	Payments on account and assets under construction £'000	Total £'000
<b>Cost or valuation</b>					
At 1 April 2006	308	302	7	89	706
Additions	13	8	-	13	34
Disposals	(14)	(4)	-	-	(18)
Revaluations	(20)	7	-	-	(13)
<b>At 31 March 2007</b>	<b>287</b>	<b>313</b>	<b>7</b>	<b>102</b>	<b>709</b>
<b>Depreciation</b>					
At 1 April 2006	140	84	3	-	226
Charged in year	61	44	1	-	106
Disposals	(11)	(2)	-	-	(13)
Revaluations	(8)	2	-	-	(6)
<b>At 31 March 2007</b>	<b>182</b>	<b>128</b>	<b>4</b>	<b>-</b>	<b>314</b>
<b>Net book value at 31 March 2007</b>	<b>105</b>	<b>185</b>	<b>3</b>	<b>102</b>	<b>395</b>
<b>Net book value at 31 March 2006</b>	<b>168</b>	<b>218</b>	<b>4</b>	<b>89</b>	<b>480</b>
<b>Asset financing:</b>					
Owned	105	185	3	102	395
<b>Net book value at 31 March 2007</b>	<b>105</b>	<b>185</b>	<b>3</b>	<b>102</b>	<b>395</b>

Assets under construction relate to an Electronic Documents and Records Management system. This asset is made up of both tangible and intangible assets and shall be split into tangible and intangible assets upon completion.

## 10. Intangible fixed assets

	Purchased software licences £'000
<b>Cost or valuation</b>	
At 1 April 2006	44
Additions	39
Disposals	(13)
Revaluation	(4)
<b>At 31 March 2007</b>	<b>66</b>
<b>Amortisation</b>	
At 1 April 2006	17
Charged in the year	19
Disposals	(12)
Revaluation	(1)
<b>At 31 March 2007</b>	<b>23</b>
<b>Net book value at 31 March 2007</b>	<b>43</b>
<b>Net book value at 31 March 2006</b>	<b>27</b>

## 11. Debtors

### (a) Analysis by type

	31 March 2007 £'000	31 March 2006 Restated £'000
<b>Amounts falling due within one year:</b>		
Deposits and advances	6	4
Other debtors	2	6
Prepayments and accrued income	59	49
	<b>67</b>	<b>59</b>

### (b) Intra-government balances

	Amounts falling due within one year 2006/07 £'000	Amounts falling due within one year (restated) 2005/06 £'000	Amounts falling due after more than one year 2006/07 £'000	Amounts falling due after more than one year (restated) 2005/06 £'000
Balances with other central government bodies	13	13	-	-
Balances with bodies external to government	54	46	-	-
<b>Total debtors at 31 March</b>	<b>67</b>	<b>59</b>	<b>-</b>	<b>-</b>

## 12. Cash at bank and in hand

	2006/07 £'000	2005/06 £'000
Balance at 1 April	483	686
Net change in cash balances	(191)	(203)
<b>Balance at 31 March</b>	<b>292</b>	<b>483</b>
The following balances at 31 March were held at:		
Office of HM Paymaster General	99	81
Commercial banks and cash in hand	193	402
<b>Balance at 31 March</b>	<b>292</b>	<b>483</b>

## 13. Creditors

### (a) Analysis by type

	31 March 2007 £'000	31 March 2006 Restated £'000
<b>Amounts falling due within one year:</b>		
Creditors of the Tribunal at 31 March	113	99
Taxation and social security	25	25
Trade creditors	14	7
Accruals	74	81
Deferred income	19	20
	<b>245</b>	<b>232</b>
<b>Amounts falling due after more than one year:</b>		
Deferred income	301	320

### (b) Intra-government balances

	Amounts falling due within one year 2006/07 £'000	Amounts falling due within one year (restated) 2005/06 £'000	Amounts falling due after more than one year 2006/07 £'000	Amounts falling due after more than one year (restated) 2005/06 £'000
Balances with other central government bodies	179	163	301	320
Balances with bodies external to government	66	69	-	-
<b>Total creditors at 31 March</b>	<b>245</b>	<b>232</b>	<b>301</b>	<b>320</b>

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

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



## 14. Provisions for liabilities and charges

	Long Service Award Costs £'000
Balance at 1 April 2006	22
Provided in the year	-
Provisions utilised in the year	(22)
<b>Balance at 31 March 2007</b>	<b>-</b>

Following the departure of Sir Christopher Bellamy QC in February 2007 and his decision to draw down his pension immediately, the CS was required to pay a long-service award. At 31 March 2006, £22,000 had been provided in the Tribunal's accounts to meet the cost of the award. The actual cost of the award, paid on 28 February 2007 was £22,821. As the CS meets all the liabilities of the Tribunal, the amount was paid by the CS.

## 15. General fund

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

	2006/07 £'000	2005/06 Restated £'000
Balance at 1 April	467	632
Net operating cost for the year	(3,601)	(3,568)
Transferred to the revaluation reserve in respect of realised element of revaluation reserve	2	1
Reclassification of assets previously capitalised	-	2
Net financing from the DTI	3,372	3,400
<b>Balance at 31 March</b>	<b>240</b>	<b>467</b>

## 16. Revaluation reserve

The revaluation reserve reflects the unrealised element of the cumulative balance of indexation and revaluation adjustments.

	2006/07 £'000	2005/06 £'000
Balance at 1 April	8	6
Arising on revaluation during the year (net)	5	3
Transferred to general fund in respect of realised element of revaluation reserve	(2)	(1)
<b>Balance at 31 March</b>	<b>11</b>	<b>8</b>

## 17. Notes to the cash flow statement

### (a) Reconciliation of operating cost to operating cash flows

	Note	2006/07 £'000	2005/06 Restated £'000
Net operating cost		(3,641)	(3,619)
Adjustments for non-cash transactions	6	155	159
Decrease/(increase) in debtors		(8)	16
Increase/(decrease) in creditors		(10)	(37)
Use of provisions		(22)	-
<b>Net cash (outflow) from operating activities</b>		<b>(3,526)</b>	<b>(3,481)</b>

The creditors amount is net of non-operating expenses relating to corporation tax and fixed asset purchases accrued at 31 March 2007.

### (b) Analysis of capital expenditure

	2006/07 £'000	2005/06 £'000
Tangible fixed asset additions	(36)	(130)
Intangible fixed asset additions	(29)	(23)
Proceeds of disposal of fixed assets	3	-
<b>Net cash outflow from investing activities</b>	<b>(62)</b>	<b>(153)</b>

### (c) Analysis of financing

	2006/07 £'000	2005/06 Restated £'000
Financing from the Department of Trade and Industry	3,372	3,400
<b>Net financing</b>	<b>3,372</b>	<b>3,400</b>

### (d) Reconciliation of net cash flow to movement in net funds

	2006/07 £'000	2005/06 £'000
Decrease in cash in the year	(191)	(203)
Net funds at 1 April	483	686
<b>Net funds at 31 March</b>	<b>292</b>	<b>483</b>

The change in net funds is due entirely to cash flows of cash in hand and at bank.

## 18. 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.

	2006/07 £'000	2005/06 £'000
<b>Obligations under operating leases comprise:</b>		
Land and buildings:		
Expiry within 1 year	1,028	1,028
Expiry after 1 year but not more than 5 years	4,112	4,112
Expiry thereafter	11,821	12,849
<b>Other:</b>		
Expiry within 1 year	13	13
Expiry after 1 year but not more than 5 years	32	45
Expiry thereafter	-	-
	<b>17,006</b>	<b>18,047</b>

The obligations under operating leases after one year for land and buildings assumes that there will be no rent increase for the duration of the lease. The footnote to note 6 gives further details of the lease arrangements in respect of land and buildings.

## 19. 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's financial assets as at 31 March 2007.

	Book value £'000	Fair value £'000
Cash at bank	292	292

## 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's sponsor department is the DTI from which it receives grant-in-aid. During the year the CS also had various other material transactions with the DTI including pension administration and internal audit services.

In addition, the CS had material transactions with the Department for Constitutional Affairs and the Cabinet Office to which accruing superannuation liability charges and employee contributions were paid over for the President and permanent staff respectively.

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

## 21. Post balance sheet events

The financial statements were authorised for issue by the Accounting Officer, Charles Dhanowa, on 11 July 2007.





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