



# COMPETITION APPEAL TRIBUNAL



Annual Report and Accounts

2017/2018



# Annual Report and Accounts

## 2017/2018

Contents	Page
Introduction .....	2
President's statement .....	5
Performance report .....	10
Membership .....	14
Cases 2017/2018 .....	23
Accounts 2017/2018 .....	45

# Introduction

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

## Principal functions of the Tribunal

The Tribunal hears appeals against: decisions taken under the Competition Act 1998 (1998 Act) and Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU) by the Competition and Markets Authority (CMA) and by designated sector regulators with concurrent powers<sup>1</sup>; certain decisions of the Office of Communications (OFCOM) regarding the communications and broadcasting sectors under the Communications Act 2003 (2003 Act); and decisions of the CMA or the Secretary of State for Business, Energy & Industrial Strategy (BEIS) on merger and market investigations under the 2002 Act.

The Tribunal may also hear appeals in respect of decisions taken by OFCOM pursuant to the: Mobile Roaming (European Communities) Regulations 2007; Authorisation of Frequency Use for the Provision of Mobile Satellite Services (European Union) Regulations 2010; and the Communications (Access to Infrastructure) Regulations 2016.

The Postal Services Act 2011 provides for an appeal to the Tribunal in respect of certain decisions taken by OFCOM in relation to the regulation of postal services.

Further powers have been given to the Tribunal to hear appeals under the Payment Services Regulations 2009. Under the Financial Services (Banking Reform) Act 2013 and the Payment Card Interchange Fee Regulations 2015, the Tribunal has jurisdiction to hear appeals from some types of enforcement and penalty decisions of the Payment Systems Regulator.

Under the Energy Act 2010, the Tribunal has jurisdiction to hear appeals in relation to decisions taken by the Gas and Electricity Markets Authority in respect of the application of a market power licence condition to types of exploitative behaviour in electricity markets.

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

Under the Consumer Rights Act 2015, the Tribunal can hear any claim for damages in respect of an infringement of competition law. Furthermore, the Tribunal can hear collective actions for damages on both an “opt-in” and “opt-out” basis and also (except in Scottish cases) has power to grant injunctive relief in order to prevent or curtail infringements of competition law.

Each of the cases within the Tribunal’s statutory jurisdictions is heard and decided by a panel consisting of the President or a Chairman and two Ordinary Members. Decisions of the Tribunal may (with permission) be appealed on a point of law or as to the amount of any penalty to the Court of Appeal in relation to cases in England and Wales, the Court of Session in respect of Scottish cases or, with regard to Northern Irish cases, the Court of Appeal in Northern Ireland.

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

## Membership of the Tribunal

The Tribunal's membership comprises:

### President

The Hon. Mr Justice Roth

### Chairmen

The Hon. Mr Justice Mann  
 The Hon. Mr Justice Morgan  
 The Hon. Mr Justice McCloskey  
 The Hon. Mr Justice Hildyard  
 The Hon. Mr Justice Birss  
 The Hon. Mrs Justice Rose  
 The Hon. Mr Justice Nugee  
 The Hon. Mr Justice Barling  
 The Hon. Lord Doherty  
 The Hon. Mr Justice Green  
 The Hon. Mr Justice Snowden  
 The Hon. Mr Justice Henry Carr  
 The Hon. Mr Justice Morris  
 The Hon. Mr Justice Marcus Smith  
 The Hon. Mr Justice Zacaroli  
 The Hon. Mr Justice Fancourt  
 Heriot Currie QC  
 Peter Freeman CBE, QC (Hon)  
 Andrew Lenon QC  
 Hodge Malek QC

### Ordinary Members

William Allan  
 Caroline Anderson  
 Peter Anderson  
 Kirstin Baker CBE  
 Professor John Beath OBE  
 Dr Catherine Bell CB  
 Dr William Bishop  
 Jane Burgess\*  
 Professor John Cubbin  
 Margot Daly  
 Paul Dollman\*  
 Eamonn Doran  
 Dr Clive Elphick  
 Tim Frazer\*  
 Dermot Glynn  
 Simon Holmes  
 Brian Landers OBE  
 Paul Lomas  
 Professor Robin Mason\*  
 Professor Colin Mayer CBE  
 Sir Iain McMillan CBE  
 Professor Anthony Neuberger

Clare Potter  
 Professor Gavin C Reid  
 Derek Ridyard\*  
 Timothy Sawyer CBE\*  
 Dr Joanne Stuart OBE  
 Professor David Ulph CBE  
 Anna Walker CB  
 Professor Michael Waterson  
 Professor Pauline Weetman  
 Professor Stephen Wilks

\* The appointment of these members commenced on 1 February 2018.

### Registrar

Charles Dhanowa OBE, QC (Hon)

## Appointments

The President and Chairmen are appointed by the Lord Chancellor for a fixed term upon the recommendation of the Judicial Appointments Commission and by open competition as appropriate. In addition, the Heads of the Judiciary in each of the three jurisdictions comprising the UK can nominate senior Judges to be Chairmen for as long as they hold judicial office. Ordinary Members are recruited in open competition according to the guidelines of the Office of the Commissioner for Public Appointments and are appointed by the Secretary of State for BEIS. The Registrar is also appointed by the Secretary of State.

## The Competition Service (CS)

The CS is an executive non-departmental public body established by the 2002 Act to provide the administrative staff, finance and accommodation required by the Tribunal to carry out its functions. Although the Tribunal and the CS are, in formal terms, separate bodies, in practice they are different aspects of one integrated organisation; a single body of staff multi-tasks across case handling and administrative roles using a common pool of resources.

The membership of the CS is effectively its Board and is responsible for governance. The CS membership comprises: the President, the Registrar, a Non-Executive Member, Susan Scholefield, who is also chair of the CS Audit and Risk Assurance Committee, and a member of the panel of Chairmen, Peter Freeman. Ilia Bowles is the Tribunal/CS Director, Operations.

## **Register of Interests**

The CS holds a Register of Interests detailing any directorships or other significant interests held by the members of the CS. A copy of the Register is published on the Tribunal's website, [www.catribunal.org.uk](http://www.catribunal.org.uk).

## **Premises**

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

## **Finance and workload**

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

# President's statement

This is my fifth statement as President of the Tribunal. The Tribunal delivered a number of important judgments over the past year, resulting from an upswing in new cases started since 2015. Although the number of new cases lodged in the past 12 months declined, I have every expectation that more cases will arrive in the year ahead by reason of the arrangements for transfer of cases from the High Court to the Tribunal. That is before taking account of the impact of Brexit, which will increase the caseload of the CMA and is therefore likely to lead to more appeals to the Tribunal. The Tribunal is now well placed to handle more cases, having recruited a substantial number of new Ordinary Members as discussed below.

## Cases

The Tribunal has handed down 27 judgments over the course of the review period, including seven substantive judgments. Those notable judgments are discussed at the end of my statement. However, I would particularly highlight three judgments which have broken new ground and which also serve to illustrate the great diversity of the Tribunal's casework.

*Socrates v The Law Society* [2017] CAT 10 (May 2017). This was a private action by an SME provider of legal training against The Law Society of England and Wales. The Tribunal allocated the case to its fast-track procedure and applied a cost-cap during 2016. This is the first fast-track case to reach substantive judgment since the Consumer Rights Act 2015 entered force in October 2015.

*Merricks v MasterCard Inc. and Others* [2017] CAT 16 (July 2017). This concerned an application for a collective proceedings order to permit collective proceedings to be pursued on an opt-out basis on behalf of more than 46 million people (i.e. almost the entire adult population of the UK). Although the application was refused after a full hearing, the judgment clarifies important aspects of the novel statutory regime and procedure for bringing collective proceedings.

*GSK and Others v CMA* [2018] CAT 4 (March 2018). This was a substantive judgment on five appeals of a CMA infringement decision under the 1998 Act imposing fines exceeding £44 million. The appeals raise major questions at the intersection of competition and intellectual property law and, while several issues were decided by the judgment, this

is the first occasion in our history that the Tribunal decided to make a reference to the Court of Justice of the European Union (CJEU) for a preliminary ruling.

The Tribunal has seen four new cases registered during the period covered by this report. These comprise: one private damages action, one appeal of an infringement decision under section 46 of the 1998 Act and two appeals under section 192 of the 2003 Act.

## Chairmen

I should like to welcome Mr Justice Zacaroli and Mr Justice Fancourt who have been appointed by the Lord Chancellor to the Tribunal's panel of chairmen during the year under review. The assistance that the Tribunal receives from the Chancellor of the High Court and the Judges of the Chancery Division is greatly appreciated. Mrs Justice Rose chaired the *Balmoral Tanks* appeal, Mr Justice Snowden chaired the *BT v Ofcom (BCMR)* appeal and Mr Justice Marcus Smith was the chair in the *Agents' Mutual* private action. We were also greatly assisted by Mr Justice Green, from the Queen's Bench Division, who has chaired the *Peugeot v NSK* follow-on damages action and dealt with a number of interim applications in that case.

I should also like to thank Peter Freeman for the considerable effort he has devoted to the Tribunal both inside the courtroom, working on important cases such as the appeals by *Flynn Pharma* and *Pfizer*, and outside it. Peter has spoken at a number of conferences and other events in his capacity as a Chairman and I greatly value his advice and support. It was entirely appropriate that he was appointed by the Secretary of State to the Board of the CS.

## Ordinary Members

When the Tribunal hears cases, it sits as a three person panel with a Chairman and two Ordinary Members. Most Ordinary Members are not lawyers but they have an equal voice in the decision-making process. The Ordinary Members bring diverse skills and experience to the work of the Tribunal and I continue to be deeply impressed by their enthusiasm and commitment to the Tribunal's work and the valuable contribution they make in each case.

The Ordinary Members serve a term of eight years. The term of 11 of our existing Ordinary Members will expire on 3 January 2019. I am very grateful to those members for the enormous contribution that they have made to the Tribunal and I look forward to continuing to work with them during the remainder of their term.

Last year, the Tribunal conducted a recruitment exercise to increase the size of our panel of Ordinary Members. The quality and calibre of the applicants was truly exceptional and we engaged in an intensive selection procedure. Ten appointments were announced before the year under review. In the present year, on 20 July 2017, the then Minister with responsibility for competition, Ms Margot James MP, announced the appointment of a further five new Ordinary Members and, on 8 December, the Minister announced the appointment of another seven new Ordinary Members. Following those further announcements, I am very pleased to welcome to the Tribunal: Peter Anderson, Kirstin Baker CBE, Jane Burgess, Michael Cutting, Paul Dollman, Eamonn Doran, Tim Frazer, Paul Lomas, Professor Robin Mason, Professor Anthony Neuberger, Derek Ridyard and Timothy Sawyer CBE. I look forward to working with them in the future. Currently, we have 32 Ordinary Members with one appointed in the tranche announced in December 2017 due to take up his appointment in October of this year.

## Other activities

### Conferences and seminars

As President of the Tribunal, I am active in speaking about UK competition law and the role and practice of the Tribunal and our courts, both within the UK and at international fora. In that regard, it has been another busy year for speaking engagements.

Among events in the period under review, in November 2017, I delivered workshops on collective actions for damages to judges as part of their judicial training in Mexico, organised by the Ministry of Economy and the Organisation for Economic Co-operation and Development and hosted by the Federal Judicial Institute. I gave a talk on the administration of evidence at a competition law conference held at the Paris Court of Appeal, organised by that Court in conjunction with the leading French journal "Concurrences". I spoke from

the perspective of a UK competition law judge at a conference on Private Enforcement of Competition Law organised by Informa and at the annual Global Competition Litigation Review conference, both held in Brussels. I participated in a seminar in Madrid for Spanish lawyers and judges, held by the Spanish Competition Authority, and gave presentations to the Hellenic Competition Commission and to the judges of the Council of State in Athens regarding procedural issues, expert evidence and confidentiality. I was a panel member at a Compass Lexecon conference held in Italy regarding "Multi-sided Platforms: from Theory to Practice and Back" and spoke, alongside a US Federal judge, on "Comparing Notes from the Bench" at an American Bar Association Global Private Litigation conference in Amsterdam. I chaired a panel session at the University of Oxford on digital economy and consumer welfare and at University College London (UCL) on the effect of technological transformation on competition law.

Among the activities undertaken by my colleagues at the Tribunal, Peter Freeman gave the keynote address at a Competition Litigation Conference held by MLex, Freshfields and Brick Court Chambers, and at a seminar organised by Compass Lexecon. He discussed the judicial review of competition authority decisions at an ENTraNCE event in Madrid with Garrigues and Insituto de Estudios Bursatiles. He spoke at a Concurrences workshop about private damages actions and spoke about the competition jurisprudence to the European Free Trade Association court in Luxembourg. He was a panel member at the Centre for Competition and Regulatory Policy Roundtable discussing "Competition Policy in Troubled Times" and a panel member discussing economic evidence at a conference organised by UCL. In September 2017, he gave two seminars organised by the Channel Islands Competition & Regulatory Authorities held in Jersey and Guernsey about competition law and what it can do for the Channel Islands. He is a member of the Ministerial Taskforce on Consumers and Markets for the Scottish Government, whose role is to provide strategic advice on consumer and market issues affecting people and businesses in Scotland. In addition, he chaired a panel at the International Competition Law Forum in St Gallen; a panel at the Regulatory Policy Institute (RPI) Annual Westminster Conference on "Challenges to Competition Law and Policy", in which William Allan also participated; and a panel at an RPI conference in Oxford on the implications of the digital revolution.



Dr Adam Scott spoke about expert evidence in Florence to the European University Institute and was a panel member in Brussels on "Principles Applied in Electronic Communications Law".

Due to the appointment of new Ordinary Members, this year, the Tribunal has held three induction training seminars in addition to the two annual training seminars on substantive law for all Ordinary Members and Chairmen. In October 2017, we again had the benefit of a stimulating presentation by Professor Richard Whish on Recent Developments in EU and UK Competition Law.

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

In its capacity as the de facto secretariat for the AECLJ, an organisation of which I am the treasurer, the Tribunal continues to play an active role in stimulating dialogue and debate between members of the judiciary in the EU member states and in bringing together Judges and officials from the European Commission and some national competition authorities. I participated in its annual meeting with the EU Commission in Brussels and at its annual conference held in June 2017 in Vienna.

### **Visitors to the Tribunal**

We are receptive to requests to visit from foreign judges and competition authorities. We had several such visitors to the Tribunal during the year.

In February 2018, we welcomed a high-level visit of four Philippine Supreme Court Justices together with the dean of their Judicial Academy and two specialist professors of economics. In May 2017, The Tribunal welcomed a Commonwealth Judicial Administration group with participants from the Bahamas, Fiji, Namibia and Sri Lanka. In November 2017, the Tribunal hosted two visiting judges from Italy and France, who were able to attend part of the hearing of appeals.

### **Concluding remarks**

This statement provides me with a welcome opportunity to express publicly my sincere and continuing gratitude to the Tribunal's Registrar, Charles Dhanowa. His knowledge of the Tribunal's working is unparalleled and he manages the Tribunal's staff and its daily operations with great skill. Charles played a prominent role in the selection exercise for recruiting new Ordinary Members and the process would not

have gone as smoothly as it did without his immense dedication.

I wish also to thank Dr Adam Scott for his work as the Tribunal's Director of Studies. His organisation of, and contributions to, the interesting and informative training sessions of the Ordinary Members and Chairmen are invaluable, as is his work ensuring the effective operation of the AECLJ and in receiving visitors to the Tribunal.

I would also like to thank our Non-Executive Member, Susan Scholefield, for chairing the Board meetings of the CS as well as the Audit and Risk Assurance Committee.

Finally, I thank the Tribunal's staff as a whole for the support they have given to me as President and for all they have done over the last year to enable the Tribunal to provide a consistently high standard of service and maintain its international reputation.

**Sir Peter Roth**

President

11 July 2018

# Notable cases

The following are some of the notable cases determined by the Tribunal in the period covered by this report. A full description of each case is given in the Judgments handed down section, on page 25.

## Collective and other private actions

### **Socrates Training Limited v. The Law Society of England and Wales (26 May 2017)**

This is the first case assigned to the Tribunal's fast-track procedure under Rule 58 to have reached judgment. The Tribunal held that the Law Society had abused a dominant position contrary to the Chapter II prohibition by including in its Conveyancing Quality Scheme a requirement that members of the scheme must obtain certain training courses exclusively from the Law Society.

### **Agents' Mutual Ltd v. Gascoigne Halman Ltd (5 July 2017)**

This case was transferred to the Tribunal from the High Court in July 2016. The case concerned an online property portal established by Agents' Mutual called "OnTheMarket" which was established with the intention of competing against other existing online property portals. Agents' Mutual brought proceedings in the Chancery Division against Gascoigne Halman alleging that it had breached (inter alia) a contractual provision (referred to as the One Other Portal rule) whereby Gascoigne Halman had agreed to list its properties on no more than one property portal other than OnTheMarket. Gascoigne Halman counterclaimed that the clause infringed the Chapter I prohibition and was invalid. The Tribunal ruled that the clause did not infringe the Chapter I prohibition and dismissed certain other allegations made by Gascoigne Halman.

### **UKRS Training Limited v. NSAR Limited (5 July 2017)**

This was a private action brought by a family company engaged in the provision of training, in particular for the rail industry. It alleged that NSAR, which is responsible for accreditation of training providers under arrangements with Network Rail, had abused a dominant position by suspending its accreditation. The Tribunal gave judgment on a preliminary issue concerning whether NSAR constituted an undertaking for the purposes of the Chapter II prohibition. The Tribunal held that NSAR did constitute an undertaking.

### **Walter Hugh Merricks CBE v. MasterCard Incorporated and Others (21 July 2017)**

This is the Tribunal's second judgment on an application for an opt-out collective proceedings order under the new section 47B of the 1998 Act. The case was based on a European Commission decision finding that certain of MasterCard's multi-lateral interchange fees infringed Art 101 TFEU. The proposed class constituted over 46 million people. The Tribunal considered the proceedings were unsuitable for certification and therefore dismissed the application. The Tribunal found that the methodology proposed by the applicant for calculation of aggregate damages could not be applied on a sufficiently sound basis and, further, that there was no way of distributing any aggregate damages that might be recovered to correspond to even a very rough-and-ready approximation of the loss suffered by individual members of the class. Thus, any damages would not comply with the basic principle of compensation.

## Competition Act appeals

### **Balmoral Tanks Limited and another v. Competition and Markets Authority (6 October 2017)**

This judgment concerned an appeal of a CMA decision finding an infringement of the Chapter I prohibition for information exchange. The information exchange took place at a meeting in July 2012 which was covertly recorded by the Office of Fair Trading. The Tribunal dismissed Balmoral's appeal and upheld the £130,000 fine which the CMA had imposed on Balmoral.

### **GlaxoSmithKline PLC v. Competition and Markets Authority (and related cases) (Paroxetine) (8 March 2018)**

These cases are the first where the Tribunal has made a reference for a preliminary ruling to the CJEU. The cases involved five appeals of a CMA decision concerning so-called "reverse payment" patent settlement agreements. Following a five-week hearing, the Tribunal handed down a judgment making various findings of fact and dismissing certain of the appellants' grounds of appeal. However, as a number of key issues of law were pending before the EU courts, the Tribunal decided that it would be appropriate to make a reference for a preliminary ruling to the CJEU under Article 267 TFEU before finally determining the appeals.

## Communications Act appeals

### **British Telecommunications Plc v. Competition and Markets Authority (Vula Costs) (2 June 2017)**

This case was an appeal brought by BT against a costs order made by the CMA under the recently introduced section 193A of the 2003 Act. The costs order was made in respect of the CMA's costs incurred in determining the reference to it of price control matters in BT's appeal of a decision by OFCOM. Dismissing BT's appeal, the Tribunal ruled that section 193A requires the CMA to take a broad, soundly based judgment as to its total costs and does not require it to engage in a process analogous to a detailed assessment of costs as applies in proceedings before the High Court or the Tribunal.

### **British Telecommunications Plc v. Office of Communications (BCMR) (10 November 2017)**

This judgment concerned an appeal by BT of certain market definition findings made by OFCOM in the context of its triennial Business Connectivity Market Review. The Tribunal ruled that OFCOM had erred in relation to findings of product market definition, geographic market definition and in relation to its determination of the boundary between the "competitive core" sections of BT's network and its terminating sections. The Tribunal therefore decided to remit these matters to OFCOM for reconsideration.

# Performance report

## Overview

### The purpose and activities of the Tribunal and CS

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

The CS's purpose is to fund and provide support services to the Tribunal in order to facilitate the carrying out of its statutory functions. This constitutes the CS's strategic aim and is underpinned by the CS Business Plan, which includes key business objectives for the year.

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

### Cases

During the year, the Tribunal handed down 27 judgments and rulings, including seven substantive judgments.

Details of the Tribunal's judicial work during the year can be found in the Cases section of this report; the President's statement mentions some of the noteworthy points that have emerged from those cases. As at 31 March 2018, one judgment was pending and 12 cases were carried forward to the next year (three excluding stayed cases).

### Tribunal: other activities

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

Details of the most significant developments in respect of these activities can be found in the President's statement.

### Personnel

As indicated in the President's statement, we were very pleased to welcome the announcements in July and December of last year of the appointment of 12 new Ordinary Members who were selected as part of a recruitment campaign which BEIS ran during financial year 2016–17. Together with the earlier tranche of ten Ordinary Members appointed in March 2017, the panel of Ordinary Members will consist of 22 members after the retirement of 11 members at the end of this year. This brings the major exercise of the complete renewal of the Tribunal's Ordinary Membership to a conclusion. Further recruitment of Ordinary Members is unlikely to be necessary for at least the next four years. We are also pleased to report that the Secretary of State for BEIS has re-appointed Susan Scholefield as the independent member of the CS Board and has also appointed Tribunal Chairman Peter Freeman as an additional Member of the Board.

Staff turnover during the year was minimal with the only departure being that of our IT Support Manager, Jason Blackford, who had been with the Tribunal for several years. We all very much enjoyed working with Jason and wish him well for the future. In his place, we are pleased to welcome, as the new IT Manager, Jon Pellington who has a wide range of experience gained both in the private and public sectors and is leading on our IT renewal programme (mentioned below).

The staff team now comprises 18 people (with one of them working part-time), a number of whom multi-task across several roles. As in previous years, the staff absence rate (1.1 per cent of working days) was below the average for both the private and public sectors.

### Information Technology

This year, the Tribunal/CS is undertaking a complete restructuring of its IT system covering device and service security, network connection, business software and access to the Tribunal/CS Finance system. Migration to a new platform (serviced by a new IT service provider which was sourced via the Digital Market Place G-Cloud 9, a Government procurement framework) took place during early Spring.

The Tribunal/CS's new solution adopts Microsoft Office online service to provide most of the standard office functionality and delivers this through a public cloud environment hosted in one of the selected service provider's data centres, which are all UK based.

The new infrastructure replaces iTECC (the IT platform shared with BEIS), which terminated in May 2018.

During financial year 2018/19, a new website will be brought into operation.

## Financial information

In financial year 2017/18, the grant-in-aid received from BEIS was £4,496,000 (2016/17: £3,774,000). The programme and administration funding allocation was £4,471,000 including £4,412,000 for resource expenditure (net of any income from other sources) and £59,000 for capital expenditure. The CS also received £148,200 under the Invest to Save scheme to fund the IT renewal programme.

Actual resource expenditure of the Tribunal/CS for 2017/18 was £4,155,000 (2016/17: £3,892,000); accommodation costs (mainly rent, service charge and business rates) comprised £1,755,000 or 42 per cent of the total; and actual capital expenditure, which was mainly related to the IT renewal programme, was £121,000. The Tribunal's actual resource expenditure was £624,000 (2016/17: £614,000); the CS's actual resource expenditure was £3,531,000, (2016/17: £3,278,000). The main changes in the CS's costs are set out in Table 1 below. Full details are set out in the Statement of Comprehensive Net Expenditure in the Accounts section.

**Table 1**

Increase/(decrease) in costs	2017/18 £'000
<b>Costs of the Tribunal (Increase in the case work load)</b>	10
<b>CS Audit and Risk Assurance Committee Members</b>	1
<b>Staff costs</b>	93
<b>Other expenditure (increase in running costs)</b>	110
<b>Total increase in cash costs</b>	214
<b>Depreciation and loss on disposals (capital investment)</b>	49
<b>Total increase in operating costs</b>	263

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

The Tribunal's statement of financial position shows only those liabilities at 31 March 2018 relating to the activities of the Tribunal. Those liabilities are paid by the CS. The liabilities in the CS's statement of financial position therefore also include liabilities that relate to the activities of the Tribunal.

The book value of the CS's non-current assets decreased from £460,000 to £342,000, primarily due to a full year of depreciation costs associated with Audio Visual (AV) infrastructure assets.

The total assets of the CS increased to £1,341,000 from £1,042,000. Closing cash balances were £847,000 (2016/17: £522,000).

The Accounts section of this report records the detailed expenditure incurred during the year.

Pension arrangements and liabilities for the President, Tribunal Chairmen and the Registrar are mentioned separately in the Remuneration Report. Tribunal Chairmen's appointments are pensionable; Ordinary Members' appointments are non-pensionable. Note 5 in the CS's accounts contains further information with regard to the pension provisions relating to CS staff.

Separate accounts have been prepared for the Tribunal and the CS in accordance with the Accounts Directions issued by the Secretary of State for BEIS under the 2002 Act, section 12 and schedule 2. The accounts are prepared so as to give a true and fair view of the state of affairs of the Tribunal and the CS at the year end and contain disclosures and notes in compliance with the accounting principles and disclosure requirements issued by HM Treasury and included in the Government Financial Reporting Manual (FRM) in force for financial year 2017/18.

The CS's general fund (which represents the total assets of the CS less its liabilities, but not any other reserves and financing items) remains unchanged. The future financing of the Tribunal/CS's liabilities is to be met by future grants-in-aid and the application of future income, both approved annually by Parliament. Approval for the amounts required in respect of the year to 31 March 2019 was given in Spring 2018.



For 2018/19, the grant-in-aid from BEIS includes funding for £4,496,000. The budget is split between £4,416,000, in respect of resource expenditure, and £80,000, in respect of capital expenditure. Nearly 77 per cent of the Resource Departmental Expenditure Limit (RDEL) is constituted by fixed costs. Costs for specialised courtrooms and associated facilities constitute 41 per cent of the RDEL.

The Tribunal/CS continues to work with BEIS on assessing its EU Exit resourcing needs to ensure it is able to deliver its aims before and after the UK exits from the EU.

## Data security

There were no incidents involving loss of data or personal data during the year.

All members of staff routinely and once a year complete an online information awareness training course made available by Civil Service Learning via BEIS. In the year, all newly appointed Ordinary Members received a security briefing on data handling by the Director, Operations. Between May and June 2018, outside the period covered by this report, all Tribunal/CS's members of staff completed an online training course on the General Data Protection Regulation (GDPR).

## Key issues and risks

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

Fluctuations in workload can be pronounced and arise unexpectedly, being driven by the activities of the competition authorities and the propensity and ability of businesses to litigate competition law issues.

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

It is also difficult to make assumptions about the demands of individual cases which vary between small but often difficult matters and extremely large and highly complex cases that absorb a great deal of resource. Frequently, cases may be extremely urgent, raising issues of fundamental importance for the businesses concerned and the wider economy, and their efficient conduct may require the rapid mobilisation of resources.

As mentioned above, this year the Tribunal/CS is undertaking a complete re-structuring of its IT system and going forward it will need to obtain and maintain assurance regarding the security of the system.

Last year, the Tribunal/CS was informed by the CMA that it intended to move out of Victoria House to another building in the east of London. That move is likely to take place during the latter half of 2019. Since the Tribunal/CS occupies its accommodation in Victoria House under a Memorandum of Terms of Occupation (MOTO) with the CMA, the Tribunal/CS is considering its options with regard to its premises.

## Analysis

The Cases section of this report sets out the detailed performance of the Tribunal with regard to its casework.

As noted in previous years, our working practices and the nature of our facilities are dictated by the specialised judicial functions of the Tribunal and the particular demands of hearing large scale, complex competition and economic regulatory cases, often to very tight timescales. We need high calibre members and staff with specialist expertise, who can deal with the highly technical and detailed nature of the Tribunal's work as rapidly as possible. We also need to be located in central London, close to the senior judiciary who sit on cases in the Tribunal and convenient for the parties and their counsel. It is also essential for our efficient operation that we maintain large modern courtrooms that are suitable for the multi-party and document heavy cases heard by the Tribunal. This means that our specialised accommodation is by far our largest expense, constituting 42 per cent of our actual resource expenditure in 2017/18. In the light of this, we have sought to increase the utilisation of the courtroom space by making it available, free of charge, to other tribunals and organisations when not in use by the Tribunal/CS. We also allow the CMA to make use of our meeting rooms when their own facilities are fully utilised.

In order to ensure a safe migration to our new IT system, we obtained assurance on the security of the system from BEIS and from our service provider and conducted penetration tests when the system went live. We maintained our old system as a backup until we were satisfied that the functioning of the new system met our expectations.

With regard to the Tribunal/CS's accommodation, we have received approval from the Cabinet Office under the Public Bodies Relocation Programme to remain located in central London. Over the rest of this year, we will continue liaising with BEIS, the Cabinet Office and the Government Property Agency with regard to whether we continue in occupation at Victoria House (and if so, under what terms) or whether relocation will be necessary.

**Charles Dhanowa OBE, QC (Hon)**

Registrar and Accounting Officer

11 July 2018

# Membership

## President

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Sir Peter Roth was called to the Bar in 1977 and was appointed Queen's Counsel in 1997. He was appointed a Recorder in 2000 and a High Court Judge in 2009. He was, for many years, a leading practitioner in competition law and, as a Judge, has heard many

competition cases brought in the High Court. From 2003 to 2009, he was Chairman of the Competition Law Association. He held a visiting professorship at King's College, London, teaching competition law on the Master of Laws course and he was the General Editor of the 5th and 6th editions of Bellamy & Child on the European Union Law of Competition. He is treasurer of the Association of European Competition Law Judges, a trustee of the Incorporated Council of Law Reporting and is Chairman of the statutory Tribunal Procedure Committee responsible for making rules for a large number of tribunals.

## Chairmen

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The Hon. Mr Justice Mann  
The Hon. Mr Justice Morgan  
The Hon. Mr Justice McCloskey  
The Hon. Mr Justice Hildyard  
The Hon. Mr Justice Birss  
The Hon. Mrs Justice Rose  
The Hon. Mr Justice Nugee  
The Hon. Mr Justice Barling  
The Hon. Lord Doherty  
The Hon. Mr Justice Green  
The Hon. Mr Justice Snowden  
The Hon. Mr Justice Henry Carr  
The Hon. Mr Justice Morris  
The Hon. Mr Justice Marcus Smith  
The Hon. Mr Justice Zacaroli  
The Hon. Mr Justice Fancourt

## Heriot Currie QC (Scotland)



Heriot Currie practises at the Scottish Bar. He commenced practice in 1979 and was Standing Junior in Scotland to the Department of Trade and Industry, between 1987 and 1992. He was called to the English Bar (Gray's Inn) in 1991. In 1992, he was

appointed QC in Scotland. Between 2005 and 2014, he was in practice at the English Bar as a member of Monckton Chambers. His practice has covered a wide range of commercial cases including competition law, intellectual property, judicial review, procurement, human rights and EU law, professional negligence, commercial fraud, building and engineering contracts, arbitrations and public inquiries.

## Peter Freeman CBE, QC (Hon)



Peter Freeman is a lawyer who has held senior posts in UK competition enforcement. From 2006 to 2011, he was Chairman of the Competition Commission, having been a Deputy Chairman from 2003. From 2011 to 2013, he was a senior consultant to the

law firm Cleary Gottlieb Steen & Hamilton. From 1973 to 2003, he practised at the law firm Simmons & Simmons, being made a partner in 1978. He was Managing Partner of the firm's Commercial and Trade Law Department from 1994 to 1999 and Head of the EC and Competition Law Practice Group from 1987 to 2003. In 2012, he became a member of the Lloyds Enforcement Appeal Tribunal and in 2017 he became Chair of the Human Fertilisation and Embryology Authority's Appeals Committee. He was called to the Bar (Middle Temple) in 1972 and admitted as a solicitor in 1977. He was a founding member and Chairman of the Regulatory Policy Institute, Oxford, and has written and spoken widely on competition and regulatory law matters. He is: a member of the Advisory Board of the International Competition Forum, University of St Gallen, and of the Scientific Board of Concurrência e Regulação, Lisbon; a Non-Executive Board member of the Single Source Regulations Office; a Non-Executive Director of Charlie Goldsmith Associates Ltd; and a Governor of Kingswood School, Bath.



## Andrew Lenon QC



Andrew Lenon was called to the Bar in 1982 and was appointed QC in 2006. A member of One Essex Court Chambers, his practice covers the full range of company and commercial litigation, arbitration and advisory work. He has been involved in

many leading cases involving banking and financial services, company and insolvency matters and the insurance, reinsurance and energy industries. He sits as a Deputy District Judge and as a Commercial Arbitrator.

## Hodge Malek QC



Hodge Malek was called to the Bar in 1983 and appointed QC in 1999. He is a member of 39 Essex Chambers and his practice has covered many areas of commercial law and dispute resolution including banking and financial services, fraud,

professional disciplinary cases, energy, insurance and reinsurance and procurement. He is the General Editor of the leading book on the law of evidence, Phipson on Evidence (18th edition, 2013), and the joint author of Disclosure (5th edition, 2017). He is also a contributor to Mithani, Directors Disqualification (Human Rights chapters) and various volumes of Atkins Court Forms (Financial Services, Human Rights, Disclosure and Information Requests and Administrative Court). He was a member of the Commercial Court working party chaired by Lord Justice Cresswell on Electronic Disclosure. He is a Bencher of Gray's Inn. He was a member of the Inns of Court Conduct Committee and acted as a Chairman of the Bar Disciplinary Tribunal. He is an acting Deemster of the High Court in the Isle of Man. He sits as a Recorder in both civil and criminal cases.

## Ordinary Members

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### William Allan



William Allan is a solicitor who was a partner in the law firm Linklaters for 28 years, until April 2010, during which time he specialised in EU and UK competition law.

He also taught competition law as an affiliated lecturer in the Faculty of Law at Cambridge University,

between 2004 and 2017.

### Caroline Anderson



Caroline Anderson is a Chartered Accountant and senior business adviser with over 20 years' experience in regulation of the accounting profession. She has held senior executive roles in the UK, The Republic of Ireland, Australia and New Zealand with

a focus on regulation of the professions and financial services. She first became involved in regulatory governance with Chartered Accountants Ireland in 1996 where she is currently a member of its Disciplinary Tribunal. She is a Non-Executive Director of the Disclosure and Barring Service and Chair of its Audit and Risk Committee.

### Peter Anderson



Peter Anderson has been a solicitor in Scotland since 1975 and a solicitor advocate since 1994. He was a partner in Simpson & Marwick, Solicitors, Scotland, from 1978 and since the firm merged with Clyde & Co Solicitors, has been a partner

there since 2015. He has over 40 years' experience in general insurance work, specialising in complex and high value personal injury claims, professional negligence, commercial litigation and aviation disputes. He has lengthy experience as Chairman and Managing Partner of a sizeable law firm. He also sits as a part-time Judge (Sheriff) in Scotland, as a Tribunal Judge and is Chair of the Discipline Tribunal of the Institute of Chartered Accountants of Scotland.

### **Kirstin Baker CBE**



Kirstin Baker has had a long career in the Civil Service and was most recently HM Treasury's Finance and Commercial Director. Earlier in her career, she led the Treasury team coordinating public spending policy and managed many of the Treasury's

interventions in individual banks in the wake of the 2008 financial crisis. She has also worked as a competition official in the European Commission, as an EU policy advisor in the Cabinet Office and as a senior civil servant in the Scottish Government, leading work on infrastructure investment. She holds non-executive positions on the boards of UK Financial Investments, The Pensions Regulator and Brighton and Sussex University Hospitals Trust. She is also Vice-Chair of the Council of Sussex University and a member of the Chartered Institute of Management Accountants. She was awarded a CBE in 2011 for her work during the financial crisis.

### **Professor John Beath OBE**



John Beath is Emeritus Professor of Economics at the University of St Andrews. His professional training was at Queen's College Dundee, the University of London and the University of Pennsylvania. He has held academic posts at Cambridge,

Bristol and St Andrews. He is an applied microeconomist with interests in public finance and the economics of industry, competition and regulation. Previous public appointments have included membership of the Review Body on Doctors' and Dentists' Pay, the Prison Service Pay Review Body and the Economic and Social Research Council, chairing both its Research Grants Board and its Training and Skills Committee. He was also Chair of the Economic Research Institute of Northern Ireland. He is an honorary Vice-President of the Royal Economic Society, having served as its Secretary-General between 2008 and 2015. A Fellow of the Royal Society of Edinburgh, the Royal Society of Arts and the Academy of Social Sciences, he was appointed OBE in the 2015 Birthday Honours list.

### **Dr Catherine Bell CB**



Catherine Bell has wide non-executive experience at board level in the public, private and regulated sectors. She has been a Non-Executive Director at National Grid Gas plc and National Grid Electricity

Transmission plc since April 2014 and at Cadent Gas Limited (formerly National Grid Gas Distribution Ltd) since October 2016. She is also a Non-Executive Director at Horder Healthcare. Her past roles include Non-Executive Director at the Civil Aviation Authority, United Utilities plc and the Department of Health.

### **Dr William Bishop**



William Bishop was formerly a Senior Advisor at Charles River Associates and is Professor of Economics of Competition Law at the College of Europe. His parliamentary and governmental experience includes being an Adviser to the UK Government on

drafting the UK Competition Act and Adviser to the European Commission on its Market Definition Notice and on Remedies in Merger Control. His professional experience includes many cases concerning European and UK merger control and UK monopoly investigations. A former career academic (mainly at the London School of Economics and Political Science), he is the author of numerous papers on the economics of law.

### **Jane Burgess**



Jane Burgess was with the John Lewis Partnership since 1993, first starting as Staff and Training Manager and her last position was as Partners' Counsellor on the board, which she relinquished in October 2017. Her current appointments are as a Lay

Member on the House of Commons Committee on Standards, a Commissioner for the Civil Service Commission and a member of the Business Advisory Board at Surrey Business School.

### Professor John Cubbin



John Cubbin is Emeritus Professor of Economics at City University in London where he was previously Head of Economics and Director for Competition and Regulatory Policy. Previously, he was also: an Associate Director with

National Economic Research Associates; Professor of Economics at the University of Manchester Institute of Science and Technology; Visiting Senior Research Fellow at London Business School; Reader in Economics at Queen Mary University of London; Lecturer in Economics at Warwick University; and a member of the Competition Commission.

### Margot Daly



Margot Daly has held Chief Executive Officer and Chief Operating Officer positions in both FTSE listed and privately held companies. She has extensive international experience in digital media, disruptive technology, strategy and business

transformation. She is a qualified CEDR dispute resolution mediator and serves on boards in the UK sports sector, dealing with dispute resolution, anti-doping and safeguarding, and in the gaming sector, focussing on harm prevention. She serves as a commercial adjudicator in the telecoms and media industry. She is a graduate of UC Berkeley, an affiliate member of the Chartered Institute of Legal Executives and holds a post-graduate diploma in Competition Economics from King's College, London.

### Paul Dollman



Paul Dollman was Group Finance Director at John Menzies PLC, between 2002 and 2013. He is currently Audit Committee Chairman for Wilmington PLC, Verastar and Arqiva. He is also a Non-Executive Director of Scottish Amicable, a member of the Audit

Committee of the National Library of Scotland, Honorary Teaching Fellow at the University of St Andrews Business School and Governor of the Edinburgh Academy of St Leonards School.

### Eamonn Doran



Eamonn Doran is a solicitor who, until his recent retirement from the firm, had worked at Linklaters LLP since 1986, latterly as a partner, becoming a partner consultant in 2014. He specialised in EU and UK competition law with particular experience of inquiries concerning

retail banking and financial services and was Head of the London Competition Group from 2009. He also has experience of the education and charity sectors including, since 2013, as a director of the Laurels School Limited and a trustee of Missio, a Catholic mission charity.

### Dr Clive Elphick



Clive Elphick is an Independent Director of National Grid Gas plc and of National Grid Electricity Transmission plc and a board advisor for M&I Materials Ltd. His former roles include being a board member of the Environment Agency and Northern Ireland

Authority for Utility Regulation, Managing Director at United Utilities Group Plc, Chairman of the CBI for the North West of England and a board member of a Department of State and of a Regional Development Agency. He is a trustee of the Lancashire Wildlife Trust and an Honorary Research Fellow (in mathematics) at the University of Birmingham.

### Tim Frazer



Tim Frazer was a partner at Arnold & Porter LLP (now Arnold & Porter Kaye Scholer LLP) from 1999, during which time he advised on both conduct and merger cases in the EU and UK, and on compliance and audit processes in various jurisdictions

worldwide that have adopted the EU approach to competition law. He was previously at Newcastle University, between 1980 and 1997, as Lecturer in Law, Dean of Law and Professor of Law. He is the author of a number of textbooks on competition law.

## **Dermot Glynn**



Dermot Glynn read philosophy, politics and economics as an Exhibitioner at Balliol College, Oxford. He then taught economics and business studies and was a Research Consultant to the Department of Applied Economics at Cambridge and

member of the Economics Faculty. He then became Economic Director of the CBI, Chief Economist at KPMG and UK Managing Director of National Economic Research Associates before founding Europe Economics in 1988. He remains a senior adviser to the firm.

## **Simon Holmes**



Simon Holmes was with King & Wood Mallesons between 1994 and 2016, firstly as a Partner but more latterly as Head of the UK department, European Head and Global Head of Competition. He is a regular writer, speaker and chair on competition law and regulatory

matters at conferences and seminars around the world. He has lectured at various academic and business institutions including at the London School of Economics and Political Science. He is currently an Academic Visitor at the Institute of European and Comparative Law in Oxford and is teaching competition law to post graduate students at Oxford University.

## **Brian Landers OBE**



Brian Landers was until 2017 Chairman of Companies House and is currently a Non-Executive Director of The Ombudsman Service Limited. He has served on the boards of various companies in the UK and overseas including Habitat, Waterstone's and

Penguin Books and was Finance Director of HM Prison Service. He was also an Audit Commissioner, Chief Internal Auditor of Sainsbury's, Deputy Chairman of the Financial Ombudsman Service and Treasurer of Amnesty International UK. He has an MBA from the London Business School.

## **Paul Lomas**



Paul Lomas is a solicitor (with Higher Rights of Audience). Until his recent retirement from the firm, he had been with Freshfields (subsequently Freshfields Bruckhaus Deringer) since 1982 and as a partner from 1990.

His experience comprises general litigation, including commercial transactions, mergers and acquisitions, capital markets, joint ventures, a wide range of regulatory litigation and defence work, financial services law, energy law, art law and particularly competition, cartel and EU law.

## **Professor Robin Mason**



Professor Robin Mason is Pro-Vice-Chancellor (International) at the University of Birmingham. He was previously Pro-Vice-Chancellor and Executive Dean (Business School) of the University of Exeter, as well as Professor of Economics. His area of expertise

is industrial organisation in general and, in particular, the economics of regulation and competition. He has provided expert advice for a number of regulators, in the UK and internationally, on competition matters and spectrum auctions and has advised the Prime Minister of Mauritius on competition legislation.

## **Professor Colin Mayer CBE**



Colin Mayer is the Peter Moores Professor of Management Studies at the Saïd Business School at the University of Oxford. He is an Honorary Fellow of Oriel College, Oxford, and of St Anne's College, Oxford, a Professorial Fellow and Sub-Warden of Wadham College,

Oxford, a Fellow of the British Academy, and an Inaugural Fellow of the European Corporate Governance Institute. He is a member of the UK Government Natural Capital Committee and of the international advisory board of Securities and Exchange Board of India. He was the First Professor at the Saïd Business School in 1994, the Peter Moores Dean of the Business School between 2006 and 2011, and the First Director of the Oxford Financial Research Centre between 1998 and 2005. He was a Harkness Fellow at Harvard University, a Houlton-Norman Fellow at the Bank of England, the



first Leo Goldschmidt Visiting Professor of Corporate Governance at the Solvay Business School, Université Librède Bruxelles, and he has had visiting positions at Columbia, Massachusetts Institute of Technology and Stanford universities. He was Chairman of the economics consultancy firm Oxera Limited between 1986 and 2010, he is a director of Aurora Energy Research Limited, he has consulted for firms, governments, regulators and international agencies around the world and he leads the British Academy programme on the Future of the Corporation.

### Sir Iain McMillan CBE



Sir Iain McMillan spent 23 years with the TSB Group prior to joining the Confederation of British Industry (CBI) in 1993. He held the position of Director, CBI Scotland for 19 years until his retirement in 2014. He holds a number of Board positions in the business

and charitable sectors. He is currently Chairman of SkillForce and the University of Strathclyde Business School Advisory Board, Honorary Patron and former Chairman of the Scottish North American Business Council and a Trustee of The Carnegie Trust for the Universities of Scotland. In 2009, he was appointed Honorary Air Commodore of 602 (City of Glasgow) Squadron, Royal Auxiliary Air Force. Other appointments have included membership of the Boards of the Scottish Qualifications Authority, the Scottish Ambulance Service, the British American Business Council and the Teaching Awards Trust. Over the years, he has served on other Boards and public policy groups, including the Commission on Scottish Devolution (Calman Commission). He also chaired the Independent Commission for Competitive and Fair Taxation in Scotland. In 2003, he was appointed CBE for services to the business community and lifelong learning in Scotland. In 2015, he was knighted for services to the Scottish economy.

### Professor Anthony Neuberger



Anthony Neuberger is currently Professor of Finance at Cass Business School at the City University of London where, since 2016, he has also been the Deputy Head of the Finance Faculty. He was previously at the University of Warwick as Professor

of Finance and at the London Business School as Associate Professor of Finance. He also has experience of working for the Department of Energy and the Cabinet Office, between 1973 and 1983.

### Clare Potter



Clare Potter was Chief Legal Adviser to the Competition Commission from 2004 until May 2010. Prior to joining the Competition Commission, she practised as a competition partner in city firm Simmons & Simmons where she specialised in energy

and telecoms regulation.

### Professor Gavin C Reid



Gavin C Reid was Professor of Economics at the University of St Andrews from 1991 to 2013, where he is now Honorary Professor in Economics and Finance. From 2007 to 2015, he was also Visiting Professor in Accounting and Finance at

Strathclyde University Business School. In 2014, he was appointed Head of Dundee Business School (Abertay University). He is the author of ten books on industrial organisation, small business, entrepreneurship and venture capital and of over 70 academic articles in leading research journals in economics, accounting and finance. Since 2009, he has been Adviser to the Centre for Business Research, Judge Business School, Cambridge University. In recent years, he has received an honorary Doctor of Business Administration from the University of Abertay for his research in business economics and a Doctor of Letters from Aberdeen University for his research in small business enterprise. His current research areas include financial reporting standards, corporate governance and intellectual property. His recent publications include work on the US Economic Espionage Act. In 2017, he was

awarded the Medal of Honour of the Scottish Economic Society.

### **Derek Ridyard**



Derek Ridyard was one of the founders of RBB Economics LLP. He has 30 years' experience working in private practice specialising as an expert on the economics of competition, trade, regulation and intellectual property. He holds a BSc in

Economics from Southampton University and an MSc in Economics from the London School of Economics. Prior to co-founding RBB Economics, he worked for 15 years in the competition practice at economic consultants National Economic Research Associates and for five years in the UK Government Economic Service, including spells working as an Economist at the Office of Fair Trading and the Department of Trade and Industry.

### **Timothy Sawyer CBE**



Timothy Sawyer is an executive with expertise in turnaround, start-up and growth opportunities having both a UK and international perspective. He is currently Chief Investment Officer at Innovate UK and was formerly Chief Executive Officer of Start-Up Loans and

Chairman of Folk2Folk. He was awarded a CBE for services to Government and small business in the Queen's Birthday Honours 2016. He has been Executive Director of Cahoot and Ivobank and Non-Executive Director of Banque Dubois, China PNR, Visa UK, Link, Eftpos UK, Card Payment Group.

### **Dr Joanne Stuart OBE**



Joanne Stuart, who has 30 years' experience working in the IT industry, is the Director of Development at the Catalyst Inc (formerly the Northern Ireland Science Park). In this role, she is responsible for the development of strategic relationships to support

the growth of Catalyst Inc and the Knowledge Economy in Northern Ireland. A former Chairman of the Institute of Directors Northern Ireland (between 2008 and 2011), she chaired an independent review on

university fees, at the request of the Minister of Employment & Learning which led to a report published in February 2011. For five years, she was the Northern Ireland Champion for STEM (Science Technology, Engineering and Mathematics) and she is engaged in a number of activities to encourage more young people to study the STEM subjects and consider careers within the STEM industries. She is currently on a number of charitable Boards – Treasurer of Angel Eyes Northern Ireland, Treasurer of Tides Training, Member of the Ulster University Council and she is on the Board of Governors of Wallace High School.

### **Professor David Ulph CBE, FRSE**



David Ulph has been Professor of Economics at the University of St Andrews since 2006 and was Director of the Scottish Institute for Research in Economics from 2010 to 2017. Between 2005 and 2006, he was Chief Economist and Director of Knowledge,

Analysis and Intelligence at HM Revenue & Customs and Chief Economist and Director of Analysis and Research at the Inland Revenue, between 2001 and 2004. From 2015, he has been a member of the NHS Pay Review Body.

### **Anna Walker CB**



Anna Walker is currently Non-Executive Director at South London and the Maudsley NHS Foundation Trust. She is also Chair at St George's Hospital Charity, a Non-Executive Director at Welsh Water and a Deputy Chair on the Council of Which?.

She was the Chair at the Office of Rail and Road, between 2009 and 2015, and Chief Executive of the Healthcare Commission, between 2004 and 2009.

### Professor Michael Waterson



Michael Waterson has been Professor of Economics at the University of Warwick since 1991 and has previously been a Professor at the University of Reading and Lecturer at the University of Newcastle upon Tyne. He was a member of the

Competition Commission for nine years and has also undertaken various consultancy activities for organisations including the Office of Fair Trading, National Economic Research Associates, Oxera and Frontier Economics in relation to various aspects of the energy industry and retail competition. He is an adviser to Aventus Ticketing.

### Professor Stephen Wilks



Stephen Wilks is Emeritus Professor of Politics at the University of Exeter where he also served for four years as Deputy Vice Chancellor. From 2001 to 2005, he was a member of the Economic and Social Research Council and chaired its Research

Strategy board. He has written extensively on the politics, administration and enforcement of UK and European competition policy. His most recent book is "The Political Power of the Business Corporation" published by Edward Elgar in 2013. From 2001 to 2009, he was a member of the Competition Commission and served on 12 merger inquiries.

### Professor Pauline Weetman



Pauline Weetman is Professor Emerita of Accounting at the University of Edinburgh. She is a member of The Institute of Chartered Accountants of Scotland and has held previous professorial posts at the universities of Stirling, Heriot-

Watt, Strathclyde and Glasgow. Her research interests in accounting cover corporate communications and international comparisons. She holds a Distinguished Academic award of the British Accounting and Finance Association and is a Fellow of the Royal Society of Edinburgh. She is currently a member of the Accounts Commission in Scotland, which is responsible for the audit of all Scottish local authorities, and is a member of the Finance Committee of the International Academy at the University of London. Previous public appointments have included the Pay Review Body for Nurses and Midwives and the Scottish Solicitors Discipline Tribunal. She has edited a leading academic journal and continues to provide editorial guidance for journal papers.

## CS Non-Executive Member

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### Susan Scholefield CMG



Susan Scholefield was the Secretary and Chief Legal Officer at the London School of Economics and Political Science until September 2014. She is a Fellow of the Chartered Institute of Personnel and Development and a Chartered Public Finance

Accountant. She had an early academic career at the University of California, then joined the Civil Service in 1981 and held senior roles in the Balkans Secretariat, Northern Ireland Office, Communities Department and the Cabinet Office as Head of the Civil Contingencies Secretariat. Most recently, she was Director General, Human Resources and Corporate Services, at the Ministry of Defence. She studied at the Ecole Nationale d'Administration in Paris from 1985 to 1986 and, in 1999, was awarded a CMG in the New Year's Honours for her work in Bosnia. She is a Magistrate and an appointed independent member of the Sussex Police and Crime Panel.





# Cases 2017/2018

Contents	Page
Glossary of abbreviations and defined terms used in the Cases section .....	24
Judgments handed down within the period 01/04/2017 to 31/03/2018 .....	25
Activity by case within the period 01/04/2017 to 31/03/2018 .....	37
Overall case activity within the period 01/04/2017 to 31/03/2018 .....	43

# Glossary of abbreviations and defined terms used in the Cases section

<b>Defined Term</b>	<b>Meaning</b>
1998 Act	Competition Act 1998
2002 Act	Enterprise Act 2002
2003 Act	Communications Act 2003
Actavis	Actavis UK Limited
Agents' Mutual	Agents' Mutual Limited
Agilent Technologies	Agilent Technologies LDA UK Limited
Balmoral	Balmoral Tanks Limited and Balmoral Group Holdings Limited
BCMR	Business Connectivity Market Review
BT	British Telecommunications Plc
CityFibre	CityFibre Infrastructure Holdings PLC
CMA	Competition and Markets Authority (successor body to the Office of Fair Trading and Competition Commission)
CPO	Collective Proceedings Order
CPs	Communications Providers
Flynn	Flynn Pharma Limited and Flynn Pharma (Holdings) Limited
Gascoigne Halman	Gascoigne Halman Limited
GSK	GlaxoSmithKline PLC
GUK	Generics (UK) Limited
Law Society	The Law Society of England and Wales
Mastercard	Mastercard Incorporated, Mastercard International Incorporated and Mastercard Europe S.A.
Merck	Merck KGaA
NSAR	NSAR Limited
OFCOM	Office of Communications
Peugeot	Peugeot S.A.
Ping	Ping Europe Limited
SME	Small and Medium Enterprise
Socrates	Socrates Training Limited
TFEU	Treaty on the Functioning of the European Union
Tribunal Rules	Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648)
UKRS	UKRS Training Limited
Viasat	Viasat UK Limited and Viasat, Inc.
Xellia/ALLC	Xellia Pharmaceuticals ApS and Alpharma LLC

# Judgments handed down within the period 01/04/2017 to 31/03/2018

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

Judgment	Tribunal	Subject matter
<p><b>1. Socrates Training Limited v The Law Society of England and Wales</b></p> <p><b>[2017] CAT 10</b> 26 May 2017</p>	<p>The President</p> <p>William Allan</p> <p>Professor Stephen Wilks</p>	<p>Judgment of the Tribunal in connection with a claim under section 47A of the 1998 Act by Socrates against The Law Society. The Judgment dealt with liability only, as pursuant to the Tribunal's Order of 16 May 2016. The issues of causation and quantum were held over until after the determination of the liability issue.</p> <p>The Conveyancing Quality Scheme (CQS) is a scheme operated by the Law Society which provides a form of accreditation for firms of solicitors engaged in residential conveyancing. For several years, the CQS had incorporated an element of mandatory training, including training in mortgage fraud and anti-money laundering (AML). Socrates is a provider of training courses, including training in AML for lawyers. By its claim, Socrates contended that the requirement, under the terms of the CQS, that members of the scheme must obtain certain training courses exclusively from the Law Society is an abuse of a dominant position contrary to the Chapter II prohibition in the 1998 Act and/or an anti-competitive agreement contrary to the Chapter I prohibition in the 1998 Act.</p> <p>For the reasons given in the Judgment, the Tribunal held that the Law Society had breached the Chapter I and Chapter II prohibitions from the end of April 2015.</p>
<p><b>2. British Telecommunications Plc v Competition and Markets Authority (VULA CMA Costs)</b></p> <p><b>[2017] CAT 11</b> 2 Jun 2017</p>	<p>Andrew Lenon QC</p> <p>William Allan</p> <p>Professor Colin Mayer CBE</p>	<p>Judgment of the Tribunal in an appeal by BT, pursuant to section 192(1)(e) of the 2003 Act, from a costs order dated 8 July 2016 made by the CMA pursuant to section 193A of the 2003 Act (the Costs Order). The Costs Order was made in respect of the CMA's costs incurred in connection with the reference to it of price control matters in BT's appeal in Tribunal Case: 1238/3/3/2015.</p> <p>By its appeal, BT sought, inter alia, a reduction in the amounts of the costs to be recovered from it by the CMA on the following grounds:</p> <ul style="list-style-type: none"> <li>• Ground 1 – In deciding, as a starting point, to seek to recover all of its costs, the CMA inappropriately failed to consider whether all of those costs had been reasonably and/or proportionately incurred and, as a consequence, included in the Costs Order costs that were not reasonably and/or proportionately incurred.</li> <li>• Ground 2 – Further or alternatively, the CMA erred in failing properly to identify the costs it had incurred in connection with the reference in BT's price control appeal specifically and, as a consequence, wrongly included certain costs in the Costs Order against BT.</li> </ul> <p>For the reasons given in the Judgment, and save in relation to the sums which the CMA had agreed to repay and a sum in relation to Counsel's fees, the Tribunal dismissed BT's appeal from the Costs Order.</p>

Judgment	Tribunal	Subject matter
<p><b>3. Socrates Training Limited v The Law Society of England and Wales</b></p> <p><b>[2017] CAT 12</b> 26 May 2017</p>	<p>The President</p> <p>William Allan</p> <p>Professor Stephen Wilks</p>	<p>Ruling of the Tribunal in connection with an application for costs by Socrates. The Tribunal awarded Socrates its costs on the standard basis up to a maximum as determined by the costs cap fixed by Order of the Tribunal, as varied, of £230,000.</p>
<p><b>4. Flynn Pharma Limited and Another v Competition and Markets Authority (Interim Relief)</b></p> <p><b>[2017] CAT 13</b> 23 Jun 2017</p>	<p>Peter Freeman CBE QC (Hon)</p>	<p>Ruling of the Chairman reserving the costs of Flynn's application for interim relief pending a decision of the Tribunal in the main appeal.</p>
<p><b>5. UKRS Training Limited v NSAR Limited</b></p> <p><b>[2017] CAT 14</b> 5 Jul 2017</p>	<p>The President</p> <p>Margot Daly</p> <p>Dr Clive Elphick</p>	<p>Judgment of the Tribunal on the question of whether the Defendant, NSAR, was an undertaking for the purpose of section 18 of the 1998 Act. By Order of 21 July 2016, the President directed that this question be determined as a preliminary issue in these proceedings.</p> <p>For the reasons given in the Judgment, the Tribunal held that for the purpose of the claim NSAR constituted an undertaking and determined the preliminary issue accordingly.</p>

Judgment	Tribunal	Subject matter
<p><b>6. Agents' Mutual Ltd v Gascoigne Halman Ltd (t/a Gascoigne Halman)</b></p> <p><b>[2017] CAT 15</b> 5 Jul 2017</p>	<p>Mr Justice Marcus Smith</p> <p>Peter Freeman CBE QC (Hon)</p> <p>Brian Landers</p>	<p>Judgment of the Tribunal in connection with certain competition issues (the Competition Issues) transferred to the Tribunal from the Chancery Division of the High Court by order of Sir Kenneth Parker dated 5 July 2016.</p> <p>Agents' Mutual, a mutual association owned by its estate agent members, commenced proceedings in the Chancery Division alleging breach of contract by Gascoigne Halman, an estate agent which operated 18 offices in the South Manchester/Cheshire region.</p> <p>Under its agreement with Agents' Mutual, Gascoigne Halman had subscribed to a new online property portal called "OnTheMarket", which was established with the intention of competing with other existing online property portals, the largest being Rightmove, Zoopla and Primelocation (the latter two both owned by Zoopla Property Group).</p> <p>Gascoigne Halman denied the alleged breach of contract and, in addition, asserted that various provisions in the agreement breached section 2 of the 1998 Act (the Chapter I prohibition) and were therefore void. In overview, the specific provisions were:</p> <ol style="list-style-type: none"> <li>1. a rule by which an estate agent member may list its properties on no more than one other portal (the One Other Portal Rule);</li> <li>2. a rule restricting membership of Agents' Mutual to full-service office-based estate or letting agents, as opposed to agents operating only online (the Bricks and Mortar Rule); and</li> <li>3. a rule requiring members to promote only OnTheMarket and not any other property portal (the Exclusive Promotion Rule).</li> </ol> <p>Gascoigne Halman further contended that the One Other Portal Rule formed part of a wider arrangement between Agents' Mutual and others collectively to boycott Zoopla and/or Rightmove, contrary to the Chapter I prohibition.</p> <p>For the reasons given in the Judgment, the Tribunal held that the Competition Issues be determined against Gascoigne Halman. More specifically, the Tribunal held that:</p> <ol style="list-style-type: none"> <li>1. As regards the One Other Portal Rule: <ol style="list-style-type: none"> <li>(a) The rule did not infringe the Chapter I prohibition by object.</li> <li>(b) The rule did not infringe the Chapter I prohibition by effect.</li> <li>(c) The rule was, in any event, objectively necessary to the "Arrangements" (the various rules which bind members of Agents' Mutual, namely the listing agreement, articles of association and membership rules) as a whole, which were pro-competitive.</li> <li>(d) The rule did not form part of a wider concerted practice to boycott Zoopla and was not invalid on that account.</li> </ol> </li> </ol>

Judgment	Tribunal	Subject matter
		<p>(e) The rule was not an exempt agreement within the meaning of section 9 of the 1998 Act.</p> <p>(f) If, contrary to the Tribunal's conclusions, the rule did infringe the Chapter I prohibition, the Tribunal found that it was not severable from the Arrangements.</p> <p>2. The Bricks and Mortar Rule did not infringe the Chapter I prohibition by object. If, contrary to the Tribunal's conclusion, the rule did infringe the Chapter I prohibition, the Tribunal found that it was severable from the Arrangements.</p> <p>3. The Exclusive Promotion Rule did not infringe the Chapter I prohibition by object. If, contrary to the Tribunal's conclusion, the rule did infringe the Chapter I prohibition, the Tribunal did not consider it to be objectively necessary. The Exclusive Promotion Rule was severable from the Arrangements.</p> <p>Because the Competition Issues were determined within the broader context of proceedings in the Chancery Division, the Tribunal made no further order beyond the determinations set out above.</p>

Judgment	Tribunal	Subject matter
<p><b>7. Walter Hugh Merricks CBE v Mastercard Incorporated and Others</b></p> <p><b>[2017] CAT 16</b> 21 Jul 2017</p>	<p>The President</p> <p>Professor Colin Mayer CBE</p> <p>Clare Potter</p>	<p>Judgment of the Tribunal on an application by the proposed class representative, Mr Merricks, for an opt-out collective proceedings order under section 47B of the 1998 Act (the CPO Application).</p> <p>The proposed collective proceedings would combine follow-on claims for damages arising from a decision of the European Commission of 19 December 2007 (the EC Decision) addressed to the proposed defendants (Mastercard).</p> <p>In summary, the EC Decision found that, from 22 May 1992 to 19 December 2007, Mastercard had infringed what is now Article 101 of the TFEU by in effect setting a minimum price which merchants had to pay to their acquiring bank for accepting payment cards in the EEA, by means of the intra-EEA fallback multilateral interchange fee (the EEA MIF) for Mastercard branded consumer credit and charge cards and for Mastercard or Maestro branded debit cards. Mastercard's appeal against the EC Decision was dismissed by the General Court on 24 May 2012 and a further appeal was dismissed by the Court of Justice on 11 September 2014.</p> <p>The claim brought in the Tribunal alleged damages that were largely the result of Mastercard's setting of the multilateral interchange fee which applied as a fallback between banks in the UK (the UK MIF). The UK MIF was not at issue in the EC Decision but it was alleged in the Tribunal claim that the UK MIF was directly influenced by the EEA MIF. It was further alleged that consumers suffered loss as a result of paying prices to businesses that accepted MasterCard cards which prices were higher than they would otherwise have been had Mastercard not committed the infringement of Article 101 TFEU established by the EC Decision. The class on behalf of whom Mr Merricks sought to bring the claim was defined as comprising individuals who between 22 May 1992 and 21 June 2008 purchased goods and/or services from businesses selling in the UK that accepted Mastercard cards, at a time at which those individuals were both (1) resident in the UK for a continuous period of at least three months and (2) aged 16 years or over.</p> <p>Mastercard resisted the CPO Application on various grounds, including distinct grounds relating to the arrangement entered into by Mr Merricks to fund the proceedings (the Funding Agreement).</p> <p>The Tribunal considered whether the CPO Application should be granted on the basis of the criteria in section 47B of the 1998 Act and the Tribunal Rules, and in particular the two statutory conditions which must be satisfied for the Tribunal to make a collective proceedings order, namely:</p> <ul style="list-style-type: none"> <li>(i) the claims must be eligible for inclusion in collective proceedings (section 47B(5)(b) 1998 Act and rules 77 and 79); and</li> <li>(ii) the person bringing the proceedings is a person who the Tribunal could authorise to act as the class representative (section 47B(5)(a) 1998 Act and rules 77 and 78).</li> </ul> <p>For the reasons given in the Judgment, the Tribunal held that:</p> <ul style="list-style-type: none"> <li>(a) the claims should not be certified under rule 79 of the Tribunal Rules as eligible for inclusion in collective proceedings;</li> <li>(b) if, contrary to (a), the Tribunal had certified the claims, then on condition that the Funding Agreement was amended as proposed, the Tribunal would have authorised Mr Merricks under rule 78 of the Tribunal Rules to act as the class representative.</li> </ul> <p>Accordingly, the CPO Application was dismissed.</p>

Judgment	Tribunal	Subject matter
<p><b>8. British Telecommunications Plc v Office of Communications (BCMR)</b></p> <p><b>[2017] CAT 17</b> 26 Jul 2017</p>	<p>Mr Justice Snowden</p> <p>Dr Clive Elphick</p> <p>Professor John Cubbin</p>	<p>Ruling of the Tribunal setting out its decision in relation to the market definition issues in BT's appeal.</p>
<p><b>9. Walter Hugh Merricks CBE v Mastercard Incorporated and Others</b></p> <p><b>[2017] CAT 18</b> 21 Jul 2017</p>	<p>The President</p> <p>Professor Colin Mayer CBE</p> <p>Clare Potter</p>	<p>Ruling of the President refusing an application by the Applicant, Mr Merricks, to delay the handing down of the Tribunal's Judgment on the CPO Application ([2017] CAT 16).</p>
<p><b>10. British Telecommunications Plc v Competition and Markets Authority (VULA CMA Costs)</b></p> <p><b>[2017] CAT 19</b> 21 Aug 2017</p>	<p>Andrew Lenon QC</p>	<p>Ruling of the Chairman dismissing the CMA's application for part of its costs of the appeal.</p>
<p><b>11. British Telecommunications Plc v Office of Communications (BCMR)</b></p> <p><b>CityFibre v Office of Communications (BCMR)</b></p> <p><b>[2017] CAT 20</b> 6 Sep 2017</p>	<p>Mr Justice Snowden</p>	<p>Reasoned Order of the Chairman in connection with the costs of CityFibre's application to amend its Notice of Appeal.</p>
<p><b>12. Walter Hugh Merricks CBE v Mastercard Incorporated and Others</b></p> <p><b>[2017] CAT 21</b> 28 Sep 2017</p>	<p>The President</p> <p>Professor Colin Mayer CBE</p> <p>Clare Potter</p>	<p>Ruling of the Tribunal on an application by the Applicant, Mr Merricks, for permission to appeal the Tribunal's Judgment of 21 July 2017 dismissing his application for a collective proceedings order under section 47B of the 1998 Act ([2017] CAT 16). Permission to appeal was refused on the basis that the Tribunal had no jurisdiction to grant permission to appeal under section 49(1A) of the 1998 Act.</p>



Judgment	Tribunal	Subject matter
<p><b>13. Agents' Mutual Ltd v Gascoigne Halman Ltd (t/a Gascoigne Halman)</b></p> <p><b>[2017] CAT 22</b> 5 Oct 2017</p>	<p>Mr Justice Marcus Smith</p> <p>Peter Freeman CBE QC (Hon)</p> <p>Brian Landers</p>	<p>Ruling of the Tribunal on Gascoigne Halman's application (the Application) for permission to appeal the Tribunal's Judgment of 5 July 2017 ([2017] CAT 15) (the Judgment). The Tribunal held that there was no statutory right of appeal of the Judgment from the Tribunal. An Order giving effect to the Judgment would have to be made in the High Court pursuant to Regulation 2 of the Section 16 Enterprise Act 2002 Regulations 2015. The Application was treated as an application to the High Court under rule 52 of the Civil Procedure Rules for permission to appeal against the subsequent order of the High Court giving effect to the Tribunal's Judgment and the substance of the Application would have to be determined by the Chairman in his capacity as Judge of the High Court.</p>
<p><b>14. Balmoral Tanks Limited and Balmoral Group Holdings Limited v Competition and Markets Authority</b></p> <p><b>[2017] CAT 23</b> 6 Oct 2017</p>	<p>Mrs Justice Rose</p> <p>Dr Catherine Bell CB</p> <p>Margot Daly</p>	<p>Judgment of the Tribunal in relation to an appeal brought by Balmoral Tanks (the First Appellant) and Balmoral Group (the Second Appellant) (together Balmoral), against a decision of the CMA taken on 19 December 2016 entitled "Galvanised steel tanks for water storage information exchange infringement" (CE/9691/12) (the Information Exchange Decision). In the Information Exchange Decision, the CMA found that at or shortly after meeting on 11 July 2012 (the 11 July Meeting) several companies (including the First Appellant) had shared commercially sensitive information regarding their current and future pricing intentions for cylindrical galvanised steel tanks (CGSTs) which are used for water storage primarily for the purposes of fire suppression, serving sprinkler systems in certain buildings in the United Kingdom.</p> <p>The information exchanged at the 11 July Meeting related, the CMA found, both to specific contracts for which the companies were supposed to be putting in competing bids and to generic pricing strategies for certain types of CGSTs. The CMA decided that this was a concerted practice which had the object of preventing, restricting or distorting competition, contrary to Article 101(1) of the TFEU and to the Chapter 1 prohibition, contained in section 2 of the 1998 Act. The CMA imposed a fine of £130,000 on Balmoral. It did not impose a fine on the other parties to the concerted practice because those parties were already being fined as a result of another infringement decision adopted by the CMA also on 19 December 2016 (the Main Cartel Decision), an infringement to which Balmoral was not a party. The Main Cartel Decision found that between 29 April 2005 and 27 November 2012, four undertakings participated in bid rigging, price-fixing and market sharing in relation to the supply of CGSTs in the United Kingdom that had the object of restricting competition contrary to Article 101 TFEU and the Chapter 1 prohibition.</p> <p>Balmoral challenged the CMA's finding in the Information Exchange Decision that the 11 July Meeting gave rise to a concerted practice whereby confidential information had been exchanged between the alleged parties. It also challenged the CMA's decision to impose a fine on Balmoral and the amount of that fine.</p> <p>For the reasons set out in the Judgment, the Tribunal was satisfied that Balmoral was party to the infringement identified in the Information Exchange Decision. Applying the case law which establishes where the line is to be drawn between innocuous discussion and infringement, the Tribunal unanimously found that Balmoral's conduct was indeed an infringement. In relation to the fine imposed on Balmoral, the Tribunal concluded that there was no basis for criticising it; the fine was appropriate in the circumstances. The Tribunal therefore unanimously dismissed Balmoral's appeal.</p>

Judgment	Tribunal	Subject matter
<p><b>15. UKRS Training Limited v NSAR Limited</b></p> <p><b>[2017] CAT 24</b> 5 Oct 2017</p>	<p>The President</p> <p>Margot Daly</p> <p>Dr Clive Elphick</p>	<p>Ruling of the Tribunal in connection with an application by the Claimant, UKRS, for its costs of the preliminary issue ([2017] CAT 14).</p>
<p><b>16. British Telecommunications Plc v Office of Communications (BCMR)</b></p> <p><b>[2017] CAT 25</b> 10 Nov 2017</p>	<p>Mr Justice Snowden</p> <p>Dr Clive Elphick</p> <p>Professor John Cubbin</p>	<p>Judgment of the Tribunal in relation to an appeal by BT relating to the BCMR 2016 (BCMR 2016) conducted by OFCOM. OFCOM's conclusions from its review were set out in a Statement published on 28 April 2016 (the Final Statement).</p> <p>In the Final Statement, OFCOM defined a single product market for "Contemporary Interface Symmetric Broadband Origination" (CISBO) services of all bandwidths and three separate relevant geographic markets: the Central London Area (CLA); the London Periphery (LP); and the rest of the UK (excluding Hull) (RoUK). OFCOM determined that BT had Significant Market Power (SMP) in the LP and RoUK. OFCOM found that BT's prices in those markets were well above costs and its quality of service was unacceptably poor. By way of remedies, OFCOM introduced (inter alia) a "passive" remedy, allowing CPs to lease only the fibre element of leased lines from BT and to attach equipment of their own choosing at either end, instead of having to purchase an "active" service (a package including fibre and electronics to "light" the fibre) from BT. This passive remedy was referred to as Dark Fibre Access (DFA).</p> <p>BT contended that OFCOM: wrongly defined the relevant product and geographic market (Grounds D1 and D2); wrongly defined the extent of the core conveyance network (Ground D3); and erred in imposing a DFA remedy (Grounds E1 to E3). As explained in Section A(3) of the Judgment, the Tribunal ordered a split hearing and so the Judgment concerned only BT's grounds of appeal D1 to D3 in relation to market definition.</p> <p>Following the hearing, which took place in April and May 2017, the Tribunal issued a short Ruling ([2017] CAT 17) on 26 July 2017 (the Ruling) that:</p> <ol style="list-style-type: none"> <li>1. OFCOM had erred in concluding that it was appropriate to define a single product market for CISBO services of all bandwidths;</li> <li>2. OFCOM had erred in concluding that the RoUK comprises a single geographic market; and</li> <li>3. OFCOM had erred in its determination of the boundary between the competitive core segments and the terminating segments of BT's network.</li> </ol> <p>The Judgment set out the Tribunal's reasons for its Ruling of July 2017. As explained in the Judgment, the Tribunal did not consider itself to be in a position to substitute its own findings in relation to any of the above matters. The Tribunal therefore decided to remit these matters to OFCOM for reconsideration.</p>

Judgment	Tribunal	Subject matter
<p><b>17. British Telecommunications Plc v Office of Communications (BCMR)</b></p> <p><b>[2017] CAT 26</b> 20 Nov 2017</p>	<p>Mr Justice Snowden</p>	<p>Ruling of the Chairman in relation to the form of order required to give effect to the Tribunal's Judgment on the market definition issues ([2017] CAT 25).</p>
<p><b>18. Walter Hugh Merricks CBE v Mastercard Incorporated and Others</b></p> <p><b>[2017] CAT 27</b> 23 Nov 2017</p>	<p>The President</p> <p>Professor Colin Mayer CBE</p> <p>Clare Potter</p>	<p>Ruling of the Tribunal in connection with Mastercard's application for its costs of successfully defending the CPO Application (see [2017] CAT 16).</p>
<p><b>19. Balmoral Tanks Limited and Balmoral Group Holdings Limited v Competition and Markets Authority</b></p> <p><b>[2017] CAT 28</b> 13 Dec 2017</p>	<p>Mrs Justice Rose</p> <p>Dr Catherine Bell CB</p> <p>Margot Daly</p>	<p>Ruling of the Tribunal on Balmoral's application for permission to appeal the Tribunal's Judgment of 6 October 2017 which dismissed the appeal brought by Balmoral under section 46 of the 1998 Act ([2017] CAT 23). Permission to appeal was refused on the basis that none of the grounds had any real prospect of success and there was no other compelling reason for granting permission to appeal. The Tribunal also ruled that the CMA was entitled to its costs.</p>
<p><b>20. British Telecommunications Plc v Office of Communications (BCMR)</b></p> <p><b>CityFibre v Office of Communications (BCMR)</b></p> <p><b>[2018] CAT 1</b> 25 Jan 2018</p>	<p>Mr Justice Snowden</p> <p>Dr Clive Elphick</p> <p>Professor John Cubbin</p>	<p>Ruling of the Tribunal on the Appellants' applications for costs following the Tribunal's Judgment of 10 November 2017 ([2017] CAT 5) (the Judgment) in Case: 1260/3/3/16 on market definition and the Tribunal's Ruling of 20 November 2017 ([2017] CAT 26) (the Ruling) on the form of Order following the Judgment.</p> <p>BT, the Appellant in Case 1260, argued that costs should follow the event and that it should recover its costs associated with the Judgment and Ruling as it had succeeded in its appeal. CityFibre, the Appellant in Case 1261, argued that it should recover its costs related to its grounds of appeal concerning remedy. CityFibre's remedy challenge had not been determined by the Tribunal as the outcome of the Judgment on market definition had rendered this unnecessary. CityFibre also argued that the Tribunal should revisit a costs Order that the Tribunal had made against it concerning its grounds of its appeal which had been referred to the CMA for determination as a specified price control matter. OFCOM argued that no costs award should be made against it where it acted reasonably and in good faith. In the alternative, i.e. if the Tribunal decided that costs should follow the event, OFCOM argued that the Tribunal should make significant deductions from BT's costs and that it, OFCOM, should recover its costs associated with the Ruling as it had succeeded on that discrete issue. OFCOM also resisted CityFibre's contentions.</p>

Judgment	Tribunal	Subject matter
		The Tribunal ruled that the appropriate starting point was that costs should follow the event. The Tribunal awarded BT 50% of its costs related to the Judgment. The deduction reflected the fact that BT was not successful on all of its grounds of appeal and that the Tribunal had made certain criticisms of BT's evidence in the Judgment. The Tribunal ruled that OFCOM should recover its costs relating to the Ruling. The Tribunal declined to award costs to CityFibre in respect of its remedy challenge or to revisit the specified price control matter costs Order. Finally, the Tribunal ordered that OFCOM should make an interim payment of £500,000 to BT.
<p><b>21. Labinvesta Limited v Dako Denmark A/S and Others (Case: 1263/5/7/16)</b></p> <p><b>Labinvesta Limited v Dako Denmark A/S and Others (Case: 1273/5/7/16)</b></p> <p><b>[2018] CAT 2</b> 16 Feb 2018</p>	The President	Reasoned Order of the President refusing an application for costs made by the Third Defendant, Agilent Technologies.
<p><b>22. Peugeot S.A. and others v NSK Ltd and others</b></p> <p><b>[2018] CAT 3</b> 5 Mar 2018</p>	Mr Justice Green	Ruling of the Chairman in connection with an application by the Claimants, Peugeot and others, for disclosure of certain documents from the Third Defendant, NTN Corporation.

Judgment	Tribunal	Subject matter
<p><b>23. Generics UK Limited v Competition and Markets Authority</b></p> <p><b>GlaxoSmithKline PLC v Competition and Markets Authority</b></p> <p><b>Xellia Pharmaceuticals APS and Alpharma LLC v Competition and Markets Authority</b></p> <p><b>Actavis UK Limited v Competition and Markets Authority</b></p> <p><b>Merck KGaA v Competition and Markets Authority (Paroxetine)</b></p> <p><b>[2018] CAT 4</b> 8 Mar 2018</p>	<p>The President Hodge Malek QC</p> <p>Dermot Glynn</p>	<p>Judgment of the Tribunal in relation to five appeals brought by six entities: GSK, GUK, Xellia/ALLC, Actavis and Merck (together the Appellants).</p> <p>The appeals concerned a decision of the CMA dated 12 February 2016 (the Decision) determining that: GSK had infringed both the Chapter I prohibition and Chapter II prohibition under the 1998 Act; the other appellants had all infringed the Chapter I prohibition; and GSK, GUK and Merck had also infringed Article 101 of the TFEU.</p> <p>The infringements arose out of three agreements made in 2001–2002 concerning the pharmaceutical drug, paroxetine. Paroxetine is a prescription-only anti-depressant medicine that was marketed by GSK in the UK under the brand name Seroxat. Each of the agreements was made between GSK (or a predecessor company) and a generic supplier which had alleged that the relevant patents held by GSK over paroxetine were invalid and/or that the generic paroxetine which it intended to market in the UK did not infringe GSK's patents.</p> <p>There were significant overlaps between the five appeals so they were heard together and the Judgment concerns all five appeals. In summary, the Tribunal reached the following conclusions on the various grounds:</p> <p>Chapter I Prohibition/Article 101 TFEU (Section F of the Judgment):</p> <ol style="list-style-type: none"> <li>1. Potential competition: the Appellants argued that the Decision erred in finding that the generic companies were potential competitors of GSK. The provisional view of the Tribunal was to dismiss these arguments, but it decided that it was necessary to refer a question to the Court of Justice of the European Union (CJEU) on this point for a preliminary ruling (a Preliminary Reference).</li> <li>2. Restriction "by object": the Appellants argued that the Decision erred in finding that the agreements restricted competition "by object". The Tribunal decided that a Preliminary Reference was also necessary on this point.</li> <li>3. Restriction "by effect": the Appellants argued that the Decision erred in finding that the agreements restricted competition "by effect". The Tribunal decided that a Preliminary Reference was also necessary on this point.</li> <li>4. Exemption under the Competition Act 1998 (Land and Vertical Agreements Exclusion) Order 2000 (the Exclusion Order): the Tribunal dismissed GSK, GUK, Actavis and Xellia/ALLC's argument that the Decision erred in finding that the agreements did not benefit from exemption under the Exclusion Order.</li> <li>5. Block exemption or individual exemption: the Tribunal dismissed GSK's argument that the Decision erred in finding that the agreements did not benefit from an exemption under Regulation (EC) No 2790/1999 (the Vertical Block Exemption Regulation) or from individual exemption.</li> </ol>

Judgment	Tribunal	Subject matter
		<p>Chapter II Prohibition (Section G of the Judgment):</p> <p>1. Dominance: GSK argued that the Decision erred in finding that it held a dominant position. The provisional view of the Tribunal was to dismiss this argument, but it decided that a Preliminary Reference was also necessary on this point.</p> <p>2. Abuse: GSK argued that the Decision erred in finding that it had abused a dominant position by entering into the agreements. The Tribunal decided that a Preliminary Reference was also necessary on this point.</p> <p>The Tribunal went on to dismiss GUK, Merck and Actavis's argument that their rights of defence had been infringed and also dismissed Xellia/ALLC's argument that the Decision erred in holding them jointly and severally liable with Actavis. The Tribunal decided that it would be inappropriate to decide the Appellants' challenges to the penalties imposed upon them in advance of the Judgment of the CJEU.</p>
<p><b>24. Viasat UK Ltd and Viasat, Inc. v Office of Communications</b></p> <p><b>[2018] CAT 5</b> 14 Feb 2018</p>	Mr Justice Mann	Ruling of the Chairman in connection with an application by Viasat to extend the interim confidentiality ring established by the Tribunal's Order of 24 January 2018.
<p><b>25. British Telecommunications Plc v Office of Communications (BCMR)</b></p> <p><b>[2018] CAT 6</b> 9 Mar 2018</p>	<p>Mr Justice Snowden</p> <p>Dr Clive Elphick</p> <p>Professor John Cubbin</p>	Ruling of the Tribunal in relation to a request by OFCOM for permission to appeal the Tribunal's Ruling on costs dated 25 January 2018 ([2018] CAT 1).
<p><b>26. Ping Europe Limited v Competition and Markets Authority</b></p> <p><b>[2018] CAT 7</b> 9 Mar 2018</p>	Andrew Lenon QC	Ruling of the Chairman in connection with an application by Ping for an Order requiring the CMA to disclose an unredacted version of the Complainant's first witness statement (the Complainant's First Witness Statement). For the reasons set out in the Ruling, the Chairman directed that disclosure of the Complainant's identity and of the unredacted version of the Complainant's First Witness Statement be made to Mr Brown, Ping's UK Sales Director, who was admitted to the confidentiality ring.
<p><b>27. Ping Europe Limited v Competition and Markets Authority</b></p> <p><b>[2018] CAT 8</b> 26 Mar 2018</p>	<p>Andrew Lenon QC</p> <p>Professor John Beath OBE</p> <p>Eamonn Doran</p>	Ruling of the Tribunal dismissing an application by the CMA to exclude certain evidence submitted by Ping.

# Activity by case within the period 01/04/2017 to 31/03/2018

Case name, number and date registered	Year (1 April to 31 March)	Applications to intervene	Case management conferences	Hearings (and sitting days – excluding days limited to formal handing down of judgments)	Judgments (including interlocutory rulings and final judgments)	Date of judgment(s) on the main issues (and months from registration to judgment)	Requests for permission to appeal	Status at 31 March 2018
Gamma Telecom Holdings Limited v Office of Communications Case: 1234/3/3/14 23 July 2014	14–15 15–16 16–17 <b>17–18</b>							Withdrawn
<b>Notes:</b> These proceedings had been stayed since 2014. By an Order dated 12 June 2017, the President granted Gamma permission to withdraw its appeal.								
DSG Retail Limited and Another v MasterCard Incorporated and Others Case: 1236/5/7/15 11 February 2015	14–15 15–16 16–17 <b>17–18</b>			1 (1)	1 1			Ongoing
<b>Notes:</b> A joint hearing with Cases: 1264/5/7/16, 1265/5/7/16 and 1268/5/7/16 on a preliminary issue has been listed for 8 October 2018 (outside the period of review) with a time estimate of three days.								
Deutsche Bahn AG and Others v MasterCard Incorporated and Others Case: 1240/5/7/15 12 November 2015	15–16 16–17 <b>17–18</b>			2 (2)	2			Stayed
<b>Notes:</b> The proceedings have been stayed pursuant to a consent Order made on 22 August 2016.								
Peugeot S.A. and others v NSK Ltd and others Case: 1248/5/7/16 25 February 2016	15–16 16–17 <b>17–18</b>		2 1	1 (1)	1 1			Ongoing
<b>Notes:</b> A pre-trial review took place on 27 March 2018. The trial was due to take place during the five weeks commencing 24 April 2018. However, this was vacated and the claim was withdrawn by consent on 30 April 2018 (outside the period of review).								
Socrates Training Limited v The Law Society of England and Wales Case: 1249/5/7/16 4 April 2016	16–17 <b>17–18</b>		3	1 (4) 1 (1)	3 2	26/05/17 (13.7)		Closed
<b>Notes:</b> The hearing on liability took place from 8 to 11 November 2016. Judgment on liability was handed down on 26 May 2017 ([2017] CAT 10) and, on the same day, the Tribunal gave a Ruling in relation to costs ([2017] CAT 12).								

Case name, number and date registered	Year (1 April to 31 March)	Applications to intervene	Case management conferences	Hearings (and sitting days – excluding days limited to formal handing down of judgments)	Judgments (including interlocutory rulings and final judgments)	Date of judgment(s) on the main issues (and months from registration to judgment)	Requests for permission to appeal	Status at 31 March 2018
Generics UK Limited v Competition and Markets Authority Case: 1251/1/12/16 11 April 2016	16–17 <b>17–18</b>	2	3	2 (19)	1 1	08/03/17 (22.8)		Stayed
<b>Notes:</b> The main hearing of the appeals in Cases 1251–1255/1/12/16 took place from 27 February until 30 March 2017. Judgment was handed down on 8 March 2018 ([2018] CAT 4). On 27 March 2018, the Tribunal made an Order: (i) referring certain questions to the Court of Justice of the European Union (CJEU) for a preliminary ruling; and (ii) staying the proceedings pending the CJEU's preliminary ruling.								
GlaxoSmithKline PLC v Competition and Markets Authority Case: 1252/1/12/16 12 April 2016	16–17 <b>17–18</b>	4						Stayed
<b>Notes:</b> See notes in respect of Case: 1251/1/12/16.								
Xellia Pharmaceuticals APS and Alpharma LLC v Competition and Markets Authority Case: 1253/1/12/16 12 April 2016	16–17 <b>17–18</b>	4						Stayed
<b>Notes:</b> See notes in respect of Case: 1251/1/12/16.								
Actavis UK Limited v Competition and Markets Authority Case: 1254/1/12/16 12 April 2016	16–17 <b>17–18</b>	2						Stayed
<b>Notes:</b> See notes in respect of Case: 1251/1/12/16.								
Merck KGaA v Competition and Markets Authority Case: 1255/1/12/16 12 April 2016	16–17 <b>17–18</b>	4						Stayed
<b>Notes:</b> See notes in respect of Case: 1251/1/12/16.								
Dorothy Gibson v Pride Mobility Products Limited Case: 1257/7/7/16 25 May 2016	16–17 <b>17–18</b>		1	1 (3)	1			Withdrawn
<b>Notes:</b> The hearing of the application to commence collective proceedings (under Section 47B of the 1998 Act) took place between 12 and 14 December 2016. Judgment was handed down on 31 March 2017 ([2017] CAT 9). The claim was withdrawn by consent on 25 May 2017.								



Case name, number and date registered	Year (1 April to 31 March)	Applications to intervene	Case management conferences	Hearings (and sitting days – excluding days limited to formal handing down of judgments)	Judgments (including interlocutory rulings and final judgments)	Date of judgment(s) on the main issues (and months from registration to judgment)	Requests for permission to appeal	Status at 31 March 2018
UKRS Training Limited v NSAR Limited Case: 1258/5/7/16 24 June 2016	16–17 <b>17–18</b>			3 (4)	2			Stayed
<b>Notes:</b> The hearing of the preliminary issue (on the question whether the Defendant, NSAR, is an undertaking for the purpose of section 18 of the 1998 Act) took place on 6 and 7 October 2016. Judgment was handed down on 5 July 2017 ([2017] CAT 14). A Ruling on costs was handed down on 27 October 2017 ([2017] CAT 24) and the proceedings were stayed by an order of the President on the same date.								
TalkTalk Telecom Group PLC v Office of Communications (BCMR) Case: 1259/3/3/16 28 June 2016	16–17 <b>17–18</b>	4	1		2			Closed
<b>Notes:</b> On 29 June 2017, the Chairman made an Order disposing of TalkTalk's Appeal.								
British Telecommunications Plc v Office of Communications (BCMR) Case: 1260/3/3/16 28 June 2016	16–17 <b>17–18</b>	4	2 <b>1</b>	2 (17)	6	10/11/17 (16.4)	1	Ongoing
<b>Notes:</b> The main hearing took place between 3 April and 26 May 2017. On 10 November 2017, the Tribunal handed down its Judgment ([2017] CAT 25). The Tribunal heard applications for costs in respect of this appeal and in Case: 1261/3/3/16. On 25 January 2018, the Tribunal issued its Ruling on costs ([2018] CAT 1) (the Costs Ruling). On 9 March 2018, the Tribunal made a Ruling ([2018] CAT 6) granting OFCOM permission to appeal the Costs Ruling.								
CityFibre v Office of Communications (BCMR) Case: 1261/3/3/16 28 June 2016	16–17 <b>17–18</b>	3						Ongoing
<b>Notes:</b> See notes in respect of Case: 1260/3/3/16.								
Agents' Mutual Ltd v Gascoigne Halman Ltd (t/a Gascoigne Halman) Case: 1262/5/7/16 (T) 8 July 2016	16–17 <b>17–18</b>		3 <b>1</b>	2 (11)	5 <b>2</b>	05/07/18 (11.9)	1	Closed
<b>Notes:</b> Judgment in the Gascoigne Halman proceedings was handed down on 5 July 2017 ([2017] CAT 15). A case management conference relating to consequential matters in the Gascoigne Halman Tribunal and High Court proceedings was held on 12 July 2017. The Chairman sat alone in his dual capacity as Chairman of the Tribunal and Judge of the High Court and made Orders on the consequential matters, including in relation to costs and security for costs (see the Tribunal Order of 12 July 2017 and the High Court Order of the same date). The Tribunal gave a Ruling on the defendant's application for permission to appeal on 5 October 2017 ([2017] CAT 22).								

Case name, number and date registered	Year (1 April to 31 March)	Applications to intervene	Case management conferences	Hearings (and sitting days – excluding days limited to formal handing down of judgments)	Judgments (including interlocutory rulings and final judgments)	Date of judgment(s) on the main issues (and months from registration to judgment)	Requests for permission to appeal	Status at 31 March 2018
Labinvesta Limited v Dako Denmark A/S and Others Case: 1263/5/7/16 28 July 2016	16–17 <b>17–18</b>				1			Withdrawn
<b>Notes:</b> By an Order dated 30 November 2016, the President granted the claimant permission to withdraw its claim. On 16 February 2018, the Tribunal made a reasoned Order in relation to an application for costs made by a defendant after the withdrawal of the claim ([2018] CAT 2).								
Transport for London and Others v MasterCard Incorporated and Others Case: 1264/5/7/16 5 September 2016	16–17 <b>17–18</b>							Ongoing
<b>Notes:</b> See notes in respect of Case: 1236/5/7/15.								
Dixons Carphone PLC v MasterCard Incorporated and Others Case: 1265/5/7/16 7 September 2016	16–17 <b>17–18</b>							Ongoing
<b>Notes:</b> See notes in respect of Case: 1236/5/7/15.								
Walter Hugh Merricks CBE v Mastercard Incorporated and Others Case: 1266/7/7/16 8 September 2016	16–17 <b>17–18</b>		1	1 (3)	4	21/07/17 (10.3)	1	Closed
<b>Notes:</b> The CPO Application hearing was held between 18 and 20 January 2017. Judgment (dismissing the CPO application) was handed down on 21 July 2017 ([2017] CAT 16). Permission to appeal was refused on 28 September 2017 ([2017] CAT 21). On 23 November 2017, the Tribunal gave a Ruling in relation to costs ([2017] CAT 27).								
British Telecommunications Plc v Competition and Markets Authority (VULA CMA Costs) Case: 1267/3/12/16 8 September 2016	16–17 <b>17–18</b>				2	02/06/17 (8.7)		Closed
<b>Notes:</b> Judgment was handed down on 2 June 2017 ([2017] CAT 11). On 21 August 2017, the Tribunal issued a Ruling in relation to costs ([2017] CAT 19).								
Europcar UK Limited and Others v MasterCard Incorporated and Others Case: 1268/5/7/16 9 September 2016	16–17 <b>17–18</b>							Ongoing
<b>Notes:</b> See notes in respect of Case: 1236/5/7/15.								

Case name, number and date registered	Year (1 April to 31 March)	Applications to intervene	Case management conferences	Hearings (and sitting days – excluding days limited to formal handing down of judgments)	Judgments (including interlocutory rulings and final judgments)	Date of judgment(s) on the main issues (and months from registration to judgment)	Requests for permission to appeal	Status at 31 March 2018
British Airways PLC v MasterCard Incorporated and Others Case: 1269/5/7/16 12 September 2016	16–17 <b>17–18</b>							Stayed
<b>Notes:</b> Pursuant to a Consent Order agreed between the parties, the proceedings have been stayed until further order.								
Westpoint Group Trading Limited and Others v XL Farmcare UK Limited and Others Case: 1270/5/7/16 30 September 2016	16–17 <b>17–18</b>							Closed
<b>Notes:</b> Upon the parties having agreed terms of settlement, the proceedings have been stayed by a consent Order made on 18 January 2017. Effectively, the proceedings have been brought to an end.								
Labinvesta Limited v Dako Denmark A/S and Others Case: 1273/5/7/16 25 November 2016	16–17 <b>17–18</b>							Withdrawn
<b>Notes:</b> See notes in respect of Case: 1263/5/7/16.								
Flynn Pharma Limited and Another v Competition and Markets Authority (Interim Relief) Case: 1274/1/12/16 (IR) 23 December 2016	16–17 <b>17–18</b>			1 (1)	1 <b>1</b>	19 /01/17 (0.9)		Ongoing
<b>Notes:</b> On 23 June 2017, the Chairman issued a Ruling reserving costs of the application until after the substantive appeal of Flynn has been determined ([2017] CAT 13).								
Flynn Pharma Limited and Flynn Pharma (Holdings) Ltd v Competition and Markets Authority Case: 1275/1/12/17 7 February 2017	16–17 <b>17–18</b>	3	1 <b>1</b>	1 (13)	1			Ongoing
<b>Notes:</b> The substantive hearing took place over 13 days between 30 October 2017 and 24 November 2017. Judgment was handed down on 7 June 2018 (outside the period of review).								
Pfizer Inc. and Pfizer Limited v Competition and Markets Authority Case: 1276/1/12/17 7 February 2017	16–17 <b>17–18</b>	3						Ongoing
<b>Notes:</b> See notes in respect of Case: 1275/1/12/17.								

Case name, number and date registered	Year (1 April to 31 March)	Applications to intervene	Case management conferences	Hearings (and sitting days – excluding days limited to formal handing down of judgments)	Judgments (including interlocutory rulings and final judgments)	Date of judgment(s) on the main issues (and months from registration to judgment)	Requests for permission to appeal	Status at 31 March 2018
Balmoral Tanks Limited and Balmoral Group Holdings Limited v Competition and Markets Authority Case: 1277/1/12/17 20 February 2017	16–17 <b>17–18</b>		<b>1</b>	<b>1</b> (4)	<b>2</b>	<b>06/10/17</b> <b>(7.5)</b>	<b>1</b>	<b>Closed</b>
<b>Notes:</b> The substantive hearing took place over four days between 17 and 20 July 2017. Judgment was handed down on 6 October 2017 ([2017] CAT 23). On 13 December 2017, the Tribunal gave a Ruling in relation to permission to appeal (which was refused) and costs ([2017] CAT 28).								
British Telecommunications Plc and Others v. MasterCard Inc. and Others Case: 1278/5/7/17 12 September 2017	<b>17–18</b>							<b>Stayed</b>
<b>Notes:</b> The proceedings have been stayed by a Consent Order dated 6 April 2018 (outside the period of review).								
Ping Europe Limited v Competition and Markets Authority Case: 1279/1/12/17 25 October 2017	<b>17–18</b>		<b>2</b>	<b>1</b> (1)	<b>2</b>			<b>Ongoing</b>
<b>Notes:</b> The main hearing took place between 10 and 25 May 2018 (outside the period of review).								
Viasat UK Ltd and Viasat, Inc. v Office of Communications Case: 1280/3/3/17 8 December 2017	<b>17–18</b>	<b>1</b>	<b>1</b>		<b>1</b>			<b>Ongoing</b>
<b>Notes:</b> The main hearing has been listed for four days, between 26 June and 3 July 2018 (outside the period of review).								
British Telecommunications Plc v Office of Communications Case: 1281/3/3/18 23 January 2018	<b>17–18</b>							<b>Withdrawn</b>
<b>Notes:</b> The appeal was withdrawn pursuant to Orders of the President dated 23 April 2018 (outside the period of review).								
<b>TOTAL</b>	<b>17–18</b>	<b>1</b>	<b>8</b>	<b>7</b> (37)	<b>27</b>		<b>4</b>	

# Overall case activity within the period 01/04/2017 to 31/03/2018

	2017/18	2016/17	2015/16
<b>Appeals, applications and claims received of which:</b>	<b>4</b>	<b>29</b>	<b>11</b>
section 46 Competition Act 1998 <sup>1</sup>	1	8	0
section 47 Competition Act 1998 <sup>2</sup>	0	0	0
section 47A Competition Act 1998 <sup>3</sup>	1	12	6
section 47B Competition Act 1998 <sup>4</sup>	0	2	0
section 120 Enterprise Act 2002 <sup>5</sup>	0	2	1
section 179 Enterprise Act 2002 <sup>6</sup>	0	0	0
section 192 Communication Act 2003 <sup>7</sup>	2	4	3
section 317 Communications Act 2003 <sup>8</sup>	0	0	1
section 49B Competition Act 2003	0		
applications for interim relief <sup>9</sup>	<b>0</b>	<b>1</b>	<b>0</b>
<b>Applications to intervene</b>	<b>1</b>	<b>35</b>	<b>9</b>
<b>Case management conferences held</b>	<b>8</b>	<b>20</b>	<b>4</b>
<b>Hearings held (sitting days):</b>	<b>7(37)</b>	<b>18(66)</b>	<b>3(25)</b>
<b>Judgments handed down of which:</b>	<b>27</b>	<b>32</b>	<b>13</b>
Judgments disposing of main issue or issues	7	5	3
Judgments on procedural and interlocutory matters	8	20	6
Judgments on ancillary matters (e.g. costs)	<b>12</b>	<b>7</b>	<b>4</b>
<b>Orders made</b>	<b>52</b>	<b>105</b>	<b>52</b>

## Footnotes:

1. An appeal by a party to an agreement or conduct in respect of which the CMA (or one of the other regulators with concurrent powers to apply the 1998 Act) has made an "appealable decision".
2. An appeal against an "appealable decision" made by the CMA or other regulator with concurrent powers to apply the 1998 Act and made by a third party with a sufficient interest in the decision not otherwise entitled to appeal the decision pursuant to section 46 of the 1998 Act.
3. A claim for damages, any other claim for a sum of money or, in proceedings in England, Wales or Northern Ireland, a claim for an injunction by a person who has suffered loss or damage as a result of an infringement or an alleged infringement of the 1998 Act or of EU competition law.
4. Proceedings brought before the Tribunal combining two or more claims to which section 47A applies (collective proceedings).
5. An application by "any person aggrieved" by a decision of the CMA or the Secretary of State in connection with a reference or possible reference in relation to a relevant merger situation or special merger situation under the 2002 Act.
6. An application by "any person aggrieved" by a decision of the CMA or the Secretary of State in connection with a market investigation reference or possible market investigation reference under the 2002 Act.
7. An appeal by "a person affected" by a decision of OFCOM or of the Secretary of State in relation to matters concerning telecommunications and data services in the UK.
8. An appeal by "a person affected" by a decision of OFCOM to exercise its Broadcasting Act power for a competition purpose (pursuant to Section 317 of the 2003 Act).
9. Applications for interim relief pursuant to Rule 24 of the Tribunal Rules 2015.



# Accounts 2017/2018

Contents	Page
<b>Competition Appeal Tribunal and Competition Service:</b>	
Accountability Report for the year ended 31/03/2018 .....	46
<b>Competition Appeal Tribunal:</b>	
Audit Report .....	57
Statement of Comprehensive Net Expenditure for the year ended 31/03/2018 .....	60
Statement of Financial Position as at 31/03/2018 .....	61
Statement of Cash Flows for the year ended 31/03/2018 .....	62
Statement of Changes in Taxpayers' Equity for the year ended 31/03/2018 .....	62
Notes to the accounts .....	63
<b>Competition Service:</b>	
Audit Report .....	67
Statement of Comprehensive Net Expenditure for the year ended 31/03/2018 .....	70
Statement of Financial Position as at 31/03/2018 .....	71
Statement of Cash Flows for the year ended 31/03/2018 .....	72
Statement of Changes in Taxpayers' Equity for the year ended 31/03/2018 .....	73
Notes to the accounts .....	74

# Tribunal's and CS's Accountability Report for the year ended 31/03/2018

## Director's report

In law, the Tribunal and the CS are two separate bodies. In practice, the CS provides the means by which the Tribunal manages itself – the CS's entire staff, premises and other resources being fully deployed in the daily work of the Tribunal.

The Tribunal's membership comprises: the President, Sir Peter Roth; the members of the panel of Chairmen; the members of the panel of Ordinary Members; and the Registrar, Charles Dhanowa.

The President, the Registrar, a Non-Executive Member, Susan Scholefield, and another member, Peter Freeman, constitute the Board of the CS. Iliia Bowles, Tribunal/CS Director, Operations, acts as the secretary to the Board. The Board ensures that the resources formally vested in the CS are fully and efficiently utilised in the work of the Tribunal and that the Tribunal/CS functions as a single integrated organisation.

The CS maintains a Register of Interests detailing any directorships or other significant interests held by CS Board members, which is published on the Tribunal's website, [www.catribunal.org.uk](http://www.catribunal.org.uk).

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

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

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

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

- observe the accounts directions issued by the Secretary of State, including 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.

The Accounting Officer for BEIS has designated the Registrar of the Tribunal as Accounting Officer for both the Tribunal and the CS (the Accounting Officer). The responsibilities of the Accounting Officer (which include responsibility for the propriety and regularity of the public finances and for the keeping of proper records) are set out in the Accounting Officer's Memorandum issued by HM Treasury and published in "Managing Public Money".



## Disclosure of relevant audit information

So far as the Accounting Officer is aware:

- there is no relevant audit information of which the Tribunal/CS's external auditors are unaware;
- the Accounting Officer has, to the best of his knowledge, taken all the steps that he ought to have taken to make himself aware of any relevant audit information and to ensure that the Tribunal/CS's external auditors are aware of that information; and
- this annual report and accounts, as a whole, is fair, balanced and understandable. The Accounting Officer takes personal responsibility for this annual report and accounts and the judgement required for determining that it is fair, balanced and understandable.

## Governance Statement

### Purpose

The Governance Statement (the Statement) explains the Tribunal/CS's governance arrangements and structure of internal control and describes how risk is managed. It also outlines the effectiveness of these arrangements and how they support the Accounting Officer in managing and controlling Tribunal/CS's resources.

### Scope of responsibility

The Accounting Officer has ensured that a system of governance and internal control is in place to support the performance of the Tribunal/CS's statutory functions, whilst safeguarding the public funds and departmental assets for which the Accounting Officer is responsible (in accordance with the responsibilities assigned to him in the HM Treasury's publication "Managing Public Money"). The Accounting Officer has been assisted in this by the Board and the Audit and Risk Assurance Committee of the CS to which reports are regularly made.

Tribunal/CS's internal auditors, the Government Internal Audit Agency (GIAA), provide advice and guidance on risk management, governance and accountability issues. Tribunal/CS's external auditors, the National Audit Office (NAO), provide assurance on the truth and fairness of the Tribunal/CS's financial statements and the regularity of its expenditure. Further advice and guidance is also available from the Tribunal/CS's sponsor team in BEIS. The Accounting Officer is directly responsible to the Accounting Officer of BEIS and, ultimately, to Parliament.

### CS's governance structure

The President, the Registrar, a Non-Executive Member, Susan Scholefield, and another member, Peter Freeman (from October 2017), constitute the formal membership of the CS Board which, during the year under review, met three times to consider the strategic direction of the organisation. The President, the Registrar and Peter Freeman have a detailed knowledge of the workings of the Tribunal/CS's whilst Susan Scholefield provides the Board with wider knowledge and experience of strategic organisational, corporate governance matters and risk management. The Director, Operations acts as secretary to the Board. Reports on workload, financial and administrative matters and the work of the Audit and Risk Assurance Committee are standing agenda items for Board meetings. All Board meetings during the year were fully attended. Minutes of the Board meetings are routinely published on the Tribunal's website.

The Audit and Risk Assurance Committee is chaired by Susan Scholefield and, during 2017/18, comprised one Ordinary Member of the Tribunal, Brian Landers, who has considerable accounting experience, and, from February onwards, Peter Freeman, CS Member and Tribunal Chairman.

In April this year, outside the period of review, two new members were appointed to the Committee: Timothy Sawyer and Sir Iain McMillan, both Ordinary Members of the Tribunal.

Meetings of the Audit and Risk Assurance Committee are attended by representatives of both the Tribunal/CS's internal and external auditors and often by a representative of the sponsor team at BEIS. The Audit and Risk Assurance Committee reviews the financial performance of the Tribunal/CS and examines the annual report and accounts prior to publication. At each meeting, auditors and committee members are offered the opportunity of a private meeting without CS personnel being present so that management performance can be discussed. The Director, Operations acts as secretary to the Audit and Risk Assurance Committee. All Committee meetings during the year were fully attended.

## **Risk and internal control framework**

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

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

The CS has a clear strategic aim which is the performance of its statutory purpose to fund and provide support services to the Tribunal. This is underpinned by the CS Business Plan. The Business Plan is reviewed every year, approved by the CS Board and copied to BEIS for information. The plan includes key business objectives for the year and is published on the Tribunal's website.

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

In accordance with BEIS policy, the CS has put in place preventative measures to lessen the risk of fraud. During the year under review, one individual providing services to the CS was not paid through the payroll system. As agreed with BEIS, steps were taken to verify full compliance with tax requirements regarding this matter. For this individual, IR35 (Intermediaries Legislation) does not apply.

## **Internal audit review**

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

During financial year 2017/18, internal auditors' work focussed on the audit of key financial and accounting controls in use at the CS and they provided a "substantial" assurance with regard to their adequacy and effectiveness.

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

## **Data security**

The Accounting Officer is the Senior Information Risk Owner and is supported by a Departmental Security Officer (DSO) and an IT Security Officer (ITSO). There were no incidents involving loss of data during the year.

Every year, all members of staff complete the online information awareness training made available by Civil Service Learning via BEIS. All newly appointed Ordinary Members have received a security briefing on data handling by the Director of Operations as part of their induction. Between May and June 2018, outside the period covered by this report, all Tribunal/CS's members of staff completed online training on the General Data Protection Regulation (GDPR).

## **Review of effectiveness**

The Accounting Officer is responsible for reviewing the effectiveness of the CS's governance, risk management and internal control systems and their compliance with HMT Code of Good Practice. The Accounting Officer's review is informed by the work of the internal auditors and the relevant CS managers, advice from the Audit and Risk Assurance Committee and external auditors' reports. The Accounting Officer's review is also informed by the CS Board's review of its own effectiveness, which is carried out on a yearly basis.

The Accounting Officer's overall conclusion is that the CS has established a solid and resilient governance structure and put in place a range of supporting systems and processes. Periodic review takes place to ensure any new emerging issues are dealt with promptly.

# Remuneration and Staff Report for the Tribunal and the CS for the year ended 31/03/2018

## Remuneration policy

The remuneration of the President and the Registrar is determined by the Secretary of State under Schedule 2 of the 2002 Act.

The President is a High Court Judge and his salary is set at the applicable level in the judicial salaries list. On 1 April 2017, the President's salary increased by 1 per cent as recommended by the Senior Salaries Review Body (which makes recommendations about the pay of the senior civil service, senior military personnel and the judiciary). The President's salary is paid by the Ministry of Justice (MoJ) and invoiced to the CS.

The salary of the Registrar is linked to judicial salaries as determined by the Secretary of State. For 2017/18, the salary of the Registrar increased by 1 per cent in accordance with government pay limits.

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

Fee-paid Tribunal Chairmen (i.e. those Tribunal Chairmen who do not hold full-time judicial office) are remunerated at a rate of £600 per diem, a rate which was set at the inception of the Tribunal in 2003. Ordinary Members are remunerated at a per diem rate of £400 (£350 until 5 April 2017). The cost of remuneration of fee-paid Tribunal Chairmen and Ordinary Members is charged to the Tribunal's Statement of Comprehensive Net Expenditure.

The two Members of the CS are remunerated on a per diem rate of £350, as determined by the Secretary of State pursuant to Schedule 3 of the 2002 Act. This rate has remained unchanged since 2003. The remuneration costs of the two CS Members are charged to the CS's Statement of Comprehensive Net Expenditure. The following sections provide details of the contracts, remuneration and pension interests of the President, Registrar and Members of the CS.

## CS contracts

The President is appointed by the Lord Chancellor under Schedule 2 of the 2002 Act. The Registrar is appointed by the Secretary of State pursuant to section 12(3) of the 2002 Act. The Registrar's appointment must satisfy the requirements of Rule 4 of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648).

The two Members of the CS are appointed by the Secretary of State under Schedule 3 of the 2002 Act. Their appointments carry no right of pension, gratuity or allowance on their termination.

## Remuneration (audited)

### Single total figure of remuneration

	Salary (£'000)		Pension benefits (to nearest £1,000) <sup>3</sup>		Total (£'000)	
	2017/18	2016/17	2017/18	2016/17	2017/18	2016/17
President	180–185	175–180	85,000	92,000	265–270	270–275

In 2017/18, the full-time equivalent salary for the President's post was £180,000 – £185,000 (2016/17: £175,000 – £180,000).

### Single total figure of remuneration

	Salary (£'000)		Non-Consolidated Award (£'000)		Pension benefits (to nearest £1,000) <sup>3</sup>		Total (£'000)	
	2017/18	2016/17	2017/18	2016/17	2017/18	2016/17	2017/18	2016/17
Registrar (Highest Paid Officer)	100–105	100–105	0–5	0–5	8,000	25,000	110–115	125–130
Median Total							36,167	40,174
Remuneration (£)								
Ratio							2.91	2.61

In 2017/18, the full-time equivalent salary for the Registrar's post was £100,000 – £105,000 (2016/17: £100,000 – £105,000).

Reporting bodies are required to disclose the relationship between the remuneration of the highest paid officer in their organisation and the median remuneration of the organisation's workforce. For 2017/18 and 2016/17 (as shown in the table above), the remuneration of the highest paid officer has been based on his actual remuneration.

In 2017/18, the fair pay ratio was 2.91 (2016/17: 2.61); this ratio excludes pension.

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

As fee-paid Tribunal Chairmen and Ordinary Members are only paid when engaged in Tribunal work and the two Members of the CS are paid on an ad-hoc basis, they are excluded from the calculation above.

The two Members of the CS are remunerated at a rate of £350 per day (2016/17: £350 per day) and, as noted above, the rate has remained unchanged since 2003. In 2017/18, Susan Scholefield's total remuneration was £4,200 (2016/17: £4,025); Peter Freeman's total remuneration was £1,825 (2016/17: £0).

## Benefits in kind

The CS does not provide any allowances or benefits in kind to the President, Registrar and its Members.

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

# Pensions applicable to the Tribunal and the CS

## Judicial pensions

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

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

The contribution rate, required from the judicial appointing or administering bodies to meet the cost of benefits accruing in the year 2017/18, has been assessed at 38.45 per cent of the relevant judicial salary. This includes an element of 0.25 per cent as a contribution towards the administration costs of the scheme.

Details of the Resource Accounts of the Ministry of Justice (MoJ) JPS can be found on the MoJ's website.<sup>4</sup>

The Judicial Pension Scheme 2015 (JPS 2015), which came into effect on 1 April 2015, applies to all new members appointed from that date onwards and to those members and fee-paid judicial office-holders who are currently in service and who do not have transitional protection to allow them to continue as a member in the previous scheme. Clarification is awaited from JPS on the payment of pension liability from 1 April 2017 onwards for all fee-paid judicial office-holders, including Tribunal Chairmen.

## Civil Service pensions

Pension benefits are provided through the Civil Service pension arrangements. On 1 April 2015, a new pension scheme for civil servants was introduced – the Civil Servants and Others Pension Scheme (alpha), which provides benefits on a career average basis with a normal pension age equal to the member's State Pension Age (or 65 if higher). From that same date, all newly appointed civil servants and the majority of those already in service joined alpha.

Prior to then, civil servants participated in the Principal Civil Service Pension Scheme (PCSPS), which included four sections: three providing benefits on a final salary basis (classic, premium or classic plus), with a normal pension age of 60; and one providing benefits on a whole career basis (nuvos), with a normal pension age of 65. These statutory arrangements are unfunded, with the cost of benefits met by monies voted by Parliament each year.

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

Employee contributions are salary-related and range between 4.6% and 8.05% for members of classic, premium, classic plus, nuvos and alpha.

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<sup>4</sup> [www.gov.uk/government/publications/judicial-pension-scheme-accounts-2016-to-2017](http://www.gov.uk/government/publications/judicial-pension-scheme-accounts-2016-to-2017).

Benefits in classic accrue at the rate of 1/80th of final pensionable earnings for each year of service. In addition, a lump sum equivalent to three years initial pension is payable on retirement. For premium, benefits accrue at the rate of 1/60th of final pensionable earnings for each year of service. Unlike classic, there is no automatic lump sum. Classic plus is essentially a hybrid with benefits for service before 1 October 2002 calculated broadly as per classic and benefits for service after 1 October 2002 worked out as in premium. In nuvos, a member builds up a pension based on his pensionable earnings during their period of scheme membership. At the end of the scheme year (31 March), the member's earned pension account is credited with 2.3 per cent of their pensionable earnings in that scheme year and the accrued pension is uprated in line with pensions increase legislation. Benefits in alpha build up in a similar way to nuvos, except that the accrual rate is 2.32 per cent. In all cases, members may opt to give up ("commute") pension for a lump sum up to the limits set by the Finance Act 2004. Further information regarding the PCSPS is included in note 5 of the CS's accounts.

Members joining from October 2002 may opt for either the appropriate defined benefit arrangement or a "money purchase" stakeholder pension with an employer contribution (partnership pension account).

The partnership pension account is a stakeholder pension arrangement, where employers make a basic contribution of between 8 per cent and 14.75 per cent (3 per cent and 12.5 per cent until 30 September 2015), depending on the age of the member, into a stakeholder pension product chosen by the employee from a panel of providers. The employee does not have to contribute but, where they do make contributions, the employer will match these up to a limit of 3 per cent of pensionable salary (in addition to the employer's basic contribution). Employers also contribute a further 0.5 per cent of pensionable salary (0.8 per cent until 30 September 2015) to cover the cost of centrally-provided risk benefit cover (death in service and ill health retirement).

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

Further details about the Civil Service pension arrangements can be found at [www.civilservicepensionscheme.org.uk](http://www.civilservicepensionscheme.org.uk)

## Cash Equivalent Transfer Values

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

CETVs are calculated in accordance with The Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2008 and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due when pension benefits are taken.

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

## Real increase in CETV (audited)

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

### (a) President's pension benefits

The President is a member of the JPS. For 2017/18, employer contributions of £70,000 (2016/17: £69,000) were payable to the JPS at a rate of 38.45 per cent (2016/17: 38.45 per cent) of pensionable pay.

The following part of the Remuneration Report has been audited.

<b>President</b>	<b>Accrued pension as at 31 March 2018 and related lump sum £'000</b>	<b>Real increase in pension and related lump sum as at 31 March 2018 £'000</b>	<b>CETV at 31 March 2018 £'000</b>	<b>CETV at 31 March 2017 £'000</b>	<b>Employee contributions and transfers £'000</b>	<b>Real increase in CETV £'000</b>
Pension	15–20	2.5–5	418	325	9	80
Lump sum	45–50	7.5–10				

### (b) Registrar's pension benefits

The Registrar's pension benefits are provided through the Civil Service Pension arrangements. For 2017/18, employer contributions of £25,000 (2016/17: £25,000) were payable to the PCSPS at a rate of 24.5 per cent (2016/17: 24.5 per cent) of pensionable pay.

The following part of the Remuneration Report has been audited.

<b>Registrar</b>	<b>Accrued pension at age 60 as at 31 March 2018 and related lump sum £'000</b>	<b>Real increase in pension and related lump sum at age 60 £'000</b>	<b>CETV at 31 March 2018 £'000</b>	<b>CETV at 31 March 2017 £'000</b>	<b>Employee contributions and transfers £'000</b>	<b>Real increase in CETV £'000</b>
Pension	35–40	0–2.5	854	782	21	6
Lump sum	115–120	2.5–5				



## Staff Report (audited)

### Tribunal

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

	<b>2017/18</b> <b>£</b>	<b>2016/17</b> <b>£</b>
Heriot Currie QC	1,200	25,071
Peter Freeman CBE, QC (Hon)	61,201	50,914
Andrew Lenon QC	15,601	1,200
Hodge Malek QC	7,800	31,118
Marcus Smith QC	–	17,914

Fee-paid Tribunal Chairmen are remunerated at a rate of £600 per day (2016/17: £600 per day) or pro rata.

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

(b) Ordinary Members are remunerated at a rate of £400 per day (2016/17: £350 per day), with effect from 6 April 2017. Total remuneration of £129,509 paid to Ordinary Members in 2017/18 (2016/17: £99,095) is included in the table in note (d) below.

(c) In 2017/18, benefits in kind of £674 (travel and subsistence) were paid to Heriot Currie (2016/17: £2,384). No other fee-paid Chairmen have received benefits in kind.

(d) Total cost of Tribunal members' remuneration is shown in the table below.

	<b>2017/18</b> <b>£'000</b>	<b>2016/17</b> <b>£'000</b>
Members' remuneration (including the President, Chairmen and Ordinary Members)	397	405
Social security costs	46	49
Pension contributions for the President	70	69
Pension contributions for the Chairmen	9	–
<b>Total members' remuneration</b>	<b>522</b>	<b>523</b>

## CS

(a) Staff costs are shown in the table below. No temporary staff were employed in the year.

	<b>Total 2017/18 £'000</b>	<b>Total 2016/17 £'000</b>
Wages and salaries	807	737
Social security costs	88	79
Other pension costs	169	155
<b>Total employee costs</b>	<b>1,064</b>	<b>971</b>

(b) The average number of staff employed during the year (full-time and part-time) was 18 (2016/17: 17).

(c) The Tribunal/CS continues to maintain a diverse workforce. As at 31 March 2018, the gender breakdown of the 18 permanent members of staff was nine male (50 per cent) and nine female (50 per cent).

(d) One member of staff is an SCS equivalent.

(e) The staff absence rate (1.1 per cent of working days or 2.8 days sick days per annum per staff) is below the average for both the private sector and the Civil Service.

(f) The Tribunal/CS operates a fair recruitment policy which is based on merit and open to all, including those with a disability.

## Parliamentary Accountability Report (audited)

There were no losses and/or special severance payments made in 2017/18.

**Charles Dhanowa OBE, QC (Hon)**

Registrar and Accounting Officer

11 July 2018

# Tribunal's Audit Report

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

I certify that I have audited the financial statements of Competition Appeal Tribunal for the year ended 31 March 2018 under the Enterprise Act 2002. The financial statements comprise: the Statements of Comprehensive Net Expenditure, Financial Position, Cash Flows, Changes in Taxpayers' Equity; and the related notes, including the significant accounting policies. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Accountability Report that is described in that report as having been audited.

In my opinion:

- the financial statements give a true and fair view of the state of Competition Appeal Tribunal's affairs as at 31 March 2018 and of its net expenditure for the year then ended; and
- the financial statements have been properly prepared in accordance with the Competition Appeal Tribunal and Secretary of State directions issued thereunder.

### Opinion on regularity

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

### Basis of opinions

I conducted my audit in accordance with International Standards on Auditing (ISAs) (UK) and Practice Note 10 "Audit of Financial Statements of Public Sector Entities in the United Kingdom". My responsibilities under those standards are further described in the Auditor's responsibilities for the audit of the financial statements section of my certificate. Those standards require me and my staff to comply with the Financial Reporting Council's Revised Ethical Standard 2016. I am independent of the Competition Appeal Tribunal in accordance with the ethical requirements that are relevant to my audit and the financial statements in the UK. My staff and I have fulfilled our other ethical responsibilities in accordance with these requirements. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

### Responsibilities of the Board and Accounting Officer for the financial statements

As explained more fully in the Statement of Accounting Officer's Responsibilities, the Board and the Accounting Officer are responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view.

### Auditor's responsibilities for the audit of the financial statements

My responsibility is to audit, certify and report on the financial statements in accordance with the Enterprise Act 2002.

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted

in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with ISAs (UK), I exercise professional judgment and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control;
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Competition Appeal Tribunal's internal control;
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management;
- conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Competition Appeal Tribunal's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the entity to cease to continue as a going concern;
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

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

## **Other Information**

The Board and the Accounting Officer are responsible for the other information. The other information comprises information included in the annual report, other than the parts of the Accountability Report described in that report as having been audited, the financial statements and my auditor's report thereon. My opinion on the financial statements does not cover the other information and I do not express any form of assurance conclusion thereon. In connection with my audit of the financial statements, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit or otherwise appears to be materially misstated. If, based on the work I have performed, I conclude that there is a material misstatement of this other information, I am required to report that fact. I have nothing to report in this regard.

## Opinion on other matters

In my opinion:

- the parts of the Accountability Report to be audited have been properly prepared in accordance with Secretary of State directions made under the Enterprise Act 2002;
- in the light of the knowledge and understanding of the Competition Appeal Tribunal and its environment obtained in the course of the audit, I have not identified any material misstatements in the Performance Report or the Accountability Report; and
- the information given in Performance Report and Accountability Report for the financial year for which the financial statements are prepared is consistent with the financial statements.

## Matters on which I report by exception

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

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

## Report

I have no observations to make on these financial statements.

### **Sir Amyas C E Morse**

Comptroller and Auditor General  
16 July 2018

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

# Tribunal's Statement of Comprehensive Net Expenditure for the year ended 31/03/2018

	Note	2017/18 £'000	2016/17 £'000
<b>Expenditure:</b>			
Members' remuneration costs	3(b)	(522)	(523)
Other operating charges	4(a)	(102)	(91)
<b>Total expenditure</b>		<b>(624)</b>	<b>(614)</b>
<b>Net Expenditure for the financial year</b>		<b>(624)</b>	<b>(614)</b>

There is no other comprehensive net expenditure. The notes on pages 63 to 66 form part of these accounts.

# Tribunal's Statement of Financial Position as at 31/03/2018

	Note	2017/18 £'000	2016/17 £'000
<b>Non current assets:</b>			
Trade receivables and other receivables	5(a)	90	72
Total non current assets		90	72
<b>Current assets:</b>			
Trade receivables and other receivables	5(a)	98	162
Cash and cash equivalents		–	–
Total current assets		98	162
Total assets		188	234
<b>Current liabilities:</b>			
Trade payables and other payables	6(a)	(98)	(162)
Total current liabilities		(98)	(162)
Total assets less current liabilities		90	72
<b>Non current liabilities:</b>			
Provisions	7	(90)	(72)
Total non current liabilities		(90)	(72)
Assets less liabilities		–	–
<b>Taxpayers' equity:</b>			
General fund		–	–
Total taxpayers' equity		–	–

The notes on pages 63 to 66 form part of these accounts.

**Charles Dhanowa OBE, QC (Hon)**

Registrar and Accounting Officer  
11 July 2018

## Tribunal's Statement of Cash Flows for the year ended 31/03/2018

	Note	2017/18 £'000	2016/17 £'000
<b>Cash flows from operating activities:</b>			
Net operating cost		(624)	(614)
Decrease/(Increase) in receivables		46	(59)
(Decrease)/Increase in payables		(64)	50
Increase in provisions		18	9
Net cash (outflow) from operating activities		(624)	(614)
<b>Cash flows from financing activities:</b>			
Grant-in-aid	2	624	614
<b>Increase/(decrease) in cash in the period</b>		<b>-</b>	<b>-</b>

The notes on pages 63 to 66 form part of these accounts.

## Tribunal's Statement of Changes in Taxpayers' Equity for the year ended 31/03/2018

	General Fund £'000
<b>Balance at 31 March 2016</b>	<b>0</b>
Net operating cost for 2016/17	(614)
<b>Net financing from BEIS for 2016/17</b>	<b>614</b>
Balance at 31 March 2017	0
<b>Net operating cost for 2017/18</b>	<b>(624)</b>
Net financing from BEIS for 2017/18	624
<b>Balance at 31 March 2018</b>	<b>0</b>



# Tribunal's notes to the accounts

## 1. Basis of preparation and statement of accounting policies

These financial statements have been prepared in accordance with the 2017/18 Government Financial Reporting Manual (FReM). The accounting policies contained in the FReM apply International Financial Reporting Standards (IFRSs) as adapted or interpreted for the public sector.

The Tribunal does not enter into any accounting transactions in its own right as the CS has a duty, under the 2002 Act, to meet all the expenses of operating the Tribunal. Accordingly, the Tribunal has no assets, liabilities, funds or cash flows.

The Tribunal prepares its accounts on the basis that it has directly incurred the expenses relating to its activities. On that basis, therefore, the accounts of the Tribunal include those assets, liabilities and cash flows of the CS which relate to the Tribunal's activities.

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

### **(a) Going concern**

The financing of the Tribunal's liabilities is to be met by future grant-in-aid and the application of future income, both approved annually by Parliament. BEIS approval for the amounts required in respect of the year to 31 March 2019 was given in Spring 2018. It has therefore been considered appropriate to adopt a going concern basis for the preparation of these accounts.

### **(b) Accounting convention**

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

### **(c) Grant in aid**

The FReM requires non-departmental public bodies to account for grant-in-aid received as financing. The CS draws down grant-in-aid on behalf of the Tribunal to fund the Tribunal's activities. The debtor balance of £98,000, shown in note 5a below, is of the equal amount to the liability of £98,000, shown in note 6a below, which represents the amount that the CS shall transfer to meet those liabilities.

### **(d) Pensions**

Pension arrangements for the President and one of the fee-paid Tribunal Chairmen are mentioned separately in the Remuneration Report. Fee-paid Tribunal Chairmen's appointments are pensionable; Ordinary Members' appointments are non-pensionable. Judicial pension contribution provisions have been included in relation to fee-paid Tribunal Chairmen who have opted into the relevant judicial pension arrangements.

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

## 2. Government grant-in-aid

Total grant-in-aid allocated in financial year 2017/18 was £624,000 (2016/17: £614,000).

## 3. Members' remuneration

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

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

	2017/18 £'000	2016/17 £'000
Members' remuneration (including the President, Chairmen and Ordinary Members)	397	405
Social security costs	46	49
Pension contributions for the President	70	69
Pension contributions for the Chairmen	9	–
<b>Total Members' remuneration</b>	<b>522</b>	<b>523</b>

## 4. Other operating charges

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

	2017/18 £'000	2016/17 £'000
Members' travel and subsistence	27	21
Members' PAYE and National Insurance on travel and subsistence expenses	17	11
Members' training	43	44
Long service award	9	9
Audit fees*	6	6
<b>Total other operating charges</b>	<b>102</b>	<b>91</b>

\*Audit fees relate to statutory audit work. No fees were paid to the external auditors in relation to non-audit services.

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

## 5. Trade receivables and other receivables

### (a) Analysis by type

	2017/18 £'000	2016/17 £'000
Amounts falling due within one year:		
Trade receivables and other receivables with the CS	98	162
Amounts falling due after more than one year:		
Trade receivables and other receivables with the CS	90	72
<b>Total trade receivables and other receivables</b>	<b>188</b>	<b>234</b>

## 6. Trade payables and other payables

### (a) Analysis by type

	2017/18 £'000	2016/17 £'000
Amounts falling due within one year:		
Taxation and social security	24	26
Trade Payables	1	–
Accruals	73	136
<b>Total trade payables and other payables</b>	<b>98</b>	<b>162</b>

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

## 7. Provisions for liabilities and charges

	Long service award costs £'000
<b>Balance at 31 March 2017</b>	<b>72</b>
Provided in the year	18
<b>Balance at 31 March 2018</b>	<b>90</b>

The provision made in the year relates to the expected cost of the President's long service award which becomes payable on retirement and will be met by the CS. The liability was calculated by the Government Actuary's Department (GAD) and is based on the President's judicial grade and length of service. The level of the long service award is dependent on the tax paid by the member of the JPS on his retirement lump sum. For this year's disclosures, the GAD has assumed that tax is paid on the lump sum at a rate of 45 per cent, the prevailing tax rate as at 31 March 2018. However, if the President is required to pay tax on the lump sum at a

different rate, the long service award would differ. The value of the long service award payable to the current President is £36,000. The provision of £44,000 is payable to the previous holder of the office of President, at his retirement date. There is a further provision of £1,000 for the long service award and pension contributions of £6,000 payable to one fee-paid Tribunal Chairman and a transactional protection allowance of £3,000 payable to another fee-paid Tribunal Chairman.

## **8. Related party transactions**

The President, Chairmen and Ordinary Members did not undertake any material transactions with the Tribunal during the year. Their salaries are reflected in the Remuneration Report. Due to the nature of their relationship, the Tribunal has had material transactions with the CS.

## **9. Events after the reporting period**

There were no events after the reporting period to report. These financial statements were authorised for issue on 16 July 2018, the date of certification by the Comptroller and Auditor General.

# CS's Audit Report

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

### Opinion on financial statements

I certify that I have audited the financial statements of Competition Service for the year ended 31 March 2018 under the Enterprise Act 2002. The financial statements comprise: the Statements of Comprehensive Net Expenditure, Financial Position, Cash Flows, Changes in Taxpayers' Equity and the related notes, including the significant accounting policies. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Accountability Report that is described in that report as having been audited.

In my opinion:

- the financial statements give a true and fair view of the state of the Competition Service's affairs as at 31 March 2018 and of its net expenditure for the year then ended; and
- the financial statements have been properly prepared in accordance with the Enterprise Act 2002 and Secretary of State directions issued thereunder.

### Opinion on regularity

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

### Basis of opinions

I conducted my audit in accordance with International Standards on Auditing (ISAs) (UK) and Practice Note 10 "Audit of Financial Statements of Public Sector Entities in the United Kingdom". My responsibilities under those standards are further described in the Auditor's responsibilities for the audit of the financial statements section of my certificate. Those standards require me and my staff to comply with the Financial Reporting Council's Revised Ethical Standard 2016. I am independent of the Competition Service in accordance with the ethical requirements that are relevant to my audit and the financial statements in the UK. My staff and I have fulfilled our other ethical responsibilities in accordance with these requirements. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

### Responsibilities of the Board and Accounting Officer for the financial statements

As explained more fully in the Statement of Accounting Officer's Responsibilities, the Board and the Accounting Officer are responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view.

### Auditor's responsibilities for the audit of the financial statements

My responsibility is to audit, certify and report on the financial statements in accordance with the Enterprise Act 2002.

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by

fraud or error. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with ISAs (UK), I exercise professional judgment and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control;
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Competition service's internal control;
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management;
- conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Competition Service's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the entity to cease to continue as a going concern;
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

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

## **Other Information**

The Board and the Accounting Officer are responsible for the other information. The other information comprises information included in the annual report, other than the parts of the Accountability Report described in that report as having been audited, the financial statements and my auditor's report thereon. My opinion on the financial statements does not cover the other information and I do not express any form of assurance conclusion thereon. In connection with my audit of the financial statements, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit or otherwise appears to be materially misstated. If, based on the work I have performed, I conclude that there is a material misstatement of this other information, I am required to report that fact. I have nothing to report in this regard.

## Opinion on other matters

In my opinion:

- the parts of the Accountability Report to be audited have been properly prepared in accordance with Secretary of State directions made under the Enterprise Act 2002;
- in the light of the knowledge and understanding of the entity and its environment obtained in the course of the audit, I have not identified any material misstatements in the Performance Report or the Accountability Report; and
- the information given in Performance Report and Accountability Report for the financial year for which the financial statements are prepared is consistent with the financial statements.

## Matters on which I report by exception

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

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

## Report

I have no observations to make on these financial statements.

### Sir Amyas C E Morse

Comptroller and Auditor General  
16 July 2018

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



## CS's Statement of Comprehensive Net Expenditure for the year ended 31/03/2018

	Note	2017/18 £'000	2016/17 £'000
<b>Expenditure:</b>			
Funding the activities of the Tribunal		(624)	(614)
CS and Audit and Risk Assurance Committee Members' remuneration	3(a)	(9)	(8)
Staff costs	4(a)	(1,064)	(971)
Other expenditure	6	(2,219)	(2,109)
Depreciation	6	(239)	(190)
Total expenditure		(4,155)	(3,892)
<b>Income:</b>			
Other income	7	5	6
Net expenditure		(4,150)	(3,886)
<b>Net expenditure after interest</b>		<b>(4,150)</b>	<b>(3,886)</b>
<b>Net expenditure after taxation</b>		<b>(4,150)</b>	<b>(3,886)</b>

All activities were continuing during the year. The notes on pages 74 to 85 form part of these accounts.

# CS's Statement of Financial Position as at 31/03/2018

	Note	2017/18 £'000	2016/17 £'000
<b>Non current assets:</b>			
Property, plant and equipment	8	249	270
Intangible assets	9	93	190
<b>Total non current assets</b>		<b>342</b>	<b>460</b>
Current assets:			
Trade receivables and other receivables	10	152	60
Cash and cash equivalents	11	847	522
<b>Total current assets</b>		<b>999</b>	<b>582</b>
<b>Total assets</b>		<b>1,341</b>	<b>1,042</b>
<b>Current liabilities:</b>			
Trade payables and other payables	12(a)	(399)	(345)
Total current liabilities		(399)	(345)
Total assets less current liabilities		942	697
<b>Non current liabilities:</b>			
Financial liabilities	12(a)	(1,323)	(1,442)
Provisions	13	(90)	(72)
<b>Total non current liabilities</b>		<b>(1,413)</b>	<b>(1,514)</b>
Assets less liabilities		(471)	(817)
<b>Taxpayers' equity:</b>			
General fund		(471)	(817)
<b>Total taxpayers' equity</b>		<b>(471)</b>	<b>(817)</b>

The statement of financial position shows a negative balance on the general fund because of timing differences between consumption and payment. The CS draws grant-in-aid to cover its cash requirements. The notes on pages 74 to 85 form part of these accounts.

**Charles Dhanowa OBE, QC (Hon)**

Registrar and Accounting Officer

11 July 2018

## CS's Statement of Cash Flows for the year ended 31/03/2018

	Note	2017/18 £'000	2016/17 £'000
<b>Cash flows from operating activities:</b>			
<b>Net deficit before interest</b>		<b>(4,150)</b>	<b>(3,886)</b>
Adjustments for non-cash transactions	6	239	190
(Increase) in receivables		(92)	(5)
(Decrease) in payables		(65)	(67)
Increase in provisions	13	18	9
<b>Net cash (outflow) from operating activities</b>		<b>(4,050)</b>	<b>(3,759)</b>
<b>Cash flows from investing activities:</b>			
Property, plant and equipment purchases	8	(62)	(225)
Intangible asset purchases	9	(59)	(8)
<b>Net cash used in investing activities</b>		<b>(121)</b>	<b>(233)</b>
Cash flows from financing activities:			
Grant-in-aid from BEIS	2	4,496	3,774
<b>Net Increase (Decrease) in cash and cash equivalents in the period</b>	<b>11</b>	<b>325</b>	<b>(218)</b>
Cash and cash equivalents at the beginning of the period	11	522	740
<b>Cash and cash equivalents at the end of the period</b>	<b>11</b>	<b>847</b>	<b>522</b>

The figure for purchase of assets represents the cash paid in the year. The payables amount is net of non-operating expenses relating to corporation tax accrued at 31 March 2018. The notes on pages 74 to 85 form part of these accounts.

## CS's Statement of Changes in Taxpayers' Equity for the year ended 31/03/2018

	<b>General Fund £'000</b>
<b>Balance at 31 March 2016</b>	<b>(705)</b>
Net operating cost for 2016/17	(3,886)
<b>Net financing from BEIS for 2016/17</b>	<b>3,774</b>
Balance at 31 March 2017	(817)
<b>Net operating cost for 2017/18</b>	<b>(4,150)</b>
Net financing from BEIS for 2017/18	4,496
<b>Balance at 31 March 2018</b>	<b>(471)</b>

# CS's notes to the accounts

## 1. Statement of accounting policies

These financial statements have been prepared in accordance with the FReM. The accounting policies contained in the FReM apply IFRSs as adapted or interpreted for the public sector.

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

### **(a) Going concern**

On the basis that approval for the amounts required in respect of the year to 31 March 2019 was received in Spring 2018, a going concern basis has been adopted for the preparation of these financial statements.

### **(b) Accounting convention**

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

### **(c) Basis of preparation of accounts**

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

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

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

### **(d) Grant-in-aid**

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

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

### **(e) Non current assets**

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

**(f) Depreciation**

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

(i) Useful lives of property, plant and equipment assets:

Laptops and printers	3 years
Servers and audio visual equipment	5 years
Office equipment	5 years
Furniture	7 years

(ii) Useful lives of intangible non current assets:

Software licences	1 to 3 years
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**(g) Taxation**

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

**(h) Pension costs**

Present and past employees are covered under the provisions of the PCSPS or alpha scheme. The CS pays recognised employer pension contributions for all its employees, for the entire duration of their employment. Liability for payment of future benefits is a charge on the PCSPS and alpha scheme.

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

**(i) Income**

The CS's main source of income is from its website and library service (see note 7). The income is recognised when the service is provided.

**(j) Operating leases**

Rentals payable under operating leases are charged to the income and expenditure account on a straight line basis over the 20 year term of the Memorandum of Terms of Occupation (MOTO) in respect of the Tribunal/CS's accommodation in Victoria House.

### **(k) Financial instruments**

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

#### **(i) Financial assets**

The CS holds financial assets which comprise cash at bank and in hand and receivables, classified as loans and receivables. These are non-derivative financial assets with fixed or determinable payments that are not traded in an active market. Since these balances are expected to be realised within 12 months of the reporting date, there is no material difference between fair value, amortised cost and historical cost.

#### **(ii) Financial liabilities**

The CS has financial liabilities which comprise payables and non-current payables. The current payables are expected to be settled within 12 months of the reporting date. There is no material difference between fair value, amortised cost and historical cost for both current and non-current payables.

### **(l) Changes to IFRSs**

Changes to IFRS9 (Financial Instruments) and IFRS15 (Revenue from Contracts with Customers) became effective for accounting periods beginning on or after 1 January 2018. Changes to IFRS 16 (Leases) will become effective for accounting periods on or after 1 January 2019. We do not expect these to have a significant impact on the CS's financial statements.

### **(m) Reserves**

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

### **(n) Provisions**

The CS makes provision for legal or constructive obligations, which are of uncertain timing or amount at the balance sheet date, on the basis of the best estimate of the expenditure required to settle the obligation. There is no discount applied to the provision. Specific assumptions are given in note 13.

### **(o) Policy for accounting judgements and for key sources of estimation uncertainty**

The key areas of estimation uncertainty are on accruals on which there are no accounting judgements as these are based purely on goods and services received but not invoiced in the accounting year reported. The operating base liability obligation is based on the assumption that the Tribunal/CS will remain in Victoria House until the end of the lease. The long service award provision is estimated on the basis that tax is paid on the retirement lump sum at a rate of 45 per cent.

## **2. Government grant-in-aid**

	<b>2017/18 £'000</b>	<b>2016/17 £'000</b>
Allocated by BEIS	4,471	4,597
Invest to Save Allocated	148	–
Total Allocated	4,619	4,597
<b>Total drawn down</b>	<b>4,496</b>	<b>3,774</b>



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

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

	2017/18 £'000	2016/17 £'000
CS and Audit and Risk Assurance Committee Members' remuneration	9	8
Social security costs	–	–
<b>Total CS and audit and Risk Assurance Committee Members' remuneration</b>	<b>9</b>	<b>8</b>

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

(c) The remuneration of Susan Scholefield, the CS Non-Executive Member and Chair of the CS Audit and Risk Assurance Committee and CS Board, of £4,200 (2016/17: £4,025), and Peter Freeman, CS Member, of £1,825 (2016/17: £0) are mentioned in note 3(a) above.

The posts are remunerated at a rate of £350 per day, unchanged since 2003, and are non-pensionable.

### 4. Staff related costs and numbers

(a) Information on staff related costs is shown in the table below.

	Total (£'000)	Permanently employed staff (£'000)	Total (£'000)	Permanently employed staff (£'000)
	2017/18	2017/18	2016/17	2016/17
Wages and salaries	807	807	737	737
Social security costs	88	88	79	79
Other pension costs	169	169	155	155
<b>Total employee costs</b>	<b>1,064</b>	<b>1,064</b>	<b>971</b>	<b>971</b>

### 5. Pension costs

The PCSPS and alpha scheme are unfunded multi-employer defined benefit schemes and the CS is therefore unable to identify its share of the underlying assets and liabilities. Further information can be found on the resource accounts of the Cabinet Office Civil Service Pensions website, [www.civilservicepensionscheme.org.uk](http://www.civilservicepensionscheme.org.uk).

For 2017/18, employer contributions of £166,340 (2016/17: £151,353) were payable to the PCSPS and alpha scheme at one of the four rates available in the range of 20 to 24.5 per cent (2016/17: 20 to 24.5 per cent) of pensionable pay, based on salary bands. The schemes' actuary reviews employer contributions every four years following a full scheme valuation. The contribution rates reflect benefits as they are accrued, not when the costs are actually incurred, and reflect past experience of the schemes.

Employees can opt to open a partnership pension account, which is a stakeholder pension with an employer contribution. Employers' contributions of £2,640 (2016/17: £2,604) were paid to Standard Life, one of the PCSPS appointed stakeholder pension providers. Employer contributions are age-related and ranged from 3.0

to 12.5 per cent of pensionable pay until 30 September 2015 and from 8.0 to 14.75 per cent of pensionable pay from 1 October 2015. Employers match employee contributions up to 3 per cent of pensionable pay. In addition, employer contributions of £132 of pensionable pay (2016/17: £122), were payable to the PCSPS to cover the cost of the future provision of lump sum benefits on death in service and ill health retirement of these employees (these contributions are calculated at 0.8 per cent until 30 September 2015 and 0.5 per cent from 1 October 2015).

## 6. Other expenditure

	<b>2017/18</b> <b>£'000</b>	<b>2016/17</b> <b>£'000</b>
Hire of plant and machinery	4	4
Other operating leases*	940	940
Non case related expenditure including internal audit fees	11	10
IT service fees	133	51
Accommodation and utilities**	815	792
Travel, subsistence and hospitality	14	14
Other administration including case related expenditure	284	280
Audit fees***	18	18
<b>Non cash item</b>		
Depreciation and loss on disposed of property, plant and equipment	239	190
<b>Total other expenditure</b>	<b>2,458</b>	<b>2,299</b>

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

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

\*\*\* Audit fees relate to statutory audit work.

## 7. Tribunal/CS's income and interest received

	2017/18 £'000	2016/17 £'000
Website and library service income	5	6
Gross interest received	–	–
<b>Total income</b>	<b>5</b>	<b>6</b>

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

## 8. Property, plant and equipment

	Information Technology (IT) £'000	Furniture and Fittings (F&F) £'000	Office Machinery £'000	TOTAL £'000
<b>Cost or valuation:</b>				
At 31 March 2017	474	327	42	843
Additions	52	2	8	62
Disposals	(138)	(2)	–	(140)
<b>At 31 March 2018</b>	<b>388*</b>	<b>327*</b>	<b>50</b>	<b>765</b>
<b>Depreciation:</b>				
At 31 March 2017	223	319	31	573
Charged in year	72	4	7	83
Disposals	(138)	(2)	–	(140)
<b>At 31 March 2018</b>	<b>157</b>	<b>321</b>	<b>38</b>	<b>516</b>
Net book value at 31 March 2017	251	8	11	270
<b>Asset financing:</b>				
Owned	251	8	11	270
Net book value at 31 March 2018	<b>231</b>	<b>6</b>	<b>12</b>	<b>249</b>
<b>Asset financing:</b>				
Owned	<b>231</b>	<b>6</b>	<b>12</b>	<b>249</b>

\* Included in the cost of fixed assets, shown in the table above, are IT assets with a value of £43,524 and F&F assets with a value of £302,877 which have been fully written down but are still in use.

	Information Technology (IT) £'000	Furniture and Fittings (F&F) £'000	Office Machinery £'000	TOTAL £'000
<b>Cost or valuation:</b>				
At 31 March 2016	263*	326*	41	630
Additions	220	1	4	225
Disposals	(9)	–	(3)	(12)
<b>At 31 March 2017</b>	<b>474*</b>	<b>327 *</b>	<b>42</b>	<b>843</b>
<b>Depreciation:</b>				
At 31 March 2016	204	315	28	547
Charged in year	28	4	6	38
Disposals	(9)	–	(3)	(12)
<b>At 31 March 2017</b>	<b>223</b>	<b>319</b>	<b>31</b>	<b>573</b>
Net book value at 31 March 2016	59	11	13	83
<b>Asset financing:</b>				
Owned	59	11	13	83
Net book value at 31 March 2017	<b>251</b>	<b>8</b>	<b>11</b>	<b>270</b>
<b>Asset financing:</b>				
Owned	<b>251</b>	<b>8</b>	<b>11</b>	<b>270</b>

\* Included in the cost of fixed assets, shown in the table above, are IT assets with a value of £174,036 and F&F assets with a value of £180,784 which have been fully written down but are still in use.

## 9. Intangible assets

	Purchased software licences £'000	SharePoint £'000	TOTAL £'000
<b>Cost or valuation:</b>			
At 31 March 2017	569	132	701
Additions	34	25	59
<b>At 31 March 2018</b>	<b>603</b>	<b>157</b>	<b>760</b>
<b>Amortisation:</b>			
At 31 March 2017	438	73	511
Charged in the year	112	44	156
<b>At 31 March 2018</b>	<b>550</b>	<b>117</b>	<b>667</b>
Net book value at 31 March 2017	131	59	190
<b>Net book value at 31 March 2018</b>	<b>53</b>	<b>40</b>	<b>93</b>

	Purchased software licences £'000	SharePoint £'000	TOTAL £'000
<b>Cost or valuation:</b>			
At 31 March 2016	567	126	693
Additions	2	6	8
<b>At 31 March 2017</b>	<b>569</b>	<b>132</b>	<b>701</b>
<b>Amortisation:</b>			
At 31 March 2016	329	30	359
Charged in the year	109	43	152
<b>At 31 March 2017</b>	<b>438</b>	<b>73</b>	<b>511</b>
Net book value at 31 March 2016	238	96	334
<b>Net book value at 31 March 2017</b>	<b>131</b>	<b>59</b>	<b>190</b>

## 10. Trade and other receivables

### (a) Analysis by type

	31 March 2018 £'000	31 March 2017 £'000
<b>Amounts falling due within one year:</b>		
Deposits and advances	7	10
Prepayments and accrued income	145	50
<b>Total trade receivables and other receivables</b>	<b>152</b>	<b>60</b>

There were no balances falling due after one year.

## 11. Cash and cash equivalents

	2017/18 £'000	2016/17 £'000
Balance at 1 April	522	740
Net change in cash balances	325	(218)
<b>Balance at 31 March</b>	<b>847</b>	<b>522</b>
The following balances were held at 31 March:		
Cash in banks	847	522
<b>Balance at 31 March</b>	<b>847</b>	<b>522</b>

## 12. Trade payables and other current/non-current liabilities

### (a) Analysis by type

	31 March 2018 £'000	31 March 2017 £'000
<b>Amounts falling due within one year:</b>		
Payables representing activities of the Tribunal at 31 March	98	162
Taxation and social security	24	20
Trade Payables	115	–
Accruals	102	104
Untaken leave accrual	37	36
Deferred income rent free	23	23
<b>Total amounts falling due within one year</b>	<b>399</b>	<b>345</b>
<b>Amounts falling due after more than one year:</b>		
Deferred income rent free	102	125
Operating lease liability	1,221	1,317
<b>Total amounts falling due after more than one year</b>	<b>1,323</b>	<b>1,442</b>

### (b) Deferred income and operating lease liability

The deferred income in note 12(a) represents the value of the rent-free period for Victoria House.

In accordance with the principles of International Accounting Standard (IAS) 17 (Leases) and the supplementary guidance specified by the Standing Interpretation Committee (SIC) in SIC 15 (Operating leases incentives), the CS has spread the value of the initial five month rent-free period for Victoria House over the expected full 20 year length of the MOTO agreement.

The operating lease liability in note 12(a) represents obligations under operating leases which include an increase of 2.5 per cent compounded over every five years and equating to 13 per cent applied from September 2008 for land and buildings. The full cost of the operating lease has been spread on a straight line basis over the 20 year term of the MOTO arrangement. From 1 April 2014, VAT is no longer payable on the operating lease liability obligations.

Following the CMA's decision to exercise the break clause in their lease in September 2019, the CS has engaged in discussions with BEIS, Cabinet Office and the Government Property Agency to analyse future options for their accommodation in Victoria House.

The information disclosed in the table above is based on the assumption that the Tribunal/CS will remain in Victoria House.

## 13. Provisions for liabilities and charges

	<b>Long service award costs £'000</b>
<b>Balance at 31 March 2017</b>	<b>72</b>
Provided in the year	18
<b>Balance at 31 March 2018</b>	<b>90</b>

The provision made in the year relates to the Tribunal's expected cost of the President's long service award which becomes payable on retirement. The CS will provide the finances to settle the Tribunal's liability. The liability has been calculated by the GAD and is based on the President's judicial grade and length of service. The level of the long service award is dependent on the tax paid by the President on his retirement lump sum. For this year's disclosures, the GAD have assumed that tax is paid on his lump sum at a rate of 45 per cent, the prevailing tax rate as at 31 March 2018. However, if the President is required to pay tax on the lump sum at a different rate, the long service award would differ.

The value of the long service award payable to the current President is £36,000. The provision of £44,000 is payable to the previous holder of the office of President, at his retirement date. There is a further provision of £1,000 for the long service award and pension contributions of £6,000 payable to one fee-paid Tribunal Chairman and a transactional protection allowance of £3,000 payable to another fee-paid Tribunal Chairman.

## 14. Commitments under operating leases

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

	<b>31 March 2018 £'000</b>	<b>31 March 2017 £'000</b>
<b>Obligations under operating leases comprise:</b>		
<b>Buildings:</b>		
Not later than one year	1,129	1,059
Later than one year and not later than five years	4,793	4,723
Later than five years	591	1,789
Other:		
Not later than one year	3	4
Later than one year and not later than five years	2	2
<b>Total obligations under operating leases</b>	<b>6,518</b>	<b>7,577</b>

The obligations under operating leases include an increase of 2.5 per cent compounded over every five years and equating to the final 13 per cent applied from September 2018 for land and building.

Following the CMA's decision to exercise the break clause in their lease in September 2019, the CS has engaged in discussions with BEIS, Cabinet Office and the Government Property Agency to analyse future options for their accommodation in Victoria House.



## 15. Financial instruments

IAS 32 (Financial Instruments Presentation) requires disclosure of the role that financial instruments have had during the period in creating or changing the risks that an entity faces in undertaking its activities. The CS has limited exposure to risk in relation to its activities.

The CS has no borrowings, relies on grant-in-aid from BEIS for its cash requirements and is therefore not exposed to liquidity, credit and market risks. The CS has no material deposits other than cash balances held in current accounts at a non-commercial bank. As all material assets and liabilities are denominated in sterling, the CS is not exposed to interest rate risk or currency risk. There was no difference between the book values and fair values of the CS's financial assets. Cash at bank was £847,000 as at 31 March 2018.

## 16. Related party transactions

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

The CS received grant-in-aid from its sponsor department, BEIS, with whom it also had various other material transactions. In addition, the CS had material transactions with the MoJ and the Cabinet Office to which accruing superannuation liability charges and employee contributions were paid for the President and permanent staff respectively. Salary and national insurance for the President were also paid to the MoJ.

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

## 17. Contingent Liability

The CMA has made a decision to invoke the break clause in its lease and depart from Victoria House by September 2019. Dilapidation costs have been assessed and include a portion allocated to the Tribunal/CS for refitting its court space. It is unclear, at this stage, whether the Tribunal/CS would have to pay its portion of dilapidation costs if it was to remain in Victoria House. This would be subject to negotiation with the landlord.

## 18. Events after the reporting period

There were no events to report after the reporting period. These financial statements were authorised for issue on 16 July 2018, the date of certification by the Comptroller and Auditor General.





