



# COMPETITION APPEAL TRIBUNAL



Annual Report and Accounts

2018/2019



# Annual Report and Accounts

## 2018/2019

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# Introduction

## Introduction

The Enterprise Act 2002 (2002 Act) established the Competition Appeal Tribunal (Tribunal) and the Competition Service (CS). Although created as separate entities 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 provides 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 Regulations; (6) the Civil Aviation Authority; (7) NHS Improvement; (8) the Payment Systems Regulator; and (9) the Financial Conduct Authority.

# Introduction

## Membership of the Tribunal

As at 31 March 2019, the Tribunal's membership comprised:

### 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. Mr Justice Nugee  
The Hon. Mr Justice Barling  
The Hon. Lord Doherty  
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  
The Hon. Mrs Justice Falk  
Heriot Currie QC  
Peter Freeman CBE, QC (Hon)  
Andrew Lenon QC  
Hodge Malek QC

### Ordinary Members

William Allan  
Caroline Anderson  
Peter Anderson  
Professor John Beath OBE  
Dr Catherine Bell CB  
Dr William Bishop  
Jane Burgess  
Professor John Cubbin  
Michael Cutting  
Margot Daly  
Paul Dollman  
Eamonn Doran  
Dr Clive Elphick  
Tim Frazer  
Dermot Glynn  
Simon Holmes  
Paul Lomas  
Professor Robin Mason  
Sir Iain McMillan CBE, DL  
Professor Anthony Neuberger

Derek Ridyard  
Timothy Sawyer CBE  
Professor David Ulph CBE, FRSE  
Anna Walker CB  
Professor Michael Waterson  
Professor Pauline Weetman  
Professor Stephen Wilks

### 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 following an open competition. In addition, the Heads of the Judiciary in each of the three jurisdictions comprising the UK may nominate senior Judges to be Chairmen of the Tribunal 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.

# Introduction

## 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

## President's Statement

There has been a significant increase in the number of cases lodged in the past 12 months over previous years. As anticipated, a number of these cases were transferred from the High Court to the Tribunal. I expect this trend to continue. The Tribunal also delivered a number of important judgments over the past year.

### Cases

The Tribunal has seen 44 new cases registered during the period covered by this report. These comprise: 34 private damages actions; one appeal of an infringement decision under section 46 of the 1998 Act; four collective proceedings under section 47B of the 1998 Act; one appeal against a penalty under section 114 of the 2002 Act; one application for a review under section 120 of the 2002 Act; one application for a review under section 179 of the 2002 Act; and two appeals under section 192 of the 2003 Act.

The Tribunal has handed down 20 judgments over the course of the review period, including seven substantive judgments. I would particularly like to highlight five judgments which serve to illustrate the diversity of the Tribunal's casework. The first two illustrate important issues of substantive competition law that arise in proceedings before the Tribunal.

#### **Flynn and Pfizer v CMA [2018] CAT 11 (June 2018)**

This was a substantive judgment on two appeals of a CMA infringement decision under the 1998 Act imposing fines exceeding £89 million. The appeals concerned the difficult area of excessive pricing. The Tribunal upheld the CMA's findings on market definition and dominance but set aside the part of the decision relating to abuse. The decision was remitted to the CMA for its reconsideration of that matter. Appeals on different aspects of the judgment have been lodged in the Court of Appeal and they are due to be heard in November (outside the period covered by this report).

#### **Ping v CMA [2018] CAT 13 (July 2018)**

This was an appeal against a CMA decision finding that Ping had infringed the prohibition in Chapter I of the 1998 Act and Article 101 TFEU by entering into agreements with two UK retailers containing clauses prohibiting them from selling Ping golf clubs online. The Tribunal upheld the CMA's finding that a ban on internet selling within the agreements constituted a restriction "by object" and dismissed Ping's arguments that the CMA had erred in findings that: the ban on internet selling was disproportionate; was not objectively justified; did not constitute an ancillary restraint; and did not benefit from an individual exemption. With regard to the penalty, the Tribunal concluded that the CMA had erred on the facts of this case in treating director involvement as an aggravating factor and reduced the penalty by £200,000 to £1,250,000. Ping has appealed the Tribunal's judgment to the Court of Appeal.

#### **Viasat v Ofcom [2018] CAT 18 (December 2018)**

This is an example of the specialist technical areas with which the Tribunal often has to deal in proceedings before it. The case concerned an appeal by Viasat against the authorisation given by OFCOM to Inmarsat which intervened in the appeal. By its decision, OFCOM had authorised the use of the 2 GHz spectrum by ground stations in connection with the operation of a satellite mobile communications network, pursuant to the Wireless Telegraphy Act 2006. The Tribunal upheld the decision and dismissed the appellant's principal arguments.

#### **J Sainsbury plc and Asda Group Limited v CMA [2019] CAT 1 (January 2019)**

This judgment shows how quickly proceedings in respect of the merger control regime can be expedited by the Tribunal. This was a joint application by parties to a very substantial proposed merger under investigation by the CMA to quash two procedural decisions of the CMA relating to the time by which the Applicants had to respond to various working papers and the time of the Applicants' so-called "main party hearing". The application was lodged on 12 December 2018. The case was heard a few days later, on 14 December 2018, and at the conclusion of the argument the Tribunal announced its decision of quashing both decisions of the CMA with reasons to follow. Those reasons were set out in the judgment of 18 January 2019.

# President's Statement

## **Electro Rent v CMA [2019] CAT 4 (February 2019)**

This is noteworthy in that it was the first appeal pursuant to section 114 of the 2002 Act against a decision of the CMA imposing a penalty for failure to comply with an interim order made by the CMA during a merger investigation. The CMA had fined Electro Rent £100,000 under this provision. The Tribunal upheld the decision and dismissed Electro Rent's arguments that it had a reasonable excuse for the breach of the interim order and that the penalty was excessive.

Among the cases pending before the Tribunal at the end of the year under review, there are several very large damages claims following on from the Trucks Cartel decision of the EU Commission. Very many similar claims are being brought by purchasers of trucks before courts in various EU member states and we are likely to see more claims being brought in the UK. Effective and consistent control of these cases will require continuing and intensive case management and they have already resulted in a number of judgments addressing various aspects of procedure.

## **Chairmen**

I should like to welcome Mrs Justice Falk who, upon her appointment as a judge of the Chancery Division of the High Court, has been appointed by the Lord Chancellor to the Tribunal's panel of Chairmen during the year under review. Mrs Justice Falk is chairing the ongoing Virgin Media appeal.

The assistance that the Tribunal receives from the Chancellor of the High Court and the Judges of the Chancery Division is greatly appreciated. During the year under review, Mr Justice Mann chaired the Viasat appeal, Mr Justice Hildyard and subsequently Mr Justice Fancourt (sitting with Hodge Malek QC and myself) were on the Tribunal for the Trucks Litigation and Mr Justice Birss was the Chairman in Unlockd. We were also greatly assisted by Mr Justice Morris, from the Queen's Bench Division, who chaired the B&M appeal and dealt with a number of issues including forum, interim relief and permission to intervene before the appeal was ultimately withdrawn.

In respect of the fee-paid members of the panel of Chairmen, Heriot Currie QC was the Chairman in the Electro Rent appeal and Andrew Lenon QC was the chair in the Ping and Henry appeals and the Achilles private action. Peter Freeman QC (Hon) is currently hearing Royal Mail plc v OFCOM and Hodge Malek QC, along with sitting with me on the Trucks litigation, is hearing Personnel Hygiene Services v CMA. I would like to thank them all for their valuable and much appreciated assistance.

## **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 participation of the Ordinary Members, bringing diverse skills and experience, is a distinct feature of the Tribunal and undoubtedly one of its strengths. 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.

An Ordinary Member serves a term of eight years. The term of 11 of our Ordinary Members expired on 3 January 2019 and five of those members (Clare Potter, Professor Gavin Reid, Professor Colin Mayer CBE, Brian Landers OBE and Dr Joanne Stuart OBE) consequently retired during the period covered by this review. I am very grateful to all of them for the enormous contribution that they have made to the Tribunal. The remaining six members have been re-appointed to continue to sit on cases that commenced before the expiry of their original appointment. They will then retire upon the conclusion of those proceedings. Currently, therefore, there are 27 members on the panel of Ordinary Members. In time, that will reduce to the 21 members who were appointed in the 2016/17 recruitment exercise and who have, nearly all now, had an opportunity to hear cases.



# President's Statement

## 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 and I have made a particular effort to promote the Tribunal overseas at a time of uncertainty surrounding the UK's future international role.

In April 2018, I gave a presentation to the Danish Competition Law Association on competition cases in the UK courts focussing on issues such as confidentiality, expert evidence, the EU damages directive and other case management issues such as disclosure.

In November 2018, I spoke alongside judges from the US, South Africa and the CJEU on a judicial panel at the Hong Kong Competition Exchange, an international conference organised by the Hong Kong Competition Commission. Later that month, I was a speaker in Paris at the colloquium on private actions in competition law held by the Tribunal de Commerce.

In March 2019, I spoke on a panel at the "Dispute Resolution of Consumer Mass Disputes Collective Redress Class Action and ADR" conference in Haifa, Israel. The topic of the panel was "The role of the judge in class actions" and the panel included a US federal judge, a judge from the Amsterdam Court of Appeal and the former Chief Justice of the Israeli Supreme Court. Also in March, I attended the 19th International Competition Conference in Berlin at the invitation of the German Federal Competition Authority. Domestically, I delivered the Blackstone Lecture at Oxford University, entitled "The Continual Evolution of Competition Law". An edited version of the lecture was published in the March 2019 edition of the Journal of Antitrust Enforcement and it is also available on the Tribunal's website.

Among the activities undertaken by my colleagues at the Tribunal, in May 2018, Peter Freeman was a panel speaker on a session entitled "Is Competition Law Fit for the 21st Century?" at Informa's 27th Annual Advanced EU Competition Law in London. He also took part in a roundtable discussion on "The Consolidation Role of Competition Policy, Merger Control, Public Interest Tests" at the Jevons Institute 2018 Colloquium in Rome.

In September 2018, he chaired a session on "Judging the evidence in exclusionary abuse of dominance cases" at the RPI Annual Conference in Oxford. In addition, he chaired a session on excessive pricing at the Conference on Competition Law and Economics hosted by the Portuguese Competition Authority, in October 2018; attended as a contributor at the Festschrift launch for Professor Dr Carl Baudenbacher in Luxembourg and spoke on a panel at a Judges' Roundtable at the Advanced EU competition law conference in Brussels, in November 2018; chaired a panel on "Exploitative Abuses and Excessive Pricing" at the CRA Annual Conference in Brussels in December 2018; and was the keynote speaker at the Concurrences Innovation Economics Conference in London, in March 2019. The keynote address is available on the Tribunal's website.

In March 2019, Simon Holmes was a panel member at the Annual Conference of the leading French journal "Concurrences" at the Paris Court of Appeal. The topic of the conference was "Actions en réparation des pratiques anticoncurrentielles" (competition damages actions) and the focus of his involvement was on procedure before the Tribunal in private actions for damages.

The Tribunal held three training seminars in the year, one in June and two in October. One of the seminars was for new Ordinary Members and the other two were part of the annual training programme for all Ordinary Members and Chairmen. At the second of the October seminars, Professor Richard Whish gave a presentation on Recent Development in EU Competition Law which was greatly appreciated. I am grateful to Dr Adam Scott OBE for all his work in organising this training programme. Adam has now been joined by former Ordinary Member Clare Potter who will chair a committee of members to plan and implement further training events. I would like to thank them both and the other members of the training committee for the time and energy they have committed to this work which is important in keeping the Tribunal at the forefront of competition law and related areas.

# President's Statement

## 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 and the Registrar of the Tribunal is the Secretary), 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 the AECLJ's annual meeting with the EU Commission in Brussels and at its annual conference held in June 2018 in Paris. The Association has been clear that UK judges can continue to play a full part following Brexit, but it is less clear that we can continue to participate in the annual meeting between judges and the Commission once we are no longer a member state of the EU.

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 2019

## 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 April 2018, we welcomed officials from Uganda and Cambodia; and in October 2018, we welcomed a judge from the District Court in Warsaw (Division of Commercial Law and Appeals).

## Concluding remarks

This statement provides me once again 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.

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.

# Performance Report

## Performance Report

### Overview

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

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

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

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

#### Cases

During the year, the Tribunal issued 20 judgments and rulings. Details of the Tribunal's judicial work during the year can be found in the Cases section of this report; in addition, the President's Statement mentions some of the noteworthy points that emerged from proceedings before the Tribunal. As at 31 March 2019, seven judgments were pending and 13 cases were carried forward to the next year (eight, 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 on various policy issues relating to the competition and regulatory framework, some of which concerned preparation for Brexit; working in detail on legislative changes that relate to the work of the Tribunal; running a training programme for Tribunal members and other members of the judiciary who deal with competition law issues; and liaising with stakeholders in the Tribunal's work through the Tribunal's User Group or other fora. Details of the most significant developments in respect of these activities can be found in the President's statement.

### Personnel

As noted last year, 11 members of the panel of Ordinary Members were due to retire in January of this year. Five of those members have done so and, as at 31 March 2019, the remaining six hold office under a temporary re-appointment for the purpose of finishing cases on which they were sitting before the expiry of their original appointment. After those temporary re-appointments have come to an end, the panel of Ordinary Members will consist of the 21 Members who were recruited during 2016/17 and who hold office for eight years.

As in the previous year, the staff team 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 (0.8 per cent of working days) was below the average for both the private and public sectors.

### Information Technology

As noted last year, the Tribunal/CS undertook a complete re-structuring of its IT systems, covering device and service security, network connection, business software (mainly SharePoint and MS Office) and access to the Tribunal/CS Finance system (SunSystems). The new infrastructure went live on 2 April 2019 and has performed as expected. At the same time, the Tribunal/CS moved to a new IT service provider which has achieved a £28,000 cost saving in this area.

### Financial

In financial year 2018/19, the grant-in-aid received from BEIS was £3,867,000 (2017/18: £4,496,000). Running costs of the Tribunal/CS for 2018/19 were £4,192,000 (2017/18: £4,155,000); accommodation costs (mainly rent, service charge and business rates) comprised £1,845,000 or 44 per cent of the total.

The programme and administration funding allocation from BEIS for 2018/19 was £4,496,000 including £4,416,000 for resource expenditure (net of any income from other sources) and £80,000 for capital expenditure.

Actual resource expenditure for the year was £4,192,000 and actual capital expenditure was £42,000. The Tribunal's actual expenditure was £672,000 (2017/18: £624,000). The CS's actual expenditure increased to £4,192,000, (2017/18: £4,155,000).

# Performance Report

The main changes in the CS's costs are set out in Table 1. Full details are set out in the Statement of Comprehensive Net Expenditure on page 76.

<b>Increase/(decrease) in costs</b>	<b>2018/19 £'000</b>
Costs of the Tribunal (increase in case work load)	48
Members remuneration (additional Board and Audit Committee membership and senior management team meetings)	5
Staff costs (redundancy and untaken leave accrual)	51
Other expenditure (increase in running costs)	39
<b>Total increase in cash costs</b>	<b>143</b>
Depreciation and loss on disposals (decrease)	(106)
<b>Total increase in operating costs</b>	<b>37</b>

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 results 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 2019 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.

Capital expenditure during the year amounted to £42,000 and was mainly related to the purchase of monitors, software licence and furniture.

The book value of the CS's non-current assets decreased from £342,000 to £251,000, primarily due to depreciation and disposals of obsolete and damaged assets made in the year.

The total assets of the CS decreased to £836,000 from £1,341,000. Closing cash balances were £465,000 (2017/18: £847,000).

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

Pension arrangements and liabilities for the President and the Registrar are mentioned separately in the Remuneration Report. Tribunal Chairmen appointments are pensionable; Ordinary Member appointments are non-pensionable. Note 5 (page 83) in the CS's accounts provides information on the pension provisions relating to CS staff.

As required by statute, separate accounts have been prepared for the Tribunal and the CS in accordance with the Accounts Directions issued by the Secretary of State for 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 provide disclosures and notes to the accounts in compliance with the accounting principles and disclosure requirements issued by HM Treasury and included in the Government Financial Reporting Manual (FReM) in force for financial year 2018/19.

The CS's general fund (which represents the total assets of the CS less its liabilities, but not any other reserves and financing items) has changed from £471,000 to £790,000.

The future financing of the Tribunal/CS's liabilities is to be met by future grants of supply and the application of future income, both approved annually by Parliament. Approval for the amounts required in respect of the year to 31 March 2020 was given in May 2019. It has accordingly been considered appropriate to adopt a going concern basis for the preparation of the Tribunal/CS financial statements, in accordance with the FReM issued by HM Treasury.

For financial year 2019/20, the grant-in-aid from BEIS includes funding for £4,285,000. The budget is split between £4,225,000, in respect of resource expenditure, and £60,000, in respect of capital expenditure. Nearly 78 per cent of the Resource Departmental Expenditure Limit (RDEL) is constituted by fixed costs. Costs for specialised courtrooms and associated facilities constitute 36 per cent of the RDEL.

The CS is continuing to work with BEIS on assessing the Tribunal/CS EU Exit resourcing needs to ensure the Tribunal/CS can perform its functions before and after the UK's exit from the EU. Initial projections indicate that additional funding of approximately 14 per cent of the Tribunal/CS current grant-in-aid may be required over the next two years.

# Performance Report

## Governance

The President, the Registrar and Peter Freeman, one of the Tribunal Chairmen, together with a non-executive member, Susan Scholefield, constitute the “membership” of the CS (the term used by paragraph 1 of Schedule 3 of the 2002 Act). The members of the CS essentially constitute its Board. During 2018/19, the Board met three times.

During 2018/19, the CS Audit and Risk Assurance Committee met three times under the chairmanship of Susan Scholefield. The other members of the Committee are Peter Freeman (a member of the panel of Chairmen), Sir Iain McMillan and Timothy Sawyer (both members of the panel of Ordinary Members). During the year, Brian Landers stepped down from his membership of the Committee upon the expiry of his appointment to the panel of Ordinary Members.

Further information on the activity of the CS Board and Audit and Risk Assurance Committee can be found in the Corporate Governance Statement later in this report.

## Data security

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

## Key issues and risks

Currently, the key issue for the Tribunal/CS relates to accommodation. The Tribunal/CS occupies its premises at Victoria House pursuant to a memorandum of terms of occupation (MOTO) with the CMA which has a lease with the owners of the building. In 2018, the CMA exercised a break clause to terminate the lease with effect from the end of September 2019. As a consequence, the Tribunal/CS's MOTO will terminate at the same time thereby bringing the Tribunal/CS's tenure at Victoria House to an end.

The Tribunal/CS has no control over the demand for the Tribunal's services and this increases the uncertainty in planning and budgeting resources. Fluctuations in workload can be pronounced and arise unexpectedly, being driven by the activities of the competition and economic regulators 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 cases and the extremely large and highly complex cases that absorb a great deal of resources. Often, cases may be extremely urgent, raising issues of fundamental importance for the businesses concerned and the wider economy and require the rapid mobilisation of resources to deal with them.

## 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, the Tribunal/CS's working practices and the nature of its 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. High calibre members and staff with specialist expertise are required, who can deal with the highly technical and detailed nature of the Tribunal's work as rapidly as possible.

The Tribunal/CS needs 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 the Tribunal's efficient operation that large modern courtrooms are maintained that are suitable for the multi-party and document-heavy cases heard by the Tribunal. This means that the specialised court accommodation is by far the Tribunal/CS's largest expense, currently constituting 44 per cent of its financial resources.

In view of the imminent termination of the Tribunal/CS's tenure at Victoria House, suitable alternative accommodation has been identified by the Tribunal/CS and a lease on new premises has been entered into on its behalf by the Government Property Agency (GPA). BEIS is currently engaged in the award of a contract for the fit-out works.

# Performance Report

However, on current timing, it appears likely that the earliest the Tribunal/CS could occupy its new premises would be November of this year. This means there may be an interim period where the Tribunal/CS would either have to remain at Victoria House pursuant to an ad-hoc arrangement with the owners of the building or move to temporary accommodation pending the completion of the fit-out works on the new premises. Currently, both options are being explored.

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

Registrar and Accounting Officer

11 July 2019



# Membership as at 31 March 2019

## President



Sir Peter Roth was called to the Bar in 1977 and was appointed Queen's Counsel (QC) 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

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. Mr Justice Nugee  
The Hon. Mr Justice Barling  
The Hon. Lord Doherty  
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  
The Hon. Mrs Justice Falk

## 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.

# Membership as at 31 March 2019

## Peter Freeman CBE, QC (Hon)



Peter Freeman is a lawyer who has held senior posts in the 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. He is a member of the Lloyds Enforcement Appeal Tribunal, Chair of the Appeals Committee of the Human Fertilisation and Embryology Authority and a non-executive member of the Single Source Regulations Office (SSRO). 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. He is a Governor of Kingswood School, Bath.

## 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, procurement, insurance and reinsurance. 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.

## 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.



# Membership as at 31 March 2019

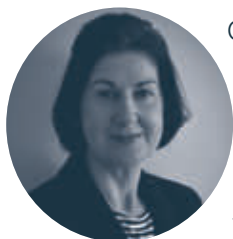
## Ordinary Members

### William Allan



William Allan is a solicitor who was a partner in the law firm Linklaters for 28 years, until April 2010, during which time he specialised in EU and UK competition law. He also taught competition law as an affiliated lecturer in the Faculty of Law at Cambridge University, between 2004 and 2017.

### Caroline Anderson



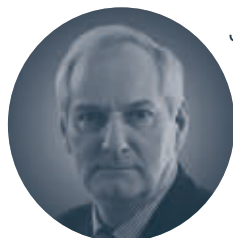
Caroline Anderson is a Chartered Accountant and senior business adviser with over 20 years' experience in regulation of the accounting profession. She has held senior executive roles in the UK, the Republic of Ireland, Australia and New Zealand with a focus on regulation of the professions and financial services. She first became involved in regulatory governance with Chartered Accountants Ireland in 1996 and served as 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. She was recently appointed as Commissioner of Ethical Standards in Public Life in Scotland.

### Peter Anderson



Peter Anderson has been a solicitor in Scotland since 1975 and a solicitor advocate in Scotland since 1994. He was a partner in Simpson & Marwick, Solicitors, Scotland, from 1978 and, after the firm merged with Clyde & Co Solicitors, a partner there, from 2015 to 2018. He is now a partner in Addleshaw Goddard, Edinburgh. He has over 40 years' experience in general insurance litigation, 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 law firm, is a part-time Judge in the Sheriff Court, Scotland, and a non-executive director of a small Lloyds' Insurance, MGA.

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

# Membership as at 31 March 2019

## 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 directorships at the Civil Aviation Authority, United Utilities plc and the Department of Health.

## 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, before her retirement in October 2017. Her current appointments are as a Lay

Member on the House of Commons Committee on Standards and a Commissioner for the Civil Service Commission.

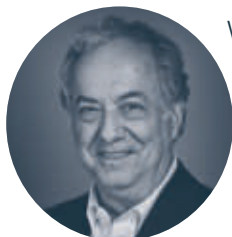
## Professor John Cubbin



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 NERA; 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.

## 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.

# Membership as at 31 March 2019

## Michael Cutting



Michael Cutting was, from 1988 to 2018, a competition lawyer at Linklaters LLP, including terms leading its London and global competition practices. He also served on the Board of Linklaters and co-chaired the Joint Working Party on competition law of the Bar

and Law Society. His experience in private practice included UK and EU merger control, cartels, abuse of dominance and utility regulation. He is a Governor of a primary school in Tottenham and is a member of the Board and management committee of Islington MIND.

## 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.

## 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 and serves on boards in the UK sports and gaming sectors. She is a graduate of University of California, Berkeley, and a master's candidate at King's College, London, with specialisations in competition economics and blockchain technology.

## Eamonn Doran



Eamonn Doran is a former partner and head of the London competition law group at Linklaters LLP. He is a director of the Laurels School Limited, a trustee of Missio (a Catholic mission charity), a member of the Santa Marta Group (involved with

its human trafficking projects in Edo State, Nigeria), a member of the Remuneration Committee of Magdalen College, Oxford, and a magistrate in South London.

## Dr Clive Elphick



Clive Elphick is a former board member of the Environment Agency and an independent director of National Grid Gas plc and of National Grid Electricity Transmission plc. He is also a board advisor for M&I Materials

Ltd. His former roles include being a board member of the Northern Ireland Authority for Utility Regulation, Managing Director at United Utilities Group Plc, Chairman of the CBI for the North West of England and a board member of a Department of State and of a Regional Development Agency. He is a trustee of the Lancashire Wildlife Trust and an Honorary Research Fellow (in mathematics) at the University of Birmingham and a trustee of the National Employment Savings Trust Corporation.

# Membership as at 31 March 2019

## Tim Frazer



Tim Frazer was a partner at Arnold & Porter LLP (now Arnold & Porter Kaye Scholer LLP) from 1999 until 2018, 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 had 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.

## Paul Lomas



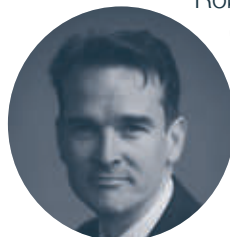
Paul Lomas is a solicitor (with Higher Rights of Audience). Until his recent retirement from the firm, he had been with Freshfields (subsequently Freshfields Bruckhaus Deringer) since 1982 and as a partner from 1990. His experience comprises general litigation, including commercial transactions, mergers 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.

## Dermot Glynn



Dermot Glynn read PPE as an Exhibitioner at Balliol. He then taught economics and business studies and became a research consultant to the Department of Applied Economics at Cambridge and member of the Economics Faculty. He became Economic Director of the CBI, Chief Economist at KPMG and UK Managing Director of NERA before founding Europe Economics in 1988. He remains a senior adviser to the firm.

## Professor Robin Mason



Robin Mason is Pro-Vice-Chancellor (international) at the University of Birmingham. He was previously Pro-Vice-Chancellor and Executive Dean (Business School) at 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. He served for eight years on the Competition Commission and Competition and Markets Authority. He is currently a panel member at the Financial Conduct Authority and the Payment Systems Regulator.

## Simon Holmes



Simon Holmes was with SJ Berwin and then King & Wood Mallesons between 1994 and 2016, firstly as a partner but more latterly as Head of 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 a Visiting Fellow at the Institute of European and Comparative Law and Centre for Competition Law and Policy at Oxford University. He is also a Legal Advisor with the NGO, ClientEarth.



# Membership as at 31 March 2019

## Sir Iain McMillan CBE, DL



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 City, University of London where he is Head of the Faculty of Finance. 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.

## Derek Ridyard



Derek Ridyard is an economist with expertise in the economics of competition, regulation and intellectual property. He holds an MSc in economics from the London School of Economics.

He spent 30 years in private practice, having been one of the co-founders of economic consulting firm RBB Economics. Prior to that he worked for 15 years in the competition practice in NERA 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, Chairman of Folk2Folk and Chair of Governors at Bedfordshire University. 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 and Card Payment Group.

## Professor David Ulph CBE, FRSE



David Ulph has been Professor of Economics at the University of St Andrews since 2006. He was Director of the Scottish Institute for Research in Economics from 2010 to 2017. Between 2001 and 2006, he was Chief Economist and Director of Analysis

at Inland Revenue (subsequently HM Revenue & Customs). He is a member of the NHS Pay Review Body and a Commissioner of the Scottish Fiscal Commission.

# Membership as at 31 March 2019

## 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 of the Council of Which?.

She was the Chair of 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, NERA, Oxera and Frontier Economics in relation to various aspects of the energy industry and retail competition. He wrote a report for Government on Secondary Ticketing, which was presented to Parliament in 2016.

## 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.

## Professor Stephen Wilks



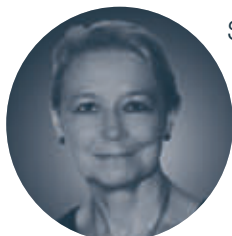
Stephen Wilks is Emeritus Professor of Politics at the University of Exeter where he also served for four years as Deputy Vice Chancellor. From 2001 to 2005, he was a member of the Economic and Social

Research Council and chaired its Research Strategy Board. He has written extensively on politics and administration. He has also written on enforcement of UK and European competition policy and 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.

# Membership as at 31 March 2019

## CS Non-Executive Member

### Susan Scholefield CMG



Susan Scholefield worked for some 30 years in the Civil Service, where she held senior roles in the Cabinet Office, Northern Ireland Office, Communities Department and the Ministry of Defence, most recently as Director General for

Human Resources and Corporate Services. She was awarded a CMG in 1999 for her work on Bosnia. She now has a portfolio career, including roles as a non-executive director at Surrey and Borders Partnership NHS Foundation Trust and as an Independent Member of the Sussex Police and Crime Panel. She is a serving Magistrate. Her working life started as a lecturer at the University of California, Berkeley, USA. After the Civil Service, she returned to academia for a couple of years as Company Secretary and Chief Legal Officer at the London School of Economics and Political Science (LSE). She is now on the Advisory Board of LSE IDEAS, a think tank specialising in international diplomacy, defence and security matters. She is a Chartered Member of CIPFA, a member of the Institute of Directors and the Royal United Services Institute, a Fellow of the Royal Society of Arts and a Chartered Fellow of the Institute of Personnel and Development.





# Cases 2018/2019

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

Defined Term	Meaning
1998 Act	Competition Act 1998
2002 Act	Enterprise Act 2002
2003 Act	Communications Act 2003
Achilles	Achilles Information Limited
Asda	Asda Group Limited
CMA	Competition and Markets Authority (successor body to the Office of Fair Trading and Competition Commission)
Electro Rent	Electro Rent Corporation
Flynn	Flynn Pharma Limited and Flynn Pharma (Holdings) Limited
Inmarsat	Inmarsat Ventures Ltd
Mastercard	Mastercard Incorporated, Mastercard International Incorporated and Mastercard Europe S.A.
Network Rail	Network Rail Infrastructure Limited
OFCOM	Office of Communications
Pfizer	Pfizer Inc. and Pfizer Limited
Ping	Ping Europe Limited
Sainsbury	J Sainsbury plc
Tesco	Tesco PLC
TFEU	Treaty on the Functioning of the European Union
Tribunal Rules	Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648)
Viasat	Viasat UK Limited and Viasat, Inc.

## Judgments handed down within the period 01/04/2018 to 31/03/2019

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 on the website of the Competition Appeal Tribunal.

Judgment	Tribunal	Subject matter
<b>1. Ping Europe Limited v Competition and Markets Authority</b>  <b>[2018] CAT 9</b> 9 May 2018	Andrew Lenon QC	Reasoned Order of the Chairman concerning the costs arising in connection with a disclosure application made by Ping on 9 February 2018 ([2018] CAT 7).
<b>2. Ping Europe Limited v Competition and Markets Authority</b>  <b>[2018] CAT 10</b> 9 May 2018	Andrew Lenon QC	Reasoned Order of the Chairman concerning the costs arising in connection with an application made by the CMA on 11 December 2017 to exclude certain evidence relied on by Ping in its notice of appeal ([2018] CAT 8).

Judgment	Tribunal	Subject matter
<p><b>3. Flynn Pharma Ltd and Flynn Pharma (Holdings) Ltd v Competition and Markets Authority</b></p> <p><b>Pfizer Inc. and Pfizer Limited v Competition and Markets Authority</b></p> <p><b>[2018] CAT 11</b> 7 Jun 2018</p>	<p>Peter Freeman CBE, QC (Hon)</p> <p>Paul Lomas</p> <p>Professor Michael Waterson</p>	<p>Judgment of the Tribunal in relation to two appeals against a decision of the CMA entitled “Unfair pricing in respect of the supply of phenytoin sodium capsules in the UK”, issued on 7 December 2016 and addressed to Pfizer and Flynn (the “Decision”).</p> <p>In the Decision, the CMA found inter alia that: (1) Pfizer’s supply prices to Flynn; and (2) Flynn’s selling prices, for the capsule form of the drug phenytoin sodium, which is used to treat epilepsy, were excessive and unfair. Pfizer and Flynn were each found to have infringed the Chapter II prohibition under the 1998 Act and Article 102 TFEU. The CMA imposed a financial penalty of £84.2m on Pfizer and £5.2m on Flynn and directed Pfizer and Flynn to reduce their prices.</p> <p>Pfizer and Flynn brought separate appeals against the Decision under section 46 of the 1998 Act. The appeals were heard together with each of Pfizer and Flynn being granted permission to intervene in the other appeal.</p> <p>In summary, the Tribunal reached the following conclusions on the main issues in the appeals:</p> <ol style="list-style-type: none"> <li>1. Market definition and dominance (Section G of the Judgment): the Tribunal upheld the CMA’s findings that the relevant markets were (i) as regards Pfizer, the manufacture of Pfizer-manufactured phenytoin sodium capsules that are distributed in the UK; and (ii) as regards Flynn, the distribution of Pfizer-manufactured phenytoin sodium capsules in the UK; and that Pfizer and Flynn each held dominant positions in their respective relevant markets.</li> <li>2. Abuse (Section H of the Judgment): the Tribunal set aside the CMA’s findings on abuse on the basis that: <ul style="list-style-type: none"> <li>• the CMA had erred in its reliance on the Cost Plus approach by which it found that Pfizer’s and Flynn’s prices were excessive because they materially exceeded their respective costs plus a reasonable rate of return;</li> <li>• the CMA had not properly assessed the possible impact of meaningful comparators (in particular, phenytoin sodium tablets) for the purpose of assessing whether Pfizer’s and Flynn’s prices were unfair; and</li> <li>• the CMA had erred in finding that there were no non-cost related factors which would increase the economic value of the capsule product beyond Pfizer’s and Flynn’s Cost Plus.</li> </ul> </li> <li>3. Pfizer’s position as supplier (Section I of the Judgment): the Tribunal rejected Pfizer’s argument that, because of the vertical nature of its relationship with Flynn and its distance from Flynn’s pricing, it could not be in breach of Article 102 TFEU in any event.</li> </ol>

# Cases

Judgment	Tribunal	Subject matter
		4. Penalties (Section J of the Judgment): in view of its decision on abuse, the Tribunal concluded that it was not necessary for it to come to a decision on the level of the financial penalties imposed by the CMA in this case. The Tribunal set aside that part of the Decision relating to abuse (and any consequential findings, including penalties), and invited written submissions from the parties on whether to remit the matter to the CMA.
<b>4. Flynn Pharma Ltd and Flynn Pharma (Holdings) Ltd v Competition and Markets Authority</b>  <b>Pfizer Inc. and Pfizer Limited v Competition and Markets Authority</b>  <b>[2018] CAT 12</b> 25 Jul 2018	Peter Freeman CBE, QC (Hon)  Paul Lomas  Professor Michael Waterson	Ruling of the Tribunal on: (1) remittal (the Tribunal ordered the case to be remitted to the CMA for further consideration); and (2) applications for permission to appeal the Tribunal's Judgment of 7 June 2018 ([2018] CAT 11) (the Tribunal refused permission to appeal).

# Cases

Judgment	Tribunal	Subject matter
<b>5. Ping Europe Limited v Competition and Markets Authority</b>  <b>[2018] CAT 13</b> 7 Sep 2018	Andrew Lenon QC  Professor John Beath OBE  Eamonn Doran	<p>Judgment of the Tribunal in relation to an appeal against a decision of the CMA entitled “Online sales ban in the golf equipment sector”, issued on 24 August 2017 and addressed to Ping (the “Decision”).</p> <p>In the Decision, the CMA found that Ping, a manufacturer of golf clubs, golf accessories and clothing, had infringed the prohibition in Chapter I of the 1998 Act and Article 101 TFEU by entering into agreements with two UK retailers containing clauses prohibiting those retailers from selling Ping golf clubs online. The Decision found that those agreements restricted competition by object and did not benefit from any exclusion or exemption. The Decision directed Ping to bring the alleged infringements to an end and imposed a fine of £1.45 million.</p> <p>Ping filed a notice of appeal on 25 October 2017 contesting both the finding of infringement and the imposition and amount of the penalty.</p> <p>In summary, for the reasons given in the Judgment, the Tribunal upheld the CMA’s finding that Ping had infringed the Chapter I Prohibition and Article 101 TFEU. Specifically, the Tribunal:</p> <ul style="list-style-type: none"> <li>• dismissed Ping’s arguments that the Decision infringed its Human Rights (Section E of the Judgment);</li> <li>• upheld the CMA’s finding that the ban on internet selling contained in the agreements constituted a restriction of competition ‘by object’ (Section F of the Judgment); and</li> <li>• dismissed Ping’s arguments that the CMA had erred in finding that the ban on internet selling was: disproportionate; was not objectively justified; did not constitute an ancillary restraint; and did not benefit from an individual exemption (Sections G - J of the Judgment).</li> </ul> <p>With regard to penalty, the Tribunal concluded that the CMA had erred on the facts of this case in treating director involvement as an ‘aggravating factor’. The Tribunal went on to decide that the penalty should be fixed at £1.25 million, a reduction of £200,000 (Section L of the Judgment).</p>

# Cases

Judgment	Tribunal	Subject matter
<b>6. Viasat UK Ltd and Viasat, Inc. v Office of Communications</b>  <b>[2018] CAT 14</b> 12 Jun 2018	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 14 February 2018.
<b>7. Achilles Information Limited v Network Rail Infrastructure Limited</b>  <b>[2018] CAT 15</b> 19 Oct 2018	Andrew Lenon QC	Ruling of the Chairman in connection with an application by Achilles that the trial be heard on an expedited basis.
<b>8. Ping Europe Limited v Competition and Markets Authority</b>  <b>[2018] CAT 16</b> 15 Nov 2018	Andrew Lenon QC  Professor John Beath OBE  Eamonn Doran	Ruling of the Tribunal refusing Ping's application for permission to appeal the Tribunal's Judgment of 7 September 2018 ([2018] CAT 13).
<b>9. Achilles Information Limited v Network Rail Infrastructure Limited</b>  <b>[2018] CAT 17</b> 30 Nov 2018	Andrew Lenon QC	Reasoned Order of the Chairman granting an application by Achilles that Network Rail provide further particulars of its Defence.

# Cases

Judgment	Tribunal	Subject matter
<b>10. Viasat UK Ltd and Viasat, Inc. v Office of Communications</b>  <b>[2018] CAT 18</b> 7 Dec 2018	Mr Justice Mann  Dr Clive Elphick  Anna Walker CB	<p>Judgment of the Tribunal in relation to an appeal by Viasat against an authorisation of OFCOM ("the OFCOM Decision") given to the intervener Inmarsat, dated 22 January 2018, in which OFCOM authorised the use of the 2 GHz spectrum by ground stations in connection with the operation of a satellite mobile communications network, pursuant to the Wireless Telegraphy Act 2006.</p> <p>The system for which Inmarsat was authorised by OFCOM is a service intended to provide broadband-like service to passengers in aircraft across Europe ("the European Aviation Network" or "EAN"). Viasat argued that the EAN is not a "mobile satellite system" because the satellite does not make a particularly meaningful contribution and the system relies heavily on ground-based components which was not originally anticipated.</p> <p>In summary, for the reasons given in the Judgment, the Tribunal upheld the OFCOM Decision. Specifically, the Tribunal dismissed Viasat's arguments that:</p> <ul style="list-style-type: none"> <li>• the EAN is not a mobile satellite system (Section K of the Judgment);</li> <li>• the ground-based stations of the EAN are not complementary ground components ("CGCs") within the meaning of Article 2(2) (b) of the Selection Mechanism Decision (Section L of the Judgment);</li> <li>• the EAN is non-compliant with the common conditions contained in Article 8(3) of the Selection Mechanism Decision (Section M of the Judgment);</li> <li>• the OFCOM Decision infringed the EU law principles of transparency and equal treatment (Section N of the Judgment);</li> <li>• the EAN is non-compliant with the common conditions contained in Article 7 of the Selection Mechanism Decision (Section O of the Judgment);</li> <li>• OFCOM acted unlawfully in failing to ensure that it was authorising only CGCs of a mobile satellite system (Section P of the Judgment); and</li> <li>• OFCOM behaved unreasonably, irrationally and/or disproportionately in authorising CGCs in the face of common condition 7(2)(b) and the coverage commitment, which has the potential to distort competition (Section Q of the Judgment).</li> </ul>



# Cases

Judgment	Tribunal	Subject matter
<p><b>11. Royal Mail Group Limited v DAF Trucks Limited and Others</b></p> <p><b>BT Group PLC and Others v DAF Trucks Limited and Others</b></p> <p><b>Ryder Limited and Another v MAN SE and Others</b></p> <p><b>Suez Groupe SAS and Others v Fiat Chrysler Automobiles N.V. and Others</b></p> <p><b>Veolia Environnement S.A. and Others v Fiat Chrysler Automobiles N.V. and Others</b></p> <p><b>Wolseley UK Limited and Others v Fiat Chrysler Automobiles N.V. and Others</b></p> <p><b>Dawsongroup plc and Others v DAF Trucks N.V. and Others</b></p> <p><b>[2018] CAT 19</b> 11 Dec 2018</p>	<p>The President</p> <p>Mr Justice Hildyard</p> <p>Hodge Malek QC</p>	<p>Judgment of the Tribunal regarding: (1) the terms to be included in the confidentiality rings in the various actions; and (2) the disclosure of unofficial translations of disclosed documents.</p>
<p><b>12. J Sainsbury plc and Asda Group Limited v Competition and Markets Authority</b></p> <p><b>[2019] CAT 1</b> 18 Jan 2019</p>	<p>The President</p> <p>Tim Frazer</p> <p>Anna Walker CB</p>	<p>Judgment of the Tribunal giving its reasons for its decision on 14 December 2018 to grant the joint application of Sainsbury and Asda (the “Applicants”) and quash two decisions of the CMA in relation to the procedural timetable for the proposed merger between the Applicants. Those decisions related to: (1) the time by which the Applicants had to respond to various working papers; and (2) the time of the Applicants’ so-called “main party hearing”.</p>

# Cases

Judgment	Tribunal	Subject matter
<b>13. Flynn Pharma Limited and Another v Competition and Markets Authority (Interim Relief)</b>  <b>Flynn Pharma Limited and Another v Competition and Markets Authority</b>  <b>Pfizer Inc. and Pfizer Limited v Competition and Markets Authority</b>  <b>[2019] CAT 2</b> 23 Jan 2019	Peter Freeman CBE, QC (Hon)  Paul Lomas  Professor Michael Waterson	Ruling of the Tribunal dismissing an application by OFCOM for permission to intervene in the case in relation to the award of costs.
<b>14. Mr David Henry v Office of Communications</b>  <b>[2019] CAT 3</b> 6 Feb 2019	Andrew Lenon QC  Peter Freeman CBE, QC (Hon)  Simon Holmes	Ruling of the Tribunal striking out an appeal brought by Mr Henry, on the basis that the Tribunal had no jurisdiction to determine the matter. The Tribunal also ruled that Mr Henry should make a contribution to the OFCOM's costs.
<b>15. Electro Rent Corporation v Competition and Markets Authority</b>  <b>[2019] CAT 4</b> 11 Feb 2019	Heriot Currie QC  Sir Iain McMillan CBE, DL  Paul Lomas	<p>Judgment of the Tribunal in connection with an appeal by Electro Rent pursuant to section 114 of the 2002 Act against a decision of the CMA of 11 June 2018 (the "Decision") to impose a penalty of £100,000 on Electro Rent for failure to comply with an interim order dated 7 November 2017 (the "Interim Order") by issuing on 16 March 2018 a notice to exercise a break option (the "Break Notice") terminating the lease for Electro Rent's premises in the UK.</p> <p>In summary, for the reasons given in the Judgment, the Tribunal upheld the Decision. Specifically, the Tribunal dismissed Electro Rent's arguments that: (a) the CMA erred in finding that Electro Rent did not have a reasonable excuse for any breach of the Interim Order by reason of service of the Break Notice; and (b) the penalty imposed by the CMA was excessive and should be reduced to nil or a nominal sum.</p>
<b>16. DSG Retail Limited and Another v MasterCard Incorporated and Others</b>  <b>[2019] CAT 5</b> 14 Feb 2019	The President  Peter Anderson  Simon Holmes	Judgment of the Tribunal dismissing an application by MasterCard asserting that claims in relation to the period from 22 May 1992 to 20 June 2003 were time-barred pursuant to Rule 31(4) of the Competition Appeal Tribunal Rules 2003 and section 32 of the Limitation Act 1980.

# Cases

Judgment	Tribunal	Subject matter
<b>17. Ping Europe Limited v Competition and Markets Authority</b>  <b>[2019] CAT 6</b> 6 Mar 2019	Andrew Lenon QC	Ruling of the Chairman in relation to costs and the amount of interest to be paid on the penalty.
<b>18. Ping Europe Limited v Competition and Markets Authority</b>  <b>[2019] CAT 7</b> 6 Mar 2019	Andrew Lenon QC	Ruling of the Chairman in relation to the costs of the complainant.
<b>19. B&amp;M European Value Retail S.A. v Competition and Markets Authority</b>  <b>[2019] CAT 8</b> 28 Mar 2019	Mr Justice Morris  Michael Cutting  Paul Dollman	Ruling of the Tribunal dismissing an application by Tesco for permission to intervene.
<b>20. Flynn Pharma Limited and Another v Competition and Markets Authority (Interim Relief)</b>  <b>Flynn Pharma Ltd and Flynn Pharma (Holdings) Ltd v Competition and Markets Authority</b>  <b>Pfizer Inc. and Pfizer Limited v Competition and Markets Authority</b>  <b>[2019] CAT 9</b> 29 Mar 2019	Peter Freeman CBE, QC (Hon)  Paul Lomas  Professor Michael Waterson	Ruling of the Tribunal in relation to the award of costs.

# Cases

## Activity by case within the period 01/04/2018 to 31/03/2019

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 2019
DSG Retail Limited and Another v MasterCard Incorporated and Others Case: 1236/5/7/15 11 February 2015	14-15 15-16 16-17 17-18 <b>18-19</b>			1 (1)   <b>1 (2)</b>	1 1  <b>1</b>			Ongoing
<b>Notes:</b> A joint hearing with Cases: 1264-1265/5/7/16 and 1268/5/7/16 on a preliminary issue was heard on 8 and 9 October 2018. On 14 February 2019, the Tribunal issued its Judgment dismissing the application by the defendants asserting that claims in relation to the period from 22 May 1992 to 20 June 2003 were time-barred pursuant to Rule 31(4) of the Competition Appeal Tribunal Rules 2003 and section 32 of the Limitation Act 1980 ([2019] CAT 5). A ruling on permission to appeal and costs was made on 9 April 2019.								
Deutsche Bahn AG and Others v MasterCard Incorporated and Others Case: 1240/5/7/15 12 November 2015	15-16 16-17 17-18 <b>18-19</b>			2 (2)	2			Withdrawn
<b>Notes:</b> The claim was withdrawn by consent on 17 December 2018.								
Peugeot S.A. and Others v NSK Ltd and Others Case: 1248/5/7/16 25 February 2016	15-16 16-17 17-18 <b>18-19</b>		2	2 (2)	1 1			Withdrawn
<b>Notes:</b> A five-week trial was listed for April and May 2018 but was vacated. The claim was withdrawn by consent on 30 April 2018.								
Generics UK Limited v Competition and Markets Authority Case: 1251/1/12/16 12 April 2016	16-17 17-18 <b>18-19</b>	2	3	2 (19)	1	08/03/18 (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 issued 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. The CJEU has registered the reference as Case C-307/18. The reference questions have also been published in the Official Journal (OJ 2018 C 240, p.29).								

# Cases

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 2019
GlaxoSmithKline PLC v Competition and Markets Authority Case: 1252/1/12/16 12 April 2016	16-17 17-18 <b>18-19</b>	4						Stayed
<b>Notes:</b> See notes in respect of Case: 1251/1/12/16 (Generics UK Limited).								
(1) Xellia Pharmaceuticals APS (2) Alpharma LLC v Competition and Markets Authority Case: 1253/1/12/16 12 April 2016	16-17 17-18 <b>18-19</b>	4						Stayed
<b>Notes:</b> See notes in respect of Case: 1251/1/12/16 (Generics UK Limited).								
Actavis UK Limited v Competition and Markets Authority Case: 1254/1/12/16 12 April 2016	16-17 17-18 <b>18-19</b>	2						Stayed
<b>Notes:</b> See notes in respect of Case: 1251/1/12/16 (Generics UK Limited).								
Merck KGaA v Competition and Markets Authority Case: 1255/1/12/16 12 April 2016	16-17 17-18 <b>18-19</b>	4						Stayed
<b>Notes:</b> See notes in respect of Case: 1251/1/12/16 (Generics UK Limited).								
British Telecommunications plc v Office of Communications (BCMR) Case: 1260/3/3/16 28 June 2016	16-17 17-18 <b>18-19</b>	4	2 1	2 (17)	6	10/11/17 (16.4)	1	Closed
<b>Notes:</b> The main hearing took place between 3 April and 26 May 2017. On 10 November 2017, the Tribunal issued its Judgment ([2017] CAT 25). The Tribunal heard applications for costs in respect of this appeal and in Case: 1261/3/3/16 (CityFibre Infrastructure Holdings PLC). 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. On 5 December 2018, BT withdrew its application for costs and the remittal proceedings were closed.								

# Cases

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 2019
CityFibre Infrastructure Holdings PLC v Office of Communications (BCMR) Case: 1261/3/3/16 28 June 2016	16-17 17-18 <b>18-19</b>	3						Closed
<b>Notes:</b> See notes in respect of Case: 1260/3/3/16 (British Telecommunications plc).								
TFL v MasterCard Case: 1264/5/7/16 5 September 2016	16-17 17-18 <b>18-19</b>							Ongoing
<b>Notes:</b> See notes in respect of Case: 1236/5/7/15 (DSG Retail Limited).								
Dixons Carphone PLC v MasterCard Case: 1265/5/7/16 7 September 2016	16-17 17-18 <b>18-19</b>							Ongoing
<b>Notes:</b> See notes in respect of Case: 1236/5/7/15 (DSG Retail Limited).								
Europcar UK Limited v MasterCard Incorporated and Others Case: 1268/5/7/16 9 September 2016	16-17 17-18 <b>18-19</b>							Ongoing
<b>Notes:</b> See notes in respect of Case: 1236/5/7/15 (DSG Retail Limited).								
British Airways PLC v MasterCard Incorporated and Others Case: 1269/5/7/16 12 September 2016	16-17 17-18 <b>18-19</b>							Withdrawn
<b>Notes:</b> On 18 June 2018, the Tribunal made an order, with consent, that the proceedings be withdrawn.								
Flynn Pharma Limited and Another v Competition and Markets Authority Case: 1274/1/12/16 (IR) 23 December 2016	16-17 17-18 <b>18-19</b>		1	1	1 1	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). On 29 March 2019, the Tribunal gave a ruling in relation to costs ([2019] CAT 9). This ruling is shown under Case: 1275/1/12/17.								

# Cases

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 2019
Flynn Pharma Limited and Flynn Pharma (Holdings) Limited v Competition and Markets Authority Case: 1275/1/12/17 7 February 2017	16-17 17-18 <b>18-19</b>	3 <b>1</b>	1 1 <b>1</b>	1 1 <b>1</b> (13) <b>(1)</b>	4	<b>07/06/18</b> <b>(15.95)</b>	<b>3</b>	<b>Ongoing</b>
<b>Notes:</b> The substantive hearing took place over 13 days between 30 October 2017 and 24 November 2017. Judgment was issued on 7 June 2018 ([2018] CAT 11). On 25 July 2018, the Tribunal issued a Ruling ([2018] CAT 12) refusing permission to appeal and remitting the issue of abuse to the CMA for reconsideration in accordance with the Judgment. On 29 March 2019, the Tribunal gave a ruling in relation to costs ([2019] CAT 9).								
Pfizer Inc. and Pfizer Limited v Competition and Markets Authority Case: 1276/1/12/17 7 February 2017	16-17 17-18 <b>18-19</b>	3						<b>Ongoing</b>
<b>Notes:</b> See notes in respect of Case: 1275/1/12/17 (Flynn Pharma Limited).								
British Telecommunications plc and Others v. MasterCard Inc. and Others Case: 1278/5/7/17 12 September 2017	17-18 <b>18-19</b>							<b>Withdrawn</b>
<b>Notes:</b> By an Order of the Chairman dated 6 April 2018, the proceedings were stayed. The claim was withdrawn by consent on 7 January 2019.								
Ping Europe Limited v Competition and Markets Authority Case: 1279/1/12/17 25 October 2017	17-18 <b>18-19</b>		2	1 <b>2</b> (1) <b>(10)</b>	2 <b>6</b>	<b>07/09/18</b> <b>(10.42)</b>	<b>1</b>	<b>Closed</b>
<b>Notes:</b> The main hearing took place during 10 and 25 May 2018. Judgment was handed down on 7 September 2018. On 15 November 2018, the Tribunal issued a ruling refusing Ping's application for permission to appeal ([2018] CAT 16). A costs hearing took place on 11 January 2019. On 6 March 2019, the Chairman made two rulings in relation to: (1) the CMA's application for costs and the amount of interest to be paid on the penalty ([2019] CAT 6; and (2) the Complainant's application for costs ([2019] CAT 7).								

# Cases

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 2019
Viasat UK Limited and Viasat, Inc. v Office of Communications Case: 1280/3/3/17 8 December 2017	17-18 <b>18-19</b>	1	1 <b>1</b>	1 (4)	1 <b>2</b>	<b>07/12/18 (11.97)</b>		Ongoing
<b>Notes:</b> Judgment was handed down on 7 December 2018 [2018]. On 12 December 2018, the Chairman made an Order extending time for filing any applications for permission to appeal the Judgment. A hearing took place on 15 April 2019 at which the Chairman made an ex tempore Ruling on: (i) Viasat's application for permission to appeal the Tribunal's substantive Judgment; and (ii) Inmarsat's application for its costs of the proceedings ([2019] CAT 11).								
British Telecommunications plc v Office of Communications Case: 1281/3/3/18 23 January 2018	17-18 <b>18-19</b>							Withdrawn
<b>Notes:</b> The appeal was withdrawn by order of the President dated 23 April 2018.								
UK Trucks Claim Limited v Fiat Chrysler Automobiles N.V. and Others Case: 1282/7/7/18 18 May 2018	<b>18-19</b>	<b>3</b>	<b>1</b>					Ongoing
<b>Notes:</b> This case is being jointly case managed with Case: 1289/7/7/18 (Road Haulage Association). A preliminary issue has been listed for 4 June 2019 with a time estimate of two days, outside the period of this review.								
Unlocked Limited and Others v Google Ireland Ltd and Others Case: 1283/5/7/18(T) 11 June 2018	<b>18-19</b>		<b>1</b>					Stayed
<b>Notes:</b> The First Applicant/Claimant entered into voluntary administration on 12 June 2018 and a case management conference (CMC) listed for 18 June 2018 was vacated. The original trial date in September 2018 was also vacated. A CMC was held on 15 October 2018 at which a stay was granted.								
Royal Mail Group Limited v DAF Trucks Limited and Others Case: 1284/5/7/18(T) 21 June 2018	<b>18-19</b>			1 (2)	1			Ongoing
<b>Notes:</b> A two day CMC was held on 21 and 22 November 2018 in respect of this Case and Cases: 1290/5/7/18(T)-1295/5/7/18(T). At the CMC, the Tribunal directed that the Royal Mail case be jointly case managed with Case: 1290/5/7/18(T) (BT Group PLC). Due to its substantial nature and the fact that it took place across two days, the CMC has been recorded as a hearing in the above details.								



# Cases

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 2019
Electro Rent Corporation v Competition and Market Authority Case: 1285/10/12/18 5 July 2018	18-19			1 (2)	1	11/02/19 (7.25)		Closed
<b>Notes:</b> The main hearing took place on 24 and 25 October 2018. Judgment was handed down on 11 February 2019.								
Sainsbury's Supermarkets Ltd v Mastercard Incorporated and Others Case: 1286/5/7/18 13 July 2018	18-19							Ongoing
<b>Notes:</b> On 4 July 2018, the Court of Appeal gave judgment in three appeals of the following judgments in the interchange fee cases: the judgment of the Tribunal in Sainsbury's Supermarkets Ltd v MasterCard Incorporated and Others ([2016] CAT 11) (see Case: 1241/5/7/15 (T)); and the judgments of the Commercial Court in Asda Stores Limited and Others v Mastercard Inc and Others ([2017] EWHC 93) and Sainsbury's Supermarkets Limited v Visa Europe Services LLC and Others ([2017] EWHC 3047 (Comm) and [2018] EWHC 355 (Comm)). The Appeals were remitted to the Tribunal. On 29 November 2018, the Supreme Court granted Mastercard and Visa permission to appeal the judgment of the Court of Appeal.								
Asda Stores Limited and Others v Mastercard Incorporated and Others Case: 1287/5/7/18 13 July 2018	18-19							Ongoing
<b>Notes:</b> See notes in respect of Case: 1286/5/7/18 (Sainsbury's Supermarkets Limited).								
Sainsbury's Supermarkets Ltd v Visa Europe Services LLC Case: 1288/5/7/18 13 July 2018	18-19							Ongoing
<b>Notes:</b> See notes in respect of Case: 1286/5/7/18 (Sainsbury's Supermarkets Limited).								
Road Haulage Association Limited v Man SE and Others Case: 1289/7/7/18 17 July 2018	18-19	2						Ongoing
<b>Notes:</b> See notes in respect of Case: 1282/7/7/18 (UK Trucks Claim Limited) which is being jointly case managed with this Case.								

# Cases

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 2019
BT Group PLC and Others v DAF Trucks Limited and Others Case: 1290/5/7/18(T) 23 July 2018	18-19							Ongoing
<b>Notes:</b> A CMC was held on 21 and 22 November 2018 in respect of this Case and Cases: 1284/5/7/18(T) and 1291/5/7/18(T)-1295/5/7/18(T). At the CMC, the Tribunal directed that this case be jointly case managed with Case: 1284/5/7/18(T) (Royal Mail Group Limited). The CMC and any other events covering the jointly managed cases have been recorded in the details for Case: 1284/5/7/18(T).								
Ryder Limited and Another v MAN SE and Others Case: 1291/5/7/18(T) 26 July 2018	18-19			1 (2)				Ongoing
<b>Notes:</b> A CMC was held on 21 and 22 November 2018. The CMC also concerned Cases: 1284/5/7/18(T), 1290/5/7/18(T) and 1292/5/7/18(T)-1295/5/7/18(T). The CMC has been recorded in the details for Case: 1284/5/7/18(T) (Royal Mail Group Limited). In relation to the Ryder case, a disclosure application made by the claimants was heard on 11 and 12 March 2019.								
Suez Groupe SAS and Others v Fiat Chrysler Automobiles N.V. and Others Case: 1292/5/7/18(T) 26 July 2018	18-19							Ongoing
<b>Notes:</b> A CMC was held on 21 and 22 November 2018. The CMC also concerned Cases: 1284/5/7/18(T), 1290/5/7/18(T), 1291/5/7/18(T) and 1293/5/7/18(T)-1295/5/7/18(T). The CMC has been recorded in the details for Case: 1284/5/7/18(T) (Royal Mail Group Limited). At the CMC, the Tribunal directed that the Suez case be jointly case managed with Cases: 1293/5/7/18(T) (Veolia) and 1294/5/7/18(T) (Wolsely).								
Veolia Environnement S.A. and Others v Fiat Chrysler Automobiles N.V. and Others Case: 1293/5/7/18(T) 26 July 2018	18-19							Ongoing
<b>Notes:</b> A CMC was held on 21 and 22 November 2018. The CMC also concerned Cases: 1284/5/7/18(T), 1290/5/7/18(T), 1291/5/7/18(T), 1292/5/7/18(T), 1294/5/7/18(T) and 1295/5/7/18(T). The CMC has been recorded in the details for Case: 1284/5/7/18(T) (Royal Mail Group Limited). At the CMC, the Tribunal directed that the Veolia case be jointly case managed with Cases: 1292/5/7/18(T) (Suez) and 1294/5/7/18(T) (Wolsely).								

# Cases

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 2019
Wolseley UK Limited and Others v Fiat Chrysler Automobiles N.V. and Others Case: 1294/5/7/18(T) 26 July 2018	18-19			1 (1)				Ongoing
<b>Notes:</b> A CMC was held on 21 and 22 November 2018. The CMC also concerned Cases: 1284/5/7/18(T), 1290/5/7/18(T), 1291/5/7/18(T), 1292/5/7/18(T), 1293/5/7/18(T) and 1295/5/7/18(T). The CMC has been recorded in the details for Case: 1284/5/7/18(T) (Royal Mail Group Limited). At the CMC, the Tribunal directed that the Wolseley case be jointly case managed with Cases: 1292/5/7/18(T) (Suez) and 1293/5/7/18(T) (Veolia). An application by the claimants in this Case in relation to a claim made against them by an additional defendant (Daimler AG) was heard on 30 January 2019.								
Dawsongroup plc and Others v DAF Trucks N.V. and Others Case: 1295/5/7/18(T) 31 July 2018	18-19							Ongoing
<b>Notes:</b> A CMC was held on 21 and 22 November 2018. The CMC also concerned Cases: 1284/5/7/18(T), 1290/5/7/18(T), 1291/5/7/18(T), 1292/5/7/18(T), 1294/5/7/18(T) and 1295/5/7/18(T). The CMC has been recorded in the details for Case: 1284/5/7/18(T) (Royal Mail Group Limited).								
Arla Foods AMBA and Others v Fiat Chrysler Automobiles N.V. and Another Case: 1296/5/7/18 23 August 2018	18-19							Ongoing
<b>Notes:</b>								
Mr David Henry v Office of Communications Case: 1297/3/3/18 27 August 2018	18-19			1 (1)	1	06/02/19 (5.36)		Closed
<b>Notes:</b> On 6 February 2019, the Tribunal issued a Ruling striking out the appeal on the basis that it had no jurisdiction to determine the matter ([2019] CAT 3).								

# Cases

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 2019
Achilles Information Limited v Network Rail Infrastructure Limited Case: 1298/5/7/18 2 October 2018	18-19		1	1 (8)	2			Ongoing
<b>Notes:</b> The main hearing took place on 20 February 2019 until 1 March 2019. Judgment is pending.								
Royal Mail plc v Office of Communications Case: 1299/1/3/18 12 October 2018	18-19	1	1					Ongoing
<b>Notes:</b> The main hearing has been listed for a five-week period, between 10 June and 15 July 2019 (outside the period covered by this report).								
J Sainsbury plc and Asda Group Limited v Competition and Markets Authority Case: 1300/4/12/18 12 December 2018	18-19			1 (1)	1	18/01/19 (1.22)		Closed
<b>Notes:</b> At the conclusion of the hearing on 14 December 2018, the Tribunal announced its decision granting the application and quashing two procedural decisions of the CMA in respect of its investigation of the applicant's businesses.								
B&M European Value Retail S.A. v Competition and Markets Authority Case: 1301/6/12/18 21 December 2018	18-19	1	1	1 (1)	1			Ongoing
<b>Notes:</b> On 25 April 2019, B&M applied for permission to withdraw its application for review. By an order dated 13 May 2019, the Tribunal granted B&M permission to withdraw its application and made a direction as to costs.								
Virgin Media Limited v Office of Communications Case: 1302/3/3/19 15 January 2019	18-19							Ongoing
<b>Notes:</b> The main hearing has been listed for 19 November 2019, outside the period covered by this report, with a time estimate of two days.								

# Cases

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 2019
Melanie Meigh (trading as The Prinknash Bird and Deer Park) v Prinknash Abbey Trustees Case: 1303/5/7/19 8 February 2019	18-19		1					Ongoing
<b>Notes:</b> The main hearing has been listed for the week of 15 July 2019, outside the period covered by this report, with a time estimate of three days with a fourth in reserve.								
Justin Gutman v First Mtr South Western Trains Limited, Stagecoach South Western Trains Limited Case: 1304/7/7/19 27 February 2019	18-19							Ongoing
<b>Notes:</b> The main hearing of the CPO Applications has been listed for 5 to 7 November 2019, outside the period covered by this report, with 8 November 2019 in reserve.								
Justin Gutman v London & South Eastern Railway Limited Case: 1305/7/7/19 27 February 2019	18-19							Ongoing
<b>Notes:</b> The main hearing of the CPO Applications has been listed for 5 to 7 November 2019, outside the period covered by this report, with 8 November 2019 in reserve.								
H & H (Retail) Limited & Others v Mastercard Inc & Others Case: 1306/5/7/19(T) 20 March 2019	18-19							Ongoing
<b>Notes:</b>								
Coral Racing Limited & Others v Mastercard Inc & Others Case: 1307/5/7/19(T) 20 March 2019	18-19							Ongoing
<b>Notes:</b>								

# Cases

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 2019
Motor Fuel Limited & Others v Mastercard Inc & Others Case: 1308/5/7/19(T) 20 March 2019	18-19							Ongoing
<b>Notes:</b>								
Greene King Brewing and Retailing Limited & Others v Mastercard Inc & Others Case: 1309/5/7/19(T) 20 March 2019	18-19							Ongoing
<b>Notes:</b>								
Dune Group Limited & Others v Mastercard Inc & Others Case: 1310/5/7/19(T) 20 March 2019	18-19							Ongoing
<b>Notes:</b>								
Adventure Forest Limited & Others v Mastercard Inc & Others Case: 1311/5/7/19(T) 20 March 2019	18-19							Ongoing
<b>Notes:</b>								
Co-operative Group Food Limited & Others v Visa Europe Limited & Others Case: 1312/5/7/19(T) 20 March 2019	18-19							Ongoing
<b>Notes:</b>								

# Cases

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 2019
Moto Hospitality Limited v Visa Europe Limited & Others Case: 1313/5/7/19(T) 20 March 2019	18-19							Ongoing
<b>Notes:</b>								
Traveljigsaw Limited v Visa Europe Limited & Others Case: 1314/5/7/19(T) 20 March 2019	18-19							Ongoing
<b>Notes:</b>								
Nando's Chickenland Limited v Visa Europe Limited & Others Case: 1315/5/7/19(T) 20 March 2019	18-19							Ongoing
<b>Notes:</b>								
French Connection (London) Limited v Visa Europe Limited & Others Case: 1316/5/7/19(T) 20 March 2019	18-19							Ongoing
<b>Notes:</b>								
H & H (Retail) Limited & Others v Visa Europe Limited & Others Case: 1317/5/7/19(T) 20 March 2019	18-19							Ongoing
<b>Notes:</b>								



# Cases

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 2019
Greene King Brewing and Retailing Limited & Others v Visa Europe Limited & Others Case: 1318/5/7/19(T) 20 March 2019	18-19							Ongoing
<b>Notes:</b>								
Hobbs Limited & Another v Visa Europe Limited & Others Case: 1319/5/7/19(T) 20 March 2019	18-19							Ongoing
<b>Notes:</b>								
JD Wetherspoon PLC v Visa Europe Limited & Others Case: 1320/5/7/19(T) 20 March 2019	18-19							Ongoing
<b>Notes:</b>								
Odeon Cinemas Limited & Others v Visa Europe Limited & Others Case: 1321/5/7/19(T) 20 March 2019	18-19							Ongoing
<b>Notes:</b>								
Coral Racing Limited & Others v Visa Europe Limited & Others Case: 1322/5/7/19(T) 20 March 2019	18-19							Ongoing
<b>Notes:</b>								

# Cases

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 2019
Motor Fuel Limited & Others v Visa Europe Limited & Others Case: 1323/5/7/19(T) 20 March 2019	18-19							Ongoing
<b>Notes:</b>								
Dune Shoes Ireland Limited & Others v Visa Europe Limited & Others Case: 1324/5/7/19(T) 20 March 2019	18-19							Ongoing
<b>Notes:</b>								
Adventure Forest Limited & Others v Visa Europe Limited & Others Case: 1325/5/7/19(T) 20 March 2019	18-19							Ongoing
<b>Notes:</b>								
<b>TOTAL</b>	<b>18-19</b>	<b>8</b>	<b>8</b>	<b>13 (35)</b>	<b>20</b>		<b>4</b>	

# Cases

## Overall case activity within the period 01/04/2018 to 31/03/2019

	2018/19	2017/18	2016/17
<b>Appeals, applications and claims received, of which:</b>	<b>44</b>	<b>4</b>	<b>29</b>
section 46 Competition Act 1998 <sup>1</sup>	1	1	8
section 47 Competition Act 1998 <sup>2</sup>	-	0	0
section 47A Competition Act 1998 <sup>3</sup>	34	1	12
section 47B Competition Act 1998 <sup>4</sup>	4	0	2
section 114 Enterprise Act 2002 <sup>5</sup>	1	-	-
section 120 Enterprise Act 2002 <sup>6</sup>	1	0	2
section 179 Enterprise Act 2002 <sup>7</sup>	1	0	0
section 192 Communication Act 2003 <sup>8</sup>	2	2	4
section 317 Communications Act 2003 <sup>9</sup>	-	0	0
section 49B Competition Act 2003 <sup>10</sup>	-	0	0
applications for interim relief <sup>11</sup>	-	0	1
<b>Applications to intervene</b>	<b>8</b>	<b>1</b>	<b>35</b>
<b>Case management conferences held</b>	<b>8</b>	<b>8</b>	<b>20</b>
<b>Hearings held (sitting days)</b>	<b>13 (35)</b>	<b>7 (37)</b>	<b>18 (66)</b>
<b>Judgments handed down, of which:</b>	<b>20</b>	<b>27</b>	<b>32</b>
Judgments disposing of main issue or issues	6	7	5
Judgments on procedural and interlocutory matters	9	8	20
Judgments on ancillary matters (e.g. costs)	5	12	7
<b>Orders made</b>	<b>77</b>	<b>52</b>	<b>105</b>

# Cases

## 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 or 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 appeal by a person on whom a penalty has been imposed pursuant to section 110(1) or (3) of 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 reference or possible reference in relation to a relevant merger situation or special merger situation under the 2002 Act.
7. 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.
8. 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.
9. 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).
10. Proceedings brought before the Tribunal for approval of a collective settlement where a collective proceedings order has not been made.
11. Applications for interim relief pursuant to Rule 24 of the Tribunal Rules 2015.



# Accounts 2018/2019

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## Tribunal's and CS's Accountability Report for the year ended 31/03/2019

### 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 a member of the panel of Chairmen, 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 it must give a true and fair view of: a) the state of affairs of the Tribunal and the CS at the year end and; b) 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".



# Accounts

## 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) is intended to provide a clear picture of the structure of control systems in place in the organisation for the management of risk. The Statement identifies and prioritises the risks to the performance of the organisation's statutory functions, evaluates the likelihood of those risks materialising and their likely effect and indicates how they should be managed efficiently, effectively and economically. The Statement also informs the Accounting Officer as to how well internal controls operated in the year and assists in making informed decisions about progress against the Business Plan.

### Scope of responsibility

The Accounting Officer has ensured that a system of governance and internal controls is in place to support the performance of the CS's and the Tribunal's statutory functions, whilst safeguarding the public funds and departmental assets for which he is responsible (in accordance with the responsibilities assigned to him in the HM Treasury 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. In addition, CS's internal auditors, the Government Internal Audit Agency (GIAA), provide advice and guidance on risk management, governance and accountability issues. They work in conjunction with CS's external auditors, the National Audit Office (NAO), to ensure that the CS properly accounts for and uses its financial resources efficiently, effectively and economically. Further advice and guidance is also available from the CS's sponsor team in BEIS. The Accounting Officer is directly responsible to the Accounting Officer of BEIS and, ultimately, to Parliament.

# Accounts

## CS's governance structure

The President, the Registrar, a non-executive member (Susan Scholefield) and a member of the panel of Chairmen (Peter Freeman) constitute the formal membership of the CS Board, which usually meets three to four times a year to consider the strategic direction of the organisation. The President, Peter Freeman and the Registrar have a detailed knowledge of the working of the Tribunal and the CS, whilst Susan Scholefield provides the Board with wider knowledge and experience of strategic organisational and corporate governance matters. In these accounts, Susan Scholefield and Peter Freeman are regarded to as “the two members of the CS Board” in relation to matters that pertain to them rather than the President, Registrar or the CS Board as a whole.

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. Its membership comprises two Ordinary Members of the Tribunal, Timothy Sawyer and Sir Iain McMillan, both with considerable accounting or business experience, and Peter Freeman, CS Member and Tribunal Chairman. Meetings of the Audit and Risk Assurance Committee are attended by representatives of both the CS's internal and external auditors and 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, Audit and Risk Assurance Committee members and attendees, and members of the sponsor team at BEIS. Quarterly grant-in-aid requests provide BEIS with highly detailed information on the CS's financial position. In addition, members of the CS's senior management team meets BEIS regularly to discuss governance, priorities, challenges 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 shared with BEIS. 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.

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

During the year under review, two individuals providing services to the CS were not paid through the payroll system. As agreed with BEIS, steps were taken to verify full compliance with tax requirements regarding this matter. For these individuals, IR35 (Intermediaries Legislation) does not apply.

# Accounts

## Internal audit review

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>.

In the financial year ended 31 March 2019, internal auditors' work focussed on the audit of key financial and accounting controls as well as on the security and management of the IT provision at the Tribunal/CS. Both audits achieved a green "substantial" assurance on the adequacy and effectiveness of the Tribunal/CS's framework of governance, risk management and control.

## 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 online information handling awareness training made available by Civil Service Learning via BEIS. In addition, between May and June 2018, all members of staff completed online training on the General Data Protection Regulations. These online training courses are also completed by all new members of staff as part of their induction plan. All newly appointed Ordinary Members received a security briefing on data handling by the Director, Operations as part of their induction.

## 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.

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

## Remuneration and Staff Report for the Tribunal and the CS for the year ended 31/03/2019

### 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 2018, the President's salary increased by 2 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 2018/19, the salary of the Registrar increased by 2 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 day (2017/18: £600 per day), a rate which was set at the inception of the Tribunal in 2003. Ordinary Members are remunerated at a rate of £400 per day (2017/18: £400 per day). 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 (2017/18: £350 per day), 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 concerned 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.

# Accounts

## Remuneration (audited)

### Single total figure of remuneration

	Salary (£'000)		Pension benefits (to nearest £1,000) <sup>3</sup>		Total (£'000)	
	2018/19	2017/18	2018/19	2017/18	2018/19	2017/18
President	185 - 190	180 - 185	92,000	85,000	275 - 280	265 - 270

### Single total figure of remuneration

	Salary (£'000)		Non-Consolidated Award (£'000)		Pension benefits (to nearest £1,000) <sup>3</sup>		Total (£'000)	
	2018/19	2017/18	2018/19	2017/18	2018/19	2017/18	2018/19	2017/18
Registrar (Highest Paid Officer)	100 - 105	100 - 105	0 - 5	0 - 5	22,000	8,000	125 - 130	110 - 115
Median Total							43,700	41,055
Remuneration (£)								
Ratio							2.46	2.62 <sup>4</sup>

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 2018/19 and 2017/18 (as shown in the table above), as required by HM Treasury guidance, the mid-point of the banded remuneration of the highest paid officer has been used.

In 2018/19, the fair pay ratio was 2.46 (2017/18: 2.62); this ratio excludes pension.<sup>5</sup>

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 Board are remunerated at a rate of £350 per day (2017/18: £350 per day) and, as noted above, the rate has remained unchanged since 2003. In 2018/19, Susan Scholefield's total remuneration was £4,125 (2017/18: £4,200); Peter Freeman's total remuneration was £3,761 (2017/18: £1,825).

## 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.

<sup>4</sup> The Median Total Remuneration and Ratio for 2017/18 are restated.

<sup>5</sup> Remuneration ranged from £22,950 to £105,000 – £110,000 (2017/18: £22,700 to £105,000 – £110,000).

## Pensions applicable to the Tribunal and the CS

### Judicial pensions

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 for financial year 2018/19 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>6</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. Two of the four fee-paid Tribunal Chairmen have opted into the JPS 2015.

During 2018/19, Transitional Protection Allowance was paid to one of the Tribunal fee-paid chairmen backdated from 1 April 2015. MOJ is yet to confirm details of payments for employer judicial pension contributions in relation to one other fee-paid chairman.

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.

### Civil Service pensions

Staff 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>6</sup> [www.gov.uk/government/publications/judicial-pension-scheme-accounts-2018-to-2019](http://www.gov.uk/government/publications/judicial-pension-scheme-accounts-2018-to-2019)

# Accounts

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 their 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.

Those who entered public service 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 also the amount that is available to transfer to another pension scheme when a 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 their own cost.



# Accounts

## 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 2018/19, employer contributions of £71,000 (2017/18: £70,000) were payable to the JPS at a rate of 38.45 per cent (2017/18: 38.45 per cent) of pensionable pay.

The following part of the Remuneration Report has been audited.

President	Accrued pension as at 31 March 2019 and related lump sum £'000	Real increase in pension and related lump sum as at 31 March 2019 £'000	CETV at 31 March 2019 £'000	CETV at 31 March 2018 £'000	Real increase in CETV £'000
Pension	20 - 25	2.5 - 5	538	418	89
Lump sum	55 - 60	7.5 - 10			

### (b) Registrar's pension benefits

The Registrar's pension benefits are provided through the Civil Service Pension arrangements. For 2018/19, employer contributions of £25,000 (2017/18: £25,000) were payable to the PCSPS at a rate of 24.5 per cent (2017/18: 24.5 per cent) of pensionable pay.

The following part of the Remuneration Report has been audited.

Registrar	Accrued pension at age 60 as at 31 March 2019 and related lump sum £'000	Real increase in pension and related lump sum at age 60 £'000	CETV at 31 March 2019 £'000	CETV at 31 March 2018 £'000	Real increase in CETV £'000
Pension	40 - 45	0 - 2.5	975	854	21
Lump sum	125 - 130	5 - 7.5			



# Accounts

## Staff Report (audited)

### Tribunal

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

	2018/19 £	2017/18 £
Heriot Currie QC	10,071	1,200
Peter Freeman CBE, QC (Hon)	38,486	61,201
Andrew Lenon QC	51,814	15,601
Hodge Malek QC*	7,544	7,800

\*In 2018/19, transitional protection allowance of £20,653 was paid to Hodge Malek QC backdated from 1 April 2015.

Fee-paid Tribunal Chairmen are remunerated at a rate of £600 per day (2017/18: £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 (2017/18: £400 per day). Total remuneration of £118,348 paid to Ordinary Members in 2018/19 (2017/18: £129,509) is included in the table in note (d) below.

(c) In 2018/19, benefits in kind of £1,312 (travel and subsistence) were paid to Heriot Currie (2017/18: £674). No other fee-paid Chairmen received benefits in kind.

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

	2018/19 £'000	2017/18 £'000
Members' remuneration (including the President, fee-paid Chairmen and Ordinary Members)	412	397
Social security costs	47	46
Pension contributions for the President	71	70
Pension contributions and Transitional Protection Allowance for fee-paid Chairmen	37	9
<b>Total members' remuneration</b>	<b>567</b>	<b>522</b>

# Accounts

## CS

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

	<b>Total 2018/19 £'000</b>	Total 2017/18 £'000
Wages and salaries	815	807
Social security costs	84	88
Other pension costs	169	169
Redundancy and Exit Costs	47	-
<b>Total employee costs</b>	<b>1,115</b>	1,064

(b) The average number of staff employed during the year (full-time and part-time) was 18 (2017/18: 18).

(c) The Tribunal/CS continues to maintain a diverse workforce. As at 31 March 2019, 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 a SCS equivalent.

(e) The staff absence rate (0.8 per cent of working days or 2.1 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)

In 2018/19, there were no losses or special payments.

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

Registrar and Accounting Officer

11 July 2019

## Tribunal's Audit Report

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

I certify that I have audited the financial statements of the Competition Appeal Tribunal for the year ended 31 March 2019 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 2019 and of 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 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.

#### **Conclusions relating to going concern**

I am required to 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 for a period of at least twelve months from the date of approval of the financial statements. 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. I have nothing to report in these respects.

# Accounts

## **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;
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the consolidated 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.

# Accounts

## Other Information

The Board and the Accounting Officer are responsible for the other information. The other information comprises information included in the Annual Report, but does not include 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 the 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.

## Gareth Davies

Comptroller and Auditor General  
15 July 2019

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

## Tribunal's Statement of Comprehensive Net-Expenditure for the year ended 31/03/2019

	Note	2018/19 £'000	2017/18 £'000
Expenditure:			
Members' remuneration costs	3(b)	(567)	(522)
Other operating charges	4(a)	(105)	(102)
<b>Total expenditure</b>		<b>(672)</b>	(624)
<b>Net Expenditure for the financial year</b>		<b>(672)</b>	(624)

There is no other comprehensive net expenditure. The notes on pages 69 to 72 form part of these accounts.

# Accounts

## Tribunal's Statement of Financial Position as at 31/03/2019

	Note	2018/19 £'000	2017/18 £'000
<b>Non current assets:</b>			
Trade receivables and other receivables	5(a)	75	90
<b>Total non current assets</b>		<b>75</b>	90
<b>Current assets:</b>			
Trade receivables and other receivables	5(a)	150	98
Cash and cash equivalents		-	-
<b>Total current assets</b>		<b>150</b>	98
<b>Total assets</b>		<b>225</b>	188
<b>Current liabilities:</b>			
Trade payables and other payables	6(a)	(106)	(98)
Provisions	7(b)	(44)	-
<b>Total current liabilities</b>		<b>(150)</b>	(98)
<b>Total assets less current liabilities</b>		<b>75</b>	90
<b>Non current liabilities:</b>			
Provisions	7(b)	(75)	(90)
<b>Total non current liabilities</b>		<b>(75)</b>	(90)
<b>Assets less liabilities</b>		<b>-</b>	-
<b>Taxpayers' equity:</b>			
General fund		-	-
<b>Total taxpayers' equity</b>		<b>-</b>	-

The notes on pages 69 to 72 form part of these accounts.

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

Registrar and Accounting Officer

11 July 2019

# Accounts

## Tribunal's Statement of Cash Flows for the year ended 31/03/2019

	Note	2018/19 £'000	2017/18 £'000
<b>Cash flows from operating activities:</b>			
Net expenditure		(672)	(624)
(Increase)/decrease in receivables	5	(37)	46
Increase/(decrease) in payables	6	8	(64)
Increase in short term provisions	7(b)	44	-
(Decrease)/increase in long term provisions	7(b)	(15)	18
Net cash (outflow) from operating activities		(672)	(624)
<b>Cash flows from financing activities:</b>			
Grant-in-aid	2	672	624
<b>Increase/(decrease) in cash in the period</b>		<b>-</b>	<b>-</b>

The notes on pages 69 to 72 form part of these accounts.

## Tribunal's Statement of Changes in Taxpayers' Equity for the year ended 31/03/2019

	General Fund £'000
<b>Balance at 31 March 2017</b>	<b>0</b>
Net operating cost for 2017/18	(624)
Net financing from BEIS for 2017/18	624
<b>Balance at 31 March 2018</b>	<b>0</b>
Net operating cost for 2018/19	(672)
Net financing from BEIS for 2018/19	672
<b>Balance at 31 March 2019</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 2018/19 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 has provided indicative amounts required in respect of the year to 31 March 2020 in May 2019. 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 receivable balance of £150,000, shown in note 5a below, is of the equal amount to the liability of £150,000, shown in note 6a and 7(b) 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 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.

# Accounts

## 2. Government grant-in-aid

Total grant-in-aid allocated in financial year 2018/19 was £672,000 (2017/18: £624,000).

## 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 UK) to sit as Tribunal Chairmen. The appointments of Tribunal Chairmen (other than those nominated by a head of Judiciary) are for a fixed period of eight years. 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.

	2018/19 £'000	2017/18 £'000
Members' remuneration (including the President, fee-paid Chairmen and Ordinary Members)	412	397
Social security costs	47	46
Pension contributions for the President	71	70
Pension contributions and Transitional Protection Allowance for fee-paid Chairmen	37	9
<b>Total Members' remuneration</b>	<b>567</b>	<b>522</b>

## 4. Other operating charges

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

	2018/19 £'000	2017/18 £'000
Members' travel and subsistence	28	27
Members' PAYE and National Insurance on travel and subsistence expenses	18	17
Members' training	40	43
Long service award	13	9
Audit fees*	6	6
<b>Total other operating charges</b>	<b>105</b>	<b>102</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(b) below.

# Accounts

## 5. Trade receivables and other receivables

(a) Analysis by type

	2018/19 £'000	2017/18 £'000
Amounts falling due within one year:		
Trade receivables and other receivables with the CS	150	98
Amounts falling due after more than one year:		
Trade receivables and other receivables with the CS	75	90
<b>Total trade receivables and other receivables</b>	<b>225</b>	<b>188</b>

## 6. Trade payables and other payables

(a) Analysis by type

	2018/19 £'000	2017/18 £'000
Amounts falling due within one year:		
Taxation and social security	26	24
Trade Payables	1	1
Accruals	79	73
<b>Total trade payables and other payables</b>	<b>106</b>	<b>98</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

(a) provisions for liabilities and charges

	Long service award costs £'000
<b>Balance at 31 March 2018</b>	<b>90</b>
Provided in the year	32
Paid in the year	(3)
<b>Balance at 31 March 2019</b>	<b>119</b>

# Accounts

## (b) Analysis of expected timing of provisions

	2018/19 £'000	2017/18 £'000
No later than one year	44	-
Later than one year, and not later than five years	75	90
Later than five years	-	-
<b>Balance at 31 March</b>	<b>119</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. Both the Judicial Pensions Act 1981 and the Judicial Pensions and Retirement Act 1993 are not registered schemes for the purposes of the Finance Act 2004. As a result, lump sum benefits payable from the schemes and members' contributions payable to the schemes do not attract income tax relief. Judges therefore receive a service award which becomes payable when they near retirement. The level of the award, which is a proportion of the lump sum, reflects their years of service and Judicial grade and ensures their net position is maintained. 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 2019. 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 £45,000. The provision of £44,000 payable to the previous holder of the office of President at his retirement date is due in 2019/20 and therefore included as an amount due no later than one year. A transactional protection allowance of £3,000 was paid in the year to one fee-paid Tribunal Chairman and there is a further provision of £4,000 for the long service award and pension contributions of £26,000 payable for 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 the same day as 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 the Competition Service for the year ended 31 March 2019 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 Service's affairs as at 31 March 2019 and of 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.

#### Conclusions relating to going concern

I am required to 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 for a period of at least twelve months from the date of approval of the financial statements. 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. I have nothing to report in these respects.

# Accounts

## 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;
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the consolidated 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, but does not include 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.

# Accounts

## 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 the 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.

## Gareth Davies

Comptroller and Auditor General  
15 July 2019

157-197 Buckingham Palace Road  
Victoria  
London  
SW1W 9SP

## CS's Statement of Comprehensive Net Expenditure for the year ended 31/03/2019

	Note	2018/19 £'000	2017/18 £'000
<b>Expenditure:</b>			
Funding the activities of the Tribunal		(672)	(624)
CS and Audit and Risk Assurance Committee Members' remuneration	3(a)	(14)	(9)
Staff costs	4(a)	(1,115)	(1,064)
Other expenditure	6	(2,258)	(2,219)
Depreciation	6	(133)	(239)
Total expenditure		(4,192)	(4,155)
<b>Income:</b>			
Other income	7	6	5
Net expenditure		(4,186)	(4,150)
<b>Net expenditure after interest</b>		<b>(4,186)</b>	(4,150)
<b>Net expenditure after taxation</b>		<b>(4,186)</b>	(4,150)

All activities were continuing during the year. The notes on pages 79 to 92 form part of these accounts.



# Accounts

## CS's Statement of Financial Position as at 31/03/2019

	Note	2018/19 £'000	2017/18 £'000
<b>Non current assets:</b>			
Property, plant and equipment	8	210	249
Intangible assets	9	41	93
<b>Total non current assets</b>		<b>251</b>	342
<b>Current assets:</b>			
Trade receivables and other receivables	10	120	152
Cash and cash equivalents	11	465	847
<b>Total current assets</b>		<b>585</b>	999
<b>Total assets</b>		<b>836</b>	1,341
<b>Current liabilities:</b>			
Trade payables and other payables	12(a)	(1,311)	(399)
Provisions	13(b)	(44)	-
<b>Total current liabilities</b>		<b>(1,355)</b>	(399)
<b>Total assets less current liabilities</b>		<b>(519)</b>	942
<b>Non current liabilities:</b>			
Financial liabilities	12(a)	(196)	(1,323)
Provisions	13(b)	(75)	(90)
<b>Total non current liabilities</b>		<b>(271)</b>	(1,413)
<b>Assets less liabilities</b>		<b>(790)</b>	(471)
<b>Taxpayers' equity:</b>			
General fund		(790)	(471)
<b>Total taxpayers' equity</b>		<b>(790)</b>	(471)

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 79 to 92 form part of these accounts.

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

Registrar and Accounting Officer

11 July 2019

# Accounts

## CS's Statement of Cash Flows for the year ended 31/03/2019

	Note	2018/19 £'000	2017/18 £'000
<b>Cash flows from operating activities:</b>			
<b>Net expenditure before interest</b>		<b>(4,186)</b>	(4,150)
Adjustments for non-cash transactions	6	133	239
Decrease/(increase) in receivables	10(a)	32	(92)
(Decrease) in payables	12(a)	(215)	(65)
Increase in short term provisions	13(b)	44	-
(Decrease)/increase in long term provisions	13(b)	(15)	18
<b>Net cash (outflow) from operating activities</b>		<b>(4,207)</b>	(4,050)
<b>Cash flows from investing activities:</b>			
Property, plant and equipment purchases	8	(38)	(62)
Intangible asset purchases	9	(4)	(59)
<b>Net cash used in investing activities</b>		<b>(42)</b>	(121)
<b>Cash flows from financing activities:</b>			
Grant-in-aid from BEIS	2	3,867	4,496
<b>Net Increase in cash and cash equivalents in the period</b>	11	<b>(382)</b>	(325)
Cash and cash equivalents at the beginning of the period	11	847	522
<b>Cash and cash equivalents at the end of the period</b>	11	<b>465</b>	847

The figure for purchase of assets represents the cash paid in the year. The notes on pages 79 to 92 form part of these accounts.

# Accounts

## CS's Statement of Changes in Taxpayers' Equity for the year ended 31/03/2019

	General Fund £'000
<b>Balance at 31 March 2017</b>	<b>(817)</b>
Net operating cost for 2017/18	(4,150)
Net financing from BEIS for 2017/18	4,496
<b>Balance at 31 March 2018</b>	<b>(471)</b>
Net operating cost for 2018/19	(4,186)
Net financing from BEIS for 2018/19	3,867
<b>Balance at 31 March 2019</b>	<b>(790)</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 BEIS has provided indicative amounts required in respect of the year to 31 March 2020 in May 2019, 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.

# Accounts

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. 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.

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

# Accounts

## **(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 have been 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. Following the CMA's decision to exercise a break clause to terminate their lease in September 2019, the CS's MOTO will also be terminated at the same time. Consequently, rentals for Victoria House will now be charged over the shorter term of 16 years.

The CS will be moving to premises at 8 Salisbury Square in the last quarter of 2019, pursuant to a 10 year lease. The lease for 8 Salisbury Square commenced on 25 January 2019 with an initial 25 month rent-free period.

## **(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. 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**

IFRS 16 Leases became effective for accounting periods beginning on or after 1 January 2019 and will be implemented from 1 April 2020. The new standard requires all leases with a term of 12 months or more to be recognised on the balance sheet as a "right of use" asset and lease liability, unless the underlying asset is of low value. These changes will have a significant impact on the CS's financial statements and will result in an increase in reported assets and reported liabilities. Where the underlying asset has low value or the lease term is 12 months or less, payments will be expensed as they are made.

## **(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 lease liability obligation assumes that the Tribunal/CS will remain in Victoria House until September 2019. 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.

# Accounts

## 2. Government grant-in-aid

	2018/19 £'000	2017/18 £'000
Allocated by BEIS	4,496	4,471
Invest to Save Allocated	-	148
Total Allocated	4,496	4,619
<b>Total drawn down</b>	<b>3,867</b>	4,496

## 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.

	2018/19 £'000	2017/18 £'000
CS and Audit and Risk Assurance Committee Members' remuneration	14	9
Social security costs	-	-
<b>Total CS and Audit and Risk Assurance Committee Members' remuneration</b>	<b>14</b>	9

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

(c) The remuneration of the two CS Members, Susan Scholefield £4,125 (2017/18: £4,200), and Peter Freeman £3,761 (2017/18: £1,825), is 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)
	2018/19	2018/19	2017/18	2017/18
Wages and salaries	815	815	807	807
Social security costs	84	84	88	88
Other pension costs	169	169	169	169
Redundancy and exit costs	47	47	-	-
<b>Total employee costs</b>	<b>1,115</b>	<b>1,115</b>	1,064	1,064

## 5. Pension costs

The PCSPS is an unfunded multi-employer defined benefit scheme 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 2018/19, employer contributions of £166,036 (2017/18: £166,340) were payable to the PCSPS at one of the four rates available in the range of 20 to 24.5 per cent (2017/18: 20 to 24.5 per cent) of pensionable pay, based on salary bands. For 2019/20 the rates range have changed to 26.6 to 30.3 percent. The scheme is 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 £2,845 (2017/18: £2,640) 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 of up to 3 per cent of pensionable pay.

# Accounts

## 6. Other expenditure

	2018/19 £'000	2017/18 £'000
Hire of plant and machinery	4	4
Other operating leases*	439	940
Non case related expenditure including internal audit fees	14	11
IT service fees	105	133
Accommodation and utilities**	1,406	815
Travel, subsistence and hospitality	14	14
Other administration including case related expenditure	258	284
Audit fees***	18	18
<b>Non cash item</b>		
Depreciation and loss on disposed of property, plant and equipment	133	239
<b>Total other expenditure</b>	<b>2,391</b>	<b>2,458</b>

\* Other operating lease costs relate to the rental of the Tribunal/CS's premises at Victoria House, where the CS is a tenant of the CMA under a MOTO arrangement. The MOTO was intended to last for the duration of the CMA's original 20 year lease (which commenced in September 2003). However, following the CMA's decision to exercise the break clause in their lease and terminate it in September 2019, the MOTO will also be brought to an end at the same time. Consequently, the CS has accelerated the unwinding of the rent free and the rent increase liability over one and half years instead of five and half years (based on the original Victoria House lease end date of September 2023).

\*\* It is the CS's policy not to charge HMCTS and other government bodies for using Tribunal/CS's court facilities. The CS has accrued for dilapidation costs of £565,000 payable for Victoria House in September 2019.

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

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

	2018/19 £'000	2017/18 £'000
Website and library service income	6	5
Gross interest received	-	-
<b>Total income</b>	<b>6</b>	<b>5</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 2018	388*	327*	50	765
Additions	14	24	–	38
Disposals	(7)	(1)	–	(8)
<b>At 31 March 2019</b>	<b>395*</b>	<b>350*</b>	<b>50</b>	<b>795</b>
<b>Depreciation:</b>				
At 31 March 2018	157	321	38	516
Charged in year	70	3	4	77
Disposals	(7)	(1)	–	(8)
<b>At 31 March 2019</b>	<b>220</b>	<b>323</b>	<b>42</b>	<b>585</b>
Net book value at 31 March 2018	231	6	12	249
<b>Asset financing:</b>				
Owned	231	6	12	249
Net book value at 31 March 2019	175	27	8	210
<b>Asset financing:</b>				
Owned	175	27	8	210

\* Included in the cost of fixed assets, shown in the table above, are IT assets with a value of £107,860 and F&F assets with a value of £318,252 which have been fully written down but are still in use.

# Accounts

	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	231	6	12	249
<b>Asset financing:</b>				
Owned	231	6	12	249

\* 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.

# Accounts

## 9. Intangible assets

	Purchased software licences £'000	SharePoint £'000	Total £'000
<b>Cost or valuation:</b>			
At 31 March 2018	603	157	760
Additions	3	1	4
<b>At 31 March 2019</b>	<b>606</b>	<b>158</b>	<b>764</b>
<b>Amortisation:</b>			
At 31 March 2018	550	117	667
Charged in the year	34	22	56
<b>At 31 March 2019</b>	<b>584</b>	<b>139</b>	<b>723</b>
Net book value at 31 March 2018	53	40	93
<b>Net book value at 31 March 2019</b>	<b>22</b>	<b>19</b>	<b>41</b>

	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>

# Accounts

## 10. Trade and other receivables

### (a) Analysis by type

	31 March 2019 £'000	31 March 2018 £'000
<b>Amounts falling due within one year:</b>		
Deposits and advances	8	7
Prepayments and accrued income	112	145
<b>Total trade receivables and other receivables</b>	<b>120</b>	152

There were no balances falling due after one year.

## 11. Cash and cash equivalents

	2018/19 £'000	2017/18 £'000
Balance at 1 April	847	522
Net change in cash balances	(382)	325
<b>Balance at 31 March</b>	<b>465</b>	847
The following balances were held at 31 March:		
Cash in Government Banking Service (GBS)	465	847
<b>Balance at 31 March</b>	<b>465</b>	847

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

### (a) Analysis by type

	31 March 2019 £'000	31 March 2018 £'000
<b>Amounts falling due within one year:</b>		
Payables representing activities of the Tribunal at 31 March	150	98
Taxation and social security	47	24
Trade Payables	22	115
Accruals	17	102
Untaken leave accrual	39	37
Deferred income rent free *	42	23
Operating lease liability *	429	-
Dilapidations for Victoria House *	565	-
<b>Total amounts falling due within one year</b>	<b>1,311</b>	<b>399</b>
<b>Amounts falling due after more than one year:</b>		
Deferred income rent free **	186	102
Operating lease liability	-	1,221
Dilapidations for 8 Salisbury Square **	10	-
<b>Total amounts falling due after more than one year</b>	<b>196</b>	<b>1,323</b>

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

\*\* The CS has spread the value of the initial 25 month rent-free period for its new premises, 8 Salisbury Square, over the expected full 10 year length of the lease. The CS has accrued prorata for dilapidations costs payable at the end of the 10 year lease on vacation.

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

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 CS's MOTO agreement with the CMA.

The operating lease liability in note 12(a) represents obligations under operating leases which include an increase in rent 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 and terminate it in September 2019, the CS has (as a result of the MOTO coming to an end at the same time as the CMA's lease) accelerated the unwinding of the rent free and the rent increase liability over one and half years instead of five and half years (based on the original VH lease end date of September 2023). The CS has accrued for dilapidation costs of £565,000 payable for Victoria House in September 2019.

## 13. Provisions

### (a) Provisions for liabilities and charges

	Long service award costs £'000
<b>Balance at 31 March 2018</b>	<b>90</b>
Provided in the year	32
Paid in the year	(3)
<b>Balance at 31 March 2019</b>	<b>119</b>

### (b) Analysis of expected timing of provisions

	2018/19 £'000	2017/18 £'000
No later than one year	44	-
Later than one year, and not later than five years	75	90
Later than five years	-	-
<b>Balance at 31 March</b>	<b>119</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. Both the Judicial Pensions Act 1981 and the Judicial Pensions and Retirement Act 1993 are not registered schemes for the purposes of the Finance Act 2004. As a result, lump sum benefits payable from the schemes and members' contributions payable to the schemes do not attract income tax relief. Judges therefore receive a service award which becomes payable when they near retirement. The level of the award, which is a proportion of the lump sum, reflects their years of service and Judicial grade and ensures their net position is maintained. 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 £45,000. The provision of £44,000 payable to the previous holder of the office of President at his retirement date is due in 2019/20 and therefore included as an amount due no later than one year. A transactional protection allowance of £3,000 was paid in the year to one fee-paid Tribunal Chairman and there is a further provision of £4,000 for the long service award and pension contributions of £26,000 payable in respect of another fee-paid Tribunal Chairman.

# Accounts

## 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.

	31 March 2019 £'000	31 March 2018 £'000
<b>Obligations under operating leases comprise:</b>		
<b>Buildings:</b>		
Not later than one year	591	1,129
Later than one year and not later than five years	4,023	4,793
Later than five years	6,260	591
Other:		
Not later than one year	4	3
Later than one year and not later than five years	4	2
<b>Total obligations under operating leases</b>	<b>10,882</b>	<b>6,518</b>

The obligations under operating leases include an increase in rent 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 until September 2019 for Victoria House.

Following the CMA's decision to exercise the break clause in their lease and terminate it in September 2019, the CS will be relocating to 8 Salisbury Square, the 10 year lease obligations for which commenced on 25 January 2019.

## 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 £465,000 as at 31 March 2019.

## 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. Events after the reporting period

There were no events to report after the reporting period. These financial statements were authorised for issue on the same day as the date of certification by the Comptroller and Auditor General.





