



COMPETITION APPEAL TRIBUNAL

Annual Report and Accounts

2019/2020

Annual Report and Accounts

2019/2020

Contents	Page
Introduction	2
President's statement	5
Performance report	10
Membership as at 31 March 2020	14
Cases 2019/2020	24
Accounts 2019/2020	52

Introduction

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

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

Principal functions of the Tribunal

The Tribunal hears appeals against: decisions taken under the Competition Act 1998 (1998 Act) and Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU) by the Competition and Markets Authority (CMA) and by designated sector regulators with concurrent powers¹; certain decisions of the Office of Communications (OFCOM) regarding the communications and broadcasting sectors under the Communications Act 2003 (2003 Act); and decisions of the CMA or the Secretary of State for Business, Energy & Industrial Strategy (BEIS) on merger and market investigations under the 2002 Act.

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

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

Further powers have been given to the Tribunal to hear appeals under the Payment Services Regulations 2009. Under the Financial Services (Banking Reform) Act 2013 and the Payment Card Interchange Fee Regulations 2015, the Tribunal has jurisdiction to hear

appeals from some types of enforcement and penalty decisions of the Payment Systems Regulator.

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

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

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

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

Membership of the Tribunal

As at 31 March 2020, the Tribunal’s membership comprised:

President

The Hon. Mr Justice Roth

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

Chairmen

The Hon. Mr Justice Mann
 The Hon. Mr Justice Morgan
 The Hon. Mr Justice Hildyard
 The Hon. Mr Justice Birss
 The Hon. Mr Justice Nugee
 The Hon. Lord Doherty
 The Hon. Mr Justice Snowden
 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
 The Hon. Mr Justice Trower
 The Hon. Mr Justice Saini
 The Hon. Mr Justice Miles
 Heriot Currie QC
 Peter Freeman CBE, QC (Hon)
 Andrew Lenon QC
 Hodge Malek QC

Ordinary Members

Caroline Anderson
 Peter Anderson
 Dr Catherine Bell CB
 Dr William Bishop
 Jane Burgess
 Professor John Cubbin
 Michael Cutting
 Paul Dollman
 Eamonn Doran
 Tim Frazer
 Dermot Glynn
 Simon Holmes
 Paul Lomas
 Professor Robin Mason
 Sir Iain McMillan CBE, FRSE, 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 members 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 (ARAC), and a member of the panel of Chairmen, Peter Freeman. Ilia Bowles is the Tribunal/CS Director, Operations.

Register of Interests

The CS holds a register of interests detailing any directorships or other significant interests held by the members of the CS. A copy of the register is published on the Tribunal's website, www.catribunal.org.uk.

Premises

The Tribunal and the CS operate from premises in Salisbury Square House, 8 Salisbury Square, London, EC4Y 8AP. 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

As I write, the Tribunal/CS is rapidly adapting its methods of working, like all other parts of the Court system, to deal with the unprecedented and rapidly evolving situation caused by the COVID-19 pandemic. The Tribunal Registry has remained open for business; however, in accordance with the relevant Government guidance, all of the Tribunal/CS's staff were working from home. Fortunately, the investment we made in past years in cloud based IT systems and video conferencing platforms has enabled us to continue effective operation during these difficult circumstances. I have also recently issued a Practice Direction that adapts the requirements of the Tribunal's Rules of Procedure regarding filing of documents and hearing arrangements which should ease the burden on the parties in cases before the Tribunal who may themselves be operating in difficult conditions as a result of the pandemic.

However, the major positive event of the year under review was the move to Salisbury Square House. It gives the Tribunal an excellent location, close to The Business and Property Courts in the Rolls Building and just inside the City of London. The standard of our new courts and office facilities have impressed all who have seen them.

Cases

During the period covered by this report, 18 new cases were registered at the Tribunal. These comprise: an appeal of an infringement decision (taken by the CMA) under section 46 of the 1998 Act; nine claims for damages pursuant to section 47A of the 1998 Act; three applications for a Collective Proceedings Order under section 47B of the 1998 Act; four applications for review of a merger decision pursuant to section 120 of the 2002 Act; and one appeal in relation to a telecommunications matter under section 192 of the 2003 Act. Nearly all of these cases are significant in terms of their scope and complexity and are additions to a current caseload of some 50 or so cases of similar magnitude.

The Tribunal has handed down 30 judgments over the course of the review period, including nine substantive judgments. I would particularly like to highlight several cases which serve to illustrate the diversity of the Tribunal's work.

Achilles v Network Rail [2019] CAT 20. The Tribunal held that Network Rail had abused a dominant position contrary to the Chapter II prohibition of the 1998 Act by requiring suppliers and persons seeking access to Network Rail's managed infrastructure to obtain supplier assurance only through the Railway Industry Supplier Qualification Scheme and not through alternative schemes. The trial proceeded on the assumption that Network Rail held a dominant position in the market for the operation and provision of access to national rail infrastructure in Great Britain. The Tribunal gave judgment nine months after the claim was filed, following an order for expedition of the claim. Network Rail applied to the Court of Appeal for permission to appeal the Tribunal's judgment which was granted. In March 2020, the Court of Appeal issued its judgment dismissing the appeal.

Lebedev v SoS for Digital, Culture, Media and Sport [2019] CAT 21. This case is notable as the first time the Tribunal has addressed the time limits which apply under the 2002 Act for intervention by the Secretary of State in mergers on public interest grounds. The case involved acquisitions in Lebedev Holdings Ltd, the parent company of the Evening Standard Ltd, and Independent Digital News Media Ltd, publisher of the digital successor to The Independent. The Tribunal held that a public interest intervention notice issued by the Secretary of State was issued in time. However, the four-month statutory time-limit for the Secretary of State to make a reference to the CMA (for a full investigation and report) had expired.

Royal Mail v OFCOM [2019] CAT 27. This was a substantial judgment on an appeal against an OFCOM decision finding that Royal Mail had infringed the Chapter II prohibition of the 1998 Act and Article 102 TFEU by notifying its customers of proposed changes to its pricing scheme for delivering 'bulk mail', i.e. letters collected and sorted by competitors but handed over to Royal Mail for final delivery. OFCOM had imposed a fine of £50m on Royal Mail. In its judgment dismissing the appeal, the Tribunal considered the important question of whether a competition authority must always conduct an 'as efficient competitor' test before finding an exclusionary abuse. Royal Mail has filed an appeal which is due to be heard by the Court of Appeal in April 2021.

Tobii v CMA [2020] CAT 1. The Tribunal's judgment in this case considered the CMA's duty of procedural fairness, its approach to the collection of evidence and to market definition, and the strength of the CMA's merger analysis. The Tribunal dismissed Tobii's application. However, Tobii was successful in demonstrating that the CMA's finding of a substantial lessening of competition due to partial input foreclosure did not have a sufficient evidential basis. In a separate judgment ([2020] CAT 6), the Tribunal declined to refer back to the CMA those passages of the final report which related to partial input foreclosure.

Virgin Media v OFCOM [2020] CAT 5. In this judgment, the Tribunal dismissed Virgin Media's appeal against a decision by OFCOM that Virgin Media had contravened two regulatory obligations by charging its customers too much when they decided to leave their fixed-term contracts early and switch to another communications provider, and by not publishing information about these early termination charges which was up-to-date and which its customers could understand. OFCOM imposed a penalty of £7m on Virgin Media in respect of the contraventions. The Tribunal concluded that OFCOM did not err in finding that Virgin Media had contravened regulatory obligations and held that the penalty imposed was appropriate.

Trucks litigation – Binding recitals [2020] CAT 7. This was the Tribunal's judgment on a preliminary issue relating to the extent to which certain recitals in the Commission Decision of 19 July 2016 *Trucks* were binding as a matter of EU law and, insofar as they were not binding under EU law, whether it would be an abuse of process as a matter of English common law for the defendants not to admit them in the proceedings since this was a settlement decision. These are questions of general significance for follow-on damages claims. The truck manufacturers' appeal against the Tribunal's ruling on abuse of process is due to be heard by the Court of Appeal on an expedited basis in October 2020.

TalkTalk Telecom and Vodafone v OFCOM (BCMR 2019) [2020] CAT 8. This judgment concerned an appeal by TalkTalk Telecom and Vodafone against the decision made by OFCOM that BT did not have market power in a defined area of London known as the Central London Area for the supply of "leased lines", which are high-quality, dedicated, point-to-point data transmission services used by businesses and providers of communications services. The Tribunal held that OFCOM's decision should stand and the appeal was dismissed.

Strident Publishing v Creative Scotland [2020] CAT 11. This case involved an alleged infringement of competition law in Scotland. A panel of Tribunal members from Scotland was therefore constituted and the hearings took place in Edinburgh: Lord Doherty was the Chairman and Peter Anderson and Professor David Ulph were appointed as the Ordinary Members. A preliminary issue was heard to determine whether the Defender was an "undertaking" for the purpose of competition law. On 17 April 2020 (outside the period covered by this report), the Tribunal issued its judgment and concluded that the Defender was not an undertaking.

Forex collective actions [2020] CAT 9. This judgment is notable because it concerned two competing applications (sometimes referred to as a "carriage dispute") to act as the class representative in collective proceedings following on from the European Commission's finding of an infringement of competition law by a number of banking groups in currency spot trading activities. The Tribunal refused to order that the question of which of the applicants would be the more suitable to act as the class representative be heard as a preliminary issue.

During the period covered by this report, the Court of Appeal has determined two appeals from Tribunal's judgments.

In January 2020, the Court of Appeal dismissed an appeal by Ping ([2020] EWCA Civ 13) that the Tribunal had erred in upholding the CMA's finding that Ping had infringed the prohibition in Chapter I of the 1998 Act and Article 101 TFEU by entering into agreements with two retailers which contained clauses prohibiting them from selling Ping golf clubs online.

In March 2020, the Court of Appeal determined appeals by both the CMA and Flynn and Pfizer ([2020] EWCA Civ 339) regarding the pricing of genericised phenytoin sodium capsules. The Court partially upheld the Tribunal's decision and remitted the matter to the CMA for further determination.

Among the cases pending before the Tribunal at the end of the year under review are several very large damages claims following on from the *Trucks* cartel decision of the European 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.

Also, two large damages actions following on from the *Power Cables* cartel decision of the European Commission were transferred from the High Court to the Tribunal in February 2020. These cases are set down for a 50-day trial, which is scheduled to commence in November 2020.

Chairmen

I should like to welcome Mr Justice Trower, who was appointed by the Lord Chancellor to the Tribunal's panel of Chairmen during the year under review, and Mr Justice Saini, who was nominated by the Lord Chief Justice to become a member of the Tribunal.

The assistance that the Tribunal receives from the Chancellor of the High Court and the Judges of the Chancery Division is greatly appreciated. Mrs Justice Falk chaired the Virgin Media appeal, Mr Justice Morgan is chairing the FP McCann appeal, Mr Justice Marcus Smith is the Chairman in the Forex collective actions, Mr Justice Fancourt (sitting with Hodge Malek and myself) is on the Tribunal for the Trucks litigation and Mr Justice Trower is chairing Power Cables private actions.

In respect of the fee-paid members of the panel of Chairmen, Peter Freeman was the Chairman in the Royal Mail and BCOMR 2019 appeals, Andrew Lenon was the chair in the Achilles private action and Hodge Malek (as well as sitting with me on the Trucks litigation) chaired the Tobii merger application. I would like to thank them all for their valuable and much appreciated assistance.

In May 2020, the Judicial Appointments Commission commenced a recruitment exercise for fee-paid Chairmen to replace the four current Chairmen who are due to retire from the Tribunal at the beginning of January 2021.

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. Four of our Ordinary Members retired during the period covered by this review (Bill Allan, Professor John Beath, Dr Clive Elphick and Margot Daly). I am very grateful to all of them for the valuable contribution that they have made to the Tribunal. Currently, therefore, there are 23 members of the panel of Ordinary Members.

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. It is of course unfortunate that such international gatherings have been suspended because of the pandemic, although some virtual conferences and webinars are now being arranged.

In April 2019, I spoke on a panel at the VII Trento Antitrust Conference. The panel focused on the EU-wide experience on private antitrust enforcement. The aim of the panel was to discuss from national perspectives major issues having in mind practical cases and real-life examples. The areas I covered included: disclosure; confidentiality; expert evidence; the weight that factual findings made by national competition authorities and the European Commission have in subsequent private actions; and the interaction of public and private enforcement.

In July 2019, I was on a panel at a conference in Rome organised by the Italian Competition Authority in cooperation with King's College, London, on "The EU Damages Directive and the binding effects of national authority decisions".

In February 2020, I delivered the keynote speech on the presentation of expert evidence, at a seminar on that subject in Brussels organised by the Toulouse School of Economics as part of their executive education programme.

Domestically, I delivered the keynote speech at the London International Disputes Week at Mishcon De Reya entitled "Overview of London's heritage as a leading centre for competition disputes". I addressed the question why London has been such a popular jurisdiction for international cases and considered the effect of Brexit.

Finally, I was delighted when the journal *Concurrences* held a dinner in my honour in London, in October 2019. In my speech, I discussed the benefits of having a specialist competition court and recent proposals for reform.

Among the activities undertaken by my colleagues at the Tribunal, in December 2019 Peter Freeman was interviewed by Bill Kovacic, Professor at George Washington University and King's College London. The interview was part of the "Great Antitrust Enforcers Project" run by George Washington University in partnership with *Concurrences*. In that month, he also attended: the 7th edition of the Global Merger Control conference in Paris organised by *Concurrences* and Dechert, in partnership with CRA International and Frontier Economics; and the Chillin' Competition 10 Year Anniversary Conference which took place in Brussels. In February 2020, he spoke at the International Mergers Conference in London on Merger Control and the Digital Challenge.

In September 2019, Dr Adam Scott moderated and delivered several seminars for the European Commission at the ADA project at the university of Macerata, Italy. The project helps to train European judges on the implementation of EU rules for antitrust damages actions in the wake of the Damages Directive. In January 2020, he spoke at the 14th Seminar for communications law judges hosted by the European Commission. As part of the transitional process, the UK is expected, in the coming year, to be transposing the European Electronic Communications Code.

The Tribunal held a training seminar for all Ordinary Members and Chairmen in October 2019. At that seminar, Professor Richard Whish gave a presentation on Recent Development in EU Competition Law and Professor Ariel Ezrachi spoke on competition issues in digital markets. Both talks were greatly appreciated. I am grateful to Dr Adam Scott and Clare Potter for all their work in organising this training programme. I would like to thank them 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.

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 Commission in Brussels and at its annual conference held in June 2019 in Copenhagen.

The conference explored a variety of ways in which competition law tackles obstacles to regulated network markets being effectively competitive, with speakers from authorities, including the European Commission, academia, an economic consultancy and participation by judges from EU and national courts from across the EU, Norway and Switzerland.

The AECLJ 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 the UK is no longer a member state of the EU.

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 May 2019, we hosted Polish judge Marek Kolasiński of the Court of Appeal in Warsaw and German BGH judge Wolfgang Kirchhoff on their visits to London.

We also welcomed Mr Justice Godfrey Lam, President of the Hong Kong Competition Tribunal, on his visit to London in June 2019.

In September 2019, the Tribunal hosted Justices Ignacio Sancho and Rafael Sarazá of the Spanish Supreme Court on their visit to London.

In February 2020, we were pleased to receive an inbound attachment by Wan Yi Lee from the Singapore Competition Authority.

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 the non-executive member of the CS, Susan Scholefield, for chairing our Board meetings as well as the ARAC.

Finally, I thank the Tribunal/CS's staff as a whole. The move to our new premises presented a major challenge. The fact that it was accomplished so smoothly and successfully is a tribute to the hard work and dedication of all the staff. Altogether, their efforts and professionalism are key to enabling the Tribunal to provide a consistently high standard of service and maintain its international reputation. The advent of the lockdown across the country to contain the pandemic of course means that we face very different challenges in the year ahead, but I am confident that we can show the necessary determination and resolve to deal with the situation.

Sir Peter Roth

President

15 October 2020

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 30 judgments and made 137 orders. 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 2020, two judgments were pending and 63 cases were carried forward to the next year (55, excluding stayed cases).

Tribunal: other activities

In addition to its judicial work, during the year under review the Tribunal was involved in a number of other activities that are related to or arise out of its role in the UK competition law system. Generally, such activities encompass: 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 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 at 31 March 2020, the panel of Ordinary Members consisted of 23 Ordinary Members: 21 members, who were recruited during 2016/17 and who hold office for eight years, and two members who were due to retire in January 2019 but 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.

The staff team comprises 18 people (17 plus the Registrar, with one working part-time), a number of whom multi-task across several roles. As in previous years, the staff absence rate (1.9 per cent of working days) was below the average for both the private and public sectors.

Staff turnover for the year included the departure of Juan Carlos, Information & IT Senior Officer who, after several years at the Tribunal, left to take up a position with a major IT provider, and Caseworker Emmanuel Boakye, who moved to a Government department. We all very much enjoyed working with Juan and Emmanuel and wish them well in their new roles.

This year, we recruited two new members of staff namely Buster Brown, Office Administrator, and Colin Hughes, Library and Information Officer.

Accommodation

As mentioned in last year's report, following the CMA's decision to vacate Victoria House at the end of its lease agreement on 29 September 2019, the Tribunal/CS, who occupied Victoria House under a Memorandum of Terms of Occupation (MOTO) with the CMA, had to consider new options with regards to its premises.

Suitable accommodation was identified at Salisbury Square House, 8 Salisbury Square, London, EC4Y 8AP and secured under a 10-year lease which has been entered into on behalf of the Tribunal/CS by the Government Property Agency (GPA).

Initially, the Tribunal/CS had planned to move to its new premises in September 2019. However, delays in the award of the fit-out contract, a process which was managed by BEIS, meant that the Tribunal/CS had

to remain in Victoria House until November 2019, beyond the termination of the lease agreement and under a new ad-hoc arrangement agreed by the GPA with the owners of the building.

8 Salisbury Square is strategically positioned and provides the Tribunal/CS with modern offices and courtrooms in central London. The premises are close to the senior judiciary who sit on cases in the Tribunal and conveniently located for the parties and their counsel, both essential requirements for the efficient operation of the Tribunal. Although smaller than the premises at Victoria House, the space has been made suitable to meet the demands of the specialised judicial functions of the Tribunal and to accommodate the large scale, complex competition and economic regulatory cases heard by the Tribunal, often to very tight timescales.

Financial

The programme and administration funding allocation from BEIS for 2019/20 was £4,286,000, including £3,924,000 for resource expenditure (net of any income from other sources) and £362,000 for capital expenditure. The Tribunal/CS also received further funding to cover Victoria House dilapidation costs of £565,000, audio visual equipment costs of £112,000 and additional relocation costs of £35,000.

In 2019/20 grant-in-aid received from BEIS was £4,997,000 (2018/19: £3,867,000); actual resource expenditure of the Tribunal/CS was £4,727,000 (2018/19: £4,192,000) split between the Tribunal's actual expenditure of £727,000 (2018/19: £672,000) and the CS's actual expenditure of £4,000,000, (2018/19: £3,520,000).

Accommodation costs (mainly rent, service charges and business rates) comprised £2,083,000 (44 per cent of the total).

The main changes in the CS's costs are set out in the table below. Full details are set out in the Statement of Comprehensive Net Expenditure on page 78.

Increase/(decrease) in costs	2019/20 £'000
Costs of the Tribunal (increase in employer pension contribution rate of 12.9% and increase in case workload)	55
Members' remuneration (reduction in Audit and Risk Assurance Committee membership due to retirement)	(4)
Staff costs (increase in employer pension contributions by 6.1%, aligning Registrar's salary with the comparable point on the judicial salaries scale and untaken leave accrual)	140
Other expenditure (increase in running costs)	257
Total increase in cash costs	448
Depreciation and loss on disposal of obsolete, damaged assets (increase)	87
Total increase in operating costs	535

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 2020 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 include liabilities that relate to the activities of the Tribunal.

Capital expenditure during the year amounted to £391,000 and was mainly related to the purchase of audio-visual equipment and office furniture for the Tribunal/CS's new premises at 8 Salisbury Square. We were gifted £2,483,000 of assets from BEIS relating to the fit-out of 8 Salisbury Square and set aside £530,000 of dilapidation assets to reinstate it to its original condition at the end of the 10-year lease.

The book value of the CS's non-current assets increased from £251,000 to £3,435,000. The total assets of the CS increased from £836,000 to £4,653,000. Closing cash balance was £1,140,000 (2018/19: £465,000). The CS's general fund (which represents the total assets of the CS less its liabilities, but not any other reserves

and financing items) changed from a negative tax payers' equity of £790,000 to a positive £1,964,000.

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 on page 86 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 section 12 and Schedule 2 of the 2002 Act. 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 2019/20.

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 2021 was given in April 2020. Accordingly, it has 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 2020/21, the grant-in-aid from BEIS amounts to £4,390,000 split between £4,245,000 of resource expenditure and £145,000 of capital expenditure. Nearly 77 per cent of the Resource Departmental Expenditure Limit (RDEL) is constituted by fixed costs. Costs for specialised courtrooms and associated facilities constitute 27 per cent of the RDEL.

Early projections indicate that over the next two or three years, the number of cases received by the Tribunal may double as will the number of employees needed to front the increased pressures and workload. By the end of financial year 2020/21, Tribunal/CS's costs could therefore increase by approximately 6 per cent of its total budget (i.e. £243,000). In addition, we will need a further £1,299,000 to meet rent payments

from 25 February to 31 March 2021, after the end of the 25 month rent-free period.

Governance

The President, the Registrar and Peter Freeman (a member of the panel of 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 2019/20, the CS ARAC met three times under the chairmanship of Susan Scholefield. The other members of the ARAC are Sir Iain McMillan and Timothy Sawyer (both members of the panel of Ordinary Members) and Peter Freeman. Further information on the activity of the CS Board and ARAC 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.

Analysis

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

Key issues and risks

The Tribunal/CS has no control over the demand for the Tribunal's services and this increases the uncertainty in planning and budgeting resources. Fluctuations in workload can be pronounced and arise unexpectedly, being driven by activities of 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 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.

Charles Dhanowa OBE, QC (Hon)

Registrar and Accounting Officer

15 October 2020

Membership as at 31 March 2020

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 AECLJ, 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 Hildyard
 The Hon. Mr Justice Birss
 The Hon. Mr Justice Nugee
 The Hon. Lord Doherty
 The Hon. Mr Justice Snowden
 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
 The Hon. Mr Justice Trower
 The Hon. Mr Justice Saini
 The Hon. Mr Justice Miles

Heriot Currie QC (Scotland)



Heriot Currie practises at the Scottish Bar. He commenced practice in 1979 and was Standing Junior in Scotland to the Department of Trade and Industry, between 1987 and 1992. He was called to the English Bar (Gray's Inn) in 1991. In 1992, he was appointed QC in Scotland. Between 2005 and 2014, he was in practice at the English Bar as a Member of Monckton Chambers. His practice has covered a wide range of commercial cases including competition law, intellectual property, judicial review, procurement, human rights and EU law, professional negligence, commercial fraud, building and engineering contracts, arbitrations and public inquiries.

Peter Freeman CBE, QC (Hon)



Peter Freeman is a lawyer who has held senior posts in UK competition enforcement. From 2006 to 2011, he was Chairman of the Competition Commission, having been a Deputy Chairman from 2003. From 2011 to 2013, he was a senior consultant to the law firm Cleary Gottlieb Steen & Hamilton. From 1973 to 2003, he practised at the law firm Simmons & Simmons, being made a partner in 1978. He was Managing Partner of the firm's Commercial and Trade Law Department from 1994 to 1999 and Head of the EC and Competition Law Practice Group from 1987 to 2003. He is a Member of the Lloyds Enforcement Appeal Tribunal 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 Scientific Board of Concurrencia e Regulacao Lisbon, and a Governor of Kingswood School, Bath.

Andrew Lenon QC



Andrew Lenon was called to the Bar in 1982 and was appointed QC in 2006. A Member of One Essex Court Chambers, his practice covers the full range of company and commercial litigation, arbitration and advisory work. He has been involved in many leading cases involving banking and financial services, company and insolvency matters and the insurance, reinsurance and energy industries. He sits as a Deputy District Judge and as a Commercial Arbitrator.

Hodge Malek QC



Hodge Malek was called to the Bar in 1983 and appointed QC in 1999. He is a Member of 3 Verulam Buildings 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 (19th edition, 2018), 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 and is Chair of the Appeals Committee of the Human Fertilisation and Embryology Authority.

Ordinary Members

Caroline Anderson



Caroline Anderson is a Chartered Accountant and Senior Business Adviser with over 20 years' experience in regulatory environments. As Commissioner of Ethical Standards in Public Life in Scotland, she regulates public body board appointments and is responsible for investigating complaints against elected representatives in Scotland. She previously 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 Accounts Ireland in 1996, most recently serving as a Member of its Disciplinary Tribunal. She was a non-executive director of the Disclosure and Barring Service and chaired its Audit and Risk Committee until April 2019.

Peter Anderson



Peter Anderson has been a solicitor in Scotland since 1975 and a solicitor advocate since 1994. He was a partner in Simpson & Marwick, Solicitors, Scotland, from 1978 and, after the firm merged with Clyde & Co Solicitors, a partner there from 2015 to 2018. 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 Syndicate, MGA. He has been Chair of the Disciplinary Tribunal of the Institute of Chartered Accountants of Scotland for 12 years and he was Legal Adviser to the Royal Incorporation of Architects in Scotland for 25 years, until 2018.

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 Cadent Gas Limited and Horder Healthcare since 2016. Her past roles include non-executive directorships at the Civil Aviation Authority, United Utilities plc, National Grid Gas Ltd, National Grid Electricity Transmission Ltd and the Department of Health.

Dr William Bishop



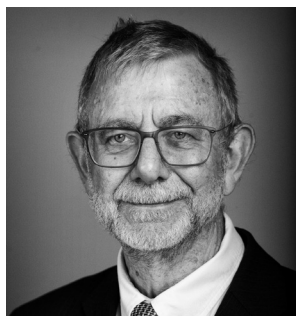
William Bishop was formerly a Senior Advisor at Charles River Associates and is Professor of Economics of Competition Law at the College of Europe. His parliamentary and governmental experience includes being an adviser to the UK Government on drafting the UK Competition Act and adviser to the European Commission on its Market Definition Notice and on Remedies in Merger Control. His professional experience includes many cases concerning European and UK merger control and UK monopoly investigations. A former career academic (mainly at the London School of Economics and Political Science), he is the author of numerous papers on the economics of law.

Jane Burgess



Jane Burgess was with the John Lewis Partnership since 1993 first starting as Staff and Training Manager and her last position was as Partners' Counsellor on the board, 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.

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.

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.

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.

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.

Simon Holmes



Simon Holmes advised on competition law for some 35 years before joining the CAT. He was latterly head of competition at SJ Berwin and then King & Wood Mallesons –first in the UK and Europe and then on a global basis.

He is a Visiting Professor at Oxford University where he teaches competition law. He is also an adviser to the NGO, ClientEarth; a strategic Adviser to SustainablePublicAffairs in Brussels; a member of the competition commission of the International Chamber of Commerce (ICC); a member of the international advisory board of the LDC (Insituto de derecho de la competencia); and an associate member of the UCL Centre for Law, Economics, and Society (CLES).

He writes and speaks regularly on competition and regulatory issues (most recently on the relationship between climate change, sustainability and 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.

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.

Sir Iain McMillan CBE, FRSE, 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 2014. He is currently Chairman of the University of Strathclyde Business School Advisory Board; a Member of the Scottish Future Growth Council; and Honorary Patron and former Chairman of the Scottish North American Business Council (SNABC). Other appointments have included membership of the Boards of the Scottish Qualifications Authority, the NHS 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 the 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 and, in 2018, he was appointed a Deputy Lieutenant for Stirling and Falkirk. He is also a Fellow of The Royal Society of Edinburgh and a Freeman of the City of Glasgow.

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 which 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.

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.

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 2019/2020



Contents	Page
Glossary of abbreviations and defined terms used in the cases section	26
Judgments handed down within the period 01/04/2019 to 31/03/2020	27
Activity by case within the period 01/04/2019 to 31/03/2020	38
Overall case activity within the period 01/04/2019 to 31/03/2020	51

Glossary of abbreviations

Defined term	meaning
Achilles	Achilles Information Limited
B&M	B&M European Value Retail S.A.
BT	British Telecommunications plc
CMA	Competition and Markets Authority
Commission	European Commission
Dixons	Dixons Carphone PLC
DSG Retail	DSG Retail Limited and Dixons Retail Group Limited
Ecolab	Ecolab Inc.
Europcar	Europcar UK Limited, PremierFirst Vehicle Rental Holdings Limited, Europcar Group UK Limited and PremierFirst Vehicle Rental Franchising Limited
Google Ireland	Google Ireland Limited, Google Commerce Limited and Google LLC
IDNM	Independent Digital News and Media Limited
Inmarsat	Inmarsat Ventures Limited
LHL	Lebedev Holdings Limited
Mastercard	Mastercard Incorporated, Mastercard International Incorporated and Mastercard Europe SPRL
Network Rail	Network Rail Infrastructure Limited
OFCOM	Office of Communications
RHA	Road Haulage Association
Royal Mail	Royal Mail plc
TalkTalk	TalkTalk Telecom Group plc
TFEU	Treaty on the Functioning of the European Union
Tobii	Tobii AB (publ)
Tribunal Rules	Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648)
UKTC	UK Trucks Claim Limited
Viasat	Viasat UK Limited and Viasat, Inc.
Virgin	Virgin Media Limited
Vodafone	Vodafone Limited
VSW Claimants	All claimant entities in cases 1292/5/7/18 (T), 1293/5/7/18 (T) and 1294/5/7/18 (T)
Whistl	Whistl UK Limited (formerly TNT Post)
Wolseley Claimants	All claimant entities in case 1294/5/7/18 (T)
1998 Act	Competition Act 1998
2002 Act	Enterprise Act 2002
2003 Act	Communications Act 2003

Judgments handed down within the period 01/04/2019 to 31/03/2020

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
1. DSG Retail Limited and Another v MasterCard Incorporated and Others Dixons Carphone PLC v MasterCard Incorporated and Others Europcar UK Limited and Others v MasterCard Incorporated and Others [2019] CAT 10 9 April 2019	The President Peter Anderson Simon Holmes	Ruling of the Tribunal on MasterCard's application for permission to appeal the Tribunal's Judgment of 14 February 2019 ([2019] CAT 5) in relation to limitation. The Tribunal granted permission in respect of one of the two proposed grounds of appeal. The Tribunal also ruled that DSG Retail, Dixons and Europcar were entitled to their costs.
2. Viasat UK Limited and Viasat, Inc. v Office of Communications [2019] CAT 11 15 April 2019	Mr Justice Mann Dr Clive Elphick Anna Walker CB	Ruling of the Tribunal on Viasat's application for permission to appeal the Tribunal's Judgment of 7 December 2018 ([2018] CAT 18). Permission to appeal was refused. The Tribunal also ruled that the intervener (Inmarsat) was entitled to its costs.
3. Wolseley UK Limited and Others v Fiat Chrysler Automobiles N.V. and Others [2019] CAT 12 8 May 2019	The President Mr Justice Hildyard Hodge Malek QC	Judgment of the Tribunal granting an application made by the Wolseley Claimants to strike out Daimler AG's additional claim.
4. B&M European Value Retail S.A. v Competition and Markets Authority [2019] CAT 13 13 May 2019	Mr Justice Morris Michael Cutting Paul Dollman	Judgment of the Tribunal in relation to jurisdiction and an application by B&M for interim relief. For the reasons set out in the Judgment, the Tribunal: (1) concluded that it had jurisdiction to hear B&M's substantive application for review under section 179(1) of the 2002 Act; and (2) refused B&M's application for interim relief.

Judgment	Tribunal	Subject matter
<p>5.</p> <p>Melanie Meigh (trading as The Prinknash Bird and Deer Park) v Prinknash Abbey Trustees Registered [2019] CAT 14 25 April 2019</p>	The President	Ruling of the President capping the Claimant's recoverable costs at £300,000 and the Defendant's recoverable costs at £275,000.
<p>6.</p> <p>UK Trucks Claim Limited v Fiat Chrysler Automobiles N.V. and Others Road Haulage Association Limited v MAN SE and Others [2019] CAT 15 17 May 2019</p>	The President Dr William Bishop Professor Stephen Wilks	Judgment of the Tribunal setting out the reasons for its decision to adjourn the main hearing of the Collective Proceedings Order applications.
<p>7.</p> <p>Flynn Pharma Limited and Another v Competition and Markets Authority (Interim Relief) Flynn Pharma Limited and Another v Competition and Markets Authority Pfizer Inc. and Pfizer Limited v Competition and Markets Authority [2019] CAT 16 21 May 2019</p>	Peter Freeman CBE QC (Hon) Paul Lomas Professor Michael Waterson	Ruling of the Tribunal granting a request by the CMA for permission to appeal the Tribunal's Ruling on costs dated 29 March 2019 ([2019] CAT 9).
<p>8.</p> <p>Unlocked Limited and Others v Google Ireland Limited and Others [2019] CAT 17 21 May 2019</p>	Mr Justice Birss	Ruling and Order of the Tribunal awarding costs in favour of Google Ireland and withdrawing the claim.
<p>9.</p> <p>Suez Groupe SAS and Others v Fiat Chrysler Automobiles N.V. and Others Veolia Environnement S.A. and Others v Fiat Chrysler Automobiles N.V. and Others Wolseley UK Limited and Others v Fiat Chrysler Automobiles N.V. and Others [2019] CAT 18 3 May 2019</p>	The President Mr Justice Fancourt Hodge Malek QC	Judgment of the Tribunal granting the Claimants' application for specific disclosure of certain meeting minutes.

Judgment	Tribunal	Subject matter
10. Royal Mail plc v Office of Communications [2019] CAT 19 11 July 2019	Peter Freeman CBE QC (Hon) Tim Frazer Professor David Ulph CBE, FRSE	Ruling of the Tribunal refusing an application by Royal Mail to adjourn the proceedings.
11. Achilles Information Limited v Network Rail Infrastructure Limited [2019] CAT 20 19 July 2019	Andrew Lenon QC Jane Burgess Michael Cutting	<p>Judgment of the Tribunal on a preliminary issue in relation to the Sentinel Scheme and On-Track Plant Operations Scheme, Achilles, having recognised in the course of the trial that Network Rail is free to choose its provider of supplier assurance in relation to the Principal Contractor Licensing Scheme.</p> <p>For the reasons set out in the Judgment and on the assumption that Network Rail holds a dominant position in the market for the operation and provision of access to national rail infrastructure in Great Britain, the Tribunal concluded, unanimously, that the requirement in the Sentinel Scheme and On-Track Plant Operations Scheme that suppliers and persons seeking access to Network Rail's managed infrastructure must obtain supplier assurance only through the Railway Industry Supplier Qualification Scheme and not through alternative schemes infringed Chapter I and Chapter II prohibitions of the 1998 Act.</p>
12. Lebedev Holdings Limited and Another v Secretary of State for Digital, Culture, Media and Sport [2019] CAT 21 16 August 2019	The President Tim Frazer Paul Lomas	<p>Judgment of the Tribunal on the application of LHL and IDNM (together, the "Applicants") for review under section 120 of the 2002 Act of the decision of the Secretary of State for Digital, Culture, Media and Sport (the "Secretary of State") to issue, on 27 June 2019, a public interest intervention notice ("PIIN") under section 42 of the 2002 Act in respect of certain acquisitions of shares in LHL and IDNM.</p> <p>The Applicants sought an order quashing the PIIN on two grounds:</p> <p>Ground 1: that the PIIN was issued out of time; and/or</p> <p>Ground 2: that the PIIN set a deadline for reports from the CMA and OFCOM which was after the time in which the Secretary of State could make a 'Phase 2' reference to the CMA under section 45 of the 2002 Act, and, in any event, that time had now expired, so that no reference could now be made.</p> <p>For the reasons given in the Judgment, the Tribunal: (1) dismissed Ground 1 as the PIIN was issued in time; and (2) upheld Ground 2 insofar as the Tribunal held that there was a four-month time limit for the Secretary of State to make a reference, which had expired.</p> <p>In light of this decision, the Tribunal did not think it appropriate to quash the PIIN but made a declaration that the time limit for the Secretary of State to make a reference under section 45 of the 2002 Act had expired on 1 July 2019.</p>
13. Achilles Information Limited v Network Rail Infrastructure Limited [2019] CAT 22 12 September 2019	Andrew Lenon QC Jane Burgess Michael Cutting	<p>Ruling of the Tribunal refusing Network Rail's application for permission to appeal the Tribunal's Judgment dated 19 July 2019 ([2019] CAT 20).</p> <p>The Tribunal also ruled that Achilles was entitled to its costs, subject to a reduction of 15 per cent.</p>

Judgment	Tribunal	Subject matter
14. Tobii AB (publ) v Competition and Markets Authority [2019] CAT 23 10 October 2019	Hodge Malek QC Paul Dollman Derek Ridyard	Ruling of the Tribunal excluding certain factual evidence and refusing permission to admit expert evidence submitted by Tobii.
15. TalkTalk Telecom Group plc and Vodafone Limited v Office of Communications (BCMR 2019) [2019] CAT 24 16 October 2019	Peter Freeman CBE QC (Hon) Professor John Cubbin Professor Anthony Neuberger	Ruling of the Tribunal granting CityFibre Infrastructure Holdings Limited's request for permission to intervene in the proceedings.
16. Tobii AB (publ) v Competition and Markets Authority [2019] CAT 25 25 October 2019	Hodge Malek QC	Ruling of the Tribunal on Tobii's application for specific disclosure. For the reasons given in the Ruling, one part of the application was granted and the remaining parts were refused.

Judgment	Tribunal	Subject matter
<p>17.</p> <p>UK Trucks Claim Limited v Fiat Chrysler Automobiles N.V. and Others</p> <p>Road Haulage Association Limited v MAN SE and Others</p> <p>[2019] CAT 26</p> <p>28 October 2019</p>	<p>The President</p> <p>Dr William Bishop</p> <p>Professor Stephen Wilks</p>	<p>Judgment of the Tribunal on the preliminary issue of whether as a result of any aspect of their funding arrangements, UKTC and/or the RHA (together, the “Applicants”) should not be authorised to act as a class representative pursuant to section 47B(8)(b) of the 1998 Act.</p> <p>On 8 May 2019, the Tribunal had ruled that in the light of a possible appeal to the Supreme Court against the Court of Appeal’s Judgment in another case concerning an application for a collective proceedings order (“CPO”), Merricks v Mastercard Inc, the applications by UKTC and the RHA for a CPO should be adjourned but that a preliminary issue in relation to their funding arrangements should be heard (see [2019] CAT 15). The preliminary issue hearing took place on 4–6 June 2019.</p> <p>The opposition to the funding arrangements was advanced in two parts by various Respondents/Objectors to the CPO applications:</p> <ol style="list-style-type: none"> 1. DAF (DAF Trucks, the objectors), supported by MAN and Iveco, advanced an argument that the Applicants’ litigation funding agreements (“LFAs”) constituted damages-based agreements (“DBAs”) for the purpose of the relevant statutory regulation and were therefore unenforceable and unlawful. 2. All the Respondents/Objectors, with the exception of Volvo/Renault, advanced arguments as to the nature and adequacy of the funding arrangements. <p>For the reasons given in the Judgment, the Tribunal unanimously concluded that:</p> <ol style="list-style-type: none"> 1. a litigation funding agreement in the form of the RHA and UKTC LFAs, whereby the consideration paid to the funder is determined by reference to the amount of damages recovered in the litigation being funded, is not a DBA within the terms of section 58AA of the Courts and Legal Services Act 1990 as amended; 2. the funding arrangements entered into by the RHA with its funder and insurers, as amended following the preliminary issue hearing, do not provide a ground for refusing to authorise the RHA as a class representative pursuant to section 47B of the 1998 Act; 3. the funding arrangements proposed to be entered into, or entered into, by UKTC with its funder and insurers do not provide a ground for refusing to authorise UKTC as a class representative pursuant to section 47B of the 1998 Act, subject to certain conditions set out by the Tribunal in its Judgment; 4. the relevant Respondents/Objectors were to have liberty to apply in writing within 14 days of the handing down of the Judgment if they were to seek to contend that clause 5 of the endorsement to the UKTC after-the-event insurance policies, as set out in the Appendix to the Judgment, did not give them an effective right to claim under the policies pursuant to the Contracts (Rights of Third Parties) Act 1999.

Judgment	Tribunal	Subject matter
<p>18.</p> <p>Royal Mail plc v Office of Communications</p> <p>[2019] CAT 27</p> <p>12 November 2019</p>	<p>Peter Freeman CBE QC (Hon)</p> <p>Tim Frazer</p> <p>Professor David Ulph CBE, FRSE</p>	<p>Judgment of the Tribunal in relation to an appeal against a decision of OFCOM entitled “Discriminatory pricing in relation to the supply of bulk mail delivery services in the UK” issued on 14 August 2018 and addressed to Royal Mail (the “Decision”).</p> <p>As set out in the Decision, on 10 January 2014, Royal Mail announced the introduction of differential prices for bulk mail operators for access to its final delivery service, without which they could not operate.</p> <p>Whistl, a bulk mail operator, planned to set up its own final delivery service and establish an end-to-end bulk mail service in competition with Royal Mail. Whistl complained to OFCOM that the new differential access prices made its end-to-end operations and future plans uneconomic.</p> <p>Royal Mail’s new prices were suspended, in accordance with their terms, when OFCOM announced its decision to open an investigation on 21 February 2014, and were formally withdrawn the following year.</p> <p>OFCOM found that Royal Mail had infringed the Chapter II prohibition under the 1998 Act and Article 102 of the TFEU. OFCOM imposed a fine of £50 million on Royal Mail.</p> <p>For the reasons given in the Judgment, the Tribunal dismissed Royal Mail’s arguments that:</p> <ol style="list-style-type: none"> 1. OFCOM erred in law and in fact by concluding that, when Royal Mail announced the new prices, prices were applied for the purposes of Article 102(c) TFEU and section 18(2)(c) of the 1998 Act. 2. OFCOM erred in concluding that transactions undertaken between Royal Mail and all of its different access customers were equivalent in all material respects and that the price differential could not be justified. 3. OFCOM erred in its assessment of whether the price differential was likely to give rise to a competitive disadvantage and/or a restriction of competition because it failed to have proper regard to the impact of the conduct on an ‘as efficient competitor’. 4. OFCOM erred in finding that any abuse was not objectively justified under Article 102 and/or Article 106(2) TFEU by reference to the need to preserve the viability of the universal service under economically acceptable conditions. 5. OFCOM committed a fundamental procedural error by basing its findings of a likely competitive disadvantage in the Decision on evidence and analysis that was not previously included, or relied upon, in the Statement of Objections, or otherwise put to Royal Mail during the administrative phase. 6. OFCOM erred in imposing a £50 million fine on Royal Mail. <p>The Tribunal accordingly upheld the Decision.</p>

Judgment	Tribunal	Subject matter
<p>19.</p> <p>UK Trucks Claim Limited v Fiat Chrysler Automobiles N.V. and Others</p> <p>Road Haulage Association Limited v MAN SE and Others</p> <p>[2019] CAT 28</p> <p>17 December 2019</p>	<p>The President</p> <p>Dr William Bishop</p> <p>Professor Stephen Wilks</p>	<p>Ruling of the Tribunal refusing DAF's application for permission to appeal against part of the decision of the Tribunal on a preliminary issue relating to funding arrangements ([2019] CAT 26) on the basis that there was no jurisdiction to grant permission to appeal under section 49 of the 1998 Act.</p>
<p>20.</p> <p>UK Trucks Claim Limited v Fiat Chrysler Automobiles N.V. and Others</p> <p>[2019] CAT 29</p> <p>19 December 2019</p>	<p>The President</p> <p>Dr William Bishop</p> <p>Professor Stephen Wilks</p>	<p>Ruling of the Tribunal in relation to UKTC's application for costs following the Tribunal's Judgment on a preliminary issue relating to funding arrangements ([2019] CAT 26).</p>
<p>21.</p> <p>Tobii AB (publ) v Competition and Markets Authority</p> <p>[2020] CAT 1</p> <p>10 January 2020</p>	<p>Hodge Malek QC</p> <p>Paul Dollman</p> <p>Derek Ridyard</p>	<p>Judgment of the Tribunal on an application by Tobii for a review under section 120 of the 2002 Act of the decision of the CMA in its Final Report dated 15 August 2019 that the completed acquisition by Tobii of the entire issued share capital of Smartbox Assistive Technologies Limited and Sensory Software International Limited resulted or may be expected to result in a substantial lessening of competition ("SLC") due to horizontal unilateral effects, vertical input foreclosure effects and/or vertical customer foreclosure effects. Tobii sought an order quashing the CMA's decision on five grounds:</p> <p>Ground 1: that the CMA breached its duty of procedural fairness by refusing to disclose relevant evidence which formed the basis of the CMA's findings;</p> <p>Ground 2: that the CMA's SLC finding was not supported by relevant, reliable and sufficient evidence due to material errors in the CMA's collection of evidence;</p> <p>Ground 3: that the CMA failed to properly define the relevant market for augmentative and assistive communication ("AAC") solutions;</p> <p>Ground 4: that the CMA's finding of an SLC as a result of horizontal unilateral effects was not supported by relevant, reliable and sufficient evidence; and/or</p> <p>Ground 5: that the CMA's finding of an SLC as a result of vertical input foreclosure effects and/or vertical customer foreclosure effects was based on an error of law and not supported by the evidence.</p> <p>For the reasons given in the Judgment, the Tribunal unanimously dismissed Grounds 1 to 5, save that, in relation to Ground 5, the Tribunal quashed the CMA's decision to the extent that the CMA found the merged entity had the ability and incentive to foreclose its rivals by increasing the wholesale price of the Grid software and the merged entity had the incentive to foreclose its rivals by reducing the extent to which the Grid software supported rival dedicated AAC hardware.</p>

Judgment	Tribunal	Subject matter
22. Royal Mail plc v Office of Communications [2020] CAT 2 10 January 2020	Peter Freeman CBE QC (Hon) Tim Frazer Professor David Ulph CBE, FRSE	Ruling of the Tribunal on Royal Mail's application for permission to appeal the Tribunal's Judgment of 12 November 2019 ([2019] CAT 27) unanimously dismissing the appeal brought by Royal Mail under section 46 of the 1998 Act. Permission to appeal was refused on the basis that none of the grounds had any real prospect of success and there was no other compelling reason for granting permission to appeal. The Tribunal also ruled that the intervener, Whistl, was not entitled to its costs.
23. Ryder Limited and Another v MAN SE and Others Wolseley UK Limited and Others v Fiat Chrysler Automobiles N.V. and Others Dawsongroup plc and Others v DAF Trucks N.V. and Others [2020] CAT 3 15 January 2020	The President Hodge Malek QC	Ruling of the Tribunal giving guidance as to the general approach it intends to take to disclosure in the trucks actions.
24. Ecolab Inc. v Competition and Markets Authority [2020] CAT 4 17 January 2020	The President	Ruling of the Tribunal refusing an application for specific disclosure made by Ecolab.
25. Virgin Media Limited v Office of Communications [2020] CAT 5 27 January 2020	Mrs Justice Falk Eamonn Doran Simon Holmes	<p>Judgment of the Tribunal in relation to an appeal by Virgin against a decision of OFCOM dated 16 November 2018 entitled "Confirmation Decision under section 96C of the 2003 Act" (the "Decision").</p> <p>As set out in the Decision, OFCOM found that, between 1 September 2016 and 22 August 2017, Virgin contravened General Condition 9.3 ("GC 9.3") and General Condition 9.2(j) by charging its customers too much when they decided to leave their fixed-term contracts early and switch to another communications provider, and by not publishing information about these early termination charges that was up-to-date and which its customers could understand. OFCOM imposed a penalty of £7m on Virgin in respect of the contraventions.</p> <p>Virgin challenged the Decision on three grounds:</p> <ol style="list-style-type: none"> 1. OFCOM erred in law by treating Virgin's overcharges to customers as amounting to a contravention of GC 9.3; 2. OFCOM's decision to impose a penalty of £7m was arbitrary and unfair and not adequately reasoned; and 3. The penalty imposed by OFCOM was disproportionate. <p>For the reasons given in the Judgment, the Tribunal unanimously dismissed Virgin's appeal against OFCOM's findings as regards Virgin's liability for contravention of GC 9.3 and the penalty imposed.</p>

Judgment	Tribunal	Subject matter
<p>26.</p> <p>Tobii AB (publ) v Competition and Markets Authority</p> <p>[2020] CAT 6</p> <p>17 February 2020</p>	<p>Hodge Malek QC</p> <p>Paul Dollman</p> <p>Derek Ridyard</p>	<p>Ruling of the Tribunal: (1) disposing of the substantive application; (2) refusing Tobii's application for permission to appeal the Tribunal's Judgment of 10 January 2020 ([2020] CAT 1); and (3) awarding costs to the CMA.</p>
<p>27.</p> <p>Royal Mail Group Limited v DAF Trucks Limited and Others</p> <p>BT Group PLC and Others v DAF Trucks Limited and Others</p> <p>Ryder Limited and Another v MAN SE and Others</p> <p>Suez Groupe SAS and Others v Fiat Chrysler Automobiles N.V. and Others</p> <p>Veolia Environnement S.A. and Others v Fiat Chrysler Automobiles N.V. and Others</p> <p>Wolseley UK Limited and Others v Fiat Chrysler Automobiles N.V. and Others</p> <p>Dawsongroup plc and Others v DAF Trucks N.V. and Others</p> <p>[2020] CAT 7</p> <p>4 March 2020</p>	<p>The President</p> <p>Mr Justice Fancourt</p> <p>Hodge Malek QC</p>	<p>Judgment of the Tribunal on the preliminary issue relating to the extent to which certain recitals in sections 3, 4 and 7 of the Commission Decision of 19 July 2016 in case 39824 Trucks are binding as a matter of EU law and, insofar as they are not binding under EU law, whether it would be an abuse of process as a matter of English common law for the defendants not to admit them in these proceedings.</p>

Judgment	Tribunal	Subject matter
<p>28.</p> <p>TalkTalk Telecom Group plc and Vodafone Limited v Office of Communications (BCMR 2019)</p> <p>[2020] CAT 8</p> <p>5 March 2020</p>	<p>Peter Freeman CBE QC (Hon)</p> <p>Professor John Cubbin</p> <p>Professor Anthony Neuberger</p>	<p>Judgment of the Tribunal in relation to an appeal brought by TalkTalk and Vodafone (together “the Appellants”).</p> <p>The appeal was against three decisions by OFCOM set out in its statement of 28 June 2019 entitled “Promoting competition and investment in fibre networks: review of the physical infrastructure and business connectivity markets” (“the 2019 Statement”).</p> <p>The Judgment concerns one of the three decisions namely the decision that BT did not have significant market power (“SMP”) in the market for “contemporary interface access” (“CI Access”) in the “Central London Area” (“CLA”) geographic market (“Decision 1”).</p> <p>In relation to Decision 1, the Appellants argued that:</p> <ol style="list-style-type: none"> 1. OFCOM adopted an erroneous approach, and/or its analysis by which it reached its SMP finding was legally inadequate. In particular: <ul style="list-style-type: none"> • OFCOM failed to pay proper regard to the presumption of dominance which applied in circumstances where BT’s market share was in excess of 50 per cent. OFCOM did not identify the existence of “exceptional circumstances” to justify failing to apply the presumption. • OFCOM relied inappropriately on a “relative” approach, reasoning that BT did not have SMP in the CLA because network infrastructure was denser in the CLA than in the other geographic markets for CI Access. OFCOM thus failed properly to focus on the legally relevant question, which was whether the presumption was displaced by reason of persuasive evidence that BT would in fact be adequately constrained by competition over the relevant period. 2. OFCOM failed to give adequate reasons for its SMP finding. Its “relative” approach was not a legally sound or sufficient reason; and its reasoning was not sufficient to explain the basis on which the presumption of dominance was displaced. 3. Further, and in any event, the SMP finding was wrong and/or not one that was properly open to OFCOM on the basis of the available evidence. On the basis of a proper and diligent consideration of the relevant market circumstances, the only correct conclusion was that BT had SMP in the CLA Market. <p>For the reasons given in the Judgment, the Tribunal unanimously dismissed the appeal in relation to Decision 1.</p>
<p>29.</p> <p>Michael O’Higgins FX Class Representative Limited v Barclays Bank PLC and Others</p> <p>Mr Phillip Evans v Barclays Bank PLC and Others</p> <p>[2020] CAT 9</p> <p>6 March 2020</p>	<p>Mr Justice Marcus Smith</p> <p>Paul Lomas</p> <p>Professor Anthony Neuberger</p>	<p>Judgment of the Tribunal refusing to order that the question of which of the Applicants in cases 1329/7/7/19 (Michael O’Higgins FX Class Representative Limited) and 1336/7/7/19 (Mr Phillip Evans) would be the most suitable to act as the class representative for the purposes of rule 78(2)(c) of the Tribunal Rules (referred to in the Judgment as a “carriage dispute”) be heard as a preliminary issue.</p>

Judgment	Tribunal	Subject matter
<p>30.</p> <p>Royal Mail Group Limited v DAF Trucks Limited and Others</p> <p>BT Group PLC and Others v DAF Trucks Limited and Others</p> <p>Ryder Limited and Another v MAN SE and Others</p> <p>Suez Groupe SAS and Others v Fiat Chrysler Automobiles N.V. and Others</p> <p>Veolia Environnement S.A. and Others v Fiat Chrysler Automobiles N.V. and Others</p> <p>Wolseley UK Limited and Others v Fiat Chrysler Automobiles N.V. and Others</p> <p>Dawsongroup plc and Others v DAF Trucks N.V. and Others</p> <p>[2020] CAT 10</p> <p>26 March 2020</p>	<p>The President</p> <p>Mr Justice Fancourt</p> <p>Hodge Malek QC</p>	<p>Ruling of the Tribunal granting permission to appeal certain aspects of its Judgment on the preliminary issue in these proceedings ([2020] CAT 7) relating to the principle of abuse of process.</p>

Activity by case within the period 01/04/2019 to 31/03/2020

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 2020
---------------------------------------	----------------------------	---------------------------	-----------------------------	--	---	---	-----------------------------------	-------------------------

DSG Retail Limited and Another v MasterCard Incorporated and Others Case: 1236/5/7/15 11 February 2015	14-15			1	(1)	1		
	15-16					1		
	16-17							
	17-18							
	18-19			1	2	1		
	19-20					1		Stayed

Notes

A joint hearing with cases 1264/5/7/16 (Transport for London and Others) (which subsequently settled on confidential terms – see Order of the President dated 21 January 2019), 1265/5/7/16 (Dixons Carphone PLC) and 1268/5/7/16 (Europcar UK Limited) (which subsequently settled on confidential terms – see Order of the President dated 31 January 2020) on a preliminary issue took place on 8 and 9 October 2018. On 14 February 2019, the Tribunal handed down 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). On 9 April 2019, the Tribunal gave a Ruling in relation to the Defendants' application for permission to appeal the Tribunal's Judgment of 14 February 2019 and costs ([2019] CAT 10) and granted permission to appeal in part. By Order of the President dated 9 January 2020, the proceedings were stayed until 28 days after the Court of Appeal's Judgment on limitation. The appeal was heard by the Court of Appeal on 28 and 29 April 2020. Judgment was given on 22 May 2020 ([2020] EWCA Civ 671).

Generics UK Limited v Competition and Markets Authority Case: 1251/1/12/16 12 April 2016	16-17	2	3	2	(19)	1	08/03/18 (22.8)	
	17-18							
	18-19							
	19-20							Ongoing

Notes

The main hearing of the appeals in cases 1251-1255/1/12/16 (Paroxetine) took place from 27 February until 30 March 2017. Judgment was handed down on 8 March 2018 ([2018] CAT 4). On 27 March 2018, the Tribunal made an Order: (i) referring certain questions to the Court of Justice of the European Union ("CJEU") for a preliminary Ruling; and (ii) staying the proceedings pending the CJEU's preliminary Ruling. On 30 January 2020, the CJEU delivered its Judgment (Case C-307/18 Generics (UK) and Others (EU:C:2020:52)). The Tribunal invited written submissions from the parties on outstanding matters following the CJEU's Judgment and judgment in respect of those matters is still pending.

GlaxoSmithKline PLC v Competition and Markets Authority Case: 1252/1/12/16 12 April 2016	16-17	4						
	17-18							
	18-19							
	19-20							Ongoing

Notes

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	4						
	17-18							
	18-19							
	19-20							Ongoing

Case name, number and date registered	Year (1 April to 31 March)	Applications to intervene	Case management conferences	Hearings (and sitting days – excluding days limited to formal handing down of judgments)	Judgments (including interlocutory rulings and final judgments)	Date of judgment(s) on the main issues (and months from registration to judgment)	Requests for permission to appeal	Status at 31 March 2020
---------------------------------------	----------------------------	---------------------------	-----------------------------	--	---	---	-----------------------------------	-------------------------

Notes

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	2						
	17-18							
	18-19							
	19-20							Ongoing

Notes

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	4						
	17-18							
	18-19							
	19-20							Ongoing

Notes

See notes in respect of case 1251/1/12/16 (Generics UK Limited).

Dixons Carphone PLC v MasterCard Case: 1265/5/7/16 7 September 2016	16-17							
	17-18							
	18-19							
	19-20							Stayed

Notes

See notes in respect of case 1236/5/7/15 (DSG Retail Limited and Another).

Europcar UK Limited v MasterCard Incorporated and Others Case: 1268/5/7/16 9 September 2016	16-17							
	17-18							
	18-19							
	19-20							Closed

Notes

See notes in respect of case 1236/5/7/15 (DSG Retail Limited and Another).

Flynn Pharma Limited and Another v Competition and Markets Authority Case: 1274/1/12/16 (IR) 23 December 2016	16-17		1	1	1	19/01/17 (0.9)		
	17-18				1			
	18-19							
	19-20							Closed

Notes

On 23 June 2017, the Chairman issued a Ruling reserving costs of the application until after the substantive appeal of Flynn had 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. On 21 May 2019, the Tribunal granted permission to the CMA to appeal the Tribunal's Ruling on costs ([2019] CAT 16) (shown under case 1275/1/12/17). That appeal was heard by the Court of Appeal on 29-30 April 2020. Judgment was given on 12 May 2020 ([2020] EWCA Civ 617 (outside the period covered by this report)).

Flynn Pharma Limited and Flynn Pharma (Holdings) Limited v Competition and Markets Authority Case: 1275/1/12/17 7 February 2017	17-18	3	1	1 (13)	1			
	18-19	1	1	1 (13)	4	7/6/18 (15.95)	3	
	19-20				1		1	Closed

Notes

The substantive hearing took place over 13 days, between 30 October 2017 and 24 November 2017. Judgment was handed down on 7 June 2018 ([2018] CAT 11). On 25 July 2018, the Tribunal handed down 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. In August 2018, the parties renewed their permission to appeal applications before the Court of Appeal. Permission to appeal was granted to the CMA and to Flynn (in part) by the Court of Appeal on 12 December 2018. The appeals were heard by the Court of Appeal on 26-28 November 2019. Judgment was given on 10 March 2020 ([2020] EWCA Civ 339). On 29 March 2019, the Tribunal gave a Ruling in relation to costs ([2019] CAT 9). On 21 May 2019, the Tribunal granted permission to the CMA to appeal the Tribunal's Ruling on costs dated 29 March 2019 ([2019] CAT 16). That appeal was heard by the Court of Appeal on 29-30 April 2020. Judgment was given on 12 May 2020 ([2020] EWCA Civ 617 (outside the period covered by this report)).

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 2020
---------------------------------------	----------------------------	---------------------------	-----------------------------	--	---	---	-----------------------------------	-------------------------

Pfizer Inc. and Pfizer Limited v Competition and Markets Authority Case: 1276/1/12/17 7 February 2017	17-18	3						
	18-19							
	19-20							Closed

Notes

See notes in respect of case 1275/1/12/17 Flynn Pharma Limited and Flynn Pharma (Holdings) Limited).

Ping Europe Limited v Competition and Markets Authority Case: 1279/1/12/17 25 October 2017	17-18		2	1 (1)	2			
	18-19		1	2 (10)	6	7/9/18 (10.42)	1	
	19-20							Closed

Notes

The main hearing took place during 10-25 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; and (2) the Complainant's application for costs. On 21 January 2020, the Court of Appeal gave Judgment dismissing Ping's appeal ([2020] EWCA Civ 13).

Viasat UK Limited and Viasat, Inc. v Office of Communications Case: 1280/3/3/17 8 December 2017	17-18	1	1		1			
	18-19		1	1 (4)	2	7/12/18 (11.97)		
	19-20				1		1	Closed

Notes

Judgment was handed down on 7 December 2018 ([2018] CAT 18). 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 a 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). Viasat subsequently renewed its application for permission to appeal to the Court of Appeal. That appeal was heard by the Court of Appeal on 10 March 2020. Judgment was given on 11 May 2020 ([2020] EWCA Civ 624 (outside the period covered by this report)).

UK Trucks Claim Limited v Fiat Chrysler Automobiles N.V. and Others Case: 1282/7/7/18 18 May 2018	18-19	3	1					
	19-20		1	1 (3)	4	28/10/19 (17.6)	1	Ongoing

Notes

A pre-hearing review ("PHR") took place on 8 May 2019. At the PHR, the Tribunal decided that the main hearing of the CPO Applications should be adjourned, for reasons given in a written Judgment issued on 17 May 2019 ([2019] CAT 15). A preliminary issue in relation to funding arrangements was heard on 4-6 June 2019. Judgment was handed down on 28 October 2019 ([2019] CAT 26). On 17 December 2019, the Tribunal issued a Ruling in relation to DAF's application for permission to appeal against part of the Judgment on the preliminary issue ([2019] CAT 28). The main hearing of the CPO Applications, which had been re-listed for 13-20 December 2019, was vacated pending the outcome of the appeal to the Supreme Court in Merricks v Mastercard Inc (case 1266/7/7/16).

Unlocked Limited and Others v Google Ireland Ltd and Others Case: 1283/5/7/18(T) 11 June 2018	18-19		1					
	19-20				1			Closed

Notes

The First Applicant/Claimant entered into voluntary administration on 12 June 2018. A case management conference (CMC) listed for 18 June 2018 was vacated. The original trial date in September 2018 was also vacated and the existing disclosure obligation stayed by consent. A CMC was held on 15 October 2018 at which a stay was granted. On 21 May 2019, the Chairman gave a Ruling withdrawing the claim and awarding costs in favour of the Defendants ([2019] CAT 17).

Case name, number and date registered	Year (1 April to 31 March)	Applications to intervene	Case management conferences	Hearings (and sitting days – excluding days limited to formal handing down of judgments)	Judgments (including interlocutory rulings and final judgments)	Date of judgment(s) on the main issues (and months from registration to judgment)	Requests for permission to appeal	Status at 31 March 2020
Ryder Limited and Another v MAN SE and Others Case: 1291/5/7/18(T) 26 July 2018	18-19 19-20			1 (1) 1 (2)	1			Ongoing
Notes Generally, see notes in respect of case 1284/5/7/18(T) (Royal Mail Group Limited). With regard to specific developments in this case, the hearing of a disclosure application by the Claimants took place on 11 March 2019 before the President sitting alone. A further hearing of disclosure applications took place on 19-20 September 2019 at which disclosure applications in cases 1294/5/7/18(T) (Wolseley) and 1295/5/7/18(T) (Dawsongroup) were also heard. A Ruling in respect of the disclosure applications was made on 15 January 2020 ([2020] CAT 3).								
Suez Groupe SAS and Others v Fiat Chrysler Automobiles N.V. and Others Case: 1292/5/7/18(T) 26 July 2018	18-19 19-20				1			Ongoing
Notes Generally, see notes in respect of case 1284/5/7/18(T) (Royal Mail Group Limited). With regard to specific developments in this case, on 3 May 2019 the Tribunal gave Judgment on applications for specific disclosure made by the Claimants in this case and cases 1293/5/7/18(T) (Veolia) and 1294/5/7/18(T) (Wolseley) ([2019] CAT 18).								
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 19-20							Ongoing
Notes Generally, see notes in respect of cases 1284/5/7/18(T) (Royal Mail Group Limited) and 1292/5/7/18(T) (Suez Groupe).								
Wolseley UK Limited and Others v Fiat Chrysler Automobiles N.V. and Others Case: 1294/5/7/18(T) 26 July 2018	18-19 19-20			1 (1)	1			Ongoing
Notes Generally, see notes in respect of case 1284/5/7/18(T) (Royal Mail Group Limited), 1291/5/7/18(T) (Ryder Limited) and 1292/5/7/18(T) (Suez Groupe). With regard to specific developments in this case, a hearing of the Wolseley Claimants' application in relation to Daimler's additional claim took place on 30 January 2019. Judgment was handed down on 8 May 2019 ([2019] CAT 12). On 1 July 2019, the claim by Kent Frozen Foods Limited (Case 1327T) was consolidated with the Wolseley case. A hearing of disclosure applications as between Wolseley and Daimler took place on 19-20 September 2019 at which disclosure applications in case 1291/5/7/18(T) (Ryder Limited) and 1295/5/7/18(T) (Dawsongroup) were also heard.								
Dawsongroup plc and Others v DAF Trucks N.V. and Others Case: 1295/5/7/18(T) 31 July 2018	18-19 19-20							Ongoing
Notes Generally, see notes in respect of cases 1284/5/7/18(T) (Royal Mail Group Limited), 1291/5/7/18(T) (Ryder Limited) and 1292/5/7/18(T) (Suez Groupe).								
Arla Foods AMBA and Others v Fiat Chrysler Automobiles N.V. and Another Case: 1296/5/7/18 23 August 2018	18-19 19-20							Ongoing
Notes								

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 2020
Justin Gutmann v First Mtr South Western Trains Limited, Stagecoach South Western Trains Limited Case: 1304/7/7/19 27 February 2019	18-19 19-20		2					Ongoing
Notes A joint CMC with case 1305/7/7/19 (Justin Gutmann) took place on 9 April 2019. The Tribunal directed that the application to commence collective proceedings be heard with the equivalent application in case 1305/7/7/19 (together, the “CPO Applications”). At a pre-hearing review on 23 September 2019, the Tribunal granted the Proposed Defendants’ application for a stay of the main hearing of the CPO Applications pending the appeal to the Supreme Court in Merricks v Mastercard Inc (case 1266/7/7/16). A preliminary issue in relation to funding arrangements listed for 7 November 2019 was vacated.								
Justin Gutmann v London & South Eastern Railway Limited Case: 1305/7/7/19 27 February 2019	18-19 19-20							Ongoing
Notes See notes in respect of case 1304/7/7/19 (Justin Gutmann).								
H & H (Retail) Limited & Others v Mastercard Inc & Others Case: 1306/5/7/19(T) 20 March 2019	18-19 19-20							Ongoing
Notes The claim is made against (1) Mastercard Incorporated; (2) Mastercard International Incorporated; (3) Mastercard Europe SA; and (4) Mastercard/Europay UK Limited. The proceedings, in addition to 19 other actions, were transferred from the High Court to the Tribunal by order of the Honourable Mrs Justice Cockerill dated 20 March 2019.								
Coral Racing Limited & Others v Mastercard Inc & Others Case: 1307/5/7/19(T) 20 March 2019	18-19 19-20							Ongoing
Notes See notes in respect of case 1306/5/7/20(T) (H&H (Retail) Limited & Others).								
Motor Fuel Limited & Others v Mastercard Inc & Others Case: 1308/5/7/19(T) 20 March 2019	18-19 19-20							Ongoing
Notes See notes in respect of case 1306/5/7/20(T) (H&H (Retail) Limited & Others).								
Greene King Brewing and Retailing Limited & Others v Mastercard Inc & Others Case: 1309/5/7/19(T) 20 March 2019	18-19 19-20							Ongoing
Notes See notes in respect of case 1306/5/7/20(T) (H&H (Retail) Limited & Others).								

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 2020
---------------------------------------	----------------------------	---------------------------	-----------------------------	--	---	---	-----------------------------------	-------------------------

Dune Group Limited & Others v Mastercard Inc & Others Case: 1310/5/7/19(T) 20 March 2019	18-19							
	19-20							Ongoing

Notes

See notes in respect of case 1306/5/7/20(T) (H&H (Retail) Limited & Others).

Adventure Forest Limited & Others v Mastercard Inc & Others Case: 1311/5/7/19(T) 20 March 2019	18-19						Ongoing
	19-20						

Notes

See notes in respect of case 1306/5/7/20(T) (H&H (Retail) Limited & Others).

Co-operative Group Food Limited & Others v Visa Europe Limited & Others Case: 1312/5/7/19(T) 20 March 2019	18-19 19-20							Ongoing
--	----------------	--	--	--	--	--	--	---------

Notes

The claim is made against (1) Visa Europe Limited; (2) Visa Europe Services LLC; and (3) Visa UK Limited. The proceedings, in addition to 19 other actions, were transferred from the High Court to the Tribunal by order of the Honourable Mrs Justice Cockerill dated 20 March 2019.

Moto Hospitality Limited v Visa Europe Limited & Others Case: 1313/5/7/19(T) 20 March 2019	18-19							Ongoing
	19-20							

Notes

See notes in respect of case 1312/5/7/20(T) (Co-operative Group Food Limited & Others).

Traveljigsaw Limited v Visa Europe Limited & Others Case: 1314/5/7/19(T) 20 March 2019	18-19 19-20							Ongoing
--	----------------	--	--	--	--	--	--	---------

Notes

See notes in respect of case 1312/5/7/20(T) (Co-operative Group Food Limited & Others).

Nando's Chickenland Limited v Visa Europe Limited & Others Case: 1315/5/7/19(T) 20 March 2019	18-19 19-20							Ongoing
---	----------------	--	--	--	--	--	--	---------

Notes

See notes in respect of case 1312/5/7/20(T) (Co-operative Group Food Limited & Others).

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 2020
French Connection (London) Limited v Visa Europe Limited & Others Case: 1316/5/7/19(T) 20 March 2019	18-19 19-20							Ongoing
Notes See notes in respect of case 1312/5/7/20(T) (Co-operative Group Food Limited & Others).								
H & H (Retail) Limited & Others v Visa Europe Limited & Others Case: 1317/5/7/19(T) 20 March 2019	18-19 19-20							Ongoing
Notes See notes in respect of case 1312/5/7/20(T) (Co-operative Group Food Limited & Others).								
Greene King Brewing and Retailing Limited & Others v Visa Europe Limited & Others Case: 1318/5/7/19(T) 20 March 2019	18-19 19-20							Ongoing
Notes See notes in respect of case 1312/5/7/20(T) (Co-operative Group Food Limited & Others).								
Hobbs Limited & Another v Visa Europe Limited & Others Case: 1319/5/7/19(T) 20 March 2019	18-19 19-20							Ongoing
Notes See notes in respect of case 1312/5/7/20(T) (Co-operative Group Food Limited & Others).								
JD Wetherspoon PLC v Visa Europe Limited & Others Case: 1320/5/7/19 20 March 2019	18-19 19-20							Ongoing
Notes See notes in respect of case 1312/5/7/20(T) (Co-operative Group Food Limited & Others).								
Odeon Cinemas Limited & Others v Visa Europe Limited & Others Case: 1321/5/7/19(T) 20 March 2019	18-19 19-20							Ongoing
Notes See notes in respect of case 1312/5/7/20(T) (Co-operative Group Food Limited & Others).								
Coral Racing Limited & Others v Visa Europe Limited & Others Case: 1322/5/7/19(T) 20 March 2019	18-19 19-20							Ongoing
Notes See notes in respect of case 1312/5/7/20(T) (Co-operative Group Food Limited & Others).								

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 2020
Michael O'Higgins FX Class Representative Limited v Barclays Bank PLC and Others Case: 1329/7/7/19 29 July 2019	19-20		1	1 (1)	1			Ongoing
Notes A CMC took place on 6 November 2019 at which the Chairman gave directions for the future conduct of the proceedings. A joint CMC with case 1336/7/7/19 (Mr Phillip Evans) was held on 13 February 2020 at which the Tribunal heard an application by the Applicants in both cases that the question of which of the Applicants would be the most suitable to act as the class representative for the purposes of rule 78(2)(c) of the Tribunal Rules be heard as a preliminary issue. On 6 March 2020, the Tribunal issued its Judgment on that application ([2020] CAT 9).								
TalkTalk Telecom Group plc and Vodafone Limited v Office of Communications Case: 1330/3/3/19 28 August 2019	19-20	2	2	1 (5)	2	05/03/20 (6.33)		Ongoing
Notes A CMC took place on 10 October 2019 at which the Tribunal: (1) made an Order setting down directions for the appeal; and (2) granted two applications for permission to intervene, for the reasons set out in a written Ruling issued on 16 October 2019 ([2019] CAT 24). A further CMC took place on 17 December 2019. The main hearing took place during 13-17 January 2020. Judgment was given on 5 March 2020 ([2020] CAT 8).								
Ensign Bus Company Limited v London Southend Airport Company Limited Case: 1331/5/7/19 11 September 2019	19-20							Closed
Notes The Claimant applied for fast-track designation of the proceedings. The claim was withdrawn by consent on 3 October 2019.								
Tobii AB (publ) v Competition and Markets Authority Case: 1332/4/12/19 13 September 2019	19-20		1	1 (3)	4	10/01/20 (3.97)	1	Closed
Notes At a CMC on 3 October 2019, the Tribunal ruled on the admissibility of evidence and gave directions for the future conduct of the case. The Tribunal issued its reasons for its Ruling on the admissibility of evidence on 10 October 2019 ([2019] CAT 23). The Applicant filed an application for specific disclosure on 16 October 2019. The Tribunal issued a Ruling on the specific disclosure application on 25 October 2019 ([2019] CAT 25). The main hearing took place on 6-8 November 2019. Judgment was handed down on 10 January 2020 ([2020] CAT 1). On 17 February 2020, the Tribunal issued a Ruling on consequential matters, including permission to appeal and costs ([2020] CAT 6).								
Iiyama (UK) & Others v Samsung Electronics Co. Ltd & Others Case: 1333/5/7/19 (T) 14 October 2019	19-20							Closed
Notes The issues in the proceedings were transferred from the High Court to the Tribunal by order of Deputy Master Henderson dated 14 October 2019. A CMC listed for 28 February 2020 was vacated. By an Order of the Chairman dated 2 March 2020, the claim was withdrawn by consent.								
Ecolab Inc. v Competition and Markets Authority Case: 1334/4/12/19 1 November 2019	19-20		1	1 (2)	1			Ongoing
Notes A CMC took place on 21 November 2019. Ecolab filed an application for specific disclosure on 9 December 2019. The Tribunal issued its Ruling refusing the application on 17 January 2020 ([2020] CAT 4). The main hearing was heard on 18 and 19 February 2020. Judgment was given on 21 April 2020 (outside the period covered by this report).								

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 2020
Strident Publishing Limited v Creative Scotland Case: 1335/5/7/19 5 November 2019	19-20		1	1 (1)				Ongoing
Notes A CMC took place on 16 December 2019 at the Court of Session in Edinburgh at which the Tribunal gave directions for the further conduct of the proceedings. A preliminary issue hearing took place in Edinburgh on 2 March 2020. Judgment was given on 17 April 2020 (outside the period covered by this report).								
Mr Phillip Evans v Barclays Bank PLC and Others Case: 1336/7/7/19 11 November 2019	19-20							Ongoing
Notes See notes in respect of case 1329/7/7/19 (Michael O'Higgins FX Class Representative Limited).								
FP McCann Limited v Competition and Markets Authority Case: 1337/1/12/19 20 December 2019	19-20							Ongoing
Notes Appeal under section 46 of the 1998 Act.								
Adnams PLC and Others v DAF Trucks Limited and Others Case: 1338/5/7/20 27 January 2020	19-20							Ongoing
Notes The issues in the proceedings were transferred from the High Court to the Tribunal by consent by order of Deputy Master Bartlett dated 23 August 2019.								
Mark McLaren Class Representative Limited v MOL (Europe Africa) Ltd & Others Case: 1339/7/7/20 20 February 2020	19-20							Ongoing
Notes Application by Mark McLaren Class Representative Limited to commence collective proceedings under section 47B of the 1998 Act.								
National Grid Electricity Transmission plc v ABB Ltd & Others Case: 1340/5/7/20 (T) 28 February 2020	19-20							Ongoing
Notes The issues in the proceedings were transferred from the High Court to the Tribunal by order of the Chancellor dated 28 February 2020.								
SP Power Systems Limited and Others v Prysmian S.p.A and Others Case: 1341/5/7/20 (T) 28 February 2020	19-20							Ongoing
Notes The issues in the proceedings were transferred from the High Court to the Tribunal by order of the Chancellor dated 28 February 2020.								

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 2020
Sportradar AG and Another v Football DataCo Limited and Others Case: 1342/5/7/20 (T) 28 February 2020	19-20							Ongoing
Notes Claim under section 47A of the 1998 Act for damages and an injunction.								
DS Smith Paper Limited & Others v MAN SE & Others Case: 1343/5/7/20 (T) 19 March 2020	19-20							Ongoing
Notes The issues in the proceedings were transferred from the High Court to the Tribunal by consent by order of Master Clark dated 21 January 2020.								
Total	19-20	3	13	13 (44)	30		11	

Overall case activity within the period 01/04/2019 to 31/03/2020

	2019/20	2018/19	2017/18
Appeals, applications and claims received of which:	18	44	4
section 46 Competition Act 1998 ¹	1	1	1
section 47 Competition Act 1998 ²	-	-	0
section 47A Competition Act 1998 ³	9	34	1
section 47B Competition Act 1998 ⁴	3	4	0
section 49B Competition Act 1998 ⁵	-	-	0
section 114 Enterprise Act 2002 ⁶	-	1	-
section 120 Enterprise Act 2002 ⁷	4	1	0
section 179 Enterprise Act 2002 ⁸	-	1	0
section 192 Communication Act 2003 ⁹	1	2	2
section 317 Communications Act 2003 ¹⁰	-	-	0
applications for interim relief ¹¹	-	-	0
Applications to intervene	3	8	1
Case management conferences held	13	8	8
Hearings held (sitting days):	13 (44)	13 (35)	7(37)
Judgments handed down of which:	30	20	27
Judgments disposing of main issue or issues	11	6	7
Judgments on procedural and interlocutory matters	9	9	8
Judgments on ancillary matters (e.g. costs)	10	5	12
Orders made	137	77	52

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. Proceedings brought before the Tribunal for approval of a collective settlement where a collective proceedings order has not been made. Note that in the Annual Report and Accounts for 2017/18 and 2018/19 this was inaccurately referred to as section 49B Competition Act 2003.
6. An appeal by a person on whom a penalty has been imposed pursuant to section 110(1) or (3) of 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 reference or possible reference in relation to a relevant merger situation or special merger situation under the 2002 Act.
8. 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.
9. 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.
10. 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).
11. Applications for interim relief pursuant to Rule 24 of the Tribunal Rules 2015.

Accounts 2019/2020



Contents	Page
Competition Appeal Tribunal and Competition Service:	
Accountability Report for the year ended 31/03/2020	54
Competition Appeal Tribunal:	
Audit Report	65
Statement of Comprehensive Net Expenditure for the year ended 31/03/2020	68
Statement of Financial Position as at 31/03/2020	69
Statement of Cash Flows for the year ended 31/03/2020	70
Statement of Changes in Taxpayers' Equity for the year ended 31/03/2020	70
Notes to the accounts	71
Competition Service:	
Audit Report	75
Statement of Comprehensive Net Expenditure for the year ended 31/03/2020	78
Statement of Financial Position as at 31/03/2020	79
Statement of Cash Flows for the year ended 31/03/2020	80
Statement of Changes in Taxpayers' Equity for the year ended 31/03/2020	81
Notes to the accounts	82

Accountability Report of the Tribunal and CS for the year ended 31/03/2020

Report of the Accounting Officer

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. Ilia 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.

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".

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 they ought to have taken to make themselves 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 validating progress made against the Business Plan.

Scope of responsibility

The Accounting Officer ensures 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 is assisted in this by the Board and the Audit and Risk Assurance Committee (ARAC) 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.

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 is responsible for considering 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. The Director, Operations acts as secretary to the Board. Reports on workload, financial and administrative matters and the work of the ARAC are standing agenda items for Board meetings. Minutes of the Board meetings are routinely published on the Tribunal's website. During 2019/20 there was one extra ordinary and three routine board meetings, that were all fully attended.

The ARAC is chaired by Susan Scholefield. Its membership comprises two Ordinary Members of the Tribunal, Timothy Sawyer and Sir Iain McMillan, both with considerable Audit Committee experience, and Peter Freeman, CS Board Member and Tribunal Chairman.

Meetings of the ARAC 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 ARAC. During 2019/20, the ARAC met three times: one meeting had 50 per cent attendance and the other two had 75 per cent attendance.

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 at each ARAC meeting. 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 risk in the performance of their duties.

Detailed monthly management accounts are circulated to the Registrar, Director, Operations, ARAC 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 meet 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 produced every year, approved by the CS Board and copied to BEIS for information. The plan includes key business objectives for the year and is published on the Tribunal's website.

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

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.¹

In financial year ended 31 March 2020, internal auditors' work focussed on the audit of key financial and accounting controls as well as governance relating to the relocation of the Tribunal to its new premises.

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).

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 HM Treasury Code of Good Practice.

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

The Accounting Officer's review is informed by the work of the internal auditors and relevant CS managers, advice from the ARAC and external auditors' reports. The Accounting Officer's review is also informed by the CS Board's assessment 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 to manage it. Periodic review takes place to ensure that any new emerging issues are dealt with promptly.

Remuneration and Staff Report for the Tribunal and the CS for the year ended 31/03/2020

Remuneration policy

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

The President is a High Court Judge and his salary is set at the applicable level in the judicial salaries list.

On 1 April 2019, 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 the full amount of Group 7 of the judicial salaries scale (2018/19: 90 per cent) as determined by the Secretary of State. For 2019/20, 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 (2018/19: £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 (2018/19: £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 at a per diem rate of £350 (2018/19: £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 are charged to the CS's Statement of Comprehensive Net Expenditure.

The following sections provide details of the contracts, remuneration and pension interests of the President, Registrar and Members of the CS.

CS contracts

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

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

Remuneration (audited)

Single total figure of remuneration (Tribunal)

	Salary (£'000)		Pension benefits (to nearest £1,000) ²		Total (£'000)	
	2019/20	2018/19	2019/20	2018/19	2019/20	2018/19
President	185 – 190	185 – 190	98,000	92,000	285 – 290	275 – 280

Single total figure of remuneration (CS)

	Salary (£'000)		Non-Consolidated Award (£'000)		Pension benefits (to nearest £1,000) ³		Total (£'000)	
	2019/20	2018/19	2019/20	2018/19	2019/20	2018/19	2019/20	2018/19
Registrar (Highest Paid Officer)	115 – 120	100 – 105	0 – 5	0 – 5	139,000	22,000	260 – 265	125 – 130
Median Total							45,950	43,700
Remuneration (£)								
Ratio							2.67	2.46

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 2019/20 and 2018/19 (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 2019/20, the fair pay ratio was 2.67 (2018/19: 2.46); this ratio excludes pension.³

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. The non-consolidated awards reported in 2019/20 and 2018/19 relates to project work completed in those years. The non-consolidated performance-related pay for 2019/20 and 2018/19 is based on performance reports from financial year 2018/19 and 2017/18 respectively.

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

The two Members of the CS are remunerated at a rate of £350 per day (2018/19: £350 per day) and, as noted above, the rate has remained unchanged since 2003. In 2019/20, Susan Scholefield's total remuneration was £4,550 (2018/19: £4,125); Peter Freeman's total remuneration was £2,725 (2018/19: £3,761).

Benefits in kind

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

² 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.

³ In the year ended 31 March 2020, remuneration ranged from £24,750 to £120,000 – £125,000 (2018/19: £22,950 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 2019/20 has been assessed at 51.35 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.⁴

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 2019/20, transitional protection allowance of 51.10 per cent was paid to one of the Tribunal fee-paid Chairmen. Provisions for pension of 51.35 per cent and long service award of 15 per cent of the pension have been made for one other fee-paid chairman for the Fee Paid Judicial Pension Scheme (FPJPS).

The majority of 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 or alpha, which provides benefits on a career average basis with a normal pension age equal to the member's State Pension Age (or 65 if higher). From that date, all newly appointed civil servants and the majority of those already in service joined alpha. Prior to that date, civil servants participated in the Principal Civil Service Pension Scheme (PCSPS). The PCSPS has four sections: 3 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 being switched into alpha sometime between 1 June 2015 and 1 February 2022. All members who switch to alpha have their PCSPS benefits 'banked', with those with earlier benefits in one of the final salary sections of the PCSPS having those benefits based on their final salary when they leave alpha. Members joining from October 2002 may opt for either the appropriate defined benefit arrangement or a 'money purchase' stakeholder pension with an employer contribution (partnership pension account).

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

⁴ www.gov.uk/government/publications/judicial-pension-scheme-accounts-2019-to-2020

Benefits in classic accrue at a 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 a rate of 1/60th of final pensionable earnings for each year of service. Unlike classic, there is no automatic lump sum. Classic plus is essentially a hybrid with benefits for service before 1 October 2002 calculated broadly as per classic and benefits for service from October 2002 worked out as in premium. In nuvos, a member builds up a pension based on 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.

The partnership pension account is a stakeholder pension arrangement. The employer makes a basic contribution of between 8 per cent and 14.75 per cent (depending on the age of the member) into a stakeholder pension product chosen by the employee from the appointed provider – Legal & General. 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 to cover the cost of centrally-provided risk benefit cover (death in service and ill health retirement).

The accrued pension quoted is the pension the member is entitled to receive when they reach pension age, or immediately on ceasing to be an active member of the scheme if they are already at or over pension age. Pension age is 60 for members of classic, premium and classic plus, 65 for members of nuvos, and the higher of 65 or state pension age for members of alpha. (The pension figures quoted for officials show pension earned in PCSPS or alpha – as appropriate. Where the official has benefits in both the PCSPS and alpha, the figure quoted is the combined value of their benefits in the two schemes although part of that pension may be payable from different ages.)

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

Cash Equivalent Transfer Values

A Cash Equivalent Transfer Value (CETV) is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefit values include the member's accrued benefits and any contingent spouse's pension payable from the scheme. When the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme, the CETV is paid by the pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement.

Pension figures relate to the benefits that an individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies. The figures include the value of any pension benefit in another scheme or arrangement which the member has transferred to the Civil Service pension arrangements. They also include any additional pension benefit accrued to the member as a result of buying additional pension benefits at their own cost.

CETVs are worked out 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.

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 or contributions paid by the employee (including the value of any benefits transferred from another pension scheme or arrangement) and uses common market valuation and other actuarial factors for the start and end of the period.

(a) President's pension benefits (Tribunal)

The President is a member of the JPS. For 2019/20, employer contributions of £97,000 (2018/19: £71,000) were paid to the JPS at a rate of 51.35 per cent (2018/19: 38.45 per cent) of pensionable pay.

The following part of the Remuneration Report has been audited.

President	Accrued pension as at 31 March 2020 and related lump sum £'000	Real increase in pension and related lump sum as at 31 March 2020 £'000	CETV at 31 March 2020 £'000	CETV at 31 March 2019 £'000	Real increase in CETV £'000
Pension	25 – 30	2.5 – 5	634	538	92
Lump sum	65 – 70	10 – 12.5			

(b) Registrar's pension benefits (CS)

The Registrar's pension benefits are provided through the Civil Service Pension arrangements. For 2019/20, employer contributions of £35,000 (2018/19: £25,000) were paid to the PCSPPS at a rate of 30.3 per cent (2018/19: 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 2020 and related lump sum £'000	Real increase in pension and related lump sum at age 60 £'000	CETV at 31 March 2020 £'000	CETV at 31 March 2019 £'000	Real increase in CETV £'000
Pension	50 – 55	5 – 7.5	1,181	975	141
Lump sum	150 – 155	20 – 22.5			

Staff Report (audited)

Tribunal

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

	2019/20 £	2018/19 £
Heriot Currie QC	600	10,071
Peter Freeman CBE, QC (Hon)	51,772	38,486
Andrew Lenon QC	26,743	51,814
Hodge Malek QC*	32,462	7,544

* In 2019/20, transitional protection allowance of £16,588 was paid to Hodge Malek (2018/19: £20,653 backdated from 1 April 2015).

Fee-paid Tribunal Chairmen are remunerated at a rate of £600 per day (2018/19: £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 (2018/19: £400 per day). Total remuneration of £141,285 paid to Ordinary Members in 2019/20 (2018/19: £118,348) is included in the table in note (d) below.
- (c) In 2019/20, benefits in kind of £485 (travel and subsistence) were paid to Heriot Currie (2018/19: £1,312). The Tribunal paid £107 tax on these payments (2018/19: £578). No other fee-paid Chairmen received benefits in kind.
- (d) Total cost of Tribunal Members' remuneration is shown in the table below.

	2019/20 £'000	2018/19 £'000
Members' remuneration (including the President, fee-paid Chairmen and Ordinary Members)	442	412
Social security costs	53	47
Pension contributions for the President	97	71
Pension contributions and transitional protection allowance for fee-paid Chairmen	30	37
Total Members' remuneration	622	567

CS

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

	Total 2019/20 £'000	Total 2018/19 £'000
Wages and salaries	916	815
Social security costs	99	84
Other pension costs	240	169
Redundancy and Exit Costs	0	47
Total employee costs	1,255	1,115

- (b) The average number of staff employed during the year (full-time and part-time) was 18 (2018/19: 18), including the Registrar of the Tribunal.
- (c) The Tribunal/CS continues to maintain a diverse workforce. As at 31 March 2020, 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 (1.9 per cent of working days or 4.9 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 2019/20, there were no losses or special payments.

Charles Dhanowa OBE, QC (Hon)

Registrar and Accounting Officer

15 October 2020

Tribunal'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 Appeal Tribunal for the year ended 31 March 2020 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 2020 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 have nothing to report in respect of the following matters in relation to which the ISAs (UK) require me to report to you where:

- the Competition Appeal Tribunal's use of the going concern basis of accounting in the preparation of the financial statements is not appropriate; or
- the Competition Appeal Tribunal have not disclosed in the financial statements any identified material uncertainties that may cast significant doubt about the Competition Appeal Tribunal's ability to continue to adopt the going concern basis of accounting for a period of at least twelve months from the date when the financial statements are authorised for issue.

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.
- Conclude on the appropriateness of the Competition Appeal Tribunal's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Competition Appeal Tribunal's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my 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 report. However, future events or conditions may cause the Competition Appeal Tribunal to cease to continue as a going concern.

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.

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

22 October 2020

National Audit Office

157-197 Buckingham Palace Road

Victoria

London

SW1W 9SP

Tribunal's Statement of Comprehensive Net-Expenditure for the year ended 31/03/2020

	Note	2019/20 £'000	2018/19 £'000
Expenditure:			
Members' remuneration costs	3(b)	(622)	(567)
Other operating charges	4(a)	(105)	(105)
Total expenditure		(727)	(672)
Net Expenditure for the financial year		(727)	(672)

There is no other comprehensive net expenditure. The notes on pages 71 to 74 form part of these accounts.

Tribunal's Statement of Financial Position

as at 31/03/2020

	Note	2019/20 £'000	2018/19 £'000
Non current assets:			
Trade receivables and other receivables	5(a)	101	75
Total non current assets		101	75
Current assets:			
Trade receivables and other receivables	5(a)	189	150
Cash and cash equivalents		–	–
Total current assets		189	150
Total assets		290	225
Current liabilities:			
Trade payables and other payables	6(a)	(189)	(106)
Provisions	7(b)	–	(44)
Total current liabilities		(189)	(150)
Total assets less current liabilities		101	75
Non current liabilities:			
Provisions	7(b)	(101)	(75)
Total non current liabilities		(101)	(75)
Assets less liabilities		–	–
Taxpayers' equity:			
General fund		–	–
Total taxpayers' equity		–	–

The notes on pages 71 to 74 form part of these accounts.

Charles Dhanowa OBE, QC (Hon)

Registrar and Accounting Officer

15 October 2020

Tribunal's Statement of Cash Flows for the year ended 31/03/2020

	Note	2019/20 £'000	2018/19 £'000
Cash flows from operating activities:			
Net expenditure		(727)	(672)
(Increase) in receivables	5	(65)	(37)
Increase in payables	6	83	8
(Decrease)/increase in short term provisions	7(b)	(44)	44
Increase/(decrease) in long term provisions	7(b)	26	(15)
Net cash (outflow) from operating activities		(727)	(672)
Cash flows from financing activities:			
Grant-in-aid	2	727	672
Increase/(decrease) in cash in the period		—	—

The notes on pages 71 to 74 form part of these accounts.

Tribunal's Statement of Changes in Taxpayers' Equity for the year ended 31/03/2020

	General Fund £'000
Balance at 31 March 2018	0
Net operating cost for 2018/19	(672)
Net financing from BEIS for 2018/19	672
Balance at 31 March 2019	0
Net operating cost for 2019/20	(727)
Net financing from BEIS for 2019/20	727
Balance at 31 March 2020	0

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 2019/20 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.

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 one 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 2021 in April 2020. 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 Tribunal's activities. The receivable balance of £189,000, shown in note 5a below, is of the equal amount to the liability of £189,000, shown in note 6a below, which represents the amount that the CS shall transfer to meet those liabilities.

(d) Pensions

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

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

2. Government grant-in-aid

Total grant-in-aid allocated in financial year 2019/20 was £727,000 (2018/19: £672,000).

3. Members' remuneration

- (a) The President and Chairmen are appointed by the Lord Chancellor upon 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 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.

	2019/20 £'000	2018/19 £'000
Members' remuneration (including the President, fee-paid Chairmen and Ordinary Members)	442	412
Social security costs	53	47
Pension contributions for the President	97	71
Pension contributions and transitional protection allowance for fee-paid Chairmen	30	37
Total Members' remuneration	622	567

4. Other operating charges

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

	2019/20 £'000	2018/19 £'000
Members' travel and subsistence	22	28
Members' PAYE and National Insurance on travel and subsistence expenses	14	18
Members' training	43	40
Long service award	20	13
Audit fees*	6	6
Total other operating charges	105	105

*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.

5. Trade receivables and other receivables

(a) Analysis by type

	2019/20 £'000	2018/19 £'000
Amounts falling due within one year:		
Trade receivables and other receivables with the CS	189	150
Amounts falling due after more than one year:		
Trade receivables and other receivables with the CS	101	75
Total trade receivables and other receivables	290	225

6. Trade payables and other payables

(a) Analysis by type

	2019/20 £'000	2018/19 £'000
Amounts falling due within one year:		
Taxation and social security	19	26
Trade Payables	105	1
Accruals	65	79
Total trade payables and other payables	189	106

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) Pension-related provisions for liabilities and charges

	Long service award costs £'000
Balance at 31 March 2019	119
Provided in the year	34
Moved to trade payables in the year	(52)
Balance at 31 March 2020	101

(b) Analysis of expected timing of pension-related provisions

	2019/20 £'000	2018/19 £'000
No later than one year	–	44
Later than one year, and not later than five years	101	75
Later than five years	–	–
Balance at 31 March	101	119

The provision made in the year relates to the expected cost of the President's long service award which becomes payable on retirement and is to be met by the CS. The liability has been 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 2020. However, if the President is required to pay tax on the lump sum at a different rate, the long service award would differ.

The long service award provision of £52,000 payable for the previous holder of the office of President at his retirement date was paid on 1 April 2020 and therefore is included as a trade payable.

The Value of the long service award payable to the current President is £56,000. A further provision of £6,000 for long service award and pension contributions of £39,000 are payable for one 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 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.

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 2020 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 2020 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 have nothing to report in respect of the following matters in relation to which the ISAs (UK) require me to report to you where:

- the Competition Service's use of the going concern basis of accounting in the preparation of the financial statements is not appropriate; or
- the Competition Service has not disclosed in the financial statements any identified material uncertainties that may cast significant doubt about the Competition Service's ability to continue to adopt the going concern basis of accounting for a period of at least twelve months from the date when the financial statements are authorised for issue.

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.
- Conclude on the appropriateness of the Competition Service use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Competition Service's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my 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 report. However, future events or conditions may cause the Competition Service to cease to continue as a going concern.

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.

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

22 October 2020

157-197 Buckingham Palace Road

Victoria

London

SW1W 9SP

CS's Statement of Comprehensive Net Expenditure for the year ended 31/03/2020

	Note	2019/20 £'000	2018/19 £'000
Expenditure:			
Funding the activities of the Tribunal		(727)	(672)
CS and Audit and Risk Assurance Committee Members' remuneration	3(a)	(10)	(14)
Staff costs	4(a)	(1,255)	(1,115)
Other expenditure	6	(2,515)	(2,258)
Depreciation	6	(220)	(133)
Total expenditure		(4,727)	(4,192)
Income:			
Other income	7	1	6
Gifted Asset		2,483	–
Net expenditure		(2,243)	(4,186)
Net expenditure after interest		(2,243)	(4,186)
Net expenditure after taxation		(2,243)	(4,186)

All activities were continuing during the year. The notes on pages 82 to 93 form part of these accounts.

CS's Statement of Financial Position as at 31/03/2020

	Note	2019/20 £'000	2018/19 £'000
Non current assets:			
Property, plant and equipment	8	3,413	210
Intangible assets	9	22	41
Total non current assets		3,435	251
Current assets:			
Trade receivables and other receivables	10	78	120
Cash and cash equivalents	11	1,140	465
Total current assets		1,218	585
Total assets		4,653	836
Current liabilities:			
Trade payables and other payables	12(a)	(844)	(1,311)
Provisions	13(b)	–	(44)
Total current liabilities		(844)	(1,355)
Total assets less current liabilities		3,809	(519)
Non current liabilities:			
Financial liabilities	12(a)	(1,214)	(196)
Provisions	13(b)&(c)	(631)	(75)
Total non current liabilities		(1,845)	(271)
Assets less liabilities		1,964	(790)
Taxpayers' equity:			
General fund		1,964	(790)
Total taxpayers' equity		1,964	(790)

The statement of financial position shows a positive 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 82 to 93 form part of these accounts.

Charles Dhanowa OBE, QC (Hon)

Registrar and Accounting Officer

15 October 2020

CS's Statement of Cash Flows for the year ended 31/03/2020

	Note	2019/20 £'000	2018/19 £'000
Cash flows from operating activities:			
Net expenditure after interest		(2,243)	(4,186)
Adjustment for non cash (income)	8	(3,013)	–
Adjustments for non-cash expenditure	6	220	133
Decrease in receivables	10(a)	42	32
Increase/(decrease) in payables	12(a)	551	(215)
Increase /(decrease) in long term provisions	13 (b)& (c)	556	(15)
(Decrease)/increase in short term provisions	13(b)	(44)	44
Net cash (outflow) from operating activities		(3,931)	(4,207)
Cash flows from investing activities:			
Property, plant and equipment purchases	8	(386)	(38)
Intangible asset purchases	9	(5)	(4)
Net cash used in investing activities		(391)	(42)
Cash flows from financing activities:			
Grant-in-aid from BEIS	2	4,997	3,867
Net Increase/(decrease) in cash and cash equivalents in the period	11	675	(382)
Cash and cash equivalents at the beginning of the period	11	465	847
Cash and cash equivalents at the end of the period	11	1,140	465

The figure for adjustment for non cash (income) represents the 8 Salisbury Square fit-out gifted asset by BEIS and Dilapidations. The figure for purchase of assets represents the cash paid in the year. The notes on pages 82 to 93 form part of these accounts.

CS's Statement of Changes in Taxpayers' Equity for the year ended 31/03/2020

	General Fund £'000
Balance at 31 March 2018	(471)
Net operating cost for 2018/19	(4,186)
Net financing from BEIS for 2018/19	3,867
Balance at 31 March 2019	(790)
Net operating cost for 2019/20	(2,243)
Net financing from BEIS for 2019/20	4,997
Balance at 31 March 2020	1,964

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 by the CS in respect of the year to 31 March 2021 in April 2020, a going concern basis has been adopted for the preparation of these accounts.

(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 does not cause a material difference.

(c) Basis of preparation of accounts

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

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

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

(d) Grant-in-aid

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

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

(e) Non current assets

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

(f) Depreciation

Depreciation is provided for all non current assets using the straight line method at rates calculated to write off, in equal instalments, the cost of the asset over its expected useful life. Non current assets are depreciated from the month following acquisition and are not depreciated in the year of disposal. The expected useful life relating to the fit-out asset of 8 Salisbury Square ends on termination of the lease in January 2029.

(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
8 Salisbury Square fit-out and Dilapidations	9.25 years

(ii) Useful lives of intangible non current assets:

Software licences	1 to 3 years
-------------------	--------------

(g) **Taxation**

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

(h) **Pension costs**

Present and past employees are covered under the provisions of the PCSPS. 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.

(i) **Income**

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

BEIS gifted the fit-out assets of 8 Salisbury Square to Tribunal/CS. The cost of the assets transferred was £2,483,000 and this is shown as income in the CS's Statement of Comprehensive Net Expenditure on page 78.

(j) **Operating leases**

Historically, rentals payable under operating leases have been charged to the income and expenditure account on a straight line basis based on 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 terminated at the same time. Consequently, rentals for Victoria House were charged over the shorter term of 16 years (see note 6).

The Tribunal /CS moved to its new premises at 8 Salisbury Square on 18 November 2019, pursuant to a 10 year lease which commenced on 25 January 2019 with an initial 25 month rent-free period (see note 12).

(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; for the public sector, its implementation has been deferred to 1 April 2021 following confirmation from HM Treasury. The new standard removes the distinction between finance and operating lease and requires all leases with a term of 12 months or more to be recognised on the balance sheet as a “right of use” asset, measured at the present value of future lease payments and a matching lease liability in the Statement of Financial Position, unless the underlying asset is of low value. These changes will have a material impact on the CS’s financial statements. 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. 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 is based on Victoria House costs which were borne by the Tribunal/CS until September 2019 and by BEIS between October and December 2019 for the temporary lease costs excluded from these accounts.

The long service award provision is estimated on the basis that tax is paid on the retirement lump sum at a rate of 45 per cent.

2. Government grant-in-aid

	2019/20 £'000	2018/19 £'000
Allocated by BEIS	4,286	4,496
Allocated for relocation – cash	712	–
Total Allocated	4,998	4,496
Total drawn down	4,997	3,867

3. The CS and ARAC Members' remuneration

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

	2019/20 £'000	2018/19 £'000
CS and ARAC Members' remuneration	10	14
Social security costs	–	–
Total CS and ARAC Members' remuneration	10	14

- (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 £4,550 (2018/19: £4,125), and Peter Freeman £2,725 (2018/19: £3,761), 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)
	2019/20	2019/20	2018/19	2018/19
Wages and salaries	916	916	815	815
Social security costs	99	99	84	84
Other pension costs	240	240	169	169
Redundancy and exit costs	0	0	47	47
Total employee costs	1,255	1,255	1,115	1,115

5. Pension costs

The PCSPS is an unfunded multi-employer defined benefit scheme and the CS is therefore unable to identify its share of underlying assets and liabilities. Further information can be found on the resource accounts of the Cabinet Office Civil Service Pensions website, www.civilservicepensionscheme.org.uk.

For 2019/20, employer contributions of £239,415 (2018/19: £166,036) were payable to the PCSPS at one of the four rates available in the range of 26.6 to 30.3 per cent (2018/19: 20 to 24.5 per cent) of pensionable pay, based on salary bands. The schemes actuary reviews employer contributions every four years following a full scheme valuation. The contribution rates reflect benefits as they are accrued, not when the costs are actually incurred, and reflect past experience of the schemes.

Employees can opt to open a partnership pension account, which is a stakeholder pension with an employer contribution. Employers' contributions of £548 (2018/19: £2,845) were paid to Legal and General, the PCSPS appointed stakeholder pension provider. 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.

6. Other expenditure

	2019/20 £'000	2018/19 £'000
Hire of plant and machinery	4	4
Other operating leases*	1,153	439
Non case related expenditure including internal audit fees	39	14
IT service fees	97	105
Accommodation and utilities**	930	1,406
Travel, subsistence and hospitality	22	14
Other administration including case related expenditure	248	258
Audit fees***	22	18
Non cash item		
Depreciation and loss on disposed of property, plant and equipment	220	133
Total other expenditure	2,735	2,391

* Other operating lease costs relate to the rental of the Tribunal/CS's premises at Victoria House, where the Tribunal/CS was 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 was also 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, which were based on the original Victoria House lease end date of September 2023.

The Tribunal/CS moved to its new premises at 8 Salisbury Square in November 2019 under a terms of occupation agreement (TOA) with the GPA. The 10 year lease commenced on 25 January 2019 with an initial 25 months rent free period.

** It is the CS's policy not to charge other government bodies for using Tribunal/CS's court facilities. The CS has made a provision for dilapidation costs of £530,000 payable for 8 Salisbury Square at the end of the 10 year lease, in January 2029.

*** Audit fees relate to statutory audit work.

7. Tribunal/CS's income and interest received

	2019/20 £'000	2018/19 £'000
Website and library service income	1	6
Gross interest received	–	–
Total income	1	6

Bloomberg, a US publisher have terminated the agreement for the non-exclusive use of Tribunal's information published on the Tribunal's website on their legal database. LexisNexis Butterworths are paying an annual fee for inclusion of the Tribunal's Guide to Proceedings in one of their publications.

8. Property, plant and equipment

	Information Technology (IT) £'000	Assets under construction £'000	Furniture and Fittings (F&F) £'000	Office Machinery £'000	8 Sal Sq Fit-out & Dilapidations £'000	Total £'000
Cost or valuation:						
At 31 March 2019	395*	–	350*	50	–	795
Additions	11	326	48	1	530	916
Gifted in the year	–	–	189	–	2,294	2,483
Disposals	(162)	–	(191)	(35)	–	(388)
At 31 March 2020	244*	326	396*	16	2,824	3,806
Depreciation:						
At 31 March 2019	220	–	323	42	–	585
Charged in year	48	–	11	2	76	137
Disposals	(108)	–	(188)	(33)	–	(329)
At 31 March 2020	160	–	146	11	76	393
Net book value at 31 March 2019	175		27	8		210
Asset financing:						
Owned	175		27	8		210
Net book value at 31 March 2020	84	326	250	5	2,748	3,413
Asset financing:						
Owned	84	326	250	5	2,748	3,413

* Included in the cost of fixed assets, shown in the table above, are IT assets with a value of £40,972 and F&F assets with a value of £133,628 which have been fully written down but are still in use.

	Information Technology (IT) £'000	Furniture and Fittings (F&F) £'000	Office Machinery £'000	Total £'000
Cost or valuation:				
At 31 March 2018	388*	327*	50	765
Additions	14	24	–	38
Disposals	(7)	(1)	–	(8)
At 31 March 2019	395*	350*	50	795
Depreciation:				
At 31 March 2018	157	321	38	516
Charged in year	70	3	4	77
Disposals	(7)	(1)	–	(8)
At 31 March 2019	220	323	42	585
Net book value at 31 March 2018	231	6	12	249
Asset financing:				
Owned	231	6	12	249
Net book value at 31 March 2019	175	27	8	210
Asset financing:				
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.

9. Intangible assets

	Purchased soft- ware licences £'000	SharePoint £'000	Total £'000
Cost or valuation:			
At 31 March 2019	606	158	764
Additions	0	5	5
Disposals	570	132	702
At 31 March 2020	36	31	67
Amortisation:			
At 31 March 2019	584	139	723
Charged in the year	13	10	23
Disposals	570	131	701
At 31 March 2020	27	18	45
Net book value at 31 March 2019	22	19	41
Net book value at 31 March 2020	9	13	22

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

10. Trade and other receivables

(a) Analysis by type

	31 March 2020 £'000	31 March 2019 £'000
Amounts falling due within one year:		
Deposits and advances	11	8
Prepayments and accrued income	67	112
Total trade receivables and other receivables	78	120

There were no balances falling due after one year.

11. Cash and cash equivalents

	2019/20 £'000	2018/19 £'000
Balance at 1 April	465	847
Net change in cash balances	675	(382)
Balance at 31 March	1,140	465
The following balances were held at 31 March:		
Cash in Government Banking Service (GBS)	1,140	465
Balance at 31 March	1,140	465

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

(a) Analysis by type

	31 March 2020 £'000	31 March 2019 £'000
Amounts falling due within one year:		
Payables representing activities of the Tribunal at 31 March	189	150
Taxation and social security	32	47
Trade Payables	14	22
Accruals	549	17
Untaken leave accrual	60	39
Deferred income rent free	–	42
Operating lease liability	–	429
Dilapidations for Victoria House	–	565
Total amounts falling due within one year	844	1,311
Amounts falling due after more than one year:		
Deferred income rent free and operating lease liability*	1,214	186
Dilapidations for 8 Salisbury Square	–	10
Total amounts falling due after more than one year	1,214	196

* The operating lease liability is the rent payable by the Tribunal/CS for the time lapsed in the initial 25 month rent-free period for its new premises at 8 Salisbury Square. The deferred income in note 12(a) represents the value of the initial 25 month rent-free period for the Tribunal/CS's new premises at 8 Salisbury Square, spread over the expected full 10 year lease.

(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 Tribunal/CS has spread the value of the initial 25 month rent-free period for 8 Salsbury Square over the expected full 10 year term of the CS's TOA with the GPA.

The operating lease liability in note 12(a) represents obligations under operating leases for the full cost of the operating lease spread on a straight line basis over the 10 year term of the TOA arrangement, from 25 January 2019.

13. Provisions

(a) Pension-related provisions for liabilities and charges

	Long service award costs £'000
Balance at 31 March 2019	119
Provided in the year	34
Moved to trade payables in the year	(52)
Balance at 31 March 2020	101

(b) Analysis of expected timing of pension-related provisions

	2019/20 £'000	2018/19 £'000
No later than one year	–	44
Later than one year, and not later than five years	101	75
Later than five years	–	–
Balance at 31 March	101	119

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 has been 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 2020. However, if the President is required to pay tax on the lump sum at a different rate, the long service award would differ.

The long service award provision of £52,000 payable for the previous holder of the office of President at his retirement date was paid on 1 April 2020 and therefore is included as a trade payable.

The value of the long service award payable to the current President is £56,000. A further provision of £6,000 for long service award and pension contributions of £39,000 are payable for one fee-paid Tribunal Chairman.

(c) Provisions

	31 March 2020 £'000	31 March 2019 £'000
Dilapidations for 8 Salisbury Square	530	–

The CS has made a provision for dilapidations costs payable to reinstate 8 Salisbury Square to its original condition at the end of the 10 year lease, in January 2029. The CS benchmarked the per square feet estimate provided by GPA against its recent dilapidations experience with Victoria House including inflationary increase of 1.27 per cent, as promulgated by HM Treasury in its Public Expenditure System (PES) papers.

There is no discount applied to the provision on the grounds of materiality.

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 2020 £'000	31 March 2019 £'000
Obligations under operating leases comprise:		
Buildings:		
Not later than one year	1,028	591
Later than one year and not later than five years	4,113	4,023
Later than five years	3,927	6,260
Other:		
Not later than one year	4	4
Later than one year and not later than five years	2	4
Total obligations under operating leases	9,074	10,882

The Tribunal/CS relocated to 8 Salisbury Square, the 10 year lease obligations for which commenced on 25 January 2019, with an initial 25 month rent free period.

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 £1,140,000 as at 31 March 2020.

16. Related party transactions

During the year, the CS had various material transactions with the CMA and the GPA relating mainly to the occupancy of Victoria House and 8 Salisbury Square respectively.

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, JPS 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 current President and long service award for the former President were also paid to the MoJ. Employer pension contributions for the current President were paid to the JPS.

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.

