



COMPETITION APPEAL TRIBUNAL

CATUG/2025

19 March 2025

MINUTES OF THE COMPETITION APPEAL TRIBUNAL USER GROUP MEETING (01/25) WEDNESDAY 19 MARCH 2025

A meeting of the Competition Appeal Tribunal (CAT) User Group took place on Wednesday 19th March 2025 (1715-1830 hrs) in the Mansfield Room / via MS Teams.

Attendees	Ben Tidswell	CAT (Chair)	Chairman
	Mr Justice Roth	CAT (President)	
	Charles Dhanowa KC (Hon)	CAT (Registrar)	
	Peter Freeman	CAT	
	Almira Delibegovic-Broome KC*	Axiom Advocates	
	Tom De La Mare KC*	Blackstone Chambers	
	Sarah Abram KC	Brick Court	
	Jennifer MacLeod		
	Dan Barnett*	CMA	
	Mark Sansom	Freshfields	
	Stephen Wisking	Herbert Smith Freehills	
	Sarina Williams	Linklaters	
	Natasha Pearman*	Milberg	
	Jon Turner KC*	Monckton	
	George Peretz KC*		
	Martin Ballantyne	Ofcom	
	Belinda Hollway	Scott & Scott	
	Stephen Tupper	Tuppers Law	
	Teddy Hunt	CAT (Referendaire)	Secretary

* via MS Teams

Apologies	Marie Demetriou KC	Brick Court	
	Bruce Kilpatrick	Linklaters	
	Rob Williams KC	Monckton	
	Totis Kotsonis	Pinsent Masons LLP	
	Micaela Diver	A&L Goodbody	
	Emily Neill	Bar Library (Belfast)	
	Nick Linfoot	Department for Business & Trade	

Item	Record	Action
1. Introduction	Ben Tidswell welcomed all attendees to the meeting.	
2. Minutes of Previous	(a) Minutes. The Minutes of the meeting on 4 Dec 24 were	

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Meeting (4 Dec 24)	reviewed and agreed. (b) Matters Arising: (1) <u>CAT President Appointment</u>: The Acting-President confirmed that the next CAT President would not take office in March as previously expected. The Acting President will retire on 23 May, with the next President expected to be announced by that date.	
3. CAT Rules & Practice Direction Update	The Registrar noted that the project to review the CAT Rules generally would commence once the new President was in place. Mr Justice Roth will contribute to this work. In the meantime, the Registrar updated Members on discussions with Department of Science, Innovation and Technology and DBT about amendments to the CAT Rules to deal with concurrent CMA investigations and private actions relating to breaches of obligations under the Digital Markets, Competition and Consumers Act. While the Tribunal's preference was for leaving a wide discretion about the circumstances in which stays of the private actions might be ordered, the Civil Procedure Rules Committee (CPRC) favours a more prescriptive approach. Given the need for consistency between the CPR and the CAT Rules, the Tribunal is likely to follow CPRC's approach on this matter despite its preference for greater flexibility It was noted that a new Practice Direction on "Bundling" had been published on the CAT website.	
4. Advocate Pro-Bono Scheme	The arrangements for the Advocate Pro-Bono Scheme in the CAT had now been agreed between the Tribunal and Advocate. A protocol document had been drafted, and an explanatory note was to be published on the CAT website to clarify participation details. Next steps included outreach to barristers in chambers specialising in competition law to encourage participation across all levels of experience and the compilation of a list of participants . . It was noted that the scheme was only available in England and Wales. Almira Delibegovic-Broome agreed to make inquiries about setting up a similar scheme in Scotland. Ben Tidswell agreed to follow up with representatives from Northern Ireland. Stephen Tupper noted that the Competition Pro Bono Scheme run by a number of solicitors was in the process of being reinvigorated.	
5. Access to Skeleton Arguments	The Acting President reported that the editor of the Business Law Reports (BLR) was interested in increased reporting of	

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	CAT cases but had encountered difficulties accessing skeleton arguments. It was agreed that non-confidential versions of skeleton arguments were freely available, and BLR should contact solicitors directly in each case, or the Registry if issues arose.	
6. Transfer of Cases from the High Court	This discussion focused on why private competition actions continued to be filed in the High Court rather than the CAT, despite those cases almost inevitably being transferred subsequently to the CAT. The following possible reasons were identified: a. Jurisdictional concerns, procedural differences (such as disclosure requirements), and historical limitation issues. b. Cases that involve both competition law and other claims (e.g. intellectual property claims) may need to be initiated in the High Court due to jurisdictional constraints. It was also noted that transfer orders from the High Court sometimes preserve reference to Civil Procedure Rules provisions, which can create procedural mismatches once the case is transferred to the CAT. Members discussed whether such references could be removed from transfer orders to ensure cases followed CAT Rules upon transfer. It was agreed that the Tribunal Registry would conduct inquiries into specific cases to better understand the motivations for filing in the High Court.	
7. Bellamy Lecture 2025	Peter Freeman confirmed that the Bellamy Lecture 2025 was scheduled for 16 October 2025, with Bill Kovacic confirmed as the speaker. The precise title was still being determined. The location was also under consideration, with the expectation that it would be hosted at the CAT, although space constraints may necessitate an alternative venue for greater inclusivity.	
8. User Group Feedback	(a) <u>General Feedback from Scottish practitioners</u>. Amira Delibegovic-Broome provided some general feedback from Scottish practitioners. Their feedback was overwhelmingly positive, and the following points were raised for discussion: (i) Disclosure practices: the Scottish approach is more targeted than in England and Wales, although it was noted that the CAT approach favoured more targeted disclosure than the High Court in England and Wales. The Tribunal remains conscious of the need to push back on overly broad disclosure requests. (ii) Excessive solicitor correspondence: The Acting President emphasized the need for all counsel and solicitors to exercise greater restraint in including all correspondence in hearing bundles. Mark Sansom	

	highlighted that the difficulty lies in determining in advance what correspondence will ultimately be needed. Ben Tidswell added that solicitors may also be concerned about costs, and that counsel often prefer to have letters included out of caution. The Acting President acknowledged these concerns but noted that Scottish practitioners manage without excessive correspondence. (iii) Logistical issues: late decisions on in-person hearings create difficulties for those travelling from Scotland, affecting arrangements such as flights and childcare. (iv) Hearing locations: it is of course disruptive for any practitioner to have to travel to another city for a hearing, regardless of where they are based. The Acting President noted this concern. Sarina Williams noted that some of these concerns were echoed by London-based practitioners as well. (b) <u>Hot Tubs</u>. Sarina Williams summarised feedback on hot tubs (i.e. concurrent expert evidence) from a recent conference involving a number of experts who have experience of giving evidence in the CAT. Hot tubs were generally perceived as helpful in providing thematic overviews, but it was unhelpful that approaches varied significantly across cases. Key differences include whether experts were expected to set their own agenda or whether this would be done by the economist on the panel, and whether experts would be permitted to rely on notes. There was positive feedback about the approach taken in <i>Stellantis</i> and <i>Autoliv</i>, where opposing parties identified the documents they intended to put to experts during cross-examination in advance. This approach saved time during trial and was found to be useful. Sarah Abram noted that this practice is required in the Patents Court and suggested that consistency across cases could be beneficial. Sarah Abram added that the extent of post-hot-tub cross-examination varies. In some cases, issues were discussed in the hot tub, with full cross-examination afterward. Knowing the approach in advance would help case preparation. Ben Tidswell acknowledged that different cases and panels would have different dynamics. However, he agreed that early clarity on these issues is important. The Acting President agreed that there should be a standard practice regarding the use of notes by experts in hot tubs, although he cautioned that the Tribunal does not want experts arriving with pre-prepared answers. He noted that some variation will always be necessary to reflect differences in cases and Tribunal panels but agreed to consider whether adopting elements of the Patents Court's approach would be beneficial. The Registrar raised the question of whether experts should be allowed to review transcripts of their hot-tubbing session the day before. This issue had arisen in recent cases.	
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	There was agreement that, generally, witnesses of fact should not have access to transcripts, though there may be a case for allowing it for economic experts in certain circumstances. Jennifer MacLeod suggested that it might be helpful to think about teach-ins, which have been inconsistent at times. The Acting President noted that teach-ins often serve different functions. He also informed the group that a working group of economist members has been set up to improve how economic evidence is presented. The points raised in this discussion would be shared with them for further consideration.	
9. Any Other Business	The User Group expressed gratitude to Mr Justice Roth for his service as Acting President.	
Date of Next Meeting	The date for the next CAT User Group meeting is Wed 11 Jun 25. A calendar invitation has been issued.	

Teddy Reynolds-Hunt
for CAT President