



Neutral citation [2025] CAT 80

Case No: 1755/13/12/25 (W)

IN THE COMPETITION APPEAL TRIBUNAL

Salisbury Square House
8 Salisbury Square
London EC4Y 8AP

24 November 2025

Before:

SIR PETER ROTH
(Chair)
CAROLE BEGENT
LESLEY FARRELL

Sitting as a Tribunal in England and Wales

**IN RE THE APPLICATION FOR A WARRANT UNDER SECTION 28A(1)(B) OF
THE COMPETITION ACT 1998**

COMPETITION AND MARKETS AUTHORITY

Claimant

Heard at Salisbury Square House on 18 November 2025

NON-CONFIDENTIAL JUDGMENT (APPLICATION FOR WARRANT)

APPEARANCES

James Bourke (instructed by the Competition and Markets Authority) appeared on behalf of the Competition and Markets Authority.

Note: Excisions in this Judgment (marked “[&]”) relate to confidential information.

A. INTRODUCTION

1. On 18 November 2025, we heard an application for a search warrant in respect of domestic premises (the “Application”) made by the Competition and Markets Authority (“CMA”) under section 28A(1)(b) of the Competition Act 1998 (the “CA 1998”). Pursuant to Rule 99 of the Competition Appeal Tribunal Rules 2015 (the “CAT Rules”), the Tribunal directed that the Application be heard in private. At the conclusion of the hearing, we announced that we would grant the Application, and the terms of the warrant and accompanying explanatory note were discussed with counsel. The warrant and explanatory note in slightly revised form were issued on 21 November 2025. This judgment sets out our reasons for granting the Application.

2. Section 28A(1)(b) CA1998 provides as follows:

“On an application made to it by the CMA, the court or the Tribunal may issue a warrant if it is satisfied that—

...

(b) there are reasonable grounds for suspecting that—

(i) there are on or accessible from any domestic premises documents which the CMA has power under section 26 to require to be produced; and

(ii) if the documents were required to be produced, they would not be produced but would be concealed, removed, tampered with or destroyed.

3. Although section 28A(8A) states that such an application to the Tribunal shall be made in accordance with the “Tribunal Rules”, there are presently no provisions in the CAT Rules concerning applications for warrants. The position is the same as regards the parallel statutory provision in section 28 CA 1998 concerning a warrant to enter business premises: see section 28(7A). Therefore, the Tribunal has in practice adopted the procedure set out in the Practice Direction for warrants under the CA 1998 that applies in the High Court, as suitably modified to encompass the differences between the Tribunal and the High Court. See the judgment of 29 November 2024 on a related application ([2024] CAT 71) at [2]-[3].

4. The first of the two statutory conditions in section 28A(1)(b) for the issue of such a warrant takes one back to section 26 CA 1998 and the associated statutory provisions. In summary, insofar as relevant for the Application, the CMA has power to request the production of documents when conducting an investigation on the basis that it has reasonable grounds to suspect that there is or has been an agreement which has the object or effect of preventing, restricting or distorting competition in the United Kingdom.
5. The Application was made in connection with the same investigation as is the subject of warrants in respect of business premises (the “Business Warrants”) previously sought under section 28 CA 1998, and granted by the Tribunal (see [2024] CAT 71). As recorded in that judgment, the CMA was conducting an investigation into suspected bid rigging of tenders for the supply of roofing and construction services to schools and academy trusts eligible for funding under the government's Condition Improvement Fund. The Business Warrants permitted the CMA to enter and search business premises of seven companies (two of which were related companies in the same group). We will refer to four of those companies as A, B, C and D.
6. The Business Warrants were duly executed on 10 December 2024 at the relevant business premises. [X].
7. The CMA’s investigation is continuing, and is focusing on conduct occurring from [X] to [X]. [X]. We have been impressed by the significant work carried out by the CMA, as described in detail in the affidavit of a Director of Cartel Enforcement sworn in support of the Application. We are clear that the CMA has good grounds to suspect that there has been a serious infringement of the Chapter I prohibition in the CA 1998. The power to request documents under section 26 CA 1998 is therefore engaged.
8. The inspection conducted by the CMA of the business premises of A continued over three days, i.e. 10-12 December 2024. The present application concerns the domestic premises which the evidence before the Tribunal shows are the home of Mr X, who is the managing director of A. Mr X arrived at the business premises of A during the afternoon of the first day of the inspection, i.e. 10

December 2024, and spoke to the head of the CMA's team conducting the inspection. Mr X said that he only comes into the office "infrequently" and that he has a desktop and two screens "at his house" and that he "does everything via iPad". He said that he only had his work phone with him, which he provided to the CMA investigating team together with the passcode. He said that his personal phone "is not used for work". On the second day of the investigation, Mr X provided his iPad and desktop together with the associated passwords.

9. [REDACTED].
10. [REDACTED]. They identified the telephone number used by A for such communications, which is the number of Mr X's personal phone. [REDACTED]. Further, analysis of the mobile devices obtained from executives [REDACTED] has revealed messages showing anti-competitive exchanges between the executives holding those devices and Mr X using that personal phone number.
11. [REDACTED].
12. "Document" for the purpose of section 28A CA 1998 includes information recorded in any form: section 59(1). It accordingly includes electronic documents such as messages and photographs on a mobile phone. Pursuant to section 50 of the Criminal Justice and Police Act 2001, the power to require documents is to be treated as the power to take possession of an electronic device, such as a phone, in which the electronic document is contained or stored. In the present case, there is evidence [REDACTED] that the SIM associated with the personal number has been used recently in an iPhone 17 Pro Max, which is a model only released in September 2025. However, given the value of modern smartphones, even if Mr X has recently changed the phone that he is using, he may well have retained one or more of his previous phones which he used with his personal number, or given them to a member of his family such that they remain on the premises.
13. While it is of course possible that Mr X may have deleted all messages concerning exchanges with competitors, in particular since the inspection of A's business premises, it is possible that he may not have done so or that, even if he

sought to do so, he did so incompletely with the result that some messages remain. Furthermore, the personal phone of Mr X, and any other mobile devices which may be on the domestic premises which he previously used as his personal phone, may contain [X] information which, when combined with information obtained from other participants in the anti-competitive arrangements may be relevant to the CMA's continuing investigation. Accordingly, we consider that the first condition in section 28A(1)(b) of CA 1998 is satisfied.

14. As regards the second condition (i.e. the likelihood of concealment or destruction if the documents), in *R (on the application of the CMA) v Competition Appeal Tribunal* [2024] EWHC 904 (Admin), [2024] 2 All ER (Comm) 1095, Sir Julian Flaux C stated (in a judgment with which Butcher J agreed) at [58]:

“There may very well be cases where the position of the individual in the undertaking or the extent of his or her involvement in the cartel will mean that the inference is enough to justify the issue of a warrant without some additional evidence of propensity, which as Ms Enser points out in her witness statement, might be very difficult to obtain. I also agree with Ms Demetriou KC that the description of the nature of secret cartels given in the *Volkswagen* case set out at [16] above is as applicable to domestic premises as to business premises. Whether or not the inference is enough will depend upon the facts and circumstances of each particular case.”

15. In the present case, we are entirely satisfied that the second condition is fulfilled. We reach that conclusion for several cumulative reasons:

- (a) Mr X is the managing director of A and the evidence indicates that he was directly and personally involved in the anti-competitive arrangements.
- (b) Given the seriousness of the conduct, Mr X would therefore be personally at risk of an application to disqualify him as a director or of prosecution for the cartel offence.
- (c) Mr X's statement that he did not use his personal phone for work appears to have been dishonest and made with an attempt to conceal his conduct.

(d) [X].

16. Although the two statutory conditions are accordingly satisfied, the Tribunal retains a discretion as to whether to grant a warrant, as counsel for the CMA has very properly pointed out. In that regard, we appreciate that this warrant concerns domestic premises where Mr X is likely to be living with his family, and that a search of domestic premises is much more intrusive than a search of business premises and requires a higher order of scrutiny having regard to the application of Article 8 of the European Convention on Human Rights (“ECHR”). However, as the Tribunal observed when granting the application for the Business Warrants for the purpose of this investigation, there is a strong public interest in uncovering wrongdoing. We repeat the statement made in that judgment:

“That observation has particular resonance in this case, where public money was directly involved in paying for the projects subject to these tenders.”

17. Moreover, Mr X has brought the Application on himself by telling the CMA that he did not use his personal phone for work whereas it subsequently emerged that this was precisely the phone-number that was used for anti-competitive exchanges.
18. The affidavit in support of the Application sets out the sensitive way in which the initial entry to the premises will be sought. We have also required amendment to the proposed terms of the warrant to reduce the risk of execution at a time when school-age children may be at the premises.
19. Taking account of the rights under the ECHR, we consider that the balance comes down clearly in favour of granting the Application.
20. This judgment is unanimous.

Sir Peter Roth

Carole Begent

Lesley Farrell

Charles Dhanowa C.B.E., K.C. (*Hon*)
Registrar

Date: 24 November 2025