



COMPETITION APPEAL TRIBUNAL

ANNUAL REVIEW AND ACCOUNTS

2007/2008



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INTRODUCTION

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

PRINCIPAL ACTIVITIES OF THE TRIBUNAL

To hear appeals against: decisions of the Office of Fair Trading (OFT) under Chapters I and II of the Competition Act 1998 and Articles 81 and 82 of the EC Treaty; decisions of regulators in the main utility, railway and air traffic service sectors under those provisions; decisions made by the Office of Communications (OFCOM) under the Communications Act 2003; and decisions of the OFT, the Competition Commission or the Secretary of State on merger cases and market investigations under the Enterprise Act 2002. The Tribunal may also hear certain actions for damages arising out of an infringement of UK or EC competition law.

Each case is decided by the President or a Chairman and two Ordinary Members.

The decisions of the Tribunal may be appealed on a point of law or as to the amount of any penalty to the Court of Appeal in England and Wales, the Court of Session in Scotland or the Court of Appeal in Northern Ireland.

MEMBERSHIP OF THE TRIBUNAL

The Tribunal comprises: the President, Sir Gerald Barling; the panel of Chairmen (comprising Judges of the Chancery Division of the High Court and two other members, namely Lord Carlile of Berriew QC and Vivien Rose); and a panel of 17 Ordinary Members.

THE TRIBUNAL MEMBERSHIP IN 2007/08 COMPRISED:

President

The Honourable Mr Justice Barling
(from 5 November 2007)

Panel of Chairmen

The Honourable Mr Justice Lindsay
The Honourable Mr Justice Evans-Lombe
The Honourable Mr Justice Blackburne
The Honourable Mr Justice Lightman
The Honourable Mr Justice Patten
The Honourable Mr Justice Etherton
The Honourable Mr Justice Peter Smith
The Honourable Mr Justice Lewison
The Honourable Mr Justice David Richards
The Honourable Mr Justice Mann
The Honourable Mr Justice Warren
The Honourable Mr Justice Kitchin
The Honourable Mr Justice Briggs
The Honourable Mr Justice Henderson
The Honourable Mr Justice Morgan
Marion Simmons QC
Lord Carlile of Berriew QC
Vivien Rose

Ordinary Members

Professor Andrew Bain OBE
Michael Blair QC
Peter Clayton
Michael Davey
Peter Grant-Hutchison
Professor Peter Grinyer
Sheila Hewitt
Ann Kelly
The Honourable Antony Lewis
Graham Mather
Professor John Pickering
Richard Prosser OBE
Dr Arthur Pryor CB
Adam Scott TD
Vindelyn Smith-Hillman
Professor Paul Stoneman
David Summers

INTRODUCTION

RECRUITMENT

The President and Chairmen are appointed by the Lord Chancellor upon recommendation of the Judicial Appointments Commission and by open competition as appropriate. Ordinary Members are recruited in open competition according to the guidelines of the Office of the Commissioner for Public Appointments (OCPA) and are appointed by the Secretary of State for Business, Enterprise and Regulatory Reform. 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 Enterprise Act 2002 to provide the administrative staff, finance and accommodation required by the Tribunal to carry out its functions.

MEMBERSHIP AND SENIOR STAFF OF THE CS

The membership of the CS comprises the President (Sir Gerald Barling), the Registrar (Charles Dhanowa), and a non-executive member (Janet Rubin), who is also chair of the Audit Committee. The Director, Operations is Jeremy Straker.

REGISTER OF INTERESTS

The CS holds a Register of Interests detailing any directorships or other significant interests held by members of the CS which may conflict with their management responsibilities.

PREMISES

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

FINANCE AND WORKLOAD

The work of the Tribunal is financed entirely through grant-in-aid from the Department of Business, Enterprise and Regulatory Reform (BERR) and administered by the CS. The Registrar is the Accounting Officer and is responsible for the proper use of these funds.

PRESIDENT'S STATEMENT



This has been a rather unusual year for the Tribunal. The process of selecting and appointing a successor to Sir Christopher Bellamy as President was much longer than expected. Sir Christopher left in February 2007 and my appointment took effect from 5 November 2007. In the intervening period the work of the Tribunal continued seamlessly thanks to the dedication and efficiency of its staff, Chairmen and Members, particularly Charles Dhanowa the Registrar, who continued to work tirelessly.

Special mention should be made of Marion Simmons QC who, though a part-time Chairman of the Tribunal, fulfilled *de facto* the role of Acting President during this period despite, at the same time, having to receive treatment for cancer. Very sadly, after a determined struggle to beat her illness, Marion recently died. She will be greatly missed by all her colleagues at the Tribunal and by many others involved with the administration of justice and the practice of law. A tribute to her work for the Tribunal and her achievements generally can be found on page 22 of this review.

In this, my first Annual Statement, it is right and proper that I should pay tribute to my predecessor who was the founding father of the Tribunal. When its forerunner was established by the Competition Act 1998 to hear appeals from decisions of the Office of Fair Trading and sectoral regulators, Sir Christopher was plucked from the Court of First Instance in Luxembourg to shape and lead the new Tribunal. In the seven years of his tenure he developed the Tribunal into a world-class competition court, starting virtually from scratch in formulating the procedural rules which would apply and setting up the Tribunal's internal systems broadly on the model of the Court of First Instance. For quite some time Sir Christopher was the only judicial chairman and much of the early case law was accordingly decided by the panels he chaired.

His achievements as President are too many to log here, but the Tribunal is an enduring testament to them. I am sure that all those who work at the Tribunal together with the Chairmen and Members would wish me to express our best wishes to Sir Christopher in his new and exciting career. It is entirely fitting that to mark his retirement as President a special issue of the Competition Law Journal (edited by a current referendaire of the Tribunal, David Bailey, and two former referendaires, Christopher Brown and Ben Rayment) has been dedicated to the Tribunal and its case-law. The special issue contains stimulating and informative contributions from some of the Tribunal's Members, Chairmen and users.

In view of the close association between the Tribunal and the Chancery Division, it was considered appropriate that the next President should be a judge of that Division. Accordingly on appointment as President I was reassigned from the Queen's Bench Division. It is my intention, whenever time permits, to hear cases in the Chancery Division and, indeed, I have already done so on several occasions. The connection between the Tribunal and the Chancery judges (who are able to sit as panel Chairmen here) is very much valued by the Tribunal and by the judges themselves. I intend to foster it as much as



PRESIDENT'S STATEMENT



possible and to seek the services of the judges as panel Chairmen when appropriate in cases concerning England and Wales. I would also like to explore ways of enlisting the support and assistance of the Scottish and Northern Irish judiciary in respect of cases concerning Scotland and Northern Ireland.

Prior to my appointment I had appeared before the Tribunal as counsel fairly regularly in appeals under both the Competition Act 1998 and the Communications Act 2003. Most of those appearances were for one particular client. In view of this I have not felt it appropriate to sit as Chairman in new cases which involve or are likely to involve the participation of that client. I will continue to consider each new case in order to see whether this self-denying ordinance should apply. Its application is, of course, likely to change with the lapse of time. In addition my colleagues at the Tribunal and I are very conscious that there are cases still being processed in which I was involved as

counsel. We are scrupulous in ensuring that I am isolated from such matters.

At the time of writing I have been in post as President for about six months. It has been a great pleasure getting to know our permanent staff at the Tribunal as well as our distinguished Chairmen and Members. The Tribunal is, of course, funded and supported by the CS which consists of the President, the Registrar and an appointed member. Jeremy Straker, the CS's Director, Operations also acts as the secretary. Janet Rubin was the appointed member at the time of my arrival and remains such. She chairs the CS's regular meetings, and has already provided a good deal of assistance to me through her advice and support for the Tribunal and its work. We are extremely grateful for all she has done and continues to do, on our behalf, both as member of the CS and as chair of the CS's Audit Committee.

PRESIDENT'S STATEMENT

A total of 19 new cases were received in the year to 31 March 2008 (most being received before the commencement of my tenure). These new cases include 11 appeals under the Communications Act 2003 ("the 2003 Act"), four applications for review under the merger provisions of the Enterprise Act 2002 and two monetary claims under section 47A of the Competition Act 1998 ("the 1998 Act"). A case by case summary of the Tribunal's activity during the past year can be found later in this review.

Amongst the appeals brought under the 2003 Act are several concerning mobile call termination charges. Those appeals include the first cases before the Tribunal involving the reference of price control matters from the Tribunal to the Competition Commission under section 193 of the 2003 Act. One of these is a challenge by Hutchison 3G UK Limited to a decision of the Office of Communications (Ofcom) under the 2003 Act that it has "significant market power" (and against the imposition of a price control). There are also four appeals lodged against a determination by Ofcom of 11 disputes between BT on the one hand and the five mobile network operators on the other hand, concerning the rates charged to BT for mobile call termination.

Shortly before the end of the year under report the Tribunal received two judicial review applications under section 120 of the Enterprise Act 2002 from British Sky Broadcasting Group Plc ("Sky") and Virgin Media Inc in respect of the widely reported decisions taken by the Competition Commission and the Secretary of State in respect of Sky's purchase of shares in ITV Plc. The hearings of these judicial reviews took place in early June.

During the year 26 judgments were handed down. These included a challenge to a decision of the Office of Fair Trading (OFT) in relation to Chapter I and Chapter II of the 1998 Act in respect of local newspapers (Brannigan), judgments on the admissibility of appeals against decisions taken by the OFT (Cityhook) and by Ofcom

(Independent Media) to close investigations into suspected anti-competitive behaviour, and a judicial review of a decision of the OFT refusing to approve a purchaser pursuant to undertakings in lieu of a merger reference to the Competition Commission (Co-operative Group).

The Tribunal handed down several judgments on points of practice and procedure, including applications by appellants to amend their notice of appeal having regard to rule 11 of the Tribunal's rules, permission to appeal, costs, interim relief and disclosure of documents.

The last year has also seen the progress of the fourth "follow-on" damages action under section 47A of the 1998 Act (Emerson), which was commenced in February 2007 following on from the European Commission's electrical and mechanical carbon and graphite products cartel decision issued in 2003. During the year the Tribunal handed down interlocutory judgments in that case on whether time had begun to run for the purpose of bringing a monetary claim under section 47A and an application for permission to make a claim against a defendant before the end of the period specified in section 47A. The first claim for damages under section 47B of the 1998 Act (made by the Consumers' Association on behalf of 130 consumers, following the findings made by the OFT and the Tribunal, endorsed by the Court of Appeal, in respect of three price-fixing arrangements involving JJB Sports Plc) was settled and withdrawn on 14 January 2008.

Further details of the Tribunal's judgments are recorded later in this review in the summaries of judgments handed down in the year ended 31 March 2008.

PRESIDENT'S STATEMENT

The self-denying ordinance to which I have referred, together with a reduction in the rate of new cases at the Tribunal in the second half of 2007, meant that I did not commence casework immediately upon my appointment as President. This enabled me to settle into my new role, to engage more fully with some of the other aspects of my duties and also to sit on occasions in the Chancery Division. However, from early 2008 the position has changed with the filing of a number of important new matters, including the applications by Sky and Virgin Inc for judicial review referred to earlier. In addition there are now other new cases on the horizon and an increase in the Tribunal's workload seems likely.

One of the important duties of the President is to ensure that appropriate training is available and undertaken by Members. To that end there exists a training committee currently under the very able chairmanship of a member of the Tribunal, Adam Scott. This committee organises an impressive programme of half-day seminars. These take place every two months, are usually led by one of the Chairmen or Members, supplemented by external speakers and deal with a range of relevant topics. In the short time I have been at the Tribunal three such training sessions have taken place, on the following subjects: the regulation of the radio spectrum; penalties for breach of the competition rules; and general and fundamental principles of EC law together with statutory interpretation. Seminars held earlier in the year had covered: updates on European competition law; economics in competition cases; and networks. It is our intention, wherever possible, to arrange for the part-time Chairmen to attend seminars on suitable topics organised for the senior judiciary by the Judicial Studies Board (JSB) and others. As a result of this initiative the Chairmen were invited to attend a JSB seminar at the Royal Courts of Justice on 12 March 2008 dealing with *ex tempore* judgments and litigants in person.

The President and other representatives of the Tribunal are expected to participate in, and speak at, various national and international fora dealing with competition law. Invitations to such events arrive virtually on a daily basis. Most of them are of a very high quality and in the absence of other commitments one would wish to attend many more of these. In the first few months of my tenure I have attended and spoken at, or agreed to attend and speak at, some ten or so seminars and conferences, including in London, Brussels, San Francisco, Malta and Edinburgh. Other Tribunal representatives have participated in a variety of events during the year. In April 2007 Marion Simmons QC spoke at a colloquium organised by the Cour de Cassation in Paris, and she and the Registrar, together with other national judges, attended a meeting later in the year with the European Commission to discuss points arising in respect of the Commission's work on private enforcement of competition law. Last June Vivien Rose spoke on private enforcement at the Law Society European Group's conference in Paris. Also last June,



PRESIDENT'S STATEMENT

the Registrar spoke on confidentiality at the sixth Annual Conference of the Association of European Competition Law Judges in Rotterdam. The Referendaires were also involved in a number of events. Collette Rawnsley spoke at judicial training seminars in Lithuania and Romania whilst David Bailey and Robert Wells spoke at the Junior Competition Lawyers Conference in December.

The Tribunal is often asked to host visits by foreign judges, lawyers and competition enforcement agencies. In June 2007 the Tribunal was honoured to receive a visit from the Business Law section of the Legal Service of the European Commission and towards the end of the year we were pleased to be able to welcome a delegation of officials from the Federal Competition Commission of Mexico. The delegation spent a day with us and were given presentations on the Tribunal's work and on the wider UK competition regime. At the beginning of March 2008 the Tribunal hosted a half day visit by five judges from the Czech Supreme Administrative Court.

As in previous years the Tribunal continued to act as the secretariat to the Association of European Competition Law Judges and was involved in the detailed preparations for its conference in Rotterdam (referred to earlier) which brought together some 60 or so national judges from around Europe to discuss competition law topics.

The Tribunal is also required to liaise on a regular basis with various external authorities and bodies relevant to its work. These include government departments. The Tribunal is routinely consulted informally on various initiatives related to the UK and EC competition regimes. The Tribunal considers it important, and in the public interest, to provide such help and advice as it can with a view to ensuring that the UK competition regime retains and indeed enhances its high reputation for effectiveness.



PRESIDENT'S STATEMENT

At present there is a good deal of activity at both European and domestic level to bring forward proposals designed to enhance and facilitate the private enforcement of the competition rules. It is no secret that there are certain limitations and anomalies in the Tribunal's current jurisdiction, not least the Tribunal's inability to hear claims for damages for breach of the competition rules unless there has already been a finding of infringement by the European Commission, a UK competition authority or the Tribunal itself on an appeal from a UK competition authority. It is a curious anomaly that the UK's specialist competition court has no jurisdiction to determine whether there has been an infringement of the competition rules for the purposes of a "stand-alone" claim and that such a claim can only be brought in the High Court and in the equivalent courts in Scotland and Northern Ireland. The anomaly could be alleviated to some extent (but not entirely removed) by bringing into force section 16 of the Enterprise Act 2002. It is my earnest hope that we can make some progress on this and on some of the other jurisdictional obstacles to effective private actions in the near future.

On a different level, but with a similar aim in view, the Tribunal is about to set up a user committee to assist the Tribunal in fine-tuning the service provided to parties and their representatives. I hope to be able to report in my next annual statement that this committee is up and running.

Finally it is a joy and a privilege to head up an organisation which functions as well as the Tribunal does within the existing bounds of its jurisdiction. I would like to express my thanks to all involved for making my first few months as President so pleasant. There are some challenges ahead, but I feel confident that the Tribunal is in very good shape to meet them.



Sir Gerald Barling
President
Competition Appeal Tribunal
10 June 2008

REGISTRAR'S STATEMENT



THE APPOINTMENT OF THE PRESIDENT

Although the process of finding a successor to Sir Christopher Bellamy took longer than expected we were pleased to welcome our new President, Sir Gerald Barling, upon his appointment last November. This appointment is particularly appropriate in view of the fact that the Tribunal's panel of Chairmen includes Sir Gerald's fellow judges of the Chancery Division and means that the Tribunal now has a particularly close working relationship with the High Court. This is entirely fitting since the Tribunal is the successor body to the Restrictive Practices Court (which itself was closely related to the High Court). It also reflects Government's expressed intention in Parliament to create the Tribunal as a body having many of the characteristics of a court whilst retaining the flexibility to operate according to rules of procedure particularly tailored to the needs of competition cases.

During the time between Sir Christopher's departure and Sir Gerald's arrival, we were very fortunate to be able to rely on the skill, judgement and experience of Marion Simmons QC, our longest serving member of the panel of Chairmen. Marion enthusiastically took on many of the onerous duties of Acting President without the benefit of any formal appointment to that role and at a time when she was having to cope with serious problems concerning her health. I should like to record the gratitude of the CS to the strong devotion to public service shown by Marion to the very end.

THE COMPETITION SERVICE (CS)

The President, Janet Rubin and I as members of the CS constitute the support organisation for the Tribunal, which is more fully described in the introduction to this review. The membership of the CS meets four times a year and is supported by Jeremy Straker, the Director, Operations, who acts as secretary.

FUTURE DEVELOPMENTS

As the number of cases registered during the last financial year was consistent with previous years the CS is continuing to plan on the assumption that the caseload will be at or around that level going forward into the next financial year.

Each year for the last few years the CS has reviewed the whole range of its expenditure and delivered cost savings in a number of areas. In 2007/08 our running costs were 1.9% lower than in 2006/07 and 10% below the agreed budget. These savings have been notified to our sponsor department and the details provided to relevant cross governmental exercises, notably the Comprehensive Spending Review 2007. We are continuing to focus on reducing costs as well as taking reasonable steps to generate income from hiring out our courtroom facilities, when not in use by us, to other public bodies. However it seems likely that, since the vast majority of our remaining costs are fixed for the long term, the scope for further savings will be limited.

INFORMATION TECHNOLOGY

In accordance with government policy we have now installed an electronic document record management system (EDRM). This was a complex and major project for us to undertake with our relatively small complement of staff. The CS is therefore very grateful for the hard work and dedication of our information staff Ilia Lala and Denice Dever in achieving the successful implementation of the project and for bringing it in under budget, which we believe is a rare occurrence with this type of project.

As mentioned last year we intend to upgrade the Tribunal's website and this project is now underway with the aim of producing more effective ways of searching for information on cases and judgments.

REGISTRAR'S STATEMENT

PERSONNEL

This year has been a difficult one in terms of staff turnover which has been higher than usual. This is because a number of people who had been with us some time had reached a stage in their careers where it was sensible for them to use the training and experience gained with us in pursuing wider long term opportunities elsewhere.

Amongst those who left during the year was our senior referendaire Collette Rawnsley who left to take up a position with an international law firm specialising in competition law. Also leaving this year was Michael Rocks, who had been with the organisation since its beginnings and had been invaluable as finance manager. Michael set up and ran the finance department almost entirely on his own for several years whilst qualifying along the way as a certified accountant. Elizabeth Kuypers, who was personal secretary to Sir Christopher Bellamy, left to return to her native USA. Finally, Kathryn Hitchings decided to go back to Wales after over four years with the CS. In that time Kathryn, who was HR and Operations Manager, very much became a focal point of the organisation, always ready to help anyone, whether with work matters or personal problems. She was extremely successful at negotiating with suppliers and saved the CS a great deal of money. All these former staff deserve to do well in their future careers and we send them our best wishes.

In their place we are pleased to welcome, as the new finance manager, Madhuri Yagnik who has a wide range of experience gained both in the private and public sectors. We also welcome as a new referendaire, Stephen Hurley, who comes to us after several years as a competition practitioner at a major city firm. Stephen brings the number of referendaires back up to three, though as a result of cost savings we are still one down on our normal complement of four. In the Registry there

are a number of newcomers including Polly Henson, Bharti Gorasia and Joanne Norris. Bharti and Joanne are, with our assistance, also studying to qualify as solicitors.

We continue to monitor staff training needs closely and provide suitable training where appropriate, in particular we have assisted several staff in obtaining professional qualifications. We regard our willingness to identify and invest in the training needs of staff as a means of attracting and retaining for a reasonable period, highly motivated personnel committed to delivering a high standard of service in the public interest.

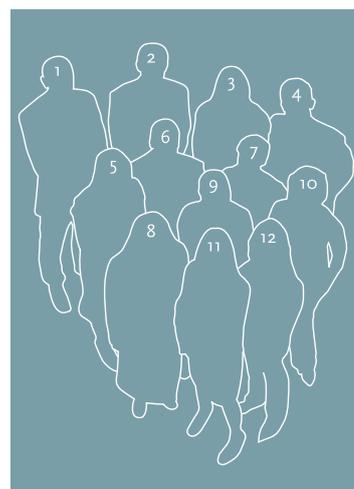
As in previous years the staff absence rate has been far below the average for both the private and public sectors and we gratefully take this as an indicator of high morale and the dedication shown by all the staff in the performance of their duties.

We are an equal opportunities employer and strive to treat all our staff fairly irrespective of gender, ethnic origin, marital status, religious belief, age, sexual orientation or disability.

PENSIONS

Present and past employees of the CS are covered under the provisions of the Principal Civil Service Pension Scheme (PCSPS). The PCSPS is non-contributory (except in respect of dependants' benefits and additional employee contributions to the Classic, Premium and Nuvos schemes). Liability for payment of future benefits is a charge on the PCSPS. Employer contributions are charges to the CS's income and expenditure account. Further information on the terms of the schemes can be found in the remuneration report and in the notes to the CS's accounts.

REGISTRAR'S STATEMENT



THE STAFF TEAM

1. Stephen Hurley
(Referendaire)
2. David Bailey
(Referendaire)
3. Julie Hamilton
(HR Operations Co-ordinator)
4. Jeremy Straker
(Director, Operations)
5. Joanne Norris
(Caseworker)
6. Robert Wells
(Referendaire)
7. Denice Dever
(Information Co-ordinator)
8. Madhuri Yagnik
(Finance Manager)
9. Ritu Shah
(Information Assistant)
10. Sophie Jenkins
(HR Assistant)
11. Ilia Lala
(Information Manager)
12. Orla Weston
(Assistant Registrar)

REGISTRAR'S STATEMENT

THE CS AUDIT COMMITTEE

The CS Audit Committee meets four times a year under the chairmanship of Janet Rubin, who has held various non-executive director roles in other organisations including having chaired remuneration committees and been a member of several audit committees. The other members of the Audit Committee are Peter Clayton, who is a Tribunal member as well as being a Chartered Accountant with experience of operating with audit committees of FTSE 100 companies and David Summers, also a Tribunal member, who has many years of board experience.

FORMAT OF ACCOUNTS

The accounts for the Tribunal and for the CS have been prepared in accordance with the 2007-08 Government Financial Reporting Manual (FReM) and the separate Accounts Directions for the Tribunal and the CS given by the Secretary of State for Business, Enterprise and Regulatory Reform with the consent of the Treasury in accordance with Schedule 3 of the Enterprise Act 2002.

The Accounts Direction for the Tribunal states that the Statement of Accounting Officer's Responsibilities and Statement on Internal Control be combined with those of the CS.

The accounts of the Tribunal include only the direct costs specifically attributable to the Tribunal. All support costs are included in the CS accounts in line with its statutory purpose set out in the introduction to this review.

AUDITORS

The financial statements of the Tribunal and the CS are audited under Schedule 3 paragraph 12(4) of the Enterprise Act 2002 by the Comptroller and Auditor General. The cost of the external statutory audit was £5,500 for the Tribunal (2006/07: £5,500) and £21,000 for the CS (2006/07: £21,000).

In 2007/08 BERR's Internal Audit Directorate continued to provide internal audit services to the CS. The cost of providing this function in 2007/08 was £15,000 (2006/07: £10,000).

CHARITABLE DONATIONS

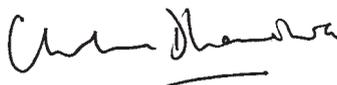
The Tribunal and the CS do not make any charitable donations.

PAYMENT OF CREDITORS

The CS is committed to pay all supplier invoices by the due date or within 30 days of receipt if no due date has been agreed. Throughout the year the average payment period was ten days (2006/07: 11 days) and 96.4% of (undisputed) invoices were settled within 30 days (2006/07: 100%).

DISCLOSURE OF RELEVANT AUDIT INFORMATION

So far as I am aware, there is no relevant audit information of which the Tribunal's and CS's external auditors are unaware, and I have, to the best of my knowledge, taken all the steps that I ought to have taken to make myself aware of any relevant audit information and to communicate this to the Tribunal's and CS's auditors.



Charles Dhanowa OBE
Registrar and Accounting Officer
Competition Service

10 June 2008

MEMBERSHIP

PRESIDENT



SIR GERALD BARLING

Sir Gerald Barling is a Justice of the Chancery Division of the High Court of England and Wales. He is an Acting Deemster in the Isle of Man Court of Appeal. He was educated at St Mary's College, Blackburn and New College, Oxford (where he was later a lecturer in law for several years). He was called to the Bar in 1972 and was appointed Queen's Counsel in 1991. Before his appointment to the High Court in 2007 he was a Deputy High Court Judge and also sat as a Recorder on the Midland Circuit.

After pupillage in a commercial set of chambers in London he initially practised in Manchester, but from 1981 onwards his practice was based at Brick Court Chambers in London and Brussels, where he specialised in European Community law until appointed to the High Court.

Whilst at Brick Court Chambers he was frequently instructed by both government and private clients, appearing regularly in the courts in this country (including the Competition Appeal Tribunal) and in the European Court of Justice in Luxembourg.

His work encompassed virtually every field of European law, including competition law. He worked extensively in the fields of sectoral regulation (particularly telecommunications regulation), pharmaceutical licensing, state aids and public procurement. He was instructed over several years in the well-known *Factortame* litigation and appeared in many cases involving the impact of EC law on tax measures. He acted for one of the parties in the first ever appeal under the Communications Act 2003 heard by the Competition Appeal Tribunal.

He was elected a Bencher of the Middle Temple in 2001.

CHAIRMEN

THE FOLLOWING JUDGES OF THE CHANCERY DIVISION OF THE HIGH COURT:

The Honourable Mr Justice Lindsay

The Honourable Mr Justice Evans-Lombe

The Honourable Mr Justice Blackburne

The Honourable Mr Justice Lightman

The Honourable Mr Justice Patten

The Honourable Mr Justice Etherton

The Honourable Mr Justice Peter Smith

The Honourable Mr Justice Lewison

The Honourable Mr Justice David Richards

The Honourable Mr Justice Mann

The Honourable Mr Justice Warren

The Honourable Mr Justice Kitchin

The Honourable Mr Justice Briggs

The Honourable Mr Justice Henderson

The Honourable Mr Justice Morgan

MARION SIMMONS QC

Marion Simmons died shortly after the end of the period under review. A fuller note on her achievements and work for the Tribunal can be found on page 22.



VIVIEN ROSE

Vivien Rose was called to the Bar in 1984 and was a member of Monckton Chambers, London, for ten years. She was appointed Standing Counsel to the Director General of Fair Trading in 1992.

In 1995 she left private practice and joined the Government Legal Service working for several years in HM Treasury advising on financial services regulation and at the Ministry of Defence advising on international humanitarian law.

She is co-editor (with Peter Roth QC) of the sixth edition of Bellamy & Child European Community Law of Competition (2008) and was the general editor of the fourth edition of that work as well as an author of the chapter on restrictive agreements in Chitty on Contracts. She was also on the editorial board of the European Competition Law Review for many years.

She currently works part-time in the Legal Services Office of the House of Commons.

MEMBERSHIP

CHAIRMEN



LORD CARLILE OF BERRIEW QC

Lord Carlile is Head of Chambers at 9-12 Bell Yard, London, specialising in criminal and civil aspects of commercial fraud. He was called to the Bar in 1970 and took silk in 1984. He is a Bencher of Gray's Inn. He is also a Fellow of King's College, London. He is the Independent Reviewer of Terrorism Legislation for the government and is responsible for advising on the merits and viability of pre-legislative proposals connected with counter-terrorism.

He was Chair of the Welsh Assembly Review of the Safety of Children in the NHS in Wales and in 2004-05 was Chairman of the Joint Select Scrutiny Committee on the government's draft Mental Health Bill. From 1989 to 1999 he was a lay member of the General Medical Council. He is a director and trustee of several charities. From 1983 to 1997 he was the Liberal, then

Liberal Democrat, MP for Montgomery. During that time he was, variously, spokesman on Home Affairs, Health, Trade and Industry, and Wales.

From 1992 to 1997 he was Leader of the Liberal Democrats in Wales. He was created a life peer in 1999. He is a non-executive director of Wynnstay Group Plc, an agri-feed and supplies company.

He has written, lectured and spoken on a wide range of issues. Recently he was a contributing observing member of a committee formed by the John F Kennedy School of Government at Harvard University to produce a report on US counter-terrorism legislation.



1. David Summers
2. Professor John Pickering
3. Dr Arthur Pryor CB
4. Adam Scott TD
5. Vindelyn Smith-Hillman
6. Richard Prosser OBE
7. The Honourable Antony Lewis
8. Ann Kelly
9. Peter Clayton
10. Graham Mather
11. Vivien Rose (Chairman)
12. Professor Andrew Bain OBE
13. Michael Davey
14. Professor Peter Grinyer
15. Marion Simmons QC (Chairman)
16. Sir Gerald Barling (President)
17. Sheila Hewitt
18. Charles Dhanowa OBE (Registrar)

Not pictured:
 Michael Blair QC
 Professor Paul Stoneman

MEMBERSHIP

MEMBERS

PROFESSOR ANDREW BAIN OBE

Andrew Bain has held full professorships in economics at the Universities of Glasgow, Strathclyde and Stirling, was for six years Group Economic Adviser at Midland Bank and has also worked as an economic consultant. Previous public appointments include membership of the Committee to Review the Functioning of Financial Institutions (the Wilson Committee on the City), the Monopolies and Mergers Commission, the Secretary of State for Scotland's Panel of Economic Consultants and the Board of Scottish Enterprise.



MICHAEL BLAIR QC

Michael Blair is a practising barrister with chambers in 3 Verulam Buildings, Gray's Inn and the Treasurer for 2008 of his Inn of Court, the Middle Temple. He is the Deputy Chairman of SWX Europe Ltd, the London exchange where the major Swiss equities are traded, and is to be Chairman from July 2008. He is also President of the Guernsey Financial Services Tribunal and a member of the Board of the Dubai Financial Services Authority. Until 2000 he was General Counsel to the Financial Services Authority. He served on the Bar Council for nine years (including as Treasurer for four years) and had earlier been employed as a civil servant in the Lord Chancellor's Department for 20 years.



PETER CLAYTON

Peter Clayton is a Fellow of the Institute of Chartered Accountants in England and Wales. He has held senior financial management positions in FTSE 100 companies such as Group General Manager Finance of General Accident Plc and Group Financial Controller of Forte Plc. He is a director of Walking on Air Ltd – a charity providing gliding training for disabled people.



MICHAEL DAVEY

Michael Davey is a solicitor of the Supreme Court of Northern Ireland and former chief executive of the Law Society of Northern Ireland. He has extensive experience of private commercial practice and is a Chairman of Industrial Tribunals and of Social Security Appeal Tribunals.



MEMBERS

PETER GRANT-HUTCHISON

Peter Grant-Hutchison is a Scottish advocate specialising in employment law. He also holds appointments as a part-time Sheriff, Immigration Judge, Mental Health Tribunal Convenor and Social Security Appeal Tribunal Chairman.

**PROFESSOR PETER GRINYER**

Peter Grinyer is Emeritus Professor at the University of St Andrews, was Esmee Fairbairn Professor of Economics, founded the School of Management, and was in the 1980s Vice-Principal and, in 1985, Acting Principal. Prior to St Andrews he held the FME Chair in Business Strategy at City University. He has been a Visiting Professor at New York University and Erskine Fellow at the University of Canterbury, New Zealand. He has also been a member of the Scottish Legal Aid Board, a non-executive director of Ellis and Goldstein Plc, Don Brothers Buist Plc, John Brown Plc and McIlroy Coates. He is on the editorial boards of several journals on managerial economics and strategy.

**SHEILA HEWITT**

Sheila Hewitt is a JP, a member of the General Medical Council and a member of the Asylum and Immigration Tribunal. She is an Associate of the Chartered Institute of Bankers and an Independent Assessor for OCPA (the Office of the Commissioner for Public Appointments).

**ANN KELLY**

Ann Kelly is a Deputy Electoral Commissioner, a Lay Chair of the Registration and Conduct Committees of the General Social Care Council, a Lay Member of the Adjudication Panel of the Law Society and a Lay Member of the Assessment Panels of the Royal Institution of Chartered Surveyors. She was an Independent Member of the Ministry of Defence Police Committee, Chairman of the West Berkshire Priority Care Service NHS Trust and a Member of the Police Complaints Authority. She is a Fellow of the Chartered Management Institute.

**THE HONOURABLE ANTONY LEWIS**

Antony Lewis is a barrister and Chairman of the Mid Wales Food and Land Trust Ltd. From 1996 to 2003 he was Chairman of Powys Health Care NHS Trust and prior to that, Chairman of Powys Family Health Services Authority. He has been a lecturer in law at University College, Cardiff and a JP. He is widely involved in the charity sector, eg. as a trustee of the Community Foundation in Wales, the Institute of Rural Health, Rekindle - a mental health charity, and the Powys Association of Voluntary Organisations.



MEMBERSHIP

MEMBERS

GRAHAM MATHER

Graham Mather is a solicitor and President of the European Policy Forum, an independent international research institute. He has been Visiting Fellow of Nuffield College, Oxford, and a reporting panel member of the Monopolies and Mergers Commission, now the Competition Commission. He has also been General Director of the Institute of Economic Affairs and Head of the Policy Unit of the Institute of Directors. He was MEP for Hampshire North and Oxford from 1994 to 1999. He is an advisor to Tudor Investment Corporation and Elliott Associates, a director of Greenham Common Trust and a member of the OFCOM Consumer Panel.



PROFESSOR JOHN PICKERING

John Pickering is an economic and business consultant. Former appointments have included: Dean, Vice-Principal and Professor of Industrial Economics at UMIST; Deputy Vice-Chancellor of the University of Portsmouth; Professor of Business Strategy at the University of Bath School of Management; and Visiting Professor at the Universities of Durham and Southampton. He served for nine years as a member of the Monopolies and Mergers Commission. He has also held various external positions of responsibility including as Church Commissioner and director of several companies.



DR ARTHUR PRYOR CB

Arthur Pryor is an independent consultant working on competition policy issues in developing countries. He is a former civil servant and was Head of Competition Policy at the Department of Trade and Industry until his retirement in 1996. During his career in the Civil Service his senior positions included Director General of the British National Space Centre and DTI Regional Director for the West Midlands.



ADAM SCOTT TD

Adam Scott has held fellowships at the University of St Andrews since 1994. His academic interests include scenario planning and economic and legal regulation of competition and of utilities. He has been a consultant in these fields. After qualifying at the Bar with an intellectual property background, he worked mainly in telecommunications, being corporate planner in the creation and privatisation of British Telecommunications Plc, then heading BT's international affairs and, until 1994, chairing its apparatus business. He is a Fellow of the Institution of Engineering and Technology.



RICHARD PROSSER OBE

Richard Prosser has considerable experience of the small business sector. He currently holds non-executive directorships in engineering and agricultural supply businesses. He has been a member of the Monopolies and Mergers Commission and has served on a considerable number of inquiries.



MEMBERS

VINDELYN SMITH-HILLMAN

Vindelyn Smith-Hillman is the Economic Advisor at the Law Commission and was formerly a Senior Economics Lecturer at University of Northampton having previously been a lecturer with the Open University and the Jamaica Institute of Management. She was a Senior Economist at the Bank of Jamaica in Kingston. Vindelyn is a listed Assistant Examiner with Cambridge and London Examining Boards and also an assessor with the Government Economic Service.



DAVID SUMMERS

David Summers is a publishing and media consultant and a JP. He is non-executive Chairman of Wilmington Group Plc. He also serves on The Lord Chancellor's Advisory Committee for Kent. He used to be managing director of Butterworths, the publisher, and was formerly a member of the Restrictive Practices Court. He is Chairman of St Bede's School Trust, Sussex.

COMPETITION SERVICE:
APPOINTED MEMBER

JANET RUBIN

Janet Rubin has a professional background in human resources. She has worked as a HR Director and held senior HR corporate positions in Arcadia Group, B&Q Plc, WH Smith and the Littlewoods organisation. More recently she has held a number of private and public sector appointments as a non-executive director of Bonmarche Limited, of the Strategic Rail Authority and of SHL Group Plc.



Amongst other non-executive appointments, she has previously been a member of the Employment Appeals Tribunal, a Civil Service and an Equal Opportunities Commissioner, Independent Assessor for a number of central government departments, a member of the Civil Service Arbitration Tribunal, the Diplomatic Service Appeal Board, the Rail Passenger Council and the Senior Salaries Review Body.

She is currently the HR Executive Director with LGC, an international science-based group of companies. She is also a Non-Executive Director on the Fair Markets Board of the Department for Business, Enterprise and Regulatory Reform.

PROFESSOR PAUL STONEMAN

Paul Stoneman is an economist, currently Research Professor in Warwick Business School. He has been an ESRC Senior Research Fellow, a Visiting Professor at Stanford University and a Visiting Fellow at Nuffield College, Oxford. He has held many external positions of responsibility and has been on various editorial boards. He is or has been an external examiner for several academic institutions. He has published extensively.





MARION SIMMONS QC (1949-2008)

The President and his colleagues are greatly saddened to report that Marion Simmons, one of the first Chairmen of the Tribunal, died on 2 May 2008. She had been undergoing treatment for cancer.

Miss Simmons, who had been a Recorder since 1994, was appointed a Chairman of the Competition Appeal Tribunal in 2003 and played a significant part as its work expanded under the Enterprise Act 2002 and the Communications Act 2003. Having worked closely with Sir Christopher Bellamy QC, the first President, she provided vital leadership and encouragement to colleagues during the interregnum of nearly a year that preceded the arrival of Sir Gerald Barling as the new President in November 2007. Cases she chaired at the Tribunal included Celesio, Cityhook, Floe and most recently the Emerson claims. She had continued to practise from 3-4 South Square where she was much valued as an advocate, adviser and arbitrator.

She played parallel roles in a number of other bodies, including being Vice Chairman of the Appeals Committee of the Institute of Chartered Accountants of England & Wales (2000-2005), a member of the Mental Health Review Tribunal Restricted Patients Panel (since 2000), an Assistant Boundary Commissioner (since 2000), and sitting on or chairing other Disciplinary and Appeal Tribunals. In October 2007, she was appointed to chair the Persons Appointed Panel of the Medicines and Healthcare Products Regulatory Agency and was working with determination on material for that Panel and for the Tribunal up to a few days before her death.

MEMBERSHIP

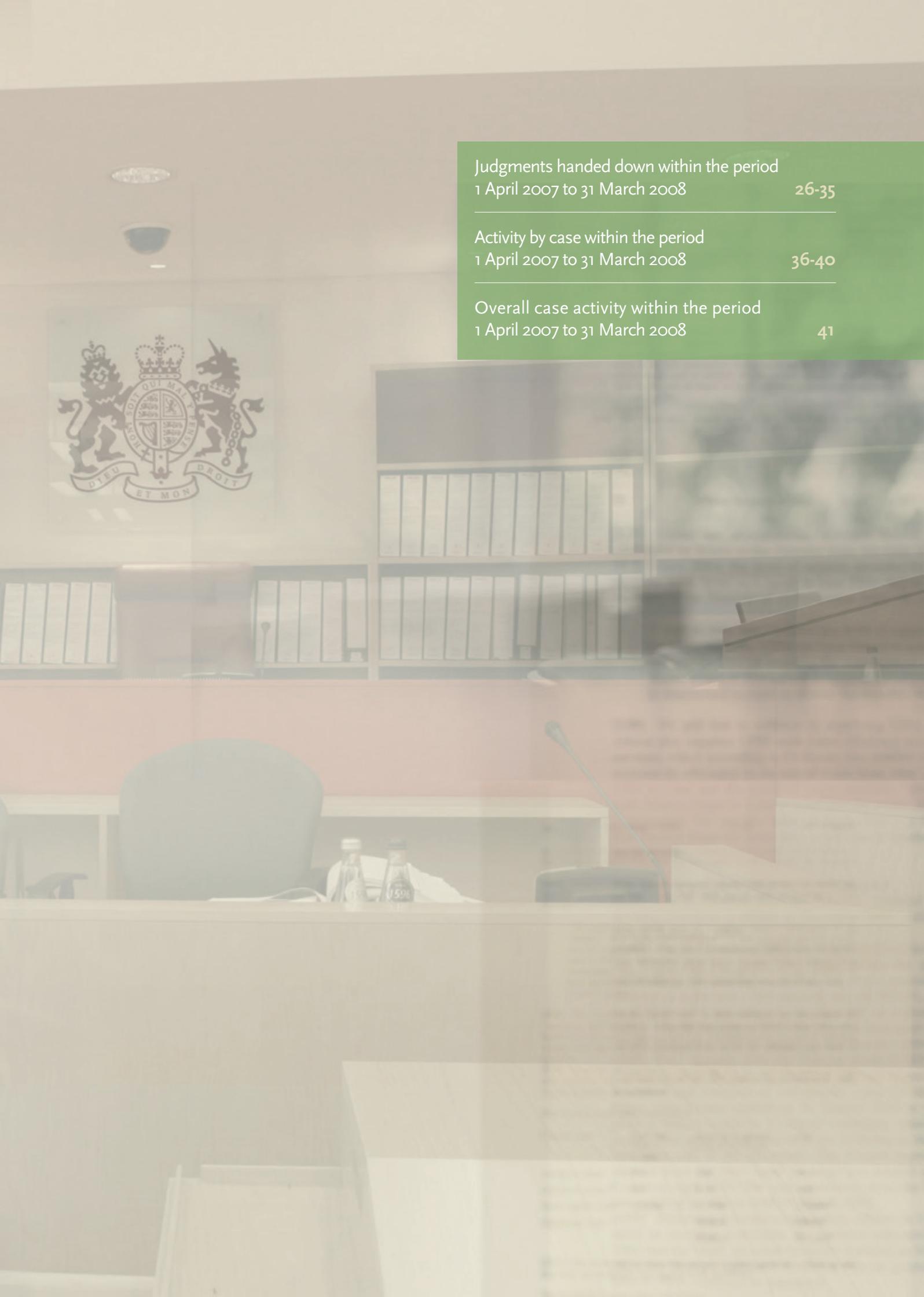
A graduate, LLB & LLM, of Queen Mary College, University of London, she had continued her involvement and had been encouraging Dr Maher Dabbah and his colleagues in the work of the Interdisciplinary Centre for Competition Law and Policy. She complemented a heavy case load with both writing and speaking on professional topics. She took an active part in the life of Gray's Inn of which she was elected a bencher in 1993.

She was heavily involved in the life of the Bar as a profession serving as Chairman of the Waivers and Designations Committee of the Bar Council, Chairman of the Continuing Education Sub-Committee of the Joint Regulations Committee of the Bar Council as well as being on the Joint Regulations Committee itself, the Professional Conduct Committee and on various disciplinary tribunals. An achievement of which she was particularly proud was her instrumental role in the establishment of structured advocacy training schemes by the Inns of Court. She also played a lively role in the Association of European Competition Law Judges making valuable personal links with colleagues across the European Union. She delighted in the professional development of her former pupils and in working with colleagues and referendaires at the Tribunal.

During her illness, Marion Simmons had been supported by her family and by a tremendously loyal network of professional colleagues and friends – their visits, e-mails and appreciation of who Marion has been as a colleague and as a friend having enlightened this part of her full life. Through her treatment, Marion had continued to live and work, offering hospitality at her Sussex home, appreciating theatre and concerts, and performing her professional duties.



CASES:
YEAR ENDED 31 MARCH 2008



Judgments handed down within the period
1 April 2007 to 31 March 2008 26-35

Activity by case within the period
1 April 2007 to 31 March 2008 36-40

Overall case activity within the period
1 April 2007 to 31 March 2008 41

JUDGMENTS: JUDGMENTS HANDED DOWN WITHIN THE PERIOD 1 APRIL 2007 TO 31 MARCH 2008

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

JUDGMENT	TRIBUNAL	SUBJECT MATTER
<p>1. VIP Communications Limited (in administration) v Office of Communications [2007] CAT 17 02-Apr-07</p>	<p>Marion Simmons QC Michael Davey Sheila Hewitt</p>	<p>Ruling of the Tribunal setting out its reasons for refusing T-Mobile permission to appeal against the Tribunal's judgment of 22 January 2007: [2007] CAT 3.</p> <p>T-Mobile's application for permission to appeal was refused on the papers on the basis that the grounds of appeal raised by T-Mobile had no real prospects of success. The Tribunal considered that it would be disproportionate in all the circumstances to hold an oral hearing.</p>
<p>2. Cityhook Limited v Office of Fair Trading [2007] CAT 18 03-Apr-07</p>	<p>Marion Simmons QC Peter Grinyer David Summers</p>	<p>Judgment on the admissibility of an appeal brought by Cityhook against a decision by the OFT to close an investigation into allegations that the Chapter I prohibition (contained in section 2 of the Competition Act 1998) had been infringed.</p> <p>The Tribunal held that, although the OFT's case closure letter was ambiguous, the OFT had not made a decision as to whether the Chapter I prohibition had been infringed. There was therefore no appealable decision and the appeal was dismissed.</p> <p>The Tribunal noted that it was a somewhat incongruous result that a sufficiently interested person had a right of appeal on the merits to the Tribunal against a non-infringement decision, whereas in cases where the evidence supported a finding of potential infringement but where the Authority chose to close the file without reaching a final decision, such a person had no right of appeal on the merits.</p>
<p>3. VIP Communications Limited (in administration) v Office of Communications (Interim Relief) [2007] CAT 19 03-Apr-07</p>	<p>Marion Simmons QC Michael Davey Sheila Hewitt</p>	<p>Ruling on costs.</p> <p>Ruling of the Tribunal awarding the respondent and the intervener, T-Mobile, their reasonable and proportionate costs in respect of the application for interim relief that had been made by the appellant and rejected by the Tribunal as manifestly unfounded.</p>

JUDGMENTS

JUDGMENT	TRIBUNAL	SUBJECT MATTER
<p>4. VIP Communications Limited (in administration) v Office of Communications [2007] CAT 20 03-Apr-07</p>	<p>Marion Simmons QC Michael Davey Sheila Hewitt</p>	<p>Assessment of costs.</p> <p>On 1 November 2006 the Tribunal ordered the appellant to pay the respondent's reasonable costs thrown away by the provision by the appellant on 23 October 2006 of a document headed "Re-Amended Notice of Appeal", to be subject to detailed assessment by the Tribunal if not agreed.</p> <p>No agreement was reached and the respondent applied to the Tribunal for an assessment of costs.</p> <p>The Tribunal considered the amount claimed of £1,873.34 to be reasonable and proportionate and ordered the appellant to pay the respondent that amount.</p>
<p>5. Independent Water Company Ltd v Water Services Regulation Authority (formerly the Director General of Water Services) [2007] CAT 21 04-Apr-07</p>	<p>Marion Simmons QC Michael Blair QC Ann Kelly</p>	<p>Judgment on costs.</p> <p>The Tribunal held that the Independent Water Company Limited ("IWC") and the Water Services Regulation Authority ("the Authority") should bear their own costs of IWC's appeal against a decision by the former Director General of Water Services, which the Tribunal had found to be inadmissible: [2007] CAT 6.</p> <p>The Tribunal also held that IWC should pay the Authority's reasonable costs in relation to an attempt by IWC to appeal (in respect of the Authority's refusal of interim measures) and to seek protective costs.</p>
<p>6. Bracken Bay Kitchens Limited v Office of Communications [2007] CAT 22 16-Jul-07</p>	<p>Lord Carlile QC Ann Kelly David Summers</p>	<p>In circumstances where it appeared that the appellant had become insolvent and the solicitors acting for the appellant did not have instructions confirming whether or not the appellant wished to proceed with its appeal, the Tribunal issued a ruling adjourning the appeal for 30 days, within which time the solicitors acting for the appellant were directed to inform the Tribunal whether they remained on the record and whether or not the appellant wished to proceed with its appeal.</p>

JUDGMENTS: JUDGMENTS HANDED DOWN WITHIN THE PERIOD 1 APRIL 2007 TO 31 MARCH 2008

JUDGMENT	TRIBUNAL	SUBJECT MATTER
<p>7. Terry Brannigan v Office of Fair Trading [2007] CAT 23 26-Jul-07</p>	<p>Vivien Rose Graham Mather Vindelyn Smith-Hillman</p>	<p>Judgment on an appeal brought by Mr Brannigan, a former local newspaper proprietor, against a decision of the OFT to the effect that certain conduct on the part of two newspaper publishers, Johnston Press Limited and Newsquest Plc, did not, on the evidence available, infringe the Chapter I and II prohibitions (contained in sections 2 and 18 of the Competition Act 1998 respectively).</p> <p>The Tribunal dismissed the appeal.</p> <p>The Tribunal held that, on the basis of the evidence before it, Mr Brannigan had not shown that the OFT had committed any errors of law, fact, appreciation or procedure in deciding that there were insufficient grounds for suspecting that either the Chapter I or Chapter II prohibition had been infringed.</p>
<p>8. Co-operative Group (CWS) Limited v Office of Fair Trading [2007] CAT 24 27-Jul-07</p>	<p>Marion Simmons QC Michael Davey Richard Prosser OBE</p>	<p>Judgment on an application by Co-operative Group (CWS) Limited (“CGL”) for judicial review of a decision of the OFT refusing to approve Southern Co-operatives Limited (“Southern”) as a purchaser of funeral businesses that CGL had agreed to divest pursuant to undertakings accepted by the OFT in lieu of referring CGL’s acquisition of Fairways Group UK Limited to the Competition Commission.</p> <p>The Tribunal held that the OFT did not act outside its powers by refusing to approve Southern.</p> <p>The Tribunal further held that the OFT had not acted unreasonably in: (a) finding that a divestment to Southern would not fully address its competition concerns; and (b) rejecting CGL’s “firewall” proposal regarding the withholding of all information relating to CGL’s funeral business from Southern’s chief executive (who was also a director of CGL).</p> <p>The Tribunal concluded that, on the particular facts of this case, it was well within the OFT’s margin of assessment for it to refuse to approve Southern as a purchaser of the businesses identified for divestment and that the application should be dismissed.</p>
<p>9. Co-operative Group (CWS) Limited v Office of Fair Trading [2007] CAT 25 27-Jul-07</p>	<p>Marion Simmons QC Michael Davey Richard Prosser OBE</p>	<p>Ruling that Co-operative Group (CWS) Limited (“CGL”) should pay the OFT’s costs in respect of CGL’s application for judicial review: see [2007] CAT 24.</p>

JUDGMENT	TRIBUNAL	SUBJECT MATTER
<p>10. Hutchison 3G UK Limited v Office of Communications (Mobile Call Termination) [2007] CAT 26 15-Aug-07</p>	<p>Vivien Rose Professor Andrew Bain OBE Adam Scott TD</p>	<p>This was the first case before the Tribunal which raised the possibility of the reference of price control matters from the Tribunal to the Competition Commission under section 193 of the Communications Act 2003.</p> <p>In addition to the main parties, five telecommunications providers (BT, O2, Orange, T-Mobile and Vodafone) intervened in these proceedings.</p> <p>The parties disagreed, in relation to a particular matter raised in the appeal, as to whether or not that matter was a “specified price control matter” which should be referred to the Competition Commission, or not. The Tribunal decided to resolve this disagreement as a preliminary issue.</p> <p>In this ruling, the Tribunal determined, in relation to that matter, the precise wording of the question to be heard as a preliminary issue.</p>
<p>11. Hutchison 3G UK Limited v Office of Communications (Mobile Call Termination) [2007] CAT 27 04-Oct-07</p>	<p>Vivien Rose Professor Andrew Bain OBE Adam Scott TD</p>	<p>Ruling of the Tribunal on the preliminary issue framed by a previous decision of the Tribunal: [2007] CAT 26.</p> <p>The Tribunal decided that the question of “whether the imposition of a price control on Hutchison 3G with effect from April 2007 is an appropriate and proportionate response to a finding of significant market power, or whether a remedy short of price control would be sufficient” was not a specified price control matter within the meaning of section 193 of the Communications Act 2003 and Rule 3 of the Competition Appeal Tribunal (Amendment and Communications Act Appeals) Rules 2004.</p> <p>This matter was therefore one that fell to the Tribunal to determine, rather than a specified price control matter to be referred to the Competition Commission for determination.</p>

JUDGMENTS: JUDGMENTS HANDED DOWN WITHIN THE PERIOD 1 APRIL 2007 TO 31 MARCH 2008

JUDGMENT

TRIBUNAL

SUBJECT MATTER

12. Emerson Electric Co and others v Morgan Crucible Company Plc and others
[2007] CAT 28
17-Oct-07

Marion Simmons QC
Adam Scott TD
Vindelyn Smith-Hillman

Judgment on the interpretation of Rule 31 of the Tribunal Rules 2003 in respect of the time limit for making a claim for damages under section 47A of the Competition Act 1998 by Emerson Electric Co and four other claimants ("Emerson Claimants") against Morgan Crucible Company Plc ("Morgan Crucible") and several other proposed defendants.

This was the first judgment of the Tribunal concerning the time limit for making a claim for damages.

The Tribunal held that the plain construction of section 47A meant that time for the purposes of the two year limit in Rule 31 of the Tribunal Rules had not yet begun to run in this case. As long as any proceedings may be, or have been, instituted in the European Court ("EC proceedings"), then a claim for damages under section 47A may only be brought with the permission of the Tribunal. Since EC proceedings had been instituted in this case, the Tribunal held that the Emerson Claimants required permission to commence proceedings before the Tribunal.

The Tribunal further considered that if, contrary to its judgment concerning Rule 31, time had begun to run for the purpose of making a claim for damages under section 47A, then the time limit for bringing such a claim could not be extended by virtue of a private agreement between the parties. The Tribunal also considered, however, that it would have jurisdiction to extend the time limit in Rule 31 pursuant to Rule 19(2) (i) of the Tribunal Rules.

In these circumstances, the Tribunal therefore concluded that it was necessary for it to consider whether or not to grant the Emerson Claimants permission under Rule 31(3) to bring their claim for damages against Morgan Crucible.

13. Independent Media Support Limited v Office of Communications
[2007] CAT 29
31-Oct-07

Vivien Rose
Michael Blair QC
Professor Paul Stoneman

Judgment on the preliminary issue of admissibility of an appeal against a decision of OFCOM to close its investigation into a contract between the BBC and BBC Broadcast (now Red Bee Media Limited) ("the case closure decision").

The Tribunal held that the appeal against the case closure decision was inadmissible.

The Tribunal found that, in deciding to close its investigation, OFCOM genuinely abstained from expressing a firm view, one way or the other, on the question of infringement. Accordingly, the case closure decision did not fall within the Tribunal's jurisdiction under sections 46 and 47 of the Competition Act 1998.

JUDGMENTS

JUDGMENT	TRIBUNAL	SUBJECT MATTER
<p>14. Emerson Electric Co and others v Morgan Crucible Company Plc and others [2007] CAT 30 16-Nov-07</p>	<p>Marion Simmons QC Adam Scott TD Vindelyn Smith-Hillman</p>	<p>Judgment of the Tribunal (following its earlier judgment in the same case: [2007] CAT 28) granting the Emerson Claimants permission to make a claim for damages against Morgan Crucible under Rule 31 (3) of the Tribunal Rules and dismissing Morgan Crucible's application for that claim to be rejected under Rule 40.</p> <p>The Tribunal decided that the submissions of Morgan Crucible were not persuasive and did not outweigh the reasons given by the Emerson Claimants in favour of permission. In deciding to grant permission, the Tribunal also gave weight to the prejudice to the claimants of further delay, in particular the risk that relevant documents would not be available at trial.</p> <p>Separately, Morgan Crucible applied for the claim to be rejected under Rule 40 of the Tribunal Rules. Morgan Crucible contended that there were no reasonable grounds for making a claim due to the existence of a settlement agreement between the parties.</p> <p>Given the significant disputes of fact and law between the parties, the Tribunal held that it could not be certain that the claim was bound to fail and that, therefore, Morgan Crucible's Rule 40 application should be dismissed.</p> <p>The matter was restored for further directions and a further hearing took place in December 2007.</p>
<p>15. T-Mobile (UK) Limited v Office of Communications (Termination Rate Dispute); British Telecommunications Plc v Office of Communications (Termination Rate Dispute); Hutchison 3G UK Limited v Office of Communications (Termination Rate Dispute); Cable & Wireless and others v Office of Communications (Termination Rate Dispute) [2007] CAT 31 20-Nov-07</p>	<p>Vivien Rose Arthur Pryor CB Peter Clayton</p>	<p>Ruling refusing the application by Software Cellular Network Limited for permission to intervene on the basis that the application had been made out of time and that there was no reason to extend the time limit for making such an application.</p>

JUDGMENTS: JUDGMENTS HANDED DOWN WITHIN THE PERIOD 1 APRIL 2007 TO 31 MARCH 2008

JUDGMENT	TRIBUNAL	SUBJECT MATTER
<p>16. T-Mobile (UK) Limited v Office of Communications [2007] CAT 32 14-Nov-07</p>	<p>Marion Simmons QC</p>	<p>Ruling by the Chairman (sitting alone) granting T-Mobile permission under Rule 11 of the Tribunal Rules to amend its notice of appeal.</p> <p>The Chairman concluded that the proposed amendments did not constitute a new ground of appeal within the meaning of Rule 11 (3) and noted that the request for permission to amend was made significantly in advance of the deadline for service of the defence and that OFCOM did not resist the proposed amendments.</p>
<p>17. Hutchison 3G UK Limited v Office of Communications (Mobile Call Termination) [2007] CAT 33 23-Nov-07</p>	<p>Vivien Rose Professor Andrew Bain OBE Adam Scott TD</p>	<p>Ruling granting Hutchison 3G permission under Rule 11 of the Tribunal Rules to amend its notice of appeal.</p> <p>Hutchison 3G had drafted its notice of appeal on the basis that the question of whether: the imposition of a price control on Hutchison 3G with effect from April 2007 was an appropriate and proportionate response to a finding of significant market power, or whether a remedy short of price control would be sufficient; was a specified price control matter to be referred to the Competition Commission.</p> <p>The Tribunal having concluded otherwise (see the Tribunal's ruling on the preliminary issue: CAT [2007] 27), Hutchison 3G requested permission to amend its notice of appeal and to adduce further evidence in respect of that question.</p> <p>OFCOM resisted some of the proposed amendments, in part on the basis that they constituted new grounds within the meaning of Rule 11 and none of the conditions of Rule 11 (3) were fulfilled, and in part (in relation to arguments relating to on-net and off-net pricing issues) because the proposed amendments would cause substantial prejudice to OFCOM and the other parties involved.</p> <p>The Tribunal concluded that none of the amendments proposed by Hutchison 3G amounted to new grounds within the meaning of the Tribunal Rules, but concluded that on balance, permission to include the amendments relating to the on-net/off-net pricing issues should be refused. Otherwise, the proposed amendments were permitted. The proposed further evidence, having been amended to remove reference to the on-net/off-net pricing issue, was also permitted.</p>

JUDGMENTS

JUDGMENT	TRIBUNAL	SUBJECT MATTER
<p>18. Rapture Television Plc v Office of Communications [2007] CAT 34 23-Nov-07</p>	<p>Marion Simmons QC Professor Paul Stoneman David Summers</p>	<p>Rapture applied for permission to amend its notice of appeal and adduce further evidence including proposed expert evidence.</p> <p>The Tribunal considered the application of Rules 8(6) and 11 of the Tribunal Rules which govern the filing of witness and expert evidence, and amendments to pleadings, respectively.</p> <p>The Tribunal granted permission for some of Rapture's proposed amendments. Other proposed amendments were refused either in the exercise of the Tribunal's discretion under Rule 11(1), or because they raised new grounds of appeal and none of the conditions of Rule 11(3) was met.</p> <p>The Tribunal granted permission for Rapture to file an additional witness statement, but refused permission for the filing of the proposed expert evidence on the basis that the proposed evidence did not conform to the requirements applicable to expert evidence under the Tribunal Rules.</p>
<p>19. British Telecommunications Plc v Office of Communications (Mobile Call Termination) [2007] CAT 35 17-Dec-07</p>	<p>Vivien Rose Professor Andrew Bain OBE Adam Scott TD</p>	<p>Ruling granting BT permission under Rule 11 of the Tribunal Rules to amend its notice of appeal.</p> <p>The amendment for which BT sought permission related to OFCOM's approach to spectrum costs in the decision under appeal.</p> <p>The Tribunal held that the proposed amendment amounted to a new ground of appeal and therefore required permission under Rule 11(3) of the Tribunal Rules. The Tribunal granted permission for the amendment to be made pursuant to paragraphs (b) and (c) of Rule 11(3) on the basis that it was not practicable for BT to have included the new ground in its original notice of appeal and that the circumstances of the case were exceptional.</p>

JUDGMENTS: JUDGMENTS HANDED DOWN WITHIN THE PERIOD 1 APRIL 2007 TO 31 MARCH 2008

JUDGMENT	TRIBUNAL	SUBJECT MATTER
<p>20. Orange Personal Communications Services Limited v Office of Communications [2007] CAT 36 21-Dec-07</p>	<p>Vivien Rose Peter Clayton Arthur Pryor CB</p>	<p>Judgment on preliminary issues arising in an appeal by Orange against a decision by OFCOM to accept a reference for resolution of an alleged dispute between Orange and British Telecommunications Plc ("BT") in relation to Orange's charges for terminating calls on its mobile communications network.</p> <p>The Tribunal held that, on the true construction of section 185 of the Communications Act 2003, and having regard to the events which had happened, there was a "dispute" between Orange and BT within the meaning of that section capable of being referred to OFCOM for resolution in accordance with that section.</p> <p>The Tribunal also held that, on the true construction of section 185 of the Communications Act 2003 and Rule 8(1) of the Tribunal Rules, Orange would not, in proceedings challenging the final determination of the alleged dispute between BT and Orange, have been time-barred from challenging the jurisdiction of OFCOM to resolve that alleged dispute.</p>
<p>21. British Sky Broadcasting Group Plc v (1) The Competition Commission and (2) The Secretary of State for Business, Enterprise and Regulatory Reform [2008] CAT 1 09-Jan-08</p>	<p>The President</p>	<p>Order of the President extending the time within which any application may be made by British Sky Broadcasting Group Plc, or any other person aggrieved pursuant to section 120 of the Enterprise Act 2002 in relation to the Competition Commission's report to the Secretary of State entitled "Acquisition by British Sky Broadcasting Group Plc of 17.9 per cent of the shares in ITV Plc".</p> <p>The time for making an application under section 120 in relation to the Competition Commission's report was extended to be coterminous with the expiry of the time for making any application under section 120 in relation to the Secretary of State's decision on the report.</p>
<p>22. Hutchison 3G UK Limited v Office of Communications (Mobile Call Termination) [2008] CAT 2 15-Jan-08</p>	<p>Vivien Rose Professor Andrew Bain OBE Adam Scott TD</p>	<p>Ruling of the Tribunal refusing Hutchison 3G permission to appeal against the Tribunal's decision not to allow Hutchison 3G to make certain amendments to its notice of appeal or to serve a reply: see [2007] CAT 33.</p>
<p>23. Albion Water Limited v Water Services Regulation Authority [2008] CAT 3 17-Jan-08</p>	<p>Marion Simmons QC The Honourable Anthony Lewis Professor John Pickering</p>	<p>Judgment on the appellants' request for disclosure of certain information in connection with a report by the Water Services Regulation Authority to the Tribunal of 18 June 2007 to the effect that Dŵr Cymru Cyfyngedig had not infringed the Chapter II prohibition contained in section 18 of the Competition Act 1998.</p>

JUDGMENTS

JUDGMENT	TRIBUNAL	SUBJECT MATTER
<p>24. Vodafone Limited v Office of Communications [2008] CAT 4 28-Feb-08</p>	<p>Lord Carlile of Berriew QC</p>	<p>Order of the Chairman extending the time for filing and serving the defence.</p>
<p>25. Hutchison 3G UK Limited v Office of Communications (Mobile Call Termination) British Telecommunications Plc v Office of Communications (Mobile Call Termination) [2008] CAT 5 18-Mar-08</p>	<p>Vivien Rose Professor Andrew Bain OBE Adam Scott TD</p>	<p>Ruling of the Tribunal in which the Tribunal referred to the Competition Commission (pursuant to section 193 of the Communications Act 2003 and Competition Appeal Tribunal (Amendment and Communications Act Appeals) Rules 2004) the specified price control matters raised in the mobile call termination appeals by Hutchison 3G and BT.</p> <p>The questions referred to the Competition Commission were set out in an annex to the Ruling.</p> <p>In the Ruling, the Tribunal considered two questions: (i) whether the questions referred should require the Competition Commission to set an alternative price control as part of its determination; and (ii) whether the questions should be worded so as to allow the Competition Commission to determine that the level of the price controls of the mobile network operators could move in one direction only or whether they could move in either direction.</p>
<p>26. Rapture Television Plc v Office of Communications [2008] CAT 6 31-Mar-08</p>	<p>Marion Simmons QC Professor Paul Stoneman David Summers</p>	<p>Judgment on an appeal by Rapture Television Plc (“Rapture”) against a determination published on 9 March 2007 by OFCOM that the charge for British Sky Broadcasting Limited’s provision of electronic programming guide listing services to Rapture between 14 November 2005 and 10 November 2006 was fair, reasonable and non-discriminatory. The determination had been made by OFCOM using its powers under sections 188 and 190 of the Communications Act 2003 to determine a dispute which had arisen between Rapture and British Sky Broadcasting Limited and which Rapture had then referred to OFCOM under section 185 of the Communications Act 2003. The appeal concerned the interpretation and application of “The terms of supply of conditional access: OfTel guidelines” (“the 2002 Guidelines”) and the dispute resolution procedure set out in sections 185 to 191 of the Communications Act 2003.</p> <p>The Tribunal unanimously dismissed the appeal.</p> <p>The Tribunal found that the appellant had not made out a compelling case and that its submissions as to OFCOM’s misinterpretation and misapplication of the 2002 Guidelines were misconceived.</p>

ACTIVITY BY CASE: ACTIVITY BY CASE WITHIN THE PERIOD 1 APRIL 2007 TO 31 MARCH 2008

Figures in bold relate to the year under review
Plain figures relate to events in years prior to the year under review

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 2008	Notes
Floe Telecom Limited (in liquidation) v Office of Communications Case No. 1024/2/3/04 5 January 2004	03-04	1	2		1				
	04-05	2	3	2 (3)	3	19 Nov 2004 (10)			
	05-06	1	6	2 (6)	4		1		
	06-07			1 (1)	4	31 Aug 2006 (32)	2		On appeal to the Court of Appeal as at 31 March 2008.
	07-08							Closed	
Wanadoo UK Plc (formerly Freeserve.com Plc) v Office of Communications Case No. 1026/2/3/04 20 January 2004	03-04	1	1						
	04-05		5		4				
	05-06		1		1				
	06-07								Adjourned generally at the request of the parties.
	07-08							Stayed	
VIP Communications Limited (in administration) v Office of Communications Case No. 1027/2/3/04 20 February 2004	03-04								
	04-05								
	05-06								Prior to 06-07 this case was heard concurrently with Floe (case: 1024/2/3/04).
	06-07		1	2 (2)	3	22 Jan 2006 (35)			Proceedings in this appeal were stayed between 20 September 2005 and 13 September 2006.
	07-08				2		1	Ongoing	
Albion Water Limited v Water Services Regulation Authority (formerly the Director General of Water Services) (Interim Relief) Case No. 1034/2/4/04 (1R) 28 May 2004	04-05	2	1						
	05-06				1	11 May 2005 (11.5)			
	06-07				1	20 Nov 2006 (30)			This case was largely heard concurrently with Albion (case: 1046/2/4/04). Interim Relief is in place pending the determination of the appeal in case 1046/2/4/04.
	07-08								Ongoing
Albion Water Limited & Albion Water Group Limited v Water Services Regulation Authority (formerly the Director General of Water Services) (Dŵr Cymru / Shotton Paper) Case No. 1046/2/4/04 23 July 2004	04-05	3	2						
	05-06		2	1 (3)	2	21 Dec 2005 (17)			
	06-07		2	3 (8)	5	6 Oct 2006 (26.5)			
	07-08		1	1 (2)	1	18 Dec 2006 (29)	1		Ongoing
Independent Water Company Ltd v Water Services Regulation Authority (formerly the Director General of Water Services) Case No. 1058/2/4/06 12 January 2006	05-06	2	1						
	06-07		1	1 (1)	1	26 Jan 2007 (12.5)			
	07-08				1				Closed
British Telecommunications Plc v Office of Communications (The Number (UK) Limited) Case No. 1063/3/3/06 8 May 2006	06-07	1	1						
	07-08								Stayed

ACTIVITY BY CASE

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 2008	Notes
British Telecommunications Plc v Office of Communications (Conduit Enterprises Limited) Case No. 1064/3/3/06 8 May 2006	06-07 07-08	1	1					Stayed	
Cityhook Limited v Office of Fair Trading Case No. 1071/2/1/06 23 August 2006	06-07 07-08	8	2	2 (3)	3 1	3 Apr 2007 (7.5)		Closed	
Double Quick Supplyline Limited and Precision Concepts Limited v Office of Fair Trading Case No. 1072/1/1/06 29 August 2006	06-07 07-08		1	2 (2)	2	9 Mar 2007 (6.5)		Closed	
Terry Brannigan v Office of Fair Trading Case No. 1073/2/1/06 26 October 2006	06-07 07-08		1	2 (2) 1 (1)	2 1	26 July 2007 (9)		Closed	
VIP Communications Limited (in administration) v Office of Communications (Interim Relief) Case No. 1074/2/3/06 (IR) 9 November 2006	06-07 07-08	1		2 (2)	2 1	28 Feb 2007 (3.5)		Closed	
E.ON UK Plc v Office of Rail Regulation Case No. 1076/2/5/07 17 January 2007	06-07 07-08	1	1 1					Withdrawn	The proceedings were stayed from 27 June 2007 until 7 January 2008 when the appellant was granted permission to withdraw the appeal.
Emerson Electric Co and others v Morgan Crucible Company Plc and others Case No. 1077/5/7/07 9 February 2007	06-07 07-08		1	3 (4)	2			Ongoing	
The Consumers' Association v JJB Sports Plc Case No. 1078/7/9/07 5 May 2007	06-07 07-08							Withdrawn	A case management conference had been fixed for 26 April 2007 but was adjourned to a date to be fixed. Upon being informed that the parties had reached agreement to settle the claims, the Tribunal made an Order on 14 January 2008 granting the claimant permission to withdraw the claim.

ACTIVITY BY CASE: ACTIVITY BY CASE WITHIN THE PERIOD 1 APRIL 2007 TO 31 MARCH 2008

Figures in bold relate to the year under review
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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 2008	Notes
Bracken Bay Kitchens Limited v Office of Communications Case No. 1079/3/3/07 29 March 2007	06-07 07-08			1 (1)	1			Closed	On 18 September 2007 the Tribunal made an Order rejecting the appeal pursuant to Rule 10(1)(d) of the Tribunal rules of procedure.
Orange Personal Communications Services Limited v Office of Communications Case No. 1080/3/3/07 5 April 2007	07-08	4	2	1 (2)	1	21 Dec 2007 (8)		Withdrawn	A judgment on preliminary issues was handed down on 21 December 2007. On 15 January 2008 the Tribunal made an Order granting the appellant permission to withdraw its appeal.
Co-operative Group (CWS) Limited v Office of Fair Trading Case No. 1081/4/1/07 1 May 2007	07-08		1	2 (2)	2	27 July 2007 (3)		Closed	
Rapture Television Plc v Office of Communications Case No. 1082/3/3/07 9 May 2007	07-08	1	2	1 (2)	2	31 Mar 2008 (10.5)		Ongoing	Ongoing with regard to costs and permission to appeal.
Hutchison 3G UK Limited v Office of Communications (Mobile Call Termination) Case No. 1083/3/3/07 23 May 2007	07-08	5	4	2 (9)	5		1	Ongoing	
O2 (UK) Limited v Office of Communications Case No. 1084/3/3/07 29 May 2007	07-08	5	1					Closed	Upon OFCOM indicating that it did not intend to defend the appeal, the Tribunal made an Order on 26 July 2007 quashing parts of the Decision and remitting them back to OFCOM for further consideration.
British Telecommunications Plc v Office of Communications (Mobile Call Termination) Case No. 1085/3/3/07 29 May 2007	07-08	5			1			Ongoing	During this period, this case proceeded concurrently with Hutchison 3G UK Limited (case: 1083/3/3/07). Activity which relates only to this case is recorded here.
Aggregate Industries Limited v Office of Fair Trading Case No. 1086/4/1/07 2 July 2007	07-08	1	1					Withdrawn	Although a hearing was listed for 22 October 2007 following the applicant's request, the Tribunal granted permission to withdraw on 18 October 2007.

ACTIVITY BY CASE

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 2008	Notes
Independent Media Support Limited v Office of Communications Case No. 1087/2/3/07 3 July 2007	07-08	2	1	1 (1)	1			Ongoing	
ME Burgess, JJ Burgess and SJ Burgess (trading as JJ Burgess & Sons) v W Austin & Sons (Stevenage) Limited and Harwood Park Crematorium Limited Case No. 1088/5/7/07 3 August 2007	07-08		1					Closed	Following notification that the parties had agreed a settlement, the Tribunal made an Order on 18 February staying the proceedings upon the terms of the agreed settlement.
T-Mobile (UK) Limited v Office of Communications (Termination Rate Dispute) Case No. 1089/3/3/07 7 September 2007	07-08	5	2		1			Ongoing	The main issues in this case (and the other related Termination Rate Dispute cases: British Telecommunications Plc (case: 1090/3/3/07), Hutchison 3G UK Limited (case: 1091/3/3/07) and Cable & Wireless (case: 1092/3/3/07)) were heard at the same time as the main issues in the Mobile Call Termination cases (cases: 1083/3/3/07 and 1085/3/3/07).
British Telecommunications Plc v Office of Communications (Termination Rate Dispute) Case No. 1090/3/3/07 7 September 2007	07-08	5						Ongoing	This case is being heard at the same time as the other Termination Rate Dispute cases (T-Mobile (UK) Limited (case: 1089/3/3/07), Hutchison 3G UK Limited (case: 1091/3/3/07) and Cable & Wireless (case: 1092/3/3/07)).
Hutchison 3G UK Limited v Office of Communications (Termination Rate Dispute) Case No. 1091/3/3/07 7 September 2007	07-08	5						Ongoing	This case is being heard at the same time as the other Termination Rate Dispute cases (T-Mobile (UK) Limited (case: 1089/3/3/07), British Telecommunications Plc (case: 1090/3/3/07) and Cable & Wireless (case: 1092/3/3/07)).
Cable & Wireless and others v Office of Communications (Termination Rate Dispute) Case No. 1092/3/3/07 7 September 2007	07-08	5						Ongoing	This case is being heard at the same time as the other Termination Rate Dispute cases (T-Mobile (UK) Limited (case: 1089/3/3/07), British Telecommunications Plc (case: 1090/3/3/07) and Hutchison 3G UK Limited (case: 1091/3/3/07)).

ACTIVITY BY CASE: ACTIVITY BY CASE WITHIN THE PERIOD 1 APRIL 2007 TO 31 MARCH 2008

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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 2008	Notes
T-Mobile (UK) Limited v Office of Communications (Donor Conveyance Charge) Case No. 1093/3/3/07 17 October 2007	07-08	2	1		1			Ongoing	
Vodafone Limited v Office of Communications Case No. 1094/3/3/08 29 January 2008	07-08	5	1		1			Ongoing	
British Sky Broadcasting Group Plc v (1) The Competition Commission (2) The Secretary of State Case No. 1095/4/8/08 22 February 2008	07-08	1	1		1			Ongoing	
Virgin Media Inc. v (1) Competition Commission (2) The Secretary of State Case No. 1096/4/8/08 25 February 2008	07-08	1						Ongoing	This case is being heard concurrently with British Sky Broadcasting Group Plc (case: 1095/4/8/08).
National Grid Plc v The Gas and Electricity Markets Authority (Interim Relief) Case No. 1097/1/2/08 (IR) 5 March 2008	07-08							Ongoing	
BCL Old Co Limited (2) DFL Oldco Limited (3) PFF Old Co Limited (4) Deans Foods Limited v (1) BASF AG (2) BASF plc (3) Frank Wright Limited Case No. 1098/5/7/08 13 March 2008	07-08							Ongoing	
Total for 07-08		52	21	13 (24)	26		2		

OVERALL CASE ACTIVITY: OVERALL CASE ACTIVITY WITHIN THE PERIOD 1 APRIL 2007 TO 31 MARCH 2008

	2007/08	2006/07	2005/06
Appeals, applications and claims received	19	20	10
of which			
section 46 Competition Act 1998 ¹	0	5	3
section 47 Competition Act 1998 ²	1	4	2
section 47A Competition Act 1998 ³	2	2	-
section 47B Competition Act 1998 ⁴	-	1	-
section 120 Enterprise Act 2002 ⁵	4	2	2
section 179 Enterprise Act 2002 ⁶	-	-	1
section 192 Communications Act 2003 ⁷	11	4	2
applications for interim relief	1	2	-
Applications to intervene	52	12	9
Case management conferences held	21	21	24
Hearings held (Sitting days)	13 (24)	29 (35)	15 (25)
Judgments handed down	26	44	41
of which			
judgments disposing of main issue or issues	6	14	13
judgment on procedural and interlocutory matters	15	22	11
judgments on ancillary matters (eg. costs)	5	8	17
Orders made	139	105	96

1 An appeal by a party to an agreement or conduct in respect of which the Office of Fair Trading (or one of the other regulators with concurrent powers to apply the Competition Act 1998 ("the Competition Act")) has made an "appealable decision". During the period to 31 March 2008 appealable decisions included a decision as to whether the Chapter I prohibition or Chapter II prohibition of the Competition Act had been infringed, as to whether Articles 81 or 82 of the EC Treaty had been infringed and the imposition of a penalty for infringement of those provisions or as to the amount of such penalty.

2 An appeal against an "appealable decision" made by the Office of Fair Trading or other regulator with concurrent powers to apply the Competition 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 Competition Act.

3 A claim for damages or other claim for a sum of money by a person who has suffered loss or damage as a result of the infringement of the Competition Act or of European competition law.

4 A claim for damages or other claim for a sum of money brought by "a specified body" on behalf of two or more "consumers".

5 An application by "any person aggrieved" by a decision of the Office of Fair Trading, the Office of Communications, the Competition Commission 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 Enterprise Act 2002. In determining applications under this section the Tribunal applies the same principles as would be applied by a court on an application for judicial review.

6 An application by "any person aggrieved" by a decision of the Office of Fair Trading, the Competition Commission or the Secretary of State in connection with a market investigation reference or possible market investigation reference. In determining applications under this section the Tribunal applies the same principles as would be applied by a court on an application for judicial review.

7 An appeal by "a person affected" by a decision of the Office of Communications or of the Secretary of State in relation to certain specified communications matters set out in that section.



COMPETITION APPEAL TRIBUNAL AND
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COMPETITION APPEAL TRIBUNAL AND COMPETITION SERVICE ANNUAL ACCOUNTS: YEAR ENDED 31 MARCH 2008

MANAGEMENT COMMENTARY IN RESPECT OF THE TRIBUNAL AND THE CS

The principal activities of the Tribunal and the CS are explained in the introduction to this review. Similarly, the performance of the Tribunal and the CS in carrying out their respective functions is discussed in the statements of the President and Registrar.

The Tribunal and the CS aim to ensure that proceedings are conducted efficiently and economically whilst meeting the requirements of justice.

FINANCIAL PERFORMANCE

BERR's programme funding allocation for 2007/08 was £4,072,000 for resource expenditure (net of any income from other sources) and £122,000 for capital expenditure. The capital expenditure allocation is for the CS only.

Actual resource expenditure for the year was £3,559,000 and capital expenditure was £8,000.

The actual expenditure for the Tribunal fell from £761,000 (2006/07) to £615,000 in 2007/08. The reduction in expenditure is mainly due to savings made on salary costs as the new President was only appointed on 5th November 2007.

Administrative expenditure for the CS rose from £1,986,000 in 2006/07 to £2,128,000 in 2007/08. The main reason was that expenditure during 2006/07 had been depressed by an exceptional event (a refund of business rates following a successful appeal made by the CS's landlord to the local council against charges in the preceding two years) and during 2007/08 there was slightly increased investment in the library.

In 2006/07 the CS obtained approval from BERR for a two-year staff pay proposal. The CS's pay remit, whilst remaining within Treasury limits, is intended to reward performance and attract and retain suitably qualified staff to the CS. The total pay bill for staff (excluding the Registrar whose pay is determined by the Secretary of

State and is discussed in the Remuneration Report) actually fell by 9.6% in 2007/08. This reduction was attained following staff changes during the year where there was often a delay between staff leaving the CS and new appointees taking up their posts. Also in the interim temporary agency staff were used to cover the roles. In addition, since January 2007 the CS has been operating with one less referendaire and this has produced further savings. However, should the caseload increase significantly in the future, then the CS intends to return to its full complement of four referendaires.

FINANCING OF ACTIVITIES

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

BALANCE SHEET

The Tribunal's balance sheet shows only those liabilities at 31 March 2008 that are directly attributable to the Tribunal. There is a debtor balance of an equal amount representing the amount that the CS shall transfer to meet those liabilities. The liabilities in the CS's balance sheet therefore include the liabilities of the Tribunal.

The value of the CS's fixed assets fell from £438,000 to £304,000, as most of the assets are being depreciated over three or five years and this is the first year the Electronic Document and Record Management (EDRM) system has been depreciated since becoming operational. Capital expenditure during the year amounted to £8,000 which was lower than incurred in 2006/07. The main items of expenditure were on three printers to replace obsolete equipment, on three laptops and on the development of a correspondence template for the EDRM system.

Net current assets increased by £183,000 to £296,000. Closing cash balances were £488,000 (2006/07: £292,000).

In 2007/08, the CS's general fund (which represents the total assets less liabilities of the CS to the extent that the total is not represented by other reserves and financing items) increased by £69,000.

FUTURE DEVELOPMENTS

For the 2008/09 resource request, the CS has continued to restrict growth in expenditure and make savings wherever it is prudent to do so without impairing the Tribunal's and the CS's abilities to carry out their respective statutory functions.

The budget proposal for 2008/09 was submitted to BERR in January 2008 and was further reduced by £184,000 in March 2008. For 2008/09, the Tribunal and the CS have a combined Resource Departmental Expenditure Limit of £4,119,000 and a further £77,000 has been allocated for our capital expenditure programme.

The budgeted increase in expenditure for the Tribunal incorporates pension and national insurance costs budgeted for a permanent chairman.

Resource costs for the CS are budgeted to rise by £248,000 when compared with the 2007/08 outturn. However, when the outturn is adjusted to remove the effects of Treasury's permitted uplift for annual inflation, costs are budgeted to rise by 8.2%.

This increase can be attributed to two specific areas:

- The CS intends to comprehensively update the Tribunal's website which has had no significant investment since 2003.
- The rent for the premises occupied by the Tribunal and CS as a result of the rent review – an increase of 2.5% compounded over five years equating to 13% – is applied in 2008/09. The CS has included sufficient sums in its budget proposal for 2008/09 and beyond to meet the likely additional cost.

The Tribunal Members Remuneration is under consideration by a sub committee of the Senior Salaries Review Body (SSRB) and any recommendations by the sub committee would have to be agreed by BERR.

The Tribunal is unable to determine its own caseload and must therefore ensure that it is able to react to fluctuations. The CS, as the support organisation for the Tribunal, must ensure that the required resources are made available to meet the needs of the Tribunal.

COMPETITION APPEAL TRIBUNAL AND COMPETITION SERVICE ANNUAL ACCOUNTS: YEAR ENDED 31 MARCH 2008

RENUMERATION REPORT FOR THE TRIBUNAL AND THE CS

RENUMERATION POLICY

The remuneration of the President and Registrar are determined by the Secretary of State under Schedule 2 of the Enterprise Act 2002. The remuneration of the non-executive member of the CS is determined by the Secretary of State under Schedule 3 of the Enterprise Act 2002.

In determining the President's salary for 2007/08, the recommendations of the Senior Salaries Review Body (which makes recommendations about the pay of the senior civil service, senior military personnel and the judiciary) were considered. The President's salary is paid by the Ministry of Justice and invoiced to CS.

The salary of the Registrar was the subject of a review by BERR and the Secretary of State decided to revise the link with the judicial salaries levels. For 2007/08, the Secretary of State determined that the salary of the Registrar should be increased by 6.7%.

The salary costs of the President are charged to the Tribunal's operating cost statement. The salary costs of the Registrar are charged to the CS's operating cost statement.

The non-executive member of the CS is remunerated on a per diem basis at a rate determined by the Secretary of State. The remuneration costs of the non-executive member are charged to the CS's operating cost statement.

RENUMERATION COMMITTEE

The CS's Remuneration Committee comprised Janet Rubin and a former Tribunal member, Professor Graham Zellick.

The Secretary of State considered the recommendations made by the Committee in its proposal submitted in March 2006. These recommendations were based on a detailed analysis undertaken by PricewaterhouseCoopers of the remuneration of members employed by similar bodies.

In September 2006, the Secretary of State approved an increase in the daily rate for Ordinary Members to £350 from 1 April 2006. The Department did not amend the daily rate for the panel of Chairmen or the non-executive member of the CS.

In December 2006, the Secretary of State approved a change to the way the Registrar's salary is linked to the judicial pay-scale. The Registrar's progression to the new pay-scale is being phased over a period of three years from 1 April 2006.

There has been no change in the relevant remuneration arrangements for the financial year 2007/08.

SERVICE CONTRACT, SALARY AND PENSION ENTITLEMENTS

The following sections provide details of the contracts, remuneration and pension interests of the President, Registrar and non-executive member of the CS.

SERVICE CONTRACTS

The President was appointed by the Lord Chancellor under Schedule 2 of the Enterprise Act 2002. The Registrar is appointed by the Secretary of State pursuant to section 12(3) of the Enterprise Act 2002.

The new President joined on 5 November 2007 and also became a Justice of the High Court on the same day.

The Registrar's appointment must satisfy the requirements of Rule 4 of the Competition Appeal Tribunal Rules 2003 (SI. 2003 No 1372).

The non-executive member of the CS is appointed by the Secretary of State under Schedule 3 of the Enterprise Act 2002. The term of appointment which was due to expire in September 2007, has, with the approval of the Secretary of State, been extended for a further four years

and shall now expire in September 2011. The appointment carries no right of pension, gratuity or allowance on its termination.

REMUNERATION

The following part of the Remuneration Report has been audited.

	2007/08 Salary £'000	2007/08 Benefits in kind (to nearest £100)	2006/07 Salary £'000	2006/07 Benefits in kind (to nearest £100)
President (from 5 November 2007)	65-70 165-170 (full year equivalent)	-	-	-
	2007/08 Salary £'000	2007/08 Benefits in kind (to nearest £100)	2006/07 Salary £'000	2006/07 Benefits in kind (to nearest £100)
Registrar	85-90	-	80-85	-

'Salary' for the President and Registrar consists of gross salary only. There are no additional allowances paid.

The non-executive member of the CS is remunerated at a rate of £350 per day (2006/07: £350 per day). Total remuneration payable in 2007/08 was £5,950 (2006/07: £4,725).

COMPETITION APPEAL TRIBUNAL AND COMPETITION SERVICE ANNUAL ACCOUNTS: YEAR ENDED 31 MARCH 2008

BENEFITS IN KIND

The CS does not provide any benefits in kind to the President, Registrar and non-executive member of the CS.

PRESIDENT'S PENSION BENEFITS

	Accrued pension at age 60 as at 31/03/08 and related lump sum £'000	Real increase in pension and related lump sum at age 60 £'000	CETV at 31/03/08 £'000	CETV at 31/03/07 £'000	Employee contributions and transfers in £'000	Real increase in CETV £'000
President	2 4	2 4	27	0	2	25

JUDICIAL PENSIONS

The President is a member of the Judicial Pension Scheme (JPS). For 2007/08, employer contributions of £22,000 were payable to the JPS at a rate of 32.15% of pensionable pay.

The majority of the terms of the 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 (JUPRA).

The JPS is an un-funded 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.

The contribution rate required from the Judicial Appointing or Administering Bodies to meet the cost of benefits accruing in the year 2007/08 has been assessed as 32.15% of the relevant judicial salary. This includes an element of 0.25% as a contribution towards the administration costs of the scheme.

Details of the Resource Accounts of the Department for Constitutional Affairs: Judicial Pensions Scheme can be found on the Ministry of Justice website www.justice.gov.uk.

REGISTRAR'S PENSION BENEFITS

	Accrued pension at age 60 as at 31/03/08 and related lump sum £'000	Real increase in pension and related lump sum at age 60 £'000	CETV at 31/03/08 £'000	CETV at 31/03/07 £'000	Employee contributions and transfers in £'000	Real increase in CETV £'000
Registrar	15 - 20 50 - 55	0 - 2.5 5 - 7.5	298	225	8	27

Due to certain factors being incorrect in last years CETV calculation by BERR there is a slight difference between the final period CETV for 2006/07 and the start of period CETV for 2007/08.

The Registrar's pension benefits are provided through the Civil Service Pension arrangements. For 2007/08, employer contributions of £23,000 (2006/07: £21,000) were payable to the PCSPS scheme at a rate of 25.5% (2006/07: 25.5%) of pensionable pay.

Pension benefits are provided through the Civil Service pension arrangements. From 30 July 2007, civil servants may be in one of four defined benefit schemes; either a 'final salary' scheme (classic, premium or classic plus); or a 'whole career' scheme (nuvos). 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 and nuvos are increased annually in line with changes in the Retail Prices Index (RPI). Members joining from October 2002 may opt for either the appropriate defined benefit arrangement or a good quality 'money purchase' stakeholder pension with a significant employer contribution (partnership pension account).

Employee contributions are set at the rate of 1.5% of pensionable earnings for classic and 3.5% for premium, classic plus and nuvos. Benefits in classic accrue at the rate of 1/80th of final pensionable earnings for each year of service. In addition, a lump sum equivalent to three years' pension is payable on retirement. For premium, benefits accrue at the rate of 1/60th of final pensionable earnings for each year of service. Unlike classic, there is no automatic lump sum. Classic plus is essentially a hybrid with benefits in respect of service before 1 October 2002 calculated broadly as per classic and benefits for service from October 2002 calculated as in premium. In nuvos a member builds up a pension based on 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% of their pensionable earnings in that scheme year

and the accrued pension is uprated in line with RPI. In all cases members may opt to give up (commute) pension for lump sum up to the limits set by the Finance Act 2004.

The partnership pension account is a stakeholder pension arrangement. The employer makes a basic contribution of between 3% and 12.5% (depending on the age of the member) into a stakeholder pension product chosen by the employee from a panel of three providers. The employee does not have to contribute but where they do make contributions, the employer will match these up to a limit of 3% of pensionable salary (in addition to the employer's basic contribution). Employers also contribute a further 0.8% 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 and 65 for members of nuvos.

Further details about the Civil Service pension arrangements can be found at the website www.civilservice-pensions.gov.uk.

Further information regarding the PCSPS is included in note 5 of the CS's accounts.

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 benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme.

COMPETITION APPEAL TRIBUNAL AND COMPETITION SERVICE ANNUAL ACCOUNTS: YEAR ENDED 31 MARCH 2008

The pension figures shown relate to the benefits that the 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 individual has transferred to the Civil Service pension arrangements. They also include any additional pension benefit accrued to the member as a result of their purchasing additional pension benefits at their own cost. CETVs are calculated within the guidelines and framework prescribed by the Institute and Faculty of Actuaries 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 drawn.

REAL INCREASE IN CETV

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



Charles Dhanowa OBE
Registrar and Accounting Officer
Competition Service
10 June 2008

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 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 the Treasury. Each set of accounts is prepared on an accruals basis and must give a true and fair view of the state of affairs of the Tribunal and the CS at the year end and of operating costs, total recognised gains and losses and cash flows for the financial year.

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

- observe the Accounts Directions issued by the Secretary of State, including the 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, unless it is inappropriate to presume that the Tribunal and the CS will continue in operation.

The Accounting Officer for BERR has designated the Registrar of the Tribunal as Accounting Officer for both the Tribunal and the CS. His relevant responsibilities as Accounting Officer, including his 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 the Treasury and published in *Managing Public Money*.

STATEMENT ON INTERNAL CONTROL FOR THE COMPETITION APPEAL TRIBUNAL AND THE CS

SCOPE OF RESPONSIBILITY

1. As Accounting Officer, I have responsibility for maintaining a sound system of internal control that supports the achievement of the Tribunal's and the Competition Services's policies, aims and objectives, whilst safeguarding the public funds and departmental assets for which I am personally responsible, in accordance with the responsibilities assigned to me in *Managing Public Money*. The CS is the body which provides the staff, equipment, premises and finance that the Tribunal needs to enable it to carry out its functions.

I also have responsibility to the Department for Business, Enterprise and Regulatory Reform (BERR) and ultimately to Parliament for the proper use of the Tribunal's and CS's finances in accordance with the responsibilities assigned to me as Accounting Officer in Government

Accounting. The relationship with BERR is defined in a Memorandum of Understanding and the Management Statement and Financial Memorandum. The CS receives its funding solely from BERR in the form of grant-in-aid. Once the budget is agreed with BERR, the CS has discretion as to how funds are allocated for specific purposes within certain given limits. Financial and other relevant matters are discussed at regular meetings between the CS and BERR personnel.

THE PURPOSE OF THE SYSTEM OF INTERNAL CONTROL

2. The system of internal control is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives; it can therefore only provide a reasonable and not absolute assurance of effectiveness. The system of internal control is based on an ongoing process designed to identify and

COMPETITION APPEAL TRIBUNAL AND COMPETITION SERVICE ANNUAL ACCOUNTS: YEAR ENDED 31 MARCH 2008

prioritise the risks to the achievement of the CS's and the Tribunal's policies, aims and objectives, to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically. The system of internal control for the Tribunal and the CS has been in place for the year ended 31 March 2008 and up to the date of approval of the annual review and accounts, and accords with Treasury guidance.

CAPACITY TO HANDLE RISK

3. The membership of the CS and the Audit Committee have continued to play an active role in supporting the CS staff and myself in the risk management process and in developing the CS's risk strategy by challenging current practices and putting forward practical solutions.

The CS is committed to promoting a strong understanding of risk throughout the organisation and for Tribunal Members and CS staff to have a full awareness of risk considerations in the achievement of objectives.

The key measures that the CS has put in place to manage risk are:

- i. The Finance Committee, comprising the Registrar, the Director, Operations and the Finance Manager, meets throughout the year and discusses risk as part of its standing agenda.
- ii. The Finance Manager presents the risk register on a regular basis at Audit Committee meetings and the members discuss the key risks and make recommendations.
- iii. The Finance Manager maintains the risk register, which ranks risks in terms of impact and likelihood. Risks are assigned to individuals and additional actions agreed.
- iv. Groups focusing on specific organisational activities such as casework, information technology and accommodation meet as and when the need arises.
- v. The Director, Operations is a member of BERR Agencies Risk Management Group, a forum in which BERR's agencies can discuss risk and best practice.
- vi. A Departmental Security Officer and an Information Technology Security Officer ensure that the CS complies with Cabinet Office and National Infrastructure Security Coordination Centre standards (BS 7799) on security procedures.
- vii. Although the CS handles very little personal information, nonetheless a process of encryption of removable information storage devices is underway.

THE RISK AND CONTROL FRAMEWORK

4. The following processes are in place to manage the risk and control framework:

- i. The CS's highest risk is the possible unavailability of the finance manager as that person constitutes the entire finance department and if this risk materialised almost all the financial functions would be seriously delayed. To mitigate this risk steps have been taken to train one or more members of staff on basic finance processes but pressures of work on those others have made this difficult. This training will continue as and when possible. To ensure that staff and Members are paid in the absence of the finance manager, the Director, Operations is aware of the payroll process and would be able to make salary payments.
- ii. The CS receives internal audit services from BERR's Internal Audit Directorate, who make recommendations to the CS's management. The CS responds to these recommendations within agreed timescales in order to achieve best practice. During the year to 31 March 2008 Internal Audit assessed the adequacy of the CS's financial and accounting system and the security of the recently installed EDRM system. Internal Audit have reported their findings to the Accounting Officer and the Audit Committee.

- iii. Financial control is maintained by a monthly financial reporting system to senior management, the Audit Committee and the membership of the CS. BERR is informed of the CS's financial position through the submission of monthly returns and quarterly grant-in-aid requests.
- iv. The CS maintains good working relationships with BERR. Senior management meets officials from Consumer and Competition Policy Directorate regularly to share management and financial information.
- v. A business plan is produced annually, which identifies the objectives for the year ahead and is agreed with BERR.
- vi. Where specific services are outsourced from external contractors, senior management satisfy themselves that these organisations have appropriate risk management policies in place.

REVIEW OF EFFECTIVENESS

5. As Accounting Officer, I have responsibility for reviewing the effectiveness of the system of internal control. My review of the effectiveness of the system of internal control is informed by the work of the internal auditors and the managers within the CS who have responsibility for the development and maintenance of the internal control framework, and comments made by the external auditors in their management letter and other reports. I have been advised on the implications of the result of my review of the effectiveness of the system of internal control by the Audit Committee and the membership of the CS and a plan to address weaknesses and ensure continuous improvement of the system is in place.

There are a number of processes and controls within the Tribunal and the CS that have been established to ensure that the system of internal control is constantly monitored and reviewed.

The following processes are in place to further maintain and review the effectiveness of the system of internal control:

- i. The membership of the CS (President, Registrar and non-executive member with support of the Director, Operations) meets four times a year to discuss the strategic direction of the Tribunal and the CS. The CS receives reports on operations, caseload and from the Audit Committee as standing agenda items.
- ii. The Audit Committee, chaired by the non-executive member of the CS, meets four times a year to scrutinise financial performance and the Annual Accounts before publication, the progress made in addressing the organisation's key risks and the adequacy of the internal and external audit arrangements.
- iii. BERR's Internal Audit directorate was retained in 2007/08. Internal Audit operates to requirements defined in the Government Internal Audit Standards. During the year its work programme included the security of the EDRM system apart from the usual finance and accounting audit. The audit of the security of the EDRM system was carried over from 2006/07 as the system was only implemented in July 2007.
- iv. The CS participates in BERR's group corporate governance submission. This process involves management's evaluating the risk management processes currently in place and identifying measures to promote awareness and understanding of issues under eight specific headings throughout the organisation.



Charles Dhanowa OBE
Registrar and Accounting Officer
Competition Service
10 June 2008

COMPETITION APPEAL TRIBUNAL ANNUAL ACCOUNTS: YEAR ENDED 31 MARCH 2008

COMPETITION APPEAL TRIBUNAL: THE CERTIFICATE OF THE COMPTROLLER AND AUDITOR GENERAL TO THE HOUSES OF PARLIAMENT

I certify that I have audited the financial statements of the Competition Appeal Tribunal for the year ended 31 March 2008 under the Enterprise Act 2002. These comprise the Operating Cost Statement, the Balance Sheet, the Cash Flow Statement and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

RESPECTIVE RESPONSIBILITIES OF THE COMPETITION SERVICE, ACCOUNTING OFFICER AND AUDITOR

The Competition Service and Registrar as Accounting Officer are responsible for preparing the Annual Review, the Remuneration Report and the financial statements in accordance with the Enterprise Act 2002 and the Secretary of State for Business, Enterprise and Regulatory Reform's directions made thereunder and for ensuring the regularity of financial transactions. These responsibilities are set out in the Statement of Accounting Officer's Responsibilities.

My responsibility is to audit the financial statements and the part of the Remuneration Report to be audited in accordance with relevant legal and regulatory requirements, and with International Standards on Auditing (UK and Ireland).

I report to you my opinion as to whether the financial statements give a true and fair view and whether the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the Enterprise Act 2002 and the Secretary of State for Business, Enterprise and Regulatory Reform's directions made thereunder. I report to you whether, in my opinion, the information, which comprises the Introduction, the Registrar's Statement, and the Management Commentary, included in the Annual Review is consistent with the

financial statements. I also report whether in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

In addition, I report to you if the Competition Service has not kept proper accounting records, if I have not received all the information and explanations I require for my audit, or if information specified by HM Treasury regarding remuneration and other transactions is not disclosed.

I review whether the Statement on Internal control reflects the Competition Service's compliance with HM Treasury's guidance, and I report if it does not. I am not required to consider whether this statement covers all risks and controls, or form an opinion on the effectiveness of the Competition Service's corporate governance procedures or its risk and control procedures.

I read the other information contained in the Annual Review and consider whether it is consistent with the audited financial statements. This information comprises the President's Statement, Activity by Case and the unaudited part of the Remuneration Report. I consider the implications for my report if I become aware of any apparent misstatements or material inconsistencies with the financial statements. My responsibilities do not extend to any other information.

BASIS OF AUDIT OPINIONS

I conducted my audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. My audit includes examination, on a test basis, of evidence relevant to the amounts, disclosures and regularity of financial transactions included in the financial statements and the part of the

Remuneration Report to be audited. It also includes an assessment of the significant estimates and judgments made by the Competition Service and Accounting Officer in the preparation of the financial statements, and of whether the accounting policies are most appropriate to the Competition Appeal Tribunal's circumstances, consistently applied and adequately disclosed.

I planned and performed my audit so as to obtain all the information and explanations which I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the financial statements and the part of the Remuneration Report to be audited are free from material misstatement, whether caused by fraud or error, and that in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them. In forming my opinion I also evaluated the overall adequacy of the presentation of information in the financial statements and the part of the Remuneration Report to be audited.

OPINIONS

In my opinion:

- the financial statements give a true and fair view, in accordance with the Enterprise Act 2002 and directions made thereunder by the Secretary of State for Business, Enterprise and Regulatory Reform, of the state of the Competition Appeal Tribunal's affairs as at 31 March 2008 and of its deficit for the year then ended;
- the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the Enterprise Act 2002 and the Secretary of State for Business, Enterprise and Regulatory Reform's directions made thereunder; and

- information, which comprises the Introduction, the Registrar's Statement, and the Management Commentary, included within the Annual Review is consistent with the financial statements.

OPINION ON REGULARITY

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

REPORT

I have no observations to make on these financial statements.

T J Burr
Comptroller and Auditor General
12 June 2008

National Audit Office
151 Buckingham Palace Road
Victoria
London
SW1W 9SS

The maintenance and integrity of the Competition Service/Competition Appeal Tribunal website is the responsibility of the Accounting Officer; the work carried out by the auditors does not involve consideration of these matters and accordingly the auditors accept no responsibility for any changes that may have occurred to the financial statements since they were initially presented on the website.

COMPETITION APPEAL TRIBUNAL ANNUAL ACCOUNTS: YEAR ENDED 31 MARCH 2008

COMPETITION APPEAL TRIBUNAL: OPERATING COST STATEMENT FOR THE YEAR ENDED 31 MARCH 2008

	Note	2007/08 £'000	2006/07 £'000
Income		0	0
Administrative costs:			
Members' remuneration costs	3a	(557)	(651)
Other operating charges	4a	(58)	(110)
(Deficit) for the financial year		(615)	(761)

The notes on pages 58 to 63 form part of these accounts.

COMPETITION APPEAL TRIBUNAL BALANCE SHEET AS AT 31 MARCH 2008

	Note	31 March 2008 £'000	31 March 2008 £'000	31 March 2007 £'000	31 March 2007 £'000
Current assets:					
Debtors	5a	152		113	
Cash at bank and in hand		-		-	
			152		113
Creditors: amounts falling due within one year	6a		(150)		(113)
Net current assets			2		-
Total assets less current liabilities			2		-
Creditors: amounts falling due after more than one year			-		-
Provisions for liabilities and charges	7		(2)		-
			-		-
Represented by:					
General fund	8		-		-
			-		-

The notes on pages 58 to 63 form part of these accounts.



Charles Dhanowa OBE
Registrar and Accounting Officer
Competition Appeal Tribunal
10 June 2008

COMPETITION APPEAL TRIBUNAL ANNUAL ACCOUNTS: YEAR ENDED 31 MARCH 2008

COMPETITION APPEAL TRIBUNAL: CASH FLOW STATEMENT FOR THE YEAR ENDED 31 MARCH 2008

	Note	2007/08 £'000	2006/07 £'000
Net cash (outflow) from operating activities	9	(615)	(761)
Financing			
Grant in aid from CS	2	615	761
Increase/(decrease) in cash in the period		-	-

The Tribunal does not have a bank account and therefore does not hold any cash. Cash required to fund the activities of the Tribunal is paid into the CS's bank account.

The notes on pages 58 to 63 form part of these accounts.

COMPETITION APPEAL TRIBUNAL: NOTES TO THE ACCOUNTS

1. STATEMENT OF ACCOUNTING POLICIES

These financial statements have been prepared in accordance with the 2007-08 Government Financial Reporting Manual (FReM). The accounting policies contained in the FReM follow UK generally accepted accounting practice for companies (UK GAAP) to the extent that it is meaningful and appropriate to 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 Tribunal 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) Accounting convention

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

(b) Basis of preparation of accounts

There is a statutory requirement for the CS to produce separate accounts for the Tribunal and the CS. The accounts of the Tribunal include only the direct costs specifically attributable to the Tribunal. In accordance with Accounts Directions issued by the Secretary of State with the approval of the Treasury, the Tribunal and the CS have prepared a joint Statement of Accounting Officer's Responsibilities and Statement on Internal Control.

(c) Pensions

The pension arrangements for the President are discussed separately in the Remuneration Report. The appointment of Tribunal Chairmen and Ordinary Members is non-pensionable.

(d) Going concern

The accounts have been prepared on a going concern basis.

2. GRANT-IN-AID

	2007/08 £'000	2006/07 £'000
Allocated by the CS	615	761
	615	761

3. MEMBERS' REMUNERATION

(a) The total cost of Members' remuneration is shown in the table below.

	2007/08 £'000	2006/07 £'000
Members' remuneration (including the President and Chairmen)	484	544
Social security costs	51	62
Pension contributions for the President	22	45
	557	651

(b) Members of the Tribunal during the year are listed in the Introduction. The President and the Chairmen are appointed by the Lord Chancellor upon the recommendation of the Judicial Appointments Commission. Ordinary Members are appointed by the Secretary of State. Members and Chairmen are appointed for a fixed term of up to eight years.

(c) Remuneration costs for Members of the panel of Chairmen are shown in the table below.

	2007/08 £	2006/07 £
Marion Simmons QC	111,964	143,100
Lord Carlile of Berriew QC	12,171	19,200
Vivien Rose	60,000	27,600

Marion Simmons QC, Lord Carlile QC and Vivien Rose are remunerated on a per diem basis at a rate of £600 per day (2006/07: £600 per day). Their remuneration costs are included in note 3 (a).

The salary costs of the judges of the Chancery Division of the High Court when sitting as Tribunal Chairmen are paid by the Ministry of Justice.

(d) The Ordinary Members are remunerated at a rate of £350 per day (2006/07: £350 per day). The total remuneration payable to Ordinary Members of £232,208 (2006/07: £207,125) is included in note 3 (a).

COMPETITION APPEAL TRIBUNAL ANNUAL ACCOUNTS: YEAR ENDED 31 MARCH 2008

4. OTHER OPERATING CHARGES

(a)

	2007/08 £'000	2006/07 £'000
Members travel and subsistence	39	58
Members PAYE and National Insurance on travel and subsistence expenses	7	36
Members training	4	9
Long service award	2	1
Audit fees*	6	6
	58	110

*Audit fees related only to statutory audit work.

(b) The Members' PAYE and National Insurance on travel and subsistence expenses for the year amount to £20,000. A refund of £13,000 was received from Inland Revenue for overpaid prior year PAYE and National Insurance in 2007/08.

(c) The long service award relates to a provision of £2,000 for the President in his capacity as a judge of the High Court. The value of the award was calculated by the Government Actuary's Department and reflects the President's length of service and judicial grade.

5. DEBTORS

(a) Analysis by type

	31 March 2008 £'000	31 March 2007 £'000
Amounts falling due within one year:		
Debtor with CS	150	113
Amounts falling due after more than one year:		
Debtor with CS	2	-

The debtor balance represents the total liabilities outstanding at the balance sheet date that are directly attributable to the activities of the Tribunal. The liabilities of the Tribunal are settled by the CS.

(b) Intra-government balances

	Amounts falling due within one year 2007/08 £'000	Amounts falling due within one year 2006/07 £'000	Amounts falling due after more than one year 2007/08 £'000	Amounts falling due after more than one year 2006/07 £'000
Balances with other central government bodies	150	113	2	-
Balances with bodies external to government	-	-	-	-
Total debtors at 31 March	150	113	2	-

6. CREDITORS**(a) Analysis by type**

	31 March 2008 £'000	31 March 2007 £'000
Amounts falling due within one year:		
Taxation and social security	24	38
Trade creditors	2	1
Accruals	124	74
	150	113

(b) Intra-government balances

	Amounts falling due within one year 2007/08 £'000	Amounts falling due within one year 2006/07 £'000	Amounts falling due after more than one year 2007/08 £'000	Amounts falling due after more than one year 2006/07 £'000
Balances with other central government bodies	74	43	-	-
Balances with bodies external to government	76	70	-	-
Total creditors at 31 March	150	113	-	-

COMPETITION APPEAL TRIBUNAL ANNUAL ACCOUNTS: YEAR ENDED 31 MARCH 2008

7. PROVISIONS FOR LIABILITIES AND CHARGES

	Long service award costs £'000
Balance at 1 April 2007	-
Provided in the year	2
Provisions utilised in the year	-
Balance at 31 March 2008	2

The provision made in the year relates to the expected cost of the President's long service award which shall become payable in his final month of service on retirement. The liability was calculated by the Government Actuary's Department and is based on his judicial grade and length of service.

8. GENERAL FUND

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

	2007/08 £'000	2006/07 £'000
Balance at 1 April	0	0
Net operating cost for the year	(615)	(761)
Net financing from the CS	615	761
Balance at 31 March	0	0

9. NOTES TO THE CASH FLOW STATEMENT: RECONCILIATION OF OPERATING COST TO OPERATING CASH FLOWS

	Note	2007/08 £'000	2006/07 £'000
Net operating cost	8	(615)	(761)
(Increase)/decrease in debtors		(39)	8
Increase in creditors		37	14
Use of provisions		0	(22)
Increase in provisions		2	-
Net cash (outflow) from operating activities		(615)	(761)

10. RELATED PARTY TRANSACTIONS

All expenses of the Tribunal are paid by the CS.

The President, Chairmen and the Members did not undertake any material transactions with the CS during the year.

COMPETITION SERVICE ANNUAL ACCOUNTS: YEAR ENDED 31 MARCH 2008

COMPETITION SERVICE: THE CERTIFICATE OF THE COMPTROLLER AND AUDITOR GENERAL TO THE HOUSES OF PARLIAMENT

I certify that I have audited the financial statements of the Competition Service for the year ended 31 March 2008 under the Enterprise Act 2002. These comprise the Operating Cost Statement, the Balance Sheet, the Cash Flow Statement, the Statement of Recognised Gains and Losses and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

RESPECTIVE RESPONSIBILITIES OF THE COMPETITION SERVICE, ACCOUNTING OFFICER AND AUDITOR

The Competition Service and Registrar as Accounting Officer are responsible for preparing the Annual Review, the Remuneration Report and the financial statements in accordance with the Enterprise Act 2002 and the Secretary of State for Business, Enterprise and Regulatory Reform's directions made thereunder and for ensuring the regularity of financial transactions. These responsibilities are set out in the Statement of Accounting Officer's Responsibilities.

My responsibility is to audit the financial statements and the part of the Remuneration Report to be audited in accordance with relevant legal and regulatory requirements, and with International Standards on Auditing (UK and Ireland).

I report to you my opinion as to whether the financial statements give a true and fair view and whether the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the Enterprise Act 2002 and the Secretary of State for Business, Enterprise and Regulatory Reform's directions made thereunder. I report to you whether, in my opinion, the information, which comprises the Introduction, the Registrar's

Statement, and the Management Commentary, included in the Annual Review is consistent with the financial statements. I also report whether in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

In addition, I report to you if the Competition Service has not kept proper accounting records, if I have not received all the information and explanations I require for my audit, or if information specified by HM Treasury regarding remuneration and other transactions is not disclosed.

I review whether the Statement on Internal Control reflects the Competition Service's compliance with HM Treasury's guidance, and I report if it does not. I am not required to consider whether this statement covers all risks and controls, or form an opinion on the effectiveness of the Competition Service's corporate governance procedures or its risk and control procedures.

I read the other information contained in the Annual Review and consider whether it is consistent with the audited financial statements. This information comprises the President's Statement, Activity by Case and the unaudited part of the Remuneration Report. I consider the implications for my report if I become aware of any apparent misstatements or material inconsistencies with the financial statements. My responsibilities do not extend to any other information.

BASIS OF AUDIT OPINIONS

I conducted my audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. My audit includes examination,

on a test basis, of evidence relevant to the amounts, disclosures and regularity of financial transactions included in the financial statements and the part of the Remuneration Report to be audited. It also includes an assessment of the significant estimates and judgments made by the Competition Service and Accounting Officer in the preparation of the financial statements, and of whether the accounting policies are most appropriate to the Competition Service's circumstances, consistently applied and adequately disclosed.

I planned and performed my audit so as to obtain all the information and explanations which I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the financial statements and the part of the Remuneration Report to be audited are free from material misstatement, whether caused by fraud or error, and that in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them. In forming my opinion I also evaluated the overall adequacy of the presentation of information in the financial statements and the part of the Remuneration Report to be audited.

OPINIONS

In my opinion:

- the financial statements give a true and fair view, in accordance with the Enterprise Act 2002 and directions made thereunder by the Secretary of State for Business, Enterprise and Regulatory Reform, of the state of the Competition Service's affairs as at 31 March 2008 and of its deficit for the year then ended;
- the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the Enterprise Act 2002 and the Secretary of State for Business, Enterprise and Regulatory Reform's directions made thereunder; and
- information, which comprises the Introduction, the Registrar's Statement, and the Management Commentary, included within the Annual Review is consistent with the financial statements.

OPINION ON REGULARITY

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

REPORT

I have no observations to make on these financial statements.

T J Burr
Comptroller and Auditor General
12 June 2008

National Audit Office
151 Buckingham Palace Road
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London
SW1W 9SS

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COMPETITION SERVICE ANNUAL ACCOUNTS: YEAR ENDED 31 MARCH 2008

COMPETITION SERVICE: OPERATING COST STATEMENT FOR THE YEAR ENDED 31 MARCH 2008

	Note	2007/08 £'000	2006/07 £'000
Expenditure:			
Funding the activities of the Tribunal		(615)	(761)
CS and Audit Committee Members' remuneration	3a	(12)	(11)
Staff salary costs	4a	(835)	(883)
Other administrative expenses	6	(2,128)	(1,986)
		(3,590)	(3,641)
Interest received	7a	45	33
Courtroom rental income	7b	21	0
		66	33
Net expenditure on ordinary activities before taxation		(3,524)	(3,608)
Taxation	8	(9)	(6)
Net expenditure on ordinary activities after taxation		(3,533)	(3,614)
Reversal of notional cost of capital included above	6	10	13
Net expenditure for the financial year		(3,523)	(3,601)

All activities were continuing during the year.

STATEMENT OF RECOGNISED GAINS AND LOSSES FOR THE YEAR ENDED 31 MARCH 2008

	Note	2007/08 £'000	2006/07 £'000
Net (loss)/gain on revaluation of tangible fixed assets	16	(3)	3
Recognised (loss)/gains for the year		(3)	3

The notes on pages 69 to 83 form part of these accounts.

COMPETITION SERVICE: BALANCE SHEET AS AT 31 MARCH 2008

	Note	31 March 2008 £'000	31 March 2008 £'000	31 March 2007 £'000	31 March 2007 £'000
Fixed Assets:					
Tangible fixed assets	9	211		395	
Intangible fixed assets	10	93		43	
			304		438
Current Assets:					
Debtors	11a	70		67	
Cash at bank and in hand	12	488		292	
			558		359
Creditors: amounts falling due within one year	13a		(262)		(245)
Net current assets			296		114
Total assets less current liabilities			600		552
Creditors: amounts falling due after more than one year	13a		(281)		(301)
Provisions for liabilities and charges	14		(2)		-
			317		251
Represented by:					
General fund	15		309		240
Revaluation reserve	16		8		11
			317		251

The notes on pages 69 to 83 form part of these accounts.



Charles Dhanowa OBE
Registrar and Accounting Officer
Competition Service
10 June 2008

COMPETITION SERVICE ANNUAL ACCOUNTS: YEAR ENDED 31 MARCH 2008

COMPETITION SERVICE: CASH FLOW STATEMENT FOR THE YEAR ENDED 31 MARCH 2008

	Note	2007/08 £'000	2006/07 £'000
Net cash (outflow) from operating activities	17a	(3,424)	(3,526)
Returns on investment and servicing of finance			
Interest received		45	33
Taxation		(6)	(8)
Capital expenditure and financial investment	17b	(8)	(62)
Financing			
Grant in aid from BERR	17c	3,589	3,372
Increase/(Decrease) in cash	12	196	(191)

The purchase of fixed assets represents the cash paid in year.

The notes on pages 69 to 83 form part of these accounts.

COMPETITION SERVICE: NOTES TO THE ACCOUNTS

1. STATEMENT OF ACCOUNTING POLICIES

These financial statements have been prepared in accordance with the 2007-08 FReM. The accounting policies contained in the FReM follow UK generally accepted accounting practice for companies (UK GAAP) to the extent that it is meaningful and appropriate to 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) Accounting convention

The financial statements have been prepared under the historic cost convention. As permitted by the 2007-08 FReM, tangible fixed assets are no longer revalued on an annual basis using indices. Depreciated historical cost is now used as a proxy for current value as this realistically reflects consumption of the assets. Revaluation would not cause a material difference.

(b) Basis of preparation of accounts

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

Schedule 3 of the Enterprise Act 2002 requires the CS to prepare separate statements of accounts in respect of each financial year for itself and for the Tribunal. There is therefore a statutory requirement to produce separate statements of accounts for the Tribunal and for the CS.

In accordance with Accounts Directions issued by the Secretary of State with the approval of the Treasury, the Tribunal and the CS have prepared a joint Statement of Accounting Officer's Responsibilities and Statement on Internal Control.

(c) Grant-in-aid

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

Grant-in-aid is treated as financing and is credited to the general reserve as it is regarded as contributions from a sponsor body.

(d) Fixed 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.

(e) Depreciation

Depreciation is provided on all fixed assets, using the straight line method, at rates calculated to write off, in equal instalments, the cost at the beginning of the year over its expected useful life. Fixed assets are depreciated from the month following acquisition.

TANGIBLE FIXED ASSETS:

Information Technology

- Desktop and laptop computers and printers 3 years
- Servers and audio visual equipment 5 years

Office equipment 5 years

Furniture 7 years

COMPETITION SERVICE ANNUAL ACCOUNTS: YEAR ENDED 31 MARCH 2008

The EDRM system was under construction as at last year end 2006/07. Depreciation has been charged from the month after July 2007, when the system became operational. The system has been split into Tangible and Intangible Fixed Assets in 2007/08.

INTANGIBLE FIXED ASSETS:

Information Technology

- Software licences 1 to 3 years

(f) Capital charge

In accordance with Treasury requirements, a charge reflecting the cost of capital utilised by the CS is included in operating costs. The charge is calculated at the Government's standard rate of 3.5% (2006/07: 3.5%) on the average value of items comprising capital employed over the year.

(g) Taxation

- The CS is liable for corporation tax on interest earned on bank deposits.
- 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, and VAT on the purchase of fixed assets is capitalised.

(h) Pension costs

Present and past employees are covered under the provisions of the Principal Civil Service Pension Scheme (PCSPS). The PCSPS is non-contributory (except in respect of dependants' benefits and additional employee contributions to the Classic and Premium schemes). The CS recognises the expected costs of these elements on a systematic and rational basis over the period during which it benefits from employees' services by payment to the PCSPS of amounts calculated on an accruing basis. 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.

No recognition of the PCSPS scheme occurs in the CS's

accounts as the liability to pay future benefits does not lie with the CS. The PCSPS is an unfunded, multi-employer defined benefit scheme and the CS is unable to identify its share of the underlying assets and liabilities.

(i) Operating leases

Rentals payable under operating leases are charged to the income and expenditure account on a straight-line basis over the term of the lease.

(j) Going concern

There is no reason to believe that future sponsorship from BERR will not be forthcoming within the capital and resource budgets set by Spending Review settlements and fluctuations in the level of workload. It has accordingly been considered appropriate to adopt a going concern basis for the preparation of these financial statements.

(k) Provisions

The CS provides 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.

2. GOVERNMENT GRANT-IN-AID

	2007/08 £'000	2006/07 £'000
Allocated by BERR	4,072	4,070
Drawn down	3,589	3,372

3. CS AND AUDIT COMMITTEE MEMBERS' REMUNERATION

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

	2007/08 £'000	2006/07 £'000
CS and Audit Committee members' remuneration	11	10
Social security costs	1	1
	12	11

(b) The President's salary costs are included in note 3 (a) of the Tribunal's accounts. The Registrar is also a member of the CS. His salary costs are included in note 4 (a) below.

Mrs Janet Rubin is a non-executive member of the CS. Mrs Rubin is also Chairman of the CS's Audit Committee and a member of the CS's Remuneration Committee. Mrs Rubin's appointment runs for four years until September 2011. Her appointment is not pensionable. Mrs Rubin is remunerated at a rate of £350 per day. Her remuneration of £5,950 in the year (2006/07: £4,725) is included in note 3 (a) above.

The Audit Committee's two other current Members are Mr Peter Clayton and Mr David Summers. Both are Tribunal Ordinary Members. Mr Clayton and Mr Summers are remunerated at a rate of £350 per day (2006/07: £350 per day). The total remuneration payable in 2007/08 of £5,600 (2006/07: £5,250) is included in note 3 (a) above.

COMPETITION SERVICE ANNUAL ACCOUNTS: YEAR ENDED 31 MARCH 2008

4. STAFF NUMBERS AND RELATED COSTS

(a) Staff costs comprise:

	Total 2007/08 £'000	Permanently employed staff 2007/08 £'000	Others 2007/08 £'000	Total 2006/07 £'000
Wages and salaries	649	626	23	683
Social security costs	55	55	-	61
Other pension costs	131	131	-	139
Total employee costs	835	812	23	883

(b) The average number of whole-time persons employed during the year was as follows:

	Total 2007/08	Permanent staff 2007/08	Others 2007/08	2006/07
Employed on cases	8	8	-	8
Support staff	9	9	-	9
Total	17	17	-	17

5. PENSION COSTS

The Principal Civil Service Pension Scheme (PCSPS) is an unfunded multi-employer defined benefit scheme but the CS is unable to identify its share of the underlying assets and liabilities. Further information can be found in the resource accounts of the Cabinet Office: Civil Superannuation (www.civilservice-pensions.gov.uk).

For 2007/08, employer contributions of £131,000 (2006/07: £139,000) were payable to the PCSPS at one of four rates in the range 17.1 to 25.5% (2006/07: 17.1 to

25.5%) of pensionable pay, based on salary bands. The scheme's Actuary reviews employer contributions every four years following a full scheme valuation. The salary bands and contribution rates were revised for 2005/06 and will remain unchanged until 2008/09. The contribution rates reflect benefits as they are accrued, not when the costs are actually incurred, and reflect past experience of the scheme.

6. OTHER ADMINISTRATION COSTS

	2007/08 £'000	2006/07 £'000
Hire of plant and machinery	13	13
Other operating leases	1,028	1,028
Consultants fees - not case related	25	16
Consultants fees - IT	81	71
Accommodation and utilities	476	380
Travel, subsistence and hospitality	24	28
Audit fees	21	21
Other administration including case related expenditure	307	274
General administrative costs	1,975	1,831
Non cash items:		
Net loss on revaluation	0	15
Depreciation	143	125
Loss on disposal of fixed assets	0	2
Notional cost of capital	10	13
Total non cash	153	155
Total costs	2,128	1,986

Other operating lease costs relate to the rental of office space at Victoria House, where the CS is a tenant of the Competition Commission under a Memorandum of Terms of Occupation (MOTO) arrangement. The MOTO is for the duration of the Competition Commission's 20-year lease with the Victoria House landlord, which commenced in September 2003.

Audit fees related only to statutory audit work.

In accordance with Treasury guidelines, notional interest payable on capital employed was calculated at 3.5% on the average capital employed by the CS for the year (2006/07: 3.5%).

COMPETITION SERVICE ANNUAL ACCOUNTS: YEAR ENDED 31 MARCH 2008

7A. INTEREST

	2007/08 £'000	2006/07 £'000
Gross interest received	45	33

Interest was received on funds deposited in the CS's bank accounts.

7B. COURTROOM RENTAL INCOME

	2007/08 £'000	2006/07 £'000
Courtroom rental income	21	-

8. TAXATION

	2007/08 £'000	2006/07 £'000
Corporation tax payable	9	6

Corporation tax payable is based on 20% of gross interest receivable (2006/07: 19%).

9. TANGIBLE FIXED ASSETS

	Information technology £'000	Furniture and fittings £'000	Office Machinery £'000	Assets Under Construction £'000	Total £'000
Cost or valuation					
At 1 April 2007	287	313	7	102	709
Additions	6	-	-	-	6
Transfers to IT	16			(16)	-
Transfers to Intangible				(86)	(86)
Disposals	(2)	-	-	-	(2)
At 31 March 2008	307	313	7	-	627
Depreciation					
At 1 April 2007	182	128	4	-	314
Charged in year	58	45	1	-	104
Disposals	(2)	-	-	-	(2)
At 31 March 2008	238	173	5	-	416
Net book value at 31 March 2008	69	140	2	-	211
Net book value at 1 April 2007	105	185	3	102	395
Asset financing:					
Owned	69	140	2	-	211
Net book value at 31 March 2008	69	140	2	-	211

COMPETITION SERVICE ANNUAL ACCOUNTS: YEAR ENDED 31 MARCH 2008

10. INTANGIBLE FIXED ASSETS

	Purchased software licences £'000
Cost or valuation	
At 1 April 2007	66
Additions	2
Transfers from Assets Under Construction	86
Disposals	-
At 31 March 2008	154
Amortisation	
At 1 April 2007	23
Charged in the year	38
Disposals	
At 31 March 2008	61
Net book value at 31 March 2008	93
Net book value at 1 April 2007	43

11. DEBTORS**(a) Analysis by type**

	31 March 2008 £'000	31 March 2007 £'000
Amounts falling due within one year:		
Deposits and advances	5	6
Other debtors	3	2
Prepayments and accrued income	62	59
	70	67

(b) Intra-government balances

	Amounts falling due within one year 2007/08 £'000	Amounts falling due within one year 2006/07 £'000	Amounts falling due after more than one year 2007/08 £'000	Amounts falling due after more than one year 2006/07 £'000
Balances with other central government bodies	12	13	-	-
Balances with bodies external to government	58	54	-	-
Total debtors at 31 March	70	67	-	-

COMPETITION SERVICE ANNUAL ACCOUNTS: YEAR ENDED 31 MARCH 2008

12. CASH AT BANK AND IN HAND

	2007/08 £'000	2006/07 £'000
Balance at 1 April	292	483
Net change in cash balances	196	(191)
Balance at 31 March	488	292

The following balances at 31 March were held at:

Office of HM Paymaster General	8	99
Commercial banks and cash in hand	480	193
Balance at 31 March	488	292

13. CREDITORS

(a) Analysis by type

	31 March 2008 £'000	31 March 2007 £'000
Amounts falling due within one year:		
Creditors of the Tribunal at 31 March	150	113
Taxation and social security	27	25
Trade creditors	4	14
Accruals	62	74
Deferred income	19	19
	262	245
Amounts falling due after more than one year:		
Deferred income	281	301

(b) Intra-government balances

	Amounts falling due within one year 2007/08 £'000	Amounts falling due within one year 2006/07 £'000	Amounts falling due after more than one year 2007/08 £'000	Amounts falling due after more than one year 2006/07 £'000
Balances with other central government bodies	236	179	281	301
Balances with bodies external to government	26	66	-	-
Total creditors at 31 March	262	245	281	301

(c) The deferred income in note 13a represents the value of the rent-free period for Victoria House.

In accordance with the principles of SSAP21 (Accounting for leases and hire purchase contracts) and the supplementary guidance specified in UITF abstract 28 (Operating lease incentives) the CS has spread the value of the initial nine month rent-free period for Victoria House over the expected full 20-year length of the tenancy agreement.

14. PROVISIONS FOR LIABILITIES AND CHARGES

	Long service award costs £'000
Balance at 1 April 2007	-
Provided in the year	2
Provisions utilised in the year	-
Balance at 31 March 2008	2

The provision made in the year relates to the expected cost of the President's long service award which shall become payable in his final month of service on retirement. The amount provided has been recharged to the Tribunal. The liability was calculated by the Government Actuary's Department and is based on his judicial grade and length of service.

COMPETITION SERVICE ANNUAL ACCOUNTS: YEAR ENDED 31 MARCH 2008

15. GENERAL FUND

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.

	2007/08 £'000	2006/07 £'000
Balance at 1 April	240	467
Net operating cost for the year	(3,523)	(3,601)
Transferred to general fund in respect of realised element of revaluation reserve	3	2
Net financing from BERR	3,589	3,372
Balance at 31 March	309	240

16. REVALUATION RESERVE

The revaluation reserve reflects the unrealised element of the cumulative balance of indexation and revaluation adjustments.

	2007/08 £'000	2006/07 £'000
Balance at 1 April	11	8
Arising on revaluation during the year (net)	-	5
Transferred to general fund in respect of realised element of revaluation reserve	(3)	(2)
Balance at 31 March	8	11

17. NOTES TO THE CASH FLOW STATEMENT

(a) Reconciliation of operating cost to operating cash flows

	Note	2007/08 £'000	2006/07 £'000
Net operating cost		(3,569)	(3,641)
Adjustments for non-cash transactions	6	153	155
(Increase) in debtors		(3)	(8)
(Decrease) in creditors		(7)	(10)
Use of provisions		-	(22)
Increase in provisions		2	-
Net cash (outflow) from operating activities		(3,424)	(3,526)

The creditors amount is net of non-operating expenses relating to corporation tax accrued at 31 March 2008.

(b) Analysis of capital expenditure

	2007/08 £'000	2006/07 £'000
Tangible fixed asset additions	(6)	(36)
Intangible fixed asset additions	(2)	(29)
Proceeds of disposal of fixed assets	-	3
Net cash outflow from investing activities	(8)	(62)

(c) Analysis of financing

	2007/08 £'000	2006/07 £'000
Financing from BERR	3,589	3,372
Net financing	3,589	3,372

COMPETITION SERVICE ANNUAL ACCOUNTS: YEAR ENDED 31 MARCH 2008

(d) Reconciliation of net cash flow to movement in net funds

	2007/08 £'000	2006/07 £'000
Increase/(Decrease) in cash in the year	196	(191)
Net funds at 1 April	292	483
Net funds at 31 March	488	292

The change in net funds is due entirely to cash flows of cash in hand and at bank.

18. COMMITMENTS UNDER OPERATING LEASES

Commitments under operating leases to pay rentals during the year following the year of these accounts are given in the table below, inclusive of VAT analysed according to the period in which the lease expires.

	2007/08 £'000	2006/07 £'000
Obligations under operating leases comprise:		
Land and buildings:		
Expiry within 1 year		
Expiry after 1 year but not more than 5 years		
Expiry thereafter	1,163	1,028
Other:		
Expiry within 1 year		
Expiry after 1 year but not more than 5 years	13	13
Expiry thereafter	-	-
	1,176	1,041

The obligations under operating leases include an increase of 2.5% compounded over five years equating to 13% applied from September 2008 for land and buildings. The footnote to note 6 gives further details of the lease arrangements in respect of land and buildings.

19. FINANCIAL INSTRUMENTS

FRS 13, Derivatives and Other Financial Instruments, requires disclosure of the role which financial instruments have had during the period in creating or changing the risks an entity faces in undertaking its activities. The CS has limited exposure to risk in relation to its activities. As permitted by FRS 13, debtors and creditors which mature or become payable within 12 months from the balance sheet date have been omitted from this disclosure note.

The CS has no borrowings and relies on grant in aid from BERR for its cash requirements, and is therefore

not exposed to liquidity risks. The CS has no material deposits other than cash balances held in current accounts with the Office of HM Paymaster and at a commercial bank, and all material assets and liabilities are denominated in sterling, so it is not exposed to interest rate risk or currency risk.

Set out below is a comparison by category of book values and fair values of the CS's financial assets as at 31 March 2008.

	Book value £'000	Fair value £'000
Cash at bank	488	488

20. RELATED PARTY TRANSACTIONS

During the year the CS had various material transactions with the Competition Commission relating to provision of IT support to the CS and the occupancy of Victoria House.

The CS's sponsor department is BERR from which it receives grant-in-aid. During the year the CS also had various other material transactions with BERR including pension administration and internal audit services.

In addition, the CS had material transactions with the Ministry of Justice and the Cabinet Office to which

accruing superannuation liability charges and employee contributions were paid over for the President and permanent staff respectively. The salary and National Insurance for the President are paid to the Ministry of Justice. During the year, CS received income in respect of court rental from HM Courts Service.

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

21. POST BALANCE SHEET EVENTS

There were no post balance sheet events to report.

The financial statements were authorised for issue by the Accounting Officer, Charles Dhanowa, on 12 June 2008.

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