



Competition Commission

Annual Report and Accounts for the year ended 31 March 2007

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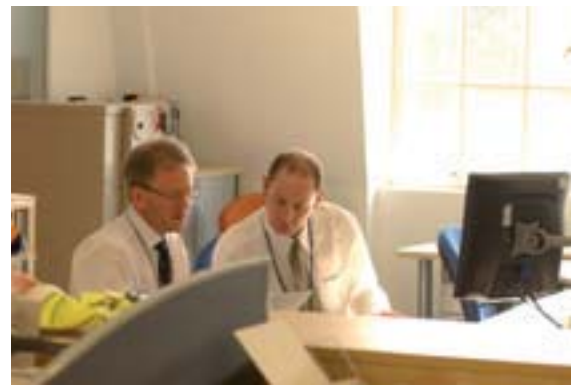
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Chairman's foreword & Chief Executive's Report



# Chairman's foreword

Peter Freeman Chairman



One of the major factors in the relative success of the UK economy over the last few years has been the extent to which competitive markets have been allowed to flourish. Competition encourages companies to innovate and keep prices low, and to develop and provide the range and quality of goods and services that consumers want. It is vital that we do not take the benefits of competition for granted. The alternative—the effects of weak competition—would soon be obvious in terms of higher prices and less choice for consumers, and fewer chances for innovative companies to start and grow.

Our focus as a competition authority is clear, and our strict remit does not allow us to confuse this role with some of the wider public issues the old Monopolies and Mergers Commission used to consider. While we retain specific public interest functions in media and defence, we are essentially a competition authority, and any balancing of competition policy against wider public interest issues and social concerns is best dealt with by Ministers accountable to Parliament rather than by us. So, together with our colleagues in the Office of Fair Trading (OFT) and the sectoral regulators, we will continue to work in markets, mergers and regulation to maintain a competitive UK economy where markets operate to the benefit of consumers and efficient businesses.

I said last year that the Competition Commission (CC) had changed out of all recognition in the past

decade and it must now change further. The pressures of maintaining our thorough and transparent investigation process—as competition analysis gets even more complex and sophisticated—mean that we cannot afford to stand still. The CC Council has therefore put in hand a comprehensive review of all the workings of the CC, how we are structured, how we do our job, what process and techniques we use and how our people—members and staff—can best work together to become even more efficient and effective. This review has already highlighted many areas where ‘best practice’ can get even better, and the distinctive qualities of the CC in terms of:

- the independence of the CC and its members;
- the active involvement of members in investigations;
- companies’ access to decision-makers; and
- the thoroughness and transparency of CC processes.

This means our decisions are seen as understandable and authoritative. While some change will follow the Council’s Review, these basic features will not change.

Turning to individual cases, the CC moved confidently to build on the firm base established in previous years. We completed three market investigations and nine merger inquiries, and we

were engaged in another twelve cases at the end of the year. Although several of these cases were of major significance, the cumulative effect of the CC’s work is as important as any single decision.

In markets, the Home Credit market investigation will help the position of some 2 million people who borrow small amounts of money, many of whom are on low incomes. Our work on this case has highlighted potential savings to consumers of at least £75 million a year. The major investigation into Grocery Retailing, started this year, covers a market worth some £120 billion of annual sales.

Some of our work on mergers aroused considerable public interest over the year, including the merger of HMV/Waterstone’s and Ottakar’s in the bookselling and publishing world. The Stagecoach/Scottish Citylink decision, involving a completed joint venture over two sets of long distance coach routes, aroused political and media interest when we required divestment of part of the business.

Our remit—and hence our inquiries and investigations—covers the whole of the UK. We have visited and held hearings in Northern Ireland, Scotland and Wales besides having contact with consumer groups, officials and elected representatives throughout the UK.

Two matters are continuing to cause some concern. First, the UK is unusual in having a voluntary system of merger control which enables

# Chairman's foreword (continued)

merging parties to make their own assessment of whether or not to notify the OFT about a merger (proposed or completed). This means that the OFT and ourselves may be faced with a situation (as in the Stagecoach case) where we are looking at a merger which took place some months previously and where major changes have already been made.

We have the power to order interim measures where a merger has been completed before it gets to us and where we have concerns that we may not have an effective remedy unless stop or hold separate measures are put in place. I am glad to say that the Competition Appeal Tribunal supported us, and confirmed the wide extent of our powers, when we did this in the Stericycle International/ Sterile Technologies case. We trust that this sent a strong signal to other companies who are thinking of completing their merger in advance of regulatory clearance. The OFT has also made greater use of interim measures. But interim measures are not a complete answer as the 'horse' may already have bolted by the time the measures are imposed. We are considering what more can be done; one option is compulsory pre-notification of mergers, but this would involve legislation. We appreciate this is not a straightforward issue and any change might also involve the removal of the present share of supply test.

The second concern is in relation to our regulatory work. Despite the importance of the CC's role as an appeal body in regulatory price

control and other decisions, the CC has not been required to act in this capacity for some time. Although we have recently received two market investigation references (Rolling Stock Leasing and Airports) in regulated sectors, and the compulsory quinquennial reference from the CAA of the London Airports price control, it is important for the strength and credibility of the regulatory framework and for the interest of consumers that other settlements reached by regulators and regulated companies in key sectors are from time to time tested by the CC.

We continue to operate as part of the regional (EU) system of competition enforcement and play as large a role as possible in the networks coordinated by the European Commission's Directorate General for Competition (DG Comp). We have been able to share some of our experience of the market investigations with DG Comp and other authorities. We continue to play a full part in the work of the OECD and the International Competition Network (ICN) and to maintain strong bilateral links with our colleagues in the other competition authorities around the world.

In terms of people, I am very pleased to welcome Dr Peter Davis, a distinguished economist, as our third Deputy Chairman. I also have to say farewell to members on the expiry of their terms of appointment, Nicholas Garthwaite, Graham Hadley and Professor David Parker. Among departing senior staff, I note

particularly the move by one of our Inquiry Directors (John Kirkpatrick) to a senior position in the Audit Commission, reflecting the high regard in which our Inquiry Directors are held. I thank them all, members and staff alike, for their hard work and commitment to the CC. And I mark with sadness, but with great admiration for his contribution, the death of a member, Jeremy Seddon, a most distinguished contributor to the CC—and to many other parts of the UK's commercial and financial life. His common sense and good humour are sorely missed.

# Chief Executive's Report

Martin Stanley Chief Executive



As the Chairman has said in his report, we continue to work to improve efficiency in our use of resources, to review and improve our decision-making processes and, where appropriate, to reduce the burden we impose on the companies we investigate.

## *Efficiency: outputs*

Timings of merger referrals from the OFT, and a slight lull in our market investigation activity, led to a small reduction in average workload this year.

However, we completed several major inquiries and we estimate the extra costs that customers would have paid, were it not for our decisions this year, at £322 million, bringing the total since April 2004 to around £636 million, of which around three-quarters arises from our market investigations. This total compares well with our costs, as can be seen in the chart on page 8.

Looking forward, we see opportunities to improve the impact and quality of our workload yet further as the OFT consults on increases in its merger de minimis referral threshold. We would also welcome a review of the jurisdictional thresholds in the Enterprise Act, and in particular the appropriateness of the share of supply test, which has led to our being referred some relatively small mergers. We recognize the public interest in protecting consumers from exploitation by monopolies of any size and in any market, but it is far from clear to us that it makes sense

to deploy the full might and expense of the CC (to the taxpayer and to the affected companies) in every small case.

## *Efficiency: inputs*

I reported last year that we were making significant efforts to manage and, where possible, reduce our costs and I am glad to report that we have reversed the previous upward trend in total expenditure.

Much of this improvement can be attributed to colleagues working more flexibly at all levels within the organization, including making themselves available on secondment to other organizations during quiet periods. This has led to our maintaining our cost per inquiry-year even though our workload fell, so requiring us to distribute our fixed costs over a smaller number of inquiries.

## *Improving decision-making*

I reported last year that we were developing a number of new 'streamlined' procedures for the more straightforward merger inquiries. These generally worked well, so we are rolling them out, when appropriate, to a wider range of inquiries. Our Council has also embarked upon a rather deeper review of the way CC members and staff interact, how we carry out inquiries and how we analyse the mergers and markets which we investigate. We will report further next year but one trend is already clear: a significant improvement in the way we

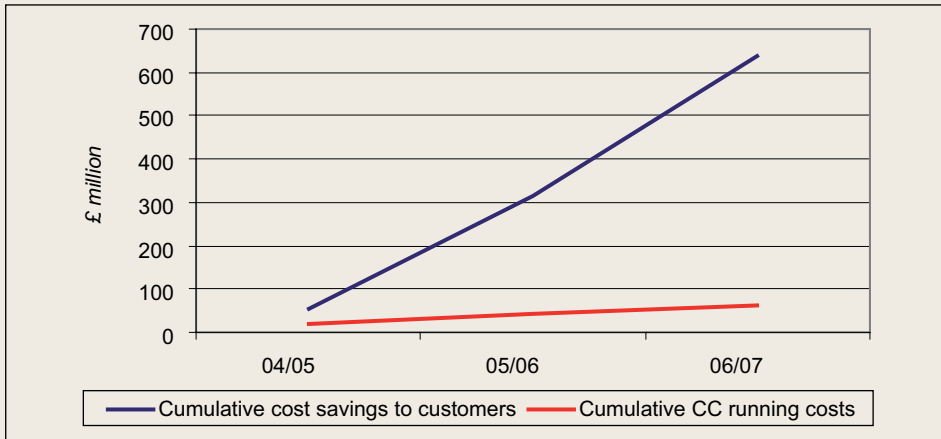
deploy economics, data analysis and, where appropriate, econometrics.

We organize our inquiries firmly around the collection and analysis of data, rather than the collation of opinion. This approach requires us to adopt the discipline of identifying 'theories of harm' early on in the inquiry. We are increasing the extent to which we conduct complex analysis of underlying data. Alongside this, we aim to collect more documents and other data which were not prepared especially for the purposes of our inquiries. While we will continue to seek submissions from companies, we intend to give slightly greater weight in future to ensuring we obtain pre-existing evidence of the advantages and disadvantages of particular transactions. So we go where the facts lead us, applying the most advanced economic theory alongside a careful consideration of the complex ways that firms and consumers actually behave.

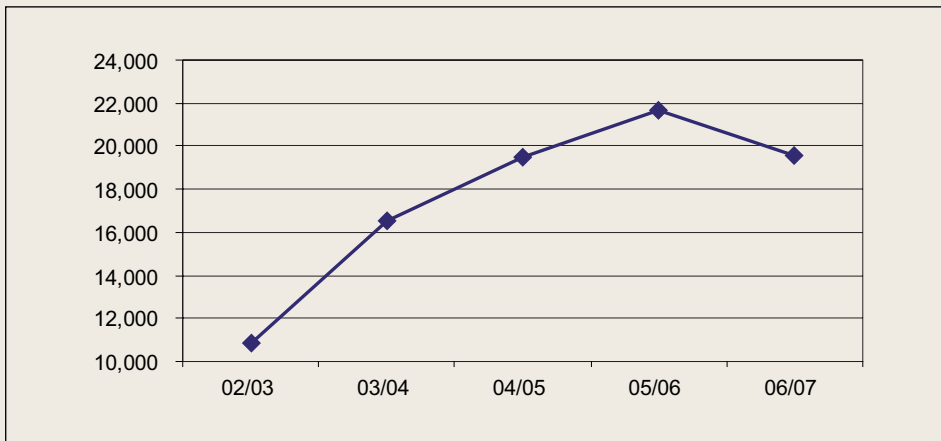
We recognize that when we put remedies in place, there may be no data that can tell us precisely how they will work. We need to know more about the advantages and disadvantages of our toolkit of potential remedies. Companies which face limited competition often argue that competition can be improved if customers are simply given much more information. But others, and not least regulators such as the Financial Services Authority, tell us that too much information can confuse rather than educate. We recognize this is a complex area and we are accordingly



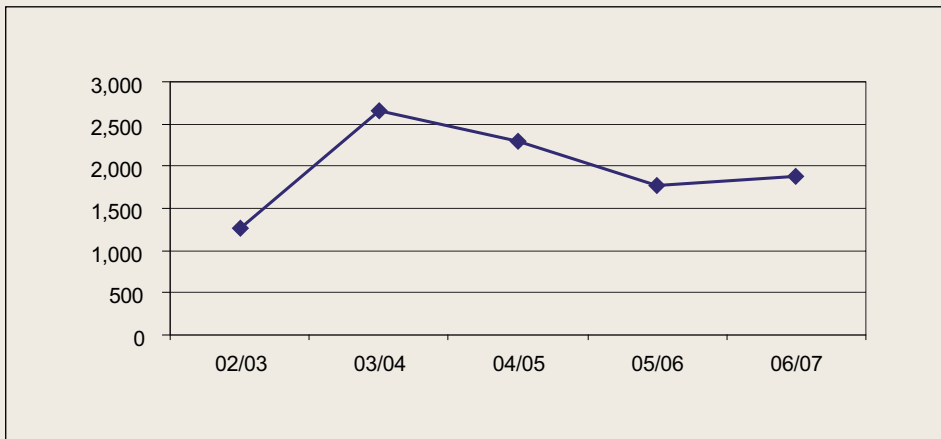
# Chief Executive's Report (continued)



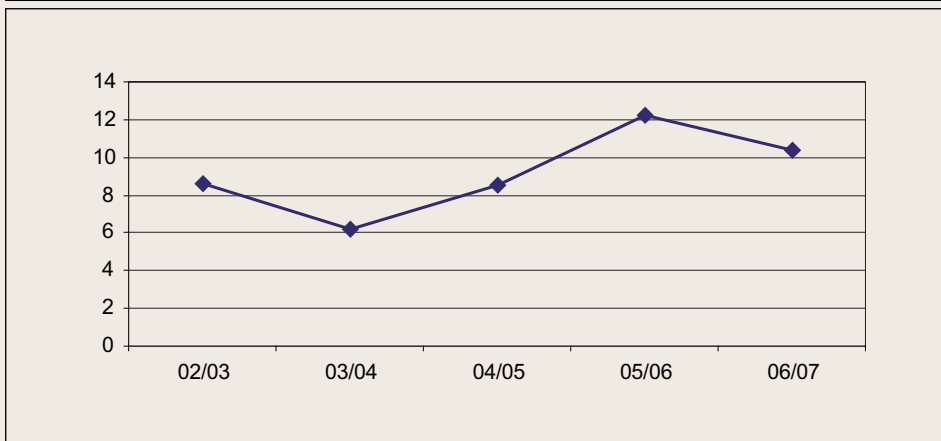
CC running costs and savings to customers



CC costs £'000 excl unoccupied property



Cost/inquiry-year £'000 excl unoccupied property



Annual workload (inquiry-years)

Note: We have this year recalculated the workload figures in the charts on page 8 to allow for the extra work associated with completed mergers. This has not made a significant difference to the overall trends demonstrated in these charts. In 2003 we took on new responsibilities to negotiate detailed remedies after we have completed our formal inquiries. We are also responsible for reviewing previous remedies packages after the companies concerned have applied to the OFT to be released from undertakings, or to have their undertakings amended to allow for changes in business circumstances. This work requires significant resources which are not yet adequately reflected in our workload statistics. We hope to improve the measurement of this work before we report in 2008.

supporting some interesting research in this area being led by colleagues in the OFT and the Better Regulation Unit. We have also started to look back at remedies in past CC cases, to see what can be learnt from how they have performed, and we are interested in ex-ante evaluation of proposed remedies where such evidence can be provided by parties during an investigation.

#### ***Reducing Burdens on Business***

The Chairman has raised the possibility that a pre-notification requirement for mergers might need to be considered, to deal with the problem of mergers referred to us after they have been completed. This would in turn put the share of supply test (which enables smaller merger cases to be referred to us) under scrutiny. The combined effect of such changes could be to lessen the burden on business and their senior managers.

I am also very aware that we are nowadays seeing many more completed mergers; written submissions are now much longer than in the past (one recent London airports price control submission was ten times the length of the equivalent submission five years earlier), there are increasing delays in submitting information, and temptation from some parties to want to pursue an endless cycle of argument and counter-argument whenever they disagree with a CC conclusion. It follows, I think, that companies and their advisers will need to play their own part in avoiding unnecessary

bureaucracy and private sector expenditure.

#### ***Effectiveness***

In order to take forward the initiatives outlined above we have a number of work streams, each supervised by a council subgroup and charged with evaluating the quality and effectiveness of various aspects of our work. Summaries from those involved in each work stream can be found in the following section.

Objectives and work streams in 2006/07



# Objectives and work streams

## *The role of the Competition Commission (CC)*

The CC is an independent non-departmental public body. It conducts in-depth inquiries into mergers, markets and the regulation of the major regulated industries (relating to sectors such as utilities, postal services, railways, airports, air traffic control and financial services).

Most inquiries are undertaken in response to a reference made to the CC by another authority: usually the OFT but in certain circumstances the Secretary of State, or by the regulators under sector-specific legislative provisions relating to regulated industries. The CC also conducts appeals in respect of modifications to the codes covering the energy industry. The CC has no power to conduct inquiries on its own initiative. It undertakes inquiries only where serious competition problems are thought to exist: the OFT investigates around 200 mergers a year, of which it refers around 15 cases to the CC. If the CC finds there is a substantial lessening of competition resulting from a merger, or that features in a market cause an adverse effect on competition, it can seek to remedy the problems identified, for example by blocking a merger, requiring a firm to adopt certain forms of behaviour or requiring a firm to divest some of its functions.

Each inquiry is undertaken by a group of members, who are supported by staff. Members are appointed by the Secretary of State for Trade and Industry for an eight-year term following open competition. They are appointed for their individual experience, ability and diversity of background, not as representatives of particular organizations, interests or political parties. The Chairman of the CC is also a member of the CC and chairs the Council (the strategic management board). The Council also includes the Deputy Chairmen, the Chief Executive, and two non-executive Council members.

## Key performance indicators; the CC's objectives and work stream summaries

In April 2005, the CC agreed the following key performance indicators (KPIs) with the Department of Trade and Industry (now known as the Department for Business, Enterprise & Regulatory Reform, and referred to hereafter as 'the DBERR'):

- to monitor the level of satisfaction of the CC's stakeholders as surveyed annually by an independent third party;
- to commission a peer review, which assesses the CC's performance against the objectives of being a world-class competition authority and carried out by independent consultants (every three years; the more recent review was published in June 2007); and
- to monitor the CC's financial performance as measured by budget compliance and progress in achieving annual efficiency improvements.

## The CC's stakeholders' survey

The CC in conjunction with the DBERR is in the process of conducting an independent stakeholders' survey for 2007. This year's review aims to build on the experience of previous survey experience and improve the quality, depth and size of assessment. The CC aims to publish this stakeholders' survey by the end of 2007.

## DBERR peer review of competition policy, June 2007

The DBERR, through its Public Service Agreement with Her Majesty's Treasury (HMT), has a target to have a competition regime that is among the best in the world by 2008. In order to measure the success in meeting this target, the DBERR commissioned peer reviews of the position of the UK relative to leading international economies in April 2001, May 2004 and now March 2007. The review covered the competition regime as a whole (the OFT, the CC and the Competition Appeal Tribunal (CAT)) rather than individual authorities.

The approach was to conduct a fairly broadly-based survey of around 300 competition policy experts worldwide, who were asked to compare the UK and other competition authorities on a number of criteria. This was used to compile an index of overall performance

(the 'CRPI'). Separate indices were calculated for merger and non-merger performance. The CRPI index provides a relative ranking of competition authorities, using DG Comp as a benchmark. The survey was followed up with some qualitative research with a smaller sample of respondents (around 25) who commented in more detail to the survey results.

The 2007 results show that the UK is still ranked as one of the top three global competition regimes behind the USA and Germany but ahead of the EU, and the UK and Germany are ranked much more closely than in 2003/04. In summary, the UK comes out slightly stronger on mergers; Germany comes out slightly stronger on non-mergers; Germany comes out marginally higher overall. The UK is perceived as having very different core strengths from Germany, however, with the UK scoring relatively highly on economic and legal analysis and Germany scoring highly on clarity of procedures and political independence.

The full report can be found on:

<http://www.dti.gov.uk/bbf/competition/policy/reviews/page39860.html>

The results of the Global Competition Review 2006 have also supported the DBERR target for the UK competition regime to be among the best in the world. The CC came joint first with '5 stars' when ranked against over 30 global competition authorities.

### Financial performance and annual efficiency improvements

The DBERR monitors the CC's financial performance against its budgets at regular meetings throughout the year and the CC has been praised for its ability to cut costs without cutting quality. More detailed information about efficiency savings can be found in work stream 1 and 2 in the next section.

The Corporate Plan 2006/07 divided the CC's work into six work streams:

- investigations;
- resources;
- analysis;
- remedies;
- process; and
- contribution to the competition regime.

We use these work streams to identify and manage the operational objectives of the CC. The next section reports on the key issues being addressed by the work stream groups and the main outcomes achieved this year; the table at the beginning of each work stream contains the highlights.

## Work stream 1

Objective: To carry out investigations and publish decisions within the time limits

<i>Key issues for 2006/07</i>	<i>Outcome</i>
Provisional findings are published on average by week 15 in merger inquiries	Provisional findings published on average by week 16.4
Compliance with the statutory timetable for merger inquiries. Publication of final report by week 24, with no more than two inquiries having an extension	Three extensions, all on completed merger inquiries
Market inquiries are completed within the two-year statutory deadline	Three market investigations were published, all completed within two years
Manage an increase in workload with the same or fewer resources. Assuming the CC workload is an average of ten inquiries a month, the average cost of an inquiry will remain the same or decrease	Achieved an average of ten inquiries a month in 2006/07 and spent less than original budget

## Numbers and types of references

The majority of the CC's resources are devoted to carrying out in-depth investigations of matters referred by the OFT and the sectoral regulators. A significant feature of the CC's workload is its unpredictable nature, as shown in the Annual workload figure on page 8. The figure summarizes the number of active inquiries year by year over the past five years. Our planning assumptions for 2006/07 were that there would be an average of ten inquiries under way every month, including market investigations, merger inquiries and regulatory inquiries, at a cost of around £20 million. The CC did indeed have around ten inquiries under way every month while spending less than the original budget.

## Market investigations

The CC published three market investigation reports:

- Domestic Bulk LPG, published on 29 June 2006.
- Home Credit, published on 30 November 2006.
- Classified Directory Advertising Services, published on 21 December 2006.

As a result, the parties will implement a variety of measures. A summary of each inquiry and the remedies imposed by the CC can be found on pages 24 to 39. At the end of the financial year (March 2007), the CC was working on a further four ongoing market investigations—personal current account banking services in Northern Ireland; groceries; payment protection insurance; and BAA airports. The CC published its final report on Northern Ireland Banking on 15 May 2007. The CC published its Emerging Thinking on the investigation into the groceries market on 23 January 2007.

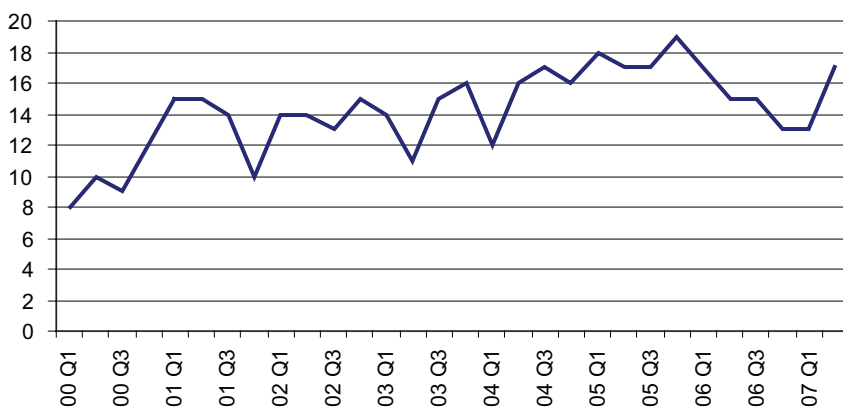
## Merger investigations

Table 1 indicates the number of merger inquiries for 2006/07. The references related to a range of sectors from clinical waste to live music entertainment venues. Figure 1 shows a clear upward trend in the annual merger reference rate over the past six years, with a gradual dip during 2006 but a steady rise in workload in 2007.

**Table 1**

<i>Workload</i>	<i>Number of mergers</i>	<i>Outcome</i>
Merger inquiries received 2006/07	13	
Merger inquiries continuing from 2005/06	5	
Merger inquiries cancelled in 2006/07	3	
Merger inquiries completed in 2006/07	9	5 SLC found
Merger inquiries continuing into 2007/08	6	

**Figure 1** Mergers: OFT referral rates (rolling 12-month totals)



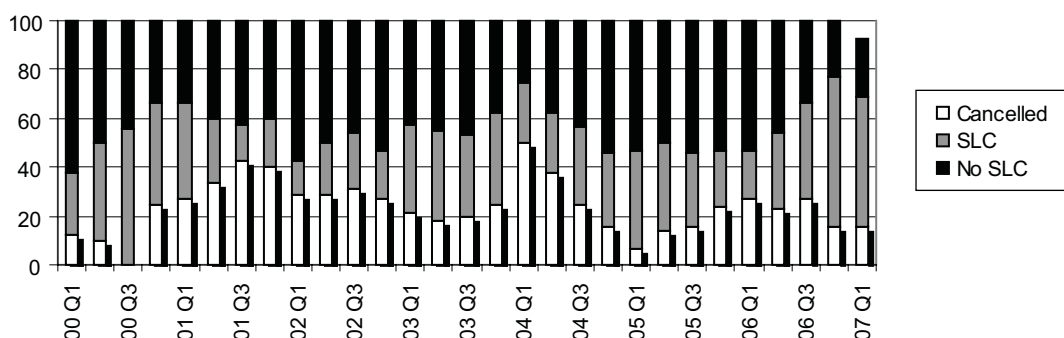
The average time taken during the year to publish provisional findings on merger references was 16.4 weeks. There were extensions to the statutory time limit to report on three merger references: EWS Railway Holdings/Marcroft Engineering; Stagecoach/Scottish Citylink; and Stonegate Farmers Ltd/Deans Food Group Ltd. Extensions to these three inquiries were due to a variety of extenuating circumstances including: a significant amount of new evidence that emerged after the publication of the provisional findings; delays caused by the parties when sending data; conducting hearings and site visits in Scotland; and complex remedy options that necessitated significant further analysis and consultation. All three inquiries related to mergers that were already completed when referred to the CC.

The interim remedies in the Stericycle International LLC/Sterile Technologies Group Ltd merger inquiry were subject to an appeal to the CAT. The CAT upheld the interim remedies. Despite these complications, an extension was not sought on this merger inquiry.

Of the nine inquiries reported, four mergers were cleared, while the CC found a substantial lessening of competition (SLC) in five cases. The CC put in place structural or behavioural remedies in all cases; no mergers were blocked completely. Figure 2 shows the clearance rate<sup>1</sup> of mergers. Summaries of the published reports are given on pages 24 to 39 and a full list of all inquiries in the financial year 2006/07 is shown on page 23.

<sup>1</sup> The clearance rate is defined as the number of completed inquiries in which there was no finding of an SLC, compared with all mergers referred to us.

**Figure 2** SLCs etc rolling 12-month totals



### Regulatory inquiries and Appeals

The CC received two regulatory inquiries towards the end of the financial year, the Heathrow and Gatwick quinquennial reviews; the CC has six months to complete these inquiries. One Energy Code Modification Appeal was received in April 2006 but the party withdrew its application within three weeks of submitting it to the CC.

### Work stream 2

Objective: The CC will make efficient and effective use of all its resources; have high-quality staff and a safe and healthy working environment

Key issues for 2006/07	Outcome
Deliver further efficiency savings across the corporate services directorate: a goal of 15% savings for 2006/07	Achieved 7% saving across corporate services directorate
Improve the level of service provided by corporate services to the CC	Service level agreements (SLAs) are now in place for most corporate service teams; further work scheduled in 2007/08
Improve internal communications	Introduced weekly staff bulletins, monthly Chief Executive seminars and new Intranet
Make the best use of inquiry staff	<ul style="list-style-type: none"> <li>New role—Head of Inquiry Support—to coordinate inquiry administration teams, Inquiry Support Unit and Information Centre</li> <li>New line management system</li> </ul>

This work stream ensures that the CC's resources are well managed. Responsibility for delivery of many objectives in this work stream lies with the Corporate Services department and is led by the Director of Corporate Services.

### Efficiency savings and budgets

The CC continues to prioritize efficiency savings. The CC's goal of 15 per cent savings across corporate services was a particularly challenging target given the 20 per cent savings generated in 2005/06. We are pleased to report that we have reduced corporate services costs by a further 7 per cent in 2006/07.



## Internal communications

The CC aimed to increase the effectiveness of internal communication across the organization in 2006/07. The 'Weekly Bulletin' staff newsletter, monthly 'Chief Executive Update' seminars and the new CC Intranet are the primary outcomes of this work and are all now an established part of the CC's operations.

The annual benchmarking survey in February 2007 asked eight questions about communication. The response showed that improvements had been made in five areas: overall improvement; message delivery; timely distribution of corporate news; line managers' competency; and senior team competency. The CC is now working to sustain improvements in these areas and agree how to improve performance in the three areas where a small decline in confidence was indicated: opportunity to give views and feedback; confidentiality; and feeling informed.

## Inquiry Support

The new Head of Inquiry Support role was introduced to coordinate the activities of the inquiry administration teams, Inquiry Support Unit, Publishing and Information Centre. As part of this work, SLAs were introduced to monitor the workload and achievements of the administration staff outside of the inquiry administration teams. The SLAs are reviewed each month with Service Improvement Plans introduced and agreed where needed. A new line management system was introduced to provide direct line management supervision within the inquiry team structure. This has provided better support to staff through closer line management, developmental opportunities and feedback.

## Our people and the working environment

The CC's people continue to be its key asset. Further improvements to the working environment have been made in the following areas:

- The CC continuously reviews policies and procedures in order to keep pace with changes to employment legislation and provide a level of flexibility to operate effectively. Provisions for maternity leave, equal employment status of casual workers, absence management and recruitment were among the priority policy areas for 2006/07. Documentation has also been updated to account for the reintroduction of probation and a project is planned for 2007/08 to update the Employee Handbook and all staff terms and conditions.
- The CC has implemented changes to its pre-employment screening of staff and contractors in accordance with the Government's good practice guidelines: Baseline Personnel Security Standard. This means the CC has better controls in place when recruiting new staff and has introduced a higher level of pre-employment screening, including checking some criminal record declarations.
- Inquiry administration staff are now located in their inquiry teams and moves now occur routinely as teams are formed and expanded. This co-location provides better communication within inquiry teams as well as better utilization of the floor space.
- All members and senior staff are afforded greater flexibility with remote and home-working solutions in place.

### Work stream 3

Objective: to ensure that the CC makes the right decisions

<i>Key issues for 2006/07</i>	<i>Outcome</i>
Commission a review by an external body of the CC's overall effectiveness	Progressed the 'Analytical procedures review' of Enterprise Act merger cases. Commissioned research (to report in 2007/08) into the CC's use of quantitative techniques and use of stock market data
Help stakeholders and others understand how the CC reaches its decisions	Papers and speeches published
Conduct evaluation of all inquiries we complete	All inquiries reviewed on completion. Feedback from members and parties. Ex post review of CC past cases will be published in 2007
Thorough analysis of provisional findings	Established an internal system for peer review by economists and lawyers within inquiries to ensure all aspects of decision-making in provisional findings are reviewed by staff
Establish a permanent system for ex post review	Agreed to commission external studies to review a batch of around six inquiries at a time

Work stream 3 is concerned with the CC's analysis: both the quality of the analysis within inquiries, and evaluation and quantification of the CC's activities.

#### Sharing knowledge

We run a number of internal and external events to test and improve the quality of the CC's analysis and spread best practice. At 'analysis seminars', staff and members come together to discuss experience of cross-cutting issues on inquiries. This year analysis seminars were held on, for example, the topics of market entry, profitability analysis, vertical mergers and the role of consumer information in competition policy. We also held internal staff seminars on topics such as coordinated effects, held economics seminars with external speakers from academia and consulting and established a new series of economics seminars at which we invite academics to present and discuss the latest work in industrial organization. We also published two discussion papers, one on price discrimination and one on surveys, along with a collection of speeches by our late Chairman, Professor Paul Geroski.

#### Evaluating our work

In order to improve the quality of our analysis, we aim constantly to evaluate the work being done by the CC. This year we established an internal system of peer review by lawyers and economists. We carry out a full internal review of every case, about one month after publication of the final report, at which issues potentially relevant for other inquiries or needing further research are identified. Externally, we have commissioned a review of our use of quantitative techniques by an academic economist and plan to commission a major review of past CC cases in the next financial year. Finally, this is the second year in which we have attempted to estimate the benefit to consumers that our decisions are designed to address, when we take action against a merger or to remedy adverse effects on competition in a market. As stated in the Chief Executive's report, we completed several major inquiries and we estimate the extra costs that customers would have paid, were it not for our decisions this year, at £322 million, bringing the total since April 2004 to around £636 million, of which around three-quarters arises from our market investigations.

## Work stream 4

Objective: To ensure that the CC takes the right remedial action

<i>Key issues for 2006/07</i>	<i>Outcome</i>
Research the effectiveness of UK remedies	Published (January 2007) a study into remedies on four past merger cases
Develop and refine a remedies toolkit	A first draft of the remedies toolkit was produced in the first half of the year. This is now being used in trial form by staff and is being developed further.  The database of undertakings and orders is in operation
Develop procedures and guidance	Further guidance on remedies will be published in parallel with revised merger guidance and will cover the full spectrum of merger remedies. This is planned for 2007/08
Improve the remedies process	The outcomes and learning points of the first four cases to be researched were the subject of training seminars with staff and members in June 2006. The case studies were published on the CC website in January 2007
Make guidance available to staff and external parties	Revised guidance for interim measures and template interim undertakings was published in June 2006 following a period of public consultation
Undertake training and knowledge transfer	Input on remedies issues has been provided to training seminars for members and staff throughout the year

The overall aim of this work stream is to develop the CC's remedies approach and procedures in accordance with leading standards and to ensure effective sharing of remedies expertise and developments with members and staff. The CC's Remedies Standing Group (RSG) is responsible for the governance of this work stream and considers issues of policy, reviews learning points arising from inquiries and considers findings from remedies research and developments in international practice.

### Developing the CC's approach to remedies

The CC places a high priority on learning from current and past experience on remedies. In January a study into the implementation and effectiveness of remedies in four past CC merger inquiries was published on the CC website. Throughout the year, learning points regarding remedies were considered by the RSG on completion of relevant cases and incorporated in current procedures and policy.

A first draft of a summary guide to remedies (a remedies toolkit) was produced during the year and is now being used in trial form and is being developed further.

### Published guidance

Revised guidance for interim measures and template interim undertakings were published during the year following a period of public consultation. Interim undertakings are generally required by the CC on all references of completed mergers in order to protect possible remedial action.

### Practical application

In 2006/07, the CC implemented its first remedies on market inquiries under the Enterprise Act. The CC put in place the measures required by the Store Cards inquiry by means of an Order, and remedies from the inquiry into Classified Directory Advertising Services were implemented by the acceptance of undertakings offered by Yell plc.

Remedies were required on five merger inquiries reporting during the year (Stericycle/Sterile Technologies; EWS/Marcroft; Hamsard/Academy; Stagecoach/Scottish Citylink; and Switzer/Wijsmuler/Adsteam) and in all cases divestiture measures were sought. In the Stericycle inquiry, the main party appealed to the CAT regarding aspects of interim measures required by the CC. The CAT upheld the CC's approach and dismissed Stericycle's application for review of interim measures.

### Work stream 5

Objective: To ensure that the CC has first-class procedures that will enable it to conduct inquiries efficiently and effectively, to be fair to all parties, transparent and consultative

<i>Key issues for 2006/07</i>	<i>Outcome</i>
Implement lighter inquiry processes and ways of working on simple merger inquiries	Templates and staff guidance on streamlined processes completed, and lighter processes were piloted
Implement improvements to market inquiry procedure following review	Review of procedures in progress. Lessons learned from early market investigations are being captured and passed on to teams conducting new investigations
Guidance for staff on conduct of regulatory inquiries	Experience gained in conducting quinquennial Airports Act investigation will inform preparation of templates and guidance
Continue rolling programme of review of external guidance	Review of procedural guidance is being taken forward in conjunction with review of substantive merger guidance and taking account of OFT review of merger procedure

### Merger inquiry procedures

The CC has pursued its commitment to streamlining merger inquiries wherever appropriate. During the year, three streamlined inquiries have been undertaken on a pilot basis. This has involved early identification of issues/theories of harm and a clear continuing focus on these issues, the use of a three-member group, with a smaller number of formal group meetings up to provisional findings and all or most third party hearings conducted by staff. A number of these features have been applied more generally to inquiries, including using theories of harm to drive information gathering and the use of staff hearings with third parties. Our aims are both to reduce the burden on parties subject to investigation and to make the most effective use of our resources (both members and staff).

We continue to seek feedback and conduct reviews after each investigation. We also seek feedback from parties.

### Market investigation procedures

During the course of this year the CC completed three investigations under the market investigation regime introduced by the Enterprise Act. We have reviewed each of these cases to ensure that lessons learned are captured and applied to future investigations. We have initiated and are continuing to conduct a review of how we carry out market investigations with a particular emphasis on being able to complete some investigations more quickly.

## Regulatory investigations

The CC has a number of roles under sector-specific legislation in the utility sectors and various other regulated areas of economic activity. The CC Rules of Procedure adopted in 2003 apply generally to inquiries under these various jurisdictions but there are some important differences between regulatory inquiries and merger and market investigations. In preparation for the quinquennial review of airport charges under the Airports Act, we have been considering in more detail how references under these regulatory statutes should be conducted.

## Work stream 6

Objective: Contribute effectively to development of competition policy and practice.

<i>Key issues for 2006/7</i>	<i>Outcome</i>
Contribute effectively to competition policy issues	Relations with OFT, DBERR and HMT have continued to strengthen
Contribute effectively to international competition networks	Three successful OECD roundtables. Increased participation in ICN. Participated in the United Nations Conference on Trade and Development's (UNCTAD's) Intergovernmental Group of Experts meeting and EC events
Develop the CC's bilateral relations with overseas competition	Hosted visits from a wide range of international competition authorities. Hosted secondments of staff from newly-establishing competition authorities. Relations developed with the European Commission through a series of visits both at official and staff level
Communicate an understanding of the CC's work and the benefits of competition to UK stakeholders and develop the CC's website as a centre for competition information	The CC's website has been restructured to allow information to be accessed more easily. The Chairman has delivered a significantly increased number of speeches over previous years. The CC has also engaged more fully with business groups and consumer groups through a series of informal meetings and events

### Relations with government departments

Over the past year the CC has continued to improve its operational interface with the OFT through the flow of information received before inquiries are referred and cooperating on remedies near the end of an inquiry. The CC has continued to become more involved in the OFT's procedures for selecting potential market studies and the CC has ensured that the OFT is more fully consulted on remedies that it might put in place.

Relations with HMT and the DBERR have also strengthened with regular meetings to discuss competition policy initiatives and the continuation of HMT and the DBERR led a stocktake exercise reviewing the operation of the Enterprise Act 2002. On international work, the CC has worked closely with the OFT and the DBERR, preparing papers jointly with the OFT for Organisation for Economic Cooperation and Development (OECD) roundtables and jointly organizing a roundtable with the DBERR and the European Commission to discuss lessons learnt from sector and market inquiries.

### International relations

The CC has benefited from increased involvement in international competition organisations. The CC has participated fully in the work of the International Competition Network (ICN), and in particular the Mergers Work Group chaired by the Irish Competition Authority. The CC has also participated in an ICN Working Group looking at Unilateral Effects. The CC continues to participate in UNCTAD's annual conference of Intergovernmental Group of Experts. Staff also participated in a forum focused on providing expert advice to newly established competition authorities including overseas workshops held by Consumer Unity Trust Society, India.

During 2006/07, CC staff visited younger competition authorities in Mauritius to share experience of competition case work. The CC has also hosted visits from a wide range of overseas competition authorities including the European Commission, France, the Netherlands, Denmark, the Czech Republic, the Russian Federation, Israel, Singapore, Mexico, and Canada.

Over the forthcoming year the CC will continue to keep under review the workings of the UK competition regime and in particular the nature of inquiries referred, look to increase its involvement in the work of international competition organizations and share its experience with other competition authorities.



## Reports published

1 April 2006 to 31 March 2007



### Market investigations

Market investigation into supply of bulk liquefied petroleum gas for domestic use

Home Credit

Classified Directory Advertising Services



### Merger inquiries

HMV Group plc and Ottakar's plc

Cott Beverages Ltd and Macaw (Holdings) Ltd

Joint venture between Stagecoach Bus Holdings Limited and Braddell PLC in relation to megabus.com, Motorvator and Scottish Citylink

Railway Investments Limited and Marcroft Holdings Limited

Hampden Agencies Limited and CBS Private Capital Limited

Stericycle International LLC and Sterile Technologies Group Limited

Pan Fish ASA and Marine Harvest NV

Hamsard 2786 Limited and Academy Music Holdings Limited

SvitzerWijsmuller A/S and Adsteam Marine Limited



# Inquiries and investigations in the review period

April 2006 to March 2007



Status on 31 March 2007		
<b>Market investigations</b>		
Supply of bulk liquefied petroleum gas for domestic use	Published	
Home Credit	Published	
Classified Directory Advertising Services	Published	
Personal current account banking services in Northern Ireland	In hand	
Groceries Market	In hand	
Payment Protection Insurance	In hand	
BAA Airports	In hand	
<b>Merger inquiries</b>		
Cott Beverages Ltd and Macaw (Holdings) Ltd	Published	
HMV Group plc and Ottakar's plc	Published	
EWS Railway Investment Limited and Marcroft Holdings Limited	Published	
Stagecoach and Scottish Citylink	Published	
Safenet inc and nCipher plc	Cancelled	
Stericycle International LLC and Sterile Technologies Group Limited	Published	
Pan Fish ASA and Marine Harvest NV	Published	
Hampden Agencies Limited and CBS Private Capital Limited	Published	
IPC Media Ltd and Horse Deals Ltd	Cancelled	
Hamsard 2786 Limited and Academy Music Holdings Limited	Published	
Svitzer Wijsmuller A/S and Adsteam Marine Limited	Published	
Stonegate Farmers Ltd and Deans Food Group Ltd	In hand	
South-East Water Limited and Mid-Kent Water Limited	In hand	
Wienerberger Finance Service BV and Baggeridge Brick plc	In hand	
Thermo Electron Manufacturing Limited and GV Instruments Limited	In hand	
Kemira GrowHow Oyj and Terra Industries Inc	In hand	
MDA and Quest Associates	Cancelled	
Greif Inc and Blagden Packaging Group	In hand	
<b>Regulatory inquiries and Appeals</b>		
Utilita Electricity Limited V Gema on Code Modification P1	Cancelled	
Heathrow and Gatwick quinquennial review	In hand	



# Market investigation into supply of bulk liquefied petroleum gas for domestic use

Almost 150,000 households in the UK use domestic bulk liquefied petroleum (LPG). It is a hazardous product and safety is a key concern to suppliers and was so in our consideration of this industry. Four suppliers— BP LPG UK, Calor Gas Limited, Flogas UK Limited (a subsidiary of DCC plc) and Shell Gas Limited—supply about 90 per cent of domestic bulk LPG in Great Britain, two of which—Calor Gas Northern Ireland Limited and DCC Energy Limited (also a subsidiary of DCC plc)—are the only suppliers in Northern Ireland.

## Findings

We found that the rate of switching between suppliers was very low, even when savings could be made. Suppliers normally retained ownership of customers' tanks and the inconvenience and cost of switching tanks discouraged many customers from changing supplier. The imposition of contractual restrictions and a three-month notice period also hindered the switching process. We also concluded that the practices of uplifting tanks and requiring a three-month notice period for terminating supply were not necessarily the most efficient way of safely managing the supply of domestic bulk LPG.

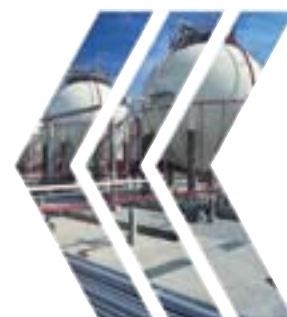
Aspects of pricing supported the view that competition was constrained. There were sustained differences between the

average prices of suppliers and a degree of independence (from one another) in the movements of these average prices. Individual suppliers also charged different prices to different customers, largely unrelated to differences in cost. Low switching rates existed despite the availability of lower prices from other suppliers.

Selective discounts offered to customers in Great Britain reduced the potential rewards to competitors for attempting to win customers away from their current suppliers. This discouraged firms from competing to win customers from one another. Lack of transparency in prices was also likely to deter customers from switching to another supplier and adversely affected competition in Great Britain. Such practices did not apply in Northern Ireland, where standard prices are charged.

We found barriers to expansion by smaller suppliers in the Great Britain and Northern Ireland markets, which adversely affected competition. Switching costs created a barrier to expansion in that, in trying to win a customer, an entrant or smaller competitor would always be at a disadvantage. With relatively few new-to-market customers, a new or expanding supplier had limited scope to expand without winning customers from larger incumbent suppliers. Selective discounting in Great Britain also enabled existing firms to respond to specific competitive threats without

The CC found that there were features of the markets for the supply of domestic bulk LPG in Great Britain and Northern Ireland which adversely affected competition in the UK. While some customers may negotiate competitive prices, it was concluded that the large majority of customers in the market were paying higher prices than would be the case if these features did not exist.



Referred: 5 July 2004  
Published: 29 June 2006

**Inquiry Group:**

Peter Freeman *Chairman*

Alan Gregory

Alan Hamlin

Christopher Smallwood

Alan Young

**Parties:** BP LPG UK, Calor Gas Limited, Flogas UK Limited, Shell Gas Limited, and other smaller suppliers

**Market:** The supply of bulk liquefied petroleum gas for domestic use

**Outcome:** Adverse effects found and being remedied



lowering prices to their broader customer base. In consequence, the threat of entry or expansion by smaller suppliers was likely to provide only a very limited constraint on the prices charged by suppliers.

### Conclusion

We identified features of the markets for supply of domestic bulk LPG in Great Britain and Northern Ireland which adversely affected competition in the UK. While some customers may negotiate competitive prices, we concluded that the large majority of customers in the market were paying higher prices than would be the case if these features did not exist.

We considered that a package of remedies consisting of the following key elements and applied both in Great Britain and Northern Ireland would be effective and proportionate in remedying the various features of the domestic bulk LPG market identified as having an adverse effect on competition:

(a) tank transfer, including a customer's right to request tank transfer, an incoming supplier's right to buy the existing tank from the outgoing supplier, and incoming suppliers being given the opportunity to negotiate a price for a tank with the outgoing supplier, but an obligation on the outgoing supplier to sell for a

'backstop price' determined by a methodology;

(b) standardization of, and improved information on, the switching process;

(c) changes to customer contracts, including notice periods of no more than 42 days and exclusivity periods of no more than two years; and

(d) improved information on suppliers and their offers.

We also considered that, in Northern Ireland, the General Consumer Council for Northern Ireland should include information on the opportunities for customers to switch supplier in the information it provides to energy customers in the context of the opening of the domestic mains gas and electricity markets to competition in 2007.

### Outcome

It was agreed that implementation of the above remedies would be by means of an Order with a period of up to nine months from the date of the Order for suppliers to ensure they are compliant.

# Home Credit market investigation

Home credit involves small loans, generally under £1,000. Some 70 per cent are for less than £500. The average advance is around £300. Repayments, generally over a period of about a year or less, are typically collected in weekly cash instalments from the borrower's home.

The investigation involved some 450 home credit lenders, all legitimately licensed businesses. Most lenders were companies engaging agents to collect repayments, though over 200 sole traders or partnerships worked for themselves. There were around 2.3 million home credit borrowers in 2005. There was some diversity among the customer base, but by comparison with the population as a whole, borrowers were more likely to be female, to be under 35, to have young families, to fall into socio-economic groups D and E, to live in a low-income household and to live in accommodation rented from a local authority or housing association.

Home credit lenders in 2005 lent some £1.3 billion and collected some £1.8 billion in repayments. Some 90 per cent of the market was accounted for by the six largest lenders: Provident Financial; Cattles; London Scottish Bank; S&U; Park Group and Mutual Clothing and Supply. (The Park Group ceased trading in home credit before we finished our investigation and was taken over by London Scottish Bank.) Provident Financial, the largest lender, accounted for some 60 per cent of the market.

## Findings

Assessment of the price of home credit loans was complicated by the absence of a single measure of price and the weakness of the annual percentage rate (APR) when applied to home credit. The total charge for credit (TCC) was a better measure for home

credit. That said, APRs generally exceeded 100 per cent and for loans around six months often exceeded 300%. TCCs varied from £30 per £100 for the shortest loans to over £100 per £100 borrowed for some of the longest. Against that background, we found that:

- Prices were high compared with the cost of provision, with prices in Ireland (a market with some shared characteristics with the UK and some differences) and with other forms of borrowing (even taking into account charges on other products—eg late payment fees—which are not applied to home credit borrowers).
- Prices were particularly high for borrowers who settled early. Their level of rebate was governed by regulations applying to all consumer credit loans—and as such not catering for the particular circumstances of home credit loans. As a result, rebates were set at a level too favourable to the lender.
- Profits in excess of capital amounted to at least £75 million a year.
- Although home credit borrowers valued the service provided to them, they were paying higher prices than in a competitive market. This was due to two main factors: the absence of any significant price competition and the incumbency advantages enjoyed by existing lenders.
- Neither competition on availability of loans nor any other form of competition could compensate for the weakness of price competition. This was caused by two mutually reinforcing factors: the insensitivity of borrowers to price changes, and the failure of lenders to compete on price.

The absence of competition between home credit lenders and the incumbency advantages enjoyed by established lenders meant that borrowers paid higher prices than they would pay in a competitive market. Borrowers in these circumstances paid at least £75 million a year more than they should. The CC's remedies aimed to generate competition between existing home credit lenders and to make it easier for new lenders to supply the home credit customer base.



Referred: 19 December 2004 (as a result of a super-complaint made by the National Consumer Council)

Published: 30 November 2006

Inquiry Group:

Peter Freeman *Chairman*

Sarah Brown

Professor Jonathan Haskel

Charles Henderson

Professor Peter Moizer

Parties: Some 450 home credit lenders

Market: Home credit services to borrowers

Outcome: Adverse effects on competition found and remedied



- The incumbency advantages derived from borrowers' inability to convey reliable information about their creditworthiness to other lenders—having better information about borrowers' creditworthiness than was available to other lenders. Three factors contributed to preservation of these incumbency advantages: the absence of data sharing; the need for new lenders to develop relationships of trust between borrowers and agents; and the regulatory prohibition on door-to-door canvassing for loans.

- There were few barriers to small-scale entry but significant barriers to large-scale entry or expansion. These included the advantages enjoyed by existing incumbents, the need to build up local densities of operation and the risk of attracting a greater proportion of borrowers likely to default than among existing lenders.

## Conclusion

We concluded that borrowers' insensitivity to prices and lenders' failure to compete in any significant way on price were features preventing, restricting or distorting competition; so, too, were incumbency advantages enjoyed by existing lenders and the factors contributing to the preservation of these advantages. These features taken together gave rise to an adverse effect on competition within the meaning of the Enterprise Act.

## Remedies

We decided to deal with the adverse effect on competition by increasing price transparency and decreasing the information asymmetries between incumbent and other lenders. The following remedies aim to develop greater price competition, to extend competition for home credit borrowers and to reduce significantly the detriment suffered by borrowers settling loans early:

(a) An obligation on home credit lenders to share data on borrowers' payment records, using credit reference agencies (CRAs). Any home credit lender with over 60 agents or over £2 million in annual turnover will have to provide data on all new agreements (and on existing loan agreements where the borrower has consented) to at least two CRAs.

(b) An obligation on home credit lenders to publish information, notably price information, about their products on a website run by an operator to be approved by the CC. The costs of the

website are to be met by the largest lenders. All lenders will have to provide information, mirroring that on the website, within a week of any request.

(c) A strengthening of the requirements on statements. The DBERR has agreed to secure that periodic statement provisions under the Consumer Credit Act 2006 require home credit statements to include the total cost of credit and to inform borrowers about their rights on early settlement and the procedure for obtaining additional statements. In addition, all home credit lenders are to be required to provide, on request, one free statement per quarter or one per loan, whichever allows for more requests.

(d) An increase in the early settlement rebate. All lenders have to apply a calculation at least as generous as that set out in current regulations, cannot defer the settlement date for more than 13 days (compared with 28 days at present) and must use contractual, not actual, repayments, as the basis of calculation.

Before deciding on remedies, we considered but rejected the following:

(a) Imposition of price caps. We were concerned about, among other things, the reduction in choice which might result and the prospect of riskier borrowers being excluded from access to home credit.

(b) Requirement on lenders to offer comparable products. This could have reduced reduction of choice for borrowers and restricted product development.

(c) Removal of the restriction on canvassing. We accepted that the existing restriction had been applied for wider consumer welfare reasons. In addition, it did not seem to us to be a major impediment to sale of home credit loans.

## Outcome

Remedies are to be put in place by an Order. We are currently working towards making an order via a consultative process. The aim is to bring most of the order into force in summer/early autumn 2007.

# Classified Directory Advertising Services market investigation

The market for classified directory advertising services (CDAS) had been investigated by the Monopolies and Mergers Commission (MMC) in 1996; however, the 2005/06 inquiry involved a completely fresh evaluation of the market for CDAS.

The three largest directory providers, accounting for 98 per cent of UK CDAS revenues, were Yell, Thomson and BT. Two important directory providers in Kingston-upon-Hull and Scotland were Kingston Communications (Hull) PLC and Trinity Mirror plc. There were also a number of small local directories and their products vary widely in size and sophistication.

Yell had been subject to undertakings since 1996. Yell's rate card prices for advertisements in its printed classified directories had since 2001 been required to decline, relative to the RPI, by at least 6 per cent each year. Yell was also prevented from publishing more than one directory in any area.

We considered the relevant market. We commissioned a quantitative study by research agency BMRB and a qualitative study by Andrew Irving Associates. We considered evidence submitted by CDAS providers.

We found a relevant product market for advertising services in major printed classified directories, characterized by strong brand image, high levels of usage and comprehensive business listings. Online directories and Internet advertising were not part of this relevant market.

We considered competition in the market. An important development was the re-entry of BT in October 2002 by including a classified advertising section in its *Phone Book*.

We found *Yellow Pages* advertisement prices were constrained by the Yell undertakings rather than competition. BT and Thomson prices were constrained by Yell's prices and each other's. Non-price competition included the scoping (footprint) of directories and competition for users. Barriers to entry and expansion appeared to be substantial.

We considered future developments and came to the view that BT's entry into the market offered possible stronger competition, but that the pace of future growth was unclear. Internet advertising might increase in the future but only limited numbers of customers were switching spend from printed directories to the Internet.

We looked at Yell's and Thomson's profitability as an indicator of the extent of competition in the CDAS market. We found that there was not conclusive evidence that Yell was making returns significantly in excess of its cost of capital at the time of the inquiry. We concluded that, in the light of the undertakings, lack of evidence of excessive profits was nevertheless consistent with the existence of market power.

## Findings

We concluded that Yell has market power. In this market, we would expect Yell's market power to enable it to set prices profitably at levels that are higher than they would be in a well-functioning market. We identified the following features which prevent, restrict or distort competition in the market:

- (a) The market for major CDAS was highly concentrated.



Yell had market power in the printed classified directories market as a result of its strong brand and network effects. *Yellow Pages* had been subject to a price cap since 1996. Undertakings were initially given by BT, the then publisher of *Yellow Pages*, following an earlier inquiry by the CC's predecessor. On disposal to Yell, Yell gave undertakings. Prices had been

Referred: 5 April 2005

Published: 21 December 2006

Remedies accepted: 3 April 2007

Inquiry Group:

Diana Guy *Chairman*, Roger Davis, Graham Hadley, Christopher Smallwood, Professor Catherine Waddams

**Parties:** Publishers of classified directories, the three largest being Yell Group plc, Thomson Directories Ltd and BT Group plc

**Market:** Classified directory advertising services

**Outcome:** Adverse effects on competition found and remedied



(b) The market had been highly concentrated for a number of years. BT had grown its share rapidly but it was still much smaller than Yell's.

(c) Entry barriers were high, including the network effect and need to establish strong brand identity.

(d) The incumbency position of the largest player was reinforced by the network effects present. Expansion required investment, particularly to attract users.

(e) Yell had market power and was the price setter in the market.

(f) In general, Yell's prices were not constrained by those of its competitors and did not compete on price in any significant way.

The detrimental effect on customers was identified as Yell's prices would be higher than in a well-functioning market, were it not for the previous Yell undertakings.

## Conclusion

Accordingly, we found features of the relevant market that prevented, restricted or distorted competition in connection with the supply of CDAS and hence an adverse effect on competition.

## Remedies

Following the provisional findings, we received submissions about the potential effect of second tier (local) directories. We came to the view that, if Yell were allowed unrestricted scope to produce second tier (local) directories, competition would be damaged.

largely constrained by the existing price cap rather than by competition. Were it not for the price cap, customers of Yell would be paying more for advertisements in *Yellow Pages* than they would if the market were functioning well. The CC's remedies aimed to prevent Yell from exploiting its market power and to preserve developing competition from actions that could be targeted at competitors.

Remedies were:

### *Price control*

- Yell's *Yellow Pages* advertisements will be subject to an RPI -6 per cent price control until 31 March 2008 and thereafter RPI.

### *Local ('second-tier') directories*

- Yell may publish second-tier directories, subject to certain limitations.

Remedies will be effected by undertakings given by Yell. These came into effect on 3 April 2007.

# Ottakar's plc and HMV Group plc

Referred: 6 December 2005

Published: 12 May 2006

Inquiry Group:

Diana Guy *Chairman*

Jayne Almond

Diane Coyle

Nicholas Garthwaite

Charles Henderson

Parties: Ottakar's plc and HMV Group plc

Market: Booksellers

Outcome: Clearance



We were asked to investigate the proposed acquisition of Ottakar's plc by HMV Group plc through Waterstone's Booksellers Ltd. In December 2005, there were 190 Waterstone's bookshops and 141 Ottakar's bookshops in the UK.

## Findings

We considered that the relevant product market was the retail sale of new books to consumers, although we believed it appropriate to assess separately the competitive effects of the proposed merger in terms of sales of deep-range titles and best-sellers. We found that the geographic market was no wider than the UK, although we looked separately at local, regional and national aspects of competition. We considered that competitors in the market included all types of retailer, both specialist and generalist bricks and mortar retailers, and distance sellers including Internet retailers and book clubs.

We estimated that the combined UK market share of Waterstone's and Ottakar's in 2005 was around 24 per cent of all books and a somewhat higher proportion of the deep-range segment. We found that Ottakar's and Waterstone's bookshops overlapped in the retail supply

of printed books in 33 local areas located across the entire breadth of Great Britain.

On local competition, we concluded that there was no systematic and substantial difference in range or service quality in overlap stores compared with non-overlap stores. While we did identify some differences between overlap and non-overlap stores on book signings and store refurbishments, we did not consider book signings to be a competitive variable, since they are not central to a bookshop's offer for most customers. Similarly, while Waterstone's and Ottakar's may have used store refurbishments to compete at a local level to a limited extent, we did not consider this to be significant.

On regional competition, considerable concern was expressed to us about the impact of the proposed merger on Scotland. This concern centred on the possible adverse effects on Scottish authors and publishers. Our survey showed that Borders (UK) Ltd was a significant competitive constraint to Waterstone's and Ottakar's in the overlap locations in Scotland. We concluded that there was no evidence to support the definition of a separate geographic market in Scotland, or that the competitive

situation in Scotland is substantially different from that in the rest of the UK.

On national competition, we found there to be a range of competitors to Waterstone's and Ottakar's offering full national coverage. Whilst they have different characteristics, they all compete with one another. We did not consider it likely that the merged entity would willingly reduce nationally determined range or service quality. On price competition, Waterstone's and Ottakar's had primarily uniform national prices. We found that there was heavy discounting off RRP for best-sellers, with the supermarkets and Internet retailers charging the lowest prices. We found there to be much less price competition on deep-range titles.

## Conclusions

We concluded that the proposed acquisition of Ottakar's may not be expected to result in an SLC in the market for the retail sale of new books (best-sellers or deep-range titles) at a local, regional or national level in the UK.

## Outcome

We cleared the proposed acquisition.



The CC found that were Waterstone's to acquire Ottakar's, it would not expect Waterstone's to reduce discounts or range at a local, regional or national level.

# Cott Beverages Ltd and Macaw (Holdings) Ltd

Referred: 28 November 2005

Published: 15 May 2006

Inquiry Group:

Laurie Elks *Chairman*

John Collings

Alexander Johnston

Stephen Wilks

Parties: Cott Beverages Ltd and Macaw (Holdings) Ltd

Market: Carbonated soft drinks

Outcome: Clearance



The inquiry concerned the completed acquisition of Macaw (Holdings) Ltd (Macaw) by Cott Beverages Ltd (Cott). Prior to the merger Cott and Macaw were the two largest producers of own-label carbonated soft drinks (CSDs) in the UK and the third and fourth largest producers of CSDs in total.

## Findings

Cott's acquisition of Macaw significantly increased its share of the market in Great Britain for the supply of own-label PET-bottled CSDs. Post-merger, Cott had a market share of around 50 per cent based on its share of production capacity, or 65 per cent based on its share of sales by volume. The two-firm concentration ratio increased from 65 to 89 per cent based on sales volumes. Hence the increase in Cott's market share as a result of the merger caused concern that there might be an SLC.

Having looked at the balancing factors, we did not consider that the merger negatively affected retailers' bargaining power or any

possible dissemination of the effects of buyer power from large retailers to smaller retailers. It was believed that retailers would continue to be able to switch easily between suppliers of own-label PET-bottled CSDs, and that they would continue to have considerable control over the price determination process.

Cott's ability to increase prices was constrained not only by the retailers' bargaining power, but also the volume of spare capacity of other suppliers of own-label PET-bottled CSDs. In addition to this was the possibility of new competitors entering the market place or expansion by existing competitors, therefore for Cott to be able to increase prices unilaterally its competitors would need to be at, or close to, full capacity. It was determined that Cott's competitors had significant spare capacity available and hence would be able to undercut any price increase that Cott might impose.

## Conclusions

We concluded that the merger had not

resulted in, and may not be expected to result in, any SLC within any market or markets in the UK.

## Outcome

The acquisition was cleared.



The CC was concerned that the merger would enable Cott to increase prices unilaterally and exercise market power. However, it was decided that the short-term nature of supply agreements and the ease with which retailers could switch suppliers meant that no detriment to customers would arise. The CC cleared the acquisition.



# Joint venture between Stagecoach Bus Holdings Limited and Braddell PLC in relation to megabus.com, Motorvator and Scottish Citylink

The inquiry concerned the completed joint venture between Stagecoach Bus Holdings Limited (Stagecoach) and Braddell PLC (Braddell) in relation to bus and coach services provided under the megabus.com, Motorvator and Scottish Citylink brands. These were the main scheduled coach services on the Glasgow–Edinburgh, Glasgow–Aberdeen and Edinburgh–Inverness routes in Scotland.

This joint venture brought together the two main coach competitors on certain key routes in Scotland. There are significant barriers to entry and other forms of transport act as only weak constraints, if any, on coach services on these routes. On services between Glasgow and Aberdeen, and on services between Edinburgh and Inverness, we concluded that the joint venture would result in higher fares and lower service levels than would otherwise have been the case. The parties agreed to sell particular services on these routes to restore competition.

## Findings

Prior to the joint venture, Stagecoach's Motorvator services competed with Braddell's Scottish Citylink services on the Glasgow–Edinburgh route. Stagecoach's megabus services competed with Braddell's Scottish Citylink services on the Glasgow–Aberdeen and Edinburgh–Inverness routes (collectively known as the 'Saltire Cross' route group). These Motorvator,

megabus and Scottish Citylink services were brought under common ownership and control as a result of the joint venture.

In accordance with the CC's practice in transport mergers, we considered point-to-point journeys (flows) as relevant markets, while also having regard to wider network markets where relevant.

In order to establish whether the joint venture would result in an SLC, we had to consider what might be expected to happen in the absence of the joint venture (the counterfactual). In relation to the Glasgow–Edinburgh route, we found that Stagecoach would have withdrawn its Motorvator services absent the joint venture and competition on that route would have ceased. Therefore the joint venture did not result in an SLC on that route. However, in relation to the Saltire Cross route group, we concluded that competition would have continued in absence of the joint venture between Stagecoach's megabus services and another network operator.

National Express's Saltire Cross coach services were too infrequent to offer a competitive constraint on the joint venture's Saltire Cross services. We found that rail services were probably exerting a constraint on coach services on one flow on the Saltire Cross (namely, services between Edinburgh and Dundee), and that certain rail fares might be acting as a constraint on Scottish

On the Saltire Cross route group the joint venture brought together the two main coach competitors. The CC concluded that this would result in higher fares and lower service levels. The joint venture agreed to sell particular services on these routes to restore competition.



Referred: 15 March 2006

Published: 23 October 2006 (original 24-week inquiry period extended by eight weeks)

Inquiry Group:

Professor John Baillie *Chairman*

Carolyn Dobson

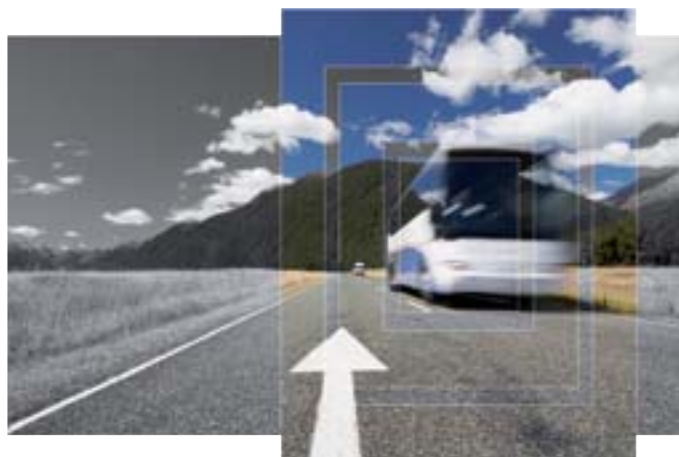
John Smith

Fiona Woolf

Parties: Stagecoach Bus Holdings Limited and Braddell PLC

Market: Scheduled coach services in Scotland

Outcome: Agreement reached on terms of undertakings to remedy adverse effects



Citylink fares on other flows. However, there was no evidence of a constraint from rail on megabus fares and overall the constraint from rail on coach services appeared weak. There was also insufficient evidence that the car acted as a binding constraint.

We developed a financial model that indicated that the joint venture had increased the incentives for the parties to raise fares and reduce service levels on the Saltire Cross. Following the joint venture, we saw evidence of fare increases by the joint venture over and above cost inflation.

We found that there were barriers to entry into the supply of scheduled coach services on the Saltire Cross and that the joint venture had increased these barriers. We were therefore unable to expect that entry by other coach operators would act as a constraint on the joint venture's fares or service levels.

## Conclusions

We expected that the effect of the joint venture on the Saltire Cross route group would lead to higher prices and lower service levels than would otherwise have been the case. We concluded that the joint venture had resulted, and may be expected to result, in an SLC in relation to the supply of scheduled coach services on this route group.

We considered that there were, in principle, two remedies that would be effective in addressing the adverse effects we identified: divestment by the joint venture of particular Saltire Cross services, and behavioural remedies. In considering remedies for the SLC we took account of customer benefits that might arise as a result of the joint venture. However, we concluded that only divestment would remedy both the SLC and the adverse effects. Accordingly, we concluded that the joint venture should divest certain of its Scottish-Citylink-branded or megabus-branded services to a suitable purchaser to restore competition. This would bring the benefits of competitive fares and service frequencies back to customers.

## Outcome

Following publication of the report, the parties to the joint venture agreed to give undertakings to sell the joint venture's Scottish-Citylink-branded/megabus-branded services on the Saltire Cross to a purchaser approved by the CC. However, there was a significant public response from the statutory consultation on draft undertakings which merited very serious consideration. On 29 May 2007, the CC confirmed that the undertakings, as previously published, had been accepted.

# EWS Railway Investments Limited and Marcroft Holdings Limited

Referred: 6 February 2006

Published: 12 September 2006 (original 24-week inquiry period extended by eight weeks)

Inquiry Group:

Jeremy Seddon *Chairman*

Peter Jones

Jeremy Peat

Richard Taylor

Parties: Railway Investments Limited and Marcroft Holdings Limited

Market: Railway freight haulage

Outcome: Undertakings given to remedy adverse effects



The inquiry concerned the completed acquisition of Marcroft Holdings Limited (Marcroft) by Railway Investments Limited, a wholly-owned subsidiary of English Welsh & Scottish Railway Holdings Limited (EWS). EWS is the largest operator of rail freight haulage services in Great Britain while Marcroft is the largest supplier of third-party freight wagon maintenance services.

## Findings

As a result of the acquisition, EWS and Marcroft ceased to be distinct and the share of supply test was met. We therefore concluded that there was a relevant merger situation.

We concluded that the relevant product market within which Marcroft operated was that of freight wagon maintenance and the relevant product market within which EWS operated was no wider than the supply of rail freight haulage services. In both cases the relevant geographic market was Great Britain.

Our analysis of competition before the merger found the third party maintenance market characterized by high-concentration, long-term relationships

between service providers and customers and little evidence of switching between service providers.

EWS had only a very minor presence in the third-party freight wagon maintenance market and the increase in market share resulting from the merger was minimal. We therefore concluded that the merger had not resulted, and was not expected to result, in an SLC in this market.

We did, however, think that there was a clear incentive for EWS to exploit the market power Marcroft had by way of its large share of the relatively small third-party maintenance market to disadvantage its rivals in the much larger haulage market, all of which used Marcroft for their wagon maintenance. It could do this by raising prices or decreasing levels of service. We thought it particularly likely that EWS would have an incentive to lengthen the time taken to maintain wagons or respond to a maintenance need, thus impacting adversely on the operations and the profitability of its competitors.

We found that there were significant barriers to market entry on a scale necessary to counter this adverse effect

and that EWS's haulage competitors would find it difficult and expensive to move to the self-supply of the maintenance services currently provided by Marcroft.

## Conclusions

We concluded that these circumstances gave rise to an SLC in the freight haulage market.

As the majority of wagon maintenance services is provided on an in-field basis—ie carried out at sidings or customer premises, termed 'outstations'—rather than in central workshops, we concluded that an appropriate remedy to the SLC and the adverse effects identified would be to require EWS to divest all or a sufficient part of Marcroft's outstation business to create an effective and financially viable competitor in the maintenance business, offering national coverage.

## Outcome

Following publication of the report, EWS undertook to sell a significant part of the Marcroft outstation business to a purchaser to be approved by the CC.



This acquisition saw the merger of the largest rail freight haulier and the largest third-party freight wagon maintenance provider. The CC found that the merged entity would have the ability and the incentive to raise prices and reduce quality of wagon maintenance to competing rail freight hauliers. We required that part of the acquired business be divested to remedy the adverse effects.

# Hampden Agencies Limited and CBS Private Capital Limited

Referred: 14 July 2006  
Published: 1 December 2006

Inquiry Group:

Robert Turgoose *Chairman*

Laura Carstensen

Jill Hill

Professor Mahendra Raj

Parties: Hampden Agencies Limited and CBS Private Capital Limited

Market: Supply of members' agency services to active individual members of Lloyd's

Outcome: Clearance



The inquiry concerned the completed acquisition of the members' agency business of CBS Private Capital Limited (CBSPC) by Hampden Agencies Limited (HAL). CBSPC and HAL overlapped in the provision of agency services to members of Lloyd's, ie the provision of advice and other services in relation to members' underwriting activity. The merger had reduced the number of members' agents from three to two.

## Findings

We concluded that the relevant economic market was the supply of members' agency services to active individual members of Lloyd's. The geographic market could be considered to be the UK, where the members' agents were located, or a wider area, since services were provided to individual members of Lloyd's in other countries. We concluded that the assessment of the competitive effects of the merger would be the same whichever definition was chosen.

We initially assumed that without the merger CBSPC would have continued as an independent competitor to HAL and the third members' agent, Argenta Private Capital Limited (Argenta). We found weak competition, particularly on price, between members' agents before the

merger, and characteristics of the market, including uncertainty about the relative level of members' agents' fees and the low propensity of members to switch between agents, that were unlikely to be conducive to strong competition.

There was some evidence that competition would be weaker following the merger, including a possible loss of choice between the fee structures of CBSPC, which did not charge profit commission, and HAL. We concluded that buyer power or prospects for entry were insufficient to prevent any loss of competition, and the constraint of the regulatory framework would not compensate sufficiently for any loss that occurred. However, we concluded that already weak competition had become only slightly weaker as a result of the merger given, among other things, the continued presence of Argenta.

We found no evidence of coordinated effects before the merger; nor did they appear to be more likely in future as a result of the merger.

Some managing agents of underwriting syndicates were unhappy about HAL's increased negotiating strength following its acquisition of CBSPC. However, most of their concerns would have applied

to a number of syndicates before the acquisition. We concluded that even if there was some detriment to managing agents as a result of the merger, it would not adversely affect competition in any relevant market.

We considered what would have happened without the merger and concluded that, because of financial pressures, the CBS group had no alternative to selling CBSPC. Sale to Argenta rather than HAL would have made no material difference to the effects on competition, and sale to another buyer was highly unlikely. Had CBSPC not been sold, its parent company could well have gone into administration, and sale to HAL would still have been the most likely outcome. We did not expect, therefore, that CBSPC would have continued to operate or the previous market structure to have been maintained beyond the short term.

## Conclusions

We concluded that the acquisition had not resulted, and might not be expected to result, in an SLC.

## Outcome

We cleared the acquisition.



The CC found that the acquisition had only slightly weakened the already weak competition between Lloyd's members' agents. Furthermore, there could be no expectation that, without the merger, CBSPC would have continued to operate or the previous market structure would have been maintained.

# Stericycle International LLC and Sterile Technologies Group Limited

Referred: 28 June 2006

Published: 12 December 2006

Inquiry Group:

Diana Guy *Chairman*

Professor John Cubbin

Richard Farrant

Parties: Stericycle International LLC and Sterile Technologies Group Limited

Market: Healthcare risk waste treatment and disposal

Outcome: Undertakings given to remedy SLC



The inquiry concerned the completed acquisition of Sterile Technologies Group Limited (STG) by (the US-owned) Stericycle LLC (Stericycle). Before the merger, Stericycle and STG were the first and second largest suppliers, by revenue, of healthcare-risk waste services. Healthcare-risk waste is waste produced within the NHS or other healthcare settings that requires treatment before disposal, in the main either by high-temperature treatment (incineration) or by alternative technology treatment.

## Findings

In the treatment (as opposed to collection and other related services) of healthcare-risk waste, we found separate product markets for waste requiring high-temperature treatment and for waste suitable for alternative technology treatment. The evidence received on travel distances, transport costs and price dispersion indicated that the geographic scope of both the markets is best described as a series of customer-centred markets with a radius of around 100 miles.

In relation to alternative technology facilities, we found that there were at least two other potential competitors within 100 miles in almost all of the areas

where Stericycle and STG competed for customers.

However, this was not the case in relation to high-temperature treatment services. In a substantial part of northern England, the north and west Midlands, and north and south-east Wales, the merger would result in the number of effective competitors being reduced from two to one or from three to two.

## Conclusions

We concluded that the merger would give rise to an SLC in those areas where there were two or fewer constraining competitors for high-temperature treatment services. We expected that this SLC would result in increased prices for high-temperature treatment there. We also considered that competitive conditions in the healthcare waste collection market could be adversely affected since collectors could face higher costs for, and more limited access to, high-temperature treatment facilities.

## Outcome

In the light of this conclusion, Stericycle submitted proposals to sell STG's incinerators at Salford, Redditch and its incinerator and alternative technology

plant at Wrexham. We agreed to give Stericycle the opportunity to pursue its partial divestiture proposal, but said that, if it failed to secure a binding commitment from a purchaser within an agreed period, the CC would have the right to require the appointment of a divestiture trustee and to mandate the sale of part or all of STG in Great Britain. Undertakings to underpin these arrangements were accepted by the CC on 30 January 2007. The reference was brought to a close by the sale of the Wrexham, Redditch and Salford plants on 16 February 2007.

Implementation of the remedies was helped by the effective interim remedies put in place by the CC at an early stage in the inquiry, so as to 'hold separate and maintain' the merged businesses, prevent further integration and require the separation of management teams that had already been integrated. A 'hold separate manager' was appointed to manage the STG business and a monitoring trustee was appointed to oversee compliance with the interim remedies. The interim remedies were the subject of an unsuccessful challenge before the Competition Appeal Tribunal.



The CC found that, in some areas of Great Britain, the concentration of facilities to incinerate healthcare-risk waste within a merged Stericycle LLC-Sterile Technologies Group Limited would lead to a substantial lessening of competition (SLC) for these services.

# Pan Fish ASA and Marine Harvest NV

Referred: 6 July 2006

Published: 18 December 2006

Inquiry Group:

Christopher Clarke *Chairman*

Christopher Bright

Ivar Grey

Professor Michael Waterson

Jonathan Whiticar

Parties: Pan Fish ASA and Marine Harvest NV

Market: The UK market for the supply of farmed Atlantic salmon in the EEA

Outcome: Clearance



This inquiry concerned the anticipated acquisition of Marine Harvest NV by Pan Fish ASA. Pan Fish and Marine Harvest both farm Atlantic salmon as their principal activity. Within Europe, they both have substantial salmon-farming activities in Norway and Scotland. The transaction was also notified to the competition authorities in France, Norway, Spain and the USA, and received approval in all other relevant jurisdictions. Approval was received from the Minister of Economic Affairs in France on 1 December 2006 subject to an undertaking from Pan Fish to dispose of Pan Fish Scotland.

## Findings

We considered the appropriate market definition. We found that whilst many customers regarded salmon produced in Norway and Scotland as good substitutes, there were a significant number of customers, especially salmon smokers, who had a strong preference for Scottish salmon. However, these customers did not represent a sufficiently large proportion of demand such that there would be a separate market for Scottish salmon. We concluded that the relevant product

market was for fresh farmed Atlantic salmon produced within Europe and that the relevant geographic market was the European Economic Area (EEA).

We considered the possible effect of the proposed merger on competition. In particular, we considered whether it would be worthwhile for the merging parties to withhold production as a short-term strategy. We noted a number of difficulties with such an approach and concluded that a short-term strategy would be neither feasible nor effective.

We also considered whether it would be worthwhile for the merging parties to withhold production as a long-term strategy. We found that there was significant potential for rival producers to expand production in the longer term to fill any shortfall of production. In addition, overall demand appears to be relatively sensitive to price which reduces the price increase that could be achieved through a strategy of output restriction.

We also considered whether the merging parties would be able to exploit those

customers with a strong preference for Scottish salmon by raising prices to them through a process of price discrimination. We considered that the customer volumes that were likely to be exposed to a price discrimination strategy were relatively small compared with the Scottish production capacity in the hands of rivals. We expected that, were the merging parties to seek to raise prices in this way, customers would be able to move significant amounts of business to rivals. Against this background we considered that such a strategy would not be profitable.

## Conclusions

We concluded that the anticipated merger may not be expected to result in an SLC in the market for the supply of European farmed Atlantic salmon in the UK.

## Outcome

We cleared the acquisition.

This acquisition would not significantly reduce competition nor give the merged company the opportunity to raise prices significantly or exploit its control of supply. For many customers, Norwegian salmon is viewed as a good alternative, which would constrain any attempt by the merged company to raise prices for Scottish salmon. The chances of the merged company being able to exploit those customers with a strong preference for Scottish salmon are small.



# Hamsard 2786 Limited and Academy Music Holdings Limited

Referred: 21 August 2006  
Published: 23 January 2007  
Inquiry Group:

Diana Guy *Chairman*  
Christopher Goodall  
Professor David Parker  
Anthony Stern

Parties: Hamsard 2786 Limited and Academy Music Holdings Limited

Market: Live music venues

Outcome: Undertakings given and carried out to remedy adverse effects



The inquiry concerned the proposed acquisition of a controlling interest in Academy Music Holdings Limited (Academy) by Hamsard 2786 Limited, a company jointly owned by Live Nation Music (UK) Limited (Live Nation) and by Gaiety Investments Ltd. Academy, Hamsard and Live Nation own and/or manage venues for the staging of indoor live music events throughout the UK. Live Nation is also a major promoter of popular live music events. Gaiety promotes popular live music indoor events and outdoor festivals in Scotland, and festivals in England. Venues are hired by in-house promoters such as Live Nation's promotions business or unrelated promoters. A promoter is engaged by an artist's agent, organizes and markets the event and takes the risk of its success or failure.

## Findings

For venues, we took the approach to market definition of considering each venue operated by the merging parties and the competitive constraints on it. For promotion services, we concluded that the market was no wider than the UK.

We found that of five main London venues owned by the merging parties, substitutability was greater between Brixton Academy (Academy) and

Hammersmith Apollo (Live Nation), and between Shepherd's Bush Empire (Academy) and the Forum or the Astoria (Hamsard): for each, there was also limited realistic scope for substitution by other parties' venues. The parties argued that existing, recently redeveloped and new venues, such as the O2 Dome, would ensure sufficient competition and that if they attempted to raise venue rentals or worsen service quality agents/promoters would switch to other parties' venues.

We concluded that there was some prospect of increasing competition from other venues but that it could not be relied on as a sufficient constraint to offset loss of rivalry between these five London venues. We also concluded that any constraint on venue operators from agents depended ultimately on agents' ability to switch acts between venues: we could not be confident that agent buyer power, after the loss of rivalry, would suffice to prevent the acquisition leading to adverse effects.

We did not expect the acquisition to have any significant effects in the market for promotion services.

## Conclusions

We concluded that the acquisition could be expected to lead to an SLC through the loss of rivalry between the five main

London venues of the merging entities, leading to a worsening in the price and non-price factors on which they competed and, in particular, to higher rentals for hiring those venues.

The parties proposed behavioural remedies but we concluded that behavioural remedies would not be effective in this case. We concluded that an effective remedy for the SLC was that the acquisition should proceed only if binding commitments had been entered into for the divestment of two venues, one of the Brixton Academy or the Apollo and one of the Forum or Shepherd's Bush Empire, to a buyer(s) approved by the CC.

## Outcome

Live Nation-Gaiety Holdings (Hamsard renamed) and Live Nation gave undertakings on 21 February 2007 to divest the Forum and the Hammersmith Apollo to buyers approved by the CC and on the basis of a sale and purchase agreement approved by the CC. On 30 March 2007, the companies announced that they had entered into agreements to divest them to MAMA Group plc, a buyer approved by the CC, and that Live Nation-Gaiety Holdings had acquired a 56 per cent interest in Academy.



The CC found that the proposed acquisition of a controlling interest in Academy by Hamsard would result in a loss of rivalry by bringing five major London venues under common control, leading to a worsening in price and service quality to customers through, in particular, higher rentals for hiring venues. To remedy this, the CC required the divestment of one major and one smaller venue from the five as a pre-condition of the acquisition proceeding.

# SvitzerWijsmuller A/S and Adsteam Marine Limited

Referred: 31 August 2006

Published: 9 February 2007

Inquiry Group:

Christopher Smallwood *Chairman*

Rob Murray<sup>1</sup>

Peter Stoddart

Alan Young

Parties: SvitzerWijsmuller A/S and Adsteam Marine Limited

Market: UK harbour and terminal towage services

Outcome: Divestiture (CC accepted final undertakings on 30 April 2007)



The inquiry concerned the proposed acquisition of Adsteam Marine Limited (Adsteam) by SvitzerWijsmuller A/S. SvitzerWijsmuller A/S (SvitzerWijsmuller) is a wholly-owned subsidiary of AP Moller-Maersk A/S which is quoted on the Copenhagen Stock Exchange. It operates 41 tugs in the UK through three wholly-owned subsidiaries (collectively Svitzer). Adsteam is quoted on the Australian Stock Exchange and operates 42 tugs in the UK.

## Findings

We concluded that the relevant product market included the provision of harbour towage services and customer terminal towage services.<sup>2</sup> We concluded that most owner terminal towage services<sup>3</sup> were outside the relevant market, but that in Liverpool owner terminal services formed part of the same market as harbour towage services.

We found that at a national level the merger would bring together the two major providers of harbour and customer terminal towage in the UK. However, we found that prices in one port do not constrain prices in another port and that the most likely constraint on prices in

ports where there is only one operator was the threat of new entry. We therefore concluded that the relevant geographic market was local, restricted to individual ports serviced by fleets of tugs.

We found that in Liverpool, the sole port where Svitzer and Adsteam both offered harbour towage services, the two companies competed with each other for customers. Our analysis of discount rates and tariff increases both in Liverpool and in other ports led us to conclude that competition (where two or more operators were present in a port) was a stronger constraint on pricing than the threat of entry into single operator ports.

## Conclusions

We concluded that the proposed acquisition of Adsteam by SvitzerWijsmuller may be expected to give rise to an SLC in the market for harbour towage services in Liverpool because the merger would result in the loss of competition in Liverpool, and we did not expect a new source of competition to replace the lost competition within a short time frame. We concluded that the merger was expected to result in prices

for harbour towage in Liverpool higher than they would be if the present level of competition continued (although prices for owner terminal towage in Liverpool would not be affected by the merger).

Since the area of competitive overlap was limited to the port of Liverpool, we concluded that divestiture of either Adsteam's or Svitzer's Liverpool operation to a suitable purchaser was the appropriate remedy. We concluded that SvitzerWijsmuller should be allowed to decide which business to divest.

## Outcome

Adsteam's Liverpool operation was divested on 29 March 2007 before SvitzerWijsmuller acquired Adsteam. We accepted final undertakings on continued separation of the Liverpool operations on 30 April 2007.

<sup>1</sup>Rob Murray resigned from the CC (and the Group) on 1 February 2007.

<sup>2</sup>We used the phrase 'customer terminal towage' to refer to the case where the shipper, as opposed to the owner of the terminal, contracts for towage services.

<sup>3</sup>We used the phrase 'owner terminal towage' to refer to the case where the owner of the terminal contracts for towage services.



The acquisition would lead to the loss of competition for harbour towage services in Liverpool, and the CC concluded that this would result in higher prices for these services. In order to remedy this, Adsteam's Liverpool operation was sold to a third party before SvitzerWijsmuller acquired Adsteam.





# Financial statements of the Competition Commission

For the year ended 31 March 2007



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# Council report

## 1. Format of accounts

These financial statements have been prepared in a form directed by the Secretary of State for Trade and Industry with the consent of the Treasury in accordance with paragraph 12 of Schedule 7 to the Competition Act 1998.

## 2. Brief history of the Competition Commission and principal activities

The CC is an independent public body established by the Competition Act 1998. It replaced the Monopolies and Mergers Commission on 1 April 1999.

The CC conducts in-depth inquiries into mergers and markets in accordance with the Enterprise Act 2002, and the regulation of the major regulated industries in accordance with the legislation governing those industries. Every inquiry is undertaken in response to a reference made to the CC by another body: usually by the OFT but in certain circumstances the Secretary of State, or as a result of price determinations, under sector-specific legislative provisions relating to regulated industries. Since July 2005 the CC has also had jurisdiction to consider appeals against Gas and Electricity Markets Authority (GEMA) decisions on modifications of certain energy industry codes. The CC has no power to conduct inquiries on its own initiative.

## 3. Council and membership

The CC consists of members, who are supported by staff. The Chairman of the CC is also a member of the CC and chairs the Council (the strategic management board). The Council also includes the Deputy Chairmen, the Chief Executive, and two non-Executive CC members appointed to the Council.

At 31 March 2007 the membership comprised the Chairman, and three Deputy Chairmen, two non-executives, and 46 members of the reporting panel, of whom 19 were also members of the specialist panels (utilities). All members are appointed by the Secretary of State.

Throughout the year Peter Freeman was Chairman and Christopher Clarke and Diana Guy were Deputy Chairmen. A third Deputy Chairman, Dr Peter Davis, joined the CC on 18 September 2006.

There were two non-executives, Tony Foster and Patricia Hodgson, and Mr Martin Stanley was Chief Executive throughout 2006/07.

## Members at 31 March 2007

Chairman	1
Deputy Chairmen	3
Non-executives	2
Reporting panel members	46
(includes 19 members also on specialist panels)	

<b>Total members</b>	<b>52</b>
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Each inquiry is conducted by a Group, consisting of three to seven members, appointed by the Chairman.

The names, responsibilities, biographical details and changes to CC members are given in the Annual Report.

Remuneration details of the CC Council members are disclosed in the Remuneration report on page 46.

## 4. Register of members' interests

A register of the outside interests of the CC's Council, and other CC members, is maintained on the CC's public website: [www.competition-commission.org.uk](http://www.competition-commission.org.uk).

## 5. Financial results

The CC's main source of funding is grant-in-aid received from the DBERR. The CC draws down grant to meet its cash requirements. Some other income is generated, primarily from sub-tenants occupying space at Victoria House.

Revenue grant-in-aid received was £16,730,000 (2005/06: £21,044,000). Capital grant received was £470,000 (2005/06: £456,000).

For 2006/07 grant-in-aid is treated as financing and credited directly to the Income and Expenditure Account in the balance sheet rather than treated as income in the Income and Expenditure account as happened in previous years.

Income and expenditure is accounted for on an accruals basis. This treatment results in an annual deficit on an accounting basis that is taken to the Income and Expenditure Account in the Financing section of the balance sheet where it is offset by grant-in-aid.

In 2006/07 the excess of expenditure over income after interest and taxation was £18,596,000 (2005/06 restated: deficit

## Council report continued

£23,804,000). Operating expenditure was £21,617,000 (2005/06: £26,388,000).

### 6. Financial performance measure

The DBERR reviews CC expenditure on the basis of department expenditure limits (DEL). Revenue DEL is operating expenditure plus taxation and cost of capital, less interest receivable and other income receivable.

The table 6.1 shows a three-year summary in DEL format including the forecast for 2007/08.

Table 6.2 reconciles the revenue DEL format for 2006/07 with the total expenditure of £21,617,000 shown in the Income and Expenditure Account:

The final budget set by the DBERR for 2006/07 was £20,485,000 (2005/06; £23,464,000), made up of revenue expenditure of

£19,859,000 and capital expenditure of £626,000; a reduction of 12.7 per cent from 2005/06. The CC spent £19,122,000 made up of revenue expenditure of £18,652,000 and capital expenditure of £470,000 resulting in an overall under-spend of £1,363,000 (6.7 per cent). This was mainly the result of a reduction in the relocation provision required for New Court as a result of a new tenant being secured.

The DBERR budget allocation for 2007/08 is £21,067,000 made up of revenue expenditure of £20,441,000 and capital expenditure of £626,000. Although an overall increase of 2.8 per cent, this represents a challenging efficiency target incorporated as activity is budgeted to increase by about 16 per cent.

### 7. Income arising from CC activities not reported in the financial statements

There is no further income accruing to the CC from its activities that is not reported in the financial statements.

#### 6.1 Three-year expenditure summary

	2005/06 Actual £'000	2006/07 Actual £'000	2007/08 Forecast £'000
Payroll costs	11,684	11,198	11,108
Accommodation costs (net of income)	4,408	3,669	4,411
Other costs less sundry income	5,821	4,908	4,922
Relocation provision	2,007	(1,123)	-
Revenue DEL	23,920	18,652	20,441
Capital expenditure	456	470	626

#### 6.2 Reconciliation of revenue DEL to Income and Expenditure Account

	2006/07 Actual £'000
Revenue DEL	18,652
Add:	
Income receivable	2,907
Interest receivable	140
Deduct:	
Corporation tax charge	(26)
Cost of capital	(56)
Expenditure per Income and Expenditure Account	21,617

Under certain of the Acts through which references can be made by sector regulators, a statement of costs incurred by the CC in its inquiries is provided to the appropriate regulator, which is responsible for collecting these costs from the regulated body. The regulators collect these costs and surrender the proceeds to the Consolidated Fund, not to the CC. The CC also provides a statement of the costs of merger inquiries to the OFT, which is responsible for setting the level of merger clearance fees. The OFT includes the CC's costs of merger inquiries in its memorandum trading account used in accounting for merger fees.

#### 8. Payment of creditors

The CC 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 93 per cent of relevant invoices were settled within 30 days (2005/06: 92 per cent); 100 per cent is not achieved mainly due to invoices arriving that do not quote a valid CC purchase order reference. These are not processed for payment until the validation of the respective purchase order is completed.

#### 9. Financial instruments

Please refer to note 26 in the notes to the financial statements.

#### 10. Pension liabilities

Please refer to accounting policy 1(g) and note 20 in the notes to the financial statements.

#### 11. Employee involvement

The CC maintains an open management style and involves staff in the management of change. It has a Staff Council with staff representation from all parts of the organization. This is an important consultative forum for discussing new developments affecting staff. A recent example of this is staff participating in a number of consultative focus groups to feed into the Council's review of the CC to consider potential changes to the CC's current working processes and team structures. The Chief Executive runs regular seminars to which all staff are invited to hear presentations on issues of interest, to be updated on management changes and raise questions about any issues affecting the CC.

#### 12. Employment of disabled people

The CC adheres to the DBERR's policy statement set out in its code of practice on the employment of disabled people.

#### 13. Auditor

The CC's annual financial statements are audited by the Comptroller and Auditor General (C&AG). For the year ending 31 March 2007 the cost of work performed was £33,000. The audit services provided by the C&AG's staff in the National Audit Office related only to statutory audit work.

The Accounting Officer has taken all necessary steps to make himself aware of any relevant audit information and to establish that the CC's auditors are aware of that information.

So far as the Accounting Officer is aware, there is no relevant information of which the CC's auditors are unaware.

#### 14. Post balance sheet events

There are none to report.

#### 15. Future developments

These are described in the Chairman's Foreword and the Chief Executive's report in the Annual Report.



Martin Stanley  
Chief Executive and Secretary  
Accounting Officer  
19 June 2007

# Management commentary

## 1. The CC and its external environment

The CC is the Phase 2 body in the UK's competition framework. It is a purely reactive body, conducting inquiries only after it has received a reference, in most cases, from the OFT, or another regulator with powers to refer to the CC. The OFT conducts initial probes into mergers and markets, and refers cases to the CC where it has a reasonable belief that there might be problems with competition. The OFT considers about 200 mergers a year, of which it refers around 15 cases to the CC; the OFT also refers around three or four market inquiries a year to the CC. The CC also has jurisdiction to consider appeals against GEMA decisions on modifications of certain energy industry codes and to determine price control matters raised in appeals to the Competition Appeal Tribunal. Other regulators make licence modification referrals or price control references intermittently.

## 2. The CC's employees

The CC had 165 employees at the end of March 2007 (174 at end of March 2006). Staff turnover for the year was 17 per cent, about half (9 per cent) having left under voluntary early retirement/severance. The CC looks to recruit high-calibre people from the private and public sector. The CC continues to promote a diverse workforce. During the year, 51 per cent of the new staff appointed were women and 17 per cent were from ethnic minorities; 50 per cent of the CC's most senior staff are women.

## 3. Environmental matters

The CC is committed to minimizing the environmental impact of our outputs. Up to 96 per cent of all materials are recycled via our nominated supplier Grosvenor Waste, which is an expert in handling recyclables, general and clinical waste.

## 4. Social and community issues

The CC supports its staff in contributing to society and may grant special leave with pay to employees who act as magistrates, elected members of a local authority or members of health

authorities, tribunals, training in youth leadership, Duke of Edinburgh's schemes or other voluntary activity.

## 5. Key performance indicators

In April 2005 the CC set the following KPIs and agreed in conjunction with the DBERR to:

- monitor the level of satisfaction of the CC's stakeholders as surveyed approximately annually by an independent third party;
- commission a peer review, which assesses the performance of the UK competition regime (including the CC) against the objective of being world class. This is carried out by independent consultants every three years, with the latest review by KPMG published in June 2007; and
- monitor the CC's financial performance as measured by budget compliance, and progress in achieving annual efficiency improvements.

Operations are divided into six work streams: investigations, resources, analysis, remedies, process and contribution to the competition regime. Analysis of the work streams is covered in more detail in the Annual Report.

## 6. Objectives and strategy for achieving them

The Corporate Plan 2007/08 was published on the CC website ([www.competition-commission.org.uk](http://www.competition-commission.org.uk)) on 5 April 2007, and sets the KPIs, objectives and strategy for the new financial year.

## 7. Significant features of the development and performance of the organization in the financial year

During 2006/07 there were 9 inquiries brought forward from the previous financial year and 19 new inquiries. Of these, 12 were completed, 4 were cancelled, and 12 carried forward to the next financial year.

### 7.1 Inquiries summary

	<i>Mergers</i>	<i>Market</i>	<i>Regulatory</i>	<i>Total</i>
New inquiries 2006/07	13	3	3	19
Inquiries brought forward from 2005/06	5	4		9
Deduct inquiries cancelled	(3)		(1)	(4)
Deduct inquiries carried forward at 31 March 2007	(6)	(4)	(2)	(12)
Inquiries completed in 2006/07	9	3	0	12

## 8. The main trends and factors that the Council considers likely to impact on future prospects

The CC is a purely reactive body, conducting inquiries only after it has received a reference from the OFT, another regulator or other body with powers to refer to the CC. The CC's workload is therefore unpredictable and future prospects are affected by conditions in the economy as a whole and any changes to the legal framework in which the CC works.

## 9. The CC's resources and how they are managed

The CC's primary resource is its staff; 34 per cent of CC staff are skilled professionals with competition expertise in economics, law, accountancy and business advice. Inquiries are managed by six Inquiry Directors. Inquiry work is supported by inquiry administration teams and Corporate Services functions. Staff are managed by the Chief Executive, four Heads of Profession, and a Director of Corporate Services.

## 10. The principal risks and uncertainties facing the CC and the approach to them

The principal uncertainty facing the CC is the variability of its workload. To mitigate this the CC employs a relatively high proportion of staff on a short-term basis. During 2006/07 the proportion of short-term staff was on average around 28 per cent (2005/06: 28 per cent).

The other major challenge facing the CC is the recruitment and retention of high-calibre staff that are needed to help produce robust inquiry reports to tight statutory timescales. The CC attempts to minimize this risk within the constraints of public sector pay awards.

The CC has made significant improvements in its risk management processes and policies during 2006/07. These are more fully recorded in the Statement of Internal Control (pages 49 to 51), specifically under Capacity to handle risk and The risk and control framework.

## 11. Resources and liquidity

The accounts show a cumulative surplus on the Income and Expenditure Account of £576,000 at 31 March 2007. The CC's sponsoring department, the DBERR, has confirmed that there is no reason to believe that its future sponsorship will not be forthcoming within the capital and resource budgets set by Spending Review Settlements.

## 12. Effect of post balance sheet events

There are no post balance sheet events to report.



Martin Stanley  
Chief Executive and Secretary  
Accounting Officer  
19 June 2007

# Remuneration report

## 1. Remuneration policy

Remuneration of the Chairman, Deputy Chairmen and non-executives is set by the Secretary of State for Trade and Industry. The remuneration of the Chief Executive and all CC staff is considered by the CC's Remuneration Committee, which is chaired by a non-executive Council member and normally meets twice each year. Reference is made to the Senior Salaries Review Body and the CC's Chairman writes to the Secretary of State for final approval of the Chief Executive's pay and bonus proposals.

## 2. Appointments

Members of the Council are appointed by the Secretary of State for fixed terms in accordance with the Competition Act 1998 as amended by the Enterprise Act 2002.

## 3. Council members' remuneration

The remuneration of members of the Council of the CC is given in the table below.

2.1		
	<i>Date appointed</i>	<i>Date appointment ends</i>
Peter Freeman (Chairman)*	1 January 2006	31 December 2010
Christopher Clarke (Deputy Chairman)	1 September 2004	9 September 2010
Peter Davis (Deputy Chairman)	18 September 2006	17 September 2012
Diana Guy (Deputy Chairman)*	1 September 2004	30 November 2010
Tony Foster (non-Executive)*	1 September 2003	31 August 2007
Dame Patricia Hodgson (non-Executive)*	1 January 2004	31 December 2008
Martin Stanley (Chief Executive)	1 October 2004	30 September 2009

\*Member of the Remuneration Committee.

3.1					
	<i>Salary</i>	<i>Pension contributions</i>	<i>Taxable expenses</i>	<i>2006/07 total</i>	<i>2005/06 total</i>
Peter Freeman (Chairman)	158,410		6,119	164,529	140,162
Christopher Clarke (Deputy Chairman)*	95,041			95,041	92,996
Peter Davis (Deputy Chairman)	63,690			63,690	0
Diana Guy (Deputy Chairman)*	95,041		29	95,070	92,996
Tony Foster (non-executive)	9,975		1,282	11,257	13,222
Dame Patricia Hodgson (non-executive)	5,775		125	5,900	6,025
Martin Stanley (Chief Executive)	125,997	32,129		158,126	153,258
Professor Paul Geroski (former Chairman)					64,000

\*Two of the Deputy Chairmen are employed on a four days a week basis.

Salary payments shown above for Tony Foster and Dame Patricia Hodgson relate to fees paid.

Benefits in kind were zero. Taxable expenses relate to home to office travel, which are paid by the CC, including the Income Tax and National Insurance thereon.

## 4. Pension details of Council members

Peter Freeman, Christopher Clarke and Diana Guy, are pensioned by analogy to the Principal Civil Service Pension Scheme (PCSPS), gaining benefits commensurate with their salary and service. No contributions are made to this scheme by the CC but the pensions are paid to retired members when they become due. Martin Stanley is a member of the PCSPS scheme and the pension benefits quoted below are accrued from his total Civil Service employment, not just his time with the CC.

The members quoted do not have pension arrangements that differ from the standard. The members quoted do not hold membership of the PCSPS (Earnings Cap) Scheme or accelerated Accrual arrangements. The death-in-service payment of £316,800

calculated in accordance with PCSPS rules was paid to the estate of Professor Paul Geroski during 2006/07.

The members quoted are not contributing at a rate other than the standard PCSPS rate.

#### Cash Equivalent Transfer Values

A Cash Equivalent Transfer Value (CETV) is the actuarially assessed capitalized 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. 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 CETV figures, and from 2003/04 the other pension details, include the value of any pension benefit in another scheme or arrangement which the individual has transferred to the Civil Service pension arrangements and for which the CS Vote has received a transfer payment commensurate with the additional pension liabilities being assumed. They also include any additional pension benefit

accrued to the member as a result of their purchasing additional years of pension service in the scheme at their own cost. CETVs are calculated within the guidelines and framework prescribed by the Institute and Faculty of Actuaries.

#### Real increase in CETV

This reflects the increase in CETV effectively funded by the employer. It takes account of 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.



Martin Stanley  
Chief Executive and Secretary  
Accounting Officer  
19 June 2007

4.1				
	Column 1 Real increase in pension £'000	Column 2 Real increase in lump sum £'000	Column 3 Pension at 31/03/07 £'000	Column 4 Lump sum at 31/03/07 £'000
Peter Freeman	0-2.5	N/A	5-10	N/A
Christopher Clarke	0-2.5	N/A	0-5	N/A
Diana Guy	0-2.5	N/A	0-5	N/A
Martin Stanley	0-2.5	N/A	65-70	N/A
	Column 5 CETV at 31/03/06 (nearest £'000)	Column 6 CETV at 31/03/07 (nearest £'000)	Column 7 Employee contributions and transfers-in £'000	Column 8 Real increase in CETV after adjustment for inflation and changes in market investment factors (nearest £'000)
Peter Freeman	87	126	2.5-5	31
Christopher Clarke	51	80	2.5-5	24
Diana Guy	48	76	2.5-5	23
Martin Stanley	1,285	1,370	2.5-5	22



# Statement of the CC's and the Accounting Officer's responsibilities

Under paragraph 12 of Schedule 7 of the Competition Act 1998, the Secretary of State, with the approval of the Treasury, has directed the CC to prepare a financial statement for each financial year in the form and on the basis set out in the Accounts Direction. The financial statements are prepared on an accruals basis and must give a true and fair view of the CC's state of affairs at the year end and of its income and expenditure, recognized gains and losses and cash flows for the financial year.

In preparing financial statements the CC is required to:

- (i) observe the Accounts Direction issued by the Secretary of State, including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis;
- (ii) make judgements and estimates on a reasonable basis;
- (iii) state whether applicable accounting standards have been followed, and disclose and explain any material departures in the financial statements; and

(iv) prepare the financial statements on the going concern basis, unless it is inappropriate to presume that the CC will continue in operation.

The Accounting Officer for the DBERR has designated the Chief Executive to the CC as the Accounting Officer for the CC. 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 Government Accounting.

# Statement on internal control

## Scope of responsibility

As Accounting Officer, I have responsibility for maintaining a sound system of internal control that supports the achievement of the CC's statutory obligations, policies, aims and objectives, whilst safeguarding the public funds and the CC's assets for which I am personally responsible, in accordance with the responsibilities assigned to me in Government Accounting.

## The purpose of the system of internal control

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

- identify and prioritize the risks to the achievement of the CC's statutory obligations, policies, aims and objectives;
- evaluate the likelihood of those risks being realized and the impact should they be realized; and
- manage them efficiently, effectively and economically.

The system of internal control has been in place in the CC for the year ended 31 March 2007 and up to the date of approval of the annual report and accounts, and accords with Treasury guidance.

## Capacity to handle risk

The following risk management processes are in place:

- (i) The Operations Board<sup>1</sup> reports to the Audit Committee on risk and ensures risks have been properly identified, evaluated and monitored, that appropriate procedures are established to address the risks identified, that staff are aware of risk management practices and risk training is undertaken as necessary.
- (ii) The Operations Board is responsible for the maintenance of a risk register for the CC in which risks have been ranked in terms of impact and likelihood. This register is updated regularly and at least once a year.
- (iii) The Operations Board is also responsible for advising the Council about key strategic risks. The Council reviews these risks at the bi-monthly Council meeting.

## Statement on internal control continued

(iv) The Operations Board is responsible for overall security policies and procedures and overseeing effective security management.

(v) A Business Continuity Group, comprising relevant Heads of Function, which I chair, is responsible for business continuity planning and operations. Also a team of Incident Controllers is in place to deal with any immediate emergencies that may occur. Off-site HQ facilities and off-site IT arrangements are in place to ensure that the CC and/or core IT systems are up and running as soon as possible.

(vi) Policies are in place in the event of a pandemic.

(vii) The CC also reviews each inquiry it undertakes. Any lessons learned or follow-up actions needed are fed through to the relevant senior managers or Committee.

### The risk and control framework

The CC's Risk Policy sets out responsibilities for the identification, evaluation and control of risks in the CC's risk register. The following processes are in place as part of the CC's overall risk and control framework:

(i) Key management issues essential to running the CC and its compliance with relevant legislation are handled in a number of Committees and Groups. The Senior Team,<sup>2</sup> meets around three times a year to discuss strategic issues to advise the Chief Executive and Committees.

(ii) The Operations Board comprises a group of senior staff from across the organization and is responsible for taking decisions on key operational matters.

(iii) An annually updated corporate and business plan is agreed with the DBERR. It contains the CC's priority objectives from which the objectives of all functions, teams and managers are derived.

(iv) Project plans are drawn up for all inquiries and Inquiry Directors report progress to me weekly. A formal report on the status of each inquiry is issued monthly. Upon inquiry completion, formal reports are issued commenting on all aspects of the inquiry plan and process.

(v) Financial control and value-for-money considerations are overseen by the Head of Finance and the Procurement Officer through the financial and procurement policy and procedures, a strict delegated financial authorities structure, control of purchases through a purchase order system and by a monthly financial reporting system to all senior managers and monthly reporting to the DBERR.

(vi) A Competition Commission Programme Board (CCPB)<sup>3</sup> which meets quarterly and reviews the progress on all CC projects, sets long-term CC strategy goals and reviews benefits of completed projects.

(vii) Project Boards are established for all major projects (in particular, the New Finance System project) to ensure projects are managed under generally accepted project management techniques including identification and assessment of project risks.

(viii) A Staff Council, with representatives from staff at all levels, meets at least three times a year to advise staff of changes affecting the organization and to take account of their views and concerns.

(ix) Responsibility for health and safety (including the maintenance of annual external audits) is delegated to an officer and is reported to the Staff Council at each meeting.

### Review of effectiveness

As Accounting Officer, I have responsibility for reviewing the effectiveness of the system of internal control. My review of the effectiveness of the system is informed by the internal auditors, the executive managers within the CC 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 Council, and the Audit Committee, and a plan to address weaknesses and ensure continuous improvement of the system is in place. The following processes were in place to maintain and review the effectiveness of the system of internal control:

- (i) a Council<sup>4</sup> that meets at least six times a year to consider the plans and strategic direction of the CC and to review recent inquiries and discuss best practice across inquiry groups;
- (ii) an Audit Committee<sup>5</sup> chaired by a non-executive member of Council which meets three times a year to advise me on the adequacy of audit arrangements (internal and external) and on the implications of assurances provided in respect of risk and control in the CC. The Audit Committee provides an annual update of its activities to the Council; and
- (iii) an internal audit service. This was provided by Baker Tilly during 2006/07.

The internal auditors report regularly to standards defined in the Government Internal Audit Standard and the Head of Internal Audit reports on the adequacy and effectiveness of the CC's system of internal control and provides recommendations for improvement.



Martin Stanley  
Chief Executive and Secretary  
Accounting Officer  
19 June 2007

1. The Operations Board comprises the Chief Executive, the Director of Corporate Services, the Heads of Profession and 3 Inquiry Directors.  
2. The Senior Team comprises all the senior managers across all functions.  
3. The Competition Commission Programme Board was previously called the Information Systems Programme Board and now has a broader remit with revised terms of reference.  
4. The Council comprises the Chairman, the Deputy Chairmen, the Chief Executive and two non-Executive members.  
5. The Audit Committee comprises a non-Executive member of Council, two members of the CC, the Head of Planning and one or two senior members of staff.

# Certificate and report of the Comptroller and Auditor General to the Houses of Parliament

I certify that I have audited the financial statements of the Competition Commission for the year ended 31 March 2007 under the Competition Act 1998. These comprise the Income and Expenditure Account, the Balance sheet, the Cash flow statement and 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 being audited.

*Respective responsibilities of the Competition Commission, Chief Executive and auditor*

The Competition Commission and Chief Executive are responsible for preparing the Annual Report, the Remuneration report and the financial statements in accordance with the Competition Act 1998 and directions made thereunder and for ensuring the regularity of financial transactions. These responsibilities are set out in the Statement of the Competition Commission and 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 Competition Act 1998 and directions made thereunder. I report to you whether, in my opinion, certain information given in the Annual Report,

which comprises the Chairman's Foreword, the Chief Executive's report, Competition Commission work in 2006/07, Published inquiry reports, the Council report, the unaudited part of the Remuneration report and the Management commentary, 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 Commission 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 Commission'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 Commission's corporate governance procedures or its risk and control procedures.

I read the other information contained in the Annual Report and consider whether it is consistent with the audited financial statements. 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 opinion*

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 judgements made by the Competition Commission and Chief Executive in the preparation of the financial statements, and of whether the accounting policies are most appropriate to the Competition Commission'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*

#### *Audit opinion*

In my opinion:

- the financial statements give a true and fair view, in accordance with the Competition Act 1998 and directions made thereunder, of the state of the Competition Commission's affairs as at 31 March 2007 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 Competition Act 1998 and directions made thereunder;
- information given within the Annual Report, which comprises the Chairman's Foreword, the Chief Executive's Report, Competition Commission work in 2006/07, Published inquiry reports, the Council report, the unaudited part of the Remuneration report and the Management commentary, is consistent with the financial statements.

#### *Audit Opinion on Regularity*

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.

John Bourn  
Comptroller and Auditor General

21 June 2007

National Audit Office  
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London SW1W 9SP

# Income and Expenditure Account for the year ended 31 March 2007

	Note	2006/07 £'000	Restated 2005/06 £'000
Income	3	2,907	2,289
<b>Expenditure</b>			
Members' remuneration	4	1,194	1,376
Staff remuneration costs	5	10,239	10,308
Accommodation costs	6	6,146	6,693
Depreciation	9,10,11	1,332	1,548
Permanent diminution in value of fixed assets	10	68	39
(Profit)/loss on disposal of fixed assets	10	38	(7)
(Decrease)/increase in provisions for liabilities and charges	17(a)	(1,123)	2,007
Pension provision	17(b)	371	587
Other operating charges	6	3,352	3,837
		21,617	26,388
<b>Deficit on ordinary activities before interest and tax</b>		(18,710)	(24,099)
Interest receivable	7	140	250
Notional cost of capital	7	(56)	(116)
		84	134
<b>Deficit on ordinary activities before tax</b>		(18,626)	(23,965)
Corporation Tax	8	(26)	45
<b>Deficit for the financial year after tax</b>		(18,652)	(23,920)
Add back— <i>notional cost of capital</i>	7	56	116
<b>Deficit for the financial year</b>		(18,596)	(23,804)

## Statement of recognized gains and losses

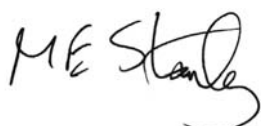
		2006/07 £'000	2005/06 £'000
Revaluation surplus (net)	19	113	80

All operations are continuing. Refer to note 1(i) in the notes to the financial statements. There were no material acquisitions or disposals of operations during the year. The notes on pages 57 to 73 are part of the financial statements.

# Balance sheet as at 31 March 2007

	Note	2007 £'000	Restated 2006 £'000
<b>Fixed assets</b>			
Intangible fixed assets	9	191	238
Tangible fixed assets	10	7,429	8,144
		7,620	8,382
Dilapidated asset related to provision	11	1,154	1,168
Debtors: amounts falling due after more than one year	12	323	425
<b>Current assets</b>			
Debtors	13	1,765	2,038
Cash at bank and in hand	14	169	2,129
		1,934	4,167
<b>Current liabilities</b>			
Creditors: amounts falling due within one year	15	(1,849)	(1,975)
<b>Net current assets</b>		85	2,192
<b>Total assets less current liabilities</b>			
		9,182	12,167
Creditors: amounts falling due after more than one year	16	(2,139)	(2,278)
Provisions for liabilities and charges	17(a)	(4,363)	(6,197)
Pension liabilities	17(b)	(1,721)	(1,473)
		959	2,219
<b>Financed by:</b>			
Income and Expenditure Account	18	576	1,949
Revaluation reserve	19	383	270
		959	2,219

The notes on pages 57 to 73 are part of the financial statements.



Martin Stanley  
Chief Executive and Secretary  
Accounting Officer  
19 June 2007



# Cash flow statement

## for the year ended 31 March 2007

	<i>Note</i>	<i>2006/07</i> <i>£'000</i>	<i>Restated</i> <i>2005/06</i> <i>£'000</i>
Net cash outflow from operating activities	28(i)	(18,908)	(21,855)
Capital expenditure	28(ii)	(349)	(925)
Return on investments and servicing of finance	28(ii)	145	251
Financing—revenue	28(ii)	16,730	21,044
Financing—capital	28(ii)	470	456
Taxation		(48)	(65)
Decrease in cash	28(iii)	(1,960)	(1,094)

The notes on pages 57 to 73 are part of the financial statements.

# Notes to the financial statements

## 1. Accounting policies

### (a) Accounting convention

These financial statements have been prepared in accordance with the Government Financial Reporting Manual (FRM). The accounting policies contained in the FRM follow UK generally accepted accounting practice for companies (UK GAAP) to the extent that it is meaningful and appropriate to the public sector. The financial statements have been prepared using the modified historical cost convention, under which fixed assets are recorded in the Balance Sheet at their value to the business, usually current replacement cost. The Income and Expenditure Account is charged with the proportion of the current cost of fixed assets consumed in the year.

### (b) Income

The overall cash needs of the CC are financed by grant-in-aid from the DBERR. The accounting policy regarding grant-in-aid has changed from previous years as detailed in note 1(k) below.

Income relates mainly to charges to tenants for occupancy and charges to other Government bodies for secondees.

### (c) Fixed assets

Expenditure on fixed assets is capitalized. Tangible fixed assets comprise IT equipment such as servers, PCs and printers as well as office fixtures and fittings and office leasehold improvements. Intangible fixed assets comprise software licences. The capitalization threshold limits and depreciation policy are explained below and at note (d).

Where the effect is material, asset values are reviewed annually using relevant producer price indices and suppliers' replacement prices where appropriate.

Expenditure on major IT projects is capitalized. This includes expenditure directly incurred on hardware, software and appropriate consultants' costs.

Fixed assets are capitalized where the value is £1,000 or over, in a single purchase. However, for grouped purchases of IT equipment, IT software or fixtures and furniture, individual items with a value of £200 or greater are capitalized where the total grouped purchase is £1,000 or more.

Consultants' expenditure is generally written off when incurred. However, where the level of expenditure is over £100,000 and creates a distinct asset for the CC which has a life of more than

one year, consultants' costs that are directly attributable to the asset are capitalized.

Assets in the course of construction are capitalized at purchase cost and then depreciated from the date that they become operational.

### (d) Depreciation

Depreciation is charged in respect of all capitalized fixed assets at rates calculated to write off the cost or valuation of each asset, less any estimated residual value, evenly over their expected useful life as follows:

<i>Tangible fixed assets</i>	
Leasehold improvements	20 years ie over lease term
<i>IT</i>	
Servers	3 to 5 years
PCs, laptops and printers	3 years
Fixtures and furniture	5 to 10 years
Leasehold dilapidations	20 years
<i>Intangible fixed assets</i>	
IT software licences	2 to 4 years

### (e) Notional cost of capital

In accordance with Treasury requirements, a notional charge on capital of 3.5 per cent a year (2005/06: 3.5 per cent a year) is levied on the CC on the average net capital employed.

### (f) Taxation

(i) The CC is liable for Corporation Tax on interest earned on bank deposits.

(ii) Costs shown for capitalized fixed assets include related Value Added Tax (VAT). Expenditure in the Income and Expenditure Account is also shown inclusive of VAT, with the exception of costs relating to property subletting and some miscellaneous trading activities. The CC became registered for VAT on 16 July 2004, with an effective date of 1 July 2003. It took the election, under Schedule 10, paragraph 2, VAT Act 1994, to waive exemption on its subletting income at its Victoria House office. This was dated 3 August 2004. Under this election, the CC charges VAT to its tenants on property transactions and reclaims VAT on its related expenditure. Expenditure on property that is sublet and expenditure on miscellaneous trading activities is

## Notes to the financial statements continued

shown exclusive of VAT in the Income and Expenditure Account from these respective effective dates.

### *(g) Pensions*

Full staff and members pension details are given in note 20.

Provision is made for the actuarially assessed liability of the CC's 'PCSPS by analogy' pension scheme for members who are or were Chairmen or Deputy Chairmen. In accordance with HMT guidelines on the implementation of FRS 17, the full calculated pension liability is accrued and recognized in the Income and Expenditure Account.

No recognition of the staff PCSPS scheme is made in the CC's accounts as this is an unfunded multi-employer defined benefits scheme and the CC is unable to identify its share of the underlying assets and liabilities. Liability for payment of future benefits is a charge on the PCSPS. In respect of the defined contribution elements of the schemes, the CC recognizes the contributions payable for the year.

### *(h) Operating leases*

Rentals are charged to the Income and Expenditure Account in equal amounts over the lease term.

### *(i) Going concern*

The accounts for the year to 31 March 2006 showed a cumulative deficit on the Income and Expenditure Account of £6,163,000. However, as a result of a change in accounting policy for grant-in-aid the deferred Government grant reserve has been aggregated with the Income and Expenditure Account. As at 31 March 2007 the Income and Expenditure Account stands at £576,000 (31 March 2006: restated £1,949,000).

The DBERR has confirmed that there is no reason to believe that its future sponsorship will not be forthcoming within the capital and resource budgets set by Spending Review Settlements. It has accordingly been considered appropriate to adopt a going concern basis for the preparation of these financial statements

### *(j) Provisions*

The CC 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. Where the effect of the time value of money is significant, the estimated risk-adjusted cash flows are discounted using the Treasury discount rate of 2.2 per cent a year in real terms (2005/06: 2.2 per cent a year).

Where provisions for leasehold dilapidations are required, the CC creates a dilapidations asset, using discounted values, and depreciates the asset over the term of the leasehold.

### *(k) Change of accounting policy*

With effect from the 2006/07 reporting period the Government FRM requires non-departmental public bodies (NDPBs) to account for grants and grants-in-aid received for revenue purposes as financing because they are regarded as contributions from a controlling party which gives rise to a financial interest in the residual interest of NDPBs. This is a change in accounting policy from earlier periods when such items were recorded as income. The effect of this change on the certified 2005/06 accounts and the impact of the change on the results of the current year is shown opposite. Note there is no impact on the net assets position of the CC as a result of this change in policy:

	<i>At 31 March 2006 (as previously stated)</i>	<i>Impact of adopting the new policy</i>	<i>At 31 March 2006 (restated)</i>
Deficit for 2005/06	(1,227)	(22,577)	(23,804)
Income and Expenditure Account	(6,163)	8,112	1,949
Government Grant Reserve	8,112	(8,112)	0

	<i>At 31 March 2007 (without applying the new policy)</i>	<i>Impact of adopting the new policy</i>	<i>At 31 March 2007 (applying the new policy)</i>
Deficit for 2006/07	(498)	(18,098)	(18,596)
Income and Expenditure Account	(6,661)	7,237	576
Government Grant Reserve	7,237	(7,237)	0

## 2. Government grant-in-aid

The total grant-in-aid from the DBERR in the year was as follows:

	<i>2006/07 £'000</i>	<i>2005/06 £'000</i>
Drawn down	17,200	21,500
Revenue expenditure	16,730	21,044
Capital expenditure	470	456
Aggregate grant drawn down	17,200	21,500

In accordance with the FReM, grant-in-aid is credited directly to the Income and Expenditure Account in the balance sheet. The 2005/06 figures have been restated accordingly.

## Notes to the financial statements continued

### 3. Income

	2006/07 £'000	2005/06 £'000
<b>Rent and other occupancy charges:</b>		
External	579	594
Intra-Government – Competition Service	1,283	1,356
– NHS Institute for Innovation and Improvement	177	126
– Museums, Libraries and Archives Council	438	209
sub-total	2,477	2,285
<b>Charges for seconded-out staff:</b>		
Intra-Government – OFT	166	-
Intra-Government – Department of Transport	7	-
Intra-Government – Ofgem	16	-
Intra-Government – Cabinet Office	14	-
External	32	-
sub-total	235	0
Compensated legal costs of judicial review	180	-
<b>Sundry income:</b>		
Intra-Government – Treasury Solicitor	10	
Sundry income	5	4
<b>Total income</b>	<b>2,907</b>	<b>2,289</b>

#### 4. Members' remuneration costs

The cost of members' remuneration was:

	2006/07 £'000	2006/07 £'000	2006/07 £'000	2005/06 £'000
	<i>Chairman &amp; Deputy Chairmen</i>	<i>Other members</i>	<i>Total</i>	<i>Total</i>
Salaries	420	665	1,085	1,248
Social security costs	48	61	109	128
	468	726	1,194	1,376

(a) Members of the CC during the year are listed in the Annual Report. Terms and conditions of appointment for members are determined by the Secretary of State with the approval of the Treasury. Under the Enterprise Act 2002, new appointments will normally be for eight years. Members appointed prior to the Enterprise Act 2002 are normally on four-year terms with an option to extend for a further four years.

(b) Other members, including non-executive Council members, are paid per diem and reimbursed for their travel expenses from home to office. Taxation and National Insurance on these payments are also paid by the CC.

#### 5. Staff remuneration costs

(a) *The cost of staff remuneration was:*

	2006/07 £'000	2006/07 £'000	2006/07 £'000	2005/06 £'000
	<i>Permanent staff</i>	<i>Other staff</i>	<i>Total</i>	<i>Total</i>
Salaries	6,262	1,944	8,206	8,283
Social security costs	580	86	666	673
Pension costs	1,228	139	1,367	1,352
Total	8,070	2,169	10,239	10,308
Less recoveries in respect of outward secondments	(235)	-	(236)	-
Total net costs	7,835	2,169	10,004	10,308

(i) £235,000 was recovered in respect of the outward secondment of permanent staff.

(ii) The total includes zero for capitalized staff costs (2005/06: £24,000).

(iii) The remuneration of the Chief Executive is included in staff remuneration.

(iv) Salaries include redundancy payments of £417,000 (2005/06: £322,000).

## Notes to the financial statements continued

### (b) Number of staff

The average monthly number of full-time-equivalent staff (FTE), including secondees from government departments, other organizations, staff employed on short-term contracts and temporary and contract staff, was:

	2006/07 FTE	2005/06 FTE
<b>Employed on references</b>		
Permanent staff	83	84
Other staff	21	30
Total employed on references	104	114
<b>Inquiry support and planning</b>		
Permanent staff	10	14
Other staff	5	2
Total inquiry support and planning	15	16
<b>Support staff</b>		
Permanent staff	15	23
Other staff	17	11
Total support staff	32	34
<b>Project staff</b>		
Permanent staff	0	1
Other staff	0	5
Total project staff	0	6
<b>Total staff FTEs*</b>	<b>151</b>	<b>170</b>

\*Includes zero FTEs whose costs were capitalized (2005/06: 0.5 FTEs).

## 6. Accommodation costs and other operating charges

### (a) Accommodation costs

	2006/07 £'000	2005/06 £'000
Victoria House	6,146	6,693

The CC occupies 54 per cent of its office space at Victoria House with the remainder sublet. The accommodation costs shown above are the full costs before sublet income of £2,477,000 (2005/06: £2,285,000) which is included as income (see note 3).

Operating lease rental costs were £4,553,000 (2005/06: £4,699,000).

(b) Other operating charges

	2006/07 £'000	2005/06 £'000
Consultants' fees— inquiry related*	268	866
Consultants' fees— not inquiry related	126	103
Consultants' fees—IT	177	223
Travel, subsistence and hospitality:		
Members	204	228
Staff and contractors	103	107
Staff training	255	271
Staff recruitment*	123	290
Publishing	15	46
Audit fees*	33	31
Other administration*	2,048	1,672
Total other operating charges	3,352	3,837

\*Comments are made below on significant changes year on year:

Consultants' fees— inquiry related: have decreased mainly due to changes in work practice utilizing in-house staff or staff seconded into the CC.

Staff recruitment: costs have decreased reflecting leavers not being immediately replaced as the workload level had fallen.

Audit fees: an amount of £33,000 is due to the National Audit Office for 2006/07 audit services, which relate only to statutory audit work (£30,500 for 2005/06).

Other administration: costs have increased by 22 per cent due mainly to increased legal costs incurred, although £180,000 relating to work on cases that went to the Competition Appeals Tribunal have been recovered through additional income.

## 7. Interest

	2006/07 £'000	2005/06 £'000
Interest receivable	140	250
Notional cost of capital	(56)	(116)
	84	134

Interest was received on funds deposited with the office of HM Paymaster General. In accordance with Treasury guidelines, notional interest payable on capital employed was calculated at 3.5 per cent on the average capital employed by the CC for the year (2005/06: 3.5 per cent).



## Notes to the financial statements continued

### 8. Taxation

	2006/07 £'000	2005/06 £'000
Corporation Tax payable on interest —current	26	48
—prior year		2
Release of provision—prior years	-	(95)
	26	(45)

Corporation Tax payable on interest is based on 19 per cent (2005/06: 19 per cent) of gross interest receivable. The release of provision in 2005/06 related to an anticipated tax liability on a reverse lease premium accrued in 2003/04. This liability did not materialize.

### 9. Intangible fixed assets

	Software licences £'000
<b>Current cost</b>	
At 1 April 2006	604
Additions at cost	87
Disposals	-
At 31 March 2007	691
<b>Amortization</b>	
At 1 April 2006	366
Provision for the year	134
Released on disposal	-
At 31 March 2007	500
<b>Net book value</b>	
At 31 March 2006	238
At 31 March 2007	191

## 10. Tangible fixed assets

	IT £'000	Fixtures and furniture £'000	Leasehold costs £'000	Assets in course of construction £'000	Total £'000
<b>Current cost</b>					
At 1 April 2006	3,250	642	7,439	38	11,369
Additions at cost	235	10	-	138	383
Disposals	(69)	-	-	(38)	(107)
Revaluation	(204)	-	163	-	(41)
At 31 March 2007	3,212	652	7,602	138	11,604
<b>Depreciation</b>					
At 1 April 2006	1,713	286	1,226	-	3,225
Provision for the year	638	123	364	-	1,125
Released on disposal	(66)	-	-	-	(66)
Revaluation	(136)	-	27	-	109
At 31 March 2007	2,149	409	1,617	-	4,175
<b>Net book value</b>					
At 31 March 2006	1,537	356	6,213	38	8,144
At 31 March 2007	1,063	243	5,985	138	7,429

Assets in the course of construction: the brought forward balance of £38,000 comprising a Knowledge Management project has been superseded by the *Autonomy* product purchased during 2006/07. As the expenditure was incurred during the 2004/05 financial year it is deemed to hold no value and has been written off.

Assets in the course of construction carried forward are in respect of software licences for the *Autonomy* search tool (£106,000) and the new finance system (£32,000).

The revaluation relates to a permanent diminution in the value of IT equipment and an increase in the value of leasehold assets based on the relevant Office for National Statistics and DBERR price indices.

## Notes to the financial statements continued

### 11. Dilapidations asset related to provision

	<i>Dilapidations asset provision £'000</i>
<b>Current cost</b>	
At 1 April 2006	1,329
Discount rate reduction	-
Unwinding of discount	29
Revaluation	30
At 31 March 2007	1,388
<b>Depreciation</b>	
At 1 April 2006	161
Provision for the year	68
Revaluation	5
At 31 March 2007	234
<b>Net book value</b>	
At 31 March 2006	1,168
At 31 March 2007	1,154

The capitalized office dilapidations asset provision current cost is the discounted value of the CC's estimated leasehold office reinstatement liability at the end of the Victoria House lease in 2023. The discount rate as set by HMT is 2.2% (2005/06: 2.2%).

### 12. Debtors: amounts falling due after more than one year

	<i>2007 £'000</i>	<i>2006 £'000</i>
Tenants' rent-free period	323	425

Debtors falling due after one year represent a rent-free period granted to tenants that is being amortized over the periods of the respective leases. The total rent-free period debtor at 31 March 2007, including those amounts shown at note 13 falling due within one year, was £425,000.

### 13. Debtors: amounts falling due within one year

	2007 £'000	2006 £'000
Staff travel advances	24	29
Trade debtors:		
External	167	70
Intra-Government—OFT	8	-
Intra-Government—Competition Service	47	2
Intra-Government—Museums, Libraries and Archives Council	8	10
Intra-Government—NHS Institute for Innovation and Improvement	18	12
Intra-Government—Treasury Solicitor	4	-
Prepayments—rent	1,120	1,120
Prepayments—other	250	272
Tenants' rent-free period	102	102
Sundry debtors	6	405
Interest accrued	11	16
	1,765	2,038

### 14. Cash at bank and in hand

	2007 £'000	2006 £'000
Paymaster General	169	2,129
Cash in hand	-	-
	169	2,129

The CC's bank account is an interest-bearing current account with the Paymaster General's Office.

### 15. Creditors: amounts falling due within one year

	2007 £'000	2006 £'000
Trade creditors and accruals:		
External	235	397
Intra-Government—DBERR	19	19
Intra-Government—DCA	30	-
Deferred income	280	168
Other creditors	749	817
PAYE, National Insurance and pension	496	526
VAT creditor	14	-
Corporation Tax	26	48
	1,849	1,975

## Notes to the financial statements continued

### 16. Creditors: amounts falling due after more than one year

	2007 £'000	2006 £'000
Victoria House rent—deferred income	2,139	2,278

The Victoria House deferred income relates to the amortization of a rent-free period. Under the rules of UITF Abstract 28: Operating Leases, the value of the rent-free period is being amortized on a straight-line basis over the 20-year term of the lease. Total deferred income including amounts falling due within one year was £2,918,000 (2005/06: £2,446,000).

### 17. Provisions

(a) Provisions for the year ending 31 March 2007 are:

	Office relocation £'000	Capitalized office dilapidations £'000	Total provisions £'000
As at 1 April 2006	4,868	1,329	6,197
Provided in the year	-	30	30
Provisions not required written back	(1,123)	-	(1,123)
Provisions utilized in the year	(770)	-	(770)
Unwinding of discount	-	29	29
As at 31 March 2007	2,975	1,388	4,363
	£'000	£'000	£'000
Less than one year	897	-	897
One to five years	2,078	-	2,078
More than five years	-	1,388	1,388

The office relocation provision relates to the CC's former offices at New Court WC2 that were vacated in February 2004. Provision is made to cover contracted office rental liabilities at New Court. The provision is the CC's best estimate of its eventual liabilities and represents the cost of the remaining five years of the agreement taking into account likely subletting income. See note 21 on operating leases for an explanation of the CC's contractual obligations for New Court.

The write back of £1,123,000 in 2006/07 is the result of a new tenant moving into the building in January 2007 for the remainder of the lease.

The capitalized office dilapidations provision is the discounted value of CC's estimated reinstatement liability at the end of the Victoria House lease in 2023.

(b) Pension provisions for the year ended 31 March 2007 are:

	<i>Pension liabilities £'000</i>
As at 1 April 2006	1,473
Provided in the year	371
Provisions utilized in the year	(123)
As at 31 March 2007	1,721

In accordance with the requirements of FRS 17, the CC has provided for the actuarially assessed liability of the CC's 'PCSPS by analogy' pension scheme (see note 20).

## 18. Income and Expenditure Account

	<i>2006/07 £'000</i>	<i>Restated 2005/06 £'000</i>
Balance at 1 April	1,949	(4,952)
Changes to accounting treatment:		
Transfer of Deferred Government Grant Reserve		9,189
Grant-in-Aid direct to Income and Expenditure Account—Revenue	16,730	21,044
Grant-in-Aid direct to Income and Expenditure Account—Capital	470	456
Balance at 01 April restated	19,149	25,737
Realized element of revaluation reserve	23	16
Deficit for the year	(18,596)	(23,804)
Balance at 31 March	576	1,949
Made up of:		
Pension provision	(1,721)	(1,473)
Office relocation provision	(2,975)	(4,868)
Other income and expenditure	5,272	8,290
Total at 31 March	576	1,949

The cumulative surplus at 31 March 2007 of £576,000 is primarily made up of Other income and expenditure (£5,272,000), offset by the Pension provision (£1,721,000) and the Office relocation provision (£2,975,000), both of which were unfunded in terms of grant-in-aid received at 31 March 2007.

## Notes to the financial statements continued

### 19. Revaluation reserve

	2006/07 £'000	2005/06 £'000
Balance at 1 April 2006	270	190
Revaluation of leasehold assets in the year	163	109
Realized element transferred to income and expenditure reserve	(23)	(16)
Backlog depreciation to leasehold assets	(27)	(13)
Balance at 31 March 2007	383	270

### 20. Staff and members' pension costs

Ordinary and panel members of the CC are not pensioned.

Members who are or were Chairmen or Deputy Chairmen are members of the CC's 'PCSPS by analogy' scheme, gaining benefits commensurate with their salary and service. This is a defined benefit scheme and is unfunded and non-contributory except in respect of dependants' benefits and additional employee contributions to the classic and premium schemes. At 31 March 2007 there were three active members, nine current pensioners and one deferred pensioner. The CC makes no contributions to the scheme. Instead it pays pensions to retired members as they become due. The actuarial liability at 31 March 2007 was £1,721,000 (31 March 2006: £1,473,000). Pensions in payment of retirees (and deferred pensions) increase at the rate of 3.6 per cent from 9 April 2007. The CC is satisfied that any obligation it is unable to meet in the normal course of its activities in respect of members' pensions would be met by the Secretary of State.

The valuation was carried out by the Government Actuary's Department from membership information supplied to them. The financial and demographic assumptions used in the assessment are consistent with those used elsewhere in central government for resource accounting. The key financial assumption, that rates of return net of price increases are 1.8 per cent a year, is specified for resource accounting purposes by HMT. The following allowances are assumed: increase in salaries 4.3 per cent a year, price inflation 2.75 per cent a year, increase for pensions in payment and deferred pensions 2.75 per cent a year.

During the year ended 31 March 2007 pension payments of £98,000 (2005/06: £106,000) were made to retired Chairmen and Deputy Chairmen members.

Staff pension benefits are provided through the Civil Service pension arrangements. From 1 October 2002, civil servants may be in one of three statutory-based 'final salary' defined benefit schemes (classic, premium and classic plus). The schemes are unfunded with the cost of benefits met by monies voted by Parliament each year. Pensions payable under classic, premium and classic plus are increased annually in line with changes in the Retail Prices Index. New entrants after 1 October 2002 may choose between membership of premium or joining a good-quality 'money purchase' stakeholder arrangement with a significant employer contribution (partnership pension account).

Employee contributions are set at the rate of 1.5 per cent of pensionable earnings for classic and 3.5 per cent for premium and classic plus. Benefits in classic accrue at the rate of 1/80th of pensionable salary 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 (but members may give up (commute) some of their pension to provide a lump sum). Classic plus is essentially a variation of premium, but with benefits in respect of service before 1 October 2002 calculated broadly in the same way as in classic.

The partnership pension account is a stakeholder pension arrangement. The employer makes a basic contribution of between 3 per cent and 12.5 per cent (depending on the age of the member) into a stakeholder pension product chosen by the employee from a

selection of approved products. The employee does not have to contribute but where they do make contributions, the employer will match these up to a limit of 3 per cent of pensionable salary (in addition to the employer's basic contribution). Employers also contribute a further 0.8 per cent of pensionable salary to cover the cost of centrally-provided risk benefit cover (death-in-service and ill health retirement).

With effect from 1 July 2007 the name and structure of the premium pension scheme will be changing. The scheme has been renamed 'Nuevo'; further details about this and other Civil Service pension arrangements can be found at [www.civilservice-pensions.gov.uk](http://www.civilservice-pensions.gov.uk).

For 2006/07, employer's contributions of £1,367,000 were payable to the PCSPS (2005/06: £1,352,000).

## 21. Operating leases

At 31 March 2007 the CC was committed to making the following payments during the next year in respect of operating leases before VAT:

The CC has a 20-year lease for office space in Victoria House, Southampton Row, London, WC2. The lease start date was September

	2007 £'000	2006 £'000
Land and buildings		
Leases that expire after five years	4,135	4,135

2003. The total space is 8,261 sq metres, of which 3,838 sq metres (46 per cent) has been sublet and 4,423 sq metres (54 per cent) is the CC's net space. The CC's net operating lease commitment is £2,394,000 a year (2006: £2,394,000).

The terms of the Victoria House lease include a compounded annual rent increase of 2.5 per cent that is applied every five years. The operating lease commitments shown above do not include the compounded annual rent increase. The first increase is due in September 2008 and is expected to be 13.14 per cent.

The CC also has an existing tenancy agreement under a memorandum of terms of occupation (MOTO) between the DBERR and The Valuation Office for approximately 3,000 square metres of office space in New Court, Carey Street, London WC2. This agreement expires on 24 March 2012. The CC has no formal or contractual responsibility for the liabilities under this agreement. However, it has agreed with the DBERR to manage the reassignment of the agreement and to make financial provision for the potential future liabilities. The provision made under 'office relocation' is the CC's best estimate of its likely continuing cost up to the point the MOTO expires taking account of potential sublet income. Provision has been made for the five remaining years.

## 22. Contingent liabilities

There are no contingent liabilities to report.

## 23. Capital commitments

The CC has no capital commitments on the Victoria House lease, except for dilapidations which mature upon the 20-year expiry in 2023 and which are provided for in these accounts.

There are no capital commitments under the terms of its New Court occupancy agreement.

## 24. Post balance sheet events

There are no post balance sheet events to report.



## Notes to the financial statements continued

### 25. Related party transactions

The CC is an NDPB sponsored by the DBERR and funded by a grant-in-aid from that department. The DBERR is regarded as a related party. During the year, the CC had various material transactions with the DBERR, all of which were conducted at arm's length prices. In addition, the CC had a small number of material transactions with other government departments and other central government bodies, all conducted at arm's length prices.

None of the CC members or key managerial staff undertook any material transactions with the CC during the year, except for remuneration paid for their services and, in the case of members, reimbursement of home to office travel expenses.

The CC has sublet part of its office premises at Victoria House to the Competition Service (sponsored by the DBERR) under the same terms as its own lease. It has also sublet office space on shorter terms to the NHS Institute for Innovation and Improvement and to the Museums, Libraries and Archives Council.

### 26. Financial instruments

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

The CC is financed by grant-in-aid paid from the DBERR and is not therefore exposed to significant liquidity risks. It has no borrowings and no material deposits and all material assets and liabilities are denominated in sterling; it is, therefore, not exposed to significant interest rate risks or currency risks.

### 27. Financial targets

See Council Report, paragraph 6: Financial performance measure, which comments on financial targets.

### 28. Notes to the cash flow statement

<b>(i) Reconciliation of deficit on ordinary activities before interest and tax to operating cash flows</b>		
	<i>2006/07</i> <i>£'000</i>	<i>Restated</i> <i>2005/06</i> <i>£'000</i>
Deficit on ordinary activities before interest and tax	(18,710)	(24,099)
Movements not involving cash		
Depreciation	1,332	1,548
(Profit)/loss on disposal of fixed assets	38	(7)
Increase/(decrease) in provisions for liabilities and charges	(1,645)	1,458
Permanent diminution in value of fixed assets	68	39
	(18,917)	(21,061)
(Increase)/decrease in debtors	368	(642)
(Decrease) in creditors	(359)	(152)
Net cash (out)/inflow from operating activities	(18,908)	(21,855)

**(ii) Analysis of cash flows for headings netted in the cash flow statement**

	2006/07 £'000	Restated 2005/06 £'000
<b>Capital expenditure</b>		
Payments to acquire fixed assets	(352)	(983)
Proceeds from the sale of fixed assets	3	58
	(349)	(925)
<b>Return on investments and servicing of finance</b>		
Interest received	145	251
<b>Financing—grant-in-aid funding from the DBERR:</b>		
Revenue	16,730	21,044
Capital	470	456
	17,200	21,500

**(iii) Analysis of changes in net funds**

	At 1 April 2006 £'000	Cash flow £'000	At 31 March 2007 £'000
Cash at bank and in hand	2,129	(1,960)	169

**29. Authorized for issue**

These financial statements were authorized for issue by Martin Stanley, the Accounting Officer, on 12 July 2007.

## Council members



**Peter Freeman** was appointed Chairman in 2006, having been a member since May 2003 and a Deputy Chairman since September 2003. Prior to joining the CC, he was head of the EC and Competition Law Group of the international law firm Simmons & Simmons. He was co-founder of and, until 2007, Chairman of the Regulatory Policy Institute, is a Consulting Editor of *Butterworths' Competition Law*, and is a member of the Advisory Boards of the Competition Law Journal the International Competition Law Forum and the ESRC Research Centre for Competition Policy. Recent cases include the Domestic Bulk Liquefied Petroleum Gas, Home Credit, and Groceries market investigations; and the Tesco/Co-op Store Acquisition in Slough and BSKyB/ITV merger inquiries.



**Christopher Clarke** was appointed Deputy Chairman in 2004, having been a member since 2001. Mr Clarke is a non-executive director of The Weir Group PLC and of Omega Insurance Holdings Limited. Until 1998, he was a director of HSBC Investment Banking and from 1982-1996, a director of Samuel Montagu. His investment banking responsibilities in the UK and internationally encompassed restructurings and privatizations; mergers, acquisitions and disposals; joint ventures; financing; and regulatory matters. Recent or continuing cases include the Pan Fish ASA/Marine Harvest NV and the Wienerberger Finance BV/Baggeridge Brick plc merger inquiries; the Heathrow and Gatwick airports charges quinquennial review; and the Store Card Credit Services, Northern Ireland Banks Personal Current Accounts and BAA Airports market investigations.



**Dr Peter Davis** was appointed Deputy Chairman in 2006 and was previously on the CC's academic panel from 2004. He received a PhD from Yale and served on the faculty of MIT, before joining LSE, where he was Leverhulme Lecturer. His academic work includes contributions to the *Journal of Law and Economics*, the *European Economic Review*, the *Journal of Econometrics*, the *Journal of Industrial Economics* (JIE) and the *RAND Journal of Economics*. He currently serves as an associate editor of the *JIE* and also of *Economica*. Recent or continuing cases include the Mid Kent Water/South East Water, Stonegate Farmers Ltd/Deans Food Group Ltd, and Sportech plc/Vernons merger inquiries; and the Payment Protection Insurance market investigation.



**Diana Guy** was appointed Deputy Chairman in 2004, having been a member since 2001. She is a qualified solicitor and was a partner, and later a consultant, at Theodore Goddard (now part of Addleshaw Goddard). During her career she specialized in EU and competition law and was involved in some significant cases before the MMC and the European Commission. She is a non-executive director of Catlin Underwriting Agencies Limited and Catlin Insurance Company (UK) Limited. Recent or continuing cases include the HMV Group plc/Waterstone's plc/Ottakar's plc, Stericycle International LLC/Sterile Technologies Group Limited, Hamsard 2786 Ltd/Academy Music Holdings Ltd, Greif Inc/Blagden Packaging group and Woolworths Group plc/Bertram Group Ltd merger inquiries; the Classified Directory Advertising Services and Rolling Stock Leasing market investigations.



**Tony Foster** was appointed non-executive Council member in 2003. He has spent much of his career in the industrial chemicals sector: as General Manager of ICI General Chemicals Business, Director of ICI Chemicals and Polymers Ltd, and Chief Executive of ICI Chlorochemicals Business. He was also a non-executive director of Ellis and Everard plc, Chairman of the Catalyst Museum of the Chemical Industry, a member of the Supervisory Board of EVC, and a non-executive Director of the Countess of Chester NHS Trust. From 1997 to 2006 he was a full-time member of the Criminal Cases Review Commission. He now acts as a consultant to the government agency Animal Health and is a member of committees for the Institute of Chartered Accountants and the Solicitors Regulation Authority.



**Dame Patricia Hodgson DBE** was appointed non-executive Council member in 2004. She is Principal of Newnham College, Cambridge and a Member of the BBC Trust. She is also Governor of the Wellcome Trust and Member of the Committee for Standards in Public Life and of the Higher Education Funding Council for England. She has worked previously as both a producer and journalist. Past work includes: BBC Policy & Planning Director, Chief Executive of the Independent Television Commission, Chair of the Higher Education Regulation Review Group and non-executive director of GCap Media plc.



**Martin Stanley** was appointed Chief Executive in 2004, having spent most of his career in the DTI where he held a number of senior positions including Principal Private Secretary. He was Director of the Cabinet Office's Regulatory Impact Unit, before becoming Chief Executive of the Postal Services Commission (Postcomm), the Government department that regulates the UK postal services industry. He regularly writes and lectures about the UK Government and Civil Service.

## Reporting Panel members

**Jayne Almond** (appointed in 2005) is currently Chief Executive of Stonehaven, a specialist Equity Release mortgage business, and Chairman of Squarestone, a private commercial property business with interests in the UK and Portugal. She was previously Managing Director of Barclays' Home Finance business. Prior to this, she was Group Marketing Director at Lloyds TSB, and Managing Director of Lloyds TSB's European Internet banking business. In her earlier career she worked for Shell, and was a senior Partner at LEK Consulting, in charge of its financial service practice. She has held a number of non-executive appointments including Ascot plc and Deputy Chair of CDC.



**Professor John Baillie** (appointed in 2001) is a chartered accountant, specializing in share and business valuation and dispute resolution. He was previously a partner in KPMG. In 1983 he was appointed Professor of Accounting at the University of Glasgow, where he is now a visiting Professor. He is a Member of the Accounts Commission and a Board Member of Audit Scotland. He has just completed a two-year project on the Committee, conducting an independent review of local government finance in Scotland for the Scottish Executive. He has also chaired various committees and groups for the Institute of Chartered Accountants of Scotland. Professor Baillie chaired the Stagecoach/Scottish Citylink merger inquiry, published in the financial year 2006/07.



**Christopher Bright** (appointed in 2006) has practised as a solicitor in the City of London, specializing in competition and utility regulation, for over 20 years. He recently became a partner at Shearman & Sterling LLP and is also a non-executive director of the Jersey Competition Regulatory Authority, a member of the Disciplinary Tribunal of the Accountancy Investigation and Discipline Board, and a Visiting Senior Research Fellow at the Institute of European & Comparative Law, University of Oxford. He is an accredited CEDR mediator.



**Sarah Brown** (appointed in 1998) is a former Civil Servant and was Director of Company Law at the DTI until her retirement in 1996. She held a number of senior posts within the DTI including Head of Small Firms and Business Links Division and Head of Companies Division. She is now a non-executive director of the Revenue and Customs Prosecutions Office and Look Ahead Housing and Care Ltd. She is also a member of the Bar Standards Board, the Accountancy Investigation and Discipline Board, the Investigating Committee of the Royal Pharmaceutical Society and the Disciplinary Committees panel of the Association of Chartered Certified Accountants.



**Laura Carstensen** (appointed in 2005) was a partner in the City law firm Slaughter and May, from 1994 until 2004, specializing in UK and EU competition law. She is now joint Managing Director and joint-owner of Blue Banyan Ltd, a company operating in the mind/body/spirit market. As part of this she is also the operator of the complementary health-care Blue Banyan Healing Centres, and organizer of Blue Banyan Real Time courses. Currently, she also works as a workplace diversity consultant and as a life coach. She is a member of The Law Society.



**Dr John Collings** (appointed in 2001) was Director of Regulation at Powergen until December 2001, having previously been a partner at Coopers & Lybrand (1987–1994) and Commercial Regulation Adviser at BT (1986–87). He has lectured at Aston and Hull universities and worked as an Economic Adviser in the Government Economic Service. He led Powergen's inquiry team when its proposed acquisition of MEB was referred to the Monopolies and Mergers Commission and is also a Trustee of the Community Council of Devon.



**Dr Diane Coyle** (appointed in 2001) is an Economic Consultant and freelance writer, specializing in globalization and new technologies. She is also a Visiting Professor at the University of Manchester's Institute for Political and Economic Governance. She was formerly Economics Editor of *The Independent* and also European Editor of *Investors Chronicle*. Dr Coyle has worked as Senior Economic Assistant to HMT and published several books on economics. She is a member of the Executive Committee of the Centre for Economic Policy Research, the Council of the Royal Society of Arts, Manufactures and Commerce and a member of the BBC Trust. She has a PhD in Economics from Harvard University.



## Reporting Panel members (continued)



**Professor John Cubbin** (appointed in 2006) is Professor of Economics at City University, where he teaches topics in industrial organization and finance and researches on the economics of regulation. Prior to this he was an Associate Director with National Economic Research Associates; Professor in Economics with the University of Manchester Institute of Science and Technology; Reader in Economics at Queen Mary College, University of London; and a Lecturer in Economics at the University of Warwick.



**Roger Davis** (appointed in 2005) is a chartered accountant. Until 2003 he was a partner of PricewaterhouseCoopers. For several years he was Senior Audit Partner and then Global Head of Professional Affairs. He also spent two years with HMT. He is currently a board member of the Professional Oversight Board, the UK's independent regulator for the accountancy and actuarial professions.



**Carolan Dobson** (appointed in 2005) is a non-executive director and member of the Audit Committee of Shires Smaller Companies plc. She was previously a director with Abbey National Asset Managers Limited. Today she is Chairman of Lomond School and a council member of Sport Scotland. She is the independent Investment Adviser to the Environment Agency, The London Borough of Enfield and Rhondda Cynon Taf's Pension Fund. She is also a trustee of Avon Pension Fund and for the Colquhoun Trust, a charity that provides help to the poor and terminally ill in Glasgow.



**Barbara Donoghue** (appointed in 2005) is a banker with experience in raising capital, both debt and equity, in domestic and international markets. She is a non-executive director and Chairman of the Audit Committee of Eniro AB, the Stockholm-based publisher and a Member of the Broadcasting Policy Group. She has served as Chair of the Co Regulatory Design Group of Ofcom. She is a former Teaching Fellow in Strategic and International Management at the London Business School and Member of the Independent Television Commission. Previously she was Managing Director at Hawkpoint Partners and NatWest Markets. She holds a Bachelor's degree in Economics and a Masters degree in Business Administration, both from McGill University, Canada.



**Laurence Elks** (appointed in 2001) is a solicitor. He was a member of the Criminal Cases Review Commission (until December 2006) and a partner at Nabarro Nathanson (1984–1995), during which time he worked on a number of high-profile merger cases. He has worked in the area of competition law and written and lectured on the subject. He has been involved in a wide range of voluntary activities and is Trustee of the Hackney Historic Buildings Trust. He was previously Trustee of the Ocean Music Trust and the Hackney Music Development Trust. Mr Elks chaired the Cott Beverages/Macaw (Holdings) merger inquiry, published in the financial year 2006/07.



**Richard Farrant** (appointed in 2005) is Chairman of both the charity Sustrans and the Investigation Committee of the Institute of Chartered Accountants. He is a non-executive director of Daiwa SMBC Europe. In 2006 he retired as Vice Chairman of United Financial Japan International Limited. Prior to this, he was Chief Executive of the Securities and Futures Authority, Managing Director and Chief Operating Officer of the Financial Services Authority, and a board member of the Gas and Electricity Markets Authority.



**Christopher Goodall** (appointed in 2001) is a financial and market analyst, as well as an investor in Internet-related companies and Chairman of Dynmark International, Limited. He is a shareholder in a venture operating low-cost satellite TV channels on Astra satellites and prior to this, he was a partner in Enders Analysis, a provider of financial and market analysis for the fund management industry.

**Professor Cosmo Graham** (appointed in 1999) has been Professor of Law at the University of Leicester since 1999 and is director of the University's Centre for Utility Consumer Law. He specializes in research on utility regulation and competition law. He is Co-Editor of *Utilities Law Review* and a Member of the Advisory Committee of the Centre for the Study of Regulated Industries.



**Professor Alan Gregory** FCMA (appointed in 2001) is Professor of Corporate Finance at the University of Exeter. He has previously held Chair appointments at the University of Wales, Aberystwyth, and at the University of Glasgow. He has contributed to the *Journal of Empirical Finance*, *The Economic Journal*, the *Journal of Business Finance and Accounting*, the *Journal of Accounting and Public Policy*, *Accounting & Business Research*, and *European Financial Management*. He is the author of the FT Management Briefing *Strategic Valuation of Companies*.



**Ivar Grey** (appointed in 2005) is a self-employed Financial Adviser. He also works as a non-executive director of Finance Wales PLC, a non-executive director of Gwent Healthcare NHS Trust and as Governor of Port Regis School. He acts as a Forensic Accountant and works with various charitable and business organizations. He is also a Chartered Accountant. In 2002 he retired as a partner with KPMG, having worked with them in the UK, Norway, Denmark and the Netherlands.



**Professor Alan Hamlin** (appointed 2001) is Professor of Political Theory and Director of the Manchester Centre for Political Theory at the University of Manchester. He was previously Professor of Economics and Dean of Law, Arts and Social Sciences at the University of Southampton. He has held visiting appointments at a number of overseas universities, has published widely on a range of topics in economics and politics, and is currently editor of the journal *Constitutional Political Economy*.



**Professor Jonathan Haskel** (appointed 2001) is Professor of Economics at the Department of Economics, Queen Mary College, University of London. He has also taught at Bristol University, London Business School and Stern School of Business at New York University. He has worked as a consultant to the OFT and the DfEE and HMT. He is on the Editorial Board of *Economica*.



**Peter Hazell** (appointed in 2002) is currently the Chairman of the Argent Group, a major UK property developer, and a non-executive director of two listed companies, UK Coal plc and Brit plc (an insurance company). He is also a non-executive director of Smith & Williamson. He was until 2000 a partner in the accountancy firms Deloitte Haskins & Sells, Coopers & Lybrand and PricewaterhouseCoopers, where he was the UK Managing Partner. He was also a director and board member of the National Grid Company. He is a council member of the Natural Environment Research Council.



**Charles Henderson** CB (appointed in 1998), a former Civil Servant, was Director General of Energy at the DTI before retiring from the Department in 1996. He was previously the DTI's Director General for Corporate Affairs, covering competition policy, insurance regulation, consumer affairs and the Insolvency Service and Company Law. Prior to this, he was Head of the Office of Arts and Libraries. Between 1998 and 2005, he was non-executive Chairman of Total Holdings UK Ltd and is also former President of the Energy Institute and of the Society for Underwater Technology. He is a Fellow of the Institute of Actuaries.



## Reporting Panel members (continued)



**Jill Hill** (appointed in 2005) is the Corporate Development Director of Remploy Ltd, an NDPB which provides jobs for disabled people. She has been with Remploy for six years, after many years at Rolls-Royce plc, and is a non-executive director of NDI Ltd. She is a Chartered Engineer, a Fellow of the British Computer Society, a Regional Council Member and an Education and Training Committee member of the CBI.



**Richard Holroyd** (appointed in 2001) is a non-executive director of Cantrell & Cochrane plc, a leading beverage manufacturer in Ireland; Otto Weibel AG; and ABRO, the MoD Trading Fund. Previously, he was a Senior Executive at Shell International and in 1998/99 he led a team responsible for reviewing Shell's global strategy for the consumer facing retail business. Prior to joining Shell he worked for Reckitt & Colman and was Managing Director of Colman's of Norwich.



**Alexander Johnston** (appointed in 2005) was until 2003 a Managing Director at Lazard, London, where he worked in corporate and project finance, mainly in electricity, rail and utility industries, both in the UK and in Europe. He is Chairman of BMS Associates Limited, a reinsurance broker, and an external member of the Finance Committee of Cambridge University.



**Ian Jones** (appointed in 2005) is a Special Adviser with NERA Economic Consulting. Prior to this he was Director and Head of NERA's European Transport Practice. He has also worked with the National Institute of Economic and Social Research, the Monopolies and Mergers Commission, London Business School and the Government Economic Service.



**Peter Jones** (appointed in 2005) is a director of Rhydfach Consulting Limited. Prior to this he was a Corporate Finance director with HSBC Bank plc, HSBC Investment Bank plc and Samuel Montagu and Co Limited. Through Rhydfach Consulting Limited, he is a consultant to British Nuclear Fuels plc (BNFL) and Hammonds; he was also a consultant to the Government's Shareholder Executive in 2004/05.



**Professor Bruce Lyons** (appointed in 2002) is Professor of Economics at the University of East Anglia. Previously he was an economics lecturer at St John's College, Cambridge. Since 1994, he has been a member of the Economic Advisory Group on Competition Policy for the European Commission. He is Deputy Director of the ESRC Centre for Competition Policy at UEA, and is involved in a research programme on the economics of competition policy. He was formerly Editor of the *Journal of Industrial Economics* and is Associate Editor of *Economica*. He has published various books and articles on the economics of industry.



**Dame Barbara Mills** DBE QC (appointed in 2001) is the Adjudicator for Her Majesty's Revenue and Customs. Previously she was the Director of Public Prosecutions (1992–98). As Director of the Serious Fraud Office, Dame Barbara dealt with the BCCI case. In 1986, she was a DTI inspector under the Financial Services Act and she has also been a member of the Criminal Injuries Compensation Board, a Legal Assessor to the General Medical Council and a member of the Parole Board.

**Professor Peter Moizer** PhD FCA (appointed in 2001) is Professor of Accounting at Leeds University Business School. He was a senior lecturer in accounting at the University of Manchester and before that, Assistant Audit Manager at Price Waterhouse. He has been a member of a number of committees for the Institute of Chartered Accountants in England and Wales and is a co-founder of the European Auditing Research Network.



**Jeremy Peat** (appointed in 2005) was Group Chief Economist at the Royal Bank of Scotland, from 1993 to 2005. Prior to this he was an economic adviser at The Scottish Office, HMT, the Manpower Services Commission and the Ministry of Overseas Development. In the early 1980s he worked for the Ministry of Finance and Development Planning in Botswana. In 2005 he was appointed to the BBC Board of Governors, as National Governor for Scotland, where he later became a trustee. In the same year, he also took over as director of the David Hume Institute. He is a fellow of the Royal Society of Edinburgh and a director of the Signet Accreditation Company. He chaired the EWS Railway Holdings/Marcroft Engineering merger inquiry, published in the financial year 2006/07.



**Professor Mahendra Raj** (appointed in 2005) has been Professor of Finance at the Robert Gordon University since 1996. He is the Editor of the *Studies in Economics and Finance* and has served on the editorial boards of several journals including the *Journal of Forensic Accounting*, *Journal of Global Business* and the *Journal of Business and Behavioural Sciences*. He is a Fellow of the American Society for Business and Behavioural Sciences. He has been a Commissioner with the Accounts Commission for Scotland since October 2001 and a Member of the Scottish Legal Aid Board since 2006.



**Christopher Smallwood** (appointed in 2001) is Chairman of the Hounslow PCT and Policy Adviser to the Prince's Charities. Until 2005, he was Chief Economic Adviser to Barclays plc, following several years as a partner at the City consultancy Makinson Cowell. He was formerly Strategic Development Director and Chief Economist at TSB Group. He was also Economics Editor of *The Sunday Times* and Chief Economist and Head of Financial Strategy and Planning for BP. He has been an Economic Adviser to HMT and a Special Adviser at the Cabinet Office. He has also served as a member of the Monopolies and Mergers Commission. Mr Smallwood chaired the SvitzerWijismuller A/S/Adsteam Marine Limited merger inquiry, published in the financial year 2006/07.



**John Smith** (appointed in 2005) is a non-executive member of the Steering Board of the Marine Fisheries Agency. He works as an independent consultant and is an Associate with Independent Consulting Limited. An economist by training, he worked for 12 years in the privatized rail and water sectors as Director of Regulation and Government with Railtrack PLC, and Director of Regulation with Anglian Water Services Limited. As a member of the Government Economic Service in the Department of the Environment, he held posts in transport, local government finance, and environmental protection and also worked on water privatization. He was a member of the independent steering group appointed by Ofwat in December 2004. He is also co-author of a 2003 report for Defra and Ofwat on financial structures in the water industry.



**Anthony Stern** (appointed in 2005) is a director of InterContinental Hotels UK pension trust. He was Director of Treasury for Bass and InterContinental hotels from 1988 to 2003, where he participated in financing mergers and acquisitions, a number of which involved competition investigations. Prior to this he worked for Dixons, Marks & Spencer and Chase Manhattan Bank. From 2001 to 2002 he was President of the Association of Corporate Treasurers. He has written for the Economist Intelligence Unit on aspects of financial markets.



**Peter Stoddart** (appointed in 2001) was a member of the Board, Company Secretary and Director of Financial Services for Nissan Motor Manufacturing (UK) Limited until his retirement in 2000. He previously worked with British Shipbuilders Corporation and was Finance Director of Cammell Laird Shipbuilders Limited. He was Interim Director of Operations of the NE Regional Development Agency and has held a number of non-executive appointments: Chairman of Further Education Colleges, Deputy Chairman of the RVI and Associated Hospitals NHS Trust.





## Reporting Panel members (continued)



**Professor Sudi Sudarsanam** (appointed in 2005) is Professor of Finance & Corporate Control at the School of Management, Cranfield University, where he has worked for the last seven years. Prior to this, he was Professor of Finance & Accounting at the Cass Business School in London. He is the author of *The Essence of Mergers and Acquisitions* and *Creating Value from Mergers and Acquisitions: The Challenges*. He is a member of the European Financial Management Association, the Financial Management Association (USA), and the American Finance Association and is on the editorial board for the *Journal of Business Finance & Accounting*. He is an Associate of the Chartered Institute of Bankers, London.



**Richard Taylor** (appointed in 2005) was a partner at CMS Cameron McKenna, where he worked for 30 years and specialized in competition law. During this time, he also both founded and chaired CMS, an alliance of European law firms. He has been appointed a member of the board of the recently established Solicitors Regulation Authority and is senior vice chair of the Corporate Social Responsibility committee of the International Bar Association. He is also a trustee of the charities Beating Bowel Cancer and the Eating Disorders Association and a governor of Ickburgh School, a special school in Hackney.



**Robert Turgoose** (appointed in 2002) was a corporate finance partner in PricewaterhouseCoopers. Much of his work has centred around competition in the gas and electricity industries, advising regional electricity companies on the creation of a competitive market post-privatization. He has advised governments and companies in the UK and overseas on energy industries. Mr Turgoose chaired the CBS Private Capital Ltd/Hampden Agencies Ltd merger inquiry, published in the financial year 2006/07.



**Professor Catherine Waddams** (appointed 2001) is Professor at Norwich Business School and founding Director of the ESRC Centre for Competition Policy at the University of East Anglia. She is a Life Fellow of Clare Hall, Cambridge and has been a Visiting Fellow at the University of California Berkeley and at the University of Copenhagen and the University of Leicester. She has published widely on the economics of regulation, competition and gains from utility reform. Her current research interests focus on consumer choice and its role in competition policy and on the distributional effects of utility reform.



**Stephen Walzer** (appointed in 2001) is Chairman of the International Chamber of Commerce UK Competition committee and rapporteur to the parent committee in Paris. A member of the Law Society/Bar Competition working party, he also serves on European Round Table groups responsible for competition policy and industrial relations, the European Committee of the American Chamber and the Industry Advisory Group to UNICE, both in Brussels. He is a member of the OFT's ICN Mergers Analytical Framework group. Mr Walzer is also a public Interest member of the Audit Registration Committee of the Institute of Chartered Accountants for England and Wales.



**Professor Michael Waterson** (appointed in 2005) is Professor of Economics at the University of Warwick. He held previous academic posts at the Universities of Reading and Newcastle and was President of the European Association for Research in Industrial Economics. He was also General Editor of the *Journal of Industrial Economics*. Currently, he is Chair of the (UK) Network of Industrial Economists. He is also Chairman of the Utilities Appeals Panel for Guernsey and an external examiner at the University of Edinburgh. He served as Specialist Adviser to Subcommittee B of the European Union Committee of the House of Lords. Prior to his appointment to the CC, he was a member of the CC Academic Panel for one year.



**Martyn Webster** (appointed in 1998) previously worked for Southern Water plc. There, he was Group Managing Director from 1993 until 1996 and Group Finance Director from 1989 to 1992. Before that, he was Group Financial Controller at Laporte plc and Financial Controller at NCR Ltd. His earlier career was with Price Waterhouse. He is a member of the Institute of Chartered Accountants in England and Wales.

**Jonathan Whiticar** (appointed in 2005) is a business consultant. Formerly a Managing Director of the Bank of Scotland, he has over 20 years' experience in mergers and acquisitions, banking and capital markets. He also spent two years on secondment with the DTI, as Director of the Industrial Development Unit. He is a Fellow of the Institute of Chartered Accountants of England & Wales and a member of the Institute of Chartered Accountants of Ontario, Canada. He is currently Trustee and Treasurer of the Hampshire & the Isle of Wight Community Foundation.



**Professor Stephen Wilks** FCA (appointed in 2001) is Professor of Politics at the University of Exeter. He was Deputy Vice Chancellor of the University until 2000 as well as a member of the Economics and Social Research Council, where he chaired the Strategic Research Board. He is currently Deputy Director of the Exeter Centre for Regulatory Governance. His research interests centre on political economy and public policy and he has specialized in the study of UK and comparative competition policy. He has published widely on UK and European competition regimes.



**Fiona Woolf CBE** (appointed in 2005) is a senior adviser with London Economics International LLC and a non-executive director of Three Valleys Water plc. She is also both a partner and a Consultant with CMS Cameron McKenna, where she holds responsibility for profile raising and quality assurance. In addition to this, Ms Woolf is President of The Law Society of England and Wales and will serve until July 2007. She has been a member of The Law Society's Council since 1987. During that time, she has represented the City of London constituency and chaired The Law Society's International Committee, leading on market access for UK law firms.



**Alan Young** (appointed in 1998) is a director at the consultancy firm Webster Young Limited and a director of Lunar Energy Limited. Prior to this, he was a non-executive director of the UK Atomic Energy Authority, a non-executive director at Energy Power Resources Limited, Commercial Director of Scottish Hydro-Electric plc, and Director of Operations at John Brown Engineering Limited. He was a Senior Engineer/Project Support Manager at the South of Scotland Electricity Board as well as acting as Chairman of RMS Communications plc and Managing Director of Scottish Overseas Health Support.



## Senior staff Inquiry Directors



**Aileen Armstrong** joined the CC in 2003 and is a secondee from the DTI. Before joining the CC, she was part of the Bill Team responsible for the introduction of the Enterprise Act. She has also held posts in the OFT, the Cabinet Office and the European Commission. Since joining the CC she has worked on merger inquiries in road sweepers and steel drums and is now leading on the rolling stock market investigation.



**John Banfield** joined the CC in 1984 and was formerly an economist at the DTI and at the Department for Transport. Initially he was an Economic Adviser within the CC, before becoming Inquiry Director. He has worked on over 70 inquiries, including around 40 mergers and 10 regulatory inquiries. In recent years he has worked on merger inquiries in insurance and egg farming and is now leading on the BAA airports market investigation.



**Rachel Merelie** joined the CC in 2003 from Cap Gemini Ernst & Young. She previously managed business planning for Ernst & Young, worked as a management consultant, and held a variety of posts in the electricity industry. She has an MBA from HEC in France. Since joining the CC she has worked on merger inquiries in water regulation and book retail and is now leading on the BSkyB/ITV merger inquiry.



**John Pigott** joined the CC in 2003 from consultants Stern Stewart where he was Senior Vice President. He had previously held various positions at Tate & Lyle including senior Treasury, Planning and IT roles. He has an MBA from London Business School and is a member of the Association of Corporate Treasurers. Since joining the CC he has worked on merger inquiries in chemicals for non-agricultural applications and specialist scientific equipment. He is now leading on the E.ON UK plc v GEMA on Energy Code Modification UNC116 appeal.



**Anthony Pygram** joined the CC in 2005 from the DTI, where he worked, among other things, on mergers and nuclear non-proliferation. He has also worked as a postdoctoral researcher in ceramics, in product development of microporous materials, and in the nuclear industry. Since joining the CC he has worked on merger inquiries in towage and the manufacture and supply of bricks. He is now leading on the payment protection insurance market investigation.



**Andrew Taylor** joined the CC in 2005. Previously, he worked as a utilities sector consultant advising on economic, financial and regulatory issues. Prior to this, he worked in the Australian Government both at the Federal Treasury and as an adviser to an Australian Government Minister. Since joining the CC he has worked on merger inquiries in soft drinks and clinical waste and is now leading the groceries market investigation.



**Caroline Wallace** joined the CC in 2005. She spent the previous five years at Ofcom and then Ofcom, where she was a Director of Competition Policy. She is a chartered engineer and, prior to joining Ofcom, had worked in the telecoms, water and manufacturing industries. Since joining the CC she has worked on merger inquiries in rail transport and food.

## Senior staff

### **Chief Accounting Adviser**

**Elizabeth Dymond** joined the CC in 2001. She is a chartered accountant who qualified with Coopers & Lybrand. She subsequently worked at Mercury Asset Management and at 3i plc where she was group management accountant before joining the OFT as a financial analyst in 1999.



### **Chief Business Adviser and Head of Remedies**

**David Roberts** joined the CC in 2002 from Sainsbury's where his roles included Director of Corporate Finance and Group Treasurer. He previously worked for BP and Deloitte Haskins & Sells Management Consultants. He is a chartered accountant and is a trustee of the Shaftesbury Society.



### **Chief Economist**

**John Davies** joined the CC in 2003 as a director in the economics team and in 2005 became the Chief Economist. Since then he has worked on a wide variety of merger and market inquiries. Before joining the CC, he spent ten years working as a consulting economist. He first studied economics at Kings College, Cambridge, and then at Nuffield College, Oxford.



### **Chief Legal Adviser**

**Clare Potter** joined the CC in 2004. She was previously a partner in the competition group at City law firm Simmons & Simmons where she specialized in competition, utility regulation and telecoms, advising both regulated companies and regulators. She had periods of secondment to the DTI and the European Commission.



### **Director of Corporate Services**

**Rebecca Lawrence** joined the CC in 2005. She was formerly the Operations Director at the Rent Service (a DWP agency). She has a background in policy development and implementation, change management and frontline service delivery.



### **Deputy Director of Financial Analysis**

**Mark Thornton-Bryar** joined the CC in 2006. He is a chartered accountant who qualified with Price Waterhouse. He then moved to the PricewaterhouseCoopers management consulting (later known as IBM Business consulting) practice spending seven years in various consulting and practice management roles. After leaving IBM he took a UK then European lead finance role in the Internet Search and Mobile Phone Services industry.



### **Director of Economic Analysis**

**Benoit Durand** joined the CC in 2006. Previously, he was a member of the Office of the Chief Economist, a service of the Directorate-General for Competition of the European Commission, where he worked on mergers and antitrust investigations covering a large range of industries. Prior to this he worked as an economic consultant in Washington DC specializing in competition policy matters. He holds a PhD in economics from Boston College.



## Senior staff (continued)



**Director of Economic Analysis**

**Tom Kitchen** joined the CC in the late 1990s for his second stint at the CC and became a director in the economics team in 2003. He has worked on many inquiries. Before joining the CC, Tom's competition and regulatory work mainly focused on the transport and energy industries.



**Director of Remedies and Business Analysis**

**Cathryn Ross** joined the CC in 2003. She was previously Head of Competition Economics at the Office of the Rail Regulator, where she worked primarily on cases surrounding the Competition Act 1998, but also advised on access agreements and liaised with the SRA on rail franchising policy and fares regulation. Prior to this, Cathryn was an economic adviser at Oftel working on price controls and competition casework. Before joining Oftel, Cathryn was an economic consultant, working for a range of public and private sector clients on competition and regulatory issues.



**Legal Director**

**Frances Barr** joined the CC in 2006 on secondment from the OFT. At the OFT she advised on Competition Act cases, EC modernization, mergers and market studies. Before joining the OFT she worked as a solicitor in private practice, specializing in competition law. She has also worked on competition policy on secondment at the DTI.



**Legal Director**

**Carole Begent** joined the CC in 2000. She has specialised in competition and regulation, previously holding legal and policy posts at ORR and Ofwat, and has been involved in managing change in consequence of changes to the competition (notably Enterprise Act and Competition Act) or regulatory regimes. Before joining OFWAT she was a solicitor in private practice specializing in corporate, commercial and regulatory law.



**Legal Director**

**Claire Short** joined the CC in 2003. Previously she was as an advisory lawyer at the DTI where she worked on competition matters including the development and implementation of the Enterprise Act. While at the DTI she also advised on postal services, including the Postal Services Act 2000, and coal miners' health claims. Prior to joining the DTI she was a solicitor in private practice specializing in commercial litigation.

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