

Annual Report and Accounts  
2008/09

COMPETITION COMMISSION



## **Competition Commission**

for the year ended 31 March 2009

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section 186 of the Enterprise Act 2002

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# Chairman's statement

## Competition in times of turbulence

It is obvious to all that, both in the UK and worldwide, we are subject to conditions of severe economic downturn, combined with, and to an extent caused by, a crisis in financial and credit markets. This has caused many to question not only the relevance of competition policy and enforcement but also the value of markets as a framework for successful economic activity. There are calls not only for those sectors of the economy that are in difficulty to be shielded from the full application of competition enforcement, but for that shield to be made more permanent, on the grounds that it is the misplaced reliance on competition and on the view that markets will correct their own imperfections that have led to the present difficulties. On this argument, the move towards greater competition should be reversed in favour of much tougher regulation and other forms of state control.

Arguments produced in the midst of a crisis often do not stand up to close scrutiny and the arguments for abandoning competition at this time are no exception. It is rather like asking the captain of a ship to throw away the rudder because there is a severe storm blowing. It is true that the rudder may be harder to operate during the storm, but you still need it and to be rudderless when the storm abates is hardly good seamanship.

The Competition Commission (CC) is very used to assessing arguments about the value or otherwise of competition in given situations, and deciding how competition will work with, or in face of, other policy requirements. Our investigations into Groceries in 2008 and more recently into Payment Protection Insurance and Airports, all completed this year<sup>1</sup> and described later in this report, show how relevant and effective competition can be, even when many other policy considerations are also present.

I have no doubt that it is extremely important both for the continued economic strength of the UK and for the interests of its consumers that vigorous and competitive markets should remain the preferred basis for economic activity.

If the importance of competition is undiminished, how to apply competition policy in times of economic difficulty is more problematic. On the one hand, consumers may think that the survival of a sufficient number of firms is more important than how strongly they compete with each other.



Peter Freeman Chairman

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**'I have no doubt that it is extremely important both for the continued economic strength of the UK and for the interests of its consumers that vigorous and competitive markets should remain the preferred basis for economic activity.'**

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And firms may view defensive consolidation as the obvious way out of loss-making situations. But there are clear dangers in this for consumers, both in the short term when firms may want consumers to pay higher prices when their own money is already tight, and in the longer term when firms may find reduced competitive pressure makes for a more comfortable life and a much less effective economy.

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**‘Our strong working assumption will remain that effective competition benefits consumers and efficient businesses in terms of price, quality, choice and innovation, and should, if at all possible, be preserved.’**

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It is therefore necessary for competition authorities to distinguish between necessary, urgent measures with a short-term effect in sectors when there is a serious risk of systemic damage and more general measures that might do permanent damage to competition, and to resist the latter as strongly as possible. But we also have to be sensitive to what is actually going on in markets and what are realistic prospects for recovery. This may affect the nature of our analysis or the scope and timescale of possible remedies. But our strong working assumption will remain that effective competition benefits consumers and efficient businesses in terms of price, quality, choice and innovation, and should, if at all possible, be preserved.

### **Sixty years on**

The CC celebrated its 60<sup>th</sup> anniversary this year, tracing its lineage back to the Monopolies and Restrictive Practices (Inquiry and Control) Act of 1948. The newly-appointed Secretary of State, the Rt Hon Lord Mandelson, kindly hosted a dinner for 150 guests at Lancaster House to mark the occasion. Those who came represented many strands of the CC’s work and relationships both here in the UK and internationally. Besides the Secretary of State, part of whose speech is reproduced later in this Report, Bill Kovacic, Chairman of the US Federal Trade Commission (FTC),<sup>2</sup> Bruno Lasserre, President of the French Autorité de la concurrence, and Philip Lowe, the EU’s Director General of Competition, spoke on the theme of strong enforcement based on strong institutions.

In the ten years since the CC’s 50<sup>th</sup> anniversary it is the accelerating pace of change that is striking. In 1998 the UK was embarking on a programme of major reform to the competition enforcement system. Since then not only has the Office of Fair Trading (OFT) greatly expanded the scope and nature of its activities but the CC has transformed into a determinative competition authority, albeit still with a big regulatory role, with the independent Competition Appeal Tribunal (CAT) emerging along the way. As my predecessor Sir Derek Morris noted in the 1998 Annual Report, the enduring features of the CC are independence and integrity, rigour and thoroughness, transparency and a collegiate approach. I hope we have managed to preserve these qualities through a turbulent decade.

### **The current scene**

If the economic turbulence dominates the present scene, it does not completely hide other issues. Overall, the UK competition regime works well, with many examples of effective and timely action by the OFT, sectoral regulators and ourselves. But the utility and value of competition enforcement was being questioned by some even before the present difficulties, making it even more important for all parts of the UK system to be seen to be working well. If they do not do so, it becomes easier to question the wisdom of leaving decision making on such important questions as whether to start competition investigations and how to decide their result to independent agencies such as the OFT and ourselves.

From the CC’s point of view, we obviously focus on the cases that are referred to us, having no power to initiate investigations on our own. We have this year handled a very heavy caseload covering important parts of the UK economy, but the flow of references has fluctuated greatly and at the time of writing we have had no markets referred to us by the OFT for investigation for more than two years. The proper operation of competition enforcement in the UK requires that this situation should change, and we are working hard with our partners in the OFT and the sectoral regulators to ensure that it does change, so that the competition regime established with such bold ambitions in the past decade is fully effective. If these efforts do not produce a tangible result the questioning will, quite rightly, increase.

### More changes

The FTC Commissioner and former Chairman Bill Kovacic often stresses the need for a competition authority constantly to assess its work and get better at what it does. The CC is engaged in that process with a view to doing its work more quickly and in a more focused and decisive way. Whilst our statutory time limits (24 weeks for mergers, two years for market investigations) are an important discipline, they have tended also to become the norm. The CC, in response to concerns expressed by some of our partners, now aims to beat those times, particularly for mergers that are cleared (the final report on the recent Long Clawson/ Millway case was, exceptionally, published in 14 weeks). For market investigations, we will now aim to complete most cases within 18 months and may sometimes, particularly for smaller markets, be able to complete them within a year. Whilst we will do all we can to make this happen, I urge the parties involved in these cases to help

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### 'The enduring features of the CC are independence and integrity, rigour and thoroughness, transparency and a collegiate approach.'

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us achieve this by meeting our deadlines for information requests and by focusing their arguments on the issues that matter.

There are other aspects less within our control. I have frequently referred to the need to have a serious debate about moving UK merger control to a mandatory pre-notification system. Our experience this year, with four of seven merger cases<sup>3</sup> involving the investigation of mergers that have already completed, suggests that issue has not gone away.

Mandatory pre-notification is an example of where the UK regime operates differently from that of the EU as a whole. The CC itself, and the market investigations it conducts, are other examples. The CC has worked very hard to position itself within the overall framework of the EU competition system and cooperates closely with the European Commission's DG Comp, and other national authorities. But its position as a non-designated national authority, formally outside the European Competition Network, is anomalous and, sooner or later, must be rectified.

Then there is the larger question, frequently raised, for a variety of motives, of more radical reform, of the institutional architecture—merging two or more of the current authorities. The CC's position remains open minded and supportive of any change that will do good. But it is important that the full effectiveness of the UK competition system is preserved. This means that any combined authority could not be a simple (and probably not a cost-saving) combination of the two existing bodies but would require careful planning and design; the authority that would result would be a much more powerful body than either the CC or the OFT is on its own. This may have great benefits, but it also carries risks.

### Arrivals and departures

We say goodbye this year to a considerable number of Commissioners who have all served the CC very well over their eight-year terms. Our Chief Executive, Martin Stanley, who has done more than anyone in his four years in post to press for greater effectiveness in the CC's operations, has also stepped down. A Senior Director, Inquiries, Andrew Taylor, our Chief Economist, John Davies, a Director of Economic Analysis, Benoit Durand, and a Director of Remedies and Business Analysis, Cathryn Ross, have moved on to other important jobs in the field of competition enforcement and regulation. I thank them all for their contributions.

But nothing stands still. We have 14 new members, some appointed from 1 April and some a little later, and we have a new Chief Executive, David Saunders, who brings from what is now called the Department for Business, Innovation and Skills (BIS) a wealth of experience of the UK competition regime. I welcome them all and look forward to another challenging year for the CC.

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1. The Rolling Stock Leasing market investigation was published in early April 2009 and will be reported on in the Annual Report 2009/10.

2. Bill Kovacic is now a Commissioner at the US FTC.

3. Referred during the 2008/09 financial year.



## The role of the Competition Commission

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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 Government, or by the regulators under sector-specific legislative provisions relating to regulated industries. The CC also conducts appeals in respect of certain modifications to the codes covering the energy industry. The CC has no power to conduct inquiries on its own initiative. If the CC finds that 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 Business, Innovation and Skills 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 and Deputy Chairmen of the CC are also members of the CC; the Chairman also chairs the Council.

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# The Competition Commission's Council

The Council is the CC's strategic management board; it is led by the Chairman and consists of the three Deputy Chairmen, the Chief Executive, and two non-executive Council members.<sup>1</sup> The Council meets at least six times a year to consider the plans and strategic direction of the CC and to review recent inquiries, high-level risks and discuss best practice across inquiry groups.



**Peter Freeman**  
Chairman

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 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 Groceries market investigation; and the Project Kangaroo–BBC/Ch4/ITV joint venture and Nufarm/AH Marks merger inquiries.



**Christopher Clarke**  
Deputy Chairman

Christopher Clarke was appointed Deputy Chairman in 2004, having been a member since 2001. He is a non-executive director of Omega Insurance Holdings Limited; from 1999 to 2008, he was a non-executive director of The Weir Group PLC. Formerly an investment banker, he was a director of HSBC Investment Banking from 1996 to 1998, and of Samuel Montagu from 1982 to 1996. His responsibilities in the UK and internationally encompassed privatizations; mergers and acquisitions; financing; and regulatory matters. Recent or current cases include the BAA Airports market investigation; the reviews of airport charges at Heathrow, Gatwick and Stansted; and the Capita/IBS OPENSystems merger.



**Dr Peter Davis**  
Deputy Chairman

Dr Peter Davis was appointed Deputy Chairman in 2006 and was previously on the CC's academic panel of expert economists from 2004. He received his PhD from Yale and served on the faculties of MIT and then LSE before joining the CC. He has published widely. Recent writings include a book, *Quantitative Techniques for Competition and Antitrust Analysis* (co-authored with Eliana Garces), which is forthcoming from Princeton University Press. He currently serves as an associate editor of the *Journal of Industrial Economics* and is a member of the steering committee of the Association of Competition Economists. Recent cases include the Payment Protection Insurance market investigation and the Mobile Phone Wholesale Termination Charges appeals.



**Diana Guy**  
Deputy Chairman

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 Monopolies and Mergers Commission and the European Commission. She is a non-executive director of Catlin Underwriting Agencies Limited and Catlin Insurance Company (UK) Limited. Recent cases include BOC/Ineos and the Long Clawson Dairy/ Millway merger inquiries; and Rolling Stock Leasing market investigation.



**David Saunders**  
Chief Executive

David Saunders joined the CC in February 2009 from BIS. He had been Head of Consumer and Competition Policy in BIS from autumn 2004. He joined the civil service in 1978 and has had a variety of roles, largely in BIS and its predecessor departments, including three years in the OFT in the mid-1980s, working on both consumer and competition issues. He was Regional Director of the Government Office for the South East between 1998 and 2002, and head of the DTI's Business Support team between 2002 and 2004.



**Tony Foster**  
Non-executive Council member

Tony Foster<sup>2</sup> 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. From 1997 to 2006 he was a full-time member of the Criminal Cases Review Commission. He is now a non-executive director of the government agency Animal Health, a Board Member of the Office for Legal Complaints and a member of committees for the Institute of Chartered Accountants and the Solicitors Regulation Authority.



**Dame Patricia Hodgson**  
Non-executive Council member

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

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1. In 2009 we will be recruiting an additional non-executive Council member.  
2. Tony Foster's term of appointment will end on 31 August 2009. We are currently recruiting two replacements to start on 1 September 2009.

As the Chairman notes in his statement, the CC has handled a heavy caseload in the last year, including some exceptionally large, complex and controversial market investigations. It could be characterized as a year of conclusions, and we have found that we have had to devote substantial effort and resources to the ongoing post-inquiry work of implementing remedies and responding to legal challenges (see post-inquiry activities table on page 40).

The CC operates subject to the scrutiny of the specialist appeal tribunal, the CAT. We see this as a strength of the UK regime, and it is no surprise that we are increasingly being challenged by parties faced with decisions that they see as not being in their favour. In the challenge by BSkyB the CAT fully endorsed our methodology and assessment in merger control; similarly in the challenges to our assessment of Mobile Phones Termination Charges. In the Tesco challenge to one of our Groceries market remedies, the CAT found that we had not done enough to assess the remedy's effects and remitted the case to us for further work. We are happy to accept this task and the reminder of the high standards expected of us.

Looking forward, we face a significant downturn in our new caseload, particularly for market investigations. As the Chairman says, we are working hard with our partners in the OFT and sectoral regulators to minimize any obstacles to the effective flow of work.

## Efficiency

Chart 1 gives a feel for the way in which our workload has changed over the year. It is difficult to measure our output precisely because inquiries differ widely in their complexity and resource requirements. In addition, the chart does not capture the significant resources that we have found we have to devote to post-inquiry work. We are seeking to develop new ways of representing our workload to reflect this.

This year the CC and OFT have worked together to harmonize their methodology for estimating the costs and benefits<sup>1</sup> of their work to consumers, thereby improving the clarity and accuracy of these estimates. One consequence of these changes is that the figures for this year are no longer comparable to those of previous years.<sup>2</sup> More specifically, the CC is now adopting a more conservative approach compared with previous years, and as a result the estimates



David Saunders Chief Executive

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*'As a result of the work completed this year, the joint estimated "benefits" from the CC's and OFT's work in merger and market inquiries have been calculated at just over £600 million.'*

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produced for this year are lower than those that would have been produced using the previous methodology. Furthermore, the CC is from this year adopting the practice already employed by the OFT of reporting its estimates as an average over three years. This has the effect of reducing the impact of the usually marked differences in such estimates year on year that derive from the differences in the number and types of cases that are referred to us.

As a result of the work completed this year, the joint estimated 'benefits' from the CC's and OFT's work in merger and market inquiries have been calculated at just over £600 million.<sup>3</sup>

While any attribution of the combined benefits to the individual authorities is the result of arbitrary assumptions, our convention for apportioning such combined benefits implies that the figure that can be attributed to the CC is just over £400 million.<sup>4</sup> This figure compares well with our costs, which are less than 6 per cent of this figure. Clearly any hiatus in our workload will have an adverse impact on this in the current year.

We have continued to put substantial effort into working more effectively and efficiently, following through the implementation of the recommendations of our Council's Review of our operations, and making some major process improvements (see further below). Charts 2 and 3 set out our running costs and cost per inquiry year (which also does not fully reflect post-inquiry work).

We have reduced our staffing by 14 per cent over the year, as inquiry work has diminished. We have also looked for opportunities to second staff to bodies such as the OFT and sectoral regulators.

We have successfully leased all of the vacant space at Victoria House that we are responsible for at market rates to a number of tenants. The Corporate Services team has established good working relations with our tenants and we are providing a range of shared services to them that currently generate about £300,000 in income. Further possibilities are under discussion.

In common with all public sector bodies we will face increasing pressures on our budget over the next few years, and we will continue to work hard to generate

efficiency gains. We are, however, constrained to some extent by our circumstances; we have no control over our unpredictable workload, and we have to deal with much of our work within strict statutory deadlines to a quality that is good enough to withstand rigorous scrutiny and challenge.

### Process improvements

Later sections of this Report summarize the activities and achievements of the work streams set out in our corporate plan, each supervised by a subgroup of our Council. There have been a number of major achievements during the year.

Last November we published new guidance on merger remedies. This incorporates the results of experience in using existing guidance and the outcomes of remedies research. The guidance aims to provide a more effective remedies process and greater clarity for merger parties.

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*'We have continued to put substantial effort into working more effectively and efficiently ... We have reduced our staffing by 14 per cent over the year as inquiry work has diminished.'*

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It is important that we learn from our past experience. As part of a programme of retrospective evaluation of past cases, the CC published in March this year the results of an independent review by Deloitte & Touche, supported by Professor Stephen Davies of the University of East Anglia, assessing the analysis and decision making in eight merger cases between 2004 and 2006.

As the Chairman sets out, we published in April 2009 our commitment to shortening the time that we take to complete market investigations from the current two years (the statutory time limit).

We also published in April 2009, together with the OFT, a draft of our new joint merger assessment guidelines, for public consultation. They are the result of many months of effort by a number of people in both organizations, and should help us to minimize the burdens our work places on business by providing a clear, comprehensive and coherent explanation of how the system works and

by helping us and the OFT to operate it as smoothly and transparently as possible.

### Other developments

A key challenge for us, especially with the downturn in our workload and consequent reductions in staffing, is retaining and motivating key staff. We have introduced a new Management Development Programme this year, which offers an extensive series of training programmes tailored to an individual's skills base and development needs. This course is open to all staff and will continue into next year.

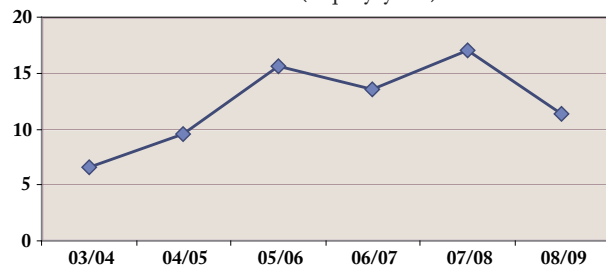
We will also be reshaping our pay and reward system for all non-SCS staff. Subject to agreement from BIS, we will move to making pay awards based on a market-median pay rate for each role, and performance-related non-consolidated payments for the highest performers. The new system will provide managers with the tools for more straightforward and stronger management of performance and capability.

Data security continues to be a key area of work, and has become more so in light of recent Cabinet Office guidance. All our security policies and procedures have been reviewed and are in line with data handling guidance and we have submitted an annual Information Assurance Report to the Cabinet Office as well as completing its Information Assurance Maturity Model. This work will continue as new guidance is issued.

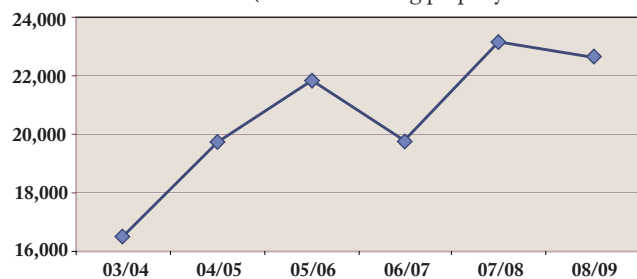
Last year's achievements are due to my predecessor, Martin Stanley. I am grateful for his help and support during my first weeks in this role, and wish him well for the future. I am delighted to have the privilege of leading the CC into its 61<sup>st</sup> year, and to have the opportunity to contribute to retaining our position as one of the world's leading competition authorities during what I am sure will be a challenging period ahead.

1. We measure 'benefits' as the detriment that consumers would have incurred but for our actions.
2. For more detail on the calculations produced in 2007/08: [www.competition-commission.org.uk/our\\_role/analysis/estimated\\_costs\\_07\\_08.pdf](http://www.competition-commission.org.uk/our_role/analysis/estimated_costs_07_08.pdf).
3. £608 million is the calculated figure. Detail on how this figure has been reached will be published by the CC and the OFT later in 2009.
4. £403 million is the calculated figure.

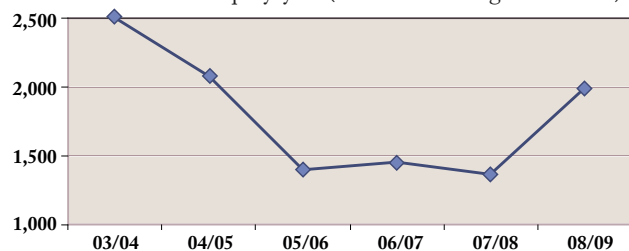
**Chart 1** Annual workload (inquiry-years)



**Chart 2** CC costs (£'000—excluding property at New Court)



**Chart 3** Cost/inquiry-year (£'000—excluding New Court)



## Extract from a speech from the Rt Hon Lord Mandelson, First Secretary of State, Secretary of State for Business, Innovation & Skills, Lord President of the Council



Rt Hon Lord Mandelson

This year the Competition Commission celebrated its 60<sup>th</sup> anniversary, and to mark the occasion the Rt Hon Lord Mandelson, First Secretary of State, Secretary of State for Business, Innovation & Skills, Lord President of the Council, hosted an event at Lancaster House. Lord Mandelson's full speech from the event can be found on the BIS website: [www.berr.gov.uk/aboutus/ministerialteam/Speeches/page49336.html](http://www.berr.gov.uk/aboutus/ministerialteam/Speeches/page49336.html).

The following is an extract from Lord Mandelson's speech:

### **Current economic situation**

I don't need to tell you these are extraordinary economic times, or about the tough economic conditions hitting businesses and families across the world.

We're living through the biggest global financial shock since the Great Depression of the 1930s. And now, as then, we need exceptional action to get people through the crisis stronger and sooner than before.

This Government is determined to do all it can to help hardworking businesses and families survive the worst of the storm and be ready for the economic upturn when it comes.

And the upturn will come. In the four years I spent working and travelling the world as Trade Commissioner, I saw for myself both the challenges changing the economic landscape and immense possibilities presented by a global economy.

To succeed, we must keep our markets open and competitive; help our people adapt to economic change, so they can prosper in the future; and strengthen our links with international partners to develop the ideas and solutions that will equip our global institutions and national economies for success in the 21<sup>st</sup> century. There are huge challenges ahead that we must take on.

### **Competition policy**

Throughout the current crisis, the UK's competition framework has proved itself to be flexible and robust enough to respond to market volatility and failure.

In recent weeks, it has allowed this Government to make an essential intervention into the financial sector to ensure stability in the UK's economy. This action, in response

to exceptional global circumstances, was not taken lightly or without controversy either. And we remain as committed as ever to ensuring a regulatory framework that promotes competition, drives productivity and innovation and protects the vital interests of UK consumers and businesses.

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*‘Because fair, competitive markets remain the best way to encourage good ideas, innovation and enterprise, to boost efficiency, prosperity and confidence and to offer consumers lower prices and a wider choice of high-quality goods – all factors essential to quality of life and success in the modern global economy.’*

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Of course, competition isn’t always easy. The pressures and changes it brings challenge us all.

And Government is dedicated to ensuring people and businesses get the skills and support they need to succeed, however tough the competition they face.

Because fair, competitive markets remain the best way to encourage good ideas, innovation and enterprise, to boost efficiency, prosperity and confidence and to offer consumers lower prices and a wider choice of high-quality goods – all factors essential to quality of life and success in the modern global economy.

### **Competition Commission**

That’s why over the last ten years we’ve worked hard with the Competition Commission and other UK competition authorities to build one of the best competition regimes in the world.

In 1998, I was Secretary of State at the DTI when the Competition Act, which created the Commission from the old MMC, completed its passage through Parliament.

This was the most significant reform of UK competition law for 25 years and further modernization came, four years later, with the Enterprise Act 2002 to ensure greater transparency and accountability, as befits the democratic age in which we live.

Ultimately, however, it’s the calibre and expertise of the staff and members of the Competition Commission and the other independent Competition Authorities that have made the difference.

And that’s really who tonight’s celebrations are about, in addition to being an opportunity for me to deliver a big thank you.

This is an organization whose work often makes for odd political bedfellows. Those on the left wing happy to see big business challenged and those on the right, who hate to see monopolies in any form.

The Competition Commission handles this delicate balance with incredible professionalism. And I want to thank you for your commitment and invaluable work to remove obstacles to competition wherever they exist.

This job is as important, high-profile and challenging as ever and we will continue to help support a regulatory framework able to adapt and improve in this new century.

So I welcome recognition by the Competition Commission and Office of Fair Trading of the need to work more closely and effectively together, now and in the future.

# Objectives and work streams

in 2008/09

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## Introduction

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

In April 2005, the CC agreed the following key performance indicators (KPIs) with BIS:

- to monitor the level of satisfaction of the CC's stakeholders as surveyed every two years 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; and
- to monitor the CC's financial performance as measured by budget compliance and progress in achieving annual efficiency improvements.

BIS intends to review these KPIs in 2009/10, to ensure that they are suitable and to make any adjustments required, in consultation with David Saunders, the Chief Executive.

### The CC's stakeholders' survey

The last stakeholders' survey was conducted in September 2007 by RS Consulting Ltd<sup>1</sup> in consultation with the CC. The 2007 review found that stakeholders indicated high levels of overall satisfaction with the CC, with an average rating of 6.7 on a ten-point scale. The CC will be conducting a further review in 2009.

### BIS Peer Review of Competition Policy

BIS had a target set by Her Majesty's Treasury (HMT) to have a competition regime that is among the best in the world by 2008. A BIS-commissioned peer review *Peer Review of Competition Policy*<sup>2</sup> published in June 2007 ranked the UK competition regime (the OFT, the CC and the CAT) as one of the top three global competition regimes: the CC was ranked among the best authorities in the world for its technical analysis and for coming to the right decisions, relative to leading international economies.

The results of the Global Competition Review 2008 have also supported the BIS target for the UK competition regime to be among the best in the world. The CC came joint first with 'five stars' when ranked against over 30 global competition authorities.

### Financial performance and annual efficiency improvements

BIS monitors the CC's financial performance against its budget at regular meetings throughout the year. Most noticeably for 2008/09 the CC has managed to report on three particularly complex and difficult market investigations, four merger inquiries and two regulatory inquiries. The CC has also carried out the implementation of post-final-report remedies on several of its inquiries, as well as defended itself on an increasing number of appeals to its decisions. The CC successfully reported on all its cases within the statutory time frame. The original budget agreed with BIS at the beginning of the year was £21.4 million. At the end of the year the CC was £1.3 million above budget, in large part due to the number and complexity of unexpected work on inquiries and appeals. BIS was fully informed throughout the year about the workload and financial pressures.

More detailed information about the achievements of the year, including improvements to the CC's financial processes, can be found in the next section. The CC's corporate structure is divided into six work streams, each led by a CC committee. The six work streams are responsible for:

1. investigations;
2. resources;
3. analysis;
4. remedies;
5. process; and
6. contribution to the competition regime.

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.

- 
1. The report is published on the CC website: [www.competition-commission.org.uk/our\\_role/analysis/cc\\_stakeholder\\_survey\\_2007.pdf](http://www.competition-commission.org.uk/our_role/analysis/cc_stakeholder_survey_2007.pdf).
  2. The report is published on the BIS website: [www.berr.gov.uk/files/file39863.pdf](http://www.berr.gov.uk/files/file39863.pdf).

'The results of the Global Competition Review 2008 have also supported the BIS target for the UK competition regime to be among the best in the world. The CC came joint first with 'five stars' when ranked against over 30 global competition authorities.'



## Work stream 1

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

Rachel Merelie

<i>Key issues for 2008/09</i>	<i>Outcome</i>
Provisional findings are published, on average, by week 15 in merger inquiries	Provisional findings on merger inquiries were published within an average of 16½ weeks
Reports on investigations contain high-quality analysis and robust, evidence-based decisions, and are conducted in a fair manner	Reports on investigations continue to be well received. Three decisions went to the CAT during 2008/09. There were no successful challenges on procedure. One aspect of the Groceries market investigation was referred back to us for further work
Inquiries are run more efficiently by identifying and implementing best practice processes and procedures	Various changes to our inquiry processes have been piloted on merger inquiries as a result of implementation of the Council's Review
To run more efficient inquiries by improving our inquiry staff management	Many inquiry staff are participating in the CC's new Management Development Programme
Staff turnover in the inquiry teams is in line with the average public sector turnover	Staff turnover across all roles on inquiries was 17.7 per cent, roughly midway between the public sector and private sector averages

Work stream 1 provides a review of the CC's core inquiry work carried out in 2008/09, and is led by the Senior Director, Inquiries, and the seven Inquiry Directors, who are responsible for carrying out the CC's investigations and publishing its decisions within the statutory time limits.

### Overall workload

As set out in the Chairman's statement and the Chief Executive's report, the CC has handled a heavy caseload during 2008/09. In particular, final reports on several large market investigations were published during the year and focus is now on the process of implementing remedies and responding to legal challenges. During one nine-month period (in late 2007 and early 2008), the only two merger references to the CC were of anticipated mergers that were cancelled. Since then, the rate at which mergers have been coming into the CC has returned to more usual levels (see Figure 1). The table opposite lists the inquiries that the CC has considered in 2008/09.

### Market investigations

2008/09 saw the CC publish final reports on three large market investigations: the Groceries market investigation final report was published on 30 April 2008, the final report on the Payment Protection Insurance market investigation was published on 29 January 2009 and the final report on BAA Airports was published on 19 March 2009. A summary of the outcomes of these investigations can be found on pages 26 to 31. The final report on the Rolling Stock market investigation was published on 7 April 2009 and will be covered in next year's annual report.

Aspects of the Groceries market investigation were challenged in front of the CAT. As a result, the CC is now considering further one of its proposed remedies and is due to report in early October 2009. Parties have also appealed both the PPI and Airports decisions; hearings on PPI will take place in September 2009.

### Merger inquiries

Seven mergers were referred to the CC during 2008/09, of which one was cancelled; one other merger was referred in 2007/08, and then cancelled in 2008/09. The average time taken to publish provisional findings was 16.5 weeks; this dropped to 12.5 weeks excluding merger inquiries subject to extension.

Three mergers this year were subject to extensions (one of which was ongoing at the year end). However, one of these was extended for eight weeks during the early stages because the parties were unable to provide information and documents requested by the CC to the CC's satisfaction. The remaining two were both extended at least in part to allow sufficient time to assess remedy options.

Of the four inquiries which reached final report during the year, one was cleared while the CC found a substantial lessening of competition in the other three. Two of these three were blocked. Figure 2 shows the rolling 12-month figures for merger outcomes.

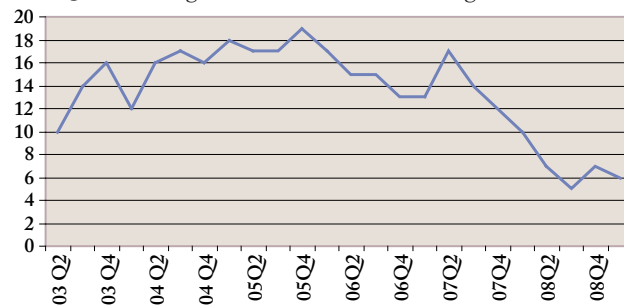
On 29 September 2008, the CAT delivered its judgment on the BSkyB and Virgin Media appeals. It dismissed all of BSkyB's appeal and Virgin Media's challenge on remedies, but allowed Virgin Media's challenge in relation to the interpretation of aspects of the public interest test. However, it subsequently decided not to remit this to the CC or to the Secretary of State. BSkyB has now appealed to the Court of Appeal and the CC is awaiting the hearing.

Various changes to our inquiry processes have been piloted on merger inquiries as a result of implementation of the Council's Review, including, in particular, greater use of Theories of Harm to focus the analysis, more strategic use of Group members, improved effectiveness of hearings and papers, and greater focus on primary documents and data.

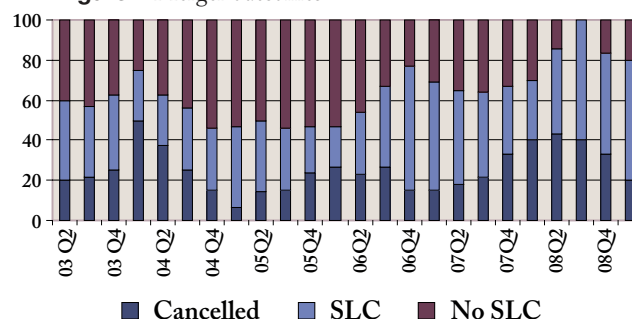
### Regulatory inquiries and appeals

During the year, the CC completed both the price controls appeal into mobile termination charges and the Stansted quinquennial review. Three parties challenged the CC's determination into mobile termination charges to the CAT, but the CC's determination was upheld by the CAT. The Sutton and East Surrey Water price determination appeal was referred by Ofwat to the CC on 5 March 2009.

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



**Figure 2** Merger outcomes



### Inquiries and investigations in the review period April 2008 to March 2009

#### Status on 31 March 2009

##### Market investigations

Groceries	Published
Payment Protection Insurance	Published
BAA Airports	Published
Rolling Stock Leasing	In hand (published 7.4.09)

##### Merger investigations

Cineworld Group plc/Hollywood Green Leisure Park, Wood Green	Cancelled
BOC Limited/Ineos Chlor Limited	Published
Project 'Kangaroo'	Published
Nufarm Crop Products UK Limited/AH Marks Holdings Limited	Published
Long Clawson Dairy Ltd/The Millway business of Dairy Crest Group plc	Published
Hospedia Ltd/Premier Telesolutions Limited	Cancelled
Capita Group plc/IBS OPENSsystems plc	In hand (published 4.6.09)
Holland & Barrett Retail Limited/Julian Graves Limited	In hand

##### Regulatory inquiries and Appeals

Price controls appeal: Mobile call termination	Published
Stansted Airport quinquennial review	Published
Sutton and East Surrey Water plc price determination	In hand



## Work stream 2

Objective: to make efficient and effective use of resources

Rebecca Lawrence

<i>Key issues for 2008/09</i>	<i>Outcome</i>
Optimize use of space within Victoria House	All space at Victoria House has been leased
To achieve best value for money in terms of services provided to and by the CC	Shared service agreements have been set up with other public bodies and generated about £300,000 in income
CC staff find the CC to be a good workplace, are committed and have the opportunity to develop and keep their skills and knowledge up to date	Pay and reward system has been reviewed and improved. Management Development Programme has been established

The Director of Corporate Services manages the team which provides back office support for the organization and has the responsibility for the delivery of the objectives in this work stream.

### Efficiency, shared services and budgets

During 2008/09 the Director of Corporate Services had a budget of £12 million and completed the year within this budget. Of this, £7 million was spent on accommodation costs, approximately £2.8 million was spent on staffing the Corporate Services department and the remaining £2.2 million was spent on running costs and the funding of projects throughout the year including the refurbishment of three of the CC's hearing rooms.

Corporate services staff account for 23 per cent of the CC's total salary budget.

One of the key risks identified in the Corporate Plan 2008/09 was that a number of subleases would require renegotiation during 2008. By the end of the year all of the space was fully occupied, at the market rate.

The Corporate Services team has been particularly proactive at looking at the benefits of sharing its services. The team has successfully established shared services with the Legal Services Board and the Security Industry Authority, for example. The CC has already generated about £300,000 in income from sharing its corporate services with other bodies this year, and hopes to expand on this income generation next year.

### Data handling and security

During 2008/09 the Cabinet Office issued extensive mandatory guidance to all public bodies on data handling and security requirements. The CC has appointed a Senior Information Risk Owner (SIRO) and established a Security Working Group (SWG). The CC has submitted an annual Information Assurance Report to the Cabinet Office, a Security Policy Framework return to BIS, as well as completing the Information Assurance Maturity Model.

The SWG has reviewed all security policies and procedures in line with data handling guidance, and in particular

has restricted the use of removable media, including USB, CD/DVD and floppy disc. Following a risk assessment, a number of CC laptops have been encrypted, to reduce the possibility of data leaks.

CC staff and members have been fully alerted to the importance of security awareness, as the guidance has been issued, and comprehensive training will be organized for 2009.

The CC is accredited to the GSI (the Government Secure Internet), and conforms to the GSI Code of Connection, and has achieved ISO 20000 certification in Service Delivery Management. The CC is currently working towards the ISO 27001 standard for its Information Security Management System, and we are also looking to certify against BS 25999 for Business Continuity 2009/10.

### Our people and working environment

In 2008/09 Human Resources focused on the development of several important projects.

Subject to agreement from BIS, the CC will introduce a new pay system to process the 2009 awards based on a market-median pay rate for each role, and performance-related non-consolidated payments for the highest performers. This will be supported by new management tools for more straightforward and stronger management of performance with a clear focus on developing capability and offering interesting work challenges. The new pay system will allow the CC to recruit staff from across the range of professional competence to fill gaps in teams.

The new Management Development Programme is in its first year and has 35 participants from across the organization. It looks at three elements of management (managing yourself, managing others and managing resources/activities). Each participant will receive a combination of open courses, action learning sets, and personal coaching.



### Work stream 3

Objective: to ensure that the CC makes the right decisions

Alison Oldale

<i>Key issues for 2008/09</i>	<i>Outcome</i>
Review the CC's overall effectiveness, through external and internal reviews	Through: (a) internal review at the end of each inquiry, (b) estimation of the level of harm addressed by the CC's work, (c) commissioning experts to review analytical procedures and (d) publishing in-depth reviews of past inquiries
Help stakeholders and others understand how the CC reaches its decisions	Papers and speeches by the Chairman, Deputy Chairmen and senior staff
Review and modify CC guidance	Major review of CC merger guidance carried out, which is leading to the publication of new joint guidance with the OFT
Assist CC staff and members to maintain and develop the effectiveness of competition analysis	We hold internal seminars and discussion forums around topics of general relevance, and have invited external speakers including academic economists and practitioners from other competition agencies and regulatory bodies

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. The CC's Analysis Group is responsible for the governance of this work stream and is led by the Chief Economist.

#### Review and evaluation

The CC is committed to reviewing its work and learning the lessons from such reviews.

#### Internal review at the end of each inquiry

All completed inquiries are reviewed internally, soon after completion. Members and staff are asked to comment on the inquiry and the Inquiry Director prepares a discussion paper for a meeting chaired by the Chief Executive. The aim is to identify lessons for other inquiries, or requiring follow-up by the CC more generally.

#### Estimation of the level of harm

Beginning in 2005/06, the CC began to publish annual estimates of the consumer detriment it estimates that it is tackling through its decisions. This year we made some further changes and improvements to the methodology for doing so, and continue to ensure that the estimates produced by the CC and the OFT provide a consistent picture of the value of the competition regime enforced by the two bodies together. This year's joint estimated benefits from the two bodies' work in mergers and market inquiries has been calculated at just over £600 million, compared with CC costs of around £23 million.

#### Commissioning experts to review procedures

The CC aims to keep its analytical approach and procedures under constant review. As part of this

commitment, it commissions occasional evaluations from academics or consultants on specified topics. The normal approach is to provide reviewers with access to the papers and materials available to the CC in past inquiries and assess whether the analysis could have been better. This year, we are commissioning research into survey methodology for competition assessment (including the use of stated preference questions).

#### Publishing in-depth reviews of past inquiries

As well as commissioning immediate reviews, and reviews of analysis, the CC has a programme of in-depth retrospective evaluations of past cases. Using publicly available information, particularly interviews with industry participants, CC or external reviewers look back at past CC inquiries to find out what happened next, and assess the CC's decision-making in the light of market developments. In March 2009, the CC published the latest in this series, an independent review by Deloitte & Touche,<sup>1</sup> supported by Professor Stephen Davies of the University of East Anglia, assessing the analysis and decision-making in eight merger cases between 2004 and 2006. Given the time and resource constraints, the report did not consider it appropriate to conclude finally on whether the OFT or the CC had reached the 'correct' decision in these eight cases. However, the report found that there were doubts in two cases and in the remaining six cases subsequent market developments had not raised substantial doubts.

1. [www.competition-commission.org.uk/our\\_role/analysis/review\\_merger\\_decisions.pdf](http://www.competition-commission.org.uk/our_role/analysis/review_merger_decisions.pdf).



## Work stream 4

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

David Roberts

<i>Key issues for 2008/09</i>	<i>Outcome</i>
Improve the guidance on remedies	New guidance published to cover all merger remedies
Undertake training and knowledge transfer of remedies	Training was provided throughout the year to members and staff
Implement remedies on reported merger inquiries and market investigations	Remedies were required in three merger inquiries and three market investigations reporting during the financial year

The purpose of this work stream is to develop the CC's approach to remedies, by taking account of CC experience and leading international standards, and by ensuring that remedies expertise and learning is shared effectively with members and staff. The CC's Remedies Standing Group is responsible for the governance of this work stream, led by the Chief Business Adviser. It considers issues of policy, reviews learning arising from CC inquiries and developments in international practice and issues new or updated guidance.

### Developing the CC's approach to remedies

The Remedies Standing Group reviews remedies learning points on conclusion of all relevant cases. In addition, the CC has an ongoing programme of reviewing the outcomes of remedies on past inquiries. Case studies on the results of remedies on two former merger inquiries were published by the CC in August 2008.

In November, following a period of public consultation, the CC published new guidance (CC8)<sup>1</sup> to cover all merger remedies. This incorporates the results of experience in using existing guidance and the outcomes of remedies research. The guidance was welcomed by consultees and aims to provide a more effective remedies process and greater clarity for merger parties.

### Communication and sharing expertise

Training is regularly provided to members and staff on the CC's remedies approach and issues of topical interest on remedies. During the year, CC staff also presented the CC's remedies approach and policy to external audiences.

### Practical application

The application of remedies was a major focus for the CC during 2008/09 as remedies were required in three merger inquiries and three market investigations reported during the year. Of the three merger inquiries, two (BOC/Ineos Chlor and Project 'Kangaroo') were subject to prohibition and the third (Nufarm/AH Marks) required a package of behavioural and structural measures. The three market investigations (Groceries, Payment Protection Insurance and BAA) all resulted in relatively complex packages of remedies. In the BAA Airports market investigation, among other measures, the CC required divestiture of three airports. This was the first instance in which the CC has required divestiture in a market investigation under the Enterprise Act 2002.

More information on the outcomes of inquiries reported on during 2008/09 can be found on pages 25 to 39. A table of ongoing post-inquiry work of implementing remedies and responding to legal challenges can be found on page 40.

1. [www.competition-commission.org.uk/rep\\_pub/rules\\_and\\_guide/pdf/cc8.pdf](http://www.competition-commission.org.uk/rep_pub/rules_and_guide/pdf/cc8.pdf).



## Work stream 5

Objective: to ensure that the CC has first-class procedures that will enable it to conduct inquiries efficiently and effectively

Clare Potter

<i>Key issues for 2008/09</i>	<i>Outcome</i>
Guidance on merger procedures	Workload has delayed progress on the guidance but drafting is in hand
Information gathering	Revised first-day letter and information requests are in place together with guidance for staff teams on best practice
Report writing	Lessons from recent appeal cases about what our decisions need to contain have been disseminated across the organization
Regulatory inquiries	Procedural guidance for staff in course of preparation

This work stream is concerned with reviewing and improving the practices and procedures of the CC and is managed through the Practices and Procedures Committee, led by the Chief Legal Adviser.

### Information gathering

During the course of the year a small project team carried out a review of our approach to information gathering, with a primary focus on merger cases. The objectives of this work were:

- to make our information gathering as targeted and specific as possible;
- to reduce the burden of information requests where possible, by making best use of information already provided to the OFT;
- to increase the emphasis on original documentary evidence to support analysis; and
- to make our data collection as effective as possible.

The project team produced revised standard information requests, with an increased focus on pre-existing documentary evidence.

Work is now being done on streamlining information requests for market investigations and, in particular, making most effective use of information already provided to the OFT.

### Market investigations

Another key focus of procedural work this year has been consideration of how we can make market investigations quicker in appropriate cases and more efficient generally. This work arose from the joint work with the OFT on making the market regime (market studies and market investigations) more efficient. A timeline and project plan for shorter investigations (18 and 12 months) has been

developed. This has involved reviewing key stages of investigations, the role and timing of published documents produced during an investigation and the optimum number of hearings with main parties.

### Regulatory investigations

The CC has been active on the regulatory front during the year, completing the Stansted Airport quinquennial review and the mobile call termination reference from the CAT under the Communications Act and starting a water determination under the Water Industry Act, the first of its kind. This has provided the opportunity to capture experience of conducting regulatory investigations, identify procedures which worked well (such as joint presentations on technical issues) and to seek to develop procedures to enable regulatory investigations to be conducted more quickly and in a more focused way. Since each of the procedures we have undertaken this year has been under a different statutory framework with very different procedural requirements, we have concluded that 'standard' guidance for staff on conducting regulatory investigations will be of limited value. Instead, procedural notes on different types of inquiries are being developed.

### Drafting robust reports

The decisions of the CAT in the appeals on B SkyB Group/ITV and Groceries have provided valuable guidance on what we need to consider in drafting reports which explain our decision satisfactorily. Lessons learned from appeals have been disseminated widely within the CC.





## Work stream 6

Objective: to contribute effectively to development of competition policy and practice

Anthony Pygram

<i>Key issues for 2008/09</i>	<i>Outcome</i>
Contribute effectively to competition policy and procedural issues in order to improve the operation of the UK competition regime	The CC has continued to work with and effectively communicate with other government departments, including the OFT, BIS and HMT
Promote an understanding of the CC's work and the benefits of competition to UK stakeholders including the business community and consumers	Staff attended key seminars and conferences throughout the year The Chairman, Deputy Chairmen and senior staff have delivered speeches to a broad range of audiences in the UK
Contribute effectively to international competition networks where the CC has expertise	Taken part in key competition events, including OECD, ICN and UNCTAD The CC has made substantive contributions to papers and presentations, particularly in conjunction with the OFT
Develop the CC's bilateral relations with overseas competition authorities, both within and outside Europe, so as to increase cooperation on similar cases, as appropriate, and to share lessons learned	The CC has hosted and participated in an effective programme of visits for senior staff to and from overseas authorities

This work stream is responsible for the coordination of external communications, and is managed by the Communications Group and led by the Director of Policy.

### Relations with government departments

Over the past year the CC has continued to work closely with the OFT and BIS. In particular, the CC and the OFT have been considering how the market investigations regime is operating and how to ensure that it is used appropriately in the future. This has included discussing how markets which might be referred for investigation should be identified, and developing suitable time frames for the market investigation process.

### International relations

The CC has been developing bilateral relations with overseas competition authorities, including the European Commission, to share experience and lessons learned and to increase cooperation in areas of common interest. The Chairman, Deputy Chairmen and senior staff have participated in events hosted by overseas authorities, including the Competition Commission of Singapore, the South Africa Competition Commission and the Portuguese Autoridade da Concorrência. The CC has also responded to many requests for information, and has successfully hosted numerous visitors, from international government ministries, academic institutions, and competition authorities, including the US Department of Justice, the Irish Competition Authority, the Mexican Ministry of Transport and Civil Aviation Authority, the Competition

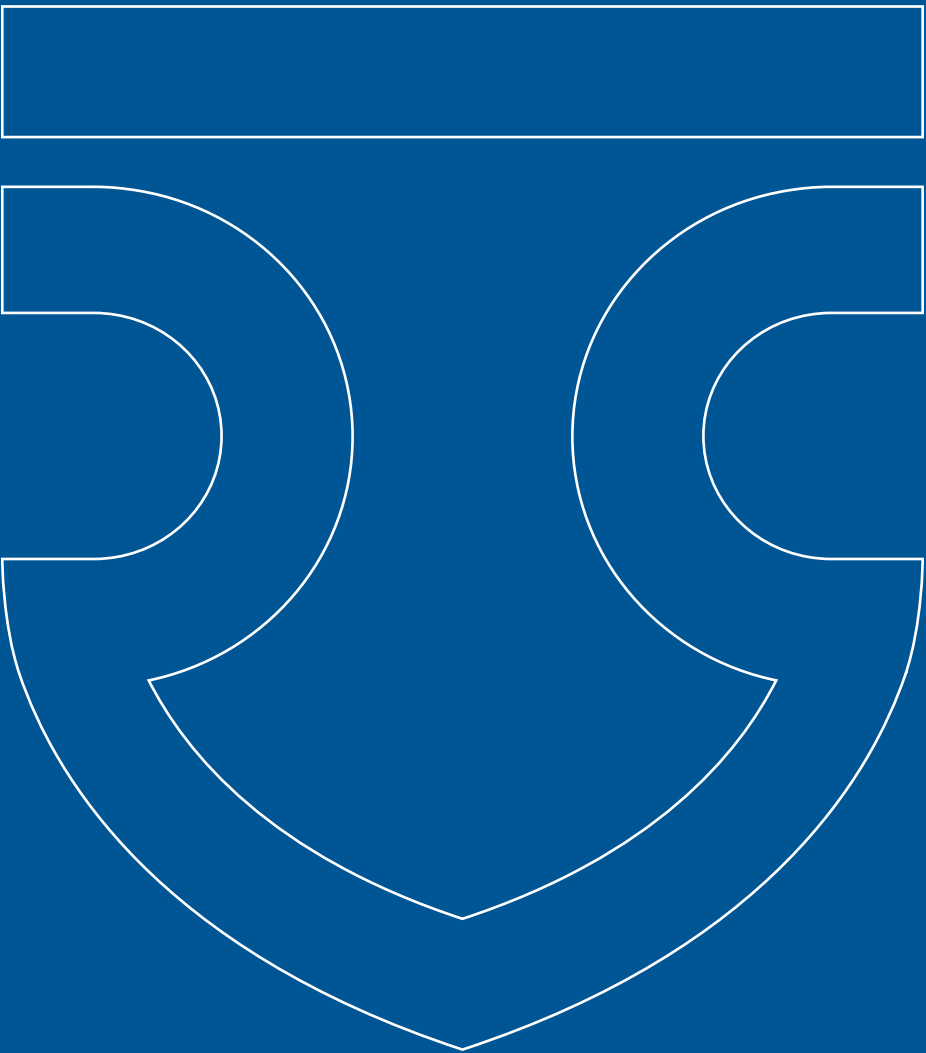
Commission of Singapore and the Slovak Antimonopoly Office.

The CC has continued to be involved in and benefit from involvement in international competition organizations such as the Organisation for Economic Co-operation and Development (OECD), the International Competition Network (ICN) and the United Nations Conference on Trade and Development (UNCTAD). In particular, the CC has participated in the Mergers and Unilateral Effects Working Groups of the ICN and has provided speakers for OECD workshops at its regional centres in Korea and Hungary. The Chairman has attended (by invitation) meetings of the ECN in Brussels and the ECA in Budapest.

In the coming year, the CC will have ongoing liaison with other competition authorities and foreign government departments. Particularly in relation to its review of CC merger guidance, the CC will be taking into account the experience and policies of such organizations and recommended best practices published by the ICN and OECD.

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## Post-inquiry activities

- 40 Implementing remedies and defending appeals, 2008/09

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# Market investigation into the supply of groceries in the UK

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The UK groceries industry generally delivers good outcomes for consumers.

However, action is needed to improve competition in some local markets, and to address some issues in the relationship between retailers and their suppliers.

Outcome: Recommendations made to remedy the adverse effects on competition found.

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*Inquiry Group:*  
Peter Freeman (*Chairman*)  
Jayne Almond  
Barbara Donoghue  
Professor Alan Gregory  
Professor Alan Hamlin  
Professor Bruce Lyons

## The market: the supply of groceries by retailers in the UK market

We found that, in many important respects, competition in the UK groceries industry is effective and delivers good outcomes for consumers, but we still had concerns.

We had concerns in two principal areas. First, we found that several grocery retailers have strong positions in a number of local markets. Barriers faced by competing grocery retailers that could otherwise enter these markets mean that consumers get a poorer retail offer in terms of prices, quality and service than would otherwise be the case, while those grocery retailers with strong local market positions earn additional profits due to weak competition in those markets.

Second, we found that the transfer of excessive risk and unexpected costs by grocery retailers to their suppliers through various supply chain practices, if unchecked, will have an adverse effect on investment and innovation in the supply chain, and ultimately on consumers.

### Convenience stores

The competitive position of convenience stores relative to large grocery retailers was a key concern for many in our investigation. We received a considerable body of evidence from the Association of Convenience Stores (ACS) and others showing that the competitive pressure on convenience store operators is intense. It is clear that the process of competition can be challenging, and, in some cases, even leads to the closure of businesses. But, however sympathetic we may be to the effects of such pressure, our remit, as a competition authority, is to assess the effects of the process of competition on the interests of consumers. Having examined thoroughly the full range of concerns that have been raised with us regarding possible distortions in competition between large grocery retailers and convenience store operators, we did not find that these concerns were substantiated.

## The big store/small store debate

We spent a great deal of time investigating various trends in the number of small grocery stores. We observed that in recent years there has been a significant amount of change in the small store sector. In revenue terms we can see that the sector has grown. However, there have also been some significant declines in the number of small stores. We can see the significant growth of established small store operators such as The Co-operative Group and the entry of new small store competitors such as Tesco and Sainsbury's. Overall the evidence on the number of small stores is mixed. Even so, a decline or growth in the number of small stores is not, of itself, evidence that the UK grocery market has a competitive distortion as it could just reflect the preference of UK consumers.

### Local competition

As part of our investigation we developed a large database of all the locations of grocery stores belonging to the major grocery retailers. When we looked at the database closely we found that in those locations where there is a large number of stores of one particular retailer, such as Tesco or Sainsbury's, there were generally also plenty of other competing stores nearby. We also found that a large proportion of the urban and rural population in the UK is able to choose between at least two larger grocery stores within a reasonable distance. However, we consider it is important that retailers are prevented from dominating a local area and we propose a remedy to prevent any single retailer from expanding in local areas where there is an insufficient level of rival competition. We are also requiring retailers to remove a number of legal encumbrances that have been placed on a limited number of land holdings, which if removed might permit a competing grocery retailer to establish an outlet on that land.



### The supply chain

We received hundreds of submissions from suppliers and producers about the treatment they receive from the major grocery retailers, although we are limited to evaluating the trading relationships between retailers and their direct suppliers. Not all of the submissions complained about the major retailers and some quite small suppliers were extremely appreciative of the support and investment they had received from particular retailers which had helped them to expand. As might be expected, large suppliers were quite happy with their trading relationship.

However, we observed that there are an overwhelming number of suppliers that experience a lack of negotiating power when entering discussions with a retailer which can result in the supplier bearing excessive risk and unexpected costs. We propose a revised Grocery Supply Code of Practice and the establishment of a Groceries Ombudsman to assist suppliers to redress this balance. We fear that if the retailer practices that we observe were to continue with respect to some suppliers, investment and innovation into products would degenerate and this would ultimately have a detrimental effect on customers.

### Remedies

Our final package of remedies consists of the following key elements:

- We will require grocery retailers to relinquish control over landsites in highly-concentrated markets that we have identified as inhibiting entry by competing retailers.
- We will be limiting the ability of grocery retailers to prevent land being used by their competitors in the future.
- A recommendation that a competition test be applied, as part of the planning process, to proposed new stores (and proposed extensions to existing stores). The competition test was intended to favour new entrants and grocery retailers other than those which already have a significant local market share. Following an appeal

from Tesco, the CAT quashed this recommendation, and we are now reconsidering the competition test in accordance with the CAT's decision.

- We will be tightening the provisions of the Supermarkets Code of Practice and broadening its application such that more grocery retailers will be required to abide by its terms.
- We will be seeking legally binding commitments from grocery retailers to establish an Ombudsman to oversee the revised Code. If we cannot secure suitable undertakings from these grocery retailers, we will recommend that Government takes the necessary steps to facilitate the establishment of the Ombudsman.

### Outcome

At the time of publication of this report we were re-examining the competition test as directed by CAT; and pursuing undertakings from the grocery retailers on the various Orders being put in place to remedy the adverse effects on competition that our investigation identified.



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# Market investigation into payment protection insurance

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**Businesses that offer PPI alongside credit face little or no competition.**

**The main effects on consumers are high PPI prices and the absence of choice.**

**Outcome: Among other remedies, we prohibited the selling of PPI during the credit sale.**

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*Inquiry Group:*  
Dr Peter Davis (*Chairman*)  
Professor John Baillie  
Christopher Bright  
Professor John Cubbin  
Richard Farrant

## **The market: payment protection insurance in the UK**

The vast majority of the UK's more than 12 million PPI policies are sold at the same time as a consumer takes out a loan, credit card or other types of credit.

We found that many consumers are unaware that they can buy PPI from other providers, they rarely shop around to compare prices and terms and conditions of PPI policies and rarely switch PPI providers. The resulting 'point-of-sale' advantage held by the credit provider makes it difficult for other PPI providers to reach credit providers' customers and in the absence of such competitive pressures, consumers are charged higher prices and have less choice. As a result of this lack of competition, we found that it is highly profitable for distributors to sell PPI, though we found that some of the resultant profit is used to subsidize credit prices in personal loans.

## **The extent of competition between providers**

We found that each distributor and intermediary faced little competition for the sale of the PPI when sold in combination with the credit it insures. The vast majority of consumers choose their credit provider on the basis of the credit product and are then offered PPI for the first time once they are in a conversation at the credit point of sale.

## **Barriers to search**

There are substantial barriers to effective search and these, in turn, are barriers to expansion by other PPI providers, in particular providers of stand-alone PPI. Consumers who want to compare PPI policies (including PPI combined with credit), stand-alone PPI or short-term income protection

policies are hindered in doing so. Product complexity, the perception that taking PPI would increase their chances of being given credit, the bundling of PPI with credit, and the limited scale of stand-alone provision act as barriers to search for all types of PPI policies. The bundling of retail PPI with credit accounts and with merchandise cover (also known as purchase protection insurance) acts as a barrier to search for retail PPI.



## Barriers to switching

Consumers who want to switch to alternative providers or to alternative insurance products face some significant costs in doing so. This was particularly the case for consumers with single-premium policies. The bundling of retail PPI with merchandise cover acts as a barrier to switching for retail PPI. These barriers to switching limit consumer choice.

## The point of sale

We found that distributors focused their PPI marketing at the point of sale, and at current prices and with the current market structure this appears to be the only effective way of marketing PPI. This means that providers of stand-alone PPI without access to consumers at the point of sale are at a competitive disadvantage. We concluded that there are barriers to effective competition associated with the sale of PPI at the credit point of sale, and that these affected: the ability of both other distributors and intermediaries, and providers of stand-alone PPI to compete for customers; and consumers' choice.

## Conclusions

The features which we found prevent, restrict or distort competition between PPI distributors and intermediaries are: the absence of competition on price or quality of PPI; barriers to search by customers because of difficulty of comparing PPI prices; barriers to switching between PPI policies; and the sale of PPI at point of sale further restricts the extent to which other providers can compete effectively.

## Remedies

Our final package of remedies consists of the following key elements:

- a prohibition on the sale of PPI during the sale of the credit product and for seven days afterwards, although the customer can ask for cover 24 hours after being sold the loan;
- a prohibition of the sale of policies that charge a single insurance premium for the term of the credit being sold;
- requirements for PPI providers to include 'key messages' in PPI advertising; provide information to the Financial Services Authority and the OFT; and provide a standardized quote and annual statement to customers; and
- in addition, retail PPI is required to be offered separately to merchandise insurance cover.

## Outcome

We have consulted the industry informally on the draft Order to give effect to the remedies and we aim to consult formally on the draft Order before the end of July 2009. Barclays lodged an appeal with the CAT against our PPI report, primarily challenging the point of sale ban and the analysis that led to that decision. Hearings will take place in September 2009.

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# Market investigation into the supply of airport services by BAA Limited

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**BAA's common ownership of several major airports in the UK prevented competition between them.**

**Competition restricted by aspects of government policy; the planning system; and current airport regulation.**

**Outcome: BAA required to sell both Gatwick and Stansted as well as either Edinburgh or Glasgow.**

*Inquiry Group:*  
Christopher Clarke  
(Chairman)  
Laura Carstensen  
Dr John Collings  
Professor Jonathan Haskel  
Richard Holroyd  
Professor Peter Moizer<sup>1</sup>

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## The market: airport services supplied by BAA

BAA owned seven airports (Heathrow, Gatwick, Stansted, Southampton, Edinburgh, Glasgow and Aberdeen) which together accounted for 62 per cent of all passengers using UK airports. More significantly, BAA-owned airports accounted for 90 per cent of passengers in south-east England and 84 per cent in Scotland.

We saw evidence of significant competition between some non-BAA airports in the UK, including declining yield from airport charges and some switching of passengers and airlines between pairs of regional airports. We also saw some evidence of competition for new routes and on levels of service. Such competition generally occurred where airports had spare capacity or the ability readily to expand capacity.

### Scotland

We found an overlap in the catchment areas of Edinburgh and Glasgow airports, particularly for leisure passengers, and some evidence to indicate that the two airports were substitutable. While Glasgow faced some competition from Prestwick Airport, Edinburgh has faced little competition. Edinburgh and Glasgow were not affected by capacity constraints and not subject to formal price controls. We concluded that under separate ownership there would be potential for them to compete with each other on price, service, investment and innovation.

We found very little overlap in the catchment areas of Aberdeen and the other two BAA airports in Scotland and little scope for competition between Aberdeen and either of them. We concluded that Aberdeen's comparatively isolated geographical position, combined with other factors that deterred entry and made it unattractive to serve a catchment of Aberdeen's size with more than one airport, were features that restricted airport competition.

### London and the South-East

We found that BAA's London airports (Gatwick, Heathrow and Stansted) also faced very limited competition from non-BAA airports. However, we saw evidence of significant substitutability of passenger demand between the BAA London airports, and significantly overlapping catchment

areas, suggesting that there would be competition between the airports if they were separately owned. Furthermore, Heathrow's position as the only significant hub airport in the UK restricted competition between airports for airlines offering connecting flights. We found scope for competition from Gatwick, especially, and Heathrow to have an effect on Southampton (but not vice versa), and that common ownership was preventing competition between Southampton and the BAA London airports.

We noted that lack of capacity at BAA's south-east airports not only affected the scope for potential competition between any separately-owned airports, but was also a main reason for the current poor standards of service at the airports and lack of resilience at times of disruption. We found that certain aspects of the planning system (cost, time and uncertainty of outcome) restricted and/or distorted competition between airports, as did certain aspects of government policy, notably support for a specific investment location and, in some cases, specific timing of investment which constrained airport operators from bringing forward new projects.

### Capacity constraints

BAA and others argued that planning restrictions and capacity constraints were together a feature of the market that potentially had an adverse effect on competition and that there would be no scope for competition between the London airports, irrespective of ownership, until new runway capacity was available. We concluded, however, that BAA as a result of its ownership of three London airports had contributed to the shortage of capacity, and prevented competition between them, although the extent of that competition might initially be limited by current capacity constraints and price controls.

### Economic regulation

We received strong criticisms of the current regime for the economic regulation of the three BAA London airports and of the way it had been applied to the detriment of airport users. In particular, there were criticisms of the outcome of the recent regulatory review, which had resulted in significant increases in airport charges especially at Heathrow. We found that the system of economic

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1. Professor Moizer stood down from the Group on 3 March 2009.

regulation of airports distorted competition between airlines by adversely affecting the level, specification and timing of investment and the appropriate level and quality of service to passengers and airlines. We also found that common ownership of the three London airports exacerbated the inadequacies of the regulatory system, reducing the benefits of regulation and therefore further distorting competition between airlines.

### BAA's performance

We also found a lack of engagement by BAA with its airline customers, inefficient investment at the south-east airports in particular and an unsatisfactory passenger experience at many BAA airports.

### Conclusions

We found that the features which prevent, restrict or distort competition between airports and/or airlines are, chiefly: common ownership of Edinburgh and Glasgow airports; common ownership of the three BAA London airports; common ownership of Southampton with Heathrow and Gatwick airports; Aberdeen's comparatively isolated geographical position combined with other factors; Heathrow's position as the only significant hub airport in the UK; aspects of the planning system; aspects of government policy; and the current regulatory system for airports.

### Remedies

Our final package of remedies consists of the following key elements:

- structural remedies, comprising the divestiture of Gatwick and Stansted to different purchasers, and the divestiture of either Edinburgh or Glasgow Airport, within a date that is less than two years from the date of our report;
- in relation to Aberdeen, the requirement of undertakings from BAA on the reporting of accounting and other data; and a requirement to consult at least annually on the airport's capital programme;

- in relation to Heathrow's ability to exercise market power, recommendations that, until a new regulatory system is introduced, the Civil Aviation Authority strengthens consultation processes and provisions on quality of service;
- in relation to the economic regulation of airports, recommendations to the Department for Transport (DfT) concerning its proposed reforms of the regulatory system; and
- in relation to government aviation policy, recommendations to the DfT that it should consider the impact of the 2003 Air Transport White Paper on the aviation market, particularly in the South-East in the light of the divestiture of Gatwick and Stansted, and should ensure that the expected National Policy Statement on airports does not unduly constrain this market and gives due consideration to the ambitions of the new owner of Gatwick, including the possibility of a second runway there after 2019.

### Outcome

We have consulted BAA about the terms of undertakings to give effect to the remedies addressed to it. Interim undertakings have now been accepted by us and are in operation. However, on 18 May 2009 BAA filed an application at the CAT for a review of our final report. This occasions some necessary delay to the timetable for the implementation of some key remedies because of the need to address separately the matters which are the subject of the application for review.



Full details about how the CC reached its findings and the final report can be found on the CC website: [www.competition-commission.org.uk/inquiries/ref2007/airports/index.htm](http://www.competition-commission.org.uk/inquiries/ref2007/airports/index.htm).



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# Merger inquiry into the proposed acquisition by BOC Limited of the packaged chlorine business of Ineos Chlor Limited

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**The merger would result in customers paying higher prices and having less choice.**

**A number of alternative remedies were considered but unlikely to be effective.**

**Outcome: The merger was prohibited.**

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*Inquiry Group:*  
Diana Guy (*Chairman*)  
Jill Hill  
Alexander Johnston  
Professor Michael Waterson

## **The market: packaged chlorine**

Chlorine may be supplied in bulk (either via a pipeline or in a tanker) or as ‘packaged’ chlorine, ie in drums or cylinders. Only around 1 per cent of the chlorine produced in the UK is sold as packaged chlorine, and most of this is sold to water companies for water disinfection.

## **Competition between BOC and Ineos Chlor**

Ineos Chlor Limited (Ineos Chlor) is the sole manufacturer of chlorine in the UK. It also packages chlorine, and distributes packaged chlorine to UK customers. BOC Limited (BOC) does not produce or package chlorine itself, but distributes packaged chlorine to UK customers. BOC sources most of its packaged chlorine from the only chlorine packager in the UK other than Ineos Chlor, Albion Chemicals Ltd (Albion).

We found that, before the merger, BOC and Ineos Chlor were close competitors in the distribution of both cylinders and drums of packaged chlorine in the UK. We found that it was unlikely that new competitors could enter these markets because of the barriers to entry associated with sourcing competitively priced packaged chlorine in the UK, the fact that imports of packaged chlorine were not economically viable and other additional costs of entry. We also found that any buyer power would be unlikely to be sufficient to prevent BOC increasing prices (or lowering service levels) following the merger.

BOC’s proposed purchase of Ineos Chlor’s chlorine packaging and distribution business would reduce the

number of competing distributors and would end the rivalry between BOC and Ineos Chlor, which were each other’s closest competitors in these markets.

## **If the merger did not take place**

We looked at what was likely to happen if BOC did not purchase Ineos Chlor (the counterfactual). We were aware of possible future events that meant that, even in the absence of the merger, the structure of the industry was likely to change.

In particular, we found that Albion was likely to cease packaging chlorine in the next few years regardless of the merger. This would leave Ineos Chlor as the sole UK packager of chlorine. We considered that this would result in distributors paying higher prices to source packaged chlorine from that point in time onwards (although prices would still be lower than prices for imported packaged chlorine), whether or not the merger took place.

We therefore expected that, if the merger were not to take place, Ineos Chlor would remain an independent competitor for the foreseeable future.

## **The effect of the merger on competition**

We assessed the effect of the merger on competition in two phases to take account of the fundamental change in the structure of the industry that we expected when Albion ceased to package chlorine.



The phase prior to Albion exiting the market would see the merger reduce the number of competitors from three to two in both the cylinder and drum markets. The merger would also end the close rivalry between BOC and Ineos Chlor, and BOC would obtain a very high market share.

The second phase – after Albion’s exit – would leave Ineos Chlor as the only chlorine packager in the UK regardless of the merger. We found that this was likely to reduce the scope for competition between distributors, because they would all be sourcing their packaged chlorine from one vertically integrated packager/distributor (ie Ineos Chlor). However, there would remain some scope for both price and non-price competition at the retail level. As in the first phase, the merger would reduce the number of competitors from three to two in both the cylinder and drum markets, and BOC would obtain a very high market share.

### Conclusions

We concluded that the merger may be expected to result in a substantial lessening of competition in the markets for the distribution of packaged chlorine in cylinders and drums in the UK, leading to higher prices and/or less customer choice than would otherwise be the case.

### Alternative remedies considered

Although we considered other remedies, in this case prohibition of the anticipated merger was the most effective as it maintained pre-merger levels of competition and, unlike the alternatives considered, would not have imposed costs on the industry and other third parties.

### Outcome

We prohibited the merger. BOC gave us undertakings which we accepted on 19 March 2009.

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# Project ‘Kangaroo’: video on demand joint venture between BBC Worldwide Limited, Channel 4 Television Corporation and ITV PLC

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**Loss of rivalry between the JV partners would result in a less attractive service to viewers.**

**The strength of the JV partners as wholesalers of VOD services would harm interests of third-party suppliers and their customers.**

**Outcome: The JV was prohibited.**

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*Inquiry Group:*  
Peter Freeman (*Chairman*)  
Ivar Grey  
Peter Jones  
Christopher Smallwood

## The market: video on demand

Our remit was to investigate a joint venture (JV) in the rapidly developing market of video on demand (VOD). VOD services free consumers from broadcasters’ programme schedules and allow them to select audio-visual content for immediate or subsequent viewing. The market is already complex. Business models vary. The industry distinguishes between ‘catch-up’ of recently broadcast material and older, ‘archive’ programmes. Content can be viewed either via the Internet without subscription or on subscription through dedicated television services. It can be watched immediately through ‘streamed’ services or downloaded to rent or to own.

## One-stop shop

Under Project ‘Kangaroo’, BBC Worldwide, Channel 4 and ITV set up a partnership, UKVOD LLP, to supply VOD content to any UK consumer with a personal computer and an Internet connection and also to sell content wholesale to other VOD retailers in the UK. UKVOD would provide viewers with a ‘one-stop shop’ in which they could view catch-up and archive content from all three broadcasters as well as other material acquired by UKVOD (each broadcaster would also retain its individual catch-up service). The parties said that they expected that most of the content would be provided free to the viewer, funded by advertising.

## Restrict competition

We found that the three parties hold a substantial share of UK TV VOD content. Our research showed that this UK content was essential for the operation of a successful UK VOD service and that US and other non-UK content was not, in general, a good substitute for it. Moreover, VOD programmes were particularly popular if they had been first aired on the partners’ television channels. Third-party retailers could not compete with UKVOD without content from one or more of the JV partners. We concluded that this situation would enable UKVOD to gain greater bargaining strength in wholesaling the partners’ content to third-party VOD retailers; allied to this we thought it unlikely that UKVOD or the individual partners would have the incentive to enter into future supply deals that might undermine UKVOD’s own retail operation. The customers of these third-party services would suffer, for example by having to pay higher subscriptions or being prevented from seeing programmes they wished to view.

## Loss of rivalry between close competitors

We also concluded that the JV was likely to result in loss of rivalry at the retail level – ie the direct supply of VOD to the partners’ own customers – since the UKVOD partners were each other’s closest competitors for the supply of (UK) VOD content. This would enable them to offer less attractive prices or lower-quality output to their VOD viewers.

In the absence of the JV, we concluded that each of the partners would pursue its individual commercial interests, whether alone or in partnership with a third party, in order to commercialize its archive material. Overall, therefore, we determined that the JV would be likely to lead to a loss of rivalry, amounting to an SLC in the supply of UK TV VOD content at the wholesale and retail levels.

## Conclusion

We considered various remedy options in addition to prohibition, including, in particular, a remedy package that combined limiting the JV’s ability to wholesale both catch-up and archive content with the preservation of separate retail selling points. However, none of these alternatives was considered adequate to address the SLC and its adverse effects. We concluded therefore that prohibition of the JV as it had been envisaged – or any other transaction that would lead to a merger of the partners’ VOD activities – was the only effective and proportionate remedy.

## Outcome

The joint venture was prohibited.



Full details about how the CC reached its findings and the final report can be found on the CC website: [www.competition-commission.org.uk/inquiries/ref2008/kangaroo/index.htm](http://www.competition-commission.org.uk/inquiries/ref2008/kangaroo/index.htm).

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# Merger inquiry into the completed acquisition by Nufarm Limited of AH Marks Holdings Limited

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The merger restricted competition in UK markets for MCPA and MCPP-p.

A package of remedies was designed to enable new entry.

Outcome: Undertakings were given to remedy adverse effects.

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*Inquiry Group:*  
Peter Freeman (*Chairman*)  
Jeremy Peat  
Richard Taylor  
Jonathan Whitar

## The market: phenoxy herbicides

This inquiry concerned the completed acquisition by Nufarm Limited (Nufarm) of AH Marks Holdings Limited (AH Marks). The parties' businesses overlapped in the manufacture and supply of 2,4-D, MCPA and MCPP-p phenoxy chemicals, which are used to make herbicides aimed at broadleaf weeds in grassland and cereal crops.

## Evidence

We obtained sales and pricing data from manufacturers and suppliers of other herbicides and chemicals and from herbicide distributors. We also spoke to industry experts including the National Farmers Union and specialist agricultural advisers ('agronomists'). We found that farmers choose herbicides to treat specific weeds and they considered that the different types of herbicides targeted only specific types of weed. The evidence showed that farmers do not consider as substitutes herbicides based either on other phenoxy chemicals or other chemicals (eg sulfonylureas or pyradines) and we therefore concluded that 2,4-D, MCPA and MCPP-p each constituted individual product markets. This applied at each level of the supply chain (ie technical acid, manufacturing concentrate and formulated product) in the case of 2,4-D and MCPP-p, but only at the latter two stages in the case of MCPP-p as there was no evidence of any customers in the UK for MCPP-p technical acid apart from AH Marks and Nufarm.

## The regulatory regime

We found that the EU regulatory regime acted as a significant barrier to entry, requiring new entrants to generate data demonstrating biological and environmental safety, possibly at high cost. Existing suppliers holding this data benefit from a period of data protection so they are not obliged to share it until that period expires. On expiry, however, the data is readily available so that entry becomes feasible at a reasonable cost.

## Conclusions

In the case of 2,4-D, Nufarm and AH Marks were two of three manufacturers and suppliers in the UK and were close competitors. However, the remaining supplier is the world's largest manufacturer and supplier of 2,4-D. We also found evidence that two potential competitors were taking active steps to enter the UK market. Consequently, we concluded that the merger had not resulted in an SLC for the manufacture and supply of 2,4-D in the UK.



In the case of MCPP-p and MCPA, we found that Nufarm and AH Marks were the closest UK competitors. There were no other direct manufacturers and suppliers of MCPA in the UK and no other manufacturers and suppliers of MCPP-p.

There was no evidence of any timely new entry either. Consequently we found that the merger had resulted in an SLC for MCPA and MCPP-p. However, this SLC was time limited until at least May 2012 for MCPP-p and December 2010 for MCPA.

## Remedies

We assessed a range of remedies, including divestment. Due in part to the fact that the SLC was time limited, we decided that remedies aimed at facilitating entry (with a fall-back option of divestiture) would be sufficient to remedy the SLC, and appropriate undertakings were obtained from Nufarm.

## Outcome

Undertakings were given to remedy adverse effects.

Full details about how the CC reached its findings and the final report can be found on the CC website:  
[www.competition-commission.org.uk/inquiries/ref2008/nufarm/index.htm](http://www.competition-commission.org.uk/inquiries/ref2008/nufarm/index.htm)

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# Merger inquiry into the completed acquisition by Long Clawson Dairy Limited of the Millway business of Dairy Crest Group plc

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Millway was failing and faced closure in the absence of the acquisition.

Although the acquisition gave rise to some loss of competition, the loss was not substantial.

Outcome: The merger was cleared.

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*Inquiry Group:*  
Diana Guy (*Chairman*)  
Ian Jones  
Peter Stoddart  
Robert Turgoose

## The market: Stilton cheese

The inquiry concerned the completed acquisition by Long Clawson Dairy Limited of the Millway business of Dairy Crest Group plc and centred on Stilton cheese.

We concluded that the relevant economic market for this inquiry was the supply of Blue Stilton within the UK. Given our findings on the counterfactual (what would have happened had the merger not taken place), we did not need to consider whether there was a market for White-Stilton-based blended cheese or whether the market was wider.

## 'Failing firm'

After a thorough investigation, we found that Millway was failing and faced closure prior to the acquisition. We spoke to the parties, to other suppliers, to customers, and to potential entrants to the market. We also asked an independent expert to assess the prospects of Millway as a stand-alone business.

## We concluded that:

- Millway had been loss-making for many years and had been dependent on the support of its parent company.
- The business could not be restructured to become economically viable. We found that the business was not viable on a small scale, due to its significant overheads, but could no longer operate on a larger scale due to the recent loss of many of its largest customers.
- Had Long Clawson not bought the business, Dairy Crest would have closed the business following the production of Stilton for Christmas 2008, and its assets would have exited the market.

## A loss of competition?

Despite findings which showed Millway was failing, we found that there had been some loss of competition as a

consequence of the acquisition. Long Clawson acquired the remaining customers of Millway, which would otherwise have been split between Long Clawson and the other Stilton suppliers. However, the volume of sales to these customers was relatively small and there were few long-term contracts, which meant that most of these customers could have switched away from Long Clawson if they had wished.

## Conclusion

Although there was some loss of competition owing to the merger, the loss of competition was not substantial when compared with the 'failing firm' situation in the absence of the merger. As such, we concluded that the merger would not lead to an SLC in the market for Blue Stilton in the UK.

## Outcome

The merger was cleared.



Full details about how the CC reached its findings and the final report can be found on the CC website: [www.competition-commission.org.uk/inquiries/ref2008/millway/index.htm](http://www.competition-commission.org.uk/inquiries/ref2008/millway/index.htm).

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# Stansted Airport: Regulatory Price Control Review

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**Although some competition exists between Stansted and the other London airports, it is not sufficient to constrain Stansted's pricing behaviour.**

**BAA's conduct at Stansted in Q4 operated against the public interest in three ways, which need to be addressed.**

**Outcome: Price control recommendations made to the CAA.**

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Inquiry Group:  
Christopher Clarke (*Chairman*)  
Laura Carstensen  
Dr John Collings  
Professor Jonathan Haskel  
Richard Holroyd  
Professor Peter Moizer  
Professor Sudi Sudarsanam

## **An appropriate form of regulation**

The Civil Aviation Authority (CAA) asked us to consider the extent of the competitive constraints on Stansted and the appropriate form of regulation for Stansted in Q5 (the fifth five-year period of regulation of the airports referred to as the fifth quinquennium or Q5). We also had to consider BAA's conduct during the period of Q4 and whether or not it had operated against the public interest.

We considered all of the building blocks of a regulatory asset based (RAB) approach, including forecasts for passenger numbers, capital expenditure, operating expenditure, and other income. There was considerable uncertainty surrounding many areas, in part due to the turmoil in the financial markets and the macro-economy, and in part due to the scale of BAA's specific plans. We consulted widely to form our forecasts.

## **Recommendations on regulation for Q5**

We found that, although there was some degree of competition between Stansted and the other London airports, it was not sufficient to be relied on to constrain Stansted's pricing behaviour. We recommended that airport charges should continue to be set on the basis of a return on the regulatory asset base.

We recommended to the CAA that, in 2009/10, the maximum level of airport charges at Stansted should be £6.56 per passenger (in 2008/09 prices) and, for the rest of Q5, we recommended that charges should increase each year by no more than RPI+1.75 per cent.

We took the view that an airport's airline customers are generally in a much better position than the regulator to suggest what development is needed at the airport, even recognizing that these interests might, on occasion, diverge from the interests of potential future airline customers and passengers, whose interests should also be represented. Therefore, we rekindled the process of constructive engagement between BAA and its airline customers and,

through these discussions, we saw some considerable progress, which we were able to use in our forecasts. We concluded that, with regard to SG2 (BAA's proposals for developing a second runway and terminal at Stansted), all construction capital expenditure should be excluded from the forecasts at this stage, but we suggested that BAA might request an interim determination from the CAA at an appropriate time, eg if planning approval is obtained.



## **Public interest findings for Q4**

We found BAA's conduct since the date of the CAA's last reference to us in 2002 to have operated against the public interest in three ways, in regard to: consulting airline customers about the development of the airport; providing an adequate quality of service, in particular in the management of security queuing; and in the structure of landing charges for cargo aircraft.

## **Outcome**

The CAA made its final price control decisions in March 2009, having had regard to the recommendations set out in our report.

Full details about how the CC reached its findings and the final report can be found on the CC website: [www.competition-commission.org.uk/inquiries/ref2008/stansted/index.htm](http://www.competition-commission.org.uk/inquiries/ref2008/stansted/index.htm).

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# Mobile phone wholesale voice termination charges

Hutchison 3G UK Limited v Office of Communications, Case 1083/3/3/07

British Telecommunications plc v Office of Communications, Case 1085/3/3/07

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Two of the price control matters raised in BT's appeal were well founded—  
spectrum costs and the network externality allowance.

Price control matters raised in H3G's appeal and a third matter raised by BT  
were rejected.

Outcome: Price controls will be lower than those originally set by Ofcom.

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*Inquiry Group:*  
Dr Peter Davis, (*Chairman*)  
Professor John Cubbin  
Roger Davis  
Carolann Dobson  
Fiona Woolf CBE

*Appellants:* BT, H3G.

*Defendant:* Ofcom.

*Interveners:* O2, Orange, T-Mobile, Vodafone.

BT intervened in H3G's appeal and H3G intervened in BT's.

This was a price control appeal under the Communications Act 2003.

## The CC's role in the appeal process

The CC's role was to determine the price control aspects of the appeals brought in the CAT against Ofcom's March 2007 decision on price controls for wholesale mobile voice call termination (MCT) charges. Wholesale MCT charges are the charges that mobile network operators (MNOs) make to other network operators for terminating calls on their networks.

H3G and BT appealed to the CAT, under section 192 of the Communications Act 2003 (the Act), against Ofcom's MCT Statement of 27 March 2007. The MCT Statement set price controls on the wholesale supply of MCT to network operators by each of the five MNOs (H3G, O2, Orange, T-Mobile and Vodafone) for the years 2007/08 to 2010/11.

Under section 193 of the Act, where such an appeal raises a price control matter specified in the CAT's rules, the CAT must refer that matter to the CC for determination. Both the H3G and BT appeals raised specified price control matters. They were referred to the CC on 18 March 2008.

## The questions that the CC had to address

The reference from the CAT contained eight questions. The first seven questions, which contained 14 different issues, asked the CC to determine whether Ofcom had erred for specific reasons advanced by either of H3G or BT. Subsequently BT abandoned one ground of appeal. The CC addressed the 13 remaining issues in separate sections of the determination:

- 3G spectrum costs
- Administration costs
- Network externality surcharge
- Effects-based analysis (the financial impact of the price control)
- Welfare analysis
- Path of unit cost recovery (economic depreciation)
- Customer acquisition, retention and service costs
- Ported numbers
- Scenarios
- 2G/3G target average charge
- Blended charge
- Glide path
- Net payment zero

## Had Ofcom erred in its analysis?

The CC also provided in its determination a section that discussed whether Ofcom had erred in its market-share forecast for an efficient 3G-only operator, since the market share issue featured prominently in the arguments relating to several of the reference questions.

The CAT's eighth question asked the CC, in the event that it determined that Ofcom had erred, to give clear and precise guidance as to how any error should be corrected and a determination on the consequential adjustment to the level of the price controls. This was covered in the final section of the CC's determination.



The CC determined that Ofcom had erred in two respects – first, in the treatment of 3G spectrum costs, and second, in the inclusion of a network externality surcharge.

### Spectrum costs

On the treatment of 3G spectrum costs, BT had argued that the price controls included too high an allowance for spectrum costs because these were inappropriately based on the prices paid at the 2000 3G spectrum auctions. BT argued that the charge for spectrum costs for the new 3G technology should be capped based on the charge applying to 2G technology. The CC agreed with BT, accepting the case that in a competitive market the introduction of a new and more efficient technology should not lead to an increase in price for an existing service.

### Network externality surcharge

On the treatment of a network externality surcharge (NES), BT argued that Ofcom had erred in allowing this. The NES is an increase to the termination charge cap that in theory would lead to higher numbers of individuals using mobile phones and therefore benefiting others. The CC agreed with BT, on the grounds that it was not at all clear that the NES worked as argued and that the disadvantages of this charge outweighed the advantages.

### Outcome

Price controls will be lower than those originally set by Ofcom. The CC determined that the charges for connecting to the O2, Orange, T-Mobile and Vodafone networks

should be reduced to 4.0 pence per minute (ppm)<sup>1</sup> by 2010/11. Ofcom had decided that they should fall to 5.1ppm by 2010/11. The CC also determined the charge for connecting to the H3G network and the CAT directed that this should be reduced to 4.3ppm by 2010/11. The implementation of the CC's determination is effected by the CAT giving appropriate directions to Ofcom.

Three parties challenged the CC's determination and the CC responded to these challenges. The CC's determination was upheld by the CAT.

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1. 2006/07 prices.

The full text of the CC determination can be found on the CC website:  
[www.competition-commission.org.uk/appeals/communications\\_act/completed\\_cases.htm](http://www.competition-commission.org.uk/appeals/communications_act/completed_cases.htm).



# The Competition Commission's post-inquiry activities: implementing remedies and defending appeals, 2008/09

For those investigations requiring remedies or where our findings are subject to legal challenge, the publication of our final report does not mark the end of the CC's involvement or workload.

The Enterprise Act 2002 made the CC responsible for implementing remedies following its investigations. We do this by accepting undertakings from parties, by making an Order or by making recommendations to others. In some cases, the CC's work continues after these actions. For example, where we have required a structural remedy, we will oversee the divestiture process to ensure that this remedy is successfully implemented.

Our decisions are also subject to appeal. During the financial year 2008/09, we have defended appeals following the BSkyB merger inquiry, the Groceries and PPI market investigations and the Mobile termination charges determination for the CAT, and in May 2009 parties appealed the BAA Airports decision.

A summary of the CC's post-inquiry activities for the financial year 2008/09 is shown in the table alongside.

## CC activity after publication of final report, 2008/09

<i>Investigation</i>	<i>Type of investigation</i>	<i>Type of remedy</i>	<i>Date of publication of final report</i>
Domestic Bulk Liquefied Petroleum Gas	Market	Structural/ Behavioural	29 June 2006
Home credit	Market	Structural/ Behavioural	30 November 2006
Stonegate Farmers Ltd/Deans Food Group Ltd	Merger	Divestiture	24 April 2007
Northern Irish Personal Banking	Market	Behavioural	15 May 2007
Tesco/Co-op store acquisition in Slough	Merger	Divestiture	28 November 2007
BSkyB/ITV	Merger	Divestiture	20 December 2007
Macquarie UK Broadcast Ventures Limited/National Grid Wireless Group	Merger	Behavioural	11 March 2008
Groceries	Market	Structural/ Behavioural	30 April 2008
BOC Limited/Ineos Chlor Limited	Merger	Prohibition	18 December 2008
Mobile termination charges	Referral from CAT	Determination on price control matters	22 January 2009
Payment Protection Insurance	Market	Structural/ Behavioural	29 January 2009
Project 'Kangaroo'	Merger	Prohibition	4 February 2009
Nufarm Crop Products UK Limited/AH Marks Holdings Ltd	Merger	Structural/ Behavioural	10 February 2009
BAA Airports	Market	Structural, including divestitures	19 March 2009

<i>Method of implementation</i>	<i>Date on which remedy fully implemented (all outcomes coming into force)</i>	<i>Implementation activity in 2008/09</i>	<i>Status as at June 2009</i>
Order	6 November 2009	Making domestic and metered estates Orders	Complete
Order & recommendation	1 August 2008	Delivering price comparisons website	Complete
Undertakings	27 July 2008	Appointment of divestiture trustee and approval of final divestiture	Complete
Order	19 June 2009	Considering applications for some obligations to be suspended for a short time	Complete
Order	Ongoing	Making Order and appointing divestiture trustee	Implementing divestiture
BIS lead on implementation	Ongoing	Defending appeals by BSkyB and Virgin to CAT and Court of Appeal	BIS consulting on draft undertakings. Defending appeal to Court of Appeal
Undertakings	1 September 2008	Negotiation and acceptance of final undertakings	Complete
Order & recommendations	Ongoing	Consulting on orders for GSCOP and controlled land. Publishing provisional recommendation to OFT about the drive-time software to be used for determining local markets. Consultation on draft undertakings for Ombudsman. Defending appeal by Tesco to the CAT concerning the competition test	Implementing GSCOP and controlled land Orders and preparing recommendations on Ombudsman. Aspects of the competition test remitted by the CAT to the CC for further consideration
Undertakings	19 March 2009	Negotiation and acceptance of final undertakings	Complete
CAT issued final directions	2 April 2009	Defending parties' challenges to the CAT against the CC's determination and the further appeals from parties to the Court of Appeal against the CAT's ruling	Appeals from parties to the Court of Appeal against the CAT's ruling still ongoing
Order & recommendation	Ongoing	Consumer testing of forms. Informal consultation on draft Order. Defending appeal by Barclays to the CAT	Consulting on draft order Defending appeal to the CAT
Undertakings	Ongoing	Negotiation of final undertakings	Complete
Undertakings	Ongoing	Negotiation of final undertakings	Overseeing compliance with final undertakings
Undertakings & recommendations	Ongoing	Accepting interim undertakings. Negotiation of final undertakings and overseeing divestment process. Defending appeal by BAA to the CAT	Negotiating final undertakings and overseeing divestment process. Defending appeal to the CAT

# Financial statements

of the Competition Commission for year ended 31 March 2009



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## 1. Format of accounts

These financial statements have been prepared in a form directed by the then 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 it by another authority: 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 and three Deputy Chairmen are members of the CC. The Chairman chairs the Council (the strategic management board), which also includes the Deputy Chairmen, the Chief Executive, and two non-executive CC members.

At 31 March 2009 the membership comprised the Chairman, and three Deputy Chairmen, two non-executives,<sup>1</sup> 39 members<sup>2</sup> of the reporting panel – of whom 16 were also members of the specialist utilities panel, two were members of the newspaper panel and three were members of the Communications Act panel. All members are appointed by the Secretary of State.

### *Members at 31 March 2009*

Chairman	1
Deputy Chairmen	3
Non-executives	2
Reporting panel members	39
(includes 16 members also on the utilities panel, 2 on the newspaper panel and 3 on the Communications Act specialist panel)	

There were two non-executives, Mr Tony Foster and Dame Patricia Hodgson. Mr Martin Stanley was Chief Executive until 9 February 2009 when his appointment came to an end and Mr David Saunders became Chief Executive. Please refer to the earlier section on the role of the CC Council (page 8) for full membership details.

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 48.

## 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/our\\_people/members/reg\\_interests/index.htm](http://www.competition-commission.org.uk/our_people/members/reg_interests/index.htm).

## 5. Financial results

The CC's main source of funding is grant-in-aid received from BIS. The CC draws down the 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 £20,909,000 (2007/08: £22,082,000). Capital grant received was £591,000 (2007/08: £418,000).

Income and expenditure is accounted for on an accruals basis. This treatment results in an annual deficit that is taken to the Income and Expenditure reserve balance that appears in the balance sheet.

In 2008/09 the overall deficit for the year of expenditure over income after interest and taxation was £22,648,000 (2007/08 deficit £21,254,000). Operating expenditure was £26,057,000 (2007/08: £24,207,000).

## 6. Financial performance measure

BIS 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 first table overleaf shows a three-year summary in DEL format including the forecast for 2009/10.

The following table reconciles the revenue DEL format for 2008/09 with the total operating expenditure of £26,057,000 shown in the Income and Expenditure account.

## Council report *(continued)*

	<i>2007/08</i>	<i>2008/09</i>	<i>2009/10</i>
	<i>Actual</i>	<i>Actual</i>	<i>Forecast</i>
	<i>£'000</i>	<i>£'000</i>	<i>£'000</i>
Payroll costs	12,710	11,922	11,838
Accommodation costs (net)	4,040	4,039	3,902
Other costs less sundry income	6,430	6,755	4,760
Total costs	23,180	22,716	20,500
Relocation provision	(1,717)	(8)	0
Reimbursement from regulator	(152)	0	0
Revenue DEL	21,311	22,708	20,500
Capital expenditure	418	591	626

	<i>2008/09</i>
	<i>Actual</i>
	<i>£'000</i>
Revenue DEL	22,708
Add:	
income receivable	3,336
interest receivable	92
Deduct:	
corporation tax charge	(19)
cost of capital	(60)
Operating expenditure per Income and Expenditure account	26,057

The final budget set by BIS for 2008/09 was £22,026,000 (2007/08; £21,067,000), made up of revenue expenditure of £21,400,000 and capital expenditure of £626,000; an increase of 4.55 per cent from 2007/08. The CC spent £23,299,000 made up of revenue expenditure of

£22,708,000 and capital expenditure of £591,000 resulting in an overall overspend of £1,273,000 (5.8 per cent). The overspend was due to the increase in legal costs for two appeal cases, increase in depreciation following the revaluation of the dilapidations asset, the additional bonus accrual and an increase in the CC's accommodation rental charge following the five-year rental increase detailed in the lease.

BIS budget allocation for 2009/10 is £21,126,000 made up of revenue expenditure of £20,500,000 and capital expenditure of £626,000.

### [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.

Under certain of the Acts under 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. From December 2008 the Treasury issued guidance that all supplier invoices should be paid within ten days. Throughout the year 99 per cent of relevant invoices were settled within 30 days (2007/08: 97 per cent); from December 08 to March 09, 86 per cent of invoices were paid within ten days; 100 per cent was not achieved mainly due to invoices arriving that did 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. Recent examples of this are discussions on: 'new pay system', 'employee handbook', and 'the Management Development Programme'. The Chief Executive runs regular seminars and all staff are invited to hear presentations on issues of interest, updates on management changes and to raise any questions.

#### 12. Employment of disabled people

The CC adheres to BIS'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 ended 31 March 2009 the cost of work performed was £42,500; this included £3,500 for additional preparation work on International Financial Standards. The audit services provided by the C&AG's staff 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

On Friday 5 June 2009, the Government announced the creation of a new Department for Business, Innovation and Skills (BIS) by merging the Department for Business, Enterprise and Regulatory Reform (BERR) and the Department for Innovation, Universities and Skills (DIUS). From this date, BIS will take over the work previously undertaken by BERR.

#### 15. Future developments

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



David Saunders  
Chief Executive and Secretary  
Accounting Officer  
23 June 2009

- 
1. BIS is currently recruiting two non-executive Council members, one to replace Mr Tony Foster whose appointment ends 31 August 2009, and one additional member.
  2. BIS appointed eight new members on 1 April 2009, two new members on 1 May 2009, and will be appointing three new members on 1 September 2009 and one new member on 1 October 2009. These new appointments will replace the 14 members who will come to the end of their appointments in September 2009.

# Management commentary

## 1. The CC and its external environment

The CC is the Phase II 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 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 CAT. Other regulators make licence modification referrals or price control references intermittently.

## 2. The CC's employees

The CC had 154 employees at the end of March 2009 (179 at end of March 2008). Staff turnover for the year was 14.4 per cent excluding retirees and fixed-term appointees. 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, 57 per cent of the new staff appointed were women and 10 per cent were from ethnic minorities; 44 per cent of the CC's most senior staff (band A and above) are women. The CC's average sickness absence is 5.08 days per employee; this is below the level across the civil service as a whole, which is expected to be around nine days per employee.

## 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 key performance indicators and agreed in conjunction with BIS to:

- monitor the level of satisfaction of the CC's stakeholders as surveyed approximately every two years by an independent third party; the latest survey was published in June 2007 and the next survey will be conducted in 2009;
- 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; the latest review by KPMG was 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 2009/10 was published on the CC website ([www.competition-commission.org.uk](http://www.competition-commission.org.uk)) on 8 April 2009, and sets the key performance indicators, objectives and strategy for the new financial year.

<i>Inquiries summary</i>	<i>Mergers</i>	<i>Markets</i>	<i>Regulatory</i>	<i>Energy Code Mod Appeal</i>	<i>Appeal under Communications Act</i>	<i>Total</i>
New inquiries 2008/09	7	0	2	0	0	9
Inquiries brought forward from 2007/08	1	4	0	0	1	6
Deduct inquiries cancelled	(2)	(0)	(0)	(0)	(0)	(2)
Deduct inquiries carried forward at 31 March 2009	(2)	(1)	(1)	(0)	(0)	(4)
<b>Inquiries completed in 2008/09</b>	<b>4</b>	<b>3</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>9</b>

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

During 2008/09 there were six inquiries brought forward from the previous financial year and nine new inquiries. Of these, nine were completed, two were cancelled, and four carried forward to the next financial year. Of the nine new inquiries received in 2008/09, seven were merger inquiries, two were regulatory and there were no market investigations, Energy Code Modification appeals or appeals under the Communications Act.

#### 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, changes to the legal framework in which the CC works, and the OFT's and other regulators' practice on referrals.

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

The CC's primary resource is its staff; 37 per cent of CC staff are skilled professionals with competition expertise in economics, law, accountancy and business advice. Inquiries are managed by eight 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, a Senior Director, Inquiries, 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 some staff on a short-term basis. During 2008/09 the proportion of short-term staff was on average 22 per cent (2007/08: 26 per cent). The CC also arranges appropriate developmental secondments to other agencies when workload is lower.

The other major challenge facing the CC is the likelihood of needing to make significant cuts in its budget next year and beyond due to public expenditure restraint. To prepare for this, the CC has started to look at options for efficiency savings and overhead cost reductions, in order to try to minimize the impact on front-line resources.

The CC has continued to manage its risks through its risk management processes and policies during 2008/09. These are more fully recorded in the Statement on Internal Control (pages 51–53), specifically under the capacity to handle risk and the risk and control framework. During 2008/09 there were no reported security data incidents.

#### 11. Resources and liquidity

The accounts show a cumulative surplus on the Income and Expenditure reserve of £745,000 at 31 March 2009. The CC's sponsoring department, BIS, 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

The CC's sponsor department is now BIS.



David Saunders  
Chief Executive and Secretary  
Accounting Officer  
23 June 2009



# Remuneration report

## 1. Remuneration policy

Remuneration of the Chairman, Deputy Chairmen and non-executives is set by the Secretary of State for BIS. 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 following information is subject to audit.

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

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.

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

The salary payments for Mr David Saunders are for the period 9 February to 31 March 2009.

## 4. Pension details of Council members

Mr Peter Freeman, Mr Christopher Clarke, Dr Peter Davis and Mrs 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. Mr Martin Stanley and Mr David Saunders are members of the PCSPS scheme and the pension benefits quoted below are accrued from their total civil service employment, not just their time with the CC. As non-executives, Mr Tony Foster and Dame Patricia Hodgson are not part of the pension scheme.

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.

	<i>Date appointed</i>	<i>Date appointment ends</i>
Mr Peter Freeman (Chairman)*	1 January 2006	31 December 2010
Mr Christopher Clarke (Deputy Chairman)	1 September 2004	9 September 2010
Dr Peter Davis (Deputy Chairman)	18 September 2006	17 September 2012
Mrs Diana Guy (Deputy Chairman)*	1 September 2004	30 November 2010
Mr Tony Foster (non-executive)*	1 September 2003	31 August 2009
Dame Patricia Hodgson (non-executive)*	1 January 2004	31 December 2011
Mr Martin Stanley (Chief Executive)	1 October 2004	8 February 2009
Mr David Saunders (Chief Executive)	9 February 2009	8 February 2014

\*Member of the Remuneration Committee.

	<i>Salary</i>	<i>Pension contributions</i>	<i>Taxable expenses</i>	<i>2008/09 total</i>	<i>2007/08 total</i>
Mr Peter Freeman (Chairman)	166,738		4,753	171,491	167,130
Mr Christopher Clarke (Deputy Chairman)*	100,038			100,038	97,512
Dr Peter Davis (Deputy Chairman)	125,045			125,045	121,888
Mrs Diana Guy (Deputy Chairman)*	100,038			100,038	97,512
Mr Tony Foster (non-executive)	22,400		3,314	25,714	17,327
Dame Patricia Hodgson (non-executive)	7,525			7,525	6,836
Mr Martin Stanley (Chief Executive)	149,140	29,988		179,128	174,959
Mr David Saunders (Chief Executive)	20,000	4,074		24,074	

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

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 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.

Figures in column 5 at the start of period CETV for 2008/09 are slightly different from the final period CETV 2007/08 shown in the accounts for 2007/08 due to certain factors being incorrect in last year's CETV calculator.

### 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.



David Saunders  
Chief Executive and Secretary  
Accounting Officer  
23 June 2009

	<i>Column 1</i> <i>Real increase in pension</i> <i>£'000</i>	<i>Column 2</i> <i>Real increase in lump sum</i> <i>£'000</i>	<i>Column 3</i> <i>Pension at 31/03/09</i> <i>£'000</i>	<i>Column 4</i> <i>Lump sum at 31/03/09</i> <i>£'000</i>
Mr Peter Freeman	0–2.5	N/A	10–15	N/A
Mr Christopher Clarke	0–2.5	N/A	5–10	N/A
Dr Peter Davis	0–2.5	N/A	0–5	N/A
Mrs Diana Guy	0–2.5	N/A	5–10	N/A
Mr David Saunders	0–2.5	5.5–6.0	40–45	124
Mr Martin Stanley	0–2.5	N/A	75–80	N/A

	<i>Column 5</i>  <i>CETV at 31/03/08</i> <i>(nearest £'000)</i>	<i>Column 6</i>  <i>CETV at 31/03/09</i> <i>(nearest £'000)</i>	<i>Column 7</i>  <i>Employee contributions and transfers-in</i> <i>£'000</i>	<i>Column 8</i> <i>Real increase in CETV after adjustment for inflation and changes in market investment factors</i> <i>(nearest £'000)</i>
Mr Peter Freeman	168	218	4.0–4.5	34
Mr Christopher Clarke	113	133	3.5–4.0	15
Dr Peter Davis	29	50	4.0–4.5	16
Mrs Diana Guy	105	123	3.5–4.0	14
Mr David Saunders	827	858	0–0.5	40
Mr Martin Stanley	1,459	1,565	4.0–4.5	1

# 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 comply with the requirements of the Government Financial Reporting Manual and in particular:

- (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 as set out in the Government Financial Reporting Manual 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 BIS has designated the Chief Executive to the CC as the Accounting Officer for the CC. The responsibilities of an Accounting Officer, including responsibility for the propriety and regularity of the public finances for which the Accounting Officer is answerable, for keeping of proper records and for safeguarding the CC's assets, are set out in the Accounting Officer's Memorandum issued by the Treasury and published in *Managing Public Money*.

# 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 *Managing Public Money*.

As Accounting Officer, I have responsibility for ensuring that the CC meets quarterly with its sponsor department, BIS. At these meetings, BIS is informed of all high-level risks and, in particular, those affecting our financial situation.

## 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 2009 and up to the date of

approval of the annual report and accounts, and accords with Treasury and Cabinet Office guidance.

## Capacity to handle risk

The following risk management processes are in place:

- (i) The Operations Board<sup>3</sup> informs the Audit Committee on risk and ensures that 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 that risk training is undertaken as necessary. All managers of risk are given internal training and directed to the risk policy published on the Intranet. Further external training is available through the Management Development Programme. The Operations Board's commitment to the management of risk is set out in its terms of reference and supported by the Risk Policy.
- (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.
- (iv) The Operations Board is responsible for overall security policies and procedures and overseeing effective security management.

## Statement on internal control *(continued)*

(v) A Business Continuity Group, comprising relevant Heads of Function, which I chair, is responsible for business continuity planning and contingency 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 or a terrorist attack.

(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.

(viii) The Security Working Group (SWG) works alongside the Business Continuity Group and reports to the Operations Board and the Audit Committee. It is responsible for ensuring that the CC implements guidance on protection and security of its IT, physical and data assets from CESG (the National Technical Authority for Information Assurance), the Cabinet Office and the Centre for the Protection of the National Infrastructure. The Chair of the Committee is also the CC's Departmental Security Officer and SIRO (Senior Information Risk Owner). During 2008/09 there were no reported security data incidents (ie no data incidents needed to be reported to the Information Commissioner or Cabinet Office) at the CC.

(ix) The SIRO with the help of the SWG completed the following information assurance returns for 2007/08:

- Cabinet Office Information Assurance report;
- Cabinet Office Information Maturity Model; and
- BIS Security Policy Framework return.

Following a final review by the Chair of the Audit Committee and approval by me, the returns were submitted to BIS and the Cabinet Office on 24 April 2009.

The CC also completed regular risk assessment and data handling returns to BIS. These returns have provided a medium degree of assurance that sufficient processes and systems are in place to ensure that the CC is able to handle security and information assurance risks effectively.

### [The risk and control framework](#)

The CC's Risk Policy sets out responsibilities for the identification, evaluation and control of risks including data handling, information and IT risks recorded in the CC's risk registers. The following processes are in place as part of the CC's overall risk and control framework.

Key management issues essential to running the CC and its compliance with relevant legislation are handled in a number of committees and groups:

(i) The Senior Management Team<sup>4</sup> meets approximately twice a month, so that the Chief Executive can discuss issues and take advice from them. This group ensures a consistent approach on significant management and policy matters, including key cross-organizational policy decisions and reviewing corporate information. Its primary role is to support the Chief Executive in his role as the CC's Accounting Officer and Principal Officer.

(ii) The Senior Team<sup>5</sup> meets around three times a year to discuss strategic issues to advise the Council, the Chief Executive and other committees.

(iii) The Operations Board comprises a group of senior staff from across the organization and is responsible for taking decisions on key operational matters. The Operations Board manages its own risk register and reports high-level risks to Council.

(iv) Corporate Services Management Team<sup>6</sup> meets monthly to report to the Director of Corporate Services. Each manager is responsible for a risk register for his or her team and reports significant risks to the Operations Board.

(v) Three of the Heads of Profession<sup>7</sup> are each responsible for a risk register on behalf of their respective committees. These committees report high-level risks to Council.

(vi) The Operations Board and the three Heads of Profession have an annual risk register meeting to ensure that there is continuity of scoring, identification and responsibility for all risks and that the process is working effectively.

(vii) Every manager within the CC is responsible for identifying the types of risks that fall within their own remit. The Operations Board has responsibility for ensuring that all possible types of risk are being managed.

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

(ix) Project plans are drawn up for all inquiries and Inquiry Directors report progress to me on a weekly basis. A formal report on the status of each inquiry is issued at key stages of the inquiry; the progress report identifies key risks facing the inquiry, which are discussed in a progress meeting. Upon completion of the inquiry, formal reports are issued commenting on all aspects of the inquiry plan and process.

(x) 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 authority structure, control of purchases through a purchase order system and by a monthly financial reporting system to all senior managers and monthly reporting to BIS.

(xi) A CC Programme Board meets quarterly and reviews the progress on all CC projects, sets long-term CC strategy goals and reviews benefits of completed projects.

(xii) Project Boards are established for all major projects (such as the Finance System project) to ensure that projects are managed under generally accepted project management techniques, including identification and assessment of project risks.

(xiii) 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.

(xiv) 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 work of the internal auditors, the executive managers within the CC who have responsibility for the development and maintenance of the internal control framework, and by 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 that 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>8</sup> that meets at least six times a year to consider the plans and strategic direction of the CC and to review recent inquiries, high-level risks and discuss best practice across inquiry groups;

(ii) an Audit Committee<sup>9</sup> chaired by a non-executive member of the Council which meets at least 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;

(iii) an internal audit service: this was provided by RSM Bentley Jennison from April 2008 to date; during the year they gave the CC's Audit Committee an opinion of the CC's internal controls as being adequate and effective; and

(iv) the work of the SIRO supported by the SWG, specifically in relation to the BIS Security Policy Framework and Cabinet Office Information Assurance requirements.

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.



David Saunders  
Chief Executive and Secretary  
Accounting Officer  
23 June 2009

3. The Operations Board comprises the Chief Executive and/or the Director of Corporate Services, the four Heads of Profession, or their Deputy, and three Inquiry Directors.

4. The Senior Management Team comprises the Chief Executive, Heads of Profession, Senior Director, Inquiries, Director of Policy and Director of Corporate Services.

5. The Senior Team comprises all the senior managers across all functions.

6. Corporate Services Management Team comprises the Head of Finance, Head of Planning, Head of HR, Head of IT and the Head of Facilities.

7. The Chief Legal Adviser, the Chief Economist and the Chief Business Adviser and Head of Remedies.

8. The Council comprises the Chairman, the Deputy Chairmen, the Chief Executive and two non-executive members.

9. The Audit Committee comprises a non-executive member of the Council, and two members of the CC, one of whom is a qualified chartered accountant.

# The 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 2009 under the Competition Act 1998. These comprise the Income and Expenditure Account, the Balance Sheet, the Cash Flow Statement, the Statement of Recognised Gains and Losses and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

## Respective responsibilities of the Competition Commission, Accounting Officer and auditor

The Competition Commission and the Chief Executive as Accounting Officer are responsible for preparing the Annual Report, which includes the Remuneration Report, and the financial statements in accordance with the Competition Act 1998 and Secretary of State's 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 Secretary of State's directions made thereunder. I report to you whether, in my opinion, the information, which comprises the Council Report and the Management Commentary, included in the Annual Report 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. This other information comprises the Chairman's Statement, the Role of the CC and Council biographies, the Chief Executive's report, Objectives and Work Streams, Reports published in the review period, Post-inquiry activities and the unaudited part of the Remuneration report. I consider the implications for my report if I become aware of any apparent misstatements or material inconsistencies with the financial statements. My responsibilities do not extend to any other information.

## Basis of audit opinions

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

assessment of the significant estimates and judgements made by the Competition Commission and the Accounting Officer 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

In my opinion:

- the financial statements give a true and fair view, in accordance with the Competition Act 1998 and directions made thereunder by the Secretary of State, of the state of the Competition Commission's affairs as at 31 March 2009 and of its deficit, recognized gains and losses and cash flows 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 Secretary of State's directions made thereunder; and
- information, which comprises the Council Report and Management Commentary, included in the Annual Report is consistent with the financial statements.

### Opinion on regularity

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

### Report

I have no observations to make on these financial statements.

Amyas C E Morse  
Comptroller and Auditor General  
National Audit Office  
151 Buckingham Palace Road  
Victoria, London, SW1W 9SS  
29 June 2009



## Balance Sheet as at 31 March 2009

	<i>Note</i>	<i>2008/09</i> <i>£'000</i>	<i>2007/08</i> <i>£'000</i>
Fixed assets			
Intangible fixed assets	9	261	325
Tangible fixed assets	10	6,099	6,691
		6,360	7,016
Dilapidations asset provision	11	2,131	1,123
Debtors: amounts due after more than one year	12	269	282
Current assets			
Debtors due within one year	13	547	886
Cash at bank and in hand	14	167	478
		714	1,364
Current liabilities			
Creditors: amounts falling due within one year	15	(1,540)	(2,001)
Net current liabilities		(826)	(637)
Total assets less current liabilities		7,934	7,784
Creditors: amounts falling due after more than one year	16	(1,863)	(2,001)
Provisions for liabilities & charges	17a	(3,053)	(1,598)
Pension liabilities	17b	(1,905)	(1,884)
		1,113	2,301
Financed by:			
Income and Expenditure reserve	18	745	1,853
Revaluation reserve	19	368	448
		1,113	2,301

The notes on pages 59 to 73 are part of the financial statements



David Saunders  
Chief Executive and Secretary  
Accounting Officer  
23 June 2009

## Income & Expenditure Account for the period ended 31 March 2009

	<i>Note</i>	<i>2008/09</i> <i>£'000</i>	<i>2007/08</i> <i>£'000</i>
Income	3	3,336	2,798
<b>Expenditure</b>			
Members' remuneration	4	1,124	1,345
Staff remuneration	5	11,104	11,551
Accommodation costs	6	7,021	6,500
Depreciation	9, 10, 11	1,689	1,208
Loss on disposal of fixed assets	10	1	2
Decrease in provisions for liabilities & charges	17a	(8)	(1,717)
Pension provision	17b	114	277
Other operating charges	6	5,012	5,041
		26,057	24,207
Deficit on ordinary activities before interest & Tax		(22,721)	(21,409)
Interest receivable	7	92	194
Notional cost of capital	7	(60)	(57)
		(22,689)	(21,272)
Corporation Tax	8	(19)	(39)
Deficit for the year after Tax		(22,708)	(21,311)
Add back notional cost of capital	7	60	57
Deficit for the year		(22,648)	(21,254)
<i>Statement of recognized gains and losses</i>			
		<i>2008/09</i> <i>£'000</i>	<i>2007/08</i> <i>£'000</i>
Revaluation (loss)/gain		(40)	96

All operations are continuing.  
There were no material acquisitions or disposals of operations during the year.  
The notes on pages 59 to 73 are part of the financial statements.

## Cash flow statement for the period ended 31 March 2009

	<i>Note</i>	<b>2008/09</b> <i>£'000</i>	<i>2007/08</i> <i>£'000</i>
Net cash outflow from operating activities	27 (i)	(21,277)	(21,835)
Capital expenditure	27 (ii)	(598)	(527)
Return on investments and servicing of finance	27 (ii)	103	197
Financing—revenue	27 (ii)	20,909	22082
Financing—capital	27 (ii)	591	418
Taxation	8	(39)	(26)
(Decrease)/increase in cash	27 (iii)	(311)	309

The notes on pages 59 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 (FRoM). The accounting policies contained in the FRoM follow UK generally accepted accounting practice for companies (UK GAAP) to the extent that it is meaningful and appropriate to the public sector. As permitted by the 2007/08 FRoM, tangible fixed assets are no longer revalued on an annual basis using indices. Depreciated historical cost is now used as a proxy for current value as this realistically reflects consumption of the assets. Revaluations would not cause a material difference. The modified historical cost convention has though been applied to the leasehold and dilapidations assets.

### *(b) Income*

The net cash needs of the CC are financed by grant-in-aid from BIS.

Income relates mainly to charges to tenants for occupancy and service charges for Finance, IT and Facilities along with charges to other government bodies for secondees.

### *(c) Fixed assets*

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

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 cost is £1,000 or over. However, for grouped purchases of IT equipment, IT software or fixtures and furniture, individual items with

a cost of £200 or greater are capitalized where the total grouped purchase is £1,000 or more.

Consultants' expenditure is generally charged to the Income and Expenditure Account 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 and charged to the Income and Expenditure Account at rates calculated (less any estimated residual value) for each asset evenly over their expected useful life as follows:

#### *Intangible fixed assets*

IT software licences	2 to 4 years
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#### *Tangible fixed assets*

IT hardware	3 to 5 years
Fixtures & furniture	5 to 10 years
Leasehold improvements	20 years, ie over lease term
Leasehold dilapidations	20 years

### *(e) Notional Cost of Capital*

In accordance with HM Treasury requirements, a notional charge on capital of 3.5 per cent a year (2007/08: 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 sub-letting and some miscellaneous trading activities. The CC charges VAT to its tenants on property transactions and reclaims VAT on its related expenditure. Expenditure on property that is sub-let and expenditure on miscellaneous trading activities is shown exclusive of VAT in the Income and Expenditure Account.

*(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 HM Treasury 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*

BIS 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 and/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 HM Treasury discount rate of 2.2 per cent a year in real terms (2007/08: 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 remaining term of the leasehold.

## Notes *(continued)*

### 2. Government grant-in-aid

	2008/09 £'000	2007/08 £'000
Drawn down	21,500	22,500
Revenue expenditure	20,909	22,082
Capital expenditure	591	418
GIA drawn down	21,500	22,500

In accordance with the FReM grant-in-aid is credited directly to the Income and Expenditure Account balance appearing in the balance sheet.

### 3. Income

	2008/09 £'000	2007/08 £'000
Rent and other occupancy charges including corporate services charges:		
External		
—Garbe	293	558
—Sinclair Knight Merz	307	-
Intra-Government		
—Competition Service	1,503	1,338
—NHS Institute for Innovation and Improvement	207	160
—Legal Services Board	525	-
—Museums, Libraries and Archives Council	108	404
—Security Industry Authority	39	-
	2,982	2,460
Charges for seconded-out staff:		
Intra-Government—OFT	-	3
Intra-Government—Department for Transport	58	-
Intra-Government—Ofwat	8	-
Intra-Government—Bank of England	81	-
Intra-Government—Civil Aviation Authority	83	-
Intra-Government—Department of Health	7	-
Intra-Government—Cooperation & Competition Panel	50	-
External	19	183
	306	186
Compensated legal costs of judicial review	-	152
Sundry income	48	-
Total income	3,336	2,798

**4. Members' remuneration costs***The cost of members' remuneration was:*

	2008/09 £'000	2008/09 £'000	2008/09 £'000	2007/08 £'000
	<i>Chairman &amp; Deputy Chairmen</i>	<i>Other members</i>	<i>Total</i>	<i>Total</i>
Salaries	492	530	1,022	1,216
National Insurance costs	54	48	102	129
	546	578	1,124	1,345

(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 HM 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) Members, including non-executive Council members, are paid per diem and reimbursed for their travel expenses.

**5. Staff remuneration costs***(a) The cost of staff remuneration was:*

	2008/09 £'000	2008/09 £'000	2008/09 £'000	2007/08 £'000
	<i>Permanent staff</i>	<i>Other staff</i>	<i>Total</i>	<i>Total</i>
Salaries	6,707	2,318	9,025	9,348
National Insurance costs	585	89	674	749
Pension costs	1,267	138	1,405	1,454
Total	8,559	2,545	11,104	11,551

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

(ii) Salaries include redundancy payments of £145,434 (2007/08: £82,417).

(iii) £306,000 was recovered in respect of the outward secondment of permanent staff (see note 3).

(iv) £250,000 has been accrued for bonuses to be paid in 2009/10, which are for work carried out in 2008/09.

### *(b) Number of staff*

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

	<i>2008/09</i> <i>FTE</i>	<i>2007/08</i> <i>FTE</i>
<i>Employed on references</i>		
Permanent staff	88	80
Other staff	10	50
Total employed on references	98	130
<i>Inquiry support</i>		
Permanent staff	20	9
Other staff	3	7
Total inquiry support	23	16
<i>Support staff</i>		
Permanent staff	20	17
Other staff	13	16
Total support staff	33	33
Total staff	154	179

### *6. Accommodation costs and other operating charges*

	<i>2008/09</i> <i>£'000</i>	<i>2007/08</i> <i>£'000</i>
<i>(a) Accommodation costs—Victoria House</i>	7,021	6,500

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 £2,982,000 (2007/08: £2,460,000) which is included as income (see note 3).

Operating lease rental costs included above were £5,149,000 for the year (2007/08: £4,553,000).



Notes *(continued)*

<i>(b) Other operating charges</i>	<i>2008/09</i>	<i>2007/08</i>
	<i>£'000</i>	<i>£'000</i>
Consultants' fees—inquiry related	1,558	2,011
Consultants' fees—not inquiry related	244	229
Consultants' fees—IT	9	16
Travel, subsistence and hospitality:		
—Members	168	220
—Staff & contractors	115	167
Staff training	265	205
Staff recruitment	193	214
Publishing	9	5
Audit fees for statutory audit work	43	39
Other administration	2,408	1,935
<b>Total other operating charges</b>	<b>5,012</b>	<b>5,041</b>

Other administration charges include legal costs, office supplies, software licences, catering, telecommunications and other accountancy fees.

*7. Interest & Cost of Capital*

	<i>2008/09</i>	<i>2007/08</i>
	<i>£'000</i>	<i>£'000</i>
Interest receivable	92	194
Notional cost of capital	(60)	(57)

Interest was received on funds deposited with the office of HM Paymaster General. In accordance with HM 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 (2007/08: 3.5 per cent).

8. *Corporation Tax*

	<i>2008/09</i>	<i>2007/08</i>
	<i>£'000</i>	<i>£'000</i>
Corporation Tax payable on interest	19	39
	19	39

Corporation Tax payable on interest is based on 21 per cent of gross interest receivable.

9. *Intangible fixed assets*

	<i>2008/09</i>
	<i>Software</i>
	<i>licences</i>
	<i>£'000</i>
Cost	
At 1 April 2008	963
Additions at cost	142
At 31 March 2009	1,105
Amortization	
At 1 April 2008	638
Provision for the year	206
At 31 March 2009	844
Net Book Value	
At 31 March 2009	261
At 31 March 2008	325

*10. Tangible fixed assets*

	<i>2008/09 Information technology</i>	<i>2008/09 Fixtures &amp; fittings</i>	<i>2008/09 Leasehold costs</i>	<i>2008/09 Assets in course of construction</i>	<i>2008/09 Total</i>
	<i>£'000</i>	<i>£'000</i>	<i>£'000</i>	<i>£'000</i>	<i>£'000</i>
Cost					
At 1 April 2008	3,316	665	7,714	107	11,802
Additions at cost	307	142	-	-	449
Disposals	(53)	-	-	-	(53)
Revaluation	-	-	(48)	-	(48)
At 31 March 2009	3,570	807	7,666	107	12,150
Depreciation					
At 1 April 2008	2,609	530	1,972	-	5,111
Provision for the year	515	115	370	-	1,000
Released on disposal	(52)	-	-	-	(52)
Revaluation	-	-	(8)	-	(8)
At 31 March 2009	3,072	645	2,334	-	6,051
Net Book Value					
At 31 March 2009	498	162	5,332	107	6,099
At 31 March 2008	707	135	5,742	107	6,691

Assets in the course of construction carried forward are in respect of software licences for the Autonomy search tool (£107,000). There has been no movement in the current financial year.

The revaluation relates to a decrease in the value of leasehold assets based on the relevant Office for National Statistics and BIS price indices.

### 11. Dilapidations asset provision

	<i>2008/09</i>
	<i>£'000</i>
Current cost	
At 1 April 2008	1,449
Revaluation	1,491
At 31 March 2009	2,940
Depreciation	
At 1 April 2008	326
Provision for the year	483
At 31 March 2009	809
Net Book Value	
At 31 March 2009	2,131
At 31 March 2008	1,123

The capitalized office dilapidations asset provision current cost is the current value of the CC's estimated leasehold office reinstatement liability at the end of the Victoria House lease in 2023. The asset was formally reviewed by Drivers Jonas in March 2009 and an estimated settlement figure was given which incorporated the floor space and current market factors.

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

	<i>2008/09</i>	<i>2007/08</i>
	<i>£'000</i>	<i>£'000</i>
Tenants' rent-free period	269	282

Debtors falling due after one year represent a rent-free period granted to tenants. This amount is being amortized over the periods of the respective leases. The total rent-free period debtor at 31 March 2009, including those amounts shown at note 13 falling due within one year, was £288,000.

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

	2008/09 £'000	2007/08 £'000
Staff travel advances	24	23
Trade debtors:		
External	314	386
Intra-Government—OFT	4	4
Intra-Government—Competition Service	22	(5)
Intra-Government—Cabinet Office	2	
Intra-Government—Museums, Libraries and Archives Council	-	(2)
Intra-Government—NHS Institute for Innovation and Improvement	9	19
Intra-Government—Department of Health	9	-
Intra-Government—Legal Services Board	68	-
Prepayments	75	373
VAT debtor	-	35
Tenants' rent-free period	19	41
Sundry debtors	1	4
Interest accrued	-	8
	547	886

**14. Cash at bank and in hand**

	2008/09 £'000	2007/08 £'000
HM Paymaster General's Office	167	478

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

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

	2008/09 £'000	2007/08 £'000
Trade creditors:		
External	419	322
Intra-Government—BIS	9	-
Victoria House rent—deferred income	138	138
PAYE, National Insurance & pension	384	401
Bonus pay accrual	250	-
VAT creditor	39	-
Corporation Tax	19	39
Other creditors	282	1,101
	1,540	2,001

## Notes (continued)

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

	2008/09 £'000	2007/08 £'000
Victoria House rent—deferred income	1,863	2,001

The Victoria House rent—deferred income in notes 15 and 16 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.

### 17. Provisions

#### (a) Provisions for the period ending 31 March 2009 are:

	Office relocation £'000	Capitalized office dilapidations £'000	Total provisions £'000
Balance as at 1 April 2008	149	1,449	1,598
Provided in the year	-	1,491	1,491
Provisions not required written back	(8)	-	(8)
Provisions utilized during the year	(28)	-	(28)
At 31 March 2009	113	2,940	3,053
Made up of:			
One to five years	113		113
More than five years	-	2,940	2,940
	113	2,940	3,053

The office relocation provision relates to the CC's former offices at New Court, London, WC2 which 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 three 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 capitalized office dilapidations provision is the current value of the CC's estimated reinstatement liability at the end of the Victoria House lease in 2023. See note 11.

#### (b) Pension provisions for the period ending 31 March 2009 are:

	Pension liabilities £'000	2007/08 £'000
As at 1 April 2008	1,884	1,721
Provided in year	114	277
Provisions utilized in the year	(93)	(114)
As at 31 March 2009	1,905	1,884

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 reserve**

	<i>2008/09</i>	<i>2007/08</i>
	<i>£'000</i>	<i>£'000</i>
Balance at 1 April 2008	1,853	576
Grant-in-aid—Revenue	20,909	22,082
Grant-in-aid—Capital	591	418
Realized element of revaluation reserve	40	31
Deficit for the year	(22,648)	(21,254)
Balance at 31 March 2009	745	1,853
Made up of:		
Pension provision	(1,905)	(1,884)
Office relocation provision	(113)	(149)
Other income and expenditure	2,763	3,886
Total	745	1,853

The pension provision (£1,905,000) and the office relocation provision (£113,000) were unfunded in terms of grant-in-aid received at 31 March 2009.

**19. Revaluation reserve**

	<i>2008/09</i>	<i>2007/08</i>
	<i>£'000</i>	<i>£'000</i>
Balance at 1 April 2008	448	383
Revaluation of leasehold assets in the year	(48)	112
Realized element transferred to I&E Account	(40)	(31)
Backlog depreciation to leasehold assets	8	(16)
Balance at 31 March 2009	368	448

### *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 2009 there were four active members and ten current pensioners. 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 2009 was £1,905,000 (31 March 2008: £1,884,000). Pensions in payment of retirees (and deferred pensions) increase at the rate of 3.9 per cent from 7 April 2009. 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 it. 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 HM Treasury. 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 period ended 31 March 2009 pension payments of £93,000 (2007/08: £114,000) were made to retired Chairmen and Deputy Chairmen members.

Staff pension benefits are provided through the civil service pension arrangements. From 30 July 2007, civil servants may be in one of four defined benefit schemes: either a 'final salary' scheme (classic, premium or classic plus); or a 'whole career' scheme (nuvos). These statutory arrangements are unfunded with the cost of benefits met by monies voted by Parliament each year. Pensions

payable under classic, premium, classic plus and nuvos are increased annually in line with changes in the Retail Prices Index (RPI). Members joining from October 2002 may opt for either the appropriate defined benefit arrangement or a good-quality 'money purchase' stakeholder pension with a significant employer contribution (partnership pension account).

Employee contributions are set at the rate of 1.5 per cent of pensionable earnings for classic and 3.5 per cent for premium and classic plus and nuvos. Benefits in classic accrue at the rate of 1/80<sup>th</sup> 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 1/60<sup>th</sup> 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 hybrid with benefits in respect of service before 1 October 2002 calculated broadly as per classic and benefits for service from October 2002 calculated as in premium. In nuvos a member builds up a pension based on his pensionable earnings during his period of scheme membership. At the end of the scheme year (31 March) the member's earned pension account is credited with 2.3 per cent of his pensionable earnings in that scheme year and the accrued pension is uprated in line with RPI.

In all cases members may opt to give up (commute) pension for lump sum up to the limits set by the Finance Act 2004.

The partnership pension account is a stakeholder pension arrangement. The employer makes a basic contribution of between 3 and 12.5 per cent (depending on the age of the member) into a stakeholder pension product chosen by the employee from a panel of three providers. The employee does not have to contribute but where they do make contributions, the employer will match these up to a limit of 3 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).



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 the year ended 31 March 2009, employer's contributions of £1,405,000 were payable to the PCSPS (2007/08: £1,454,000).

### 21. Operating leases

At 31 March 2009 the CC was committed to making the following payments during the next year in respect of operating leases before VAT:

Land and buildings	2009 £'000	2008 £'000
Leases that expire after five years	4,678	4,409

The CC has a 20-year lease for office space in Victoria House, Southampton Row, London, WC2. The lease start date was September 2003. The total space is 8,261 square metres of which 3,838 square metres (46 per cent) has been sublet and 4,423 square metres (54 per cent) is the CC's net space. The CC's net operating lease commitment is £2,536,000 a year (2008: £3,033,000).

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 was in September 2008 and was 13.14 per cent.

The CC also has an existing tenancy agreement under a memorandum of terms of occupation (MOTO) between BIS 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 BIS 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 remaining liabilities.

### 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.

There are no other capital commitments.

### 24. Post balance sheet events

There are no post balance sheet events to report.

### 25. Related party transactions

The CC is a non-departmental public body sponsored by BIS and funded by a grant-in-aid from that department. BIS is regarded as a related party. During the year, the CC had various material transactions with BIS 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 BIS), 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, Legal Services Board, Security Industry Authority and Museums, Libraries and Archives Council and to a private company, Sinclair Knight and Metz.

## Notes (continued)

### 26. Financial instruments

As the cash requirements of the CC are met through grant-in-aid paid by BIS, financial instruments play a more limited role in creating risk than would apply to a non-public-sector body of a similar size. The majority of financial instruments relate to contracts to buy non-financial items in line with the CC's expected purchases and usage requirements and the CC is therefore exposed to little credit, liquidity or market risk.

### 27. Notes to the cash flow statement

#### (i) Reconciliation of deficit on ordinary activities before interest and tax to operating cash flows

	2008/09 £'000	2007/08 £'000
Deficit on ordinary activities before interest and tax	(22,721)	(21,409)
Movements not involving cash:		
Depreciation	1,689	1,208
Loss on disposal of fixed assets	1	2
(Decrease)/increase in provisions for liabilities and charges	(15)	(2,663)
	(21,046)	(22,863)
(Decrease) in debtors	343	917
(Decrease)/increase in creditors	(574)	110
Net cash outflow from operating activities	(21,277)	(21,835)

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

Capital expenditure		
Payments to acquire fixed assets	(598)	(527)
Proceeds from the sale of fixed assets	-	
	(598)	(527)
Return on investments and servicing of finance		
Interest received	103	197
Financing—grant-in-aid funding from BIS:		
Revenue	20,909	22,082
Capital	591	418
	21,500	22,500

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

	At 30 April 2007 £'000	Cash flow £'000	At 31 March 2009 £'000
Cash at bank and in hand	478	(311)	167

### 28. Authorized

These financial statements were authorized for issue by David Saunders, the Accounting Officer, on the date of certification.

## Members' biographies



**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 has previously been Managing Director of Barclays' Home Finance business, 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 Chair of the Accounts Commission and Chair of Audit Scotland. He has recently completed 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.



**Christopher Bright** (appointed in 2006) has practised as a solicitor in the City of London for over 25 years, specializing in competition law and utility regulation. He was a partner of Shearman & Sterling LLP until 2006. He continues to practise as a competition law and regulatory consultant. He is a non-executive director of the Jersey Competition Regulatory Authority and a Trustee of a youth-focused development charity, Oaktree. He is an accredited CEDR mediator.

**Laura Carstensen** (appointed in 2005) is a senior lawyer with extensive experience of EU and UK competition law practice including as a partner in the City law firm Slaughter and May (1994–2004). She is co-founder and director of two online mail order businesses, Blue Banyan Ltd and Hortica. She is a non-executive board member of the Office of the Parliamentary Counsel (Cabinet Office), a Member of the Cooperation & Competition Panel for NHS Funded Services and a self-employed consultant on strategy and business development to the antitrust practice of the law firm Linklaters.



**Dr John Collings** (appointed in 2001) was Director of Regulation at Powergen until 2001, having previously been a partner at Coopers & Lybrand (1987–1994) and Commercial Regulation Adviser at BT (1986–1987). 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 (MMC).

**Dr Diane Coyle OBE** (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 HM Treasury and published several books on economics. She is a member of the Executive Committee of the Centre for Economic Policy Research, the Migration Advisory Committee and is a BBC Trustee. She has a PhD in Economics from Harvard University.



**Professor John Cubbin** (appointed in 2005) was Professor of Economics at City University in London. He taught topics in industrial organization and finance, and was Director of the Centre for Competition and Regulatory Policy at City. He was previously an Associate Director with National Economic Research Associates (NERA); Professor of Economics at UMIST; Reader in Economics at Queen Mary College, University of London; and a Lecturer in Economics at the University of Warwick. He is widely published on the economics of markets, competition and regulation and has carried out an extensive range of consultancy studies in the regulated sector.



**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 HM Treasury. He is currently a board member of the Professional Oversight Board, the UK's independent regulator for the accountancy and actuarial professions.

**Carolyn Dobson** (appointed in 2005) is the Chairman of QinetiQ Pension Fund, a trustee of the Avon Pension Fund and an expert adviser to a number of other corporate and Local Government Pension Funds. She was Head of the Investment Floor at Abbey Asset Managers and a Director of Murray Johnstone and the fund manager of two award-winning Investment Trusts. She is also a non-executive director of Shires Smaller Companies plc, Chairman of Lomond School and a council member of sportscotland.



**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, and a Director of Manzanita Capital. She is a former Teaching Fellow in Strategic and International Management at the London Business School and Member of the Independent Television Commission and a Trustee of Refuge. 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) was a member of the Criminal Cases Review Commission (until December 2006) and a partner at Nabarro Nathanson, solicitors (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.



**Richard Farrant** (appointed in 2005) is a non-executive director of Daiwa SMBC Europe, Chairman of the Investigation Committee of the Institute of Chartered Accountants and a member of the National Trust's Council. Former positions include Chairman of Sustrans, Vice Chairman of United Financial Japan International Limited, Chief Executive of the Securities and Futures Authority, Managing Director and Chief Operating Officer of the Financial Services Authority, and board member of the Gas and Electricity Markets Authority.

**Professor Alan Gregory** *FCMA* (appointed in 2001) is Professor of Corporate Finance and at the University of Exeter and Director of the Xfi Centre for Finance & Investment at the University of Exeter Business School. He has previously held Chair appointments at the University of Wales, Aberystwyth, and at the University of Glasgow, and before becoming an academic worked as a management accountant in industry. 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*. His consulting experience includes advising on equity funds and company valuation.



**Ivar Grey** (appointed in 2005) is a self-employed financial adviser. He also works as a non-executive director of Finance Wales PLC, Chairman 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.

## Members' biographies *(continued)*



**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 Imperial College Business School, Imperial College 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, the Department for Education and Employment and HM Treasury. He is on the editorial board of *Economica*.



**Peter Hazell** (appointed in 2002) is currently the Chairman of the Argent Group and a non-executive director of UK Coal plc, Brit plc and 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.

**Jill Hill** (appointed in 2005) was a Director of Remploy for seven years, after many years with Rolls-Royce plc. She is currently also a Member of the General Teaching Council for England, and a Trustee of Guide Dogs for the Blind. She is a Chartered Engineer and a Fellow of the British Computer Society. She has previously been a non-executive director of NDI Ltd, a member of several trade organizations, including a Regional Council Member and an Education and Training Committee member of the CBI, and a Director of the Employment Related Services Association. She was an advisory member to the Foster Review on Further Education.



**Richard Holroyd** (appointed in 2001) is the senior non-executive director of Cantrell & Cochrane plc, a leading beverage manufacturer in Ireland and a non-executive director of Otto Weibel AG in Zurich. 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. From 2003 to 2008 he was a non-executive director of ABRO, the MoD Trading Fund.

**Alexander Johnston** (appointed in 2005) is an external member of the Finance Committee of Cambridge University and senior adviser to a corporate advisory firm Lilja & Co AG. He was until 2003 a Managing Director at Lazard, London, where he worked in corporate and project finance, mainly in electricity, rail and utility industries, in the UK and in Europe. He has also been Chairman of BMS Associates Limited, a reinsurance broker.



**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 where he was extensively involved in the privatization of UK airports and railways, and directed major studies for the European Commission on the use of market mechanisms to allocate scarce airport capacity; on rail infrastructure charging and regulation; and on competition in European aviation markets. He has also worked with the National Institute of Economic and Social Research, the MMC, London Business School and the Government Economic Service.



**Peter Jones** (appointed in 2005) is a director of Rhydfach Consulting Limited, a private consultancy company, and a Fellow of the Chartered Association of Certified Accountants. Prior to forming his consultancy company he was a Managing Director in corporate finance at HSBC Bank plc, working latterly in the Energy and Utilities sectors and previously on a number of major UK privatizations. He has subsequently undertaken consultancy work for clients including the Government's Shareholder Executive, British Nuclear Fuels plc and Royal Mail Group Limited.

**Professor Bruce Lyons** (appointed in 2002) is Professor of Economics at the University of East Anglia (UEA). 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 Chair of the Professional Oversight Board of the Financial Reporting Council and a member of the Council. Previously she was the Director of Public Prosecutions (1992–1998). 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. She completed her term as Adjudicator for Her Majesty's Revenue and Customs in March 2009.

**Professor Peter Moizer FCA** (appointed in 2001) is the Dean of the Business School at the University of Leeds. Trained as a Chartered Accountant with Price Waterhouse, he has been a member of a number of committees for the Institute of Chartered Accountants in England and Wales and has also written reports for the DTI on audit issues. He is a co-founder of the European Auditing Research Network and has served on the editorial boards of six major international research journals. He is also a strategic adviser to the Greater Manchester Pension Fund, the largest local authority pension fund in the UK.



**Jeremy Peat** (appointed in 2005) is a member of the Board of Trustees of the BBC, as National Trustee for Scotland, and Director of the Edinburgh-based David Hume Institute. He was Group Chief Economist at The Royal Bank of Scotland from 1993 to 2005 and previously he was an economic adviser at The Scottish Office, HM Treasury, the Manpower Services Commission and the Ministry of Overseas Development. He is a fellow of the Royal Society of Edinburgh and the Chartered Institute of Bankers for Scotland, an Honorary Professor at Heriot Watt University and a director of the Signet Accreditation Company.

**Christopher Smallwood** (appointed in 2001) is Chairman of Kingston Hospital NHS Trust 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 HM Treasury and a Special Adviser at the Cabinet Office. He has also served as a member of the MMC.



**John Smith** (appointed in 2005) has had a career which spans central government and regulated industries. He was Director of Regulation with Anglian Water (1990–1997) and with Railtrack plc (1997–2002). Previously, he was a Senior Economic Adviser in the Government Economic Service, working mainly in the Department of the Environment, in the areas of transport, local government finance and environmental protection, as well as on water privatization. Currently, he works as an independent consultant, is an associate of Indepen Consulting Ltd and a non-executive member of the steering board of the Marine & Fisheries Agency. He also works with Groundwork London, an environmental regeneration charity.

## Members' biographies *(continued)*



**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** FCA (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.



**Professor Sudi Sudarsanam** (appointed in 2005) is Professor of Finance & Corporate Control at the School of Management, Cranfield University, and Co-Director of the Centre for Research in Economics and Finance. He is the author of a number of books and articles about mergers and acquisitions and co-editor of *Corporate Governance and Corporate Finance in Europe*. He is on the editorial board for the *Journal of Business Finance & Accounting* and *Review of Behavioural Finance*. He is Honorary Senior Visiting Fellow at the Mergers and Acquisitions Research Centre, Cass Business School, London, and an affiliate of the Centre for Management Buyout Research at Nottingham University. 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 is a member of the board of the Solicitors Regulation Authority and is co-chair of the Corporate Social Responsibility committee of the International Bar Association. He is also a trustee of the charities Beating Bowel Cancer and *beat* (the Eating Disorders Association).



**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.

**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, and the competition committee of UNICE, both in Brussels. He is a member of the board of the Solicitors Regulation Authority and is 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 has published widely in a variety of areas of industrial economics. He has served as Specialist Adviser to Subcommittee B of the European Union Committee of the House of Lords.

**Jonathan Whiticar** (appointed in 2005) is non-executive director of Countrywide Principal Services Limited and a Chartered Accountant in England & Wales and in Ontario, Canada. Until 2005, he was a Managing Director of The Royal Bank of Scotland, with over 20 years' experience in mergers and acquisitions, banking and capital markets. He is a consultant to professional regulatory bodies and has been a consultant to BIS. He is a Trustee and Treasurer of the Hampshire and 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 (Research) of the University from 1999 to 2002 and again for 2004/05 and was a Member of the Economic and Social Research Council from 2001 to 2005, where he chaired the Strategic Research Board. 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, including a history of the first 50 years of the MMC.

**Fiona Woolf cbe** (appointed in 2005) is a Consultant with CMS Cameron McKenna where she built an international energy and infrastructure practice as a partner. She has worked on energy, water and infrastructure reforms, projects and regulation in over 38 jurisdictions. She is also a senior adviser with London Economics International LLC, a non-executive director of Three Valleys Water plc and a trustee of Raleigh International. She was previously President of The Law Society of England and Wales and is an Alderman in the City of London.





## New members' biographies

Following an open competition, BIS has appointed 14 new members to serve for a period of eight years. Some of these appointments began on 1 April this year and the remainder will begin later in 2009. The appointments were made on merit and in accordance with the Office of the Commissioner for Public Appointments Code of Practice.



**Robin Aaronson** (appointed in 2009) is an economist specializing in competition policy. In the 1980s he was senior economic adviser to the MMC. Subsequently, he worked as a consultant in the field, as a partner at Coopers and Lybrand and later at LECCG. From 2000 to 2006 he was a member of the Postal Services Commission and he has previously worked at HM Treasury and in the Ministry of Defence.

**Phil Evans** (appointed in 2009) is an independent consultant on consumer, competition and trade issues and a senior consultant to Fipra International. He spent a decade at Which?, has taught at a number of universities and authored numerous books and articles on trade, competition, intellectual property and shopping. He has provided technical assistance to the World Trade Organization, the United Nations Conference on Trade and Development and UNICEF and is on the advisory boards of the ESRC Centre for Competition Policy at UEA and the Loyola University Consumer Antitrust Institute. He is a visiting fellow at Oxford University's Saïd Business School Centre for Corporate Reputation.



**Professor Simon Evenett** (appointed in 2009) is Professor of International Trade & Economic Development, University of St Gallen, Switzerland. He is also Programme Director of the International Trade and Regional Economics Programme of the Centre of Economic Policy Research. His research interests include national and international cartels, cross-border mergers and acquisitions, and the pros and cons of international norms on competition law and policy.

**Roger Finbow** (appointed in 2009) has been a partner of international solicitors Ashurst LLP since 1984 and retired on 30 April 2009. The last five years have been spent as Managing Partner of the Corporate Department. He is the joint author of *UK Merger Control: Law and Practice*. He is now a consultant at Ashurst and has a number of board and advisory roles in the education, sport and career development sectors.



**Thomas Hoehn** (appointed in 2009) is a Visiting Professor at Imperial College Business School, London, where he teaches on the MBA programme. Previously a partner at PricewaterhouseCoopers, he specializes in the application of economic analysis to competition law, intellectual property and sport. Between 2001 and 2006 he advised the BBC Board of Governors as part of its Fair Trading audit team. His recent work has focused on the design and implementation of merger remedies and compliance issues in EC competition law more generally.

**Katherine Holmes** (appointed in 2009) has been a partner and head of the competition department at the London office of Reed Smith which merged in 2007 with Richards Butler, her former firm. Before joining Richards Butler in 1989, Katherine was an in-house competition lawyer for more than eight years, latterly as senior competition counsel at Guinness PLC; before that, she was at the Confederation of British Industry. She is the immediate past Chairman of the Joint Working Party of the Bars and Law Societies of the UK on Competition Law.



**John Longworth** (appointed in 2009) was originally a scientist. He was an Executive Main Board Director of Asda Group and held senior director positions at Tesco Stores Ltd and the CWS (Cooperative Group). His non-executive roles included a Healthcare Trust and the British Retail Consortium. He was economic spokesman for the CBI and Chairman of the Distributive Trades Panel, and Chairman of the Paris-based CIES International Product Standards and Trade Panel. Until recently a Health and Safety Commissioner and Chairman of the HSE Audit Committee, John also sat on the original Deregulation Task Force. He is currently helping a Healthcare Trust establish a Commercial and Marketing operation.



**Professor Robin Mason** (appointed in 2009) is currently the Eric Roll Professor of Economics and Head of Economics at the University of Southampton, where he is director of the Centre for Research in the Information Economy. He joins the University of Exeter as Professor of Economics in September 2009. He is a fellow of the CEPR and associate editor of the *Journal of Industrial Economics*. He has acted as adviser to Ofcom and the Prime Minister of Mauritius on competition policy.

**Tony Morris** (appointed in 2009) is a solicitor with over 30 years' experience of UK and EU competition law. Before retiring in May 2009, he spent 24 years as a partner in the city firm of Linklaters specializing in the control of cartels and mergers and the conduct of industry competition inquiries.



**Malcolm Nicholson** (appointed in 2009) has been a partner at Slaughter and May specializing in competition matters for over 25 years, and in that capacity has been involved in many cutting-edge competition cases.

**Stephen Oram** (appointed in 2009) worked for 28 years at director level in the regional and national newspaper industry and as a Chief Executive of daily, weekly and free regional newspapers. He was Director of the Newspaper Publishers Association for ten years. Currently he is Executive Chairman of the London Press Club, non-executive Chairman of a national newspaper advertising consumer protection scheme and National Secretary of the Western Front Association.



**Edward Smith** (appointed in 2009) is a former senior partner and Global Assurance Chief Operating Officer and Strategy Chairman of PricewaterhouseCoopers. He now enjoys a portfolio of board roles in education, transport, sport, thought leadership and the environment and sustainable development. He is Chairman of WWF-UK, Deputy Chairman of the Higher Education Funding Council for England, and a Member of Council and Treasurer of Chatham House. He joined the board of the Department for Transport on 1 January 2009.

**Tony Stoller CBE** (appointed in 2009) was Chief Executive of the Radio Authority until it was subsumed into Ofcom in 2003 when he then helped set up the new regulator. He is currently Deputy Chair of the Joseph Rowntree Foundation, Chair of the Committee of Reference for F&C Asset Management's Stewardship Funds, Editor of *The Friends Quarterly*, and a member of the Freedom of Information Tribunal.



**Roger Witcomb** (appointed in 2009) is Chair of Governors of the University of Winchester and a non-executive director of a number of companies, including Anglian Water. He was Finance Director of National Power from 1996 to 2000, having previously been at BP and Cambridge University, where he taught economics.

# Academic panellists

The CC has an academic panel of economists to act in an advisory capacity to staff. These individuals have been invited to sit on the panel because of their background and experience. Their biographies can be found on the CC website: [www.competition-commission.org.uk/our\\_peop/members/index.htm](http://www.competition-commission.org.uk/our_peop/members/index.htm).

**Dr Walter Beckert**, Academic Economist at Birkbeck College, University of London.

**Dr Pierre Dubois**, Research Director of INRA at the Toulouse School of Economics at the University of Toulouse and a research fellow of the Institute of Industrial Economics.

**Professor Richard Green**, Director of the Institute for Energy Research and Policy and Professor of Energy Economics in the Department of Economics at the University of Birmingham.

**Professor Paul Klemperer**, Professor of Economics at Oxford University.

**Dr Lars Nesheim**, Lecturer in the Department of Economics at University College, London, and Co-Director of the Centre for Microdata Methods and Practice.

**Professor Volker Nocke**, Professor of Industrial Economics at the University of Oxford and a Fellow of Jesus College, Oxford.

**Dr Philipp Schmidt-Dengler**, Lecturer in Economics at the London School of Economics.

**Dr Howard Smith**, Lecturer in the Economics Department, University of Oxford.

**Dr Andrew Sweeting**, an academic in the Economics Department at Duke University, North Carolina.

**Professor Tommaso Valletti**, Professor of Economics at Imperial College, London, and also Professor of Economics at the University of Rome 'Tor Vergata' (Italy).

## Senior team



**Rachel Merelie**, Senior Director, Inquiries, 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. At the CC she led the market investigation into personal current accounts in Northern Ireland and has worked on a variety of merger inquiries including, most recently, those in the media sector.

**John Banfield**, Inquiry Director, joined the CC in 1984 and was formerly an economist at BIS 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 over ten regulatory inquiries. In recent years he has worked on merger inquiries in insurance and supply of eggs and on the Heathrow and Gatwick quinquennial review. He recently led the staff team on the BAA Airports market investigation.



**Mark Bethell**, Inquiry Director, joined the CC in 2008. He has practised competition law in private practice in Brussels, and was a case handler at the OFT leading the BSKyB, Aberdeen Journals and Attheraces Competition Act investigations. He has also acted as one of the UK's agents in litigation before the EC courts, and as an advisory lawyer at Defra.

**Douglas Cooper**, Inquiry Director, joined the CC in 1999 as an Economic Adviser. He acted as lead economist on many merger and market inquiries. Before joining the CC, Douglas worked at BIS dealing with various industry sectoral issues, and at MAFF, working in the area of international agricultural policy reform. He holds a PhD in economics from Nottingham University. He became an Inquiry Director in 2007, and has led merger inquiries in book wholesaling and in video game retailing, and the market investigation into railway rolling stock leasing.



**John Pigott**, Inquiry Director, joined the CC in 2003 from consultants Stern Stewart. He had previously held various positions at Tate & Lyle including senior treasury, planning and IT roles. Since joining the CC he has worked on a wide variety of merger inquiries, market investigations and appeals. In 2008 he directed the CC's work on the mobile call termination appeals. Currently he is directing the CC's redetermination of an application for an interim price control adjustment within the water industry.

**Anthony Pygram**, Inquiry Director, joined the CC in 2005 from BIS, 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 as an Inquiry Director on several merger inquiries and on the Payment Protection Insurance market investigation. He is currently leading the CC's work on UK and EC policy issues. Anthony is currently Acting Director of Policy in Chloe McEwen's absence.



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

## Senior team *(continued)*



**Andrew Wright**, Inquiry Director, joined the CC in 2005. Previously, he was a manager at Deloitte Corporate Finance where he advised on transactions in the technology and telecommunications sectors. Andrew is a Chartered Accountant, having initially trained with Arthur Andersen. Since joining the CC, Andrew has led inquiries in the broadcast transmission infrastructure and services market, Stilton cheese production, mass spectrometry and, most recently, health food retailing. Andrew also led the recent quinquennial review of Stansted Airport.

**Elizabeth Dymond**, Chief Financial and Accounting Adviser, 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. She is currently on secondment to HM Treasury.



**Lucy Beverley**, Deputy Director of Financial Analysis, joined the CC in 2002. She qualified as a Chartered Accountant with Coopers & Lybrand in 1997 and then moved to the firm's management consulting division specializing in telecommunications strategy and policy. Prior to joining the CC she was Finance Director of an AIM listed company. Since joining the CC she has completed an MA in Competition and Regulation Policy from the University of East Anglia. Lucy is currently Acting Director of Financial Analysis in Elizabeth Dymond's absence.

**Adam Cooper**, Deputy Director of Financial Analysis, joined the CC as an Accounting Adviser in 2004. He qualified as a Chartered Accountant with Ernst & Young and remained there until 2001, including three years working as a consultant in the firm's Centre for Business Knowledge. In 2001 he moved to Abbey National plc as an e-business analyst in the company's Corporate Strategy department. Since joining the CC he has worked on a number of cases including Store Cards and Home Credit. In 2006 he spent three months at the OFT investigating profitability issues in UK retail banking. Adam is currently Acting Director of Financial Analysis in Elizabeth Dymond's absence.



**David Roberts**, Chief Business Adviser and Head of Remedies, 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. David is a Chartered Accountant and has an MA in economics from Cambridge University. Since joining the CC, he has led advice on remedies for a wide variety of mergers and several market investigations.

**Adam Land**, Director of Remedies and Business Analysis, joined the CC in May 2004 from HM Treasury where, among other responsibilities, he worked on the Cruickshank Review of banking service and the Barker Review of housing supply. Before that, Adam worked as an economist at the OFT for five years, specializing in mergers and financial services. Since joining the CC, Adam has worked on a number of significant cases, including the Payment Protection Insurance and Home Credit market investigations and the BSkyB/ITV merger inquiry.



**Graeme Reynolds**, Director of Remedies and Business Analysis, joined the CC in 2005. Before becoming Director of Remedies and Business Analysis in 2008, he worked in the economics team, acting as lead economist on the rolling stock market investigation and a number of merger inquiries. Graeme has also spent a period on secondment to the OFT's mergers branch. Prior to joining the CC, he worked as an economic consultant for Andersen and, later, Deloitte, with particular experience in regulated utilities, notably energy and telecommunications. Graeme is also a qualified Chartered Accountant.



**Dr Alison Oldale**, Chief Economist, joined the CC in 2009 from economic consultancy LECG, where she was a director. She has over ten years of consulting experience, including three years based in Brussels, and has provided economic advice on a wide range of competition and regulatory issues. Alison holds a BA in economics from Cambridge University, and MSc and PhD from the London School of Economics.

**Robin Finer**, Director of Economic Analysis, joined the CC in 2007. Previously, he was a director in the Markets and Projects area of the OFT, where he led market studies and Competition Act 1998 investigations. Prior to this he worked as an economist on a wide range of OFT merger and antitrust investigations across many sectors, particularly transport and financial services. He has also worked in the Directorate General for Competition of the European Commission in Brussels where he dealt with antitrust matters in the food, drink, agricultural and pharmaceutical sectors.



**Tom Kitchen**, Director of Economic Analysis, 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.

**Clare Potter**, Chief Legal Adviser, joined the CC in 2004 from private practice. She was previously a partner in the competition group at City law firm Simmons & Simmons where she specialized in UK and EC competition law, utility regulation and telecommunications. She advised a wide range of companies in regulated and unregulated sectors as well as a number of regulatory bodies. She had periods of secondment to BIS and the European Commission. At the CC she has worked on many of the significant market and merger investigations and has responsibility for the CC's conduct of appeals before the CAT and in the High Court.



**Carole Begent**, Deputy Chief Legal Adviser & Head of International, joined the CC in 2000. She has specialized in competition and regulation, previously holding legal and policy posts at the Office of Rail Regulation and Ofwat. Before joining Ofwat she was a solicitor in private practice specializing in corporate, commercial and regulatory law. In addition to her involvement with investigations, she has helped revise the CC's working practices and prepare guidance, most recently participating in the review of the merger guidance. She is responsible for the CC's participation and contribution to international discussion of competition policy at the OECD and ICN. She is currently on a short secondment to the Department for Transport.

**Morven Hadden**, Legal Director, joined the CC in 2007. She was previously a senior associate in the EU, Competition & Regulatory department of City law firm Simmons & Simmons where she specialized in EU and competition law. Morven was seconded to BIS in 2003 where she worked as a competition policy adviser on the media merger provisions of the Communications Act 2003.



**Simon Jones**, Legal Director, joined the CC from the Treasury Solicitor's Department in 2001. Since then, he has advised the CC in numerous merger, market, complex monopoly and regulatory cases. He has also acted for the CC in litigation and advised on code modification appeals and governance.

## Senior team *(continued)*



**Rebecca Lawrence**, Director of Corporate Services, joined the CC in 2005. She was formerly the Operations Director at the Rent Service (a Department for Work and Pensions agency). She has a background in policy development and implementation, change management and frontline service delivery. Rebecca is a qualified Chartered Accountant (CPFA) and holds a postgraduate diploma in Public Finance and Leadership from Warwick Business School.

**Chloe MacEwen**, Director of Policy, joined the CC in 2008. She was previously Deputy Director of Mergers at the OFT where she was responsible for delivery of mergers casework across a variety of industry sectors including transport and financial services. Prior to this, Chloe worked as a seconded national expert in the mergers policy and strategic support unit of DG Competition, European Commission, and as a Legal Adviser at the CC working on mergers and market inquiries. Before working at the CC, Chloe qualified as a solicitor at Simmons & Simmons and also spent three years at Herbert Smith working on a variety of mergers and antitrust work.



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