



COMPETITION APPEAL TRIBUNAL

Annual Report
and Accounts
2016/2017



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Introduction

The Enterprise Act 2002 provided for the establishment of the Competition Appeal Tribunal (Tribunal) and the Competition Service (CS). Although created as separate entities under the Enterprise Act 2002 and treated as such for accounting purposes, in practical terms the Tribunal and the CS constitute a single organisation. Through the CS, the Tribunal effectively administers itself and a single body of staff deploys the same set of resources in multitasking the casework of the Tribunal and necessary support functions.

Principal Functions of the Tribunal

The Tribunal hears appeals against: decisions taken under the Competition Act 1998 (1998 Act) and Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU) by the Competition and Markets Authority (CMA) and by designated sector regulators with concurrent powers;¹ certain decisions of the Office of Communications (Ofcom) regarding the communications and broadcasting sectors under the Communications Act 2003

(2003 Act); and other legislation related to those sectors and decisions of the CMA or the Secretary of State for Business, Energy & Industrial Strategy (BEIS) on merger cases and market investigations under the Enterprise Act 2002 (2002 Act).

Further powers have been given to the Tribunal to hear appeals under the Payment Services Regulations 2009. Under the Financial Services (Banking Reform) Act 2013 and the Payment Card Interchange Fee Regulations 2015, the Tribunal has jurisdiction to hear appeals from some types of enforcement and penalty decisions of the Payment Systems Regulator. Under the Energy Act 2010, the Tribunal is able to hear appeals in relation to decisions taken by the Gas and Electricity Markets Authority (GEMA) in respect of the application of a market power licence condition to particular types of exploitative behaviour in electricity markets. The Tribunal may also hear appeals in respect of decisions taken by Ofcom pursuant to the Mobile Roaming (European Communities) Regulations 2007 and the Authorisation of Frequency Use

for the Provision of Mobile Satellite Services (European Union) Regulations 2010. The Postal Services Act 2011 provides for an appeal to the Tribunal in respect of certain decisions taken by Ofcom in relation to the regulation of postal services.

The Civil Aviation Act 2012 affords a right of appeal to the Tribunal in respect of various decisions and determinations of the Civil Aviation Authority (CAA) including market power determinations, the imposition, modification and revocation of certain enforcement orders, the revocation of licences and the imposition of penalties.

Under the Consumer Rights Act 2015, the Tribunal can hear any claim for damages in respect of an infringement whether or not there is a prior decision of a competition authority establishing such an infringement (previously the Tribunal's jurisdiction was limited to "follow-on" claims, i.e. claims that follow-on from a decision by a national competition authority finding an infringement of UK competition law or by the European Commission in respect

¹ The sector regulators with concurrent powers are set out in section 54(1) of the Competition Act 1998 (as amended) and include: (1) the Office of Communications; (2) the Gas and Electricity Markets Authority; (3) the Water Services Regulation Authority; (4) the Office of Rail and Road; (5) the Northern Ireland Authority for Utility Regulation; (6) the Civil Aviation Authority; (7) Monitor (now operating under the umbrella of NHS Improvement); (8) the Payment Systems Regulator; and (9) the Financial Conduct Authority.

of an infringement of Articles 101 or 102 of the TFEU). Furthermore, the Tribunal can hear collective actions for damages on both an “opt-in” and “opt-out” basis and also (except in Scottish cases) has power to grant injunctive relief in order to prevent or curtail infringements of competition law.

Each of the cases within the Tribunal's various areas of statutory jurisdiction is heard and decided by a panel consisting of the President or a Chairman and two Ordinary Members. The decisions of the Tribunal may be appealed on a point of law or as to the amount of any penalty to the Court of Appeal in relation to cases in England and Wales, the Court of Session in respect of Scottish cases or, with regard to Northern Irish cases, the Court of Appeal in Northern Ireland.

Membership of the Tribunal

The Tribunal's membership comprises:

President

The Hon. Mr Justice Roth

Chairmen

The Hon. Mr Justice Mann
 The Hon. Mr Justice Morgan
 The Hon. Mr Justice Barling
 The Hon. Mr Justice McCloskey
 The Hon. Lord Doherty
 The Hon. Mr Justice Newey
 The Hon. Mr Justice Hildyard
 The Hon. Mrs Justice Asplin
 The Hon. Mr Justice Birss
 The Hon. Mrs Justice Rose
 The Hon. Mr Justice Nugee
 The Hon. Mr Justice Green
 The Hon. Mr Justice Snowden

The Hon. Mr Justice Henry Carr
 The Hon. Mr Justice Morris
 The Hon. Mr Justice Marcus Smith
 Heriot Currie QC
 Peter Freeman CBE, QC (Hon)
 Andrew Lenon QC
 Hodge Malek QC

Ordinary Members

William Allan
 Caroline Anderson
 Professor John Beath OBE
 Dr Catherine Bell CB
 Dr William Bishop
 Professor John Cubbin
 Margot Daly
 Dr Clive Elphick
 Dermot Glynn
 Simon Holmes
 Brian Landers
 Professor Colin Mayer CBE
 Sir Iain McMillan CBE
 Clare Potter
 Professor Gavin Reid
 Dr Joanne Stuart OBE
 Professor David Ulph CBE
 Anna Walker CB
 Professor Michael Waterson
 Professor Pauline Weetman
 Professor Stephen Wilks

Registrar

Charles Dhanowa OBE, QC (Hon)

Recruitment

The President and Chairmen are appointed by the Lord Chancellor for a fixed term upon the recommendation of the Judicial Appointments Commission and by open competition as appropriate. In addition, the Heads of the Judiciary in each of the three jurisdictions comprising the UK can nominate senior Judges to be Chairmen for as long as they hold judicial office. Ordinary Members are recruited in open competition according to the guidelines of the Office of the

Commissioner for Public Appointments and are appointed by the Secretary of State for BEIS. The Registrar is also appointed by the Secretary of State.

The Competition Service (CS)

The CS is an executive non-departmental public body established by the Enterprise Act 2002 to provide the administrative staff, finance and accommodation required by the Tribunal to carry out its functions. Although the Tribunal and the CS are, in formal terms, separate bodies, in practice they are different aspects of one integrated organisation; a single body of staff multitasks across case handling and administrative roles using a common pool of resources.

The membership of the CS comprises: the President, the Registrar and a Non-Executive Member, Susan Scholefield CMG, who is also chair of the CS Audit and Risk Committee. An additional member is currently being recruited amongst the existing Tribunal's Chairmen. Iliia Bowles is the Tribunal/CS Director, Operations.

Register of Interests

The CS holds a Register of Interests detailing any directorships or other significant interests held by the members of the CS. A copy of the Register is published on the Tribunal's website, www.catribunal.org.uk.

Premises

The Tribunal and the CS operate from premises in Victoria House,

Bloomsbury Place, London, WC1A 2EB. Where cases involve matters pertaining to a particular part or region of the UK, the Tribunal may hear those cases at premises outside London. Past cases concerning Scottish, Welsh and Northern Irish undertakings have been heard in Edinburgh, Cardiff and Belfast respectively.

Finance and Workload

The work of the Tribunal is financed entirely through grant-in-aid from BEIS and administered by the CS. The Registrar is the Accounting Officer and is responsible for the proper use of funds.

President's statement

Introduction

This is my fourth statement as President of the Competition Appeal Tribunal. The past year has seen a substantial increase in the caseload of the Tribunal as litigants have begun to take advantage of the enhanced private enforcement procedures introduced by the Consumer Rights Act 2015. The Tribunal has also seen an increase in the number of appeals from decisions made by the CMA, reflecting the expanded decisional output of that body.

Looking ahead, we can expect to see a continued growth in the workload of the Tribunal as more private actions are commenced in the Tribunal or transferred from other UK courts. It seems likely that there will also be a steady number of appeals against authority decisions. In light of the triggering of Article 50 of the Treaty on European Union on 29 March, the Tribunal will be working closely with its sponsoring department, BEIS, to assess the implications for its workload.

Cases

A total of 29 new cases were registered during the period covered by this report. This

comprises eight appeals of infringement decisions under section 46 of the 1998 Act, one application for interim relief under Rule 24 of the Tribunal Rules, four appeals under section 192 of the 2003 Act, two cases relating to a review of a merger decision, two applications to commence collective damages proceedings, 11 private actions (six of which included applications for fast-track treatment) and one transfer of the competition issues of two related private actions from the High Court.

From this wealth of new cases the following are particularly noteworthy:

Dorothy Gibson v Pride Mobility Products and *Walter Merricks v MasterCard* which were registered by the Tribunal in April and September 2016 respectively. These cases are the first two applications brought for a collective proceedings order. In both cases, the applicant sought permission to bring an "opt-out" damages action on behalf of a large class of consumers. The Tribunal's judgment in *Gibson* is discussed at the end of my statement.

GSK and others v CMA which comprises a series of five appeals

that were registered in April 2016 against a decision of the CMA imposing fines totalling more than £40 million for so-called "pay-for-delay" settlements of patent litigation. The appeals have been case-managed jointly since they were filed and they were heard together during February and March 2017. The case concerns the difficult interplay of competition law and intellectual property law and involved careful consideration of the recent *Lundbeck* judgments of the General Court.

Socrates v The Law Society, also registered in April 2016, which is the first case to be assigned to the fast-track and to have a costs cap imposed. The fast track is designed to accommodate smaller cases at a lower and more predictable cost. Costs caps are required for all fast track cases. *Socrates* is also the first such case to reach trial.

In June 2016, the Tribunal registered three appeals under section 192 of the 2003 Act of a decision of the OFCOM, namely of the Final Statement in its *Business Connectivity Market Review*. Certain specified price control matters were referred to the CMA in November 2016 and the Tribunal heard the other

matters (not relating to price controls) during April and May 2017.

Finally, July 2016 saw the second transfer of proceedings from the High Court of England and Wales in two related sets of proceedings: *Agents' Mutual Ltd v Gascoigne Halman Ltd* and *Agents' Mutual Ltd v Moginie James Ltd*. These proceedings gave rise to a series of complex interlocutory hearings (including the first occasion on which costs management has been imposed in private proceedings) before the substantive trial took place in February 2017.

The Tribunal handed down 32 judgments and rulings in the period under review. Cases of particular interest, that were heard or decided during this time, are mentioned at the end of my statement.

Chairmen

I should like to take this opportunity to congratulate Mr Justice Marcus Smith on his appointment as a Justice of the High Court with effect from 12 January 2017. Marcus had been a fee-paid Chairman of the Tribunal for a number of years and had been deeply involved in some of the most challenging cases before this Tribunal, including two heard or determined during the period under review, namely *Sainsbury's v MasterCard* in which judgment was handed down in July 2016 and which is discussed below, and the *Agents' Mutual* case to which I have referred above.

I should also like to thank Peter Freeman for the considerable

effort he has devoted to the Tribunal both inside the courtroom, working on important cases such as *Flynn Pharma (Interim Relief)* and *BT v Ofcom (WMO)*, and outside it, speaking at a number of conferences and other events in his capacity as a Chairman and assisting the Board of the CS.

The assistance that the Tribunal receives from the Chancellor of the High Court and the Judges of the Chancery Division is also greatly appreciated.

Since October 2015, there are provisions which enable Judges in Scotland and Northern Ireland to be appointed as Chairmen of the Tribunal, as well as Judges assigned to any division of the High Court of England and Wales, not only judges of the Chancery Division as was formerly the case.

During the period under review, I am pleased to welcome the appointment of Mr Justice McCloskey of the High Court of Northern Ireland, by the Lord Chief Justice of Northern Ireland, to sit as a Chairman of the Tribunal. As this is a UK-wide Tribunal, it is most helpful to be able to draw upon the skills and expertise of the judiciary of the devolved nations.

In addition, I am pleased to welcome Mr Justice Morgan and Mr Justice Morris, who have been nominated by the Lord Chief Justice of England and Wales to sit as Chairmen of the Tribunal.

Ordinary Members

When the Tribunal hears cases, it sits as a three person panel with

a Chairman and two Ordinary Members. Most Ordinary Members are not lawyers but they have an equal voice in the decision-making process. The Ordinary Members bring diverse skills and experience to the work of the Tribunal and I continue to be deeply impressed by their enthusiasm and commitment to the Tribunal's work and the valuable contribution they make in each case.

The Ordinary Members serve a term of four years which can be renewed once. The term of our 11 existing Ordinary Members will expire on 3 January 2019. I am very grateful to them for the enormous contribution that they have made to the Tribunal over the past six years and I look forward to continuing to work with them during the remainder of their term.

The Tribunal launched a recruitment exercise during the year under review both to increase the size of our panel of Ordinary Members to cope with the Tribunal's increased caseload and to plan for the future when our existing Members have to be replaced. The quality and calibre of the applicants was truly exceptional and we engaged in an intensive selection procedure. On 22 March, the Minister for Competition, Ms Margot James MP, announced the appointment of ten new Ordinary Members. I am very pleased to welcome to the Tribunal, Caroline Anderson, Dr Catherine Bell CB, Dr William Bishop, Professor John Cubbin, Simon Holmes, Sir Iain McMillan CBE, Professor David Ulph CBE, Anna Walker CB, Professor Michael Waterson and Professor

Pauline Weetman. I look forward to working with them over the coming years.

New Practice Direction

On 14 March, the Tribunal published a Practice Direction relating to the disclosure and inspection of evidence in private and collective actions. The Practice Direction aligns the Tribunal's procedures with the requirements of the European Union (EU) Damages Directive (directive 2014/104/EU). The Directive as a whole is intended to bring about a more standardised approach to redress throughout the EU and to make it easier for victims of anti-competitive behaviour to claim compensation. It has been transposed in the UK by the Claims in respect of Loss or Damage arising from Competition Infringements (Competition Act 1998 and Other Enactments (Amendments)) Regulations 2017.

Other Activities

Conferences and seminars

Part of my role is to represent the Tribunal and speak about UK competition law generally at outside bodies and at international fora. In that regard, it has been another busy year for speaking engagements. Among events in the period under review, I spoke, together with Mr Justice Green, on issues of competition law litigation at a joint meeting of the Commercial Bar Association and the Bar European Group. I was: a panel member at a conference on cartels held in Washington DC organised by Global

Competition Review; a panel member at a conference on cartel follow-on litigation held in Brussels organised by Concurrences; and a panel member on a judges roundtable session at a colloquium in Brussels organised by University College London's Jevons Institute. I spoke on a panel on private enforcement at the conference for European Competition Day organised by the Slovakian Competition Authority in Bratislava. I gave a talk on the UK approach to international competition damages claims in Paris, organised by the French branch of the International Law Association. I also gave the keynote speech at Chatham House on the Globalisation of Competition Policy and I delivered the Annual Competition Law and Policy Lecture at Queen Mary University in London on the implications for competition law of Britain leaving the European Union. I attended the XXVIIth FIDE Congress in Budapest to participate in the working group on private enforcement and collective redress in European competition law and I was part of a panel on "Economic theory – ready for the digital world?" at the 18th International Conference on Competition held by the German Federal Cartel Office in Berlin. I also visited Albania in October 2016 to deliver training on competition law for Albanian judges at the Magistrates' School in Tirana.

Among the activities undertaken by my colleagues at the Tribunal, Peter Freeman gave addresses and speeches at a number of

conferences and events. He was the keynote speaker at a conference organised by the Reform Club and Euclid Law on the role of competition law in improving the UK's competitiveness. He also chaired a panel on competition and conduct regulation at the annual Westminster Conference organised by the Regulatory Policy Institute and chaired a panel on the future of competition law at the International Competition Forum, hosted by the University of St Gallen in Switzerland. Peter also spoke on the implications of Brexit at the Scottish Competition Forum in Edinburgh and on the effects of Brexit on private enforcement of competition law at the Law Society in London. He spoke to the CMA at their annual conference in relation to issues relating to evidence. He also gave a speech at the Regulatory Policy Institute's annual conference in Oxford on the reform of competition law between 1991 and 2016.

In September 2016, one of our members, William Allan, took part in a panel discussing the impact of technology on cartel formation and functioning at the Innovation Economics Conference in London organised by King's College London and Concurrences. In April 2016, David George, one of our referendaires, delivered a lecture at Queen's University Belfast on public and private enforcement of competition law in the UK and the role of the Tribunal; he also spoke at a seminar at Warwick University on the reforms to the Tribunal's jurisdiction brought

about by the Consumer Rights Act 2015.

In addition, the Tribunal held two training seminars for our Ordinary Members and Chairmen. In October 2016, we again had the benefit of an invaluable presentation by Professor Richard Whish on Recent Developments in EU and UK Competition Law. In January 2017, we held a seminar on e-disclosure for Tribunal Chairmen. The seminar focused on the nature, scale and challenges of electronic data, the techniques for retrieval of information from electronic records, the analysis of data during the investigatory and disclosure phases and the presentation in the proceedings of evidence derived from the data.

Association of European Competition Law Judges (AECLJ)

In its capacity as the de facto Secretariat for the AECLJ, the Tribunal continues to play an active role in stimulating dialogue and debate between members of the judiciary in the EU member states and in bringing together judges and officials from the European Commission and some national competition authorities. I am honoured to serve as treasurer of the AECLJ and participated in its annual meeting with the EU Commission in Brussels and at its annual conference held in June 2016 in Madrid.

Visitors to the Tribunal

In November 2016, the Tribunal hosted a conference on "Hot-topics at the cross-roads between Antitrust and IP in the Pharma Sector", jointly organised by King's College London,

University College London and the Italian Competition Authority (the AGCM). The event marked the launch of a book on the subject edited by the chairman and a leading member of the AGCM.

I consider that, when possible, the Tribunal should exchange views with competition judges from other jurisdictions and we are receptive to requests to visit from overseas competition authorities. We had several such visitors to the Tribunal during the year.

In November 2016, we welcomed a high-level visit of the Philippine delegation on Competition Law and Economics and, in March 2017, we welcomed visitors from the Ugandan Electricity Disputes Tribunal. Finally, also in March 2017, Dr Adam Scott organised a seminar on Researching Current Issues in Global Competition Law and Policy for doctoral research students.

User Group

The meetings of the Tribunal's User Group continue to provide an important forum for sharing information and ideas about the Tribunal's practice and procedure and discussing important policy developments and how they might effectively be implemented. I am most grateful to the members of the Group for their feedback and constructive suggestions. Minutes of the User Group's meetings are available on the Tribunal's website.

Concluding Remarks

I wish to thank Dr Adam Scott for his work as the Tribunal's Director of Studies. His organisation of,

and contributions to, the interesting and informative training sessions of the Members and Chairmen are invaluable, as is his work ensuring the effective operation of the AECLJ and in receiving visitors to the Tribunal.

I would also like to thank our Non-Executive Member, Susan Scholefield, for chairing the Board meetings of the CS as well as the Audit and Risk Committee.

This statement provides me with an opportunity publicly to express my sincere and continuing gratitude to the Tribunal's Registrar, Charles Dhanowa. His knowledge of the Tribunal's working is unparalleled and he manages the Tribunal's staff and its daily operations with great skill. Charles played a prominent role in the selection exercise for recruiting new Members and the process would not have gone as smoothly as it did without his immense dedication.

Finally, I thank the Tribunal's staff as a whole for the support they have given to me as President and for all they have done over the last year to enable the Tribunal to provide a consistently high standard of service and maintain its international reputation.

Sir Peter Roth

President

14 July 2017

Notable Cases

The following are some of the notable cases determined by the Tribunal in the period covered by this report. A full description of each case is given in the Judgments handed down section, on page 23.

Collective and other private actions

Sainsbury's Supermarkets Ltd v. MasterCard Inc. and Others (14 July 2016)

In this decision, the Tribunal awarded Sainsbury's some £70 million on its claim for damages arising from the operation of MasterCard's Multilateral Interchange Fee (MIF) in the UK. The case was the first to be transferred to the Tribunal from the High Court under the recently introduced powers.

Dorothy Gibson v. Pride Mobility Products Ltd (31 March 2017)

This was the first judgment of the Tribunal on an application by a proposed class representative for an opt-out collective proceedings order under the newly introduced section 47B of the 1998 Act. The case followed an OFT decision finding a cartel in relation to mobility scooters. The Tribunal found the application was in principle admissible but needed some amendment before being re-submitted.

Competition Act appeals

Flynn Pharma and Another v. Competition and Markets Authority (19 January 2017)

The Tribunal dismissed an application by Flynn for interim relief against a decision by the CMA requiring, amongst other things, the price of a pharmaceutical product to be significantly reduced. The Tribunal's decision had the effect of allowing the required price reduction to be implemented pending trial of the main proceedings.

Judicial review of merger decisions

InterContinental Exchange, Inc. v. Competition and Markets Authority (6 March 2017)

The Tribunal's judgment in this case concerned the scope of the CMA's remedy powers following an adverse finding in a merger case. The Tribunal ruled that the CMA's powers were limited to remedying the substantial lessening of competition and the need for any further measures should be clearly articulated in the decision. The Tribunal remitted certain parts of the CMA's decision for reconsideration.

Communications Act appeals

British Telecommunications plc v. Office of Communications (BT's APCCs) (4 November 2016)

In this judgment, the Tribunal dismissed BT's appeal against a determination by OFCOM concerning BT's Average Porting

Conveyance Charges (APCCs) in disputes between BT and two of its customers. The charges at issue were for providing number portability services. The Tribunal, in upholding OFCOM's determination, considered complex argument and evidence on the appropriate basis for the charges, and an allegation by one party that some of BT's grounds of appeal were time-barred.

British Telecommunications plc v. Office of Communications (WMO) (21 December 2016)

Here, the Tribunal dismissed BT's appeal against OFCOM's decision to lift the Wholesale-Must-Offer (WMO) obligation, which it had imposed in 2010, in relation to the provision by Sky to its wholesale customers of premium sports content to be broadcast on paid-for television channels. OFCOM had decided that the WMO obligation, which had been the subject of much litigation in the interim, was no longer required in the light of current market conditions. The Tribunal found in favour of OFCOM on all five grounds of appeal raised by BT.

Performance report

Overview

The purpose and activities of the Tribunal and CS

The Tribunal is a specialist judicial body with cross-disciplinary expertise in law, economics, business and accountancy whose function is to hear and decide cases involving competition or economic regulatory issues.

The CS's purpose is to fund and provide support services to the Tribunal in order to facilitate the carrying out of its statutory functions. This constitutes the CS's only business objective.

A full description of the purpose and activities of the Tribunal and CS can be found in the introduction to this report.

Cases

During the year, the Tribunal handed down 32 judgments and rulings and received 29 cases including: two cases relating to a review of a merger decision, two applications to commence collective damages proceedings pursuant to Section 47B of the 1998 Act, 11 private actions pursuant to Section 47A of the 1998 Act, (six of which concerned applications for fast track treatment) and one transfer of

the competition issues of two related private actions from the High Court.

Details of the Tribunal's judicial work during the year can be found in the Cases section of this report; the President's statement mentions some of the noteworthy points that emerged from proceedings before the Tribunal. As at 31 March 2017, six judgments were pending and 27 cases were carried forward to the next year (23 excluding stayed cases).

Tribunal: other activities

In addition to its judicial work, the Tribunal was involved in a number of other activities during the year that are related to or arise out of its role in the UK competition law system. Broadly, such activities encompassed: speaking at seminars in the UK and abroad; participating in the work of the AECLJ and acting as its secretariat; liaising with BEIS and other Government departments with regard to proposed legislative changes in the competition and regulatory framework; working in detail on legislative changes that directly affect the work of the Tribunal; liaising with BEIS on the recruitment of new Ordinary Members and other governance

matters; running a training programme for Tribunal members and other members of the judiciary who deal with competition law issues; and liaising with stakeholders in the Tribunal's work through the Tribunal's User Group and other fora.

Details of the most significant developments in respect of these activities can be found in the President's statement.

Personnel

As indicated in the President's statement, in March this year, we were very pleased to welcome to the Tribunal ten new Ordinary Members who were selected, amongst some truly exceptional candidates, for their expertise in law, business, accountancy, economics and other related fields. Prior to the making of these appointments, the panel of Ordinary Members consisted of 11 members whose terms of appointment end on 3 January 2019.

Stephen Harrison and Timothy Cowen, both existing Ordinary Members, resigned from the Tribunal during the year under review. We would like to thank them for the valuable contribution they made to the

work of the Tribunal during their period of office.

I am pleased to report that the Secretary of State for BEIS renewed the appointment of the CS Non-Executive Member, Susan Scholefield, for another four years starting in November 2017.

Staff departures in the year included Georgina Partida, Office Administrator, who left us to take up a position at the Ministry of Defence, and Renella Reumerman, one of the Tribunal's Referendaires, who was appointed as Referendaire at the General Court in Luxembourg. We all very much enjoyed working with Georgina and Renella and wish them well in their new roles.

This year, we recruited four new members of staff namely Casper Hewer, Information & IT Assistant, Trevor Gilbert, Caseworker, Kirsty Hunter, Office Administrator, and Samuel Buyoya, Referendaire, (who comes to us after working as a Referendaire at the General and EFTA Courts).

The staff team now comprises 18 people (with one of them working part-time), a number of whom multi-task across several roles. As in previous years, the staff absence rate (1 per cent of working days) was far below the average for both the private and public sectors.

Information Technology

This year, the Tribunal/CS completed an overhaul of the organisation's telephony and Audio Visual (AV) infrastructure.

Discussions with BEIS have begun with regard to the

Tribunal/CS's exit from iTECC (the current IT platform shared with BEIS) and the procurement of new suppliers to take on cloud back-end servers (for services such as email and document management) and IT managed services. Migration/on-boarding is expected to take place by the end of March 2018. Funding for this programme has not been included in the capital allocation of £59,000 but should be provided separately.

Financial

In financial year 2016/17, the grant-in-aid received from BEIS was £3,774,000 (2015/16: £3,530,000). Running costs of the Tribunal/CS for 2016/17 were £3,892,000 (2015/16: £3,616,000); accommodation costs (mainly rent, service charge and business rates) comprised £1,732,000 or 45 per cent of the total. As agreed with BEIS, the highest running costs were financed from CS cash reserves.

The programme and administration funding allocation from BEIS for 2016/17 was £4,597,000 including £4,408,000 for resource expenditure (net of any income from other sources) and £189,000 for capital expenditure.

Actual resource expenditure for the year was £3,892,000 and actual capital expenditure was £233,000. The Tribunal's actual expenditure was £614,000 (2015/16: £534,000). The CS's actual expenditure increased to £3,278,000, (2015/16: £3,082,000). The main changes in the CS's costs are set out in Table 1. Full details are set out in the Statement of Comprehensive Net Expenditure on page 74.

Table 1

Increase/(Decrease) in costs	2016/17 £'000
Costs of the Tribunal (Increase in the case work load)	80
Staff costs (overlap between leavers and starters)	123
Other expenditure (increase in running costs)	41
Total increase in cash costs	244
Depreciation and loss on disposals (capital investment)	32
Total increase in operating costs	276

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

The Tribunal's statement of financial position shows only those liabilities at 31 March 2017 relating to the activities of the Tribunal. Those liabilities are paid by the CS. The liabilities in the CS's statement of financial position therefore also include liabilities that relate to the activities of the Tribunal.

Capital expenditure during the year amounted to £233,000 and was mainly related to the upgrade of the organisation's telephony and AV infrastructure.

The book value of the CS's non-current assets increased from £417,000 to £460,000, primarily due to the costs associated with the AV upgrade.

The total assets of the CS decreased to £1,042,000 from £1,212,000. Closing cash balances were £522,000 (2015/16: £740,000).

The annual accounts set out later in this report record the detailed expenditure of grant-in-aid during the year.

Pension arrangements and liabilities for the President and the Registrar are mentioned separately in the Remuneration Report. Tribunal Chairmen appointments are pensionable; Ordinary Member appointments are non-pensionable. Note 1(h) in the CS's accounts contains detail on the pension provisions relating to CS staff.

As required by statute, separate accounts have been prepared for the Tribunal and the CS in accordance with the Accounts Directions issued by the Secretary of State for BEIS under the 2002 Act, section 12 and Schedule 2. The accounts are prepared so as to give a true and fair view of the state of affairs of the Tribunal and the CS at the year end and provide disclosures and notes to the accounts in compliance with the accounting principles and disclosure requirements issued by HM Treasury and included in the Government Financial Reporting Manual (FRoM) in force for financial year 2016/17.

The CS's general fund (which represents the total assets of the CS less its liabilities, but not any other reserves and financing items) remains unchanged.

The future financing of the Tribunal/CS's liabilities is to be met by future grants of supply and the application of future income, both approved annually by Parliament. Approval for the amounts required in respect of the year to 31 March 2018 was given in May 2017. It has accordingly been considered appropriate to adopt a going concern basis for the preparation of the Tribunal/CS financial statements, in accordance with the FRoM issued by HM Treasury.

The grant-in-aid from BEIS for 2017/18 includes funding for an expected rise in the case workload activity, new members' training, adjustment to the Ordinary Members' daily rate from 6th April 2017 and the upgrade of the Tribunal website's content management system.

The budget is split between £4,412,000, in respect of resource expenditure, and £59,000, in respect of capital expenditure. Nearly 79 per cent of the Resource Departmental Expenditure Limit (RDEL) is constituted by fixed costs. Costs for specialised courtrooms and associated facilities constitute 40 per cent of the RDEL.

Currently, the CS is working with BEIS on assessing the Tribunal/CS EU Exit resourcing needs to ensure the Tribunal/CS is able to deliver its aims before and after the UK's exit from the EU. Early projections indicate that additional funding of approximately 25 per cent of the Tribunal/CS current grant-in-aid would be required over the next two years.

Governance

The President and the Registrar, together with a Non-Executive Member, Susan Scholefield, constitute the "membership" of the CS (the term used by paragraph 1 of Schedule 3 of the 2002 Act). The members of the CS essentially constitute its Board. During 2016/17, the Board met three times.

During 2016/17, the CS Audit and Risk Committee met three times under the chairmanship of Susan Scholefield. Stephen Harrison and Brian Landers, both Tribunal Members with considerable accounting experience, were also members of the Committee. Stephen Harrison resigned from the Tribunal in March this year; a new member of the Committee will be appointed in due course. Brian Landers will continue as a member of the Committee.

Further information can be found in the Corporate Governance Statement later in this report.

Data security

There were no incidents involving loss of data or personal data during the year.

All members of staff routinely and once a year complete the online information awareness training made available by the Civil Service Learning via BEIS. In July last year, all Tribunal members received a security briefing on data handling by the Departmental Security Officer (DSO) and Information Technology Security Officer (ITSO). A similar briefing for the newly appointed members will

be arranged during financial year 2017/18.

Key issues and risks

The Tribunal/CS has no control over the demand for the Tribunal's services and this increases the uncertainty in planning and budgeting resources.

Fluctuations in workload can be pronounced and arise unexpectedly, being driven by the activities of the competition and economic regulators and the propensity and ability of businesses to litigate competition law issues.

It is often impossible to predict when cases may arrive at the Tribunal because they may arise from confidential investigations carried out by the competition authorities or, in the case of private actions, spring from decisions taken by businesses without any prior publicity.

It is also difficult to make assumptions about the demands of individual cases which vary between small but often difficult cases and the extremely large and highly complex cases that absorb a great deal of resources. Frequently, cases may be extremely urgent, raising issues of fundamental importance for the businesses concerned and the wider economy and require the rapid mobilisation of resources to deal with them.

The Tribunal's jurisdiction has been considerably widened by the Consumer Rights Act 2015 and the number of cases that have been brought before the Tribunal has increased markedly.

However, the resourcing of the Tribunal in terms of funding, staff numbers and other aspects has remained at or below the level when the Tribunal was first established in 2003.

Analysis

The cases section of this report sets out the detailed performance of the Tribunal with regard to its casework.

As mentioned, the casework of the Tribunal is entirely demand led. Over the year, activity rose markedly and is expected to continue to increase during 2017/18. The increase in private actions is also expected to accelerate significantly over the next few years, reflecting a trend that has already been seen in the High Court.

As well as an increase in private actions originating in the Tribunal, the Consumer Rights Act 2015 has made it easier for the High Court (and its equivalents in Scotland and Northern Ireland) to transfer competition law cases to the Tribunal. Also, the introduction of a new fast track procedure for private claims has already attracted widespread interest with six cases seeking fast track designation being lodged with the Tribunal during the year.

In that regard, the Tribunal/CS's present level of funding will continue to be monitored to ensure that it is suitable for the long term pressures to which the Tribunal will be subject.

As noted in previous years, our working practices and the nature of our facilities are

dictated by the specialised judicial functions of the Tribunal and the particular demands of hearing large scale, complex competition and economic regulatory cases, often to very tight timescales. We need high calibre members and staff with specialist expertise, who can deal with the highly technical and detailed nature of the Tribunal's work as rapidly as possible. We also need to be located in central London, close to the senior judiciary who sit on cases in the Tribunal and convenient for the parties and their counsel. It is also essential for our efficient operation that we maintain large modern courtrooms that are suitable for the multi-party and document heavy cases heard by the Tribunal. This means that our specialised court accommodation is by far our largest expense, constituting 45 per cent of our financial resources. In the light of this, we have sought to increase the utilisation of the courtroom space by making it available, free of charge, to other tribunals and organisations when not in use by the Tribunal/CS. The practice has also now developed of allowing the CMA to make use of our meeting rooms when their own facilities are fully utilised.

Charles Dhanowa OBE, QC (Hon)
Registrar and Accounting
Officer

14 July 2017

Membership

President



Sir Peter Roth was called to the Bar in 1977 and was appointed Queen's Counsel (QC) in 1997. He was appointed a Recorder in 2000 and a High Court Judge in 2009. He was, for many years, a leading practitioner in competition law and, as a Judge, has heard many competition cases brought in the High Court. From 2003 to 2009, he was Chairman of the Competition Law Association. He held a visiting professorship at King's College, London, teaching competition law on the Master of Laws (LLM) course and he was the General Editor of the 5th and 6th editions of Bellamy & Child on the European Union Law of Competition. He is treasurer of the European Association of Competition Law Judges and a trustee of the Incorporated Council of Law Reporting (ICLR).

Chairmen

The Hon. Mr Justice Mann
 The Hon. Mr Justice Morgan
 The Hon. Mr Justice Barling
 The Hon. Mr Justice McCloskey
 The Hon. Lord Doherty
 The Hon. Mr Justice Newey
 The Hon. Mr Justice Hildyard
 The Hon. Mrs Justice Asplin
 The Hon. Mr Justice Birss
 The Hon. Mrs Justice Rose
 The Hon. Mr Justice Nugee
 The Hon. Mr Justice Green
 The Hon. Mr Justice Snowden
 The Hon. Mr Justice Henry Carr
 The Hon. Mr Justice Morris
 The Hon. Mr Justice Marcus Smith

Heriot Currie QC (Scotland)



Heriot Currie practises at the Scottish Bar. He commenced practice in 1979 and was Standing Junior in Scotland to the Department of Trade and Industry, between 1987 and 1992. He was called to the English Bar (Gray's Inn) in 1991. In 1992, he was appointed QC in Scotland. Between 2005 and 2014, he was in practice at the English Bar as a member of Monckton Chambers. His

practice has covered a wide range of commercial cases including competition law, intellectual property, judicial review, procurement, human rights and EU law, professional negligence, commercial fraud, building and engineering contracts, arbitrations and public inquiries.

Peter Freeman CBE, QC (Hon)



Peter Freeman is a lawyer who has held senior posts in UK competition enforcement. From 2006 to 2011, he was Chairman of the Competition Commission, having been a Deputy Chairman from 2003. From 2011 to 2013, he was a senior consultant to the law firm Cleary Gottlieb Steen & Hamilton. From 1973 to 2003, he practised at the law firm Simmons & Simmons, being made a partner in 1978. He was Managing Partner of the firm's Commercial and Trade Law Department, from 1994 to 1999, and Head of the EC and Competition Law Practice Group, from 1987 to 2003. In 2012, he became a member of the Lloyds Enforcement Appeal Tribunal. He was called to the Bar (Middle Temple) in 1972 and admitted as a solicitor in 1977. He was a founding member and

Chairman of the Regulatory Policy Institute, Oxford, and has written and spoken widely on competition and regulatory law matters. He is a member of the Advisory Board of the International Competition Forum, University of St Gallen, and of the Scientific Board of Concurrençia e Regulaco, Lisbon. He is a Governor of Kingswood School, Bath, and Chair of the Human Fertilisation and Embryology Authority's Appeals Committee.

Andrew Lenon QC



Andrew Lenon was called to the Bar in 1982 and was appointed QC in 2006. A member of One Essex Court Chambers, his practice covers the full range of company and commercial litigation, arbitration and advisory work. He has been involved in many leading cases involving banking and financial services, company and insolvency matters and the insurance, reinsurance and energy industries. He sits as a Deputy District Judge and as a Commercial Arbitrator.

Hodge Malek QC



Hodge Malek was called to the Bar in 1983 and appointed QC in 1999. He is a member of 39 Essex Chambers and his practice has covered many areas of commercial law and dispute resolution including banking and financial services, fraud, professional disciplinary cases, energy, insurance and reinsurance and procurement. He is the General Editor of the leading book on the law of evidence, Phipson on Evidence (18th edition, 2013), and the joint author of Disclosure (5th edition, 2017). He is also a contributor to Mithani, Directors Disqualification (Human Rights chapters) and various volumes of Atkins Court Forms (Financial Services, Human Rights, Disclosure and Information Requests and Administrative Court). He was a member of the Commercial Court working party chaired by Lord Justice Cresswell on Electronic Disclosure. He is a Bencher of Gray's Inn. He was a member of the Inns of Court Conduct Committee and acted as a Chairman of the Bar Disciplinary Tribunal. He is an acting Deemster of the High Court in the Isle of Man. He sits as a Recorder in both civil and criminal cases.

Ordinary Members

William Allan



William Allan is a solicitor who was a partner in the law firm Linklaters for 28 years, until April 2010, during which time he specialised in EU and UK competition law. He has taught competition law as an affiliated lecturer in the Faculty of Law at Cambridge University, since 2004.

Caroline Anderson*



Caroline Anderson is a Chartered Accountant and senior business adviser with over 20 years' experience in regulation of the accounting profession. She has held senior executive roles in the UK, The Republic of Ireland, Australia and New Zealand with a focus on regulation of the professions and financial services. She first became involved in regulatory governance with Chartered Accountants Ireland in 1996 where she is currently a member of its Disciplinary Tribunal.

Professor John Beath OBE

John Beath is Emeritus Professor of Economics at the University of St Andrews. His

professional training was at Queen's College Dundee, the University of London and the University of Pennsylvania. He has held academic posts at Cambridge, Bristol and St Andrews. He is an applied microeconomist with interests in the economics of industry, competition and regulation and in public finance. Previous public appointments have included membership of the Review Body on Doctors' and Dentists' Pay Remuneration, the Prison Service Pay Review Body and the Economic and Social Research Council, chairing both its Research Grants Board and its Training and Skills Committee. He was also chair of the Economic Research Institute of Northern Ireland. He is an honorary Vice-President of the Royal Economic Society, having served as its Secretary-General between 2008 and 2015. A Fellow of the Royal Society of Edinburgh, the Royal Society of Arts and the Academy of Social Sciences, he was appointed OBE in the 2015 Birthday Honours list.

Dr Catherine Bell CB*

Catherine Bell has wide non-executive experience at Board level in the

public, private and regulated sectors. She has been a Non-Executive Director at National Grid Gas plc and National Grid Electricity Transmission plc since

April 2014 and at Cadent Gas Limited (formerly National Grid Gas Distribution Ltd) since October 2016. She is also a Non-Executive Director at Horder Healthcare. Her past roles include Non-Executive Director at the Civil Aviation Authority, United Utilities plc and the Department of Health.

Dr William Bishop*

William Bishop was formerly a Senior Advisor at Charles River's Associates and is Professor of Economics of Competition Law at the College of Europe. His parliamentary and governmental experience includes being an Adviser to the UK Government on drafting the UK Competition Act and Adviser to the European Commission on its Market Definition Notice and on Remedies in Merger Control. His professional experience includes many cases concerning European and UK merger control and UK monopoly investigations.

Professor John Cubbin*

John Cubbin is Emeritus Professor of Economics at City University in London where he

was previously Head of Economics and Director for Competition and Regulatory Policy. Previously, he was also: an Associate Director with National Economic Research Associates (NERA); Professor of Economics at the University of Manchester Institute of Science and Technology; Visiting Senior Research Fellow at London Business School; Reader in

Economics at Queen Mary University of London; Lecturer in Economics at Warwick University; and a member of the Competition Commission.

Margot Daly

Margot Daly has held Chief Executive Officer and Chief Operating Officer

positions in both FTSE listed and privately held companies. She has extensive international experience in digital media, disruptive technology, strategy and business transformation. She is a qualified CEDR dispute resolution mediator and serves on boards in the UK sports sector, dealing with dispute resolution, anti-doping and safeguarding, and in the gaming sector, focussing on harm prevention. She serves as a commercial adjudicator in the telecoms and media industry. She is a graduate of UC Berkeley, an affiliate member of the Chartered Institute of Legal Executives and holds a post-graduate diploma in Competition Economics from King's College, London.

Dr Clive Elphick

Clive Elphick is a board member of the Environment Agency and an independent

director of National Grid Gas plc and of National Grid Electricity Transmission plc. He is a Non-Executive Director of Cadent Gas Limited. He is also a board adviser for M&I Materials Ltd. His former roles include being a board member of the Northern Ireland Authority for

Utility Regulation, Managing Director at United Utilities Group PLC, Chairman of the CBI for the North West of England and a board member of a Department of State and of a Regional Development Agency. He is a trustee of the Lancashire Wildlife Trust and an Honorary Research Fellow (in mathematics) at the University of Birmingham.

Dermot Glynn



Dermot Glynn read PPE as an Exhibitioner at Balliol. He then taught economics and business studies and became a research consultant to the Department of Applied Economics at Cambridge and member of the Economics Faculty. He became Economic Director of the CBI, Chief Economist at KPMG and UK Managing Director of NERA before founding Europe Economics in 1998. He remains a senior adviser to the firm.

Simon Holmes*



Simon Holmes was with King & Wood Mallesons of London between 1994 and 2016, firstly as a Partner but more latterly as Head of UK department, European Head and Global Head of Competition. He is a regular writer, speaker and chair on competition law and regulatory matters at conferences and seminars around the world. He has lectured at various academic and business institutions including at the London School of Economics and Political Science.

Brian Landers



Brian Landers was until recently Chairman of Companies House. He has served on the boards of various companies in the UK and overseas including Habitat, Waterstone's and Penguin Books and was Finance Director of HM Prison Service. He was also an Audit Commissioner, Chief Internal Auditor of Sainsbury's, Deputy Chairman of the Financial Ombudsman Service and Treasurer of Amnesty International UK. He has a MBA from the London Business School.

Professor Colin Mayer CBE



Colin Mayer is the Peter Moores Professor of Management Studies at the Saïd Business School at the University of Oxford. He is an honorary fellow of Oriel College, Oxford, and of St Anne's College, Oxford, a professorial fellow and Sub-Warden of Wadham College, Oxford, a fellow of the British Academy and an inaugural fellow of the European Corporate Governance Institute. He is a member of the UK Government Natural Capital Committee and of the international advisory board of the Securities and Exchange Board of India. He was the First Professor at the Saïd Business School in 1994, the Peter Moores Dean of the Business School, between 2006 and 2011, and the First Director of the Oxford Financial Research Centre, between 1998 and 2005. He was a Harkness fellow at Harvard

University, a Houblon-Norman fellow at the Bank of England, the first Leo Goldschmidt Visiting Professor of Corporate Governance at the Solvay Business School, Université Libre de Bruxelles, and he has had visiting positions at Columbia, Massachusetts Institute of Technology and Stanford universities. He was Chairman of the economics consultancy firm Oxera Limited, between 1986 and 2010, he is a director of Aurora Energy Research Limited and he has consulted for firms, governments, regulators and international agencies around the world.

Sir Iain McMillan CBE*



Iain McMillan worked at the Confederation of British Industry (CBI) between 1993 and 2014 and, prior to that, was at the TSB group between 1970 and 1993. He is currently Chairman at SkillForce Development, a Member of the Executive Committee of the British American Business Council (BABC) and Trustee of The Carnegie Trust for the Universities of Scotland. He is also Honorary Air Commodore of 602 (City of Glasgow) Squadron of the Royal Auxiliary Air Force, Honorary Patron of the Scottish North American Business Council (SNABC) and Chairman of the University of Strathclyde Business School Advisory Board.

Clare Potter

Clare Potter was Chief Legal Adviser to the Competition Commission, from 2004 until May

2010. Prior to joining the Competition Commission, she practised as a competition partner in city firm Simmons & Simmons where she specialised in energy and telecoms regulation. She is a public member of Network Rail.

Professor Gavin Reid

Gavin Reid was Professor of Economics at the University of St Andrews, from

1991 to 2013, where he is now Honorary Professor in Economics and Finance. From 2007 to 2015, he was also Visiting Professor in Accounting and Finance at Strathclyde University Business School. In 2014, he was appointed Head of Dundee Business School (Abertay University). He is the author of ten books on industrial organisation, small business, entrepreneurship and venture capital and of over 70 academic articles in leading research journals in economics, accounting and finance. Since 2009, he has been Adviser to the Centre for Business Research, Judge Business School, Cambridge University. In recent years, he has received an honorary Doctor of Business Administration from the University of Abertay, for his research in business economics, and a Doctor of Letters from Aberdeen University for his research on small business enterprise. His current research

areas include financial reporting standards, corporate governance and intellectual property. His recent publications include work on the US Economic Espionage Act.

Dr Joanne Stuart OBE

Joanne Stuart, who has over 25 years' experience working in the IT

industry, is the Director of Development at Catalyst Inc (formerly the Northern Ireland Science Park). In this role, she is responsible for the development of strategic relationships to support the growth of Catalyst Inc and the Knowledge Economy in Northern Ireland (NI). A former Chairman of Institute of Directors NI (2008-2011), Joanne chaired an independent review on university fees, at the request of the Minister of Employment & Learning, which led to a report published in February 2011. For five years, Joanne was the Northern Ireland Champion for STEM (Science, Technology, Engineering and Mathematics) and she is engaged in a number of activities to encourage more young people to study the STEM subjects and consider careers within the STEM industries. Joanne is currently on a number of charitable Boards – she is Chairman of Arts and Business NI, Treasurer of Angel Eyes NI, Treasurer of Tides Training and a member of the Ulster University Council.

Professor David Ulph CBE*

David Ulph has been Professor of Economics at the University of St Andrews since

2006 and Director of the Scottish Institute for Research in Economics since 2010. Between 2005 and 2006, he was Chief Economist and Director of Knowledge, Analysis and Intelligence (KAI) at HM Revenue & Customs and Chief Economist and Director of Analysis and Research at the Inland Revenue, between 2001 and 2004.

Anna Walker CB*

Anna Walker is currently Non-Executive Director at South London and the Maudsley NHS Foundation Trust. She is also Chair at St George's Hospital Charity, a Non-Executive Director at Welsh Water and a Member of the Council of Which?. She was the Chair at the Office of Rail and Road, between 2009 and 2015, and Chief Executive of the Healthcare Commission, between 2004 and 2009.

Professor Michael Waterson*

Michael Waterson has been Professor of Economics at the University of Warwick since 1991

and has previously been a professor at the University of Reading and lecturer at the University of Newcastle upon Tyne. He was a member of the Competition Commission for nine years and has also undertaken various consultancy

activities for organisations including the Office of Fair Trading, NERA, Oxera and Frontier Economics in relation to various aspects of the energy industry and retail competition.

Professor Pauline Weetman*



Pauline Weetman is Professor Emerita of Accounting at the University of Edinburgh. She is a

member of The Institute of Chartered Accountants of Scotland and has held previous professorial posts at the universities of Stirling, Heriot-Watt, Strathclyde and Glasgow. Her research interests in accounting cover corporate communications and international comparisons. She holds a Distinguished Academic award of the British Accounting and Finance Association and is a Fellow of the Royal Society of Edinburgh. She is currently a member of the Accounts Commission in Scotland, which is responsible for the audit of all Scottish local authorities, and is a member of the Finance Committee of the International Academy at the University of London. Previous public appointments have included the Pay Review Body for Nurses and Midwives and the Scottish Solicitors Discipline Tribunal. She has edited a leading academic journal and continues to provide editorial guidance for journal papers.

Professor Stephen Wilks



Stephen Wilks is Emeritus Professor of Politics at the University of Exeter where he also

served for four years as Deputy Vice Chancellor. From 2001 to 2005, he was a member of the Economic and Social Research Council and chaired its Research Strategy board. He has written extensively on the politics, administration and enforcement of UK and European competition policy. His most recent book is "The Political Power of the Business Corporation" published by Edward Elgar in 2013. From 2001 to 2009, he was a member of the Competition Commission and served on 12 merger inquiries.

CS: Non-Executive Member

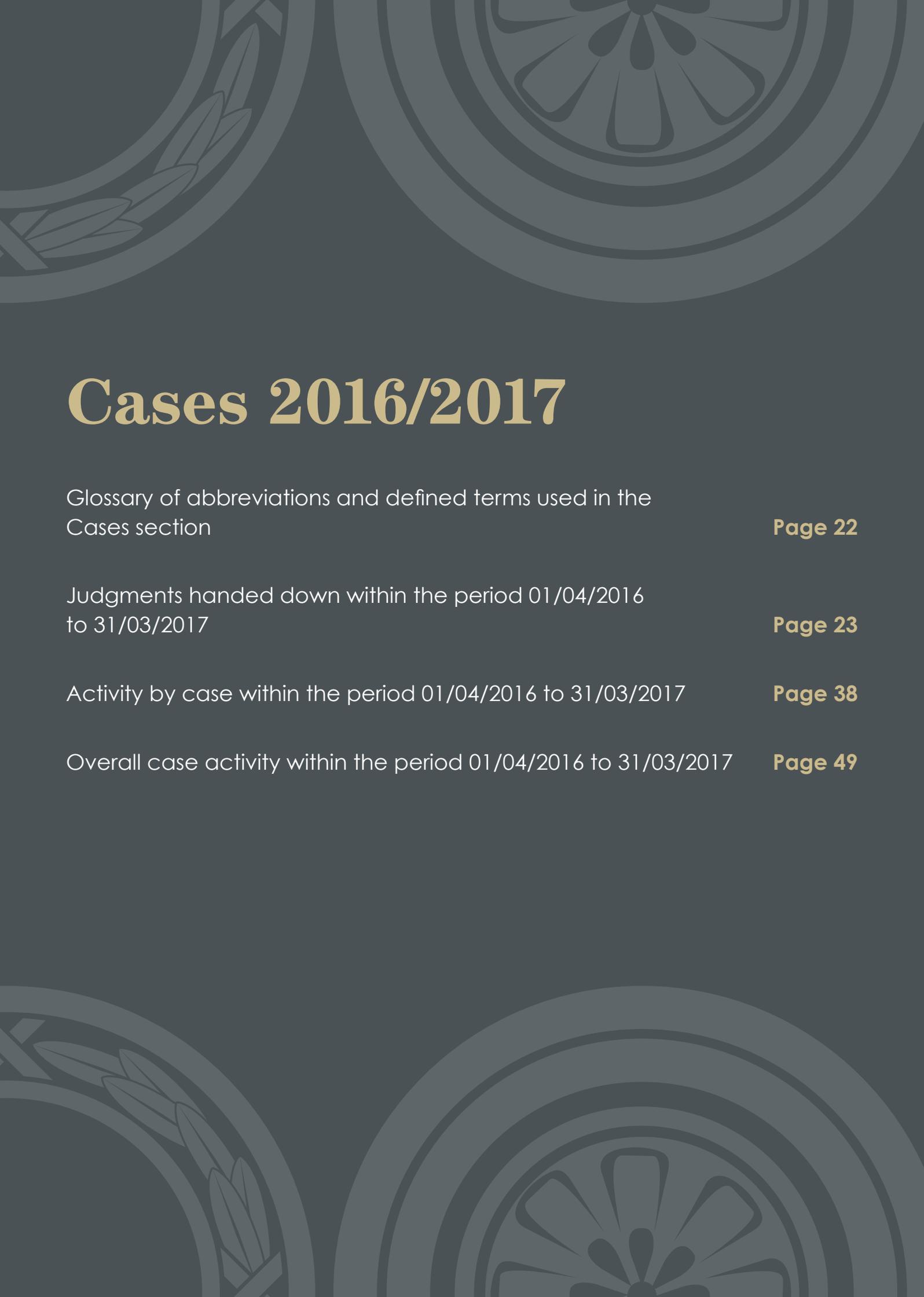
Susan Scholefield CMG



Susan Scholefield was the Secretary and Chief Legal Officer at the London School of

Economics and Political Science until September 2014. She is a Fellow of the Chartered Institute of Personnel and Development and a Chartered Public Finance Accountant. She had an early academic career at the University of California, then joined the Civil Service in 1981 and held senior roles in the Balkans Secretariat, Northern Ireland Office, Communities Department and the Cabinet Office as Head of the Civil Contingencies Secretariat. Most recently, she was Director General, Human Resources and Corporate Services, at the Ministry of Defence. She studied at the Ecole Nationale d'Administration in Paris from 1985 to 1986 and, in 1999, was awarded a CMG in the New Year's Honours for her work in Bosnia. She is a Magistrate and an appointed independent member of the Sussex Police and Crime Panel.

* The appointment of these members commenced on 20 March 2017.



Cases 2016/2017

Glossary of abbreviations and defined terms used in the Cases section

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Judgments handed down within the period 01/04/2016 to 31/03/2017

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Activity by case within the period 01/04/2016 to 31/03/2017

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Overall case activity within the period 01/04/2016 to 31/03/2017

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Glossary of abbreviations and defined terms used in the Cases section

Defined Term	Meaning
1998 Act	Competition Act 1998
2002 Act	Enterprise Act 2002
2003 Act	Communications Act 2003
APCCs	Average Porting Conveyance Charges
BCMR	Business Connectivity Market Review
BT	British Telecommunications PLC
CC	Competition Commission (now the CMA)
CityFibre	CityFibre Infrastructure Holdings PLC
CMA	Competition and Markets Authority (successor body to the OFT and CC)
CP	Communications Provider
FLPA	Foreign Limitation Periods Act 1984
Flynn	Flynn Pharma Limited and Flynn Pharma (Holdings) Limited
Gamma	Gamma Telecom Holdings Limited
GC	General Condition
GSK	GlaxoSmithKline PLC
ICE	Intercontinental Exchange, Inc.
IEO	Initial Enforcement Order
LRIC	Long Run Incremental Cost
MasterCard	MasterCard Incorporated, MasterCard International Incorporated and MasterCard Europe SA
OFCOM	Office of Communications
OFT	Office of Fair Trading (now the CMA)
Sainsbury's	Sainsbury's Supermarkets Ltd
Sky	Sky UK Limited
SLC	Substantial Lessening of Competition
TalkTalk	TalkTalk Telecom Group PLC
TFEU	Treaty on the Functioning of the European Union
Trayport	Trayport Inc and GFI TP Limited
Tribunal Rules	Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648)
Vodafone	Vodafone Limited
VULA	Virtual Unbundled Local Access
WMO	Wholesale Must-Offer Obligation

Judgments handed down within the period 01/04/2016 to 31/03/2017

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

Judgment	Tribunal	Subject matter
1. British Telecommunications PLC v Office of Communications (VULA) [2016] CAT 4 8 April 2016	Andrew Lenon QC William Allan Professor Colin Mayer	Reasoned Order of the Chairman granting an application by BT for an extension of the period for seeking permission to appeal the Tribunal's substantive Judgment dated 24 March 2016 ([2016] CAT 3).
2. Socrates Training Limited v The Law Society of England and Wales [2016] CAT 5 26 April 2016	The President William Allan Professor Stephen Wilks	Reasoned Order of the President extending time for the filing of the defendant's Defence.
3. Sainsbury's Supermarkets Ltd v MasterCard Incorporated and Others [2016] CAT 6 13 May 2016	Mr Justice Barling Marcus Smith QC Professor John Beath OBE	Judgment of the Tribunal granting an application by non-parties for access to non-confidential versions of certain categories of documents referred to in open court.
4. British Telecommunications PLC v Office of Communications (WMO) [2016] CAT 7 19 May 2016	Peter Freeman CBE QC (Hon) Professor Colin Mayer Clare Potter	Reasoned Order of the Chairman extending time for the filing of the Defence and Reply.

Judgment	Tribunal	Subject matter
<p>5. Breasley Pillows Limited and Others v Vita Cellular Foams (UK) Limited and Others</p> <p>[2016] CAT 8</p> <p>7 June 2016</p>	The President	Judgment of the President dismissing the claimants' application for the proceedings to be made subject to the fast-track procedure pursuant to Rule 58 of the Tribunal Rules.
<p>6. Breasley Pillows Limited and Others v Vita Cellular Foams (UK) Limited and Others</p> <p>[2016] CAT 9</p> <p>15 June 2016</p>	The President	Ruling of the President on the costs recoverable by the defendants in respect of the claimants' application that the proceedings be made subject to the fast-track procedure pursuant to Rule 58 of the Tribunal Rules.
<p>7. Socrates Training Limited v The Law Society of England and Wales</p> <p>[2016] CAT 10</p> <p>21 June 2016</p>	The President William Allan Professor Stephen Wilks	Judgment of the President capping the costs that each party could recover from the other.
<p>8. Sainsbury's Supermarkets Ltd v MasterCard Incorporated and Others</p> <p>[2016] CAT 11</p> <p>14 July 2016</p>	Mr Justice Barling Marcus Smith QC Professor John Beath OBE	<p>Judgment of the Tribunal in connection with a claim for damages by Sainsbury's against MasterCard. The claim was issued in the High Court and transferred to the Tribunal by Order of Mr Justice Barling dated 1 December 2015.</p> <p>By its claim, Sainsbury's alleged that a payment scheme operated by MasterCard was an agreement or decision of an association of undertakings which infringed Article 101(1) TFEU and/or the equivalent domestic provision. In particular, Sainsbury's alleged that the Multilateral Interchange Fee which applied under the MasterCard Scheme in respect of credit and debit card transactions in the UK (the UK MIF) restricted competition by object and effect. MasterCard denied that the setting of the UK MIF was an agreement or decision which restricted competition and contended that, if it did restrict competition, the UK MIF was exemptible under Article 101(3) TFEU. MasterCard also argued that Sainsbury's claim should be barred on the basis of illegality (<i>ex turpi causa</i>) because Sainsbury's was said to be party to the alleged infringement because of its connection to another company, Sainsbury's Bank plc, which participated in the MasterCard scheme.</p>

Judgment	Tribunal	Subject matter
		<p>For the reasons given in the Judgment, the Tribunal held that:</p> <ul style="list-style-type: none"> • The setting of the UK MIF was an agreement (or agreements) between undertakings and, for at least part of the claim period, was a decision by an association of undertakings. • The setting of the UK MIF was not a restriction of competition by object under Article 101(1) TFEU. • The setting of the UK MIF was a restriction of competition by effect under Article 101(1) TFEU. But for the UK MIF, bilaterally agreed Interchange Fees at a lower level would have been agreed in place of the UK MIF. • The UK MIF was not exemptible under Article 101(3) TFEU. • MasterCard's illegality defence failed. • Taking into account an adjustment to remove the benefit Sainsbury's received owing to Sainsbury's Bank plc's participation in the MasterCard scheme, Sainsbury's was entitled to recover £68,582,245 in respect of the overcharge in relation to credit cards and £760,406 in respect of the overcharge in relation to debit cards (plus interest). • Certain further matters, including whether the sum needed to be further adjusted to take account of taxation, were expressly reserved for further argument.
<p>9. TalkTalk Telecom Group PLC v Office of Communications (VULA) [2016] CAT 12 25 July 2016</p>	<p>Andrew Lenon QC William Allan Professor Colin Mayer</p>	<p>Ruling of the Tribunal disposing of the appeals in Case 1237/3/3/15 (TalkTalk's Appeal) and Case 1238/3/3/15 (BT's Appeal) in accordance with the determination of the CMA notified to the Tribunal and the parties on 13 June 2016. Since no party sought to challenge that determination, the Tribunal decided that no aspects of the determination fell to be set aside on the application of judicial review principles. The Tribunal therefore upheld the ground of BT's Appeal that was encapsulated in reference question 3(b) to the extent found in the CMA's determination; the remaining grounds in BT's Appeal and all the grounds in TalkTalk's Appeal were dismissed. Directions to OFCOM as to how the error in respect of reference question 3(b) should be corrected were set out in the Order that accompanied the Ruling.</p>

Judgment	Tribunal	Subject matter
10. Deutsche Bahn AG and Others v MasterCard Incorporated and Others [2016] CAT 13 27 July 2016	The President	Judgment of the President dismissing an application by the defendants for an order under Rule 34 of the Tribunal Rules that the Tribunal had no jurisdiction to hear the claim or, insofar as it would otherwise have jurisdiction, should not exercise that jurisdiction. The defendants' contention that the Tribunal claim was an abuse of process by reason of pending High Court proceedings was rejected.
11. Deutsche Bahn AG and Others v MasterCard Incorporated and Others Peugeot Citroën Automobiles UK LTD and Others v Pilkington Group Limited and Others [2016] CAT 14 27 July 2016	The President Lord Doherty Margot Daly	Judgment of the Tribunal on the application of the FLPA to claims brought pursuant to section 47A of the 1998 Act. The question arose for determination as a preliminary issue in the Peugeot Citroën proceedings and on applications brought by the defendants in the Deutsche Bahn proceedings and was heard jointly. The Tribunal held that on the assumption that foreign laws apply to the claims under section 47A of the 1998 Act as alleged, the foreign rules relating to limitation applied in respect of those claims pursuant to section 1 of the FLPA.
12. Agents' Mutual Ltd v Gascoigne Halman Ltd (t/a Gascoigne Halman); Agents' Mutual Ltd v Moginie James Ltd [2016] CAT 15 14 September 2016	The President	Judgment of the President explaining the Tribunal's reasons for imposing costs management in the proceedings.
13. Peugeot Citroën Automobiles UK LTD and Others v Pilkington Group Limited and Others [2016] CAT 16 22 September 2016	The President Lord Doherty Margot Daly	Ruling of the Tribunal on the application of the first to eighth claimants for permission to appeal the determination of the preliminary issue ([2016] CAT 14) to the Court of Appeal. Permission to appeal was refused.
14. TalkTalk Telecom Group PLC v Office of Communications (BCMR) [2016] CAT 17 29 September 2016	Mr Justice Snowden	Ruling of the Chairman refusing a request for permission to intervene by Vtesse Harlow Limited.

Judgment	Tribunal	Subject matter
<p>15. TalkTalk Telecom Group PLC v Office of Communications (BCMR) British Telecommunications PLC v Office of Communications (BCMR) CityFibre Infrastructure Holdings PLC v Office of Communications (BCMR) [2016] CAT 18 29 September 2016</p>	Mr Justice Snowden	Ruling of the Chairman in connection with an application by TalkTalk for certain confidential information to be anonymised before being provided to two in-house lawyers working for BT.
<p>16. Socrates Training Limited v The Law Society of England and Wales [2016] CAT 19 5 October 2016</p>	The President	Reasoned Order of the President partially refusing the defendant's application to adduce expert evidence.
<p>17. Agents' Mutual v Gascoigne Halman Limited [2016] CAT 20 21 October 2016</p>	The President	Judgment of the President dismissing an application by the defendant to vary the Tribunal's costs management order dated 14 September 2016.
<p>18. Agents' Mutual v Gascoigne Halman Limited [2016] CAT 21 21 October 2016</p>	The President	Judgment of the President revising the costs budget of the defendant.

Judgment	Tribunal	Subject matter
<p>19. British Telecommunications PLC v Office of Communications (BT's APCCs)</p> <p>[2016] CAT 22</p> <p>4 November 2016</p>	<p>Heriot Currie QC</p> <p>Brian Landers</p> <p>Professor Gavin Reid</p>	<p>Judgment of the Tribunal in relation to an appeal by BT from a determination of OFCOM dated 11 November 2015 of two disputes concerning BT's APCCs (the Final Determination). The disputes were between BT and Gamma and BT and Vodafone.</p> <p>In the Final Determination, OFCOM considered whether BT had complied with GC 18.5(a) which requires that any charges for the provision of number portability made by a CP must be cost oriented. OFCOM declared that BT had overcharged each of Gamma and Vodafone for the provision of number portability services in that BT had failed to calculate all elements of its APCCs on the basis of LRIC; it had instead calculated elements of them on the basis of LRIC+, which includes an amount attributable to common costs (i.e. costs associated with a service, but not unique to that service).</p> <p>BT challenged the Final Determination under three grounds of appeal. Under Ground 1 of its appeal, BT argued that the services for which it continued to charge LRIC+ fell outside of the scope of GC 18.5(a). Under Ground 2(a) of its appeal, BT argued that OFCOM had no lawful basis to purport to use its regulatory powers to amend the effect of GC 18.5(a). Under Ground 2(b) of its appeal, BT contended that, pursuant to an exception allowing for it to agree with other CPs another basis for its charges, GC 18.5(a) did not apply. Under Ground 3 of its appeal, BT contended that, even if it OFCOM had the legal power to set the cost standard at LRIC, OFCOM was wrong to do so because it would be harmful to competition, efficiency and innovation.</p> <p>Prior to the Final Determination, OFCOM had consulted upon and published guidance which stated that for the purposes of GC 18.5(a) the costs of the provision of number portability should be assessed by reference to LRIC. Gamma argued that BT's grounds of appeal 2(a) and 3 were time-barred as BT had failed to seek a judicial review of the guidance after it had been published in September 2014 within the three-month time limit prescribed under Civil Procedure Rules (CPR), rule 54.5.</p> <p>For the reasons set out in the Judgment, the Tribunal:</p> <ul style="list-style-type: none"> • dismissed Gamma's time-bar argument; and • dismissed all three of BT's grounds of appeal.

Judgment	Tribunal	Subject matter
<p>20. Sainsbury's Supermarkets Ltd v MasterCard Incorporated and Others [2016] CAT 23 22 November 2016</p>	<p>Mr Justice Barling Marcus Smith QC Professor John Beath OBE</p>	<p>Ruling of the Tribunal refusing MasterCard permission to appeal the Tribunal's Judgment of 14 July 2016 ([2016] CAT 11) to the Court of Appeal.</p>
<p>21. Generics UK Limited v Competition and Markets Authority GlaxoSmithKline PLC v Competition and Markets Authority Xellia Pharmaceuticals APS and Alpharma LLC v Competition and Markets Authority Actavis UK Limited v Competition and Markets Authority Merck KGaA v Competition and Markets Authority (Paroxetine) [2016] CAT 24 17 November 2016</p>	<p>The President Hodge Malek QC Dermot Glynn</p>	<p>Ruling of the President on an application by the CMA to adduce further expert evidence.</p>
<p>22. British Telecommunications PLC v Office of Communications (WMO) [2016] CAT 25 21 December 2016</p>	<p>Peter Freeman CBE QC (Hon) Professor Colin Mayer Clare Potter</p>	<p>Judgment of the Tribunal in connection with an appeal by BT challenging a decision by OFCOM to remove the WMO that it had imposed on Sky in 2010. That obligation required Sky to wholesale certain sports channels to other pay TV retailers with prices and terms set by OFCOM.</p> <p>The challenged decision was contained in a statement published on 19 November 2015 entitled "Review of the pay TV wholesale must-offer obligation" (the 2015 Statement). In the 2015 Statement, OFCOM concluded that Sky continued to hold a strong market position as supplier of key sports channels and as a pay TV retailer. However, in light of the distribution arrangements for Sky's key sports content, OFCOM concluded that it no longer had</p>

Judgment	Tribunal	Subject matter
		<p>concerns regarding non-supply by Sky of that key content, or supply on terms that did not allow fair and effective competition. It therefore considered that the WMO was no longer appropriate and should be withdrawn. It would, however, monitor the market closely and intervene if it saw evidence of practices by Sky that might harm competition (referred to as the “wait and see” approach).</p> <p>For the reasons given in the Judgment, the Tribunal decided that BT’s appeal failed on all five grounds.</p> <p>In its first ground, BT alleged that OFCOM had erred in law in the application of section 316(2) of the 2003 Act and acted in breach of its duties under section 3 of that legislation by adopting a “wait and see” approach based on an assessment of Sky’s current supply agreements; BT also alleged that OFCOM’s approach, focusing as it did on current supply arrangements, was insufficiently forward looking and that OFCOM had not conducted an appropriate proportionality assessment.</p> <p>The Tribunal held that even where OFCOM has identified a risk of conduct prejudicial to fair and effective competition, it retains a broad discretion under section 316(2) to determine whether or not licence conditions are appropriate to address that risk, as well as discretion as to what the precise form of those conditions should be. Furthermore, the 2015 Statement, read as a whole, showed both that OFCOM recognised that it should conduct a forward looking assessment and that it did in fact carry out such an assessment. The Tribunal found that a proportionality assessment along the lines of Case C-331/88, <i>R v Ministry of Agriculture, Fisheries and Food, ex parte Fedesa</i> [1990] ECR I-4023) is not relevant in the context where regulation is being withdrawn and that OFCOM had carried out an appropriate balancing exercise.</p> <p>In grounds 2, 3 and 4, BT contended that OFCOM had carried out an inadequate market analysis and that, on the basis of the analysis that it had done, it could not properly have come to the conclusion that it was appropriate to remove the WMO.</p> <p>BT contended: that OFCOM should have carried out an orthodox competition analysis, or the type of detailed analysis that it had carried out in 2010; that it had failed to take sufficient account of the WMO and</p>

Judgment	Tribunal	Subject matter
		<p>its effect on Sky's supply arrangements, on which OFCOM had in any event placed undue reliance; and (in ground 3) that it had wrongly focused on key content rather than on sports channels.</p> <p>The Tribunal found that OFCOM had conducted a sufficient analysis of competitive conditions and that it had not placed undue reliance on current supply arrangements or placed insufficient weight on the WMO.</p> <p>In ground 4, BT also contended that OFCOM had failed to examine properly whether Sky's wholesale pricing was too high to allow retailers to compete effectively (as it had done in 2010). The Tribunal held that OFCOM's overall conclusion on pricing, relying on commercial agreements in the market going beyond what was required by the WMO, was sound. BT also complained that the consultation process was flawed because it had not specifically highlighted pricing issues and that OFCOM had not given due consideration to a pricing analysis that BT had submitted. The Tribunal observed that BT had been able to submit the evidence it wished to submit and nothing of substance turned on the fact that this had not been done in response to a formal consultation. The Tribunal found that BT's pricing analysis was designed to answer a question that was pertinent in 2010 but no longer relevant in 2015.</p> <p>Ground 5 was BT's contention that OFCOM had erred by not condemning as harmful to fair and effective competition Sky's practice of insisting on a grant-back condition (also referred to as a requirement for reciprocal supply) and by adopting a "wait and see" approach. BT argued that harm had already crystallised, whereas OFCOM took the view that negotiations between BT and Sky were on-going and that the requirement for reciprocity might lead to harm if the negotiations resulted in either non-supply or supply on terms harmful to competition. The Tribunal did not agree with BT that harm had crystallised. Neither was the Tribunal persuaded that OFCOM was wrong in according little weight to BT's economic modelling of the grant back condition, or that it was wrong to decide to monitor the market closely and intervene when it considered it necessary.</p>

Judgment	Tribunal	Subject matter
<p>23. Sainsbury's Supermarkets Ltd v MasterCard Incorporated and Others [2016] CAT 26 21 December 2016</p>	<p>Mr Justice Barling Marcus Smith QC Professor John Beath OBE</p>	<p>Ruling of the Tribunal in connection with the interest to be paid by MasterCard on the damages awarded to Sainsbury's.</p>
<p>24. Flynn Pharma Limited and Another v Competition and Markets Authority (Interim Relief) [2017] CAT 1 19 January 2017</p>	<p>Peter Freeman CBE QC (Hon)</p>	<p>Judgment of the Chairman on an application by Flynn for interim relief from compliance with directions contained in the decision of the CMA of 7 December 2016 in Case CE/9742-13 "Unfair pricing in respect of the supply of phenytoin sodium capsules in the UK". The directions required Flynn to reduce its pricing of its phenytoin sodium capsules. Flynn sought a suspension of the directions pending the determination of its substantive appeal against the CMA's decision. The Chairman set out the relevant questions the Tribunal had to ask itself and decided that the Tribunal had jurisdiction to hear the application. The Chairman considered the "balance of interests" for and against granting relief. The Chairman decided against granting interim relief and therefore refused the application.</p>
<p>25. Peugeot S.A. and Others v NSK Ltd and Others [2017] CAT 2 26 January 2017</p>	<p>Mr Justice Green</p>	<p>Ruling of the Chairman in connection with an application by the defendants for the disclosure of certain documents from the claimants.</p>
<p>26. Agents' Mutual Ltd v Gascoigne Halman Ltd [2017] CAT 3 27 January 2017</p>	<p>Mr Justice Marcus Smith Peter Freeman CBE QC (Hon) Brian Landers</p>	<p>Ruling of the Chairman dismissing applications by the defendant for further directions.</p>
<p>27. British Telecommunications PLC v Office of Communications (WMO) [2017] CAT 4 2 February 2017</p>	<p>Peter Freeman CBE QC (Hon) Professor Colin Mayer CBE Clare Potter</p>	<p>Ruling of the Tribunal refusing an application by BT for permission to appeal the Tribunal's Judgment of 21 December 2016 ([2016] CAT 25).</p>

Judgment	Tribunal	Subject matter
<p>28. Agents' Mutual Ltd v Gascoigne Halman Ltd [2017] CAT 5 10 February 2017</p>	<p>Mr Justice Marcus Smith Peter Freeman CBE QC (Hon) Brian Landers</p>	<p>Ruling of the Tribunal in connection with an application by the defendant to admit certain evidence pursuant to Rule 55(1)(b) of the Tribunal Rules.</p>
<p>29. Intercontinental Exchange, Inc. v Competition and Markets Authority [2017] CAT 6 6 March 2017</p>	<p>Hodge Malek QC William Allan Professor Colin Mayer CBE</p>	<p>Judgment of the Tribunal in connection with applications by ICE for review, under section 120 of the 2002 Act, of the following decisions of the CMA: (1) the CMA report dated 17 October 2016 (the Report) in which it found that ICE's purchase of the entire issued share capital of Trayport (the Transaction) was likely to result in an SLC within the meaning of section 35 of the 2002 Act; and (2) the direction (the Direction) issued by the CMA on 10 November 2016 directing ICE and Trayport (the Merging Parties) to cease implementation of an agreement entered into between the Merging Parties on 11 May 2016 (the New Agreement).</p> <p>On 11 January 2016, the CMA exercising its powers under section 72(2) of the 2002 Act made an IEO pursuant to which Trayport had to carry on its business separately from ICE.</p> <p>In the Report, the CMA decided it would be appropriate to impose a final order requiring: (a) a full divestiture of Trayport through a sales process under a trustee; and (b) the unwinding of the New Agreement.</p> <p>By an application filed on 11 November 2016 (NoA1), ICE challenged the lawfulness of the Report on various grounds:</p> <ul style="list-style-type: none"> • Ground 1: ICE submitted that the CMA should have found that the New Agreement was part of the counterfactual, that is, that the New Agreement would have been entered into absent the Transaction. • Ground 2: This ground contained several arguments regarding the CMA's assessment of the benefits to ICE of a partial foreclosure strategy. • Ground 3: ICE argued that the CMA erred in its assessment of the costs to the merged group of implementing a partial foreclosure strategy. • Ground 4: This ground challenged the CMA's rejection of the remedy proposal put forward by the Merging Parties.

Judgment	Tribunal	Subject matter
		<ul style="list-style-type: none"> • Ground 5: ICE submitted that the CMA lacked the vires to require termination of the New Agreement and to require in the Direction that implementation of the New Agreement should continue to be suspended pursuant to the IEO. <p>By a further application filed on 17 November 2016 (NoA2), ICE challenged the lawfulness of the Direction on various grounds:</p> <ul style="list-style-type: none"> • Ground 1: ICE contended that the Direction to cease implementation of the New Agreement was ultra vires for the same reason as ICE had alleged in respect of the finding in the Report that the New Agreement should be terminated (this ground therefore replicated Ground 5 of NoA1). • Grounds 2 and 3: Both of these grounds assumed that the CMA had the requisite vires to require the termination of the New Agreement and to require that its implementation be suspended (i.e. they assumed that ICE had failed on Ground 5 in respect of its challenge to the Report). These grounds attacked the rationality/proportionality of the Direction to suspend implementation. It was said in respect of both grounds that the Merging Parties could and should have been allowed to implement the New Agreement at least in the short term, until any new owner of Trayport took ownership. <p>For the reasons set out in the Judgment, the Tribunal dismissed Grounds 1-4 of NoA1.</p> <p>In relation to Ground 5 of NoA1 and Ground 1 of NoA2, the Tribunal considered that the CMA's remedy powers under the 2002 Act are limited to those required to remedy the SLC. However, the Report provided no articulation as to why the requirement to unwind the New Agreement would help ensure the effectiveness of the divestiture remedy. The Report failed to satisfy the requirements specified by Lord Brown in <i>South Buckinghamshire District Council v Porter (No. 2)</i> (quoted in para 20(8) of <i>BAA Ltd v Competition Commission</i> [2012] CAT 3) and the reasons for the CMA's decision in this respect were too cursory and too conclusory to meet the standards of intelligibility and adequacy. The Tribunal held that this represented a serious failure.</p>

Judgment	Tribunal	Subject matter
		<p>Accordingly, the Tribunal quashed the Report to the extent that it required the unwinding of the New Agreement and remitted it to the CMA to reconsider whether or not to require the New Agreement to be unwound in the light of the Tribunal's findings.</p> <p>The Tribunal did not, however, quash the Direction pending the CMA's reconsideration of the issues as regards the unwinding of the New Agreement. The Tribunal invited the CMA and ICE to agree a form of Order to address the position pending the remittal.</p> <p>Given the Tribunal's conclusions in relation to Ground 5 of NoA1 and Ground 1 of NoA2, the Tribunal did not consider it necessary to determine Grounds 2 and 3 of NoA2.</p>
<p>30. Flynn Pharma Limited and Another v Competition and Markets Authority Pfizer Inc, and Another v Competition and Markets Authority [2017] CAT 7 9 March 2017</p>	<p>Peter Freeman CBE QC (Hon)</p>	<p>Ruling of the Chairman in connection with various applications for permission to intervene.</p>
<p>31. Intercontinental Exchange, Inc. v Competition and Markets Authority [2017] CAT 8 24 March 2017</p>	<p>Hodge Malek QC William Allan Professor Colin Mayer CBE</p>	<p>Ruling of the Tribunal in relation to costs and an application by ICE for permission to appeal the Tribunal's Judgment of 6 March 2017 ([2017] CAT 6).</p>

Judgment	Tribunal	Subject matter
<p>32. Dorothy Gibson v Pride Mobility Products Limited [2017] CAT 9 31 March 2017</p>	<p>The President Dermot Glynn Dr Joanne Stuart OBE</p>	<p>Judgment of the Tribunal on an application by the proposed class representative (Ms Gibson) for an opt-out collective proceedings order under section 47B of the 1998 Act (the CPO Application).</p> <p>The proposed collective proceedings would combine follow-on actions for damages arising from a decision of the OFT of 27 March 2014 (Mobility scooters: CE/9578-12) (the Decision). In the Decision, the OFT found that the Respondent, Pride Mobility Products Limited (Pride), and each of eight retailers selling its mobility scooters, had infringed the Chapter I prohibition under the 1998 Act by entering into agreements or concerted practices covering some or all of the period February 2010 to February 2012, whereby the retailers would not advertise certain models of Pride scooters online at prices below the recommended retail price set by Pride. The class on behalf of whom Ms Gibson sought to bring the claim was defined as comprising any person who purchased a new Pride mobility scooter other than in the course of a business in the UK between 1 February 2010 and 29 February 2012.</p> <p>The Tribunal rejected Pride's submissions that to allow the claim to proceed would infringe Pride's human rights under Article 1 of Protocol 1 to the European Convention on Human Rights, and further or alternatively the fundamental principle of EU law against retrospective legislation and/or the EU Charter of Fundamental Rights.</p> <p>The Tribunal then considered whether the CPO Application should be granted on the basis of the criteria in section 47B of the 1998 Act and the Tribunal Rules, and in particular the two statutory conditions which must be satisfied for the Tribunal to make a collective proceedings order, namely:</p> <ul style="list-style-type: none"> (i) the claims must be considered by the Tribunal to raise the same, similar or related issues of fact or law and to be suitable to be brought in collective proceedings (section 47B(6)); and (ii) the proposed class representative must be authorised by the Tribunal on the basis that it is just and reasonable for that person so to act in the proceedings (section 47B(8)(b)).

Judgment	Tribunal	Subject matter
		Having considered the applicable criteria, the Tribunal adjourned the CPO Application for the reasons set out in the Judgment with permission for the Applicant to file and serve a draft amended claim form and further expert evidence in accordance with the Judgment, accompanied by a revised costs budget.

Activity by case within the period 01/04/2016 to 31/03/2017

Case name, number and date registered	Year (1 April to 31 March)	Applications to intervene	Case management conferences	Hearings (and sitting days – excluding days limited to formal handing down of judgments)	Judgments (including interlocutory rulings and final judgments)	Date of judgment(s) on the main issues (and months from registration to judgment)	Requests for permission to appeal	Status at 31 March 2017
AXA PPP Healthcare Limited v Competition and Markets Authority Case: 1228/6/12/14 30 May 2014	14-15 15-16 16-17	7	1	1 2 2	2	13 Mar 2015 (9.4)		Ongoing
Notes By an Order dated 6 April 2017 (outside the period covered by this report), the Tribunal granted AXA PPP Healthcare Limited permission to withdraw its application for review.								
HCA International Limited v Competition and Markets Authority Case: 1229/6/12/14 30 May 2014	14-15 15-16 16-17	4	1	1 1 4	4	23 Dec 2014 (6.8)	1	Closed
Notes By an Order dated 27 March 2017, the Tribunal granted HCA International Limited permission to withdraw its application for review.								
Federation of Independent Practitioner Organisations v Competitions and Markets Authority Case: 1230/6/12/14 2 June 2014	14-15 15-16 16-17	2		1 2	3	29 Apr 2015 (10.9)	1	Closed
Notes On 25 July 2016, the Court of Appeal gave Judgment dismissing the appeal brought by the Federation of Independent Practitioner Organisations against the Tribunal's substantive Judgment ([2015] CAT 8), dated 29 April 2015.								

Case name, number and date registered	Year (1 April to 31 March)	Applications to intervene	Case management conferences	Hearings (and sitting days – excluding days limited to formal handing down of judgments)	Judgments (including interlocutory rulings and final judgments)	Date of judgment(s) on the main issues (and months from registration to judgment)	Requests for permission to appeal	Status at 31 March 2017
Gamma Telecom Holdings Limited v Office of Communications Case: 1234/3/3/14 23 July 2014	14-15 15-16 16-17							Stayed
Notes By an Order dated 13 August 2014, the Chairman stayed the appeal pending developments in the case registered at the Court of Appeal under case number C3/2014/4185 (an appeal by TalkTalk against the decision of the Tribunal in British Sky Broadcasting Limited and TalkTalk Telecom Group Plc v OFCOM ([2014] CAT 14). By an Order dated 24 November 2015, that stay was continued until five days after the Court of Appeal hands down judgment in that case. On 4 May 2017, outside the period covered by this report, the Court of Appeal issued its Judgment ([2017] Ewct Civ 330). By an Order of the President dated 18 May 2017, the stay was extended. By an Order dated 12 June 2017, the President granted Gamma permission to withdraw its appeal.								
DSG Retail Limited and Another v MasterCard Incorporated and Others Case: 1236/5/7/15 11 February 2015	14-15 15-16 16-17			1 / 1	1 / 1			Ongoing
Notes An application for permission to serve the claim form and of the Jurisdiction on two defendants was heard on 24 March 2015. A ruling was given on 22 April 2015 ([2015] CAT 7); on that date, the President also made an Order with directions consequent upon the ruling. Pursuant to those directions, an amended claim form was filed on 16 June 2016. An application by the defendants to contest the Jurisdiction of the Tribunal was filed on 5 September 2016 and is currently pending.								
TalkTalk Telecom Group PLC v Office of Communications (VULA) Case: 1237/3/3/15 19 May 2015	15-16 16-17	1						Closed
Notes During 2015-16, this case was heard concurrently with British Telecommunications PLC v Office of Communications (VULA), Case: 1238/3/3/15. See that case for details of case management conferences and Judgments. A non-confidential version of the CMA's final determination of the specified price control matters was published on 20 June 2016. The CMA found no error on the part of the OFCOM in respect of either reference question 1 or 2. Following confirmation that none of the parties wished to challenge the CMA's determination, on 25 July 2016, the Tribunal issued a Ruling ([2016] CAT 12) in respect of this Case (and Case: 1238/3/3/15) disposing of TalkTalk's appeal in accordance with the CMA's determination.								
British Telecommunications PLC v Office of Communications (VULA) Case: 1238/3/3/15 19 May 2015	15-16 16-17	2	1		1 / 1	24 Mar 2016 (10.2)		Closed
Notes A non-confidential version of the CMA's final determination of the specified price control matters was published on 20 June 2016. The CMA found an error in respect of reference question 3(b) and guidance was given as to how this error should be corrected. On 25 July 2016, the Tribunal issued a Ruling ([2016] CAT 12) in respect of this Case (and Case: 1237/3/3/15) disposing of BT's appeal in accordance with the CMA's determination; directions to the OFCOM were set out in the Order that accompanied the Ruling.								

Case name, number and date registered	Year (1 April to 31 March)	Applications to intervene	Case management conferences	Hearings (and sitting days – excluding days limited to formal handing down of judgments)		Judgments (including interlocutory rulings and final judgments)	Date of judgment(s) on the main issues (and months from registration to judgment)	Requests for permission to appeal	Status at 31 March 2017
Deutsche Bahn AG and Others v MasterCard Incorporated and Others Case: 1240/5/7/15 12 November 2015	15-16 16-17			2	2	2			Stayed
Notes An application relating to an alleged abuse of process was heard by the President on 26 April 2016 and dismissed, for the reasons set out in a Judgment handed down on 27 July 2016 ([2016] CAT 13). Another application, relating to the application of the FLPA 1984 to a claim brought under section 47A of the 1998 Act, was heard jointly with a preliminary issue in Case: 1244/5/7/15 on 29 April 2016. Judgment was handed down on 27 July 2016 ([2016] CAT 14). The proceedings have been stayed pursuant to a consent Order made on 22 August 2016.									
Sainsbury's Supermarkets Ltd v MasterCard Incorporated and Others Case: 1241/5/7/15(T) 2 December 2015	15-16 16-17			1	23	1			
				2	2	4	14 Jul 2016 (7.5)	1	Closed
Notes Judgment in the main proceedings was handed down on 14 July 2016 ([2016] CAT 11). The defendants' application for permission to appeal the Judgment of 14 July 2016 to the Court of Appeal was refused on 22 November 2016 ([2016] CAT 23). A hearing in relation to the matters reserved for further argument (taxation and interest to be paid on the damages awarded) took place on 16 December 2016. A Ruling on the matters reserved for further argument was given on 21 December 2016 ([2016] CAT 26).									
Peugeot Citroën Automobiles UK LTD and Others v Pilkington Group Limited and Others Case: 1244/5/7/15 18 December 2015	15-16 16-17			1	1				
						1		1	Withdrawn
Notes The hearing of a preliminary issue, relating to the application of the FLPA 1984 to a claim brought under section 47A of the 1998 Act, took place on 29 April 2016 and was heard jointly with the same point in Case: 1240/5/7/15. Judgment was handed down on 27 July 2016 ([2016] CAT 14). An application by the first to eighth claimants for permission to appeal the determination of the preliminary issue to the Court of Appeal was refused on 22 September 2016 ([2016] CAT 16). On 9 January 2017 the claim, including the additional claim issued under Rule 39 of the Tribunal Rules, was withdrawn by consent.									
British Telecommunications PLC v Office of Communications (BT's APCCs) Case: 1245/3/3/16 15 January 2016	15-16 16-17	4	1						
				1	6	1	4 Nov 2016 (9.8)		Closed
Notes The main hearing took place from 18 to 25 May 2016. Judgment was given on 4 November 2016 ([2016] CAT 22).									

Case name, number and date registered	Year (1 April to 31 March)	Applications to intervene	Case management conferences	Hearings (and sitting days – excluding days limited to formal handing down of judgments)	Judgments (including interlocutory rulings and final judgments)	Date of judgment(s) on the main issues (and months from registration to judgment)	Requests for permission to appeal	Status at 31 March 2017
British Telecommunications PLC v Office of Communications (WMO) Case: 1246/8/3/16 20 January 2016	15-16 16-17	1	1	1	9	3	21 Dec 2016 (11.2)	1 Closed
Notes The main hearing took place from 3 to 14 October 2016. Judgment was given on 21 December 2016 ([2016] CAT 25). On 2 February 2017, the Tribunal: (i) gave a Ruling ([2017] CAT 4) refusing BT's request for permission to appeal the Tribunal's Judgment of 21 December 2016; and (ii) made an Order in relation to costs.								
Peugeot S.A. and Others v NSK Ltd and Others Case: 1248/5/7/16 25 February 2016	15-16 16-17		2			1		Ongoing
Notes On 9 September 2016, the President made an Order permitting the claimants to withdraw their claim against the sixth to eighth defendants and to make consequential amendments to their claim. A case management conference took place on 11 October 2016 at which the Chairman made an Order setting down directions to trial. On 25 November 2016, the Chairman made an Order permitting the claimants to withdraw their claim against the fourth defendant and to make consequential amendments to their amended claim. On 26 January 2017, the Chairman gave a Ruling in relation to disclosure ([2017] CAT 2). A pre-trial review is to be listed in the latter part of November 2017. The trial is scheduled to commence in April 2018, with a time estimate of six weeks.								
Socrates Training Limited v The Law Society of England and Wales Case: 1249/5/7/16 4 April 2016	16-17		3	1	4	3		Ongoing
Notes A case management conference took place on 16 May 2016 at which the President gave directions for the future conduct of the case. The case was designated to the fast-track and the issues arising in the proceedings were split, with liability to be determined first and the issue of quantification of damages adjourned to be heard after judgment on liability. A further case management conference took place on 21 June 2016 at which the President gave directions for disclosure and capped the recoverable costs ([2016] CAT 10). Pursuant to an Order dated 30 June 2016, a pre-trial review took place on 14 October 2016. The hearing on liability took place from 8 to 11 November 2016. Judgment on liability was handed down on 26 May 2017 ([2017] CAT 10), outside the period covered by this report, and the Tribunal gave a Ruling in relation to costs ([2017] CAT 12).								

Case name, number and date registered	Year (1 April to 31 March)	Applications to intervene	Case management conferences	Hearings (and sitting days – excluding days limited to formal handing down of judgments)	Judgments (including interlocutory rulings and final judgments)	Date of judgment(s) on the main issues (and months from registration to judgment)	Requests for permission to appeal	Status at 31 March 2017
Breasley Pillows Limited and Others v Vita Cellular Foams (UK) Limited and Others Case: 1250/5/7/16 7 April 2016	16-17		1		2			Closed
Notes An application by the claimants for fast-track designation of the proceedings was filed with the claim form on 7 April 2016. An additional claim pursuant to Rule 39 of the Tribunal Rules was filed by the defendants on 18 May 2016 against companies in the Carpenter and Recticel groups. The claimants' application for fast-track designation of the proceedings was dismissed by a Judgment of the President, dated 7 June 2016 ([2016] CAT 8). On 15 June 2016, the President gave a Ruling ([2016] CAT 9) on the costs recoverable by the defendants in respect of the claimants' application that the proceedings be made subject to the fast-track procedure. By a consent Order dated 13 December 2016, all of the claims in the proceedings against the defendants and the Rule 39 defendants were dismissed.								
Generics UK Limited v Competition and Markets Authority Case: 1251/1/12/16 12 April 2016	16-17	2	3	2	19	1		Ongoing
Notes By an Order dated 13 May 2016, the President directed that Cases: 1251-1255/1/12/16 be heard together. At a case management conference which took place on 17 November 2016, the President gave a Ruling concerning expert evidence ([2016] CAT 24) and laid down further directions to the hearing. Further to an application made by GSK, a short hearing took place on 20 December 2016 at which the President granted GSK permission to serve further expert evidence. The President also made other consequential amendments to the directions to the hearing. A pre-trial review took place on 7 February 2017. The main hearing of the appeals took place from 27 February until 30 March 2017.								
GlaxoSmithKline PLC v Competition and Markets Authority Case: 1252/1/12/16 12 April 2016	16-17	4						Ongoing
Notes See notes in respect of Case: 1251/1/12/16.								
(1) Xellia Pharmaceuticals APS (2) Alpharma LLC v Competition and Markets Authority Case: 1253/1/12/16 12 April 2016	16-17	4						Ongoing
Notes See notes in respect of Case: 1251/1/12/16.								

Case name, number and date registered	Year (1 April to 31 March)	Applications to intervene	Case management conferences	Hearings (and sitting days – excluding days limited to formal handing down of judgments)	Judgments (including interlocutory rulings and final judgments)	Date of judgment(s) on the main issues (and months from registration to judgment)	Requests for permission to appeal	Status at 31 March 2017
Actavis UK Limited v Competition and Markets Authority Case: 1254/1/12/16 12 April 2016 Notes See notes in respect of Case: 1251/1/12/16.	16-17	2						Ongoing
Merck KGaA v Competition and Markets Authority Case: 1255/1/12/16 12 April 2016 Notes See notes in respect of Case: 1251/1/12/16.	16-17	4						Ongoing
BMW AG and Others v Pilkington Group Limited and Another Case: 1256/5/7/16 28 April 2016 Notes The claim was withdrawn by consent on 17 October 2016.	16-17							Withdrawn
Dorothy Gibson v Pride Mobility Products Limited Case: 1257/7/7/16 25 May 2016 Notes Application to commence collective proceedings under section 47B of the 1998 Act (the CPO Application). The proposed collective proceedings would combine follow-on actions for damages arising from a decision of the OFT of 27 March 2014 (Mobility scooters: CE/9578-12). A case management conference was held on 15 July 2016 at which the President gave directions for the hearing of the CPO Application. The hearing of the CPO Application took place between 12 and 14 December 2016. Judgment was handed down on 31 March 2017 ([2017] CAT 9). For the reasons set out in the Judgment, the Tribunal adjourned the CPO Application with permission for the Applicant to file and serve a draft amended claim form and further expert evidence, accompanied by a revised costs budget.	16-17		1	1	3	1		Ongoing
UKRS Training Limited v NSAR Limited Case: 1258/5/7/16 24 June 2016 Notes At a hearing on 28 June 2016, and upon receipt of certain undertakings by the parties, the President made an Order giving directions for the hearing of the application for an interim injunction to restrain an alleged infringement of the Chapter II prohibition in the 1998 Act. In accordance with those directions, a claim form was filed on 8 July 2016. At the hearing on 21 July 2016, the parties consented to the issue of whether the defendant/respondent is an undertaking being determined as a preliminary issue in the proceedings. Further undertakings were received from the parties pending the determination of the preliminary issue. The hearing of the preliminary issue took place on 6 and 7 October 2016. Judgment was handed down on 5 July 2017 ([2017] CAT 14), outside the period covered by this report.	16-17			3	4			Ongoing

Case name, number and date registered	Year (1 April to 31 March)	Applications to intervene	Case management conferences	Hearings (and sitting days – excluding days limited to formal handing down of judgments)	Judgments (including interlocutory rulings and final judgments)	Date of judgment(s) on the main issues (and months from registration to judgment)	Requests for permission to appeal	Status at 31 March 2017
TalkTalk Telecom Group PLC v Office of Communications (BCMR) Case: 1259/3/3/16 28 June 2016	16-17	4	1		2			Ongoing
Notes								
At a case management conference held on 22 July 2016, the Chairman made an Order giving further directions for this Case and Cases: 1260/3/3/16 and 1261/3/3/16. The Chairman also made a Ruling refusing Vtesse Harlow Limited permission to intervene in TalkTalk's appeal ([2016] CAT 17) and a further Ruling on the terms of the confidentiality rings in all three appeals ([2016] CAT 18). On 17 November 2016, the Chairman made an Order referring TalkTalk's appeal as a specified price control matter for determination by the CMA on or before 31 March 2017. By an Order dated 10 March 2017, the Chairman extended the deadline for the CMA to determine the specified price control matter by one week (i.e. on or before 7 April 2017). The CMA notified the Tribunal and the parties of its final determination of the referred matters on 6 April 2017. A non-confidential version of the CMA's final determination was published on 10 April 2017 (outside the period covered by this report).								
British Telecommunications PLC v Office of Communications (BCMR) Case: 1260/3/3/16 28 June 2016	16-17	4	2					Ongoing
Notes								
On 10 November 2016, the Chairman made an Order granting BT permission to amend its Notice of Appeal. A case management conference for this case and the CityFibre appeal (Case: 1261/3/3/16) took place on 23 January 2017 at which the Chairman made an Order setting down further directions to the hearing. A pre-trial review took place on 29 March 2017. The hearing took place between 3 April and 26 May 2017 (outside the period covered by this report).								
Cityfibre v Office of Communications (BCMR) Case: 1261/3/3/16 28 June 2016	16-17	3						Ongoing
Notes								
See notes in respect of Case: 1260/3/3/16.								

Case name, number and date registered	Year (1 April to 31 March)	Applications to intervene	Case management conferences	Hearings (and sitting days – excluding days limited to formal handing down of judgments)	Judgments (including interlocutory rulings and final judgments)	Date of judgment(s) on the main issues (and months from registration to judgment)	Requests for permission to appeal	Status at 31 March 2017
Agents' Mutual Ltd v Gascoigne Halman Ltd (t/a Gascoigne Halman); Agents' Mutual Ltd v Moginie James Ltd Case: 1262/5/7/16 (T) 8 July 2016	16-17	3	2	11	5			Ongoing
Notes								
By an Order of Sir Kenneth Parker dated 5 July 2016, the competition issues in claims HC-2016-000513, Agents' Mutual Limited v Gascoigne Halman Limited (t/a Gascoigne Halman) (GH), and HC-2016-001149, Agents' Mutual Limited v Moginie James Limited (MJ), were transferred to the Tribunal. On 26 July 2016, a case management conference took place at which the President gave directions for trial. On 14 September 2016, the President heard GH and MJ's applications for security for costs and the claimant's application for costs management of the Tribunal proceedings. The President ordered that the Tribunal proceedings be subject to costs management and gave directions for a Costs Case Management Conference (CCMC) to take place ([2016] CAT 15). In his capacity as a judge of the High Court, the President made Orders that the claimant provide security for costs ([2016] EWHC 2315 (Ch)). On 19 September 2016, GH applied to set aside the Order for costs management in so far as it related to the proceedings between it and the claimant. On 30 September 2016, the President made an Order dismissing GH's application and a judgment explaining the reasons for that Order was handed down on 7 October 2016 ([2016] CAT 20). Also on 19 September 2016, GH applied to vary the order for costs of its security for costs application. On 3 November 2016, the President, in his capacity as a judge of the High Court, handed down a Judgment dismissing that application ([2016] EWHC 2789 (Ch)). The CCMC took place on 11 October 2016 and on 21 October 2016 the President handed down a Judgment setting GH's costs budget ([2016] CAT 21). A pre-trial review took place on 15 December 2016 at which the Chairman, Marcus Smith QC, made an Order dealing with various applications brought by GH and AM and also laid down further directions concerning the experts' joint statements. The MJ proceedings were withdrawn by consent on 6 January 2017. On 25 January 2017, the defendant filed an application for further directions. The Chairman gave a Ruling dismissing this application on 27 January 2017 ([2017] CAT 3). The main hearing of the GH proceedings took place over 10 days between 3 and 20 February 2017. A Ruling on the defendant's application of 9 February 2017 to admit evidence was handed down on 10 February 2017 ([2017] CAT 5). Judgment was handed down on 5 July ([2017] CAT 15), outside the period covered by this report.								
Labinvesta Limited v Dako Denmark A/S and Others Case: 1263/5/7/16 28 July 2016	16-17							Withdrawn
Notes								
By an Order dated 30 November 2016, the President granted the claimant permission to withdraw its claim.								
TFL v MasterCard Case: 1264/5/7/16 5 September 2016	16-17							Ongoing
Notes								
An application for permission to serve the claim form out of the jurisdiction on two defendants was determined on the papers by the President on 6 September 2016. An application to contest the Jurisdiction of the Tribunal was filed on 20 December 2016.								
Dixons Carphone PLC v MasterCard Case: 1265/5/7/16 7 September 2016	16-17							Ongoing
Notes								
An application for permission to serve the claim form out of the jurisdiction on two defendants was determined on the papers by the President on 9 September 2016. An application by the defendants to contest the jurisdiction of the Tribunal was filed on 29 November 2016.								

Case name, number and date registered	Year (1 April to 31 March)	Applications to intervene	Case management conferences	Hearings (and sitting days – excluding days limited to formal handing down of judgments)	Judgments (including interlocutory rulings and final judgments)	Date of judgment(s) on the main issues (and months from registration to judgment)	Requests for permission to appeal	Status at 31 March 2017
Walter Hugh Merricks CBE v Mastercard Incorporated and Others Case: 1266/7/16 8 September 2016	16-17		1	1	3			Ongoing
Notes Application to commence collective proceedings under section 47B of the 1998 Act (the CPO Application). The proposed collective proceedings would combine follow-on actions for damages arising from a decision of the European Commission of 19 December 2007 (COMP/34.579 MasterCard, COMP/36.518 EuroCommerce and COMP/38.580 Commercial Cards). A case management conference was held on 21 November 2016 at which the President gave directions for the hearing of the CPO Application. The CPO Application hearing was held between 18 and 20 January 2017.								
British Telecommunications PLC v Competition and Markets Authority (VULA CMA Costs) Case: 1267/3/12/16 8 September 2016	16-17							Ongoing
Notes Pursuant to Orders made in September and October 2016 and January 2017, the Chairman made various case management directions for the appeal to be determined on the papers. Judgment was handed down on 2 June 2017 ([2017] CAT 11), outside the period covered by this report. The appeal against the CMA's costs Order was largely dismissed.								
Europcar UK Limited v MasterCard Incorporated and Others Case: 1268/5/7/16 9 September 2016	16-17							Ongoing
Notes An application for permission to serve the claim form out of the jurisdiction on two defendants was determined on the papers by the President on 12 September 2016. An application by the defendants to contest the jurisdiction of the Tribunal was filed on 25 January 2017.								
British Airways PLC v MasterCard Incorporated and Others Case: 1269/5/7/16 12 September 2016	16-17							Stayed
Notes An application for permission to serve the claim form out of the jurisdiction on two defendants was determined on the papers by the President on 16 September 2016. Pursuant to a consent Order agreed between the parties, the proceedings have been stayed until further order.								

Case name, number and date registered	Year (1 April to 31 March)	Applications to intervene	Case management conferences	Hearings (and sitting days – excluding days limited to formal handing down of judgments)	Judgments (including interlocutory rulings and final judgments)	Date of judgment(s) on the main issues (and months from registration to judgment)	Requests for permission to appeal	Status at 31 March 2017	
Westpoint Group Trading Limited and Others v XL Farmcare UK Limited and Others Case: 1270/5/7/16 30 September 2016	16-17							Stayed	
Notes Upon the parties having agreed terms of settlement, the proceedings were stayed by a consent Order made on 18 January 2017.									
Intercontinental Exchange, Inc v Competition and Markets Authority Case: 1271/4/12/16 11 November 2016	16-17	1	1	1	2	2	6 Mar 2017 (3.83)	1	Closed
Notes A case management conference took place on 30 November 2016, at which the Chairman ordered that Cases: 1271/4/12/16 and 1272/4/12/16 be heard together. The main hearing took place on 23 and 24 January 2017. Judgment was handed down on 6 March 2017 ([2017] CAT 6). On 24 March 2017, the Tribunal gave a Ruling ([2017] CAT 8) in relation to costs. On 10 May 2017, outside the period covered by this report, the Court of Appeal refused ICE permission to appeal the Tribunal's substantive Judgment.									
Intercontinental Exchange, Inc v Competition and Markets Authority Case: 1272/4/12/16 17 November 2016	16-17	1							Closed
Notes See notes in respect of Case: 1271/4/12/16.									
Labinvesta Limited v Dako Denmark Case: 1273/5/7/16 25 November 2016	16-17								Ongoing
Notes On 12 June 2017, outside the period covered by this report, the President granted the claimant permission to withdraw its claim.									
Flynn Pharma Limited and Another v Competition and Markets Authority (Interim Relief) Case: 1274/1/12/16 (IR) 23 December 2016	16-17			1	1	1	19 Jan 2017 (0.9)		Closed
Notes Application by Flynn for interim relief in respect of a decision of the CMA of 7 December 2016 (Case CE/9742-13: Unfair pricing in respect of the supply of phenytoin sodium capsules in the UK). The application was heard on 17 January 2017. The Chairman handed down a Judgment dismissing the application, on 19 January 2017 ([2017] CAT 1).									

Case name, number and date registered	Year (1 April to 31 March)	Applications to intervene	Case management conferences	Hearings (and sitting days – excluding days limited to formal handing down of judgments)	Judgments (including interlocutory rulings and final judgments)	Date of judgment(s) on the main issues (and months from registration to judgment)	Requests for permission to appeal	Status at 31 March 2017
Flynn Pharma Limited and Flynn Pharma (Holdings) Limited v Competition and Markets Authority Case: 1275/1/12/17 7 February 2017 Notes At a case management conference which took place on 8 March 2017, the Chairman made a Ruling refusing two third party applications to intervene ([2017] CAT 7) and ordered that the appeal be heard with Case: 1276/1/12/17. The main hearing has been listed to commence on 30 October 2017, with a time estimate of four weeks.	16-17	3	1		1			Ongoing
Pfizer Inc. and Pfizer Limited v Competition and Markets Authority Case: 1276/1/12/17 7 February 2017 Notes See notes in respect of Case: 1275/1/12/17.	16-17	3						Ongoing
(1) Balmoral Tanks Limited and (2) Balmoral Group Holdings Limited v Competition and Markets Authority Case: 1277/1/12/17 20 February 2017 Notes By an Order dated 21 March 2017, the Chairman gave directions regarding the future conduct of the case. The main hearing has been provisionally listed for four days commencing on 17 July 2017.	16-17							Ongoing
Total	16-17	35	20	18	66	32	4	

Overall case activity within the period 01/04/2016 to 31/03/2017

	2016/17	2015/16	2014/15
Appeals, applications and claims received of which:	29	11	10
section 46 Competition Act 1998 ¹	8	0	0
section 47 Competition Act 1998 ²	0	0	0
section 47A Competition Act 1998 ³	12	6	3
section 47B Competition Act 1998 ⁴	2	0	0
section 120 Enterprise Act 2002 ⁵	2	1	3
section 179 Enterprise Act 2002 ⁶	0	0	3
section 192 Communication Act 2003 ⁷	4	3	1
section 317 Communications Act 2003 ⁸	0	1	0
applications for interim relief ⁹	1	0	0
Applications to intervene	35	9	26
Case management conferences held	20	4	6
Hearings held (sitting days)	18(66)	3(25)	10(16)
Judgments handed down of which:	32	13	25
Judgments disposing of main issue or issues	5	3	5
Judgments on procedural and interlocutory matters	20	6	10
Judgments on ancillary matters (e.g. costs)	7	4	10
Orders made	105	52	114

1. An appeal by a party to an agreement or conduct in respect of which the CMA (or one of the other regulators with concurrent powers to apply the 1998 Act) has made an "appealable decision".
2. An appeal against an "appealable decision" made by the CMA or other regulator with concurrent powers to apply the 1998 Act and made by a third party with a sufficient interest in the decision not otherwise entitled to appeal the decision pursuant to section 46 of the 1998 Act.
3. A claim for damages, any other claim for a sum of money or, in proceedings in England, Wales or Northern Ireland, a claim for an injunction by a person who has suffered loss or damage as a result of an infringement or an alleged infringement of the 1998 Act or of EU competition law.*
4. Until 1 October 2015, a claim for damages or other claim for a sum of money brought by a "specified body" on behalf of two or more consumers. After 1 October 2015, proceedings brought before the Tribunal combining two or more claims to which section 47A applies ("collective proceedings").*
5. An application by "any person aggrieved" by a decision of the CMA or the Secretary of State in connection with a reference or possible reference in relation to a relevant merger situation or special merger situation under the 2002 Act.
6. An application by "any person aggrieved" by a decision of the CMA or the Secretary of State in connection with a market investigation reference or possible market investigation reference under the 2002 Act.
7. An appeal by "a person affected" by a decision of OFCOM or of the Secretary of State in relation to matters concerning telecommunications and data services in the UK.
8. An appeal by "a person affected" by a decision of OFCOM to exercise its Broadcasting Act power for a competition purpose (pursuant to Section 317 of the 2003 Act).
9. Applications for interim relief pursuant to Rule 24 of the Tribunal Rules 2015.

*On the 1 October 2015, the Consumer Rights Act 2015 came into force. This amended sections 47A and 47B of the 1998 Act.

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Tribunal's and CS's Accountability Report for the year ended 31/03/2017

Director's Report

In legal terms, the Tribunal and the CS are two separate bodies. In practice, the CS provides the means by which the Tribunal manages itself – the CS's entire staff, premises and other resources being fully deployed in the daily work of the Tribunal.

The Tribunal's membership comprises: the President, Sir Peter Roth; the members of the panel of Chairmen; the members of the panel of Ordinary Members; and the Registrar, Charles Dhanowa.

The President, the Registrar and a Non-Executive Member, Susan Scholefield, constitute the Board of the CS. Iliia Bowles, Tribunal/CS Director, Operations, acts as the secretary to the Board meetings. The Board ensures that the resources formally vested in the CS are fully and efficiently utilised in the work of the Tribunal and that the Tribunal/CS functions as a single integrated organisation.

The CS maintains a Register of Interests detailing any directorships or other significant interests held by CS Board members, a copy of which is published on the Tribunal's website, www.catribunal.org.uk.

The work of the Tribunal/CS is financed entirely through grant-in-aid from BEIS and administered by the CS. The Registrar is the Accounting Officer and is responsible for the proper use of these funds.

Statement of the Accounting Officer's Responsibilities in Respect of the Tribunal and the CS

Under Paragraph 12 of Schedule 3 of the Enterprise Act 2002 (2002 Act), the CS is required to prepare a statement of accounts for the Tribunal and the CS for each financial year in the form and on the basis determined by the Secretary of State, with the consent of HM Treasury. Each set of accounts is prepared on an accruals basis and must give a true and fair view of the state of affairs of the Tribunal and the CS at the year end and of operating costs, cash flows and total recognised gains and losses for the financial year.

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

- observe the accounts directions issued by the Secretary of State, including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis;
- make judgements and estimates on a reasonable basis;
- state whether applicable accounting standards have been followed and disclose and explain any material departures in the financial statements; and
- prepare the financial statements on a going concern basis.

The Accounting Officer for BEIS has designated the Registrar of the Tribunal as Accounting Officer for both the Tribunal and the CS (the Accounting Officer). The responsibilities of the Accounting Officer (which include responsibility for the propriety and regularity of the public finances and for the keeping of proper records) are set out in the Accounting Officer's Memorandum issued by HM Treasury and published in Managing Public Money.

Disclosure of relevant audit information

So far as the Accounting Officer is aware:

- there is no relevant audit information of which the Tribunal/CS's external auditors are unaware;
- the Accounting Officer has, to the best of his knowledge, taken all the steps that he ought to have taken to make himself aware of any relevant audit information and to establish that the Tribunal/CS's external auditors are aware of that information;
- this annual report and accounts, as a whole, is fair, balanced and understandable;
- the Accounting Officer takes personal responsibility for this annual report and accounts and the judgement required for determining that it is fair, balanced and understandable within the format mandated by Government Financial Reporting Manual (FRM) and other requirements of the government accounting system.

Governance Statement

Purpose

The Governance Statement (the Statement) is intended to provide a clear picture of the structure of control systems in place in the organisation for the management of risk. The Statement identifies and prioritises the risks to the performance of the organisation's statutory functions, evaluates the likelihood of those risks materialising and their likely effect and indicates how they should be managed efficiently, effectively and economically. The Statement also informs the Accounting Officer of how well internal controls operated in the year and assists in making informed decisions about progress against the Business Plan.

Scope of responsibility

The Accounting Officer has ensured that a system of governance and internal controls is in place to support the performance of the CS's and the Tribunal's statutory functions, whilst safeguarding the public funds and departmental assets for which the Accounting Officer is responsible (in accordance with the responsibilities assigned to him in the HM Treasury publication Managing Public Money). The Accounting Officer has been assisted in this by the Board and the Audit and Risk Committee of the CS to which reports are regularly made.

CS's internal auditors, the Government Internal Audit Agency (GIAA), provide advice and guidance on risk management, governance and accountability issues. CS's external auditors, the National Audit Office (NAO), provide assurance on the truth and fairness of the CS financial statements and the regularity of its expenditure. Further advice and guidance is also available from the CS's sponsor team in BEIS. The Accounting Officer is directly responsible to the Accounting Officer of BEIS and to Parliament.

CS's governance structure

The President, a Non-Executive Member, Susan Scholefield, and the Registrar constitute the formal membership of the CS Board, which during the year under review met three times to consider the strategic direction of the organisation. An additional member is currently being recruited amongst the existing Tribunal's Chairmen. The President and the Registrar have a detailed knowledge of the working of the Tribunal and the CS whilst Susan Scholefield provides the Board with wider knowledge and experience of strategic organisational and corporate governance matters. The Director, Operations acts as secretary to the Board. Reports on workload, financial and administrative matters and the work

of the Audit and Risk Committee are standing agenda items for Board meetings. All Board meetings during the year were fully attended. Minutes of the Board meetings are routinely published on the Tribunal's website.

The Audit and Risk Committee is chaired by Susan Scholefield and, during 2016/17, comprised two members of the Tribunal, Stephen Harrison and Brian Landers, both with considerable accounting experience. Stephen Harrison resigned from the Tribunal in March this year; a new member of the Committee will be appointed in due course.

Meetings of the Audit and Risk Committee are attended by representatives of both the CS's internal and external auditors and often by a representative of the sponsor team at BEIS. The Audit and Risk Committee reviews the financial performance of the Tribunal/CS and examines the annual report and accounts prior to publication. At each meeting, auditors and committee members are offered the opportunity of a private meeting without CS personnel being present so that management performance can be discussed. The Director, Operations acts as secretary to the Audit and Risk Committee. A majority of the members of the Committee attended each of its meetings during the year.

Risk and internal control framework

The CS maintains a risk register which highlights the strategic risks faced by the organisation. Risks are rated according to their impact and likelihood. The register is kept under review by the Registrar and the Director, Operations, with input from the other risk owners, and is examined regularly by the Audit and Risk Committee. The CS endeavours to ensure that there is a strong understanding of risk throughout the organisation and that Tribunal members and CS staff are fully aware of risks in the performance of their duties.

Detailed monthly management accounts are circulated to the Registrar, Director, Operations, BEIS sponsor team and Audit and Risk Committee members and attendees. Quarterly grant-in-aid requests provide BEIS with highly detailed information on the CS's financial position. In addition, CS's senior management meets BEIS staff regularly to share management and financial information.

The CS has a clear strategic aim which is the performance of its statutory purpose to fund and provide support services to the Tribunal. This is underpinned by the CS Business Plan. The Business Plan is reviewed every year, approved by the CS Board and copied to BEIS for information. The plan includes key business objectives for the year.

The majority of CS contractors are selected from the Crown Commercial Service (CCS), an executive agency sponsored by the Cabinet Office that provides centralised commercial and procurement services for the Government and the UK public sector, or from other Government approved procurement frameworks.

In accordance with BEIS policy, the CS has put in place preventative measures to lessen the risk of fraud.

During the year under review, one individual providing services to the CS was not paid through the payroll system. As agreed with BEIS, steps were taken to verify full compliance with tax requirements regarding this matter. For this individual, IR35 (Intermediaries Legislation) does not apply.

Internal audit review

The internal auditors report on the adequacy and effectiveness of the CS's systems of internal control and provide recommendations for improvement to senior management who undertake to respond within agreed timescales. As stated above, internal audit services are provided by the GIAA and their work complies with Public Sector Internal Audit Standards.²

² <http://www.cipfa.org/policy-and-guidance/standards/public-sector-internal-audit-standards>

In the financial year ended 31 March 2017, Internal Audit work included the annual audit of key financial and accounting controls as well as an audit of the system of governance in place to support the performance of the CS's and the Tribunal's statutory functions. On both assignments, the internal auditors provided "moderate" assurance on the adequacy and effectiveness of CAT/CS's framework of governance, risk management and control.

Data security

The Accounting Officer is the Senior Information Risk Owner and is supported by a Departmental Security Officer (DSO) and an IT Security Officer (ITSO). There were no incidents which required reporting to the Information Commissioner's Office during the year.

All members of staff routinely and once a year complete the online information awareness training made available by Civil Service Learning via BEIS. In July last year, all Tribunal members received a security briefing on data handling by the DSO and ITSO. A similar briefing for newly appointed members will be arranged during financial year 2017/18.

Review of effectiveness

The Accounting Officer is responsible for reviewing the effectiveness of the CS's governance, risk management and internal control systems. The Accounting Officer's review is informed by the work of the relevant CS managers, advice from the Audit and Risk Committee and the reports of the internal and external auditors.

The Accounting Officer's overall conclusion is that the CS has established a solid governance structure and put in place a range of systems and processes to support and maintain that structure although some small adjustments identified by the work of the internal auditors are required to enhance it further.

Remuneration and Staff Report for the Tribunal and the CS for the Year Ended 31/03/2017

Remuneration policy

The remuneration of the President and the Registrar is determined by the Secretary of State under Schedule 2 of the 2002 Act.

The President is a High Court Judge and his salary is set at the applicable level in the judicial salaries list. On 1 April 2016, the President's salary increased by 1 per cent as recommended by the Senior Salaries Review Body (which makes recommendations about the pay of the senior civil service, senior military personnel and the judiciary). The President's salary is paid by the Ministry of Justice (MoJ) and invoiced to the CS.

The salary of the Registrar is linked to judicial salaries as determined by the Secretary of State. For 2016/17, the salary of the Registrar increased by 1 per cent in accordance with government pay limits.

The salary costs of the President are charged to the Tribunal's Statement of Comprehensive Net Expenditure. The salary costs of the Registrar are charged to the CS's Statement of Comprehensive Net Expenditure.

Fee-paid Tribunal Chairmen (i.e. those Tribunal Chairmen who do not hold full time judicial office) are remunerated at a rate of £600 per diem, a rate which was set at the inception of the Tribunal in 2003. Ordinary Members are remunerated at a per diem rate of £350, which increased to £400 with effect from 6 April 2017, outside of the period covered by this report. The cost of remuneration of fee-paid Tribunal Chairmen and Ordinary Members is charged to the Tribunal's Statement of Comprehensive Net Expenditure.

The Non-Executive Member of the CS is remunerated on a per diem basis, at a rate of £350, as determined by the Secretary of State pursuant to Schedule 3 of the 2002 Act. This rate has remained unchanged since 2003. The remuneration costs of the Non-Executive Member are charged to the CS's Statement of Comprehensive Net Expenditure.

The following sections provide details of the contracts, remuneration and pension interests of the President, Registrar and Non-Executive Member of the CS.

CS contracts

The President is appointed by the Lord Chancellor under Schedule 2 of the 2002 Act. The Registrar is appointed by the Secretary of State pursuant to section 12(3) of the 2002 Act. The Registrar's appointment must satisfy the requirements of Rule 4 of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648).

The Non-Executive Member of the CS is appointed by the Secretary of State under Schedule 3 of the 2002 Act. The appointment carries no right of pension, gratuity or allowance on its termination.

Remuneration

The following parts of the Remuneration Report have been audited.

Single total figure of remuneration

	Salary (£'000)		Pension benefits (to nearest £1,000) ³		Total (£'000)	
	2016/17	2015/16	2016/17	2015/16	2016/17	2015/16
President	175 – 180	175 – 180	92,000	91,000	270 – 275	265 – 270

In 2016/17, the full-time equivalent salary for the President's post was £175,000 – £180,000 (2015/16: £175,000 – £180,000).

Single total figure of remuneration

	Salary (£'000)		Non consolidated award (£'000)		Pension benefits (to nearest £1,000) ³		Total (£'000)	
	2016/17	2015/16	2016/17	2015/16	2016/17	2015/16	2016/17	2015/16
Registrar (Highest Paid Officer)	100 – 105	95 – 100	0 – 5	–	25,000	32,000	125 – 130	130 – 135
Median Total Remuneration (£)							40,174	40,838
Ratio							2.61	2.43

In 2016/17, the full-time equivalent salary for the Registrar's post was £100,000 – £105,000 (2015/16: £95,000 – £100,000).

Reporting bodies are required to disclose the relationship between the remuneration of the highest paid officer in their organisation and the median remuneration of the organisation's workforce. For 2016/17 and 2015/16 (as shown in the table above), the remuneration of the highest paid officer has been based on his actual remuneration. For this year, as there was an even number of employees, the median total remuneration was calculated as the average of the middle two employees' total remuneration.

In 2016/17, the fair pay ratio was 2.61 (2015/16: 2.43). The increase was due to a change in the Registrar's pay package.

³ The value of pension benefits accrued during the year is calculated as (the real increase in pension multiplied by 20) plus (the real increase in any lump sum) less (the contributions made by the individual). The real increases exclude increases due to inflation or any increases or decreases due to a transfer of pension rights.

Total remuneration includes salary, non-consolidated performance-related pay and benefits in kind. It does not include severance payments, employer pension contributions and cash equivalent transfer value of pensions.

As fee-paid Tribunal Chairmen and Ordinary Members are only paid when engaged in Tribunal work and the Non-Executive Member of the CS is paid on an ad-hoc basis, they are excluded from the calculation above.

The Non-Executive Member of the CS is remunerated at a rate of £350 per day (2015/16: £350 per day) and, as noted above, the rate has remained unchanged since 2003. Total remuneration in 2016/17 was £4,025 (2015/16: £4,025).

Benefits in kind

The CS does not provide any allowances or benefits in kind to the President, Registrar and its Non-Executive Member.

Untaken leave

The work of the Tribunal involves the conduct, within demanding timescales, of urgent, complex and novel cases of great importance to the parties concerned and the public interest. As the Tribunal/CS has a very small staff team, this can result, from time to time, in the unavoidable accumulation of untaken leave.

The Registrar's untaken leave liability accrual reduced by £1,000 to £19,000 in 2016/17; this only becomes payable by the CS upon cessation of employment, unless the leave is taken. The movement in this liability is reflected in the Statement of Comprehensive Net Expenditure and affects the CS's general fund.

Pensions Applicable to the Tribunal and the CS

Judicial pensions

The majority of the terms of the judicial pension arrangements are set out in (or in some cases are analogous to) the provisions of two Acts of Parliament: the Judicial Pensions Act 1981 and the Judicial Pensions and Retirement Act 1993.

The Judicial Pensions Scheme (JPS) is an unfunded public service scheme, providing pensions and related benefits for members of the judiciary. Participating judicial appointing or administering bodies make contributions known as Accruing Superannuation Liability Charges (ASLCs), to cover the expected cost of benefits under the JPS. ASLCs are assessed regularly by the Scheme's Actuary, the Government Actuary's Department (GAD).

The contribution rate, required from the judicial appointing or administering bodies to meet the cost of benefits accruing in the year 2016/17, has been assessed at 38.45 per cent of the relevant judicial salary. This includes an element of 0.25 per cent as a contribution towards the administration costs of the scheme.

Details of the Resource Accounts of the Ministry of Justice (MoJ) JPS can be found on the MoJ website.⁴

The Judicial Pension Scheme 2015 (JPS 2015), which came into effect on 1 April 2015, applies to all new members appointed from that date onwards and to those members and fee-paid judicial office-holders who are currently in service and who do not have transitional protection to allow them to continue as a member in the previous scheme. GAD have confirmed that JPS and MOJ have made provisions for pensions and long service awards for all fee-paid judicial office-holders, including Tribunal Chairmen, until 31 March 2017. Guidance is awaited for liability from 1 April 2017 onwards.

⁴ www.gov.uk/government/publications/judicial-pension-scheme-accounts-2015-to-2016

Civil Service pensions

Pension benefits are provided through the Civil Service pension arrangements. From 1 April 2015, a new pension scheme for civil servants was introduced – the Civil Servants and Others Pension Scheme or alpha, which provides benefits on a career average basis with a normal pension age equal to the member's State Pension Age (or 65 if higher). From that date, all newly appointed civil servants and the majority of those already in service joined alpha.

Prior to then, civil servants participated in the Principal Civil Service Pension Scheme (PCSPS), which included four sections: three providing benefits on a final salary basis (classic, premium or classic plus), with a normal pension age of 60; and one providing benefits on a whole career basis (nuvos), with a normal pension age of 65. 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, nuvos and alpha are increased annually in line with Pensions Increase legislation. Existing members of the PCSPS, who were within 10 years of their normal pension age on 1 April 2012, remained in the PCSPS after 1 April 2015. Those who were between 10 years and 13 years and 5 months from their normal pension age on 1 April 2012 are expected to switch into alpha sometime between 1 June 2015 and 1 February 2022. All members who switched to alpha have had their PCSPS benefits "banked", with those with earlier benefits in one of the final salary sections of the PCSPS having those benefits based on their final salary when they leave alpha.

Employee contributions are salary related and range between 3 per cent and 8.05 per cent of pensionable earnings for members of classic (and members of alpha, who were members of classic immediately before joining alpha) and between 4.6 per cent and 8.05 per cent for members of premium, classic plus, nuvos and alpha.

Benefits in classic accrue at the rate of 1/80th of final pensionable earnings for each year of service. In addition, a lump sum equivalent to three years initial pension is payable on retirement. For premium, benefits accrue at the rate of 1/60th of final pensionable earnings for each year of service. Unlike classic, there is no automatic lump sum. Classic plus is essentially a hybrid with benefits for service before 1 October 2002 calculated broadly as per classic and benefits for service from October 2002 worked out as in premium. In nuvos, a member builds up a pension based on his pensionable earnings during their period of scheme membership. At the end of the scheme year (31 March), the member's earned pension account is credited with 2.3 per cent of their pensionable earnings in that scheme year and the accrued pension is uprated in line with Pensions Increase legislation. Benefits in alpha build up in a similar way to nuvos, except that the accrual rate is 2.32 per cent. In all cases, members may opt to give up ("commute") pension for a lump sum up to the limits set by the Finance Act 2004.

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

Members joining from October 2002 may opt for either the appropriate defined benefit arrangement or a "money purchase" stakeholder pension with an employer contribution (partnership pension account).

The partnership pension account is a stakeholder pension arrangement, where employers make a basic contribution of between 8 per cent and 14.75 per cent (3 per cent and 12.5 per cent until 30 September 2015), depending on the age of the member, into a stakeholder pension product chosen by the employee from a panel of 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 0.5 per cent of pensionable salary (0.8 per cent until 30 September 2015) to cover the cost of centrally-provided risk benefit cover (death in service and ill health retirement).

The accrued pension figures quoted for members are the pension that those members are entitled to receive when they reach pension age or when they cease to be an active member of the scheme if they are already at or over pension age. The figures show pension earned in PCSPS or alpha, as appropriate. Where the official has benefits in both schemes, the figure quoted is the combined value of their benefits in the two schemes but part of that pension may be payable from a different age.

Further details about the Civil Service pension arrangements can be found at www.civilservicepensionscheme.org.uk.

Cash Equivalent Transfer Values

A Cash Equivalent Transfer Value (CETV) is the cash value of the pension scheme benefits accrued by a member at a particular point in time. It is the amount that is available to transfer to another pension scheme when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The benefits values are the member's accrued benefits and any contingent spouse's pension payable from the scheme.

CETVs are calculated in accordance with The Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2008 and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due when pension benefits are taken.

For the President (a member of the JPS), the pension figure shown below relates to the benefits that the post holder has accrued since being appointed as President of the Tribunal in November 2013. For the Registrar (a member of the PCSPS), the pension figure shown below relates to the benefits that the individual has accrued as a consequence of his entire membership to the pension scheme, not just his service in a senior capacity to which disclosure applies. The figure includes the value of any pension benefits in another scheme or arrangement which the member has transferred to the Civil Service pension arrangements. It also includes any additional pension benefits accrued to the member as a result of buying additional pension benefits at his own cost.

Real increase in CETV

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

(a) President's pension benefits

The President is a member of the JPS. For 2016/17, employer contributions of £69,000 (2015/16: £68,000) were payable to the JPS at a rate of 38.45 per cent (2015/16: 38.45 per cent) of pensionable pay.

The following part of the Remuneration Report has been audited.

President	Accrued pension as at 31 March 2017 and related lump sum £'000	Real increase in pension and related lump sum as at 31 March 2017 £'000	CETV at 31 March 2017 £'000	CETV at 31 March 2016 £'000	Employee contributions and transfers £'000	Real increase in CETV £'000
Pension	10 – 15	2.5 – 5	325	218	8	87
Lump sum	30 – 35	7.5 – 10				

(b) Registrar's pension benefits

The Registrar's pension benefits are provided through the Civil Service Pension arrangements. For 2016/17, employer contributions of £25,000 (2015/16: £24,000) were payable to the PCSPS at a rate of 24.5 per cent (2015/16: 24.5 per cent) of pensionable pay.

The following part of the Remuneration Report has been audited.

Registrar	Accrued pension at age 60 as at 31 March 2017 and related lump sum £'000	Real increase in pension and related lump sum at age 60 as at 31 March 2017 £'000	CETV at 31 March 2017 £'000	CETV at 31 March 2016 £'000	Employee contributions and transfers £'000	Real increase in CETV £'000
Pension	35 – 40	0 – 2.5	782	714	21	20
Lump sum	110 – 115	5 – 7.5				

Staff Report

Tribunal

(a) Remuneration costs for the fee-paid Tribunal Chairmen are shown in the table below.

	2016/17 £	2015/16 £
Heriot Currie QC	25,071	1,757
Peter Freeman CBE, QC (Hon)	50,914	27,686
Andrew Lenon QC	1,200	21,600
Hodge Malek QC	31,118	5,846
Marcus Smith QC	17,914	44,957

Fee-paid Tribunal Chairmen are remunerated at a rate of £600 per day (2015/16: £600 per day) or pro rata.

Salary costs of those Judges who hold full time judicial office and have been appointed or nominated to sit as Tribunal Chairmen are paid by the MOJ (in respect of Judges of the High Court of England and Wales), the Supreme Courts of Scotland (in respect of Judges of the Court of Session), or the Northern Ireland Courts and Tribunals Service (in respect of Judges of the High Court of Justice in Northern Ireland).

(b) Ordinary Members are remunerated at a rate of £350 per day (2015/16: £350 per day) – with effect from 6 April 2017, this rate has been increased to £400 per day. Total remuneration of £99,095 paid to Ordinary Members in 2016/17 (2015/16: £55,277) is included in the table in note (d) below.

(c) In 2016/17, benefits in kind of £2,384 (travel and subsistence) were paid to Heriot Currie (2015/16: £1,479). No other fee-paid Chairmen have received benefits in kind.

(d) Total cost of Tribunal Members' remuneration is shown in the table below.

	2016/17 £'000	2015/16 £'000
Members' remuneration (including the President, Chairmen and Ordinary Members)	405	335
Social security costs	49	38
Pension contributions for the President	69	68
Total Members' remuneration	523	441

CS

(a) Staff costs are shown in the table below. There were no temporary staff employed in the year.

	Total 2016/17 £'000	Total 2015/16 £'000
Wages and salaries	737	657
Social security costs	79	55
Other pension costs	155	136
Total employee costs	971	848

(b) There were no losses and/or special severance payments made in 2016/17.

(c) The average number of staff employed during the year (full time and part time) was 17 (2015/16: 16).

(d) The Tribunal/CS continues to maintain a diverse workforce. As at 31 March 2017, the gender breakdown of the 18 permanent members of staff was 9 male (50 per cent) and 9 female (50 per cent). One member of staff is a SCS equivalent.

(e) The staff absence rate (1 per cent of working days or 2.2 days sick days per annum per staff) is below the average for both the private sector and the civil service.

(f) We operate a fair recruitment policy which is based on merit and open to all, including those with a disability.

Parliamentary Accountability Disclosures (subject to audit)

Nothing to report.

Charles Dhanowa OBE, QC (Hon)

Registrar and Accounting Officer

14 July 2017

Tribunal's Audit Report

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 Appeal Tribunal for the year ended 31 March 2017 under the Enterprise Act 2002. The financial statements comprise the Statements of Comprehensive Net Expenditure, Financial Position, Cash Flows, Changes in Taxpayers' Equity 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 and Staff Report and the Parliamentary Accountability Disclosures that is described in that report as having been audited.

Respective responsibilities of the Board, Accounting Officer and auditor

As explained more fully in the Statement of Accounting Officer's Responsibilities, the Accounting Officer is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. My responsibility is to audit, certify and report on the financial statements in accordance with the Enterprise Act 2002. I conducted my audit in accordance with International Standards on Auditing (UK and Ireland). Those standards require me and my staff to comply with the Auditing Practices Board's Ethical Standards for Auditors.

Scope of the audit of the financial statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the Competition Appeal Tribunal's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Competition Appeal Tribunal; and the overall presentation of the financial statements. In addition, I read all the financial and non-financial information in the Annual Report to identify material inconsistencies with the audited financial statements and to identify any information that is apparently materially incorrect based on, or materially inconsistent with, the knowledge acquired by me in the course of performing the audit. If I become aware of any apparent material misstatements or inconsistencies, I consider the implications for my certificate.

I am required to obtain evidence sufficient to give reasonable assurance that the expenditure and income recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

Opinion on regularity

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

Opinion on financial statements

In my opinion:

- the financial statements give a true and fair view of the state of the Competition Appeal Tribunal's affairs as at 31 March 2017 and of the net expenditure for the year then ended; and
- the financial statements have been properly prepared in accordance with the Enterprise Act 2002 and Secretary of State's directions issued thereunder.

Opinion on other matters

In my opinion:

- the part of the Remuneration and Staff Report and the Parliamentary Accountability Disclosures to be audited have been properly prepared in accordance with Secretary of State's directions made under the Enterprise Act 2002; and
- the information given in the Performance Report and Accountability Report for the financial year for which the financial statements are prepared is consistent with the financial statements.

Matters on which I report by exception

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- adequate accounting records have not been kept or returns adequate for my audit have not been received from branches not visited by my staff; or
- the financial statements and the part of the Remuneration and Staff Report and the Parliamentary Accountability Disclosures to be audited are not in agreement with the accounting records and returns; or
- I have not received all of the information and explanations I require for my audit; or
- the Governance Statement does not reflect compliance with HM Treasury's guidance.

Report

I have no observations to make on these financial statements.

Sir Amyas C E Morse

17 July 2017

Comptroller and Auditor General

National Audit Office
 157-197 Buckingham Palace Road
 London
 SW1W 9SP

Tribunal's Statement of Comprehensive Net Expenditure for the year ended 31/03/2017

	Note	2016/17 £'000	2015/16 £'000
Expenditure:			
Members' remuneration costs	3(b)	(523)	(441)
Other operating charges	4(a)	(91)	(93)
Total Expenditure		(614)	(534)
Net Expenditure for the financial year		(614)	(534)

The notes on pages 68 to 71 form part of these accounts.

Tribunal's Statement of Financial Position as at 31/03/2017

	Note	2016/17 £'000	2015/16 £'000
Non current assets:			
Trade receivables and other receivables	5(a)	72	63
Total non current assets		72	63
Current assets:			
Trade receivables and other receivables	5(a)	162	112
Cash and cash equivalents		–	–
Total current assets		162	112
Total assets		234	175
Current liabilities:			
Trade payables and other payables	6(a)	(162)	(112)
Total current liabilities		(162)	(112)
Total assets less current liabilities		72	63
Non current liabilities:			
Provisions	7	(72)	(63)
Total non current liabilities		(72)	(63)
Assets less liabilities		–	–
Taxpayers' equity:			
General fund		–	–
Total taxpayers' equity		–	–

The notes on pages 68 to 71 form part of these accounts.

Charles Dhanowa OBE, QC (Hon)
 Registrar and Accounting Officer
 14 July 2017

Tribunal's Statement of Cash Flows for the year ended 31/03/2017

	Note	2016/17 £'000	2015/16 £'000
Cash flows from operating activities:			
Net operating cost		(614)	(534)
(Increase) in receivables		(59)	(61)
Increase/(decrease) in payables		50	53
Increase in provisions		9	8
Net cash (outflow) from operating activities		(614)	(534)
Cash flows from financing activities:			
Grant-in-aid	2	614	534
Increase/(Decrease) in cash in the period		—	—

The notes on pages 68 to 71 form part of these accounts.

Tribunal's Statement of Changes in Taxpayers' Equity for the year ended 31/03/2017

	General Fund
	£'000
Balance at 31 March 2015	–
Net operating cost for 2015/16	(534)
Net financing from BEIS for 2015/16	534
Balance at 31 March 2016	–
Net operating cost for 2016/17	(614)
Net financing from BEIS for 2016/17	614
Balance at 31 March 2017	–

The notes on pages 68 to 71 form part of these accounts.

Tribunal's notes to the accounts

1. Basis of preparation and statement of accounting policies

These financial statements have been prepared in accordance with the 2016/17 Government FReM. The accounting policies contained in the FReM apply International Financial Reporting Standards (IFRSs) as adapted or interpreted for the public sector and follow international accounting standards to the extent that it is meaningful to do so and appropriate to the public sector.

The Tribunal does not enter into any accounting transactions in its own right as the CS has a duty, under the Enterprise Act 2002, to meet all the expenses of operating the Tribunal. Accordingly, the Tribunal has no assets, liabilities, funds or cash flows.

In accordance with the FReM, the Tribunal is to prepare accounts on the basis that it has directly incurred the expenses relating to its activities. On that basis, therefore, the accounts of the Tribunal include those assets, liabilities and cash flows of the CS which relate to the Tribunal's activities.

Where the FReM permits a choice of accounting policy, the accounting policy which has been judged to be the most appropriate to the particular circumstances of the Tribunal, for the purpose of giving a true and fair view, has been selected. The Tribunal's accounting policies have been applied consistently in dealing with items considered material in relation to the accounts.

(a) Going concern

The financing of the Tribunal's liabilities is to be met by future grants of supply and the application of future income, both approved annually by Parliament. BEIS approval for the amounts required in respect of the year to 31 March 2018 was given in May 2017. It has therefore been considered appropriate to adopt a going concern basis for the preparation of these accounts.

(b) Accounting convention

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

(c) Basis of preparation of accounts

The FReM requires non-departmental public bodies to account for grant-in-aid received as financing. The CS draws down grant-in-aid on behalf of the Tribunal to fund the Tribunal's activities. The debtor balance of £162,000, shown in note 5a below, is of the equal amount to the liability of £162,000, shown in note 6a below, which represents the amount that the CS shall transfer to meet those liabilities.

(d) Pensions

Pension arrangements for the President are mentioned separately in the Remuneration Report. Fee-paid Tribunal Chairmen appointments are pensionable; Ordinary Members appointments are non-pensionable. We have included judicial pension contribution provisions in relation to our fee-paid Chairmen who have opted into the relevant judicial pension arrangements.

(e) In accordance with accounts directions issued by the Secretary of State, with the approval of HM Treasury, the Tribunal and the CS have prepared a joint Statement of Accounting Officer's Responsibilities and Corporate Governance Statement.

2. Government grant-in-aid

Total grant-in-aid allocated in financial year 2016/17 was £614,000 (2015/16: £534,000).

3. Members' remuneration

(a) The President and Chairmen are appointed by the Lord Chancellor upon the recommendation of the Judicial Appointments Commission. In addition, judges of the High Court of England and Wales, the Court of Session of Scotland and the High Court in Northern Ireland can be nominated (by the head of the judiciary for the relevant part of the United Kingdom) to sit as Tribunal Chairmen. Ordinary Members are appointed by the Secretary of State for a fixed term of up to eight years. The membership of the Tribunal is set out in the introduction to this report.

(b) Members' remuneration costs are shown in the table below.

	2016/17 £'000	2015/16 £'000
Members' remuneration (including the President, Chairmen and Ordinary Members)	405	335
Social security costs	49	38
Pension contributions for the President	69	68
Total Members' remuneration	523	441

4. Other operating charges

(a) Other operating charges are shown in the table below.

	2016/17 £'000	2015/16 £'000
Members' travel and subsistence	21	30
Members' PAYE and National Insurance on travel and subsistence expenses	11	16
Members' training	44	33
Long service award	9	8
Audit fees*	6	6
Total other operating charges	91	93

*Audit fees relate to statutory audit work. No fees were paid to the external auditors in relation to non-audit services.

(b) The long service award is explained in note 7 below.

5. Trade receivables and other receivables

(a) Analysis by type

	2016/17 £'000	2015/16 £'000
Amounts falling due within one year:		
Trade receivables and other receivables with the CS	162	112
Amounts falling due after more than one year:		
Trade receivables and other receivables with the CS	72	63
Total trade receivables and other receivables	234	175

6. Trade payables and other payables

(a) Analysis by type

	2016/17 £'000	2015/16 £'000
Amounts falling due within one year:		
Taxation and social security	26	25
Accruals	136	87
Total trade payables and other payables	162	112

The payables balance represents the total liabilities outstanding at the balance sheet date that directly relate to the activities of the Tribunal. The CS meets all expenses relating to the Tribunal's activities.

7. Provisions for liabilities and charges

	Long service award costs £'000
Balance at 31 March 2016	63
Provided in the year	9
Balance at 31 March 2017	72

The provision made in the year relates to the expected cost of the President's long service award which becomes payable on retirement and will be met by the CS. The liability was calculated by the GAD and is based on the President's judicial grade and length of service. The level of the long service award is dependent on the tax paid by the member of the JPS on his retirement lump sum. For this year's disclosures, the GAD has assumed that tax is paid on the lump sum at a rate of 45 per cent, the prevailing tax rate as at 31 March 2017. However, if the President is required to pay tax on the lump sum at a different rate, the long service award would differ. The value of the long service award payable to the current President is £28,000. The remaining provision held of £44,000 is payable to the previous holder of the office of President, at his retirement date.

8. Related party transactions

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

9. Events after the reporting period

There were no events after the reporting period to report. These financial statements were authorised for issue on 17 July 2017, the date of certification by the Comptroller and Auditor General.

CS's Audit Report

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 Service for the year ended 31 March 2017 under the Enterprise Act 2002. The financial statements comprise the Statements of Comprehensive Net Expenditure, Financial Position, Cash Flows, Changes in Taxpayers' Equity 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 and Staff Report and the Parliamentary Accountability Disclosures that is described in that report as having been audited.

Respective responsibilities of the Board, Accounting Officer and auditor

As explained more fully in the Statement of Accounting Officer's Responsibilities, the Accounting Officer is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. My responsibility is to audit, certify and report on the financial statements in accordance with the Enterprise Act 2002. I conducted my audit in accordance with International Standards on Auditing (UK and Ireland). Those standards require me and my staff to comply with the Auditing Practices Board's Ethical Standards for Auditors.

Scope of the audit of the financial statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the Competition Service's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Competition Service; and the overall presentation of the financial statements. In addition, I read all the financial and non-financial information in the Annual Report to identify material inconsistencies with the audited financial statements and to identify any information that is apparently materially incorrect based on, or materially inconsistent with, the knowledge acquired by me in the course of performing the audit. If I become aware of any apparent material misstatements or inconsistencies, I consider the implications for my certificate.

I am required to obtain evidence sufficient to give reasonable assurance that the expenditure and income recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

Opinion on regularity

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

Opinion on financial statements

In my opinion:

- the financial statements give a true and fair view of the state of Competition Service's affairs as at 31 March 2017 and of the net expenditure for the year then ended; and
- the financial statements have been properly prepared in accordance with the Enterprise Act 2002 and the Secretary of State's directions issued thereunder.

Opinion on other matters

In my opinion:

- the part of the Remuneration and Staff Report and the Parliamentary Accountability Disclosures to be audited have been properly prepared in accordance with the Secretary of State's directions made under the Enterprise Act 2002; and
- the information given in the Performance Report and Accountability Report for the financial year for which the financial statements are prepared is consistent with the financial statements.

Matters on which I report by exception

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- adequate accounting records have not been kept or returns adequate for my audit have not been received from branches not visited by my staff; or
- the financial statements and the part of the Remuneration and Staff Report and the Parliamentary Accountability Disclosures to be audited are not in agreement with the accounting records and returns; or
- I have not received all of the information and explanations I require for my audit; or
- the Governance Statement does not reflect compliance with HM Treasury's guidance.

Report

I have no observations to make on these financial statements.

Sir Amyas C E Morse

17 July 2017

Comptroller and Auditor General

National Audit Office
157-197 Buckingham Palace Road
London
SW1W 9SP

CS's Statement of Comprehensive Net Expenditure for the year ended 31/03/2017

	Note	2016/17 £'000	2015/16 £'000
Expenditure:			
Funding the activities of the Tribunal		(614)	(534)
CS and Audit and Risk Committee Members' remuneration	3(a)	(8)	(8)
Staff costs	4(a)	(971)	(848)
Other expenditure	6	(2,109)	(2,067)
Depreciation	6	(190)	(158)
Loss on disposal of property, plant and equipment	6	(–)	(1)
Total expenditure		(3,892)	(3,616)
Income:			
Other income	7	6	5
Net expenditure		(3,886)	(3,611)
Interest received	7	–	1
Net expenditure after interest		(3,886)	(3,610)
Net expenditure after taxation		(3,886)	(3,610)

All activities were continuing during the year.

The notes on pages 78 to 87 form part of these accounts.

CS's Statement of Financial Position as at 31/03/2017

	Note	31 March 2017 £'000	31 March 2016 £'000
Non current assets:			
Property, plant and equipment	8	270	83
Intangible assets	9	190	334
Total non current assets		460	417
Current assets:			
Trade receivables and other receivables	10(a)	60	55
Cash and cash equivalents	11	522	740
Total current assets		582	795
Total assets		1,042	1,212
Current liabilities:			
Trade payables and other payables	12(a)	(345)	(293)
Total current liabilities		(345)	(293)
Total assets less current liabilities		697	919
Non current liabilities:			
Financial liabilities	12(a)	(1,442)	(1,561)
Provisions	13	(72)	(63)
Total non current liabilities		(1,514)	(1,624)
Assets less liabilities		(817)	(705)
Taxpayers' equity:			
General fund		(817)	(705)
Total taxpayers' equity		(817)	(705)

The statement of financial position shows a negative reserves balance because of timing differences between consumption and payment. The CS draws grant-in-aid to cover its cash requirements.

The notes on pages 78 to 87 form part of these accounts.

Charles Dhanowa OBE, QC (Hon)

Registrar and Accounting Officer

14 July 2017

CS's Statement of Cash Flows for the year ended 31/03/2017

	Note	2016/17 £'000	2015/16 £'000
Cash flows from operating activities:			
Net deficit before interest		(3,886)	(3,611)
Adjustments for non-cash transactions	6	190	159
(Increase)/Decrease in receivables		(5)	289
(Decrease) in payables		(67)	(259)
Increase in provisions	13	9	8
Net cash (outflow) from operating activities		(3,759)	(3,414)
Cash flows from investing activities:			
Interest received	7	–	1
Property, plant and equipment purchases	8	(225)	(12)
Intangible asset purchases	9	(8)	(115)
Proceeds of disposal of property, plant and equipment		–	1
Net cash generated from/(used in) investing activities		(233)	(125)
Cash flows from financing activities:			
Grant-in-aid from BEIS	2	3,774	3,530
Net decrease in cash and cash equivalents in the period	11	(218)	(9)
Cash and cash equivalents at the beginning of the period	11	740	749
Cash and cash equivalents at the end of the period	11	522	740

The notes on pages 78 to 87 form part of these accounts.

CS's Statement of Changes in Taxpayers' Equity for the year ended 31/03/2017

	General Fund
	£'000
Balance at 31 March 2015	(625)
Net operating cost for 2015/16	(3,610)
Net financing from BEIS for 2015/16	3,530
Balance at 31 March 2016	(705)
Net operating cost for 2016/17	(3,886)
Net financing from BEIS for 2016/17	3,774
Balance at 31 March 2017	(817)

The notes on pages 78 to 87 form part of these accounts.

CS's notes to the accounts

1. Statement of accounting policies

These financial statements have been prepared in accordance with the FReM. The accounting policies contained in the FReM apply IFRSs as adapted or interpreted for the public sector and follow international accounting standards to the extent that it is meaningful to do so and appropriate to the public sector.

Where the FReM permits a choice of accounting policy, the accounting policy which has been judged to be the most appropriate to the particular circumstances of the CS, for the purpose of giving a true and fair view, has been selected. The CS's accounting policies have been applied consistently in dealing with items considered material in relation to the accounts.

(a) Going concern

On the basis that approval for the amounts required in respect of the year to 31 March 2018 was received in May 2017, a going concern basis has been adopted for the preparation of these financial statements.

(b) Accounting convention

The financial statements have been prepared according to the historic cost convention. Depreciated historical cost is used as a proxy for fair value as this realistically reflects consumption of the assets. Revaluation would not cause a material difference.

(c) Basis of preparation of accounts

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

Schedule 3 of the Enterprise Act 2002 requires the CS to prepare separate statements of accounts in respect of each financial year for itself and for the Tribunal.

In accordance with accounts directions issued by the Secretary of State for BEIS (with the approval of HM Treasury), the Tribunal and the CS have prepared a joint Statement of Accounting Officer's responsibilities and Corporate Governance Statement.

(d) Grant-in-aid

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

The FReM requires non-departmental public bodies to account for grant-in-aid received as financing which is credited to the general reserve as it is regarded as contributions from a sponsor body.

(e) Non current assets

All assets are held by the CS in order to provide support services to the Tribunal. Items with a value of £500 or over in a single purchase or grouped purchases where the total group purchase is £500 or more are capitalised.

(f) Depreciation

Depreciation is provided for all non current assets using the straight line method at rates calculated to write off, in equal instalments, the cost of the asset over its expected useful life. Non current assets are depreciated from the month following acquisition and are not depreciated in the year of disposal.

(i) Useful lives of property, plant and equipment assets:

Laptops and printers	3 years
Servers and audio visual equipment	5 years
Office equipment	5 years
Furniture	7 years

(ii) Useful lives of intangible non current assets:

Software licences	1 to 3 years
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(g) Taxation

(i) The CS is liable for corporation tax on interest earned on bank deposits.

(ii) The CS is not registered for VAT and therefore cannot recover any VAT. Expenditure in the income and expenditure account is shown inclusive of VAT. VAT on the purchase of non current assets is capitalised.

(h) Pension costs

Present and past employees are covered under the provisions of the PCSPS or alpha scheme. The CS pays recognised employer's pension contributions for all its employees, for the entire duration of their employment. Liability for payment of future benefits is a charge on the PCSPS and alpha scheme.

(i) Income

The CS's main source of income is from its website and library service (see note 7). The income is recognised when the service is provided.

(j) Operating leases

Rentals payable under operating leases are charged to the income and expenditure account on a straight line basis over the 20 year term of the Memorandum of Terms of Occupation (MOTO) in respect of the Tribunal/CS's accommodation in Victoria House.

(k) Financial instruments

Financial instruments play a limited role in creating and managing risk. The majority of the financial instruments for the CS relate to the purchase of non financial items and therefore pose little credit, liquidity or market risk.

(i) Financial assets

The CS holds financial assets which comprise cash at bank and in hand and receivables, classified as loans and receivables. These are non-derivative financial assets with fixed or determinable payments that are not traded in an active market. Since these balances are expected to be realised within 12 months of the reporting date, there is no material difference between fair value, amortised cost and historical cost.

(ii) Financial liabilities

The CS has financial liabilities which comprise payables and non-current payables. The current payables are expected to be settled within 12 months of the reporting date. There is no material difference between fair value, amortised cost and historical cost for both current and non-current payables.

(l) IFRSs issued but not yet effective

Changes to IFRS9 (Financial Instruments) and IFRS15 (Revenue from Contracts with Customers) will become effective for accounting periods beginning on or after 1 January 2018. We do not expect these to have a significant impact on the CS's financial statements.

(m) Reserves

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

(n) Provisions

The CS makes provision for legal or constructive obligations, which are of uncertain timing or amount at the balance sheet date, on the basis of the best estimate of the expenditure required to settle the obligation. There is no discount applied to the provision. Specific assumptions are given in note 13.

2. Government grant-in-aid

	2016/17	2015/16
	£'000	£'000
Allocated by BEIS	4,597	4,463
Total drawn down	3,774	3,530

3. The CS and Audit and Risk Committee Members' remuneration

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

	2016/17	2015/16
	£'000	£'000
CS and Audit and Risk Committee Members' remuneration	8	8
Social security costs	–	–
Total CS and Audit and Risk Committee Members' remuneration	8	8

(b) The President's and the Registrar's salary costs are mentioned in the Remuneration and Staff Report.

(c) The remuneration of Susan Scholefield, the CS Non-Executive Member and Chairman of the CS Audit and Risk Committee and CS Board, of £4,025 (2015/16: £4,025), is mentioned in note 3(a) above. The post is remunerated at a rate of £350 per day, unchanged since 2003, and is non-pensionable.

4. Staff related costs and numbers

(a) Information on staff related costs is shown in the table below.

	Total 2016/17	Permanently employed staff 2016/17	Total 2015/16	Permanently employed staff 2015/16	Temporary employed staff 2015/16
	£'000	£'000	£'000	£'000	£'000
Wages and salaries	737	737	657	634	23
Social security costs	79	79	55	55	–
Other pension costs	155	155	136	136	–
Total employee costs	971	971	848	825	23

5. Pension costs

The PCSPS and alpha scheme are unfunded multi-employer defined benefit schemes and the CS is therefore unable to identify its share of the underlying assets and liabilities. Further information can be found on the resource accounts of the Cabinet Office Civil Service Pensions website www.civilservicepensionscheme.org.uk.

For 2016/17, employer contributions of £151,353 (2015/16: £134,000) were payable to the PCSPS and alpha scheme at one of the four rates available in the range of 20 to 24.5 per cent (2015/16: 16.7 to 24.3 per cent) of pensionable pay, based on salary bands. The schemes' actuary reviews employer contributions every four years following a full scheme valuation. The contribution rates reflect benefits as they are accrued, not when the costs are actually incurred, and reflect past experience of the schemes.

Employees can opt to open a partnership pension account, which is a stakeholder pension with an employer contribution. Employers' contributions of £2,604 (2015/16: £1,465) were paid to Standard Life, one of the PCSPS appointed stakeholder pension provider. Employer contributions are age-related and ranged from 3.0 to 12.5 per cent of pensionable pay until 30 September 2015 and 8.0 to 14.75 per cent of pensionable pay from 1 October 2015 onwards. Employers match employee contributions up to 3 per cent of pensionable pay. In addition, employer contributions of £122 of pensionable pay (2015/16: £100), were payable to the PCSPS to cover the cost of the future provision of lump sum benefits on death in service and ill health retirement of these employees (these contributions are calculated at 0.8 per cent until 30 September 2015 and 0.5 per cent from 1 October 2015).

6. Other expenditure

	2016/17	2015/16
	£'000	£'000
Hire of plant and machinery	4	4
Other operating leases*	940	936
Non case related expenditure including internal audit fees	10	13
IT service fees	51	111
Accommodation and utilities**	792	741
Travel, subsistence and hospitality	14	20
Other administration including case related expenditure	280	221
Audit fees***	18	21
Non cash item		
Depreciation and loss on disposed of property, plant and equipment	190	159
Total other expenditure	2,299	2,226

*Other operating lease costs relate to the rental of office space at Victoria House, where the CS is a tenant of the CMA under a MOTO arrangement. The MOTO lasts for the duration of the CMA's 20 year lease, which commenced in September 2003.

**It is the CS's policy not to charge HMCTS and other government bodies for using Tribunal/CS's court facilities.

***Audit fees relate to statutory audit work.

7. Tribunal/CS's income and interest received

	2016/17	2015/16
	£'000	£'000
Website and library service income	6	5
Gross interest received	—	1
Total income	6	6

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

The website income relates to a contract with Bloomberg, a US publisher, for the non-exclusive use of Tribunal's information published on the Tribunal's website. The library service income relates to a contract with LexisNexis Butterworths for inclusion of the Tribunal's Guide to Proceedings in one of their publications.

8. Property, plant and equipment

	Information Technology (IT) £'000	Furniture and Fittings (F&F) £'000	Office Machinery £'000	Total £'000
Cost or valuation:				
At 31 March 2016	263*	326*	41	630
Capitalisation of assets under construction	–	–	–	–
Additions	220	1	4	225
Disposals	9	–	3	12
At 31 March 2017	474	327	42	843
Depreciation:				
At 31 March 2016	204	315	28	547
Charged in year	28	4	6	38
Disposals	9	–	3	12
At 31 March 2017	223	319	31	573
Net book value at 31 March 2016	59	11	13	83
Asset financing:				
Owned	59	11	13	83
Net book value at 31 March 2017	251	8	11	270
Asset financing:				
Owned	251	8	11	270

*Included in the cost of fixed assets, shown in the table above, are IT assets with a value of £174,036 and F&F assets with a value of £180,784 which have been fully written down but are still in use.

	Information Technology (IT) £'000	Furniture and Fittings (F&F) £'000	Office Machinery £'000	Assets Under Construction £'000	Total £'000
Cost or valuation:					
At 31 March 2015	239*	338*	39	62	678
Capitalisation of assets under construction	62	–	–	(62)	–
Additions	9	1	2	–	12
Disposals	47	13	–	–	60
At 31 March 2016	263	326	41	–	630
Depreciation:					
At 31 March 2015	225	326	21	–	572
Charged in year	23	4	7	–	34
Disposals	44	15	–	–	59
At 31 March 2016	204	315	28	–	547
Net book value at 31 March 2015	14	12	18	62	106
Asset financing:					
Owned	14	12	18	62	106
Net book value at 31 March 2016	59	11	13	–	83
Asset financing:					
Owned	59	11	13	–	83

*Included in the cost of fixed assets, shown in the table above, are IT assets with a value of £176,053 and F&F assets with a value of £179,196 which have been fully written down but are still in use.

9. Intangible assets

	Purchased software licences £'000	SharePoint £'000	Total £'000
Cost or valuation:			
At 31 March 2016	567	126	693
Additions	2	6	8
At 31 March 2017	569	132	701
Amortisation:			
At 31 March 2016	329	30	359
Charged in the year	109	43	152
At 31 March 2017	438	73	511
Net book value at 31 March 2016	238	96	334
Net book value at 31 March 2017	131	59	190

	Purchased software licences £'000	SharePoint £'000	Assets under construction £'000	Total £'000
Cost or valuation:				
At 31 March 2015	246	–	333	579
Capitalisation of assets under construction	256	77	(333)	–
Additions	65	49	–	114
At 31 March 2016	567	126	–	693
Amortisation:				
At 31 March 2015	235	–	–	235
Charged in the year	94	30	–	124
At 31 March 2016	329	30	–	359
Net book value at 31 March 2015	11	–	333	344
Net book value at 31 March 2016	238	96	–	334

10. Trade and other receivables

(a) Analysis by type

	31 March 2017 £'000	31 March 2016 £'000
Amounts falling due within one year:		
Deposits and advances	10	9
Prepayments and accrued income	50	46
Total trade receivables and other receivables	60	55

There were no balances falling due after one year.

11. Cash and cash equivalents

	2016/17	2015/16
	£'000	£'000
Balance at 1 April	740	749
Net change in cash balances	(218)	(9)
Balance at 31 March	522	740
The following balances were held at 31 March:		
Commercial banks	522	740
Cash in hand	–	–
Balance at 31 March	522	740

12. Trade payables and other current/non-current liabilities

(a) Analysis by type

	31 March 2017	31 March 2016
	£'000	£'000
Amounts falling due within one year:		
Payables representing activities of the Tribunal at 31 March	162	112
Taxation and social security	20	19
Accruals	104	102
Untaken leave accrual	36	37
Deferred income rent free	23	23
Total amounts falling due within one year	345	293
Amounts falling due after more than one year:		
Deferred income rent free	125	148
Operating lease liability	1,317	1,413
Total amounts falling due after more than one year	1,442	1,561

(b) Deferred income and operating lease liability

The deferred income in note 12(a) represents the value of the rent-free period for Victoria House.

In accordance with the principles of International Accounting Standards (IAS 17, Leases) and the supplementary guidance specified by the Standing Interpretation Committee (SIC) in SIC 15 (Operating leases incentives), the CS has spread the value of the initial five month rent-free period for Victoria House over the expected full 20 year length of the MOTO agreement.

The operating lease liability in note 12(a) represents obligations under operating leases which include an increase of 2.5 per cent compounded over every five years and equating to 13 per cent applied from September 2008 for land and buildings. The full cost of the operating lease has been spread on a straight line basis over the 20 year term of the MOTO arrangement. From 1 April 2014, VAT is no longer payable on the operating lease liability obligations.

Following the CMA's decision to exercise the break clause in their lease in September 2019, the CS has engaged in a direct dialogue with BEIS to discuss future options for their accommodation in Victoria House.

13. Provisions for liabilities and charges

	Long service award costs
	£'000
Balance at 31 March 2016	63
Provided in the year	9
Balance at 31 March 2017	72

The provision made in the year relates to the Tribunal's expected cost of the President's long service award which becomes payable on retirement. The CS will provide the finances to settle the Tribunal's liability. The liability has been calculated by the GAD and is based on the President's judicial grade and length of service. The level of the long service award is dependent on the tax paid by the President on his retirement lump sum. For this year's disclosures, the GAD have assumed that tax is paid on his lump sum at a rate of 45 per cent, the prevailing tax rate as at 31 March 2017. However, if the President is required to pay tax on the lump sum at a different rate, the long service award would differ.

The value of the long service award payable to the current President is £28,000. The remaining provision held of £44,000 is payable to the previous holder of the office of President, at his retirement date.

14. Commitments under operating leases

Commitments under operating leases show the rentals payable during the year following the year of these accounts; these rentals are given in the table below.

	31 March 2017	31 March 2016
	£'000	£'000
Obligations under operating leases comprise:		
Buildings:		
Not later than one year	1,059	1,059
Later than one year and not later than five years	4,723	4,584
Later than five years	1,789	2,990
Other:		
Not later than one year	4	3
Later than one year and not later than five years	2	6
Total obligations under operating leases	7,577	8,642

The obligations under operating leases include an increase of 2.5 per cent compounded over every five years and equating to 13 per cent applied from September 2008 for land and building.

Following the CMA's decision to exercise the break clause in their lease in September 2019, the CS has engaged in a direct dialogue with BEIS to discuss future options for their accommodation in Victoria House.

15. Financial instruments

IAS 32 Financial Instruments Presentation requires disclosure of the role that financial instruments have had during the period in creating or changing the risks that an entity faces in undertaking its activities. The CS has limited exposure to risk in relation to its activities.

The CS has no borrowings, relies on grant-in-aid from BEIS for its cash requirements and is therefore not exposed to liquidity, credit and market risks. The CS has no material deposits other than cash balances held in current accounts at a commercial bank. As all material assets and liabilities are denominated in sterling, the CS is not exposed to interest rate risk or currency risk. There was no difference between the book values and fair values of the CS's financial assets. Cash at bank was £522,000 as at 31 March 2017.

16. Related party transactions

During the year, the CS had various material transactions with the CMA relating mainly to the occupancy of Victoria House.

The CS received grant-in-aid from its sponsor department, BEIS, with whom it also had various other material transactions. In addition, the CS had material transactions with the MoJ and the Cabinet Office to which accruing superannuation liability charges and employee contributions were paid for the President and permanent staff respectively. Salary and national insurance for the President were also paid to the MoJ.

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

17. Events after the reporting period

There were no events to report after the reporting period. These financial statements were authorised for issue on 17 July 2017, the date of certification by the Comptroller and Auditor General.

Competition Appeal Tribunal
Victoria House, Bloomsbury Place
London, WC1A 2EB
Telephone: 020 7979 7979
Facsimile: 020 7979 7978

www.catribunal.org.uk