

**Meeting of the City of London Law Society Competition Law Committee
held at 12:30pm on 21 February 2023 in person and via videoconference**

Minutes

Attending:

Nicole Kar (NK)	Chair, Linklaters LLP
Ian Giles (IG)	Vice Chair, Norton Rose Fulbright LLP
Antonio Bavasso (AB)	Simpson Thatcher
Robert Bell (RB)	Memery Crystal
Tom Clare (TC)	Linklaters LLP
Angus Coulter (AC)	Hogan Lovells LLP
Mark Daniels (MD)	Norton Rose Fulbright LLP
Mark Jephcott (MJE)	Simmons & Simmons LLP
Mark Jones (MJO)	Jones Day
Dominic Long (DL)	Allen & Overy LLP
Becket McGrath (BM)	Euclid Law Ltd
Samantha Mobley (SM)	Baker & McKenzie
Nigel Parr (NP)	Ashurst LLP
Alex Potter (AP)	Freshfields Bruckhaus Deringer
Paula Riedel (PR)	Kirkland & Ellis LLP
Isabel Taylor (IT)	Slaughter and May

1 Minutes of the previous meeting

- 1.1 The minutes of the last meeting held on 17 October 2022 had been circulated in advance and were approved.

2 Forthcoming Committee Meetings

- 2.1 NK talked through the planned meetings for 2023 and noted that Will Hayter has confirmed that he can attend in July 2023. Additionally, NK mentioned that the Committee is trying to organise a discussion with the European Commission during the Keystone Conference. NK noted that she would update the Committee once this was confirmed.
- 2.2 NK also mentioned that Marcus Bokkerink, the Chair of the CMA, will speak to the Committee on 16 March 2023 and that Sarah Cardell, CEO of the CMA, is also planning to join. However the CMA has asked if the meeting can be moved to 1400-1600 instead of the usual time. NK asked if this would be acceptable to the Committee.
- 2.3 NP agreed that this new time would be acceptable as did other members of the Committee. It was agreed to move the meeting.

3 Slides for the meeting with Marcus Bokkerink

- 3.1 NK noted that Sarah Cardell had indicated that the proposed slides for the session with Marcus Bokkerink may be too detailed. NK suggested that as an alternative the Committee could send the slides as pre-reading to act as an agenda.
- 3.2 There was then a discussion about whether the slides would set the right tone for the Committee's first meeting with the new CMA Chair. NP suggested that sending a short memo after the meeting may be preferable to sending the slides.

- 3.3 NK indicated that she was happy to amend the slides and recirculate to the Committee to see if they set the right tone. SM noted that if the slides came across as helpful and polite then it would be fine to send them. AP agreed that the slides could be a useful introduction.
- 3.4 NK also mentioned that it might be helpful to allocate roles to different individuals within the Committee so that the discussion could be focused / targeted.

4 Other topics for meetings / potential trends

- 4.1 NK reported that the most recent indication from BEIS is that the Digital Markets, Competition and Consumer Bill will not be published in February, and around Easter seems to be the likely timing now.
- 4.2 NK asked the Committee if there were any other topics that they were observing that would be useful to cover in upcoming meetings.
- 4.3 MJO asked if foreign investment and the NSIA was within scope of the Committee and suggested that it would be good to invite someone from the ISU or Cabinet Office to speak at a future meeting. NK confirmed that individuals from the ISU could be invited to speak at upcoming meetings. SM noted that the notification process is generally frustrating and not having a direct contact within the ISU is inefficient. NK noted that this could be as a result of anti-lobbying efforts. BM noted that it would be helpful to get some insight about how the NSIA review process works, particularly in light of the recent move to the Cabinet Office. MJO explained how he had heard that the ISU was recruiting at the moment.
- 4.4 SM flagged that the upcoming CMA guidance on sustainability agreements was an interesting development and represented a real opportunity for the CMA to be a thought-leader in this space – particularly in light of Sarah Cardell's speech in February. AP noted the differences between the CMA's approach and the European Commission. SM noted that the CMA had initially been a thought leader on technology before ceding the position to others. Sustainability could be an interesting new area for the CMA to set the agenda.
- 4.5 NK outlined that the CMA has been open to having "fireside chats" to discuss sustainability issues, but was having difficulties in getting much uptake. AP agreed that he was disappointed that industry was not making more of the opportunity to get in front of the CMA informally. Both NK and AP acknowledged that this was a difficult balancing act for business

5 Draft CMA Horizontal Guidelines

- 5.1 NK and IG noted that it would be good for the Committee to respond to the CMA's draft Horizontal Guidelines consultation, but that any response could be short and succinct.
- 5.2 IG explained that the general position was that the Committee welcomed the Guidelines, but that it should comment on the CMA's proposed approach to information exchange and extra-territoriality. NK agreed that some of the CMA's focus in the Guidelines seemed to be in response to live cases that they currently have ongoing.
- 5.3 BM noted that the Guidelines appeared to take the right line of largely adopting the European Commission's approach with a few minor differences. He also noted that it would be helpful if the CMA was more transparent in noting when there was divergence from the European Commission's approach so that there was increased certainty. NK agreed and pointed to the difference in approach between the CMA and the European Commission with respect to information sharing within the same corporate group.
- 5.4 AP agreed to hold the pen on the Committee's response.