

Meeting of the City of London Law Society Competition Law Committee held at 12:30pm on 9 June 2022 in person and via videoconference

Minutes

Committee members were joined by guest speaker, The Honourable Mr Justice Marcus Smith QC, President of the Competition Appeal Tribunal (**CAT**), and discussed the work of the CAT, objectives and reforms. This included discussion about:

- CAT capacity and resource, and related to this the CAT's busyness on regulatory appeals and private actions, including collective actions and appeals regarding aspects of the collective actions regime as this regime beds down.
- Competition law cases before the High Court, including interaction between the CAT and High Court on hybrid cases where some claims are before the CAT and some are before the High Court, and new procedural approaches regarding the same.
- The potential impact on the CAT's workload of proposed UK competition law reforms, and the impact generally of procedural reforms in terms of potentially introducing uncertainty and how long it takes for challenges regarding new procedural rules to be resolved before such rules can be fully understood.
- The CAT's new role regarding subsidy control, including whether subsidy challenges are expected to be a significant new area of work for the CAT when its role in this regard commences, and whether appeals concerning trade remedies also ought to be before the CAT.
- A number of new or recent CAT initiatives, including the use of ambulatory drafts, the CAT's new Practice Direction on umbrella proceedings, livestreaming of CAT hearings, and movement towards electronic case-filing, including why these initiatives have been introduced and their intended benefits.
- The CAT's role as a UK tribunal (not only a tribunal for England and Wales), possible options in terms of the CAT having a greater presence in Scotland and Northern Ireland, and increasing onus on parties to explain how issues affect the entire UK instead of only England and Wales.
- Substantive divergence between EU and UK competition law following Brexit, including the likelihood of the CAT needing to decide certain issues before the EU Courts have decided those issues, and therefore the likelihood of CAT judgments leading to divergence between the substance of EU and UK competition law.

Attending:

Nicole Kar	Chair, Linklaters LLP
Ian Giles	Vice Chair, Norton Rose Fulbright LLP
Mark Daniels	Norton Rose Fulbright LLP
Antonio Bavasso	Simpson Thacher and Bartlett LLP
Angus Coulter	Hogan Lovells LLP
Kim Dietzel	Herbert Smith Freehills LLP
Mark Jephcott	Simmons & Simmons LLP
Mark Jones	Jones Day
Becket McGrath	Euclid Law Ltd
Samantha Mobley	Baker & McKenzie LLP
Jonathan Parker	Latham & Watkins LLP
Paula Riedel	Kirkland & Ellis LLP
Isabel Taylor	Slaughter & May
The Honourable Mr Justice Marcus Smith QC	CAT