

**Minutes of the Competition City of London Law Society Competition Law Committee Meeting**

**Held at 12:30 on 18 September 2025**

**Attending:**

- Justice Kelyn Bacon (*President of the CAT*) (“**KB**”)
- Nicole Kar, Chair (Paul, Weiss, Rifkind, Wharton & Garrison LLP) (“**NK**”)
- Ian Giles, Co-chair (*Norton Rose Fulbright LLP*)
- Ali Wathan, Secretary (*Paul, Weiss, Rifkind, Wharton & Garrison LLP*)
- Mark Daniels, Secretary (*Norton Rose Fulbright LLP*)
- Angus Coulter (Hogan Lovells)
- Dominic Long (A&O Shearman LLP)
- Beckett McGrath (Euclid Law)
- Sarah Jensen (Freshfields)
- Sam Mobley (Baker McKenzie LLP)
- Helen Crossley (Linklaters LLP)
- Jenine Hulsmann (Weil Gotshal & Manges LLP)
- Mark Jones (Jones Day)
- Antonio Bavasso (Simpson Thacher & Bartlett LLP) (“**AB**”)
- Robert Bell (Greenwoods LLP)
- Sally Evans (Kirkland & Ellis International LLP)
- Isabel Taylor (Slaughter & May LLP)

**The Honourable Mrs Justice Bacon to speak for 15-30 minutes about the CAT's plans and discuss the CLLS committee's own experiences as users of the CAT, followed by a general discussion for remainder of the session.**

**Introduction**

The meeting commenced with introductions from all attendees. KB was welcomed as the guest speaker for the session. This marked KB’s first address to the Committee since being appointed as President of the Competition Appeal Tribunal (“**CAT**”).

**KB Remarks: CAT Tribunal Update and Future Plans**

***Workload and Pipeline***

KB began by outlining the current workload facing the CAT. She explained that the Tribunal is extremely busy, largely due to a significant increase in collective actions. At present, there are 31 pending sets of actions, the majority of which are opt-out claims, with the upper limit of quantum claims reaching up to GBP 100 billion. In addition to these collective actions, the CAT recently handed down a judgment in a subsidy control case in July, and there are two further cases currently pending. Looking ahead, KB noted that the Tribunal expects to see new cases arising from the DMCCA, as well as from the independent football regulator, which is due to be established at the end of the year.

***People and Composition***

Turning to the composition of the Tribunal, KB explained that each panel consists of a chair and ordinary members, and that this structure has remained unchanged since 2003. There are currently nine fee-paid chairs, with one additional chair completing existing cases. To improve efficiency, the Tribunal is now making greater use of flexibility in docketing, allowing earlier hearings to proceed before another chair if the originally docketed judge is unavailable. This approach is intended to keep cases moving as quickly as possible. KB also noted that, due to her own heavy caseload over the past six months, some shorter hearings have been handled by other CAT chairs. She observed that not all procedural hearings require a panel of three members, which can help reduce delays.

KB informed the Committee that legislative change is being considered to allow for a single chair, rather than a panel of three, to preside over substantive hearings. In addition, a review of the conflict rules for CAT chairs and members is planned. Currently, none of the chairs or members can be current competition practitioners, which is different from the approach taken in other tribunals such as the tax tribunal. This restriction can limit the availability of competition specialists. KB invited views from the Committee on possible reforms, while acknowledging that any changes may heighten concerns about conflicts of interest.

## **Important Work Streams**

### ***Review of CAT Rules***

KB highlighted that the CAT Rules have become something of a patchwork, or "Frankenstein's monster," as a result of periodic updates over the years. The Tribunal is undertaking a re-organisation of the rules with the aim of producing a clear and coherent set, which is likely to be adopted in 2026. A new Guide to Proceedings will follow in reasonably short order.

### ***Expert Evidence and Economists***

KB addressed the increasing volume of economic evidence being submitted to the Tribunal, describing it as unmanageable. She referenced a recent High Court "Toys" case in which there were 52 expert reports, most of which were economic in nature. KB expressed concern about the growing polarisation of expert evidence and questions regarding the independence of experts. The Tribunal will be issuing updated guidance to set out expectations for experts and the presentation of their evidence. KB stated that she would like to see a single, consolidated document from each expert that the Tribunal can easily read. She also intends to set page limits for opening arguments, skeleton arguments, and expert reports, particularly in CPOs where a deep-dive analysis is not necessary.

### ***Fees***

KB informed the Committee that fees are likely to be introduced for certain proceedings in the CAT, at least for collective actions, subject to ongoing discussions with their sponsor government department.

### ***Physical Infrastructure***

On the subject of physical infrastructure, KB noted that while courtroom shortages have been rare - occasionally requiring hearings to be moved to the Rolls Building - space is expected to become an issue as new cases (especially those deriving from the new football regulator and digital markets regime proceed to trial). Efforts are underway to create more space in the existing building, and KB encouraged the Committee to communicate to the Department for Business and Trade (DBT) the need for additional space.

## **Discussion and Q&A**

### ***People and Advocacy Resourcing***

During the discussion, KB encouraged Committee members to make robust choices about counsel. She observed that it is not always in the interests of clients or the Tribunal for a very senior barrister to appear when a senior junior has done most of the work. Conversely, it is important not to send someone who is unprepared to deal with economic evidence. KB suggested that junior counsel can often be more cost-effective and efficient for both clients and the Tribunal.

### ***Case Management and Timetabling***

KB commented that six-month hearings are completely unmanageable and encouraged the practice of splitting hearings, for example into liability and quantum phases. She noted that, in her experience, cases often settle after the first hearing. Where expert reports have been superseded, KB advised parties to take the initiative to identify what remains relevant or to re-submit the reports as appropriate.

### ***Skills, Resources and Judgments***

NK raised a question about the use of specialists versus procedural experts and the potential for fee-paid judges to assist with the Tribunal's workload. KB responded that all courts are currently extremely busy, which makes it difficult to secure High Court resources for cases. The use of fee-paid judges can help address this challenge. KB also stated her intention to produce judgments more quickly, targeting a three-month turnaround for shorter hearings, and emphasised the value of concise judgments to assist practitioners in planning.

### ***Experts***

KB cautioned against the submission of polarised economic reports and encouraged experts to engage with the other side at an early stage and to acknowledge any weaknesses in their evidence. This, she said, would help avoid difficulties during cross-examination. KB also suggested that providing overnight transcripts would assist experts in clarifying statements made the previous day. She is generally not opposed to experts having hard-copy notes during concurrent evidence sessions, as this can support a more discursive exchange and help protect the reputation of experts. During the discussion, AB observed that the profession may have shifted towards advocacy, noting that judges in the US have made explicit comments on this trend in their judgments. KB noted that she had disallowed costs for all economic experts in cases where there were significant concerns about their independence.

### ***Process and AI***

BM asked whether the CAT has been able to make use of AI. The topic was noted as one of relevant, but no specific update were available at this time.

### **Wrap-Up**

NK thanked KB for attending the meeting and having such a frank discussion with Committee members.

### **CLLS Business**

The Committee discussed upcoming business. The next meeting is scheduled for November at STB, with no speaker currently lined up, although the ISU could potentially be invited to speak. The Committee noted that the call for evidence on collective claims is due in late September. Jonny Ford is working on a short submission on the markets regime, and initial comments from Jonny Ford and his team appear to have been incorporated into the market consultation.