
Competition Act 1998

Competition case closure summaries

2006

INTRODUCTION

This publication gives details of cases that were considered under the Competition Act 1998, and subsequently closed during 2006. The summaries do not necessarily set out the full reasons the OFT has for closing a case. Nor will they reflect all the kinds of cases that we handle.

These summaries were originally published on a monthly basis as a part of the OFT's online Weekly Gazette, which is no longer published.

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January 2006

Issue 23

INTRODUCTION

Welcome to the 23rd issue of this section of the Gazette. The purpose of this section is to inform the public of a selection of cases that have been considered under the Competition Act 1998 (the Act), and subsequently closed. This issue includes cases that were closed in January 2006. We aim to publish case closure summaries in the first week of each month.

CLOSED CASES

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List of closed case summaries

- Price competition between panel solicitors

Price competition between panel solicitors

Parties:	Law Firm Services Ltd; participating estate agents and solicitors.
Case closed:	6 January 2006
Issue:	That the model adopted to establish and run the conveyancing panel unnecessarily restricts price competition between solicitors associated with the panel.
Relevant provision:	Chapter I of CA98 and Article 81 EC

Outline of the case

In October 2004, the OFT opened a formal investigation into Law Firm Services Ltd (LFS); participating estate agents and solicitors.

Software designed and managed by LFS allows solicitors, their clients and estate agents to monitor the progress of a conveyancing transaction. When an estate agent refers a client to one of the panel solicitors, a referral fee is generated to LFS, who in turn pays a referral fee to the estate agent. The complainant expressed concern that each competing solicitor or firm of solicitors on the particular panel under investigation offered the same price, irrespective of the amount of work carried out and the service provided. The OFT received evidence to suggest that a number of estate agencies had signed up to a similar scheme with LFS.

The OFT expressed concern that panel arrangements involving solicitors were not compatible with competition rules. Our main concern was that, because of the model adopted, prices for solicitors' services offered through the estate agent's panel may have been reached through anti-competitive agreements or concerted practices, resulting in a fixed price.

Law Firm Services has since taken steps to implement new arrangements which should allow for price competition between panel solicitors. Participating estate agents have been instructed by Law Firm Services to inform panel solicitors of the changes and to request revised rates for conveyancing. As we have evidence that the scheme is in the process of being changed to remove its objectionable features, we have closed the investigation. We are of the view that consumers will benefit where the prices for services offered through referral arrangements are set competitively.

More generally, OFT believes that referral arrangements can bring pro-competitive benefits to consumers of legal services, and thus, we would not wish to discourage solicitors from entering into referral arrangements. Subsequent to this case closure, our

intention is to work with the Law Society of England and Wales to clarify what solicitor arrangements avoid the risk of infringement of competition rules.

OFT's action: Case closed
Case Officer: Carissa.Roberts@oft.gsi.gov.uk
Case reference: CE/5183-04

Competition Act 1998

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February 2006

Issue 24

INTRODUCTION

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List of closed case summaries

- Rules of a Professional Body

Rules of a professional body

Party:	The Surrey Law Society (SLS)
Case closed:	29 December 2005
Issue:	Whether the circulation of hourly litigation rates among members of the SLS is compatible with competition law.
Relevant provision:	Chapter I of CA98 and Article 81 EC

Outline of the case

Some local law societies conduct surveys of the current hourly litigation rates that their members charge. This information is sent to the courts and may be used by the courts when drafting guidelines on the level of hourly litigation rates that will typically be awarded on summary assessment.

The OFT received a complaint that the SLS had on one occasion circulated amongst its members an anonymised version of its survey results on the hourly litigation rates charged by its members.

The OFT considers that the circulation of such information enables member solicitors to know with a reasonable degree of certainty the rates charged by other members. This type of price information exchange therefore reduces or removes the inherent uncertainties in determining what rate to charge for one's services and is therefore liable to prompt solicitors to align their rates irrespective of their costs. As a result, the OFT considers the circulation of such information to be incompatible with competition law.

The SLS has decided to cease circulating this type of information amongst its members. In the light of this change, the OFT has closed the case.

The OFT has made recommendations to the Law Society of England and Wales outlining the steps that local law societies can take in order to reduce the risk of their conduct or a solicitor's conduct being incompatible with competition law when assisting the courts in obtaining litigation rates. In particular, the OFT has recommended that such information should be collected by an independent third party rather than the representative body of solicitors or a practising solicitor in the relevant area. This can minimise the risk of involvement in a potentially anti-competitive price information exchange. It may also ensure that the current framework does not lend itself to complaints that the guideline litigation rates were not reached through entirely independent means.

OFT's action:	Case closed
Case officer:	Maria.Rican@oft.gsi.gov.uk
Case reference:	CE/5863/05

Competition Act 1998

Competition case closure summaries

March 2006

Issue 25

INTRODUCTION

Welcome to the 25th issue of this section of the Gazette. The purpose of this section is to inform the public of a selection of cases that have been considered under the Competition Act 1998 (the Act), and subsequently closed. This issue includes cases that were closed in March. We aim to publish case closure summaries in the first week of each month.

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List of closed case summaries

- Alleged price-fixing of petrol

Alleged price-fixing of petrol

Complainants: 2 members of public
Complaint against: Lochshell Filling Station
Cyma Petroleum UK Ltd
Elm Tree Filling Station
Case closed: February 2006
Issue: Alleged agreement between the above undertakings
to fix the price of petrol in the Wick area, Caithness
Relevant provision: Chapter I Competition Act 1998

Outline of the case

The OFT's attention was drawn to a newspaper article reporting an Employment Tribunal hearing in March 2004, in the course of which it was stated in evidence by an official of Cyma Petroleum UK Ltd, the owner of Lochshell Filling Station, that it had agreed to coordinate a price increase with the Elm Tree Filling Station.

The OFT carried out an investigation which included the undertakings listed above. Notwithstanding the account of events recorded in evidence at the Employment Tribunal the OFT found no credible evidence to show that there was any agreement on the price of petrol and has closed its file accordingly.

OFT's action: Case closed
Case Officer: Jim.allen@oft.gsi.gov.uk
PaulM.knight@oft.gsi.gov.uk
Case reference: CE/4391/04

Competition Act 1998

Competition case closure summaries

September 2006

INTRODUCTION

Welcome to the 27th issue of this section of the Gazette. The purpose of this section is to inform the public of a selection of cases that have been considered under the Competition Act 1998 (the Act), and subsequently closed. This issue includes cases that were closed in September 2006.

CLOSED CASES

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List of closed case summaries

- Yamaha-Kemble Music UK Ltd (Yamaha)

Party(ies): Yamaha-Kemble Music UK Ltd (Yamaha)
Case closed: 8 September 2006
Issue: The discount scheme operated by Yamaha Kemble
Relevant provision: Chapter I prohibition

Outline of the case

In December 2005, the OFT opened a formal investigation into Yamaha's discount scheme for its high-end digital pianos and keyboards following complaints from dealers.

The scheme, which Yamaha introduced in July 2005, introduced a cost structure that offered discounts which rewarded face-to-face sales of its high-end electronic pianos and keyboards. The scheme was a retrospective scheme that applied to the totality of sales by dealers. The amount of discount given under the scheme was dependent on the ratio of face-to-face sales versus distance (internet) sales.

The OFT expressed concerns that Yamaha's scheme acted as an effective restriction on distance (internet) sales and that it acted as a price-stabilising measure which was targeted at dealers who are seen as 'discounters.'

The OFT believed that, as the discount level was dependent on ratio of distance (internet) versus face-to-face sales, the scheme provided a disproportionate incentive for dealers to limit their distance (internet) selling activities. This was aggravated further by difficulties a dealer might face in controlling the ratio once a website for selling the products in question has been established. This created an uncertainty over the cost of a unit, whether sold over distance (internet) or face-to-face, which had an inflationary effect on prices.

However, before the OFT came to a final view, Yamaha took the decision to withdraw the scheme. Yamaha has since announced a new system for offering discounts to its retailers, which does not share the above characteristics.

In light of the scheme's withdrawal, the OFT has closed the case on the grounds of administrative priorities.

OFT's action: Case Closed
Case Officer: alexander.ageletakis@oft.gov.uk
Case reference: CE/6485/05

Competition Act 1998

Competition case closure summaries

October 2006

Alleged price-fixing in the supply of corrugated sheet and corrugated board

Complainant: A commercial purchaser of corrugated sheet and corrugated board

Complaint against: DS Smith plc (and its subsidiaries including Abbey Corrugated Ltd and Linpac Containers Ltd);
Mondi Packaging UK Holdings Ltd (and its subsidiaries including Mondi Packaging (GB) Ltd);
Smurfit UK Ltd (and its subsidiaries); and
Western Corrugated Ltd (and its subsidiaries)

(together 'the relevant undertakings').

Case closed: 31 October 2006

Issue: Whether the relevant undertakings were engaged in the fixing of the price of corrugated sheet and corrugated board, by among other things agreeing or otherwise coordinating simultaneous price increases.

Relevant provision: Chapter I of the Competition Act 1998 ('the Act')

Outline of the case

The OFT received a complaint from a commercial purchaser of corrugated sheet and corrugated board in the summer of 2004 that there was coordination between the relevant undertakings as regards the price of corrugated sheet and corrugated board and, in particular, the timing of the announcements of certain pricing increases. The information available to the OFT at the time gave the OFT reasonable grounds for suspecting that a breach of Chapter I prohibition of the Act had occurred.

As a result, the OFT carried out unannounced visits under section 27 of the Act at seven addresses occupied by the relevant undertakings in July 2004. There was a further unannounced section 27 visit to one of the relevant undertakings in September 2004. In addition, the OFT has since carried out extensive and detailed enquiries but has not uncovered any strong and compelling evidence establishing that there was an agreement and/or concerted practice to fix the price of corrugated sheet and corrugated board involving two or more of the relevant undertakings.

Having regard to the information on its file and the lines of inquiry followed, the OFT does not consider that there is a realistic prospect that any further enquiries would enable the OFT to find, to the requisite standard of proof, an infringement of the Chapter I prohibition of the Act. The OFT has therefore decided that there are no grounds for action in relation to the above allegations. The OFT has consequently closed its file in this case.

OFT's action: Case closure on the basis of no grounds for action
Case officer: Jim.Allen@oft.gsi.gov.uk
Case reference: CE/4849/04