

A Thorogood Special Briefing

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Chapter 1:

Introduction

The EU and UK competition rules contain a strict framework within which companies must operate. Failure to comply can lead to heavy fines. This chapter provides a general introduction to the system and application of the rules and highlights some of the main areas where companies can be caught out through breaching them. The Competition Act 1998 was the most radical change to UK competition law since the Second World War. It marked a sea change in Government powers. From a position of relative weakness, with no rights to fine for a first offence and very poor investigative powers, the OFT has now been given rights to raid companies (even without notice) and to levy penalties of up to 10% of turnover. Since the Enterprise Act 2002 came into force criminal penalties may also be imposed.

Summary of the Act and its provisions

Why is the Act so important?

- Because your business may be in danger of being fined up to 10% of its UK turnover.
- Because your business may be a victim of others' anti-competitive behaviour and if you don't know the rules you won't be able to protect yourself.
- The Act introduced new competition rules which prohibit agreements and business practices and conducts that damage competition in the UK.
- The rules are designed to ensure that UK businesses remain competitive. Complying with them will help to ensure that your business is as competitive as it can be – which is good for you and good for consumers. Make sure your employees know about the new rules.

To whom does the Act apply?

Businesses of all types and sizes – even sole traders.

What does the Act prohibit?

Anti-competitive agreements and the abuse of a dominant position in a market.

The Act prohibits agreements and practices that prevent, restrict or distort competition – or are intended to do so. These can be formal or informal agreements, written or spoken.

How is the Act enforced?

The Office of Fair Trading has wide-ranging powers to investigate suspected breaches. Officials can enter premises – even home addresses – and demand relevant documents. Offending agreements or conduct can be ordered to be terminated. The Serious Fraud Office has powers with the OFT to investigate in cases where a criminal cartel or bid rigging activity has occurred under the Enterprise Act 2002.

What if my business is a victim?

The OFT welcomes complaints from anyone who suspects the rules are being broken. You can complain in writing or by telephone and your identity can be protected. However, you will be asked for evidence to support your complaint. The OFT may launch a formal investigation if there are reasonable grounds for suspecting that the rules are being or have been broken. However, the OFT does not take up all complaints. In some cases a private damages action may be necessary.

What if my business is involved in a cartel?

The business may be fined up to 10% of your UK turnover. Prohibited agreements are void and unenforceable, and any third party harmed by an unlawful agreement or conduct may be able to sue you for damages.

The OFT's top priority is to detect and act against cartel activity, such as price fixing and market sharing. If your business is involved in a cartel and you blow the whistle, you can receive a significant reduction in any fine. You can get complete immunity from financial penalties if you are the first to come forward.

What if my business is investigated?

The OFT has a range of powers to enable it to obtain documents and information to establish whether or not an infringement of the Act has been committed. This material can be obtained through a written procedure or by entering the

premises of the undertaking being investigated. The OFT has produced an information leaflet outlining its procedures for investigations and advising businesses that are being investigated.

Timing

The Competition Act 1998 has been in force now since 1 March 2000. But many agreements made before that date will benefit from a further transitional period of at least a year, during which time the Chapter I prohibition will not apply to them. Further details are available in the guideline.

Outline of Competition Law

Chapter I of the UK Competition Act 1998 prohibits anti-competitive agreements. Article 81 of the Treaty of Rome does the same thing. UK businesses need to comply with both sets of laws.

Competition law cannot safely be ignored. Knowledge of the law and its application in practice strengthens the competitive position of companies operating in Europe. The law in this field is vigorously enforced by the Office of Fair Trading and sectoral regulators such as Oftel (and throughout the EU by the European Commission – since May 2004 the OFT has also had powers to enforce EU competition law) through a system which permits raids of business premises and the levying of fines of up to 10% of turnover. Competition law potentially affects all business transactions and methods of carrying out business throughout the member states.

This Briefing:

- describes the application of UK competition law to agreements and business practices.
- shows how the law applies in practice to those areas and how to minimise the risk of infringement.
- offers practical solutions or compromises in typical circumstances where competition law appears to prevent a proposed business arrangement.

Historical and economic context

Although modern competition law has developed since the Second World War, the courts have considered restrictions as being in restraint of trade as common law since about the year 1200 in the UK. The US was the first major jurisdiction to embody competition law into statute in the form which is familiar today through the Sherman Act of 1890. This law was developed to break ‘trusts’ or anti-competitive cartels (formed by groups of major manufacturers in particular industries as loose organisations), to ensure that high prices and favourable terms were retained wherever possible.

In the EC the Treaty of Rome was signed on 25 March 1957. This was preceded by the Organisation for European Economic Co-operation (OEEC), which dealt with the allocation of Marshall Aid after the Second World War. The OEEC did assist with the liberalisation of trade within Europe, but was not a body with powers over individual European nation states.

Shortly after the formation of the OEEC, the Council of Europe was formed in 1948, but again this body had no legislative powers. It was not until the Treaty of Paris was signed in 1951 – forming the EC’s Coal and Steel Community – that competition law at EC level was first promulgated.

Articles 65 and 66 of the Treaty of Paris contain provisions similar to Articles 81 and 82 of the Treaty of Rome. The Treaty of Paris was a foundation stone upon which the Rome Treaty was based. The removal of trade barriers was, of course, one of the principal aims of the Treaty of Rome, but its aims could be impeded if large monopolistic suppliers were free to restrict markets or otherwise impose their own trade barriers.

It was, therefore, not surprising to find that the treaty prohibited the division of markets by agreements between companies and curtailed the activities of companies which enjoyed a dominant position.

The Treaties and the European Union

The competition rules are contained in the Treaty of Rome. They have direct effect in the EC member states. The Treaty of Rome was amended by the Single European Act, February 1982 and came into force in 1987. Further amendment was effected by the Treaty on European Union (signed at Maastricht in February 1992), which came into force in November 1993. The Treaty of Amsterdam also made changes, not least changing the numbering of the treaty

provisions including those on competition law from Articles 85 and 86 to Articles 81 and 82. EC competition law has not, however, been modified in any way by subsequent treaties, which have been aimed at creating closer integration within the Community.

The Treaty on European Union extended the scope of the Treaty of Rome beyond economic issues to social and monetary policies and other areas. It resulted in the abolition of the term 'European Economic Community' and its substitution with the phrase 'European Community'. It also founded the European Union. However, the competition rules do not emanate from the Treaty on European Union and cannot accurately be described as 'EU competition laws'. Therefore, this briefing throughout uses the abbreviation 'EC' where reference is made to the competition rules..

Lisbon Reform Treaty 2008

In 2008, it is likely a new EU Reform Treaty will be agreed. EU competition commissioner Neelie Kroes has said that the new Reform Treaty will not impede the European Commission's powers in competition policy: "The protocol on the internal market and competition is a legally binding affirmation of the current situation. For the first time ever, it is written black on white that a system to ensure undistorted competition is an integral, an inseparable, part of our internal market objective."

She added: "So I simply do not agree with the scaremongers who argue that the protocol is the end of European competition law as we know it. The protocol maintains in full force the competition rules which have served European citizens so well for fifty years."

The Treaty on the European Economic Area

The EU competition rules apply to the 27 EU states. However, the UK Competition Act only applies where the affects of an arrangement are felt in the UK. In addition, Iceland and Norway combined with the 27 member states, comprise the European Economic Area which came into force on 1 January 1994. This forms a free trade area linking the 27 EU states, Iceland and Norway in a single market. The Treaty on the European Economic Area contains competition laws in Articles 53-60 broadly similar to those in Articles 81 and 82 of the Treaty of Rome. These provisions apply where trade between EC member states and one of the named EFTA states is affected.

The Courts

The European Court of First Instance (CFI) hears appeals from decisions of the Commission in the competition law field. Appeal from the CFI is to the European Court of Justice (ECJ). Under the Treaty of Rome the court has jurisdiction to take decisions on matters referred from the national courts too. The judges in the ECJ are assisted by Advocates General, who produce an opinion for the Court, which is published and rarely varied in the final decision. The Advocate General's Opinion in a competition law case usually contains more detail and reasoning than the final decision of the ECJ itself. The Reform Treaty mentioned above, which may be agreed in 2008, will rename the court.

UK competition legislation

The Competition Act 1998 took over ten years to reach the statute book. Originally proposed in a 1989 white paper by the Conservative administration, it was in the end introduced by the Labour Government. It replaced:

- the Restrictive Trade Practices Act 1976 and 1977
- the Resale Prices Act 1976
- much of the Competition Act 1980.

UK merger law under the Fair Trading Act 1973 is substantially unchanged by the 1998 Act.

EC merger law

There is a separate Merger Task Force which considers EC mergers notified to the Commission under the Merger Regulation No 139/2004. The essence of the EC law in that field is that large EC mergers with a community dimension must be notified to the Commission in advance before the merger takes place.

This Briefing does not consider the area of EC competition law that addresses mergers, which is a discrete area of competition law covered by other works. In the UK the Fair Trading Act 1973 entitles the Competition Commission (formerly the Monopolies and Mergers Commission) to investigate 'qualifying mergers'.

Theories of competition

The regulation of agreements freely entered into by companies is an interference with the free market, which is deemed justifiable in the interests of consumers. The advantages of competition in a market are that companies, in

competition with others, have a greater incentive to produce better products to obtain greater market share. More will be spent in those circumstances on research and development and consumers will receive better products which they require in what is known as 'allocative efficiency'.

Competitors will be subject to constant pressure to keep costs, and thus prices, down. Savings in production costs are made and productive efficiency achieved. One of two extremes is the economist's model of a perfect monopoly, which will usually only exist where state intervention has ensured that one entity enjoys 100% market share. Neither similar nor competitive goods or services exist to compete with the company enjoying the perfect monopoly.

The other extreme is pure competition, where there are so many competitors that each has a minuscule market share and no influence over price levels or the quantity of goods produced or sold. Pure competition rarely exists. More common is oligopoly – where competition remains but only between very few players on a particular market, and competition is less sharp.

A market enjoying workable competition is also often found. Here competition exists on the basis of price or other factors, but some companies have such sufficient influence on the market that pure competition cannot be said to apply.

Without laws regulating the activities of companies enjoying some measure of market power, companies would have no legal check on their excesses. There may be market sectors in which no competing products exist. Consumers could be obliged to accept ancillary goods which they did not require or might have discriminatory conditions imposed upon them. The largest entities in each EC member state could enter into market-sharing cartels, against which the purchaser would be powerless. Competition law seeks to prevent this occurring.

The Organisation for Economic Co-operation and Development summarised the aims of competition law as follows:

“Competition policy has as its central economic goal the preservation and promotion of the competitive process, a process which encourages efficiency in the production and allocation of goods and services, and over time, through its effects on innovation and adjustment to technological change, a dynamic process of sustained economic growth. In conditions of effective competition, rivals have equal opportunities to compete for business on the basis and quality of their outputs, and resource deployment follows market success in meeting consumers' demand at the lowest possible cost.”

(Competition and Trade Policies: Their Interaction, OECD 1984).

Competition law is one of the most important elements in the EC single market. If companies were free to divide the Community along national boundaries, in particular, by remaining free to restrict the flow of goods across borders, the Community would remain a series of separate markets. The competition rules are one of the foundation stones of the single market, ensuring that companies operating in the EC may compete fairly on the so-called 'level playing field'.

Other EC legislation, such as directives harmonising EC law also play a large part in ensuring that all companies are subject to the same regulatory, product and trading rules.

Competition law as a sword and shield

Although competition law should be welcomed by companies as an important legal protection against the tyranny of dominant corporate power, all too often its effects impose a considerable burden on businesses. Agreements need to be vetted and staff educated. What appear to be sensible commercial measures or agreements to ensure orderly markets cannot be effected. Commission officials can arrive unannounced with powers of entry to company premises and with rights to search files for evidence of anti-competitive agreements. Solicitors need to be instructed and vast amounts of management time needs to be dedicated to answering requests for information from the Commission.

However, competition law does have its uses. Increasingly competition law defences are submitted in litigation. As restrictions in agreements will be unenforceable where they infringe Article 81 or the Chapter I prohibition in the UK Competition Act 1998, companies wishing to be relieved of their obligations under commercial agreements may be able to plead Article 81/Chapter I as a complete defence. For example, a company may be subject to a restriction on selling in a particular European market. The restriction may be unenforceable.

Alternatively, a business may wish to expand into another business area much coveted and guarded by a close competitor, which, on learning of the proposal, reduces its prices selectively. Such 'predatory pricing' may involve an abuse of a dominant position. In many cases the mere threat that a complaint may be made to the European Commission is sufficient to ensure that the proposed pricing policy of the dominant company is abandoned.

Similarly if a company is refused supplies, or possibly even a licence of technology, an alleged breach of competition law can be identified and used as a method

of ensuring that supplies are resumed or technology licensed. Companies can play on the paranoia which many companies, often justifiably, have on the subject of competition law. If the threat fails then there are also rights to sue for a breach of Articles 81 and 82 in the national courts.

Private Damages Actions

In December 1992 the European Commission issued a notice (93/C 39/05, OJ 1993 C39/6) aiming to encourage actions before the national courts. The notice identified the advantages of such actions over bringing a case by way of complaint to the Commission as:

- the ability to obtain immediate injunctions to bring the offending activity to an end;
- the ability to obtain damages to compensate the plaintiff for the losses suffered through the operation of the restrictive agreement or the abuse of a dominant position;
- the advantage of being able to include in the claim not only EC competition law but also national competition and other laws.

Few actions for damages have been successfully concluded in the national courts. In theory the national courts could play a bigger role in EC competition law enforcement. The European Court of First Instance, in a decision called *Automec v. Commission* (Case T-24/90, 17.9.92., [1992] 5 CMLR 431) established the principle that the Commission has discretion only to investigate some, rather than all, complaints made to it concerning infringement of the EC competition rules. This is also consistent with UK OFT practice too. In 2007/2008 the UK and EU were both consulting on how to encourage private actions in the national courts to remove burdens on competition authorities.

Competition law cases are often political as much as legal and some national courts would prefer to refer questions and thus, the final decision in a case, to the ECJ to avoid having to reach unpopular decisions. Increasingly they may be called upon to do so, with cases being referred back to the national courts by the ECJ, which simply sets out the principles to be applied by the national courts, as in the *Corbeau* decision (Case C-320/91, 19.5.93., OJ 1993 C172/6) and the various UK Sunday trading cases.

The role of the national courts is, therefore, likely to grow over the next few years – whether those courts wish to take on this additional area of responsibility or not. Increasingly national judges are undergoing education programmes to inform and update them concerning EC law.

In the UK, the principle that actions for damages for breach of EC competition law are possible was established in the *Garden Cottage Foods Limited v. Milk Marketing Board* case ([1983] 3 CMLR 43, [1983] 3 WLR 143) by the House of Lords in 1983. In that case, the Milk Marketing Board refused to supply Garden Cottage Foods with bulk butter which, prior to the refusal to supply, Garden Cottage Foods had been purchasing from the board and reselling in the Netherlands. The court stated: “A breach of the duty imposed by Article 82 not to abuse a dominant position in the Common Market or in a substantial part of it, can thus be categorised in English law as a breach of statutory duty that is imposed not only for the purpose of promoting the general economic prosperity of the Common Market but also for the benefit of private individuals to whom loss or damage is caused by a breach of that duty.”

The writer’s case *Yehekel Arkin v. Borchard Lines Ltd and Others* ([2000] UKCLR 495, High Court, 11 November 1999 and [2004] 10 Lloyd’s Rep 88) confirmed that someone who suffers loss by reason of breaches of Articles 81 and 82 has a private right action analogous to a claim for breach of statutory duty which arises when the breach causes damage to the claimant. In *Inntrepreneur Pub Company (CPC) v. Crehan* [2006] UKHL 38 the House of Lords held that although damages are, in principle, available for infringing restrictions of competition laws the judge is entitled to conduct the full assessment of the facts in the absence of an EU decision on the same facts. This case had been referred to the ECJ in *Case C-453/99* which held that damages were in principle available, even where it was one of the parties to the illegal agreement bringing the damages claim, as long as the agreement was in effect been forced on them (they were tenants of pubs with little negotiating power required to sign agreements with a big company). When the court of appeal awarded Mr Crehan £131,336 (plus interest) this was the first court damages ever in the UK, although this was overturned by the House of Lords.

However, actions for damages are rare and expensive and few in practice take place. Some settlements have been achieved and some businesses have been backed by private equity and some by US law firms used to anti trust damages actions, have been launched in the UK. The writer and counsel undertook the Arkin case on a conditional fee basis. Currently anti-trust litigation is one of the more interesting parts of competition law currently where changes may well occur. In a pharmaceutical cartel investigation still on going at the date of writing, the Government sued the alleged cartel for damages for price fixing and indeed, has reached settlements with some of the parties before the criminal competition investigation has concluded. In practice, there are timing issues because in English law there is a 6 year limitation period and investigations take so long

to bring that time to sue has often run out. So, not all damages cases can wait to 'follow on' from the regulators' decisions. Not only can actions for damages be brought but also applications for an injunction to prevent the dominant company abusing its dominant position can be made to the court. In 1989, operators of telephone chatline services alleged in the UK that British Telecommunications plc would abuse its dominant position by suspending their services. In that case the application for an injunction was refused, but the possibility of injunctive relief should always be considered.

In Germany, in the BMW case (*KZR 21/78*) the German courts held that actions for damages for breach of EC competition law were possible in Germany. In many cases competition law is one element in a defence or action and can skilfully be incorporated in proceedings tactically to gain time or complicate the action for whatever reason. In some cases it can be advantageous for a defendant to use an Article 81 or 82 defence and at the same time make a complaint to the European Commission.

The Commission in its notice issued in February 1993, on co-operation between the national courts and the Commission sought to encourage use of the national courts and stated that it would refuse to handle complaints unless they were of particular political, economic or legal significance for the Community. It is thus necessary to show such significance in bringing a complaint, but in practice the threat of a complaint can often be sufficient to achieve the result desired.

In its notice the Commission made it clear that it is possible to bring simultaneous proceedings before the Commission and in the national courts, where this does not impair the effectiveness and uniformity of the competition rules. This is consistent with the UK Government's approach in the case mentioned above. In that matter pharmaceutical companies were raided.

In April 2002, more than 200 police officers raided 11 homes and 16 business addresses, seizing files and computer equipment. The companies included Goldshield, Regent-GM Laboratories, Norton Healthcare, a subsidiary of the US firm Ivax Corporation, Generics UK, part of the German drugs group Merck, and a UK subsidiary of Ranbaxy Laboratories of India. This led to Government (NHS) damages claims.

In commercial negotiations competition law can be of use where one party seeks to impose a restriction on the other. The party to be restricted can plead competition law as the excuse for avoiding a commercial restriction which is unacceptable.

An EU White Paper on private damages actions is expected in 2008.

Modernisation

In 2004, with the expansion of the EU, major changes were agreed including the abolition of the ability to notify agreements for clearance to the EU and the direct application of Article 81 (3). Most importantly, the EU moved from a system centralised at Commission level to one in which, not only the Commission, but also the national authorities and courts are able to apply Article 81 in full. This was effected under Regulation 1/2003

Practical examples

The examples below are based on successful uses of competition law by the writer in her practice. Names have obviously been changed.

REFUSAL TO SUPPLY

A parts manufacturer abroad cut off supplies from their UK client. They helpfully told the UK client in writing that the reason for refusal to supply was the client's low resale pricing. However, attempts to influence resale pricing in such a manner along with the cutting off of supplies breaches UK and EU competition law. Solicitors' letters were sufficient to ensure supplies were resumed.

PRICES TOO HIGH

A UK franchisee was reselling franchise products bought from a franchiser at a price higher than the resale price the franchiser wished to impose. Maximum resale price maintenance is in fact allowed under the Competition Act but stipulating the resale price is not. The client was allowed to continue selling at the higher price.

SOFTWARE LICENSOR

A software copyright holder refused to license a client with copyright but had licensed others who did not compete as effectively. Letters succeeded in ensuring a licence was granted on the grounds that refusal to licence might amount to an abuse of a dominant position.

Exemptions and principal arrangements in court

Many common contracts are exempt from the Competition Act 1998. In many cases this is because they fall within an EU exemption regulation by virtue of the Competition Act s.10(1)(a). Articles 81 and 82 of the Treaty of Rome have spawned a considerable quantity of secondary legislation, such as regulations giving 'block' or general exemption to categories of typical commercial agreements and notices, and the Commission has elaborated on the impact of the legislation through its decisions in this field. The system of block exemption is of great importance. The Commission issues regulations for certain types of agreement, such as:

- Vertical agreements (exclusive distribution and purchasing agreements, selective distribution and franchise agreements) – regulation 2790/1999 published OJ 29.12.99 L336/21 which came into force on 1 June 2000 to be read with its important October 2000 guidance notes.
- Technology transfer agreements (patent and know-how and software copyright licensing) regulation 772/2004 to be read with its accompanying intellectual property guidance notes)
- Research and development agreements (regulation 2659/2000, published OJ 5.12.00 L304/7)
- Specialisation agreements (regulation 2658/2000, published OJ 5.12.00 L304/3).

(There are guidelines on horizontal agreements, particularly regulations 2658/9, which are relevant as well.)

The regulations set out the restrictive provisions which are allowed where the other requirements of the block exemption are met. Where an agreement contains restrictions which infringe the competition rules and no block exemption is applicable, then the restrictions must be removed or the agreement individually notified to the Commission under Article 81(3) for a specific exemption.

The legislation catches the obvious price fixing and market sharing cartels, including agreements between companies or other business entities, as to the prices at which they shall sell their respective goods or the geographical markets in which they will concentrate their activities, and may apply to a vast range of commercial agreements where they contain restrictions of the sort which infringe

the rules. Typical agreements, which ought to be examined closely to check whether their provisions infringe, include:

- exclusive purchasing and distribution agreements
- intellectual property agreements
- co-operation agreements or other joint venture arrangements
- information exchange agreements
- any agreements containing price restrictions or export bans.

Companies enjoying a major share of the market for a particular product within the EC or one major country of the EC may be regarded by the Commission as ‘dominant’ in that market. There are similar rules for companies dominant in the UK or a part of the UK, however small. Such companies need to exercise caution when:

- refusing to supply products to customers
- discriminating between customers in the terms which they offer to customers
- imposing excessive prices
- imposing unfair terms
- undertaking acts to drive a competitor out of a market
- requiring customers to purchase goods which they do not want when buying other products.

These actions may comprise an abuse of a dominant position.

Competition law looks to the economic effects of agreements or behaviour by a dominant company. This has the advantage in practice that agreements are not caught by the rules where they do not have significant anti-competitive effects. However, this also means that it is almost always necessary to undertake some economic analysis before it is clear whether or not competition law is infringed. The definition of the relevant market, the effect of an agreement on the market-place, the market shares of the parties and their competitors, and the nature of the products concerned all need to be examined.

Advising on these laws can become an exercise in risk analysis, given that few agreements fall squarely under the general or block exemptions which the Commission has issued for certain types of agreement. In an ideal world agreements would be drafted without the inclusion of restrictions curtailing the freedom of the companies concerned. However, in practice business people require the

imposition of non-competition and other restrictions. The advantage of avoiding infringing competition law must be balanced against the loss of restrictions which commercially benefit the parties.

The easy answer is to omit all potentially infringing provisions when drafting commercial agreements. The art is in drafting a provision which achieves the commercial ends sought, whilst limiting the risk of infringement.

The risks of ignorance

Few product areas are exempt from competition law and many companies have found to their cost that ignoring these provisions can result in the requirement to pay substantial fines.

The consequences of infringing the rules are:

- Fines of up to 10% of turnover in the preceding business year can be levied by the European Commission or UK OFT.
- Restrictions in agreements caught by Article 81(1) will be void and cannot be enforced by legal proceedings.
- Third parties damaged by the operation of the restrictive arrangement or abuse of a dominant position may sue the companies concerned in the national courts for damages (as mentioned above).

Examples

COMMISSION FINES MEMBERS OF BEER CARTEL IN THE NETHERLANDS OVER €273 MILLION

In April 2007 the European Commission fined the Dutch brewers Heineken, Grolsch and Bavaria a total of €273 million for operating a cartel on the beer market in the Netherlands, in breach of Article 81. Between at least 1996 and 1999, the four brewers held numerous unofficial meetings, during which they coordinated prices and price increases of beer in the Netherlands. InBev received no fines as they provided decisive information about the cartel under the Commission's leniency programme. After the Commission, on its own initiative, uncovered a cartel on the Belgian beer market, InBev provided information under the auspices of the Commission's leniency policy that it was also involved in cartels in other European countries. This led to surprise inspections on brewers in France, Luxembourg, Italy and the Netherlands. These investigations led to decisions condemning cartels in Belgium, France and Luxembourg. The Italian investigation was closed without charges being brought.

The evidence uncovered in the inspections, in particular handwritten notes taken at unofficial meetings and proof of the dates and places when these meetings took place, showed that Heineken, InBev, Grolsch and Bavaria ran an illegal cartel in the Netherlands. At meetings called ‘Agenda Meeting’, ‘Catharijne Meeting’ or ‘Sliding Scale Meeting’, the four brewers coordinated prices, and price increases of beer in The Netherlands.

BRITISH AIRWAYS PLC V COMMISSION (C-95/04 P)

In March 2007, the European Commission examined a complaint by Virgin Atlantic about agreements made between British Airways (BA) and travel agents, which granted financial incentives as a reward for the sale of BA tickets. BA adopted a new performance reward scheme in 1998 but Virgin lodged a second complaint. The Commission condemned the incentive schemes as an abuse of BA’s dominant position on the UK market under Article 82 (abuse of a dominance position) and fined BA €6.8 million.

The European Court of Justice said that the list of examples of abuses of a dominant position laid down in Article 82 TEC is not exhaustive. It thus follows that discounts and bonuses granted by undertakings in a dominant position may be contrary to Article 82 even when they do not match the examples given in Article 82. In order to determine whether a dominant undertaking has abused its position, the Court held that the rules set down in *Michelin* (C-322/81) should apply. This includes consideration of: whether the discount tends to remove or restrict the buyer’s freedom to choose his sources of supply; whether it bars competitors’ entry to the market; whether it applies dissimilar conditions to similar transactions; and whether it strengthens a dominant position by distorting competition.

COMPETITION APPEAL TRIBUNAL UPHOLDS OFT DECISION IN PRICE FIXING CASE - DOUBLE GLAZING

The Competition Appeal Tribunal (‘CAT’) in the UK found in favour of the OFT in a case relating to price fixing and market sharing in the double glazing industry. The CAT unanimously dismissed the appeal by Double Quick Supplyline Limited (DQS) (now known as Sepia Logistics Limited) and found that the penalty of £180,000 imposed on the company by the OFT was appropriate. The appeal concerned the OFT’s infringement decision of June 2006 which found that DQS had colluded with other suppliers in the supply of aluminium spacer bars, which are used to separate panes of glass in double-glazed doors and windows. The suppliers had attended a meeting in November 2002 and following an inspection of their premises, the OFT found evidence that they had engaged in price fixing and market sharing at that meeting. The decision was also directed to DQS’ parent company, Precision Concepts Limited (PCL), which shares responsibility for paying the fine.

The OFT concluded the companies had participated in a cartel in which they agreed to fix prices and share the market for aluminium double glazing spacer bars, in breach of the Chapter I prohibition of the Competition Act 1998. EWS was fined £490,050, Thermoseal was fined £380,700 (reduced to £228,420 for leniency), and DQS fined £180,000. In line with the OFT's leniency policy Ulmke Metals Limited, fined £330,000, was granted 100% leniency in recognition of its cooperation with the OFT's investigation. The case follows an earlier decision in November 2004 that prices had been fixed in the market for another double glazing raw material, desiccant, and brings the total fines for cartels in the double glazing industry to around £3.7 million, reduced to around £2.5 million by leniency.

JCB: 39.6M EURO FINE

On 21 December 2000 it was announced that the European Commission was fining JCB 39.6m euros. Since the late 1980s, JCB has put in place distribution agreements and other practices which had the effect, the Commission said, of severely restricting out of territory sales of JCB's products, both within certain national territories and across national borders, as well as interfering with the freedom to set resale prices. During surprise inspections in November 1996, the Commission found evidence of the illegal agreements implemented by various companies of the JCB Group and, in particular, the JCB Sales organisation in the UK, JCB SA (France) and JCB Spa (Italy), all controlled by JCB Service. These illegal agreements or practices have been implemented in isolation or in combination between 1988 and 1998, according to evidence.

The restrictive agreements or practices between JCB and its distributors consisted of:

- restrictions on sales outside allotted territories;
- restrictions on purchases of machines between authorised distributors in different EU states;
- bonuses and fees systems which disadvantaged out of territory sales;
- occasional joint fixing of resale prices and discounts across different territories.

There was evidence that the restrictions had been put in place in at least the United Kingdom, France, Italy and Ireland. Each of these measures and their combination were contrary to the ban on restrictive agreements under article 81(1) of the EC Treaty. The Commission said "As a result, import and export purchases and sales of JCB's products have been severely restricted in the Member States more directly concerned and, consequently, within the European Community as a whole. Through such restrictions purchasers of JCB machines are illegally

deprived of the opportunity to take advantage of substantial price differences for the same equipment in different Member States.” As a result, the Commission ordered JCB to lift the above measures and to bring its agreements and practices in line with EC competition rules applicable to distribution.

In 1973, when the UK joined the EU, JCB was one of the first British companies to comply with European competition law and the then exemption regulation for distribution agreements. It also amended the agreements on the advice of the Commission and was led by the Commission to believe that they were in order. Then, 27 years later in 2000, the Commission issued a decision rejecting JCB’s application for exemption, even though JCB had twice since, in 1980 and 1995, re-notified it of the agreements. As a result the company was fined €39.614 million for competition infringements for a period up to 1996 as described above. JCB appealed against the judgement and in 2004 the European Court of First Instance upheld JCB’s appeal on a number of counts and reduced the €39.614 million fine by 25% to €30 million.

JCB launched a subsequent appeal to the European Court of Justice to have the entire decision overturned but this appeal was dismissed in 2006. The Court has agreed with JCB that this 27 year delay by the Commission is ‘regrettable’ and breaches the Commission’s obligation under European law but decided nothing should be done about that. John Patterson, JCB Managing Director and CEO, said in 2006: “We are very frustrated indeed that, after six years of pursuing this action in the courts, the European Court of Justice has ignored the failings of the Commission and found against us. The Commission is not giving European industry the efficient and effective legal framework it needs in order to compete globally.”

COMPETITION: COMMISSION FINES MEMBERS OF LIFT AND ESCALATOR CARTELS OVER €990 MILLION

The European Commission has fined the Otis, KONE, Schindler and ThyssenKrupp groups €992 million for operating cartels for the installation and maintenance of lifts and escalators in Belgium, Germany, Luxembourg and the Netherlands, in breach of Article 81. The decision names 17 subsidiaries of the above groups, together with Mitsubishi Elevator Europe B.V. which participated in the Dutch cartel. Lifts and escalators play a major role in modern urban life – Otis alone estimates that the equivalent of the entire world’s population travel in their lifts, and on their escalators and moving walkways every 9 days. Between at least 1995 and 2004, these companies rigged bids for procurement contracts, fixed prices, allocated projects to each other, shared markets and exchanged commercially important and confidential information, the Commission says.

The effects of this cartel may continue for twenty to fifty years as maintenance is often done by the companies that installed the equipment in the first place; by cartelising the installation, the companies distorted the markets for years to come. KONE subsidiaries received full immunity from fines under the Commission's leniency programme in respect of the cartels in Belgium and Luxembourg, as they were first to provide information about these cartels. Similarly, Otis Netherlands received full immunity in respect of the Netherlands cartel. The fines imposed on the ThyssenKrupp companies were increased by 50%, as it is a repeat offender. These are the largest ever fines imposed by the Commission for cartel violations.

Competition Commissioner Neelie Kroes said: "It is outrageous that the construction and maintenance costs of buildings, including hospitals, have been artificially bloated by these cartels. The national management of these companies knew what they were doing was wrong, but they tried to conceal their action and went ahead anyway. The damage caused by this cartel will last for many years because it covered not only the initial supply but also the subsequent maintenance of lifts and elevators – for these companies the memory of this fine should last just as long."

The Commission started the investigation on its own initiative using information brought to its attention. This led to surprise inspections in January 2004 at the premises of lift and escalator manufacturers throughout Europe. In turn, these inspections triggered many applications from the companies for immunity or reduction of fines under the Commission's 2002 Leniency Notice.

The evidence uncovered in the inspections showed that the companies ran illegal cartels in Belgium, Germany, Luxembourg and the Netherlands. This was further confirmed by numerous documents and corporate statements provided by the leniency applicants.

The companies allocated tenders and other contracts for the sale, installation, maintenance and modernisation of lifts and escalators with the aim of freezing market shares and fixing prices. Business secrets and confidential information on bidding patterns and prices between the cartel participants were also exchanged. Projects that were rigged included lifts and escalators for hospitals, railway stations, shopping centres and commercial buildings.

The allocation of projects was similar in all four Member States. The companies informed each other of calls for tender and co-ordinated their bids according to their pre-agreed cartel quotas. Fake bids, too high to be accepted, were lodged by the companies who were not supposed to win the tender, in order to give the impression of genuine competition. The companies kept and circulated

amongst themselves updated project lists for Belgium, Germany and Luxembourg. In Germany and the Netherlands, it was often agreed that the company that had a longstanding or good relationship with a particular customer should secure most of that customer's contracts – referred to by the companies as the 'existing customers remain' principle.

In all four cartels high-ranking national management (such as managing directors, sales and services directors and heads of customer service departments) participated in regular meetings and discussions. There is evidence that the companies were aware that their behaviour was illegal and they took care to avoid detection – they usually met in bars and restaurants, they travelled to the countryside or even abroad, and they used pre-paid mobile phone cards to avoid tracking.

VOLKSWAGEN: €90 MILLION FINE

In the Volkswagen case a fine of €102 million was imposed in 1998 and subsequently reduced to €90 million by the Court of First Instance.

OPEL NETHERLANDS: €43 MILLION FINE

The case is also similar to a recent case involving Opel Netherlands, for which a fine of €43 million was decided.

TETRA PAK: 75 MILLION ECU (NOW EUROS) FINE

Tetra Pak was fined in July 1991 what was then a record 75million ecu (£57.8 million). Tetra Pak is a Swedish liquid packaging company. It was fined for a large variety of abuses of its dominant position. Fines reflect not only the turnover of the companies concerned but also the length of time over which an arrangement was operated and the seriousness of the infringement of EC competition law.

Although the fines are often high, for many companies the most important consequence of infringement is the adverse press publicity this attracts and the consequent damage wrought to the company's goodwill. Significant amounts of senior management time will have to be committed to handling the questions raised by the Commission during an investigation. Solicitors will need to be instructed.

The scope of competition law

This Briefing focuses on UK competition law. However, in addition to Article 81 and 82 mentioned above, other provisions of the Treaty of Rome are also worthy of note. No one should look at UK competition law in isolation. In the vast majority of cases the EU rules will also apply and must be complied with. The Treaty prohibits member states from enacting legislation contrary, in particular, to Articles 81 and 82, in the case of public undertakings, and undertakings to which member states grant special or exclusive rights.

Coal and steel are subject to the Treaty of Paris and a separate system. Although measures, the equivalent of Articles 81 and 82 (Articles 65 and 66), of the ECSC Treaty exist.

Ensuring fair competition within the EC would be difficult without the Community dumping measures and provisions concerning state aids.

Dumping

Dumping involves selling goods in one state at a price below their usual value in their country of origin. The General Agreement on Tariffs and Trade (GATT), Article VI, permits members of GATT to impose dumping duties on products exported from one country at a dumped price. Regulation of dumping has been in existence since the beginning of the century.

The Treaty of Rome empowers the Commission to protect trade by taking such measures as 'in the case of dumping and subsidies'. The Commission's regulation in this area provides that a dumping duty can be applied to any dumped product whose release for free circulation in the Community causes injury. A product is regarded as dumped where its export price to the Community is less than the normal value of a like product. Normal value includes comparable prices at which the product is sold in the home market.

The relevant EC legislation is as follows. Anti-dumping is covered by Council Regulation (EC) 384/96 as amended by Council Regulation (EC) 2331/96, Council Regulation (EC) 905/98, Council Regulation (EC) 2238/2000, and Council Regulation (EC) 1972/2002. Council Regulation (EC) 461/2004 and Council Regulation (EC) 2117/2005. Anti-subsidy measures are covered by Council Regulation (EC) 2026/97 as amended by Council Regulation (EC) 1973/2002 and Council Regulation (EC) 461/2004. Safeguards are covered by Council Regulation (EC) 3285/94, Articles 16-22 and Council Regulation (EC) 519/94, Articles 15-19 (state trading and former state trading nations).

Where a company suspects that products are being dumped on the EC market, it should gather together a dossier of information for presentation to the European Commission. Information should be obtained as to the prices at which the dumped products are being sold in the EC by the complaining company. This should be by means which do disclose the identity of the complaining purchaser – for instance by arranging quotations or example purchases. Price lists may be publicly available.

The names and addresses of the dumping company or other entity should be ascertained and all relevant information which is collected dispatched to the European Commission along with a request that the matter be investigated urgently under the dumping regulation. Once the Commission has consulted an advisory committee and established that there is sufficient evidence upon which to initiate dumping proceedings, a notice is published in the EC's Official Journal, giving a summary of the information received by the Commission.

Interested parties then have the opportunity to comment and an investigation is begun. Eventually a dumping duty can be imposed on the dumped products. This is known as an anti-dumping duty, in the case of pure dumping and a countervailing duty where a subsidy has been found.

State aids

State aids comprise government assistance to companies, whether in the form of capital contributions, other financial assistance or loans made available at a lower than normal interest rate. Any aid granted by a member state or through state resources which distort competition in favouring certain undertakings or the production of certain goods, is regarded as incompatible with the common market where it affects trade between member states.

The Commission has powers, on finding that aid is not compatible with the common market, to require the member state to abolish the aid within a particular timescale or a reference to the European Court of Justice can be made. The Commission may also require that an unnotified aid be suspended if a member state fails to reply satisfactorily to the Commission's initial request for information.

Every year the Commission receives over 100 notifications from companies of potentially unlawful state aids. As with dumping, the more information which can be supplied to the Commission the more likely that the Commission will take up the case in hand. The legislation has been held not to be capable of being invoked in the national courts, so an individual company could not bring proceedings in the national courts against the government or a company which has

benefited from the aid. However, it is possible to seek a declaration that an aid, if implemented, would be contrary to the legislation.

Increasingly the Commission is investigating state aids to service industries, particularly banking and insurance, and considering state aids to public enterprises.

State aids and dumping legislation illustrate how competition law, which may often be seen as a bureaucratic interference in free business activities, can be used as a tool by businesses to ensure that they are treated fairly by their competitors within the EC. In 2008 the nationalisation of Northern Rock required EU approval under state aids law.

Horizontal and vertical restraints

Competition law affects both horizontal and vertical restraints. Some commentators question whether restrictions between companies operating at different levels in the distribution chain can be sufficiently anti-competitive to justify interference by the competition authorities. Clearly agreements between competitors, such as an agreement between two manufacturers who supply wholesalers, as to the prices at which they resell goods in competition with each other to the same potential customers can have a major anti-competitive impact. In 2000, EU guidelines on both vertical agreements (13 October 2000 OJ C291/1) and horizontal agreements (to accompany regulations 2658/2000 and 2659/2000 on R&D and specialisation agreements OJ 5.12.00 L304/3 and L304/7 which came into force on 1 January 2001) were issued.

OFT Competition Act 1998 Guideline 419 Vertical Agreements and Restraints describes the exemption from the Competition Act for 'vertical agreements'. There used to be a separate UK regulation on vertical agreements under the Competition Act but this has been abolished.

Agreements between a supplier and a dealer who do not compete with each other is a vertical restriction and does not appear immediately to be so anti-competitive. However, the supplier may have a network of similar agreements with other dealers which have the effect of carving up the market or the supplier may compete with the dealer were it not for restrictions imposed. Unlike some other anti-trust jurisdictions, the UK and EC regimes apply both to horizontal and vertical restrictions.

Barriers to entry and exit

In assessing the anti-competitive effect of an agreement or arrangement, the OFT or Commission will consider the ease of entry to the market by competitors or potential competitors. This is particularly important where an agreement is notified to the OFT or Commission for exemption – where it is accepted that the agreement infringes the rules, but the parties are seeking to convince the OFT or Commission that there are positive advantages to the arrangement (for example, that it operates to the advantage of consumers and that it does not have a major anti-competitive impact).

In determining these factors the extent of competition from third parties is examined. How easy or difficult it is for third parties to set up in competition is an important factor for the OFT or Commission in reaching its decision. One company with a large market share may propose to enter into an anti-competitive agreement with its major rival. The OFT will examine how easy or difficult it is for a third party to start up in the same business. The cost of setting up a plant, buying in skilled labour, acquiring technology etc are all relevant in this area.

Barriers to exit are also of relevance. Companies proposing to begin a new business need to know how expensive it might be to leave the industry, such as the costs of shutting down a plant safely bearing in mind environmental legislation. Such barriers to exit are often relevant in determining whether to enter a new business area or not.

Summary of the uses of competition law

- As a defence in litigation.
- As a means of ensuring supplies of products are restored, or prices of a dominant company adjusted, or otherwise modifying the behaviour of a dominant company.
- As a means of securing a fairer agreement in negotiations.
- As a right of action for damages or an injunction in the national courts.

Acquiring a background knowledge of competition law gives commercial negotiators and business managers an extra lever in extracting from other companies the agreement or modification of behaviour sought.

Cases illustrating the scope of competition law

BA/Virgin

The European Commission found an abuse by British Airways of its dominant position. BA offered a system of loyalty incentives based on the volume of tickets sold to travel agents in the UK. Virgin complained. This breached Article 82 and a fine of €6.8 million was imposed.

Seamless steel tubes

In 1999 the Commission fined steel companies between €8.1 million and €13.5 million. Eight manufacturers of seamless steel tubes, including British Steel, were found to have engaged in market and supply sharing practices which breached Article 81.

Tetra Pak

This case resulted in its time in the then largest fine for competition law infringement in the history of the European Commission. The Tetra Pak II decision (*OJ 1992 L72/1, [1992] 4 CMLR 551*) was decided in July 1991 and concerned the activities of Tetra Pak, a huge Swedish multinational company involved in the liquid aseptic packaging market producing and distributing products such as milk cartons. Tetra Pak had extremely large market shares, in some markets over 90% and there was no doubt that it held a dominant position.

Purchasers of packaging equipment from Tetra Pak were prohibited in Italy from adding accessory equipment to the machines which they had bought and were forbidden to modify or move the machines without consent from Tetra Pak. Such restrictions may be acceptable where equipment is leased, but situations where title to the equipment has passed to a purchaser were regarded by the Commission as an abuse of a dominant position, contrary to Article 82.

The Commission examined a considerable number of other anti-competitive practices, including:

- tying the purchase of milk cartons to the sale of machines
- discriminatory pricing aimed at eliminating competitors
- a marketing policy aimed at segregating national markets within the EC

- the buying up of competitors' machines
- elimination of competitors from the market
- depriving competitors of trade references
- monopolising specialist advertising media
- imposing pressure on suppliers to cut off supplies to competitors.

Tetra Pak was fined a record 75 million ecu (£57.8 million).

Tipp-Ex

Requiring distributors to notify their supplier of the customers to whom goods are sold is not an uncommon business practice and can yield extremely useful information concerning the market for particular products. However, it can also result in restrictive agreements which fall within the prohibition in Article 81.

The Tipp-Ex case (*OJ 1987 L222/1, [1989] 4 CMLR 425*) was decided in July 1987 and concerned the distribution of correction products for documents, such as correction fluid, by the German company Tipp-Ex Vertrieb GmbH & Co KG through distributors in the EC.

The supplier demanded to know to whom goods were ultimately sold by its dealers and exerted strong pressure on individual dealers, so the Commission found, threatening them with sanctions, if dealers did not assist the company in preventing the parallel importation of its products across EC boundaries. Parallel importation comprises the importation of products from one territory where they have been purchased to another, where they can be resold at a higher price than would be obtainable by resale in the territory of first purchase.

Tipp-Ex had been careful to ensure that its dealer contracts within the EC did not prohibit the sale of its products outside the exclusive territory granted to the dealer (which would have infringed Article 81), but the Commission held that the requirement of detailed proof of identity of the final recipients of the goods and the carrying out of post-delivery checks were simply a means of ensuring absolute territorial protection, contrary to Article 81. Tipp-Ex was fined 400,000 ecu (£308,000) and its French distributor 10,000 ecu (£7,700).

Bayer Dental

Express export bans are rare as most business people are aware that any attempt to carve up the EC single market geographically by restrictions in agreements

will infringe Article 81. Companies have, however, sought methods of achieving a similar objective through less obvious means. In *Bayer Dental (OJ 1990 L351/46, [1992] 4 CMLR 61)* which was decided in November 1990, the actions of Bayer Dental, a division of the German company Bayer AG were considered.

Bayer Dental distributes dental products manufactured by Bayer AG. Bayer Dental's conditions of sale required that original packages might only be resold in unopened form and that the products were only intended for resale in West Germany. The conditions also contained a warning that reselling the dental products abroad might be prohibited according to the laws of the country to which the export was made, either because this would contravene registration regulations or involve a breach of national intellectual property rights. This was merely a statement of fact. The Commission held that these statements infringed Article 81(1).

Belgian banking

Trade associations provide a forum for the exchange of views and often present member companies with the opportunity to discuss and agree not only common industry concerns but also prices and terms and conditions. Such arrangement may well infringe Article 81. The next case involves agreements concluded between members of a Belgian banking organisation concerning the commission charged for services. In the *Belgian Banking* decision of December 1982 (*OJ 1987 L7/27, [1989] 4 CMLR 141*) such arrangements concerning commission were held to be restrictive agreements contrary to Article 81(1), although a specific exemption was granted in this case.

PVC Cartel

EC competition law applies to non-binding, verbal and 'gentlemen's' agreements. In *Re the PVC Cartel* case (a Court of First Instance decision of February 1992, *Cases T-79,84-82, 89, 91, 92, 94, 96, 98, 102 and 104/89*) the Commission found that regular meetings of PVC producers took place, at which prices and market shares were discussed. The Court of First Instance (CFI) is the first court of appeal from Commission decisions. A further appeal is possible from the CFI to the European Court of Justice (ECJ).

The individuals participating in the meetings had not felt that an agreement had been reached – simply an understanding – and left the meetings feeling under no commitment to take any action discussed at the meeting. Despite this, the

Court still held that the parties had entered into a restrictive agreement contrary to Article 81.

Hilti AG

The last example concerns an abuse of a dominant position. No agreement is necessary for an infringement of Article 82. Article 82 applies where a company has a large market share or otherwise has a dominant position on a particular product market in the whole of the EC or a substantial part of the Community.

In *Hilti v. Commission (Case T-30/89, [1992] 4 CMLR 16)* the CFI, in December 1991, upheld the earlier Commission decision concerning Hilti AG, a manufacturer of nail guns. Nail guns are a power tool which drive nails into other materials and Hilti had a patent over the cartridge strips from which the nails were fired.

It was held that Hilti abused its dominant position on the market for cartridge strips and nails compatible for use with Hilti's own brand of nail gun by attempting to exclude independent producers of nails from the market. Tying the purchase of one product to the purchase of another is an infringement of Article 82(d).

Considering arrangements under competition law

In considering an arrangement under competition law the following points are worth consideration:

- Advice should be taken on competition law of all relevant jurisdictions. A quick telephone call or facsimile to local lawyers or even to subsidiary companies in the countries concerned should be sufficient to alert all parties early to any potential competition law problem. More substantial advice should be obtained later and all necessary national approvals obtained.
- Competition law should be considered early as it may result in the deal being differently structured. A licence may be preferable to a joint venture or a proposed course of action may not be permitted at all. Having to change a transaction which has been negotiated over many months is clearly more difficult than ensuring, before talks begin, that the proposed structure does not unduly offend the law.

- A commercial transaction should never be effected in a manner which is disadvantageous to the business of the company, simply to comply with competition law. It may be better that the transaction is abandoned.
- It should be accepted that there may be no risk-free method of undertaking a transaction, given that competition law can be of uncertain application. However, an analysis must always be undertaken of the extent of the risk being run and whether the provision concerned is of a type regarded as particularly iniquitous by the Commission or merely a minor issue in relation to which a fine is unlikely to be imposed.
- An arrangement must never be entered into, whether in writing or orally and whether formally binding or not, which comprises competitors agreeing between themselves the prices at which they will sell their goods or the allocation of contracts between the parties.

Further information

UK Competition Law

Office of Fair Trading, Fleetbank House
2-6 Salisbury Square, LONDON EC4Y 8JX
Telephone: +44 (0)20 7211 8000 (switchboard)
08457 22 44 99 (general enquiries)
0870 60 60 321 (publication orders)
Fax: +44 (0)20 7211 8800
E-mail: enquiries@oft.gov.uk

See also the OFT web site at: www.oft.gov.uk clicking on the Competition Act section.

The Competition Act Enquiry Line is on tel: 020 7211 8989, or e-mail enquiries: competitionact@oft.gov.uk

Blackstone's *Guide to the Competition Act 1998* (Susan Singleton) is available from Blackstone Press £21.95, ISBN 1 85431 867 5, see www.blackstonepress.com

EC/Competition Lawyers are listed in the Chambers Directory at: www.chambersandpartners.com

EU Competition Law

The European Commission's competition web site includes all the EU legislation and it is accessible via www.europa.eu under Competition.

Butterworths' Competition Law Handbook is issued every year and contains all the legislation and OFT guidance notes in book form.

The Competition Law Association holds regular meetings on competition law topics – see <http://www.competitionlawassociation.org.uk/> for details.