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

CAT

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
Jonathan Parker
Paula Riedel
Isabel Taylor

Baker & McKenzie LLP
Latham & Watkins LLP
Kirkland & Ellis LLP
Slaughter & May

The Honourable Mr Justice

Marcus Smith QC