

Unclassified

DAF/COMP/AR(2014)23

Organisation de Coopération et de Développement Économiques  
Organisation for Economic Co-operation and Development

13-Jun-2014

English - Or. English

Directorate for Financial and Enterprise Affairs  
COMPETITION COMMITTEE

DAF/COMP/AR(2014)23  
Unclassified

**ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS IN THE UNITED KINGDOM**

-- 2013 --

18-19 June 2014

*This report is submitted by the United Kingdom to the Competition Committee FOR INFORMATION at its forthcoming meeting to be held on 18-19 June 2014.*

JT03359289

Complete document available on OLIS in its original format

*This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.*

English - Or. English

## TABLE OF CONTENTS

EXECUTIVE SUMMARY .....	4
1. Changes to competition laws and policies, proposed or adopted.....	6
1.1 Government proposals for new legislation .....	6
1.2 Other relevant measures, including new guidelines.....	6
2. Enforcement of competition laws and policies .....	7
2.1 Action against anticompetitive practices, including agreements and abuses of dominant positions .....	7
2.1.1 Summary of enforcement activity by competition authorities.....	8
2.1.1.1 Decision regarding Mobility Scooters .....	8
2.1.1.2 Investigation into suspected anti-competitive arrangements by Amazon .....	8
2.1.1.3 Investigation into the hotel online booking sector .....	8
2.1.1.4 Decision on Home Medicine Cartel.....	8
2.1.1.5 Road Fuels .....	9
2.1.1.6 Retirement homes .....	9
2.1.2 Description of significant cases, including those with international implications.....	9
2.2 Mergers and acquisitions .....	9
2.2.1 During 2013–2014 .....	9
2.2.1.1 Ryanair / Aer Lingus.....	10
2.2.1.2 Global Radio / GMG.....	10
2.2.1.3 Eurotunnel.....	10
2.2.1.4 Royal Bournemouth Hospital NHS FT / Poole Hospital NHS FT.....	10
2.2.1.5 AG Barr plc / Britvic plc.....	11
2.2.1.6 AEG / Wembley.....	11
2.2.1.7 Imerys / Goonvean.....	11
2.2.1.8 Cineworld.....	11
2.2.1.9 Optimax / Ultralase.....	11
2.2.1.10 Ericsson / Creative .....	12
2.2.1.11 Tradebe Environmental / Sita UK.....	12
2.2.2 Summary of significant cases .....	12
2.2.2.1 Market Study into Workplace Pensions.....	12
2.2.2.2 Market Study into supply of Information and Communications Technology (ICT) ....	13
2.2.3 Statistics on number, size and type of mergers notified and/or controlled under competition laws .....	13
2.2.3.1 Acquisition of Scottish assets of Aggregate Industries UK Ltd by Breedon Aggregates Ltd.....	13
2.2.3.2 Anticipated acquisition of Creative Broadcast Services Holdings Ltd by Telefonaktiebolaget LM Ericsson.....	13
2.2.3.3 Anticipated acquisition of SurgiChem Ltd by Omnicell, Inc. MTS Medication Technologies, Inc. ....	13
2.2.3.4 Acquisition of the manufacturing assets of IBA Molecular UK Ltd by Alliance Medical Ltd.....	14

3.	The role of competition authorities in the formation and implementation of other policies, e.g. regulatory reform, trade and industrial policies .....	14
4.	Resources of competition authorities .....	14
4.1	Resources overall (current numbers and change over previous year).....	14
4.1.1	Annual budget (in your currency and USD): .....	15
4.1.2	Number of employees (person-years).....	15
4.2	Period covered by the above information .....	15

## EXECUTIVE SUMMARY

### Creation of the CMA

1. 2013-2014<sup>1</sup> has been a year of major change for the UK's competition and consumer enforcement landscape. On 25 April 2013 the Enterprise and Regulatory Reform Act 2013 (the Act) received Royal Assent. The Act brought in a new regime establishing the Competition and Markets Authority (CMA)<sup>2</sup> as the UK's lead competition and consumer authority, replacing the Competition Commission (CC) and the Office of Fair Trading (OFT).<sup>3</sup> The CMA came into being on 1 October 2013<sup>4</sup> and formally took up its powers on 1 April 2014.

2. The UK Government, in 2011, started a programme of wide-ranging reforms to the competition, consumer protection and consumer credit regimes. This involved the transition of the OFT's and CC's functions to a range of successor organisations, with the most substantial changes taking place in 2013–2014. The majority of the functions of the CC and OFT have been transferred to the CMA. Certain consumer functions of the OFT were transferred to other organisations. For example, responsibility for consumer credit was transferred to the Financial Conduct Authority.

3. In the year 2013–2014, in addition to delivery of an extensive portfolio of work, staff at both the OFT and the CC contributed substantially to preparing for the launch of the new CMA. This included producing extensive guidance on how the CMA's new powers will be used:

- In January 2014, the CMA published a first tranche of guidance documents on its approach to using some key legal powers, including new measures to impose financial penalties on firms that do not comply with competition investigations or with interim measures imposed in merger cases.
- In March 2014, the CMA published a second tranche of guidance documents, including providing clarity on how the organisation will go about its work on markets investigations and the procedures the CMA will follow when investigating and enforcing competition law. This included the use of new compulsory interview powers and details on how the CMA will target consumer enforcement action at markets where wide-ranging changes can be secured.

### OFT portfolio of work

4. During 2013–2014, the OFT completed 12 market projects and made one market investigation reference to the CC. It also considered 53 mergers and merger proposals, making eight merger references to the CC.

5. The OFT's competition enforcement work resulted in some significant outcomes this year. It pursued a number of investigations under the Enterprise Act 2002 (Enterprise Act) and Competition Act 1998 (Competition Act) powers looking into suspected cartel activity or other anticompetitive conduct across a number of sectors. The OFT issued infringement decisions in four cases: two concerning the

---

<sup>1</sup> This report covers the period 1 April 2013 to 31 March 2014

<sup>2</sup> [www.gov.uk/cma](http://www.gov.uk/cma)

<sup>3</sup> The OFT and the CC both ceased to exist on 31 March 2014

<sup>4</sup> In shadow form

mobility scooters market, one regarding the supply of security alarms to retirement properties and another regarding the supply of prescription medicines to care homes.

6. The OFT accepted commitments in its hotel online booking investigation, closed its Bunker Fuel investigation with a no grounds for action decision and closed three cases on administrative priority grounds.

7. Using its markets powers, the OFT also looked into whether competition was working well in the banking market for small and medium enterprises, work that is being taken forward by the CMA, the public sector ICT market and higher education, leading to a range of recommendations in early 2014.

8. During the year, the OFT also reported on the defined contribution workplace pension market, resulting in the Government, industry and regulators implementing many of the recommendations. Further, the OFT published the findings of the payday lending compliance review in early 2013.

9. The OFT also carried out two detailed evaluations on the longer term impact of its previous interventions. An evaluation was carried out of the OFT's work in the cash ISA market and of the OFT's conditional clearance of the Shell / Rontec merger.

### **CC portfolio of work**

10. 2013–2014 was also a busy year for the CC, with a large number of inquiries completed and carried forward to the CMA.

11. There was one new market investigation reference in the year, payday lending, as well as six merger references and two regulatory appeals. Five of the ten merger references completed during the year resulted in a finding of a substantial lessening of competition and led to the remedies processes. The CC also completed two market investigations during the year and worked on two regulatory appeals (one of which, Northern Ireland Electricity, involved a full redetermination of the regulator's decision). In addition, the CC defended six legal challenges to its decisions, including one case in the Court of Appeal.

12. For most of the year 2013–2014 the CC worked on four (and briefly five) market investigations, six or more merger inquiries and one or two regulatory appeals, as well as work on remedies, legal challenges, reviews of past remedies and the transition to the CMA. The level of work, particularly in the first half of the year, was higher than the previous year and was probably the busiest that the CC has ever had. Towards the end of the year the flow of references decreased, which allowed more capacity for transition work. A brief summary of some of the work follows.

13. In the aggregates and cement market inquiry, the CC found that coordinated effects in the cement market led to an adverse effect on competition in that market, for which the only effective remedy was the divestment by Lafarge, the largest producer, of one of its cement plants. Aspects of this decision are currently under review by the Competition Appeal Tribunal (CAT)<sup>5</sup>.

14. In the audit market inquiry, the CC ordered all FTSE350 companies to retender for their audit services at least every ten years. Several have already done so.

15. The CC prohibited the proposed merger of Bournemouth and Poole NHS hospitals, the first such transaction to be referred to the CC, on the grounds that the hospitals were unable to provide sufficient

---

<sup>5</sup> [www.catribunal.org.uk](http://www.catribunal.org.uk)

evidence of potential patient benefits arising from a merger which would have significantly reduced patient choice.

16. The CC also decided to prohibit Eurotunnel from running its recently acquired SeaFrance ferries on the Dover-Calais route, on the grounds that it would be likely to have used its market position as operator of both Eurotunnel and a ferry service to drive other ferry operators off the route. The CC's decision was reviewed by the CAT<sup>6</sup>. The case is now being considered by the CMA<sup>7</sup>.

## **1. Changes to competition laws and policies, proposed or adopted**

### ***1.1 Government proposals for new legislation***

17. On 25 April 2013 the Enterprise and Regulatory Reform Act 2013 received Royal Assent. The Act established the CMA, in addition to a number of other reforms to support long term economic growth.

18. The CMA brings together the competition functions of the OFT and the CC as the UK's lead competition and consumer protection authority. As set out in the Act, the CMA's primary statutory duty is to promote competition for the benefit of consumers, both within and outside the UK.<sup>8</sup> Its aim is to make markets work well for consumers, businesses and the economy.

19. In overview, the CMA's statutory functions include responsibility for:

- investigating mergers which could restrict competition
- conducting market studies and investigations in markets where there may be competition and consumer problems
- investigating where there may be breaches of UK or EU prohibitions against anti-competitive agreements and abuses of dominant positions
- bringing criminal proceedings against individuals who commit the cartel offence
- co-operating with sector regulators and encouraging them to use their competition powers
- considering regulatory references and appeals

### ***1.2 Other relevant measures, including new guidelines***

20. In January 2014, the CMA published a first tranche of guidance documents on its approach to using some key legal powers, including new measures to impose financial penalties on firms that do not comply with competition investigations or with interim measures imposed in merger cases. These new measures are among those introduced in the Act and strengthen the UK's competition regime. They enable the CMA to impose financial penalties for failure to comply with investigatory requirements in mergers, markets, and Competition Act investigations.

---

<sup>6</sup> <http://www.catribunal.org.uk/237-8052/1216-4-8-13-Groupe-Eurotunnel-SA.html>

<sup>7</sup> For further details, please see <https://www.gov.uk/government/news/ban-on-eurotunnel-ferry-service-provisionally-confirmed-by-cma>

<sup>8</sup> Section 25(3) of the Act

21. For further information see:  
<https://www.gov.uk/government/news/competition-and-markets-authority-publishes-guidance-on-approach-to-new-powers>

22. In March 2014, the CMA published a second tranche of guidance documents providing clarity on how the new organisation will go about its work. These set out procedures the CMA will follow when investigating and enforcing competition law, including the use of new interview powers. The guidance documents include how the CMA will use its consumer powers to tackle, in particular, market wide consumer problems or issues which affect consumers' ability to make choices. The consumer guidance also outlines how the CMA will work with a range of partners, including Trading Standards Services, to protect UK consumers. The CMA's commitment to such partnership working also underpins the Regulated Industries guidance, which highlights how the CMA will interact with the sectoral regulators in competition enforcement cases and how it will use its competition case allocation powers in regulated sectors.

23. For further information see:  
<https://www.gov.uk/government/news/cma-publishes-second-tranche-of-guidance-and-announces-appointment-of-procedural-officer>.

24. In addition to new CMA guidance material, the CMA has formally adopted certain guidance issued by the OFT and the CC. These are available on the CMA website at [www.gov.uk/cma](http://www.gov.uk/cma).

## **2. Enforcement of competition laws and policies**

### ***2.1 Action against anticompetitive practices, including agreements and abuses of dominant positions***

25. In 2013–2014 the OFT continued to prioritise cases on the basis of strategic significance, deterrence effect and precedent-setting value, to ensure that its enforcement work was powerful, targeted and effective.

26. The OFT continued to deliver high-quality competition enforcement against a background of significant changes to the UK regime. It pursued a number of investigations under the Enterprise Act and Competition Act powers looking into suspected cartel activity or other anti-competitive conduct across a number of sectors and issued infringement decisions in four cases: two concerning the mobility scooters market, one regarding the supply of security alarms to retirement properties and another regarding the supply of prescription medicines to care homes.

27. The OFT also accepted commitments in its Hotel Online Booking investigation, closed its Bunker Fuel investigation with a no grounds for action and closed three cases on administrative priority grounds. Further, the OFT completed its investigation into the Amazon online Market Place and considered 53 merger cases, referring eight of these to the CC for a Phase II investigation.

28. The OFT continued to push the boundaries of competition thinking by publishing research on the economics of personalised pricing and the anti-competitive effects of resale price maintenance in fragmented markets. The OFT also produced innovative policy guidance on applications for leniency and no-action in cartel cases.

2.1.1 *Summary of enforcement activity by competition authorities*

2.1.1.1 Decision regarding Mobility Scooters

29. In August 2013 the OFT issued a decision finding that Roma Medical Aids Ltd (Roma), a manufacturer of mobility scooters based in Bridgend, Wales, and some of its online retailers, breached competition law. The OFT found Roma entered into arrangements with seven UK-wide online retailers which prevented them from selling Roma-branded mobility scooters online and from advertising their prices online. The OFT found that these practices limited consumers' choice and obstructed their ability to compare prices and get value for money. The OFT found these practices occurred over various periods in relation to different retailers between 2011 and 2012 and prevented, restricted or distorted competition in the supply of mobility scooters in the UK.

30. For further information see:

<http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.of.gov.uk/news-and-updates/press/2014/23-14>.

2.1.1.2 Investigation into suspected anti-competitive arrangements by Amazon

31. In November 2013 the OFT closed its investigation into Amazon's price parity policy. The practice restricted third party sellers trading on Amazon's Marketplace platform from offering products at lower prices on any other online sales channel. The closure decision was taken after the OFT was satisfied that Amazon had ended this practice across the European Union. Amazon confirmed to the OFT that it had made sellers aware the price parity policy had ended and that contractual conditions would change for all sellers, resulting in a more competitive and open marketplace.

32. For further information see:

<http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.of.gov.uk/news-and-updates/press/2013/60-13>.

2.1.1.3 Investigation into the hotel online booking sector

33. In January 2014 the OFT accepted formal commitments from two of the UK's largest online travel agents, Booking.com B.V. (Booking.com) and Expedia Inc. (Expedia), together with InterContinental Hotels Group plc. (IHG), which will enable online travel agents (OTAs) and hotels to offer discounts on rates for hotel rooms. The OFT's investigation centered on competition concerns that Booking.com and Expedia each entered into separate agreements with IHG which restricted each OTA's ability to discount the rates at which room-only hotel accommodation bookings are offered to consumers. This case is currently under appeal before the CAT.<sup>9</sup>

34. For further information see:

<http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.of.gov.uk/news-and-updates/press/2014/06-14>.

2.1.1.4 Decision on Home Medicine Cartel

35. In March 2014 the OFT issued a decision finding that Hamsard 3149 Ltd (Hamsard), its subsidiaries Quantum Pharmaceutical Ltd (Quantum) and Total Medication Management Services Ltd (trading as Tomms Pharmacy - 'Tomms'), together with Celesio AG and its subsidiary Lloyds Pharmacy

---

<sup>9</sup> [www.catribunal.org.uk/Skyscanner-Limited](http://www.catribunal.org.uk/Skyscanner-Limited)

Ltd (Lloyds), infringed competition law by entering into a market sharing agreement in relation to the supply of prescription medicines to care homes in England.

36. For further information see:

<http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.ofc.gov.uk/news-and-updates/press/2014/17-14>.

#### 2.1.1.5 Road Fuels

37. The OFT consulted on action to encourage greater competition in the road fuels market in the Western Isles.

38. For further information:

<http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.ofc.gov.uk/news-and-updates/press/2014/16-14><sup>10</sup>

#### 2.1.1.6 Retirement homes

39. During the same period the OFT also issued a decision finding that four suppliers of access control and alarm systems to retirement properties have breached competition law. The OFT found that, between 2005 and 2009, Cirrus Communication Systems Ltd, Peter O'Rourke Electrical Ltd, Owens Installations Ltd and Glyn Jackson Communications Ltd engaged in a number of collusive tendering arrangements in relation to the supply and installation of certain access control and alarm systems to retirement properties.

40. For more information see:

<http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.ofc.gov.uk/news-and-updates/press/2013/50-13>

### 2.1.2 *Description of significant cases, including those with international implications*

41. In 2013, the OFT appealed against a ruling of the Competition Appeal Tribunal in relation to the OFT's decision taken under Chapter I of the Competition Act 1998 in the Tobacco case (2010). That ruling, which was handed down in March 2012, granted two addressees of the Tobacco decision permission to appeal against the OFT's decision out of time. The hearing of the OFT's appeal was held in March 2014. In April 2014, the Court of Appeal delivered its judgment allowing the OFT's appeal and refusing permission to bring late appeals against the Tobacco decision.

42. In addition to cases referred to above, please see, in particular, the following cases in section 2.2 with international implications Ryanair / Aer Lingus and Eurotunnel both of which were subject to appeal challenges.

## 2.2 ***Mergers and acquisitions***

### 2.2.1 *During 2013–2014*

43. During 2013–2014, the CC worked on the following Merger inquiries:

---

<sup>10</sup> For further information about this project, now carried out by the CMA, please refer to <https://www.gov.uk/cma-cases/investigation-into-the-distribution-of-road-fuels-in-parts-of-scotland>

#### 2.2.1.1 Ryanair / Aer Lingus

44. The CC found that Ryanair's acquisition of a minority shareholding in Aer Lingus had led or may be expected to lead to a substantial lessening of competition in the markets for air passenger services between Great Britain and the Republic of Ireland.

45. For further information see: <http://webarchive.nationalarchives.gov.uk/20140402141250/http://www.competition-commission.org.uk/media-centre/latest-news/2013/Nov/ryanair-aer-lingus-merger-consultation-on-the-draft-final-order>

46. On 23 September 2013, Ryanair filed a notice of application with the CAT, challenging the CC's decision. The hearing took place on 12 – 14 February 2014. The CAT rejected Ryanair's challenge on 7 March 2014. Ryanair has been granted permission to appeal to the Court of Appeal.<sup>11</sup>

#### 2.2.1.2 Global Radio / GMG

47. The CC found that there was an insufficient number of alternative suppliers available to local advertisers seeking to purchase airtime for sponsorship and promotion or on a campaign-by-campaign basis in seven areas in parts of England, Scotland and Wales. The merger was partially blocked and divestments were required. The case was subject to an appeal before the CAT which ultimately upheld the CC's decision.<sup>12</sup>

48. For further information see: <https://www.gov.uk/cma-cases/global-radio-gmg-merger-inquiry>.

#### 2.2.1.3 Eurotunnel

49. The CC concluded that the relevant markets in which to consider the competitive effects of the merger were those for the supply of transport services to (i) passengers and (ii) freight customers on the short sea (meaning the shortest transport routes between the UK and the continent). These markets included both ferry services and GET rail shuttle services through the channel tunnel. The CC found that there was excess capacity on the short sea routes and concluded that, as an effect of the merger, rival ferry operator DFDS/LD would be likely to cease operating services between Dover and Calais in the short term. The CC's decision was challenged before the CAT<sup>13</sup>.

50. For recent information on this case, see: <https://www.gov.uk/government/news/ban-on-eurotunnel-ferry-service-provisionally-confirmed-by-cma>.

#### 2.2.1.4 Royal Bournemouth Hospital NHS FT / Poole Hospital NHS FT

51. The inquiry concerned the merger of The Royal Bournemouth and Christchurch Hospitals NHS Foundation Trust (RBCH) and Poole Hospital NHS Foundation Trust (PH), which both provide a range of healthcare services in the Dorset area. The CC found that the proposed behavioural remedy was not likely

---

<sup>11</sup> Further details of the appeal can be found on the CAT website at: <http://www.catribunal.org.uk/237-8184/1219-4-8-13-Ryanair-Holdings-PLC-.html>). The case will be heard before the Court of Appeal in due course

<sup>12</sup> <http://www.catribunal.org.uk/237-8047/1214-4-8-13-Global-Radio-Holdings-Limited.html>

<sup>13</sup> <http://www.catribunal.org.uk/237-8052/1216-4-8-13-Groupe-Eurotunnel-SA.html> and <http://www.catribunal.org.uk/237-8099/1217-4-8-13-The-Socit-Cooprative-de-Production-Sea-France-SA-.html>

to be an effective remedy to the SLC and did not consider that it could be modified to make it effective. The CC found the only effective remedy was prohibition of the transaction. Full details about how the CC reached its findings and the final report can be found on the CC website: <http://webarchive.nationalarchives.gov.uk/20140402141250/http://www.competition-commission.org.uk/media-centre/latest-news/2013/Oct/cc-makes-final-decision-on-hospitals-merger>.

#### 2.2.1.5 AG Barr plc / Britvic plc

52. In November 2012, the boards of AG Barr and Britvic announced that they had agreed the terms of an all-share merger. The OFT referred the merger in February 2013, by which time the merger had lapsed but both parties announced that they would work closely with the CC to expedite clearance. Following the clearance it was announced by AG Barr and Britvic that the merger would not go ahead.

#### 2.2.1.6 AEG / Wembley

53. The merger involved the only two indoor live entertainment arenas in London. The CC looked at the market for venue hire in London, the provision of ancillary services such as sponsorship and catering, and ticket selling. The merger was cleared.

#### 2.2.1.7 Imerys / Goonvean

54. The merger involved two significant producers of kaolin. Both parties overlapped in the production and supply of kaolin from sites in Cornwall for various product markets. Together, they supplied over 90 per cent of the kaolin used by UK customers in the performance-mineral applications market. The CC ordered the introduction of a five-year price control for the parties' existing performance-mineral customers to protect them from prices rises or product withdrawal.

55. For further information see: <http://webarchive.nationalarchives.gov.uk/20140402141250/http://www.competition-commission.org.uk/media-centre/latest-news/2013/Oct/price-control-leaves-china-clay-merger-in-one-piece>.

#### 2.2.1.8 Cineworld

56. In October 2013 the CC decided that Cineworld's acquisition of City Screen Ltd, which runs the Picturehouse chain, could mean higher prices for customers in Aberdeen, Bury St Edmunds and Cambridge. Cineworld was required to sell one of its cinemas in each of these areas as a result.

57. For further information see: <http://webarchive.nationalarchives.gov.uk/20140402141250/http://www.competition-commission.org.uk/media-centre/latest-news/2013/Oct/cc-confirms-cineworld-findings>.

#### 2.2.1.9 Optimax / Ultralase

58. The CC concluded that Ultralase should be considered an exiting firm and as such found that the merger did not, and was not expected to, result in a substantial lessening of competition within any market or markets in the UK for goods or services.

59. For further information see: <http://webarchive.nationalarchives.gov.uk/20140402141250/http://www.competition-commission.org.uk/media-centre/latest-news/2013/Nov/cc-clears-laser-eye-surgery-merger>.

#### 2.2.1.10 Ericsson / Creative

60. In March 2014, the CC by a majority, formally cleared the anticipated acquisition by Ericsson of Creative Broadcast Services Holdings.

61. For further information see:

<http://webarchive.nationalarchives.gov.uk/20140402141250/http://www.competition-commission.org.uk/media-centre/latest-news/2014/Mar/playout-merger-cleared>.

#### 2.2.1.11 Tradebe Environmental / Sita UK

62. The CC found that the joint venture was not expected to result in an SLC in any market in the UK and cleared the merger.

63. For further information see:

<http://webarchive.nationalarchives.gov.uk/20140402141250/http://www.competition-commission.org.uk/media-centre/latest-news/2014/Mar/cc-clears-waste-merger>.

#### 2.2.2 *Summary of significant cases*

64. In 2013–2014, the CC progressed five market investigations. One was referred during the year and two reports were published.

65. Full details of the audit market investigation, including the full report, can be found at: <http://www.competition-commission.org.uk/our-work/directory-of-all-inquiries/statutory-audit-services>.

66. Full details of the aggregates market investigation, including the full report, can be found at: <http://www.competition-commission.org.uk/our-work/directory-of-all-inquiries/aggregates-cement-ready-mix-concrete>.

67. Three market investigations are ongoing in Private Healthcare, Private Motor Insurance and Payday lending. These investigations are now being carried out by the CMA.

68. During 2013-2014, the CC was involved in litigation during two market investigations and following a number of inquiries. Appeals were brought against the CC in relation to the private health care market investigation<sup>14</sup> and the aggregates market investigation referred to above (the litigation remains ongoing). The CC succeeded in defending its decision in AkzoNobel before the CAT<sup>15</sup>.

##### 2.2.2.1 Market Study into Workplace Pensions

69. In September 2013 the OFT published the findings of its market study into the defined contribution workplace pension market, which led to the Government, industry and regulators making a range of recommended changes. OFT's work will result in an improved and more regulated and open market serving both consumers and businesses.

---

<sup>14</sup> <http://www.catribunal.org.uk/237-8209/1220-6-8-13-BMI-Healthcare-Limited.html> and <http://www.catribunal.org.uk/237-8168/1218-6-8-13-BMI-Healthcare-Limited.html>

<sup>15</sup> <http://www.catribunal.org.uk/237-7891/1204-4-8-13-Akzo-Nobel-NV.html> which also provides a link to the Court of Appeal judgment which recently dismissed the appeal by AkzoNobel following the CAT's judgment

70. For further information see:

<http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.offt.gov.uk/news-and-updates/press/2013/63-13>.

#### 2.2.2.2 Market Study into supply of Information and Communications Technology (ICT)

71. In July 2013 the OFT launched a Call for Information into the supply of ICT services to the public sector. The aim was to understand more clearly the ICT products and services involved, who supplied them, the structure and operation of these important markets and the degree of competition between suppliers. This led to finding that competition could work better in the purchase and supply of ICT products and services to the public.

72. For further information see:

<http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.offt.gov.uk/news-and-updates/press/2014/21-14>.

#### 2.2.3 *Statistics on number, size and type of mergers notified and/or controlled under competition laws*

73. Of the 53 mergers considered by the OFT, between April 2013 to 31 March 2014, eight merger cases were referred to the CC. The following, in addition to those mentioned above are of particular interest:

##### 2.2.3.1 Acquisition of Scottish assets of Aggregate Industries UK Ltd by Breedon Aggregates Ltd

74. In September 2013 the OFT referred the completed acquisition of the Scottish assets of Aggregate Industries UK Ltd by Breedon Aggregates Ltd to the CC after it identified competition concerns. The OFT found the merger raised a realistic prospect of a substantial lessening of competition in the supply of primary aggregates, asphalt and ready-mix concrete in a number of local areas in the North of Scotland.

75. For further information see:

<https://www.gov.uk/cma-cases/breedon-aggregates-aggregate-industries-uk-merger-inquiry>  
<https://assets.digital.cabinet-office.gov.uk/media/5344d883e5274a571e00002d/CMA26-final-report.pdf>

##### 2.2.3.2 Anticipated acquisition of Creative Broadcast Services Holdings Ltd by Telefonaktiebolaget LM Ericsson

76. In September 2013 the OFT referred the anticipated acquisition of Creative Broadcast Services Holdings Ltd by Telefonaktiebolaget LM Ericsson to the CC. The OFT was concerned that the merger might lead to an increase in prices or a worsening of service levels in the supply of linear play out services in the UK.

77. For further information see: <https://www.gov.uk/cma-cases/ericsson-creative-merger-inquiry>.

##### 2.2.3.3 Anticipated acquisition of SurgiChem Ltd by Omnicell, Inc. MTS Medication Technologies, Inc.

78. In March 2014 the OFT referred the anticipated acquisition by Omnicell, Inc. / MTS Medication Technologies, Inc. (MTS) of Surgichem Ltd from Bupa Care Homes plc. (CFG) to the CC after it identified concerns about possible increased prices and/or a worsening of services to pharmacies for 'adherence packaging' products. The CMA is investigating the anticipated acquisition and is due to issue its final decision in August 2014.

79. For further information see:

<http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.ofc.gov.uk/news-and-updates/press/2014/15-14>.

80. The CMA is now investigating the anticipated acquisition.

#### 2.2.3.4 Acquisition of the manufacturing assets of IBA Molecular UK Ltd by Alliance Medical Ltd

81. In March 2014 the OFT referred the completed acquisition by Alliance Medical Ltd of the manufacturing assets of IBA Molecular UK Ltd, used to produce Fluorodeoxyglucose 18F (FDG-18), to the CC. The OFT identified competition concerns in the south of England which could lead to an increase in the price of FDG-18, a radioactive tracer used in medical imaging scans, and a decline in the reliability of supplies. The CMA is due to issue its final decision in September 2014.

82. For further information see:

<http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.ofc.gov.uk/news-and-updates/press/2014/20-14>.

### 3. **The role of competition authorities in the formation and implementation of other policies, e.g. regulatory reform, trade and industrial policies**

83. As noted in the Executive Summary there were two detailed evaluations on the longer term impact of previous interventions. The work in the cash ISA market focused on the impact of the OFT's recommendations on switching and transparency in response to the Consumer Focus super-complaint. It is estimated total annual consumer benefits in the range £4.07m to £8.11m resulted from a faster switching process.

84. For further information see:

[http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.ofc.gov.uk/shared\\_ofc/reports/Evaluating-OFTs-work/OFT1523eval.pdf](http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.ofc.gov.uk/shared_ofc/reports/Evaluating-OFTs-work/OFT1523eval.pdf)

85. The evaluation of the conditional clearance of the Shell / Rontec merger which required the divestment of 12 forecourts found that (i) the OFT's assessment of the impact of the merger on competition was correct and (ii) the OFT's intervention to divest forecourts effectively restored pre-merger levels of competition. This prevented price increases saving drivers £150,000 in these areas.

86. For further information see:

[http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.ofc.gov.uk/shared\\_ofc/reports/Evaluating-OFTs-work/OFT1525.pdf](http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.ofc.gov.uk/shared_ofc/reports/Evaluating-OFTs-work/OFT1525.pdf)

### 4. **Resources of competition authorities**

#### 4.1 *Resources overall (current numbers and change over previous year)*

87. The OFT's budget had been set for 2013 to 2014 following the Spending Review in 2010. As such, the OFT's budget was reduced by 25 per cent in real terms over the four years of the funding cycle.

#### 4.1.1 *Annual budget (in your currency and USD):<sup>16</sup>*

88. There was no formal split between the OFT's competition and consumer work, so there was no 'competition-related budget' as such. However, following an analysis of work carried out by relevant parts of the organisation, the OFT estimated the breakdown of the total settlement from HM Treasury for 2013-14 for competition enforcement work to be c23 per cent of the total OFT budget; estimated to be £17.3m (USD27,161,000). This excludes consumer enforcement and market studies but includes merger review.

The CC was allocated a budget of £18.3m for 2013–2014, reduced from £19.7m in 2012-2013.

#### 4.1.2 *Number of employees (person-years)*

89. The OFT estimated that its externally facing competition interventions (including casework, policy and advocacy, as well as strategic and other support functions) accounted for approximately 186 staff (full-time equivalent). This did not include staff involved in general markets work, which had competition and consumer dimensions.

90. Approximately 162 of the OFT's staff working on competition enforcement had non-administrative roles, of which 43 were economists and 53 were lawyers. The OFT's Mergers team consisted of 66 non-administrative staff.

91. The CC had 175 employees, approximately 140 of whom worked on competition enforcement and had non-administrative roles. Full time equivalents equalled: 22 lawyers, 43 economists and 22 financial and business advisers.

#### 4.2 *Period covered by the above information*

92. 1 April 2013 – 31 March 2014

---

<sup>16</sup> Assuming an exchange rate of GB £1 = US \$1.5735