

Grassing up the competition

In a bid to crack down on cartel activity, the Office of Fair Trading has pledged to reward informants for valuable information. *Legal Business* investigates whether general counsel will have reason to look over their shoulders

MARK McATEER

Your director of sales has incurred the wrath of his much put-upon secretary for the last time. She's read about how the Office of Fair Trading will pay £100,000 to anyone providing clear evidence of a price-fixing cartel. She's seen a recent e-mail he sent to a friend at a rival company, saying how much he is going to pitch to win a job. She's also got a copy of the friend's grateful reply, which says he'll return the favour.

It's not a hard decision for her. His reputation is for being cantankerous and abusive; she's at the end of her tether. £100,000 will pay off her mortgage, meaning she won't have to work full-time again unless she wants to. So she forwards both messages to the OFT and suddenly both companies are under investigation.

If this sounds far-fetched, give your competition and employment lawyers a call. Thanks to an OFT initiative announced in February, disaffected, Machiavellian or even just highly principled employees now have an even greater incentive to drop their companies in the brown stuff.

If further indication is needed of how hot an issue competition law is right now, one interview for this article with a leading

competition partner ended abruptly as a client had been dawn-raided that day. Antitrust infringements and price-fixing cartels are front-page news. In the parlance of '70s cop shows, the OFT needs more collars, so wants snouts on every street corner, ready to shop companies if the price is right.

DESPERATE MEASURES

The OFT's reward system for intelligence about competition infringements is mainly aimed at company insiders who are aware of a cartel but are not personally caught up in the illegal activity. It's the latest in a succession of measures brought in by the watchdog since the Competition Act 1998 came into force (see box, 'UK cartels: recent milestones, page 38).

First, it introduced leniency programmes, allowing any company to avoid fines or prosecution by blowing the whistle on its fellow cartelists. It then introduced criminal sanctions for those involved in anti-competitive activity. But in deciding to pay informants, the OFT is presenting a virtually unprecedented idea: only South Korea has a scheme rewarding individuals for providing information about anti-competitive activity,

though the US has a similar scheme for fraud informants.

'To me, it's bribing people,' says Ronnie Fox, principal of Fox. 'It's one thing for the OFT to say if you tell us something, we will grant you indemnity from prosecution. It goes a bit further to pay for evidence. I have reservations about how ethical that is.'

One firm that understands the fusion of criminal and competition law is Peters & Peters, which has advised on numerous tax and fraud cases where informants have been used. Head of fraud and regulatory Jo Rickards recently advised Dunlop Oil executives Bryan Allison and David Brammar, who were extradited from the US in December to serve prison sentences for their involvement in the marine hose cartel (see box, page 38).

'The OFT embarked upon the pilot project to pay informants after looking at the success of other UK law enforcement agencies that operate similar incentivisation schemes to informants,' Rickards says. 'HMRC has a long track record in paying informants, and in the last financial year they paid over half a million pounds to non-departmental individuals for information. It's too early to say whether



► the pilot will be successful, but Simon Williams [the OFT's senior director of cartels and criminal enforcement] has said that it was generating lots of leads for the OFT.'

From the in-house perspective, Dawood Pervez, company secretary at Bestway, conveys the feelings of many: 'I think it is yet another way in which the UK is becoming self-policing. However, I feel that it will waste a lot of time and resources as a result of poor-quality information reaching the OFT.'

Nigel Parr, head of competition at Ashurst, is clear on why he believes the OFT has gone to such lengths to find evidence of cartels. 'In addition to horizontal cartels being universally condemned as serious infringements with clear consumer detriments, the OFT has

a budget of around £50m, of which £12m is spent on competition enforcement,' he says. 'The Treasury expects the OFT to deliver at least five times its budget in consumer benefits. The quickest way to achieve a target of £250m is through significant cartel fines.'

This view is echoed by Hogan & Hartson's John Pheasant. 'Quite clearly, after years where the OFT got on with its own business and was effective but perhaps not startlingly so, there is now this requirement from the Treasury for measurable returns,' he says. 'That is exceptionally difficult in the competition field, except where you are bringing in fines for infringements.'

Fines for breaches of anti-competitive behaviour, especially price-fixing cartels, can be severe: last summer British Airways, advised by William Sibree at Slaughter and May, admitted collusion over the price of long-haul passenger fuel surcharges, and paid a penalty of £121.5m, the highest ever fine imposed by the watchdog for infringements of competition law.

The OFT's official position on using informants to gain information on cartels is clear. While leniency programmes have worked to a certain extent, flushing out conspirators fearful of detection, some cartels are so entrenched that it is difficult to break them without insider knowledge. According to the OFT's website: 'Cartels are generally conducted in secret and they can be hard to detect and also hard to prove. Given their potentially very harmful effects and their secretive nature, the OFT believes that it should offer financial rewards for information that helps in the detection and investigation of cartels.'

Although Pheasant understands the motive, he doubts the means. 'I can see that, in the context of certain industries where cartel behaviour is endemic and it's quite difficult to get people to change the way they conduct business, some additional incentives may be helpful,' he says. 'But overall I think the proposal raises more questions than it answers.' ►

'I think the scheme might encourage disgruntled employees, or those looking for a windfall, to spill the beans to the OFT.'

John Cook, O'Melveny & Myers

A-LIST WHISTLEBLOWERS

Getting £100,000 out of the OFT will be no cakewalk. Would-be whistleblowers would do well to consider the extreme but cautionary tales of Mark Whitacre and Stanley Adams.

In 1973, Adams was a senior executive at Swiss pharmaceutical giant F. Hoffmann-La-Roche when he claimed to have uncovered documents that implicated the company in a price-fixing cartel aimed at inflating the price of vitamins. With Switzerland part of the European Free Trade Association, he passed those documents on to the EEC Competition Commission.

Unfortunately, when the documents were sent on to Roche as part of the investigation, Adams' identity was revealed. He was charged with industrial espionage and theft and held in solitary confinement for three months. Adams' wife committed suicide on being told he faced a 20-year jail sentence, but in the end he served only six months. He fled to the UK on release, and enlisted the help of Labour party MPs, notably John Prescott, to help him recover compensation from the Swiss government and the European Union. He eventually received just £200,000 from the EU. In 1984, he published his version of events in the book *Roche versus Adams*. In 1993, he served five years in prison for hiring a hit man to kill his second wife for the insurance payments.

Antitrust law looks set to take its place on an even bigger stage, with the release of the Hollywood film *The Informant* set for 2009. Based on a true story, Matt Damon plays Mark Whitacre, the

former corporate vice-president of US agribusiness giant ADM. In November 1992, he told an FBI agent that ADM executives – himself included – had routinely met with competitors to fix the price of lysine, a food additive. Whitacre was forced to confess by his wife, who threatened to go to the FBI herself. That meeting marked the first time that a participant in a price-fixing cartel had ever voluntarily tipped off law enforcement officials. With Whitacre, the FBI had the highest level executive ever to turn whistleblower in US history. Over the next three years, Whitacre worked closely with FBI agents to collect information and record conversations with both ADM executives and their competitors.

However, Whitacre subsequently came under investigation for embezzling \$9m from ADM, mostly while he was working with the FBI. He was convicted for his role in the price-fixing case and pleaded guilty to fraud. As a result, Whitacre spent over eight years in prison. In April this year, the former FBI supervisor of the price-fixing case, Dean Paisley, with backing from other FBI agents and a former prosecutor, went public with praise about Whitacre. 'Had it not been for the fraud conviction,' Paisley said, 'he would be a national hero. Without him, the biggest antitrust case we've ever had would not have been.' Several current and former FBI and Department of Justice officials continue to support Whitacre and are attempting to obtain presidential clemency, or a presidential pardon, in recognition of his help in one of the largest price-fixing cases in history.

► The fact that cartels are so difficult to break and the OFT is light on resources is a problem, and budgetary pressures are also taking their toll. Occasionally, the watchdog has been made to look foolish. The most recent humiliation came in April, when it was forced to publicly grovel after falsely accusing Morrisons, represented by Suyong Kim of WilmerHale, of involvement in a butter and cheese price-fixing cartel. That blunder cost the OFT £100,000 to settle a libel action brought by Morrisons, not counting an estimated £500,000 in legal costs. Mr Justice Davis in the High Court accused the OFT of 'potentially sensationalist publicity' in a judicial review of its actions.

Many experts argue that this 'headline-grabbing' hyperactivity by the OFT, which has recently included investigations into alleged collusion on pricing by supermarkets and tobacco companies over cigarettes; and by consumer goods groups and retailers over food and toiletries, are all cynical attempts to ramp up the OFT's public profile and get Joe Public on message.

O'Melveny & Myers consultant John Cook believes that part of the reason behind this attempt to use publicity to garner information is that the OFT's leniency programme hasn't been as successful as it has elsewhere.

'I think the OFT's leniency programme has not generated as many results as the European Commission's, at least in the sense of previously unknown cartels being brought to the OFT,' Cook says. 'I think this is simply a further incentive directed at individuals rather than corporates and might encourage disgruntled employees, or those looking for a windfall, to spill the beans to the



Carter: informants must act in good faith

OFT. It is no different I suppose from a bank offering a reward leading to evidence to secure a guilty verdict on a robbery, or to recover money.'

BANG TO RIGHTS

Whatever the motives behind the initiative, the OFT won't shun the limelight. Just days after getting a slap on the wrist, it was at it again, naming 11 retailers and tobacco manufacturers in relation to

the unlawful pricing of tobacco products.

Regardless of any criticism being directed at the informant reward scheme, it is here to stay for the next 18 months at least. While most companies may have nothing to hide, there is a very real fear that aggrieved employees will use this initiative not only to cause trouble but also to make themselves a bit of cash. 'We had a client conference on this recently and there was much gnashing of teeth,' one competition expert says. 'In its attempt to unsettle cartels, the OFT is creating another conflict-of-interest issue between companies and their employees. This leads to a generally unpleasant climate.'

The situation is made worse for companies, as the OFT will take steps to protect the identity of the whistleblower, meaning there is more incentive for informants to make a quick buck without their employer ever finding out. 'The problem with this initiative is that it leaves the door open to any employee with an axe to grind,' says Simon Neill, head of competition at Osborne Clarke. 'The question then is whether the OFT has the resources to sift through a flurry of trivial or vexatious information before deciding to investigate.'

The OFT has not confirmed how time and resources will not be wasted by investigating illegitimate or derisory tip-offs from disgruntled employees. 'I just wonder about the quality of the submissions that the OFT will be getting,' says Grant Murray, a member of Baker & McKenzie's

competition team, who has been monitoring events closely.

It seems the watchdog is not too concerned about the quality of the advice it will be getting; it has been very clear that it will only pay top dollar for the most useful information. The £100,000 figure is just part of a broader government policy to encourage citizens to get involved in combating fraud, and arrived very soon after the widely reported payment of £100,000 by HM Revenue & Customs to an informant for information about secret bank accounts in Liechtenstein.

SEALING LIPS

The secret, then, is to make sure there are no secrets, at least from those who should know everything, including general counsel and compliance officers. Internal reporting procedures have to be slick, and competition compliance programmes must be real and effective.

'It's just another incentive to make sure your internal compliance programmes are in a fit state,' says Nick Woodrow, head of competition law at Vodafone Group Services. 'It's quite worrying, but in terms of a message to senior management, it's another reason to say: "You've got to make sure your company has got proper compliance procedures in place." The potential level of fines and the fact that people could go to jail just adds to the list of reasons why you've got to get it right.'

Ensuring tighter compliance procedures is certainly something that Anthony Woolich, head of competition at LG, would endorse. 'Traditionally, actively monitored competition compliance procedures have been a box to tick by companies since the Competition Act came in,' he says, 'as well as for companies involved in international markets since EU competition law became widely enforced. This initiative throws into even sharper relief the need for clients to stay on top of their competition monitoring.'

Indeed, Ashurst's Parr observes that the implementation of a proactive and effective compliance programme is a factor that is generally taken into account in fixing the level of a fine. Then again, it could actually cut both ways. 'If the defendant could demonstrate that it had done as much as possible to make its employees aware of the pitfalls and that a breach was down

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RECRUITING COMPETITION

Although external lawyers and in-house counsel recognise the need to have effective competition compliance procedures, this has yet to translate into significant demand for competition lawyers in-house.

'Competition lawyers have not been top of general counsels' lists for some time, unless they are in a heavily regulated industry, such as broadcasting,' says Michelle Hallworth of recruitment consultancy Glass In-House. 'I think generally they have put policies in place, but no one is really going to sit up and take notice until something happens. It's a bit like the banking sector, where everything is fine until something goes wrong. Everyone feels comfortable at the moment and I would be extremely surprised if anyone took preventative action before there was an actual need.'

Nick Woodrow at Vodafone says: 'Compliance is something we have to renew, review and reinvigorate. More staff would always be nice, but we're quite lucky: we have four competition lawyers here in the UK and another dozen or so who do competition law as part of their role overseas. I hope we're in a pretty good position, but it's not something we can be complacent about because the risks are so big.'

Chris Hurst at Hudson Legal says that the main problem with bringing competition specialists in-house is sourcing them. 'Whilst opportunities for competition lawyers have increased slightly in recent times, the demand for this type of role still outstrips supply,' he says. 'We have around one pure competition role come up every month, but companies typically seek candidates with competition experience in addition to commercial contract or general in-house expertise. This can be attributed to the fact that competition law is a speciality of top firms, so candidates tend to be expensive.'

However, Ronnie Fox argues that there is somewhere you can find good competition lawyers from. 'Where are companies going to get all these competition lawyers from? Well, I'm told life is pretty tough at the junior Bar,' he jokes.

to one individual or a small group of rogue employees, then the presence of a compliance programme might lead to a lower fine,' he says. 'On the other hand, if the authorities were to find, as a result of a whistleblower's claims, that a company's management were aware of, or complicit in, anti-competitive practices, they might take a dim view of them paying lip service with a competition compliance programme and might, if anything, be inclined to fine them more heavily, particularly if company directors had knowledge of, or participated in, the infringement.'

One way to stop things getting this far is to make internal whistleblowing procedures even more heavily publicised, and consequently more popular, than the OFT's own search for informants. But this must stop short of financial incentives, as it would inevitably lead to employees abusing the system.

'A company could, of course, run its own incentives to reward employees who bring to its attention cartel activity within the company,' Cook says. 'I suppose it might have a remote effect on encouraging corporate compliance, but much of all this is about publicity for the OFT and its anti-cartel campaign.'

'It's key to make sure that you've got senior manager support in order to create a compliance culture,' Vodafone's Woodrow says. 'You need to

find ways of contacting all the relevant people. We have an online competition law tutorial that we use, and people in relevant areas have to complete it; that provides a basic level of tuition. But it's a bit like painting the Forth Bridge: you finish painting it and you have to start all over again.'

Other pressure points include ensuring that internal reporting procedures are effective. This means that those receiving the information must be able to assess the severity of a threat effectively and know how to deal with it. As Miles Trower, senior associate in Osborne Clarke's competition practice, says: 'Internal reporting procedures must be clear, workable and endorsed at the highest level within the company. They must be complemented by targeted, user-friendly compliance training so that those individuals at both ends of the internal hotline can spot and address potentially anti-competitive activity.'

Murray adds that the scheme will also force companies to act quickly if an issue has been identified, even if such behaviour would not have been acted upon in the past. 'Risks that were once too remote to cause real concern may now warrant attention and demand action,' he says. 'Terminating cartel conduct without notifying the OFT may no longer be sufficient.'

The other suggested method for countering any risk associated with would-be informants is

to consider adding warranties to termination agreements to ensure departing employees raise concerns internally in their exit interviews, rather than take their information with them to the OFT.

But none of these solutions really counter an overriding sense of pessimism about the effectiveness of these measures, either collectively or individually, in keeping those who are keen on the cash or glory of going to the OFT from doing just that. As Woolich puts it: 'You can install as many burglar alarms as you like, but you could still have a break-in.'

HUMAN COST

Unlike in the classic '70s cop shows, what companies cannot do, unsurprisingly, is either gag or threaten an employee. It's here that competition law and employment law now mesh, meaning that HR and compliance teams at large companies will need to put their heads together.

'I don't think an employer can protect against this through its employment contracts because, as Lord Denning once famously remarked: "There can be no confidence in an iniquity," ie whistleblowing is not a breach of confidentiality owed to one's employer,' Cook says.

Caroline Carter, head of employment at Ashurst, has been working closely with the firm's competition team on this issue. 'The OFT will take steps to protect the identity of the whistleblower, but even if the source's identity comes to light, wide general protection from dismissal or victimisation is provided for employees under the whistleblowing legislation, in particular the Public Interest Disclosure Act 1998,' she says. 'Moreover, the legislation provides that employees are able to go directly to the OFT with their intelligence, regardless of any internal whistleblowing policy of the business, as long as they are acting in good faith. An employee dismissed or victimised as a result of blowing the whistle can claim unlimited compensation.'

The 'good faith' part is important, she adds, as it prevents the employee with an axe to grind from seeking protection if they start throwing accusations around. The employer could argue that if the motive behind notifying the OFT of any suspicious activity is to gain a reward, then this could negate any claims of acting in good faith. In practice, it may be difficult for the informant to prove that whistleblowing was the reason for any action taken against them.

However, as Carter points out, according to a very recent Court of Appeal decision (*Kuzel v Roche Products Ltd*), the burden of proof in cases where the employee claims they have

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► been dismissed for whistleblowing does not pass to the employee but remains on the employer to show a potentially fair reason for dismissal. The Court of Appeal held that the employee, with some evidential basis, can put forward their reason for dismissal as being whistleblowing. However, it is for the tribunal to decide on the evidence of both the employee and employer which, if any, of the reasons to accept.

This is just one reason why experts believe that the risk to the individual is sufficient to prevent the OFT building an effective network of 'grasses' all over the UK. Getting £100,000 out of the watchdog will not be an easy task, as it says itself that the full reward will only be available in 'exceptional circumstances'. 'Closer examination reveals caveats, qualifications and uncertainties, which mean that employees would be wise to treat it with caution,' Murray says.

In its guidance, the OFT says that it reserves the right to refuse to pay for any information and the amount paid to informants will be calculated according to a 'set formula' that is clearly far from scientific. This means that to get the full payment, any informant will have to give the OFT a smoking gun. Once they've done that, they will then have to help it with its inquiries, which will almost certainly mean turning witness. Any anonymity then goes out of the window and, although the law is designed to protect the informant from victimisation, life could still become very difficult. 'Given the OFT's likely

UK CARTELS: RECENT MILESTONES

June 2003: The European Council defers certain powers to national courts and national competition authorities, giving the OFT powers to investigate competition infringements, including price fixing. The Competition Act 1998 prohibits agreements, concerted practices and decisions that have a damaging effect on competition in the UK. Penalties for breaching the Competition Act can amount to up to 10% of an undertaking's worldwide turnover in its last business year, but the OFT can offer leniency to companies that provide information about a cartel in which they are

involved. One hundred per cent immunity from financial penalty is available to the first member of the cartel to come forward with relevant information before the OFT has commenced an investigation.

23 June 2003: The Enterprise Act 2002 comes into force, introducing the criminal cartel offence in the UK. For the first time ever, there are criminal penalties for individuals who dishonestly engage in the worst types of cartels, such as horizontal price fixing, limiting supply or production, market sharing or bid rigging. The OFT will investigate, and the Serious Fraud Office will prosecute, with the possibility of five years' imprisonment and an unlimited fine on conviction.

Immunity from prosecution can, however, be granted to individuals who inform the OFT of a cartel and co-operate fully in the investigation.

June 2006: The OFT conducts its first raids on premises using the criminal investigation powers granted to it under the Enterprise Act, in an investigation into price fixing of fuel surcharges for long-haul passenger flights to the UK.

3 May 2007: The OFT conducts its first dawn raid on a home address using the Enterprise Act criminal investigation powers, in an investigation into price fixing in the marine hose industry.

1 August 2007: The OFT announces that British Airways has admitted collusion over the price of long-haul

passenger fuel surcharges and will pay a penalty of £121.5m, the highest ever imposed by the watchdog for infringements of competition law.

20 September 2007: The OFT issues a Statement of Objections, detailing evidence of collusion between certain large supermarkets and dairy processors on the retail prices of milk, cheese and butter.

7 December 2007: Following its findings of price fixing of certain dairy products, the OFT finalises early resolution agreements with Asda, Dairy Crest, Sainsbury's, The Cheese Company and Robert Wiseman Dairies. The parties accept liability in principle, agreeing to pay penalties amounting to a maximum of £116m (a notable

demands on an informant during the course of its cartel investigation, the preservation of their anonymity may be difficult, particularly if they wish to qualify for the maximum payout,' Neill says.

Rickards adds: 'One issue that the OFT will have to grapple with if it uses the information as part of its case is the usual desire of the individual to preserve their anonymity against the need to be fair to a defendant and allow them to know the identity of their accuser. Where payments have been made to informants, there will be an obvious credibility issue, about which the defence would press for full disclosure and seek to exploit at trial.'

And woe betide any informant who hands company documents over to the OFT and those allegations turn out to be false or do not amount to a breach of the law. That employee can then be accused of breaching their duty of confidence under their employment contract.

Plus, there's the wait before actually picking up the cash. It's an eye-catching offer, but anyone thinking this is going to be easy money is much mistaken. 'Cartel



Woolich: competition monitoring is vital

investigations can take years and the OFT won't pay up until the investigation is closed,' says Trower. 'A long delay between approaching the OFT and any payout may act as a further disincentive to would-be informants.'

Finally, what if a whistleblower provides the smoking gun, and turns witness, only for the OFT to lose the case because of a

procedural error? As the OFT gets to decide how much the information is worth, it may not amount to much on a lost case, regardless of how much effort the informant has put into it.

WELL INFORMED

The risks for informants are there, but for a few, the possibility of getting £100,000 for helping the OFT uncover illegal activity is worth the gamble, particularly if they are not especially enamoured with their careers.

The biggest question mark hangs over the timeframe. The OFT states quite clearly in its press release that the 'policy will run for an initial

period of 18 months, after which a decision will be made as to whether this should be a permanent arrangement'. Given that it could take years from a tip-off from an informant to the end of investigation, the OFT may be putting a tough deadline on itself to realistically assess the merits of the scheme. That said, only six months separated the dawn raids and the arrest of the key protagonists in the marine hose cartel (see box, below), so things can sometimes move very quickly.

Regardless of the success of this initiative, companies must act now to ensure that their house is in order. Other jurisdictions are looking at the merits of the initiative, particularly the US, and wondering whether to follow suit. The European Commission is believed to be planning its own scheme, and as Murray observes: 'Agencies in other countries will be monitoring the success of this scheme, and it is interesting that William Kovacic, who for many years has been a proponent of the use of bounties, was appointed Chairman of the US Federal Trade Commission in March.'

It may not be long before US companies begin complaining about the threat of 'rats' in their houses. If that happens, this publicity-seeking initiative may not be so easily dismissed: the US was making full use of informants long before the Flying Squad made 'grass' a well-known phrase. **LB**

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reduction in the financial penalty), on the condition that they continue to provide full co-operation.

18 December 2007: Dunlop Oil & Marine's MD Bryan Allison, sales director David Brammar, and independent consultant Peter Whittle are arrested at Heathrow Airport, following extradition from the US for cartel offences under the Enterprise Act. This is the first time that criminal charges have been brought for the cartel offence. The charges include dishonestly participating in a cartel to allocate markets and customers, restrict supplies, fix prices and rig bids for the supply of marine hose equipment in the UK. Michael O'Kane and Jo Rickards at Peters & Peters advise Allison and

Brammar, while Colin Nott at Hallinan, Blackburn, Gittings & Nott advises Whittle.

29 February 2008: The OFT announces a policy under which it will pay financial incentives of up to £100,000 in return for information that helps it to identify and take action against illegal cartels. The initiative will run for 18 months.

12 March 2008: The House of Lords overturns a High Court decision to extradite Ian Norris, former CEO of the British-based engineering company Morgan Crucible, represented by White & Case's Alistair Graham, to the US for alleged price fixing on carbon products used in electric motors, in *Norris v United States of America*.

17 April 2008: Following one of the largest ever Competition Act investigations, the OFT issues a Statement of Objections against 112 English construction firms. It alleges that the named construction companies have engaged in bid-rigging activities, and, in particular, cover pricing. During the course of the investigation, the OFT carries out site visits at the premises of 57 firms and receives 37 leniency applications. All other parties receive an offer of a reduced financial penalty, which leads to over 40 further companies subsequently admitting participation in some bid-rigging activities.

23 April 2008: The OFT agrees to pay damages and undisclosed legal costs to settle a libel action

launched by Morrisons, after a September press release from the watchdog falsely accused the chain of price-fixing offences for butter and cheese. The OFT publicly apologises, and agrees to pay Morrisons £100,000 in settlement of the defamation action and costs for both the judicial review and defamation actions launched by Morrisons following the press release.

25 April 2008: The OFT issues a Statement of Objections against tobacco manufacturers Imperial Tobacco and Gallaher, and 11 retailers, alleging that these tobacco manufacturers and retailers have engaged in unlawful practices regarding retail prices for tobacco products in the UK.