

## Summary of competition law cases 2007-08

We have concurrent powers with the Office of Fair Trading (OFT) – and certain other sectoral regulators – to enforce the Competition Act 1998 (CA98) and European competition law in the water and sewerage sectors in England and Wales.

As part of our duties, we meet regularly with our concurrent regulators to:

- share knowledge and experience;
- identify areas of best practice; and
- ensure consistency when using our competition tools.

The main forum is the concurrent working party for all sectoral regulators, which the OFT chairs.

## Appeals

If a complainant is not happy with a decision we make under the Competition Act 1998 they can appeal to the Competition Appeal Tribunal (CAT). The Court of Appeal (CoA) can review the CAT's decisions depending on the merits of the case.

During 2007-08 there were a no new appeals to the CAT about competition law cases. There was one appeal to the CoA from the CAT in an ongoing case in which we intervened in our role as a National Competition Authority. The main events during 2007-08 in the ongoing case and the appeal are summarised below. Further information is available on the Competition Appeal Tribunal's website ([www.catribunal.org.uk](http://www.catribunal.org.uk)).

## Summary of Competition Act appeal cases

CAT		
Case: Albion Water Limited v Water Services Regulation Authority (formerly the Director General of Water Services) – Dŵr Cymru/ Shotton Paper	18 June 2007	Submission of referred work on reasonably attributable costs of the transportation and partial treatment of water – final report to CAT. The CAT referred this work back to us in its judgement on dominance and other issues of 18 December 2006.
	23 October 2007	Case management conference to see whether matters could proceed to a hearing. The CAT set out a timetable for parties' submissions to Ofwat's final report.
	8 December 2007	Dŵr Cymru and Albion Water Limited submitted their responses on Ofwat's Final Report.
	14 February 2008	Hearing to consider the test to be applied to the review of the final report and to decide the issues of excessive and unfair pricing. Judgement pending.

<b>CoA</b>		
Case: Dŵr Cymru v Albion Water Limited	5 April 2007	The CAT refused Dŵr Cymru's application for leave to appeal its second and third judgements.
	26 July 2007	Hearing concerning leave to appeal. CoA granted Dŵr Cymru the permission to appeal on whether the CAT had: <ul style="list-style-type: none"> <li>• applied the wrong test for a margin squeeze in its judgements of 6 October and 18 December 2006; and</li> <li>• jurisdiction to decide the issue of dominance in its judgement of 18 December 2006.</li> </ul> The CoA allowed the OFT and concurrent regulators to make submissions on Dŵr Cymru's amended grounds of appeal.
	21 November 2007	The OFT, Ofwat and Ofcom make submissions to CoA.
	14 January 2008	CoA hearing.
	22 May 2008	CoA judgment dismissing both grounds of Dŵr Cymru's appeal

**Ofwat  
June 2008**