Updated in December 2006†

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*United Kingdom**

– Peter M Holmes†

Great Britain, the dominant industrial and maritime power of the 19th century, played a leading role in developing parliamentary democracy. At its zenith, the British Empire stretched over a quarter of the earth's surface. The first half of the 20th century saw the United Kingdom's (UK's) strength seriously depleted in two World Wars. The second half witnessed the dismantling of the Empire and the UK[1] rebuilding itself into a modern and prosperous European nation.

As one of five permanent members of the UN Security Council, a founding member of NATO, and of the Commonwealth, the UK pursues a global approach to foreign policy; it currently is weighing the degree of its integration with continental Europe. A member of the EU, it chooses to remain outside the European Monetary Union for the time being.

PROFILE	
Population:	59.3 million***
GDP (Current US$):	1.8 trillion***
Per Capita Income: (Current US$)	28,350 (Atlas method)*** 26,150 (at PPP.)**
Surface Area:	242.9 thousand sq. km
Life Expectancy:	78.1 years**
Literacy (%):	99 (of ages 15 and above)**
HDI Rank:	12***

Sources:
- World Development Indicators Database, World Bank, 2004
- Human Development Report Statistics, UNDP, 2004

(**) For the year 2002
(***) For the year 2003

Economy

The UK, a leading trading power and financial centre, is one of the trillion dollar economies of Western Europe. Over the past two decades, the Government has greatly reduced public ownership and contained the growth of social welfare programmes. Agriculture is intensive, highly mechanised, and efficient by European standards, producing about 60 percent of food needs with only one percent of the labour force. The UK has large coal, natural gas, and oil reserves; primary energy production accounts for 10 percent of GDP, one of the highest shares of any industrial nation.

Services, particularly banking, insurance, and business services, account, by far, for the largest proportion of GDP, whilst industry continues to decline in importance. GDP growth slipped in 2001-03 against the global downturn, the high value of the sterling Pound, and the bursting of the 'new economy' bubble, hurt manufacturing and exports. Yet, the economy is one of the strongest in Europe; inflation, interest rates, and unemployment remain low. Meanwhile, the Government has been speeding up the improvement of education, transport, and health services, at a cost in higher taxes.

Competition Evolution and Environment[2]

The predominance of Competition Law as a public policy, and the importance placed on the consumer interest within it, is relatively recent. Before 1945, consumer protection did not have a real basis in Competition Law. Britain did not introduce anti-trust laws at the beginning of the 20th Century as the United States did, but it developed a legal framework for consumer protection. The *Sale of Goods Act of 1896* (still in force with amendments in the UK and several Commonwealth countries) gave statutory rights to consumers, who were sold faulty goods. Additionally, case law was developed, which extended the contractual liability of producers to the ultimate purchaser.

* Original paper submitted in September 2004
1 http://cia.gov/cia/publications/factbook/geos/uk.html
2 http://www.oup.com/uk/booksites/content/0199258805/furse_ch01.pdf?version=1 and http://www.dti.gov.uk/ccp/topics2/ukpolicy.htm

The United Kingdom, did not make any effort to develop competition law until after the Second World War, when in 1948, the Monopolies & Restrictive Pracictes (Inquiry & Control) Act, legislation was introduced that established a domestic structure for the examination and control of anticompetitive conduct.

This was followed by the Fair Trading Act in 1973 and the Competition Act in 1980. The Office of Fair Trading was created by the 1973 Act, which continues to operate today with greater powers. The 1948 had created the Monopolies Commission (subsequently renamed as Monopolies & Merger Commission), which was a recommendatory body to advise the Government. There was a clutch of flanking competition related laws, such as Restrictive Trade Practices Act, 1976 and Resale Prices Act, 1976.

The domestic regime now is found primarily in two statutes, *the Competition Act 1998 ('CA 98') and the Enterprise Act 2002 ('EA 02')*. The earlier clutch of laws were repealed, and the Monopolies and Mergers Commission was replaced by the Competition Commission, and a Competition Appellate Tribunal. The OFT was reinforced and continues to function as the primary competition agency.

Competition Policy and Consumer Protection

Today, the United Kingdom (UK) has one of the most sophisticated systems of competition policy and consumer protection law in the European Union (EU). In recent years, policy has evolved towards giving competition policy the principal role in protecting consumers. The Office of Fair Trading (OFT) is the main enforcement agency for competition policy and consumer protection policy, and its competition arm probably has the highest national profile in the EU

There are several other players in this system, notably the Competition Commission (CC) to which the OFT may refer cases, sectoral regulators, local consumer protection authorities, as well as residual powers of the Secretary of State for Trade and Industry. On top of this system lies European Competition law, which in some areas, where cross border issues are involved, is directly enforceable, and sets the parameters for national law.

Despite the lip service paid to the goal of competition, Governments in the 1960s and 1970s did not make much effort to ensure rigorous enforcement of their Competition Laws. Neither trade unions nor business favoured more intense competition, and consumers were on the sidelines, a situation common to many countries except the US. In merger decisions, the Government retained ultimate authority to approve a merger that would reduce competition if the firms concerned could persuade it that there would be efficiency gains. In retrospect, these gains were often non-existent, but Governments were easily persuaded.

The arrival of the Thatcher Government in 1979 did little to change this. Although the Government was committed to privatisation, it was much less committed to competition and consumer rights. It did not want its programme of sell-offs disrupted by fears of competition law enforcement. Indeed, at the time, British Airways was privatised it was facing accusations of predatory behaviour in alliance with other airlines, against the low cost firm Laker Airways. The Thatcher Government effectively blocked US anti-trust action against British Airways for fear this might disrupt the sell-off.

The UK in the 1980s could not, for long, insulate itself from the general intensification of competition in world markets and the increasingly vigorous enforcement of European competition law. For many years, the EU competition authorities had had quite a low profile, focusing their attention, for example, on 'vertical restraints' i.e. distribution arrangements under which firms tried to set up marketing arrangements, which fragmented the Common Market. It became clear, as the Single Market of 1992 was being realised, that EU Competition Law, having played a part in creating this Single Market, now had to play a role in ensuring that it was not carved up by big firms, and so in 1989, the Commission was given powers to vet EU scale mergers.

Anticompetitive Business Practices

After the Second World War, attention began to be paid to the adverse consequences of anticompetitive business practices. In 1948, the Monopolies Commission was established to oversee firms with dominant positions, later becoming the Monopolies and Mergers Commission; in 1956 a Restrictive Trade Practices Court was established.

In the 1960s, the *Trade Descriptions Act* made false advertising an offence, but initially excluded services. Another move to increase competition was the banning of 'Resale Price Maintenance', under which manufacturers fixed the prices of goods in the shops. Local Authority Trading Standards Officers were charged with enforcement of these rules and *Weights and Measures Acts* etc.

These measures all occurred in a climate that has often been described as 'corporatist'. Business saw competition as a threat more than an opportunity, and even if formal cartels were mostly eliminated, the old attitudes remained. Producer interests were consistently more powerful than consumers. It is perhaps ironic that the new powers to control mergers, in the 1960s, were taken at a time when government policy towards industry was particularly focused on promoting firm scale and concentration, much more than competition and rivalry. For example, the once highly successful indigenous British car industry was all merged into the ill-fated 'British Leyland' group, whose last traces are to be found in the Rover company.

Competition Regulatory Framework

There was still a lot for the national authorities to do, but it was not until the arrival of the 'New Labour' Government in 1997 that the policy framework was fully modernised. For the first time, the public authorities sought to appear free of pressures from both trade unions and business. The promotion of competition and the consumer interest within this was both economically sound and a useful political ploy, allowing the Government to be politically radical, market friendly and apparently fighting for the less privileged in society. Competition policy was now given a central place in the promotion of consumer rights.

Amongst the major changes from the *1998 Competition Act* and the *2002 Enterprise Act* were:

- Consumer groups were given 'super complainer' status under Competition Law. In the past, UK law had never recognised 'class actions' as in the US, and it was not practical for individuals to file competition cases. Powerful economic interests had often had the power to frustrate investigations. A recent 'peer review' concluded that the influence of consumer groups on competition policy was higher in the UK than in other jurisdictions;
- Cartels were criminalised: in the past, managers had come to believe that even if they were caught, their firm could just pay a fine and (hopefully) pass this on to shareholders or even consumers;
- Approval of mergers was to be decided on the basis of whether there was a 'significant lessening of competition.' The aim was to make competition policy more independent and credible, by reducing ministerial power. The scope for a public interest test was virtually abolished. Consumer groups, in fact, welcomed this as they felt that, too often in the past, firms had pulled the wool over the Government's eyes by claiming big economic benefits that never materialised;
- The structural framework of competition policy was reorganised to create a rather complex new system under the 1998 Competition Act and the 2002 Enterprise Act with power shared between the OFT and the CC.
- The new legislation brought UK law (which covers UK-only markets) closer to the EU system, in terms of substance, so that anticompetitive agreements and abuses of dominance banned under UK law are defined in more or less the same terms as those of Articles 81 and 82 of the EC Treaty.[3]

The modernisation of EU competition policy occurred in parallel and, after 2004, gave national authorities more powers to enforce EU law when a case was primarily national or regional, but also affected another member state.

In the United Kingdom, the *Competition Act 1998* is designed to make sure that businesses compete on a level footing. It does so by prohibiting certain types of anticompetitive behaviour (the Chapter I and Chapter II prohibitions). The OFT has strong powers to investigate businesses suspected of breaching the Act and to impose tough penalties on those that do. The Act was amended on May 01, 2004 to empower the OFT to investigate and impose penalties on undertakings breaching the prohibitions on anticompetitive behaviour, contained in Articles 81 and 82 of the EC Treaty.

The Act should not be viewed in isolation. *The Enterprise Act 2002*, amongst other things, introduces a cartel offence, under which individuals who dishonestly take part in the most serious types of anticompetitive agreements may be criminally prosecuted.

In addition, as a result of amendments to the Company Directors Disqualification Act 1986 under the *Enterprise Act 2002*, company directors whose companies breach Competition Law (including the prohibitions in Articles 81 and 82 and the Act) may be subject to Competition Disqualification Orders, which will prevent them from being concerned in the management of a company for a maximum of 15 years.[4]

Competition Authorities

The System

Under the new system the key players are[5]:

The Competition Directorate General (DG) of the European Commission can make decisions in cases where European Law and Treaties apply, i.e. where a competition issue in the UK affects trade between member states. However, where only part of the EU market is affected, EU law can be applied by National Competition Offices, who form the new *European Competition Network.* The UK member of this is the OFT.

The Department of Trade and Industry (DTI) is the UK Ministry, which drafts legislation and makes policy. It cooperates with the Competition Authorities and, if necessary, proposes legislation to give effect to their recommendations.

The Office of Fair Trading (OFT) is the main UK agency enforcing competition and consumer protection law. It has a multiplicity of roles. In addition to enforcing consumer protection law, it is the first agency to deal with mergers and cartels.

- Complaints: the OFT is where competition or consumer complaints, by firms or individuals, are submitted;

3 See http://www.oft.gov.uk/Business/Legal+Powers/ca98+prohibitions.htm
4 http://www.oft.gov.uk/Business/Legal+Powers/Competition+Act+1998/default.htm
5 See http://www.dti.gov.uk/ccp/topics2/authorities.htm

- Mergers: proposed mergers must be referred to the OFT who will undertake a preliminary investigation and will refer the case to the Competition Commission (CC) if it feels there is a risk of a '*significant lessening of competition'*. The OFT believes this test is more satisfactory than the test originally in the EC merger regulation, and there is now an increasing approximation of EU and UK national regimes as both learn from each other;

- Monopolies: the OFT can refer apparent monopolistic behaviour to the Competition Commission;

- Cartels: the OFT can fine firms and bring criminal proceedings against business people believed to be operating cartels. Under the new leniency programme, inspired by the US, a firm can avoid fines if it confesses to the existence of a cartel and gives evidence against other members;

- Market analysis: the OFT *studies* markets that it believes are, for whatever reason, not working well for consumers and can refer them for formal *investigation* to the Competition Commission; and
- Regulation: the OFT has the task of evaluating government regulations for their impact on competition, e.g. recommending an end to limits on licences for taxis.

Surveys reported on the OFT website show that most UK consumers are aware of the existence of the OFT and support the aim of promoting competition, but are rarely aware of the details of competition and consumer law.

The Competition Commission undertakes investigations of markets or of mergers, which are referred to it by another body, usually the DTI, the OFT or one of the sectoral regulators.

- Mergers: the CC decides whether to approve a merger referred to it by the OFT, on the basis of whether there will be a *significant lessening of competition.* This can only be overridden by the Secretary of State for Trade and Industry, in exceptional cases; and

- Markets: on a reference (normally after a study by the OFT or a sectoral regulator) the CC carries out *investigations*. The CC can propose binding remedies on market players if the investigation has shown that remedies are needed to create greater competition.

The Competition Commission is an independent public body established by the Competition Act 1998. It replaced the Monopolies and Mergers Commission on April 1, 1999.

The Commission conducts in-depth inquiries into mergers, markets and the regulation of the major regulated industries. Every inquiry is undertaken in response to a reference made to it by another authority: usually by the Office of Fair Trading (OFT), but in certain circumstances the Secretary of State, or by the regulators under sector-specific legislative provisions, relating to regulated industries. The Commission has no power to conduct inquiries on its own initiative.

The Enterprise Act 2002 introduces a new regime for the assessment of mergers and markets in the UK. In most merger and market references, the Commission is responsible for making decisions on the competition questions, and for making and implementing decisions on appropriate remedies. Under the legislation, which the Act replaces, the Commission had to determine whether matters were against the public interest. The public interest test is replaced by tests focused specifically on competition issues. The new regime also differs from the previous regime where the Commission's power, in relation to remedies was only to make recommendations to the Secretary of State.

The Competition Commission is an independent public body established by the Competition Act 1998.

Sectoral Regulations and Institutions

Certain industries have a specific sectoral regulator which monitors competition and other concerns, usually concurrently with the OFT.

- Ofgem – Office of Gas and Electricity Markets;
- Ofwat – Office of Water Services;
- Ofcom – Office of Communications (Telecommunications and Broadcasting);
- ORR – Office of Rail Regulation;
- CAA – Civil Aviation Authority; and
- Ofreg – Office for the Regulation of Electricity and Gas (Northern Ireland).

Alongside each regulator is an official consumer 'watchdog', e.g. Energywatch keeping an eye on Ofgem.

Telecommunications Sector[6]

OFCOM is currently implementing the Strategic Review of Telecommunications. This review is the first, wide-ranging analysis of the telecommunications sector to be carried out in 13 years. The review will establish OFCOM's principles and approach for the future regulation of the telecom industry.

The review will be divided into three phases, one phase will evaluate the current position of sectoral regulation; the second phase will study options for a strategic approach to regulation; and the third will highlight proposals for the future regulation of the sector. All three phases will be comprised of research, and analysis and development work, for example, statistical analyses, consultations with consumers, as well as the development of clear proposals.

6 http://www.ofcom.org

The phases aim to assess the options for enhancing value and choice in the telecom industry; and the prospects for developing and maintaining more effective competition in the UK.

The telecom sector has been one of the most significant and growing sectors in recent decades. In 2002, revenues from the industry were at £50bn, in comparison to £18bn in 1984 (at 2002 prices). The sector has been regulated by OFTEL, since the privatisation of British Telecom (BT) in 1984, and much has changed in telecom since then. Now, there are approximately 170 fixed public telecom providers; 5 mobile providers; 59 mobile service providers; and 700 internet service providers.

Degrees of competition vary throughout the sector, depending on the form of service, and the position on the value chain. By 2002, BT's shares in voice calls had declined, to approximately 60 percent of the market share, and international calls had fallen to 30 percent. Even so, in many areas, such as residential access, where BT has a total share of 82 percent; business access (87 percent) and wholesale call origination (78 percent); OFTEL has found that BT has significant market power.

In other sectors, different models have emerged. In Gas and Electricity, a clear separation of wholesale from retail has created much higher levels of competition in service provision, but has embedded regulation in distribution.

In the Railway sector, a similar process of separation was adopted, when British Rail was privatised and services were franchised out to a number of private operators, though Network Rail still owns most of the railway stations and track infrastructure. This process of separation has failed to deliver the same consumer benefits that were envisaged on the brink of privatisation. Though, now, public investment is being injected into the railway sectors to improve services and reliability.

The Competition Appeals Tribunal hears appeals against the decisions of any of the above-mentioned competition or regulatory authorities. It has recently overturned an important case when the OFT refused to refer a merger to the CC, and the OFT is expected to be under pressure to be more rigorous in its economic analysis in future.

Making Consumer Complaints

Under the 1998 Competition Act, firms or individuals can make complaints directly to the OFT (or the relevant sectoral regulator). The OFT may investigate individual cases and even issue orders, prohibiting a firm from undertaking a blatantly anti-competitive practice. If the complaint comes from one of the consumer bodies (e.g. the Consumers' Association) authorised to be a 'super-complainer', the OFT *must* investigate. In this respect, the UK position is like that in France, but unlike the EU, where DG Competition has considerable discretion to investigate or not. Individual *consumer* problems are dealt with by local 'trading standards' offices.

In addition, private competition complaints can be brought to the courts under UK or EU law. This process is less attractive than in the US, however, since UK law has little tradition of class actions' which allow cost sharing; and if a case fails, the complainant may have to pay the other side's legal costs.

Some Cases of Interest to Consumers

Box 100.1: Replica Football Kits[7]

In 2002/3 the OFT conducted an investigation into the pricing of 'Replica football kits', under the new Competition Act.

Ten suppliers of football replica kits, including top-selling England and Manchester United shirts, were fined a total of £18.6million, in August 2003, for engaging in unlawful price-fixing.

An OFT investigation unearthed evidence of several agreements or concerted practices to set the price for certain kits, manufactured under licence by Umbro. Intended to cover key selling periods like the Euro 2004 tournament, these fixed the prices for short-sleeved shirts at just under £40 for adults and just under £30 for juniors. The agreements, which infringed the Chapter I prohibition of the Act, were policed through informal contacts and monitoring of Umbro's retail customers, some of who were threatened with stock cancellations if they failed to stick to agreed prices.

Among the fined suppliers, JJB Sports and Allsports appealed to the Competition Appeal Tribunal (CAT) against both the decision and the penalty. Umbro and Manchester United appealed only against the financial penalty.

During the appeal, the OFT argued for an increased fine, reflecting the evidence, which came out during the hearings. The CAT upheld OFT's arguments and for the first time increased the fines after hearing the appeals in January, 2005.

Source: Annual Report 2003-04 and further information

7 See The Benefits from Competition: some Illustrative UK Cases.http://www.dti.gov.uk/economics/economics_paper9.pdf

Box 100.2: New Cars[8]

For many years, the UK Government tolerated an industry-to-industry voluntary export restraint, which kept the share of Japanese cars at 11 percent of the UK market. This, together with a special exemption for the EU car industry, allowed them to engage in market segmentation that other industries were not allowed to engage in; as a result UK car prices were significantly higher than in most of the rest of the EU.

The EU has moved slowly to remove this exemption, illustrating how powerful interests are often those with the greatest ability to claim exemptions; but in 2000, a UK Competition Commission Report showed a new willingness to take a harder line against anti-competitive behaviour.

An independent study concluded that these signals to the industry led to important price-cutting (a fall of 10 percent in car prices over the three years 2000-2003 – probably largely due to increased competition). Moreover, research suggested that ending the privileged position of authorised dealers, under the old system, would not lead to a worsening of service provisions for consumers, who actually reported that they received better service from independent dealers.

Box 100.3: Extended Warranties for Electrical Goods[9]

In 2002, the OFT carried out an investigation of the market and concluded that five collectively dominant firms were apparently overcharging consumers for extended warranties (five-year guarantees, etc) on electrical goods, such as fridges or televisions.

The problem arises from consumers being pressurised to buy the warranty at the same time as the goods, when they have no information on alternatives. The OFT referred the matter to the Competition Commission.

The Competition Commission recommended, in summer 2003, to the DTI that new statutory regulations be brought in, which would require the shops to give more information and allow consumers the right to cancel agreements.

In October 2003, the OFT wrote to the DTI suggesting that the Government should pass legislation to give effect to the CC's proposals. In July 2004, the DTI announced that it intended to change the Law as suggested and invited comments from business and the public on its draft proposals.

Concluding Observations and Future Scenario

Competition policy is now a central element in British economic policy and the UK plays a very active role in the new *European Competition Network*, in which national competition agencies share the task of enforcing EU law with the European Commission.

The OFT has been facing some criticism, in recent months, as a number of decisions have been challenged, and some of its actions have been judged ineffective. Nevertheless, there can be no doubt of the priority this policy has, under the present Government, and the increased input of consumer interests over the last 10 years.

A recent international survey of experts commissioned by, but independent of, the DTI rated the UK competition regime in the third place for effectiveness after the US and Germany[10] and the Global Competition Review in 2005 rated the UK regime (OFT and Competition Commission among the best in the world) along with the US and EU systems[11].

Despite the positive achievements there still remains much to be done for consumers. Elements of market power in the privatised utilities remain stubbornly entrenched, and like the financial services sector can exploit consumers' unwillingness to change suppliers. Neither competition authorities nor sectoral regulators have been fully able to cope here.

The creation of the European competition network and the active role that the UK is likely to play suggests that the UK's approach may be more influential in other member states as well as at the EU level.

The British position is itself continuously evolving. The structure described in this note was criticised in a recent report commission by then UK Treasury. The Hampton Review[12] was charged with reducing the burden of administrative costs of regulation on British business. It dealt with many aspects of business regulation, many associated with consumer protection, including health and safety and environmental issues.

8 See The Benefits from Competition: some Illustrative UK Cases. http://www.dti.gov.uk/economics/economics_paper9.pdf

9 See Memo from John Vickers DG of the OFT to the DTI: on Competition Commission report on extended warranties for domestic electrical goods http://www.oft.gov.uk/NR/rdonlyres/31EF88B1-B722-46BE-A24B-E2F551B69E10/0/warrantiesadvice.pdf

10 Department of Trade and Industry Peer Review of Competition Policy 17 May 2004 http://www.dti.gov.uk/ccp/topics2/pdf2/peercp04.pdf

11 http://www.oft.gov.uk/News/Press+releases/Statements/2005/Global.htm

12 http://www.hm-treasury.gov.uk/budget/budget_05/other_documents/bud_bud05_hampton.cfm

It proposed a major re-organisation of UK regulators including the consolidation into a smaller number. It proposed among other things splitting the OFT into two and separating the consumer protection and competition functions of the OFT. The reaction of the OFT Board and the Director General was very sceptical; they argued for keeping consumer protection and competition policy together[13]. The DTI still has to take a firm position on these recommendations and at the time of writing a consultation document is awaited.

13 http://www.oft.gov.uk/NR/rdonlyres/F73F3185-B19A-4863-A10E-A3755FBB54A1/0/sp0505.pdf

CAT Grants More Power to OFT

The UK's Competition Appeal Tribunal (CAT) has granted new freedoms to the Office of Fair Trading (OFT), dismissing an appeal against the office's decision to close a competition investigation. The decision will come as 'welcome relief' to the office, which has been forced to devote precious resources to defending appeals in cases where it has not pursued a complaint. The tribunal's judgement makes it clear that the office has the discretion to prioritise cases. A decision not to pursue a particular complaint because it's not an 'administrative priority' does not in itself constitute an act which can be challenged before the court.

In February 2006, the office closed its investigation of an alleged boycott in the supply of celebrity merchandise. Complainant Casting Book claimed that this constituted a non-infringement decision on behalf of the office and sought to appeal the decision before the Competition Tribunal. On December 15, 2006, the tribunal ruled that the appeal was inadmissible.

(Source: Global Competition Review, 19.12.06)

An Open Door for Damages

For the first time in the UK, a victim of conduct, found by regulators to be anticompetitive will be awarded damages. According to competition lawyers, a little-publicised decision, in November 2006, by the Competition Appeal Tribunal to order a £2m interim payment to Healthcare at Home paves the way for a final damages award within months.

The UK healthcare provider is claiming that it suffered as a result of a pricing policy – in effect a margin squeeze – pursued by US biotech company Genzyme. The only caveat is that two parties could settle the matter out of court first. Such an award, say lawyers, would be extremely significant because of the public desire by regulators, both in the UK and Europe, to encourage private enforcement actions in the competition field. The Healthcare at Home/ Genzyme case sends a clear signal to companies in breach of competition rules that victims of anti-competitive practices will be able to recover damages.

(Source: The Financial Times,15.12.06)

To read the news online, please follow the link:
http://us.ft.com/ftgateway/superpage.ft?news_id=fto121420061232168266&page=1

OFT Hints at BAA Referral

The UK's Office of Fair Trading (OFT) will refer BAA Airports to the country's Competition Commission for an in-depth investigation. The OFT put out a press release detailing the results of a market study. The study found that BAA enjoys a near monopoly in the Southeast of England, where it handles 90 percent of passenger journeys. The OFT also found 'evidence of poor customer satisfaction', and raised concerns about the efficiency of any investment at airports in the Southeast of England without competition present.

The study also noted that competition between independently owned airports, such as Liverpool and Manchester, improves value for customers. BAA's Glasgow airport, which faces competition from Prestwick, has had the largest price decreases of BAA's Scottish airports. The Office would reach a final decision on February 08, 2007.

(Source: Global Competition Review, 12.12.06)

UK Commission Clears Merger

The UK's Competition Commission is on the verge of clearing a merger after finding only minor competition problems. According to the Commission, SvitzerWijsmuller's purchase of rival Adsteam Marine would harm competition in Liverpool's harbour towage services market. The deal would bring together the two largest providers of harbour and customer terminal towage in the UK.

A provisional investigation has found that the US$544mn deal would only reduce competition in Liverpool, after the Commission accepted that there is not a national harbour towage services market. The Commission would reach a final decision on February 14, 2007. Australia's Competition and Consumer Commission cleared the deal in July 2006.

(Source: Global Competition Review, 11.12.06)

Changes Afoot for Canadian Telecoms

Canada's Ministry of Industry has proposed changing the country's Competition Act to protect telecoms consumers.The proposed amendments would allow the Competition Tribunal to issue up to US$15mn in administrative fines to telecommunication service providers that abuse their dominant market position.

But commentators have questioned the constitutionality of allowing fines for abuse of dominance, as this is a civil matter, not a criminal one. According to Canada's Competition Bureau, "certain characteristics of the telecommunications industry warrant special consideration." Distinguishing anticompetitive from pro-competitive conduct in the telecommunications industry may be very difficult, which would make the prospect of ordering fines of up to US$15mn all the more inappropriate. Canada's House of Commons will now discuss the proposals.

(Source: Global Competition Review, 09.12.06)

UK Airports Face Major Change

UK airports are facing major upheavals, as the Office of Fair Trading (OFT) prepares to refer the sector to the Competition Commission for a full investigation. The British Airports Authority (BAA) came under fire from airlines for cross-subsidising – channelling funds from one airport into another. Airline operators are now urging the Commission to break up BAA's monopoly of London's airports.

The Office found that UK airports group BAA controls a large share of airports in London, Scotland and the greater Manchester area. The Commission has the power to remove single ownership of the three London airports – Heathrow, Gatwick and Stansted are all under BAA's control. BAA has the right to appeal any referral to the Competition Commission.The OFT pledged to announce its findings on the airport sector before the end of 2006.

(Source: Global Competition Review, 07.12.06)

Sectoral Regulations and Institutions

The Office of Fair Trading (OFT) is investigating the country's largest airports operator, British Airports Authority (BAA), in order to break its monopoly of London airports. Its findings are expected by the end of the 2006.The Committee, comprising 11 members of the Parliament examines ways of streamlining price control reviews of the airports sector. The Competition Commission acts only as a final check on the process instead of playing an advisory role to the Civil Aviation Authority (CAA). The CAA reviews airport prices every five years, and before setting these limits, it must refer its decisions to the Commission.

But the Committee blamed this system for delaying the overall review, and recommended that the Authority review its own decisions by following standard regulatory procedures. The Committee also asked whether the system is a more effective check on abuse of dominance than standard competition law.

(Source: Global Competition Review, 22.11.06)

Backseat for UK Watchdog

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(Source: Global Competition Review, 22.11.06)

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