



MMD

MONDAY MORNING DISPATCH

BY Chadwick Lawrence

WEEK 2

27 JANUARY 2025

Welcome back to this week's MMD. Our new podcast will be launching soon. This week, Daniel's video explores managing personal relationships at work. Jamie, from our Litigation Team, has prepared an article on UK competition law, including details if you need advice. Don't miss our 2025 schedule of seminars and events, along with upcoming Mental Health First Aid courses. Explore the highlights below and register for our upcoming events.



THE LEGAL ALTERNATIVE



THE MEDIA HUB



WHAT'S GOING ON



UPCOMING EVENTS

THE LEGAL ALTERNATIVE PODCAST

New Year, New Podcast

Our podcast will be back soon! We have rebranded our podcast with a brand new logo. Take a look at our Spotify to listen to our old episodes.

[Listen here](#)



**The Legal
Alternative**

Chadwick Lawrence Solicitors



👉 [Watch here](#)

THE MEDIA HUB

Crush Hour

In this video, we discuss the benefits of operating a policy around personal relationships at work. We discuss the risks and challenges associated with office romances, and advise on how a risk assessment can identify suitable control measures and action points.

WHAT'S GOING ON

Competition Law Services

Introduction

As part of this week's edition of the MMD by Chadwick Lawrence and as a result of a number of recent enquiries and high profile cases being dealt with by the Competition Appeal Tribunal ('CAT') in London, we would like to take the opportunity to provide an overview in respect of competition law in the United Kingdom, what action can be taken against parties who breach competition law, and who to contact at Chadwick Lawrence in the event you require any further advice or assistance in that regard.



Competition Law in the United Kingdom

Competition law is designed to uphold free markets, operating on the basis that businesses operating in a competitive market provide greater benefits to society.

UK competition law is broadly contained in the Competition Act 1998 and the Enterprise Act 2002, with the Competition and Markets Authority ('CMA') being the main body that has the responsibility of investigating and pursuing infringements. This legislation was

created to bring the provisions of Article 101 and Article 102 of the Treaty on the Functioning of the European Union ('TFEU') into UK law. Such statutes cover the prohibition of anti-competitive agreements, controls on abuses of a dominant position in the market, and merger controls. In this first of a proposed series of articles, we consider the prohibition of anti-competitive agreements.

The Chapter 1 Prohibition

The provisions of Article 101 TFEU are brought into UK Law by Chapter 1 of the Competition Act 1998.

Section 2(1) Competition Act 1998 provides as follows:

- 1) Agreements between undertakings, decisions by associations of undertakings or concerted practices which:
- 2) May affect trade within the United Kingdom, and
- 3) Have as their object or effect the prevention, restriction or distortion of competition within the United Kingdom...
- 4) Are prohibited unless they are exempt in accordance with the provisions of this Part.

Starting with point (1) – “agreements” is to be interpreted with a broad definition. This can cover written contracts, oral or verbal agreements, and can even include “gentlemen’s agreements”. A “concerted practice” is deemed to be any behaviour which falls short of an agreement, but still amounts to co-ordination which knowingly substitutes practical cooperation for the risks of competition.

As is implied by the wording of point (1), the agreement must be between two separate undertakings. An undertaking will include companies, partnerships, sole traders, non-profit making organisations, and public organisations carrying on economic or commercial activities.

Moving onto point (2), which is a relatively easy point to prove. The CMA made the comment, in Guide OFT 401, that *“it is very unlikely that an agreement which appreciably restricts competition within the United Kingdom does not also affect trade within the United Kingdom”*. The focus, therefore, will be addressed to point (3).

Lastly, to satisfy point (3), the agreement needs to have, as either it’s “object” or “effect”, the prevention, restriction or distortion of competition within the UK.

For an agreement to have as it’s “object” the prevention, restriction, or distortion of competition within the UK, it must be so injurious to competition that it is regarded, by its very nature, as producing negative effects on the market. As set out by the EU Commission, examples of restrictions in horizontal agreements that will amount to an “object” restriction include price-fixing, the allocation of markets or customers, the reduction of volume of a competitor’s supply or production capacity, and bid-rigging. Examples in vertical agreements include export bans and the ability of a buyer to determine its minimum selling price.

The effect of an agreement containing an object restriction is that it will automatically breach competition law, and the CMA will not have to prove that there would have been an appreciable effect on competition.

If an agreement does not contain an object restriction, it can still be in breach of the Chapter 1 prohibition if it is deemed to have an appreciable effect on competition.

Whether an agreement has an appreciable effect on competition is measured by the parties' market share; guidance on this topic was provided by the Commission's Notice on Agreements of Minor Importance ('De Minimis Notice'). The De Minimis Notice provides that horizontal agreements, where the combined market share of the parties does not exceed 10%, will be deemed de minimis and will not breach competition law. As for vertical agreements, agreements where the market share held by each of the parties does not exceed 15% will be deemed de minimis.

The Sanctions for Breaching the Chapter 1 Prohibition and how Chadwick Lawrence can help

Agreements that are deemed to be in breach of Chapter 1 are automatically void, in accordance with s2(4) Competition Act 1998. This means that the agreement will not be enforced by national courts. However, if the offending provision can be severed, the remainder of the agreement may be enforced.

Breaching competition law is not for the faint hearted. As per s36 Competition Act 1998, UK competition authorities have the power to impose a fine of up to 10% of an undertaking's worldwide turnover. Leicester City Football Club were the subject of such a sanction in 2023 when they were fined £880,000 for colluding with JD Sports over the sale of their club-branded products and merchandise in the UK.

The CMA may also make Cease and Desist orders against an undertaking. This would be relevant where the infringement is ongoing and needs to be ended immediately. The CMA may also order behavioural remedies; these remedies must be proportionate to the infringement and necessary to bring it to an end. An example of this in action was in the case of *Commercial Solvents* (1974): this behavioural remedy was in relation to resuming supplies because the infringement was caused by a restriction on supply.

The sanctions for breaching the Chapter 1 prohibition can go further than civil punishment, with criminal sanctions being available to the CMA if an individual has partaken in serious cartels taking effect within the UK. Under s188 Enterprise Act 2002, if an individual is found guilty, they can be liable for imprisonment, a fine, and director disqualification.

The above-mentioned sanctions are in addition to the expected reputational damage and third-party court actions that an undertaking will face after being liable for breaching competition law.

That concludes this basic overview of the Chapter 1 prohibition in Competition Act 1998 and the first of a proposed series of articles in respect of competition law in the UK.

If you require any advice or assistance in respect of breaches of the Chapter 1 prohibition, or more generally in respect of competition law, please do not hesitate to contact Peter Harling and/or Jamie Howard whose contact details are set out below.

Peter Harling
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Email: PeterHarling@chadlaw.co.uk

Jamie Howard
Paralegal
Email: JamieHoward@chadlaw.co.uk

UPCOMING EVENTS

Seminar & Events

We're excited to share our 2025 seminar and events line-up!

This year, our free events are tailored to offer something for everyone - whether you're looking for employment law updates or general networking opportunities.

➡ [Register here](#)



26 Feb, 8:30 AM – 10:00 AM |
Hays Leeds Office
Media Law & Defamation



13 Mar, 8:30 AM – 10:00 AM |
Sedulo Leeds Office
*Planning Your Business
Future with Sedulo*



27 Mar, 8:30 AM – 10:00 AM |
Location TBA
*Conducting a Disciplinary
on Harassment*



30 Apr, 8:30 AM – 10:00 AM |
Location TBA
Equality & Diversity



8 May, 8:30 AM – 12:00 PM |
Headingley Stadium Leeds
*Health & Safety Mock Trial
with Lighthouse*

Mental Health Awareness Sessions

In partnership with Tailored Learning Solutions, we're hosting Mental Health First Aid courses at our Wakefield office. These courses are designed to equip businesses with the tools needed to support mental health in the workplace.

The available dates for 2025 are:

- 23-24 April 2025
- 25-26 June 2025
- 24-25 September 2025

For more details or to book your place, visit the Tailored Learning Solutions website
[https://www.tailoredlearningsolutions.co.uk/book-online?](https://www.tailoredlearningsolutions.co.uk/book-online?category=all-services)
[category=all-services](https://www.tailoredlearningsolutions.co.uk/book-online?category=all-services) or contact Carol Gledhill at carolgledhill@chadlaw.co.uk.

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