

CC Corporate Plan 2006/2007

Introduction

The Competition Commission (CC) is an independent body whose members conduct inquiries and make decisions in relation to investigations of mergers, market and regulatory references, as well as to certain other appeals. The CC is the Phase 2 body in the UK's competition framework: it conducts inquiries referred to it 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 CC has no power to conduct inquiries on its own initiative. The 50 or so members (including the Chairman and deputy Chairmen) are appointed by the Secretary of State for Trade and Industry for fixed eight-year terms. Decisions on each inquiry are the responsibility of groups of (usually four or five) members appointed by the Chairman. The CC aspires to be an authoritative and world-class investigative authority whose activities contribute to:

- an increase in the level of competition in the UK economy; and
- the UK's economic performance and productivity in the international economy, where competitive pressures are becoming increasingly global.

The CC's contribution also makes markets work better for consumers who thereby benefit from:

- lower prices; and/or
- a wider range of choice; and/or
- more innovation; and/or
- higher-quality products and services.

This Corporate Plan sets out the objectives of the CC for the year 2006/2007 and the means to achieve them. It first introduces the six workstreams, into which the CC has divided its work, then it provides more detail regarding this year's objectives for each workstream and finally it analyses the risks involved within the organization and how these risks are managed.

We have agreed with the Department for Trade and Industry (DTI) the following Key Performance Indicators:

1. In complying with its statutory duties, the CC aims for:
 - High-quality analysis and authoritative decisions.
 - Effective and proportionate remedies.
 - Open, fair and expeditious procedures.
 - Effective communication of its decisions.

Its performance against these objectives will be monitored, in conjunction with the DTI, by an independent survey of the CC's stakeholders, and by a peer review¹ assessing the CC's performance compared with other competition authorities worldwide. The conclusions of these reviews and summaries will be published.

2. The CC, in conjunction with the DTI, will monitor the CC's financial performance as measured by budget compliance, and progress in achieving annual efficiency improvements.

¹Stakeholder surveys are carried out annually and peer reviews are every three years; the next one is due in 2006/07.

Workstreams

The CC has divided its work into six workstreams, each led by a senior member of staff. Each workstream has a strategic objective, detailed below. The CC is committed to constantly review its effectiveness, and if necessary to adjust its approach to inquiries in order to achieve these objectives, and also to seek to reduce the burdens on business and its advisers. Our strategic workstream objectives are:

1. **To carry out specific investigations** and in particular to:

- take decisions that are:
 - based on consistent principles, and build on the CC's experience, while maintaining the independence of inquiry groups; and
 - well founded on sound evidence, clearly reasoned, and without being influenced by the threat of appeal where we believe our determinations are justified;
- implement remedial action that has an effective and timely impact on competition concerns; and
- publish guidance and reports which are accessible to, and influence the views and behaviour of, both key stakeholders and wider audiences.

Workstream leader: Chief Executive (Martin Stanley) with Head of Planning (Clare Gallimore)

2. To make **efficient and effective use of all its resources**.

We do so by planning our business effectively, employing excellent staff and members with appropriate investigatory and other professional and analytical skills. We will also provide an effective learning environment for all staff, while ensuring a safe and healthy working environment and good internal communications.

Workstream leader: Director of Corporate Services (Rebecca Lawrence)

3. **To make the right decisions** and ensure the CC carries out high-quality analysis and assessment of all strands of evidence which is used appropriately in reaching balanced and robust decisions. It includes reviews of the analytical approach used, adapting our methods and updating our quantitative techniques as needed.

Workstream leader: Chief Economist (John Davies)

4. **To take the right remedial action** and to ensure the CC applies the best remedies analysis and processes. To monitor and review the effectiveness of remedies and undertakings, and improve the transparency and consistency of the remedies process through online publications.

Workstream leader: Chief Business Adviser and Head of Remedies (David Roberts)

5. To have **transparent and fair procedures** which enable it to fulfil its statutory obligations in an open and consultative and professional manner.

Workstream leader: Chief Legal Adviser (Clare Potter)

6. To contribute effectively to the **development of competition policy** and practice in the UK, the EU, and internationally.

Workstream leader: Chief Executive (Martin Stanley) with Policy Coordinator (Catherine Abbott)

Each workstream leader, supported by a group of CC staff,² is responsible for setting objectives for the year, and to ensure that these strategic objectives are achieved. These workstream objectives are detailed in the sections on each workstream below.

²Members also participate in some groups.

Workstream strategic objective 1: To carry out specific investigations

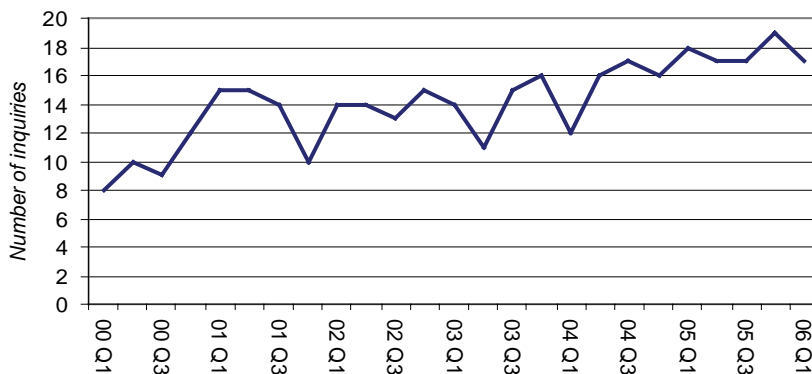
Person responsible: Chief Executive (Martin Stanley) with Head of Planning (Clare Gallimore)

The CC's statutory functions are to:

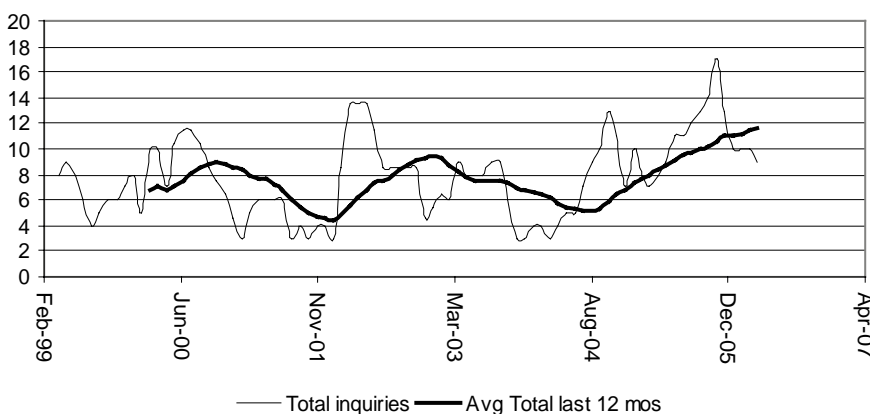
- conduct investigations into mergers, markets and certain regulated industries;
- to hear appeals against decisions by the Office of Gas and Electricity Markets (Ofgem) on electricity and gas code modifications and price control matters in telecommunications appeals to the Competition Appeal Tribunal; and
- to decide on requests for variation or termination of undertakings or orders.

The CC only conducts investigations into matters referred to it by other bodies (principally the OFT and other regulators), or the appeals referred to above, and it therefore has no control over its workload. The recent rate of referral of merger inquiries, and the total CC workload are reflected in the graphs below:

**Mergers: OFT referral rates
rolling 12-month totals**



Number of inquiries



Our planning assumptions for the financial year 2006/2007 are that there will be an average of ten inquiries underway every month; these will include market investigations,³ merger inquiries⁴ and regulatory inquiries. The out-turn figure is of course likely to be either higher or lower than this. However, assuming this workload, we aim to spend around £20.2 million.

The following table sets out the objectives and measures for workstream 1: To carry out investigations. They focus on meeting milestones so that inquiries are finished on time and work effectively and efficiently.

<i>Objective</i>	<i>Measure</i>	<i>Time</i>
Provisional findings are published, on average, by week 15 in merger inquiries, thus providing good inquiry consultation and timetable management	Provisional findings are published by week 15	To be assessed at the end of the financial year
Compliance with the statutory timetable for merger inquiries set out in the Enterprise Act 2002	Publication of final report by week 24, with no more than two inquiries having an extension	To be assessed at the end of the financial year
Market inquiries are completed within the two-year statutory deadline	Market inquiry reports are published within two years	To be assessed at the end of the financial year
To enable the CC to manage an increase in workload with the same or fewer resources	Assuming our workload is an average of ten inquiries a month; the average cost of an inquiry will remain the same or decrease	To be assessed at the end of the financial year

³The statutory time limit for market inquiries is two years, with no extension possible.

⁴For simplicity, we assume that merger inquiries last six months on average (the statutory time limit is 24 weeks, with a possible extension of up to a further eight weeks).

Workstream strategic objective 2: Make efficient and effective use of resources

Person responsible: Director of Corporate Services (Rebecca Lawrence)

CC expenditure comes under the main categories of remuneration for CC members and staff, accommodation costs, direct inquiry costs (eg external surveys, hearings and travel), office costs, depreciation and provisions, taxation and projects. We are funded by the DTI through 'Grant In Aid'. The system of merger control in the UK is funded through merger fees, paid by businesses to the OFT. Although these fees are paid to the OFT, and not directly to the CC as income, they do offset the cost to the Government of running the merger regime. The CC receives some income from our tenants in Victoria House (around £2.3 million), and from appeals against Electricity and Gas Code Modifications (£0.5 million forecast in 2006/2007, dependent on the number of appeals made).

The CC's staffing levels are linked to the workload planning assumptions explained under workstream 1 above, since each new inquiry potentially gives rise to a requirement for additional inquiry staff. Based on these workload assumptions, we expect to employ around 170 Full Time Equivalent staff, of which around 73 per cent are dedicated to inquiries, and the remainder work in Corporate Services.⁵ This gives rise to a pay budget of around £10.7 million.

There are risks associated with both higher and lower than expected rates of referrals to the CC. If we receive fewer inquiries than expected, our staff are not utilized to full capacity. We manage this risk partly by employing some staff on temporary contracts, and partly by delaying some project-based work and research until the inquiry workload is lower. On the other hand, if we receive more inquiries than predicted, there is a risk that our permanent staff could not cope with the workload and key pieces of research and project work are delayed. We offset this risk by having panels of experienced staff whom we can call on at short notice to work for a fixed period, and if necessary, by taking on temporary staff. In that case, our pay budget rises.

The costs per inquiry tend to decrease as workload rises (as fixed costs are spread over more inquiries), though a particularly high workload can give rise eventually to a higher cost per inquiry due to the costs of employing additional temporary (and often more expensive) staff.

The number of staff in Corporate Services is not linked directly to the inquiry workload. However, over the past 12 months, we have worked to increase the efficiency of Corporate Services, and have made savings of £0.214 million in 2005/2006 and forecast savings of £0.433 million for 2006/2007 and beyond. We are also aiming to generate further savings in 2006/2007. Our aim is to improve our Information Technology, HR policies and procedures, procurement practices, and internal communications to help to make the best use of our resources.

⁵Finance and Procurement, Human Resources and Internal Communications, Planning and Efficiencies, Secretariat, Facilities, Security and IT.

<i>Objective</i>	<i>Measure</i>	<i>Time</i>
To deliver further efficiency savings across the Corporate Services Directorate	Corporate Services to generate 15 per cent savings across the Directorate (compared with 2005/06 out-turn) and to consider how we can work more efficiently and effectively as a team	March 2007
To improve the level of service provided by Corporate Services to the CC	Service Level Agreements in place and/or reviewed for each Corporate Services Team Development of a new financial system to assist with the provision of improved financial management reporting and in turn improved financial administration To review current HR policies and procedures	Sept 2006
To put in place effective internal communications	The CC embeds the practices recommended by the 2005/06 Communications Project CC official communications to staff are the primary source of information regarding CC corporate news/objectives, policies, procedures and best practice. The introduction and strong management of a range of communications channels such as the CC Intranet, the Weekly Bulletin and regular team meetings, as well as increased training for managers in 2006, will help ensure that effective two-way communications between managers and staff are in place Knowledge management project is underway to enable us to make best use of our knowledge and data Staff Council is used effectively	July 2006 Review in Dec 2006 Delivery by Dec 2006

<i>Objective</i>	<i>Measure</i>	<i>Time</i>
To ensure that we make the best use of inquiry staff	<p>The Inquiry Support Unit, Inquiry Ways of Working and Inquiry Resource Manager projects are fully evaluated and best practice is implemented throughout Inquiry Teams</p> <p>The appointment of a new Head of Inquiry Support supports and develops the roles of inquiry administrative staff, and makes changes in the line management of staff. One of their key roles will be to work with Inquiry Directors and other inquiry staff to enhance current line management structures and develop more effective ways of working. This will be evaluated by the end of the next financial year</p>	2006/2007
To implement the recommendations of the 2005/06 procurement project	New procurement systems are in place and embedded in the organization	Dec 2006
To put in place tools and processes to support workstream 5 in its pursuance of regular guideline updates, induction of new staff/ members	Content management in place; induction, support and training delivered efficiently and effectively	March 2007
To ensure that the CC makes the best use of its accommodation	Fundamental review of space utilization, including making more creative use of our space for example by co-locating inquiry administrative staff, creating more areas where informal meetings can be held and considering the benefits of flexible working practices. Further work is completed on making the best use of our space including letting any vacant space and with the DTI having considered further options for making better use of Carey Street	Oct 2006
To ensure that IT is able to fully support remote working, and to enable effective and efficient working practices to be adopted by remote workers	<p>User satisfaction reported by annual survey</p> <p>For a minimum of 60 per cent of members to have the ability to access CC files and data from their home and for all staff with a clear business need to be able to work remotely</p> <p>Remote working guidelines drafted</p>	June 2006

Workstream strategic objective 3: Make the right decisions

Person responsible: Chief Economist (John Davies)

Although all inquiry groups are independent from each other, they take into account guidance, guidelines and prior experience of similar issues and industries. The CC accordingly:

- reviews and evaluates its overall effectiveness; and also
- reviews and evaluates the appropriateness of its earlier decisions, and then, if appropriate:
 - modifies its analysis, which can involve modifying its guidance and guidelines; and/or
 - publishes a range of material to help stakeholders and others understand how the CC reaches its decisions.

The CC has established a committee, the 'Analysis Group', chaired by the CC Chairman. The Analysis Group's overall aim is to improve the quality of the CC's (non-remedies) decision-making. In taking responsibility for content in this way, the Analysis Group will:

- consider whether formal evaluations and experience in recent inquiries suggest that the CC might analyze its cases in better or different ways;
- carry out or commission evaluations and other analysis of any improvements to decision-making that seem necessary, whether because of concerns arising in inquiries or a more general need to maintain the CC's capability;
- decide on what the CC's approach should be, where required;
- consider the cost/benefit of the CC's activities; and
- disseminate best practice, think pieces and so on.

The Analysis Group is supported by a staff group chaired by the Chief Economist.

The CC has processes in place to ensure that lessons are learnt from analysis in inquiries immediately. In particular, after every inquiry, feedback is sought from members and parties and a paper is prepared by the Inquiry Director, which is discussed at a meeting of senior staff; the lessons learnt are reviewed by the Council.⁶ The economists' team also reviews data collection and economic analysis at the end of each case.

There are also a number of evaluations of CC cases and procedures underway:

- Ex post review: this follows the broad methodology of the Pricewaterhouse Coopers (PwC) ex post evaluation of mergers published in March 2005; CC economists will assess the impact of a number of the CC's past cases (monopoly/market, mergers and regulatory), by investigating what has happened since publication of the report.

⁶The Council is the CC's strategic board, made up of the Chairman, Deputy Chairmen, non-Executive Directors and Chief Executive.

- Quantification of benefits: CC economists are preparing a paper on the consumer benefits resulting from the CC's adverse findings over the last year, along with a discussion of how to measure other benefits (including the benefits of a clearance decision and the wider 'deterrent effects' of CC decisions).
- CC economists aim to evaluate the impact of inquiries and the benefits the CC can bring to the UK economy.

<i>Objective</i>	<i>Measure</i>	<i>Time</i>
To commission a review by an external body of the CC's overall effectiveness	Progress the 'Analytical procedures review' of EA merger cases. Commission and complete two external reviews such as: 1. the CC's use of quantitative techniques; and 2. the CC's approach to the counterfactual ⁷	1. Complete by September 2006 2. Complete by February 2007
To help stakeholders and others understand how the CC reaches its decisions	Publish at least two occasional papers on website written by external academics or CC staff. Run public seminars and presentations	By end financial year
When appropriate, to modify CC analysis, guidance and guidelines	Review content of Merger Guidelines CC2 and suggest revisions and EA02 examples Draft text passed to CC lawyers on all areas requiring revision	To be consistent with any CC objective for revision of guidelines—eg three months before publication
To conduct evaluation of all inquiries we complete	Seek feedback from members and parties and publish an ex post review of past CC cases	End of each inquiry
To ensure thorough analysis of provisional findings	Extend and formalize the 'peer review' system presently run by economists within inquiries to ensure that all key aspects of decision-making in provisional findings are reviewed by disinterested professional staff members. Produce internal discussion papers and notes on particular issues	Ongoing
To establish permanent system for ex post review	Define process for selecting two cases a year and approach to evaluation (building on existing ex post review), complete first two reviews	Define process by May 2006, complete first two by end financial year

⁷The 'counterfactual' refers to where the CC will evaluate the competitive constraints on firms with the merger compared with the situation that would have been expected to prevail without the merger.

Workstream 4: To ensure that the CC takes the right remedial action

Person responsible: Chief Business Adviser and Director of Remedies (David Roberts)

The CC's determinative role in selecting and implementing remedies is a relatively recent innovation resulting from the Enterprise Act. The CC has therefore given priority to developing its procedures and incorporating the results of experience to enable it to fulfil this role effectively. The CC's Remedies Standing Group aims to develop the CC's remedies approach in accordance with findings from CC experience of past inquiries, other remedies research and changes in international practice. It reviews learning points arising on remedies from current inquiries and seeks to ensure that members and staff are fully conversant with the CC's evolving approach to remedies. As well as accepting undertakings as remedies on concluding inquiries, the Group makes decisions on variation of, or release from, existing undertakings.

<i>Objective</i>	<i>Measure</i>	<i>Time</i>
Continually research the effectiveness of UK remedies by conducting interviews which seek to establish learning points from these cases and whether the remedies are performing as intended	By interviewing the main parties, customers, suppliers, the OFT and other relevant parties regarding the implementation and subsequent operation of remedies, in selected past cases.	Ongoing
To develop and refine a remedies toolkit to assist members and staff in rapidly identifying and designing feasible sets of remedies in individual inquiries and to act as a training aid	To produce a summary guide to remedies and a database of UK undertakings and orders for past cases The toolkit will evolve with case experience, changes in international best practice and the outcomes of research. For each type of remedy the toolkit outlines: <ul style="list-style-type: none"> • key features • appropriate circumstances of use • design, process and implementation issues • links to example cases and key articles 	The summary guide will be finalized and available on the CC Intranet in the second quarter ongoing
To develop procedures and guidance, for example, to provide parties to CC investigations with further useful guidance on remedies	Guidance for behavioural remedies produced. Procedures for variation and release of final undertakings and orders will be further developed As inquiries are completed, learning points arising on choice and implementation of remedies are identified and considered. Procedures and approaches are modified in the light of these learning points	By end of the financial year

<i>Objective</i>	<i>Measure</i>	<i>Time</i>
To disseminate results of remedies research in order to improve the remedies process and learn from past experiences	The outcomes and learning points of the first four cases which have been researched are summarized and shared with staff, members, the OFT and other parties	At the end of the third quarter
To make helpful guidance available to staff and external parties to help to ensure effective compliance with statutory obligations	Revised guidance for interim measures and template interim undertakings is finalized	First quarter of the financial year
To undertake training and knowledge transfer, thus ensuring the knowledge gained in one inquiry is transferred throughout the team	Training will be provided to update members and staff regarding the CC's remedies approach	The end of the second quarter

Workstream strategic objective 5: To ensure the CC has first-class procedures that will enable it to conduct inquiries efficiently and effectively, to be fair to all parties, transparent and consultative

Person responsible: Chief Legal Adviser (Clare Potter)

The CC is committed to conducting its inquiries efficiently and effectively, respecting fully the rights of defence of parties affected by investigations and being open and transparent in its work whilst maintaining the confidentiality of information it obtains. In order to ensure that these objectives are achieved consistently, the CC needs to have a clear understanding of what constitutes best practice and to ensure this is reflected in rules of procedure and guidance both for members and staff and for parties to investigations. Procedures and the documentation which records them need to be kept under review and to be revised in the light of experience. The CC also seeks to take account of the need to avoid unnecessary burdens on business and of developments in international best practice in competition enforcement.

The following table sets out the specific objectives and measures for workstream 5. These encompass the dual requirements to keep procedures under review and ensure that any changes are appropriately documented.

<i>Objective</i>	<i>Measure</i>	<i>Time</i>
To implement lighter inquiry processes and ways of working on simple merger inquiries to enable us to manage an increase in workload with the same or fewer resources	Templates produced and process documented in staff handbook. Pilot inquiry successfully completed	Documentation completed by June 2006
To implement improvements to market inquiry procedure following review	Procedural changes documented in guidance and staff handbook, new templates, systems and procedures in place	Agreement on revisions to procedures by December 2006; revised procedural guidance by March 2007
To implement modernization changes—the Modernisation Regulation (EC Regulation 1/2003) decentralizes the application of EC competition law to member states	Memorandum Of Understanding on treatment of Article 81/ 82 issues with OFT published, revised guidance and internal procedures in place, initial training completed	Any procedural changes to be agreed within six months of future policy decisions; revised guidance in place by March 2007
To have in place guidance for staff on conduct of regulatory inquiries	Section of staff handbook published on Intranet	September 2006
To continue rolling programme of review of external guidance	Procedural guidance on mergers to have been reviewed and updated, and versions published on website where required	December 2006

Workstream strategic objective 6: Contribute effectively to development of competition policy and practice

Person responsible: Chief Executive (Martin Stanley) with Policy Coordinator (Catherine Abbott)

The Enterprise Act 2002 came into force in June 2003 and the CC is closely involved with DTI and HM Treasury-led initiatives aiming at assessing and improving the functioning of this regime. Over the past year, the CC and the OFT have taken steps significantly to improve the interface between the two organizations' work and the CC will continue to work proactively towards further improvements.

The White Paper *Productivity and Enterprise: A World Class Competition Regime* (31 July 2001) asked the UK authorities to assume a higher profile. The CC will continue to take steps to raise its profile and promote better understanding of its work through a variety of methods including hosting and participating in seminars and competition events and engaging with the media on inquiry developments.

The CC has also become increasingly involved in international competition organizations and will seek further to make an effective contribution to the international competition community. These links facilitate the sharing of best practice, strengthen the CC's analysis and procedures and increase the CC's profile within Europe and internationally.

Over the forthcoming year, we will work with the DTI and the OFT on competition policy and best practice. We will continue to focus on the nature of work that is referred to the CC, the CC's investigatory techniques and procedures to ensure that the CC offers value for money. We will specifically work to ensure:

- the nature of the markets that are referred to the CC warrant the resources at the CC's disposal;
- an effective interface is achieved with the OFT particularly on inquiry work and remedies for merger cases; and
- that parties involved in CC investigations provide timely and accurate information for the purposes of our inquiries.

On the international front, we will work with the DTI and the OFT to develop links with the European Commission, EU member states, international competition organizations such as the Organisation for Economic Co-operation and Development (OECD) and the International Competition Network (ICN) and their individual members. We will also continue to host and make visits to overseas competition authorities to share best practice.

<i>Objective</i>	<i>Measure</i>	<i>Time</i>
To contribute effectively to competition policy issues, where the CC has expertise, in order to improve the operation of the UK competition regime	A work plan is developed with the DTI and the OFT to address issues that have arisen and make progress on improving the regime. Senior personnel and where appropriate, CC staff are kept fully informed of and involved in policy matters. Effective communication achieved with other government departments	The DTI and OFT by May 2006 to take forward recommendations to improve the Enterprise Act regime. Make significant progress on improving the Enterprise Act regime during 2006/07
To contribute effectively to international competition networks, where the CC has expertise, including the OECD and ICN in order to share best practice	Attendance at key competition events and high-quality contribution to papers and presentations where appropriate (ie on matters where the CC has expertise)	Make significant contributions to papers, jointly with the OFT, for OECD roundtable meetings in June and October 2006. Increase CC involvement in ICN work during the annual conference in May 2006
To develop the CC's bilateral relations with overseas competition authorities including the European Commission so as to increase cooperation on similar cases, as appropriate and share lessons learnt	Development of the CC's overseas links: effective visits programme for council members and senior staff and effective hosting of visits from overseas authorities. Effective contribution to overseas requests for information	Ongoing
To communicate an understanding of the CC's work and the benefits of competition to UK stakeholders and to develop the CC's website as a centre for competition information	An effective and agreed communications strategy. Implementation of the strategy: delivery of speeches, publication of articles, attendance at key seminars and conferences	Overhaul the CC's website by close 2006/07 Bi-monthly reporting to the CC's Communications Group on progress made with implementing the CC's communications strategy

Risk policy and handling

The CC's objectives, and the procedures it has developed, aim to manage risk effectively. The nature and impact of the CC's work leads the CC to be necessarily risk averse in its policies and procedures. The CC actively identifies, assesses and manages key risks as set out in the CC risk register. The Operations Board:

- ensures that the operational and other risks faced by the CC in carrying out its functions have been properly identified and are evaluated regularly and monitored by management at appropriate levels; and
- ensures that appropriate and effective procedures have been established and are maintained by management to address the identified risks.

Identification and evaluation of risks is carried out primarily by those individuals and committees that are identified in the CC Risk Register as responsible for monitoring and controlling risk, often the workstream groups.