

Warrant

**IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION**

CLAIM No. of 20

CLAIMANT:

OFFICE OF FAIR TRADING

[insert address]

PREMISES TO WHICH THIS WARRANT RELATES:

[insert address]

**WARRANT TO ENTER PREMISES AND EXERCISE POWERS
UNDER SECTION 194 ENTERPRISE ACT 2002**

To the occupier of the premises described above (“the premises”) and to any person in charge of, or operating at or from, the premises:

You should read the terms of this Warrant and the accompanying Notice of the powers to search premises and of the rights of occupiers (“the Notice”) very carefully. If you intentionally obstruct an officer or fail to comply with any requirement of the officers or other persons exercising their powers under the Warrant, you may be committing a criminal offence under section 201 of the Enterprise Act 2002, the relevant terms of which are set out in Schedule C to this Warrant.

An application was made on *[insert date]* by Counsel for the Office of Fair Trading (“the OFT”) to The Honourable Mr Justice *[insert name]* (“the Judge”), for a warrant under section 194(1)(a) and (b)*[insert the relevant sub-paragraph (i), (ii) or (iii)]* of the Enterprise Act 2002 (“the Act”) on the basis that there are reasonable grounds for believing:

- (a) that there are on the premises documents which the OFT has power under section 193 of the Act to require to be produced for the purposes of an investigation under section 192(1) of the Act; and
- (b) that *[insert the text of the relevant sub-paragraph (i), (ii) or (iii)]*.

[In the remainder of this Warrant, references to an officer or officers of the OFT shall be taken to include any competent persons authorised by the OFT under section 195(1) of the Act to exercise on its behalf all or any of the powers conferred by section 194.] The Judge read the evidence in support of the application and was satisfied that the grounds in section 194(1)(a) and (b)*[insert the relevant sub-paragraph (i), (ii) or (iii)]* of the Act have been met and accepted the undertakings by *[insert name]*, an officer of the OFT authorised to act as the “named officer”, set out in Schedule A to this Warrant. The named officer is the principal officer of the OFT in charge of executing this Warrant.

As a result of the application, this Warrant in relation to the premises was issued by the Judge on *[insert date]*.

1. This Warrant is issued in respect of an investigation under section 192(1) of the Act by the OFT on the basis that there are reasonable grounds for suspecting that an offence under section 188 (cartel offence) of the Act has been committed and, under section 192(2) of the Act, it appears to the OFT that there is good reason to exercise the powers under section 194 of the Act for the purpose of investigating the affairs, or any aspect of the affairs, of any person (“the person under investigation”).
2. *[Set out the subject matter and purpose of the investigation]*.
3. By this Warrant the named officer and the other officers *[and person(s)]* *[The words in brackets shall be included if the Judge so orders pursuant to section 194(4).]* named in Schedule B and authorised in writing by the OFT to accompany the named officer, are authorised to produce the Warrant at any reasonable time *[unless the Judge has ordered otherwise]* and on producing the Warrant:

- (a) to enter the premises, using such force as is reasonably necessary for the purpose;
- (b) to search the premises and -
 - (i) take possession of any documents appearing to be of a kind in respect of which the application referred to in this Warrant was granted ("the relevant kind"), or
 - (ii) take, in relation to any documents appearing to be of the relevant kind, any other steps which may appear to be necessary for preserving them or preventing interference with them;
- (c) to require any person to provide an explanation of any document appearing to be of the relevant kind or to state, to the best of his knowledge and belief, where it may be found;
- (d) to require any information which is stored in any electronic form and is accessible from the premises and which the named officer considers relates to any matter relevant to the investigation, to be produced in a form –
 - (i) in which it can be taken away, and
 - (ii) in which it is visible and legible or from which it can readily be produced in a visible and legible form.

4. The Warrant will expire one month after the date on which it is issued.

5. Pursuant to section 50 of the Criminal Justice and Police Act 2001, the powers set out in paragraph 3(b)(i) of this Warrant include the powers-

- (a) to take possession of any document in order to determine later and elsewhere whether (or the extent to which) the document is of the relevant kind, where in all the circumstances it is not reasonably practicable to determine this on the premises; and
- (b) to take possession of any document comprised in something else where in all the circumstances it is not reasonably practicable to separate, on the premises, the document which is of the relevant kind from a document which is not but in which it is comprised.

6. Terms used in this Warrant have the following meanings in accordance with the Act:

“documents” include information recorded in any form and, in relation to information recorded otherwise than in a form in which it is visible and legible, references to its production include references to producing it in a form in which it is visible and legible or from which it can readily be produced in a visible and legible form.

SCHEDULE A

UNDERTAKINGS GIVEN TO THE COURT BY THE NAMED OFFICER

If the premises are occupied when the Warrant is to be executed -

1. To produce the Warrant and the Notice on arrival at the premises; and
2. As soon as possible thereafter to serve personally a copy of the Warrant and the Notice on the occupier or person appearing to him to be in charge of the premises.

The Notice was produced to the Court with the application for the Warrant.

SCHEDULE B

NAMES OF PERSONS AUTHORISED TO EXECUTE THE WARRANT

[insert name of the named officer] who is the OFT's officer authorised in writing by the OFT to be the named officer.

[insert name of each of the other officers] who are the OFT's other officers authorised in writing by the OFT to accompany the named officer.

[insert name of each of the other person(s)] who is *[insert job title of each person]* and who *[is/are]* authorised in writing by the OFT to accompany the

named officer. *[This paragraph shall be included if the Judge so orders pursuant to section 194(4).]*

[insert name of each of the other person(s)] who is *[insert job title of each person]* and who [is/are] authorised in writing by the OFT pursuant to section 195 to exercise on its behalf all or any of the powers conferred by section 194. *[This paragraph shall be included if the Judge so orders pursuant to section 194(4).]*

SCHEDULE C

OFFENCES CREATED BY SECTION 201 OF THE ACT

The offences created by section 201 of the Act in connection with the execution of a warrant under section 194 are set out below. Text marked as [...] denotes the omission of provisions that are not relevant for section 194 purposes.

201.-

- (1) Any person who without reasonable excuse fails to comply with a requirement imposed on him under section [...] 194 is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both.
- (2) A person who, in purported compliance with a requirement under section [...] 194—
 - (a) makes a statement which he knows to be false or misleading in a material particular; or
 - (b) recklessly makes a statement which is false or misleading in a material particular,is guilty of an offence.
- (3) A person guilty of an offence under subsection (2) is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both; and
- (b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both.

(4) Where any person –

- (a) knows or suspects that an investigation by the Serious Fraud Office or the OFT into an offence under section 188 is being or is likely to be carried out; and
- (b) falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of documents which he knows or suspects or would be relevant to such an investigation,

he is guilty of an offence unless he proves that he had no intention of concealing the facts disclosed by the documents from the persons carrying out such an investigation.

(5) A person guilty of an offence under subsection (4) is liable–

- (a) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine or to both; and
- (b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both.

(6) A person who intentionally obstructs a person in the exercise of his powers under a warrant issued under section 194 is guilty of an offence and liable –

- (a) on conviction on indictment, to

- imprisonment for a term not exceeding 2 years or to a fine or to both; and
- (b) on summary conviction, to a fine not exceeding the statutory maximum.

The statutory maximum fine on summary conviction is currently £5,000 and the fine at level 5 is currently also £5,000. The fine on conviction on indictment is unlimited.

DATED this [] day of [] 20

THE HONOURABLE MR JUSTICE []