

CLAIMANT:

OFFICE OF FAIR TRADING
[insert address]

PREMISES TO WHICH THIS WARRANT RELATES:

[insert address]

**WARRANT TO ENTER PREMISES AND EXERCISE POWERS
UNDER SECTIONS 62 AND 64 COMPETITION ACT 1998**

To *[insert name of undertaking]* who is believed to be the occupier of the premises described above (“the premises”) and to any undertaking in charge of, or operating at or from, the premises:

You should read the terms of this Warrant and the accompanying Explanatory Note very carefully. You are advised to consult a Solicitor as soon as possible. If you intentionally obstruct any person in the exercise of his powers under the Warrant, you will have committed a criminal offence under section 65 of the Competition Act 1998, 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 62(1) of the Competition Act 1998 (“the Act”) on the grounds that *[insert the text of the relevant subsections (1) and (2), (3) or (4) as appropriate]*

The Judge read the evidence in support of the application and was satisfied that the grounds in section 62(1) and *[insert the relevant subsection (2), (3) or (4) as appropriate]* 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 inspection by the European Commission ordered by its Decision *[insert Decision number]* dated *[insert date]* into *[set out the subject matter and purpose of the inspection]*.

2. This Warrant continues in force until the end of the period of one month beginning with the day on which it is issued and may be executed on any one or more days within that period.
3. By this Warrant the persons named in Schedule B are authorised to produce the Warrant between 9:30am and 5:30pm on a weekday *[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 for books and records which a Commission official has power to examine, using such force as is reasonably necessary for the purpose;
 - (c) to take or obtain copies of or extracts from such books and records; and
 - (d) to seal the premises, any part of the premises or any books or records which a Commission official has power to seal, for the period and to the extent necessary for the inspection.
4. Any person entering the premises by virtue of this Warrant may take with him such equipment as appears to him to be necessary.
5. If there is no one at the premises when the named officer proposes to execute this Warrant he must, before executing it -
 - (a) take such steps as are reasonable in all the circumstances to inform the occupier of the intended entry; and
 - (b) if the occupier is so informed, afford him or his legal or other representative a reasonable opportunity to be present when the Warrant is executed.
6. If the named officer is unable to inform the occupier of the intended entry he must, when executing this Warrant, leave a copy of it in a prominent place on the premises.
7. On leaving the premises, the named officer must, if they are unoccupied or the occupier is temporarily absent, leave them as effectively secured as he found them.
8. Terms used in this Warrant have the following meanings in accordance with the Act:

"books and records" includes books and records stored on any medium;

"Commission official" means any of the persons authorised by the European Commission to conduct the inspection ordered by the Decision specified in paragraph 1 of this Warrant and whose name is set out in Schedule B;

“occupier” means any person whom the named officer reasonably believes is the occupier of the premises; and

“premises” means any premises (and includes any land or means of transport) of an undertaking or association of undertakings which a Commission official has power to enter in the course of the inspection ordered by the Decision specified in paragraph 1 of this Warrant; and for the avoidance of doubt, “premises” does not include the homes of directors, managers or other members of staff of the undertaking or association of undertakings concerned.

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

The Explanatory Note 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 62(5A).]*

[insert name of each of the Commission officials] who are the persons authorised by the European Commission to conduct the inspection ordered by the Decision specified in paragraph 1 of this Warrant.

SCHEDULE C

OFFENCE CREATED BY SECTION 65 OF THE ACT

The offence created by section 65 of the Act in connection with the execution of a warrant under section 62 is set out below. Text marked as [...] denotes the omission of provisions that are not relevant for section 62 purposes.

65.-(1) A person is guilty of an offence if he intentionally obstructs any person in the exercise of his powers under a warrant issued under section 62 [...].

- (2) A person guilty of an offence under subsection (1) is liable –
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

The statutory maximum fine on summary conviction is currently £5,000. The fine on conviction on indictment is unlimited.

SECTION 72 OF THE ACT

The text of section 72 is set out below. Text marked as [...] denotes the omission of provisions that are not relevant for section 62 purposes.

72.-(1) This section applies to an offence under [...] section [...] 65.

- (2) If an offence committed by a body corporate is proved –
- (a) to have been committed with the consent or connivance of an officer, or
 - (b) to be attributable to any neglect on his part,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

- (3) In subsection (2) “officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

- (4) If the affairs of a body corporate are managed by its members, subsection (2) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

- (5) If an offence committed by a partnership in Scotland is proved –
- (a) to have been committed with the consent or connivance of a partner, or
 - (b) to be attributable to any neglect on his part,

the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(6) In subsection (5) “partner” includes a person purporting to act as a partner.

DATED this [] day of [] 20
THE HONOURABLE MR JUSTICE []