

CLAIMANT:

[DIRECTOR GENERAL OF FAIR TRADING] or
[Name of 'Regulator' - section 54 and Schedule 10]
[insert address]

PREMISES TO WHICH THIS WARRANT RELATES:

[insert address]

WARRANT TO ENTER PREMISES AND EXERCISE POWERS
UNDER SECTIONS 28 AND 29 COMPETITION ACT 1998

To *[insert name of person/undertaking]*, who is believed to be 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 Explanatory Note very carefully. You are advised to consult a Solicitor as soon as possible. If you intentionally obstruct an officer or fail to comply with any requirement of the officers exercising their powers under the Warrant, you may be committing a criminal offence under sections 42-44 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 Director General of Fair Trading *[or other name of Claimant]* ("the Director") to The Honourable Mr Justice *[insert name]* ("the Judge"), for a warrant under section 28(1) *[insert the relevant subsection (a), (b) or (c)]* of the Competition Act 1998 ("the Act") on the grounds that *[insert the text of the relevant subsection (a), (b) or (c) and section 28(3) as appropriate]*.

The Judge read the evidence in support of the application and was satisfied that the grounds in section 28(1) *[insert the relevant subsection (a), (b) or (c) and section 28(3) as appropriate]* of the Act have been met and accepted the undertakings by *[insert name]*, an officer of the Director authorised to act as the "named officer", set out in Schedule A to this Warrant. The named officer is the principal officer of the Director 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 by the Director into *[set out the subject matter and purpose of the investigation]*.
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 named officer and the Director's other officers named in Schedule B and authorised in writing by the Director to accompany the named officer, 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 the premises and take copies of, or extracts from, any document appearing to be of a kind in respect of which the application referred to in this Warrant was granted ("the relevant kind");
- (c) to take possession of any documents appearing to be of the relevant kind if -
 - (i) such action appears to be necessary for preserving the documents or preventing interference with them; or
 - (ii) it is not reasonably practicable to take copies of the documents on the premises; and to retain possession of any documents so taken for a maximum period of 3 months;
- (d) to take any other steps which appear to be necessary for preserving any documents of the relevant kind or preventing interference with them;
- (e) 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;
- (f) to require any information which is held in a computer 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;
- (g) to take action as mentioned in paragraphs 3(a) to (f) above in relation to any other documents on the premises relating to the investigation described in paragraph 1 above. *[Paragraph (g) to be included in a warrant under section 28(1)(b) if the Judge so orders pursuant to section 28(3).]*

- 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:

"document" includes information recorded in any form;

"information" includes estimates and forecasts;

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

"premises" includes any vehicle on the premises.

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 OFFICERS AUTHORISED TO EXECUTE THE WARRANT

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

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

SCHEDULE C

OFFENCES CREATED BY SECTIONS 42-44 OF THE ACT

The offences created by sections 42 to 44 of the Act in connection with the execution of a warrant under section 28 are set out below. Text marked as [...] denotes the omission of provisions that are not relevant for section 28 purposes.

- 42.- (1) A person is guilty of an offence if he fails to comply with a requirement imposed on him under section [...] 28.
- (2) If a person is charged with an offence under subsection (1) in respect of a requirement to produce a document, it is a defence for him to prove -
- (a) that the document was not in his possession or under his control; and
 - (b) that it was not reasonably practicable for him to comply with the requirement.
- (3) If a person is charged with an offence under subsection (1) in respect of a requirement -
- (a) to provide information,
 - (b) to provide an explanation of a document, or
 - (c) to state where a document is to be found,
- it is a defence for him to prove that he had a reasonable excuse for failing to comply with the requirement.
- (7) A person who intentionally obstructs an officer in the exercise of his powers under a warrant issued under section 28 is guilty of an offence.
- 43.- (1) A person is guilty of an offence if, having been required to produce a document under section [...] 28-
- (a) he intentionally or recklessly destroys or otherwise disposes of it, falsifies it or conceals it, or
 - (b) he causes or permits its destruction, disposal, falsification or concealment.

- 44.- (1) If information is provided by a person to the Director in connection with any function of the Director under Part I of the Act, that person is guilty of an offence if -
- (a) the information is false or misleading in a material particular, and
 - (b) he knows that it is or is reckless as to whether it is.
- (2) A person who -
- (a) provides any information to another person, knowing the information to be false or misleading in a material particular, or
 - (b) recklessly provides any information to another person which is false or misleading in a material particular,
- knowing that the information is to be used for the purpose of providing information to the Director in connection with any of his functions under Part I of the Act, is guilty of an offence.

Section 42(6) provides that a person guilty of an offence under section 42(1) is liable -

- (a) on summary conviction, to a fine not exceeding the statutory maximum ;
- (b) on conviction on indictment, to a fine.

Sections 42(7), 43(2) and 44(3) provide that a person guilty of an offence under any of sections 42(7), 43(1) or 44 respectively 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 28 purposes.

- 72.- (1) This section applies to an offence under any of sections 42 to 44 [...].
- (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 []