



City Solicitor

The newsletter of the City of London Solicitors' Company and the City of London Law Society



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Editorial



The nights are drawing in, we are on a headlong rush to the festive season and the end of the year. And what a year it has been. Our energetic Master, however, is only almost halfway through her year, with her commitment to the Company and the profession undented, and her relentless energy inextinguished.

We carry, in this edition, a skilfully crafted report of the glistening Livery Dinner which took place in the sumptuous Goldsmiths' Hall. Whatever may be happening around us all, a retreat into the warm tradition of the CLSC is always most welcome.

And then there is the controlled lunacy of the Lord Mayor's Show, which took place on a drenched Saturday in early November. Once again, the City profession upheld the Company's well established reputation for successfully appearing quite mad in front of the citizens of London. The photographs within provide irrefutable evidence.

Now a word about achievements: this year's recipient of the Wig and Pen Prize has notched up some worthy achievements in his pro bono activities. City solicitors can be justifiably proud that City firms are able to attract and encourage young lawyers of this calibre.

In this edition, we also introduce our noticeboard, which records the achievements of some of our members. Living proof that some of us still have lives outside of the office, and are prepared to use them.

This publication would not appear without the supreme efforts of the Administrator, Liz Thomas, and our designer, Amanda West of Manor Creative. My sincere thanks, on behalf of us all, to them.

And finally, the Editorial Board wishes all readers a happy, healthy and above all, fulfilling New Year.

John Abramson
AIG, Editor

Front Cover: "The Master, resplendent on the Company's float at the Lord Mayor's Show, 8 November 2008"

Chairman's Column

David McIntosh, *FOx*,
Chairman of the City of London Law Society



A Call To Action

Since the beginning of corporate membership of the City of London Law Society in 2005, the organisation has increasingly become recognised as the representative body for the City of London's major law firms and for its 13,000 individual members.

The Society's standing has been enhanced by the aggregate weight of the reputations of the top world and UK law firm members and by the strong support of their leaders.

The Government, the European Commission, the Solicitors Regulation Authority and others know that the Society and its specialist Committees provide a voice worth heeding when considering law and regulatory reforms from the viewpoint of the membership which collectively advises the entire FTSE 100 and a vast number of other leading multi-national corporations across the world.

We are determined to continue to fulfil this consultative role whilst also supporting our members' own campaigning projects. In doing so we are able to take comfort from the outcome of a recent survey we commissioned into our own performance and expectations of us. We are also encouraged by the guidance we are receiving from our recently appointed PR Consultants, Lehmann Communications. Both of these initiatives were encouraged by our Main Committee with its members comprising a mix of law firm, individual and in-house solicitors.

Legal Week Intelligence surveyed our corporate members during July and found that we are considered to be "Professional" with the primary roles of "Representing and promoting City Solicitors" and "lobbying and commenting on law reform and City related issues on behalf of our member firms" whilst "supporting and working alongside the national Law Society and promoting the City of London".

Those surveyed expect our main messages should include "the professionalism and integrity of City solicitors", "their contribution to the UK economy", "England and Wales as the jurisdiction of choice" and "the City of London as the place to do business". The importance of our specialist Committees was praised and an appetite for continuing to canvass the views of our members has been established.

These findings, which are of great comfort to those of us who thought, but now know that we are on the right track have, however, been accompanied by strong messages regarding expectations of us. We are taking on board the call for continuing lobbying and PR campaigns on behalf of our member firms and the need for improved online services capable of highlighting the work of our specialist and other Committees and Working Parties. We will also respond to the call for more CLLS events including lectures and seminars on City related issues and social and networking opportunities.

The engagement of marketing support is timely, with its advice, coinciding in many respects with the outcome of the survey. Both Legal Week Intelligence (based on further findings from its survey) and Lehmann Communications (based on their preliminary fact-finding activities which have involved meeting fifteen of our seventeen Committee Chairs) advise us that there is a need to improve our communications both internally (to our members) and externally (through the media and otherwise).

As a result we are in the process of commissioning a redesign of our website with a view to improving its appearance, ease of use and relevance of content; improving the quality and timing of our electronic and other reporting and will also be giving greater prominence to the work of our specialist Committees which remain the jewel in our crown.

Lehmann Communications have concluded that we have an embarrassment of newsworthy riches within our Committee activities and centrally but that we need to be sensitive (especially during these difficult commercial times) about what we publicise and when.

We have asked them to devise a media programme to improve our ability to campaign in the ways called for as a result of the survey. So, this is not the only space for you to watch out for in the near future.

Happy Christmas to you all.

Members' News



The Government and Boris Johnson have appointed Past Master Michael Cassidy CBE as non-executive on the Board of Crossrail, the new Underground for London. This 10-year project will involve a set of new tunnels from Paddington to Whitechapel/Canary Wharf and over-ground extensions out to Maidenhead and Shenfield/Abbey Wood. Much bigger trains than the existing Underground will have a two-minute frequency at the peak in the centre of town. It will relieve congestion on the Central Line in particular. Costing £15.9 billion, it will be the biggest construction project in Europe.



Paul Barnes of Charles Russell LLP who was recently appointed a Council Member for the City of London has also joined the Law Society's Planning and Environmental Law Committee. Paul also finds time to play in the Band of the Royal Yeomanry (ICCY) and marched with the TA in the Lord Mayor's Show and again in ceremonies at Lincoln's Inn and the Canadian War Memorial in Green Park on Remembrance Sunday.



Since 2002 Past Master Stuart Beare has been attending twice yearly sessions of UNCITRAL Working Group III (Transport Law) on behalf of the Comité Maritime International (CMI) whilst it prepared a new draft

convention on the carriage of goods by sea. The preliminary draft instrument, on which the Working Group's work was based, had previously been prepared by a CMI International Sub-Committee under his chairmanship. This draft convention was approved by the UNCITRAL Commission in July. It is now hoped that it will be adopted by the UN General Assembly during its current session as the Convention on Contracts for the International Carriage of Goods wholly or partly by Sea, and that it will be open for signature, and subsequent ratification, in September next year.

Past Master Beare is also a Vice President of the British Maritime Law Association, which celebrated its centenary year last month with a Dinner at Lloyd's.



Dorothy Livingston of Herbert Smith LLP and Chair of the CLLS's Financial Law Committee has been appointed to represent the CLLS on the Treasury Experts' Liaison Group for the subsidiary legislation under the Banking Bill.

Dorothy is also a keen photographer and recently had an exhibition of her photographs of her old College, St Hugh's Oxford. These photographs are featured on the cover of St Hugh's College Chronicle this year.



Past Master Ronnie Fox of Fox Solicitors has recently given evidence to a Treasury Select Committee Enquiry on the banking crisis and the extent to which remuneration structures have contributed to the current crisis. Ronnie also recently gave a presentation to the Association of Partnership Practitioners on "Ethics in Professional Practice".

Past Master William King has been admitted and licensed as a Reader in the Diocese of Chichester and in October became a member of the Wealden Local Strategic Partnership. He has also recently been appointed by the diocesan Bishop as a Visitor to undertake, jointly with one other person, a Visitation to two parishes; thought to be the first such appointment in living memory.

Fleur Palmer, of PI Legal Services, who sits on the CLLS Committee as a Council Member for the City of London is organising a ball to be held at the Royal Marines Museum in Southsea (Hants) in aid of Help for Heroes on 28th March 2009. Tickets are available for £45 and anyone interested in attending should contact mail@citysolicitors.org.uk

Past Master Bill Knight is continuing his photographic career and recently shot the dress rehearsal of "I am Falling" at the Lilian Baylis Theatre at Sadler's Wells. These and many of Bill's other photographs can be viewed at www.knightsight.co.uk

Dates for 2009

THE CITY OF LONDON SOLICITORS' COMPANY

Mon. 12th Jan	General Purposes Committee, at the Company's offices at 4 College Hill, E.C.4. at 5.00 p.m.
Thurs. 29th Jan *	Court meeting at 4.30 p.m. followed by Court/Committee of the City of London Law Society/Chairmen of Committees/Liverymen Dinner at 6.45 p.m. L
Mon. 2nd Feb.	Inter-Livery Duplicate Bridge Competition at Drapers' Hall, Throgmorton Street, E.C.2.
Tues. 24th Feb.	Inter-Livery Pancake Races, Guildhall Yard. 12 noon.
Thurs. 12th Mar.	General Purposes Committee, at the Company's offices at 4 College Hill, E.C.4. at 5.00 p.m.
Mon. 23rd Mar. *	Court meeting at 11.00 a.m. followed by luncheon at 1.00 p.m.
Wed. 25th Mar.	Banquet, Mansion House, at 6.45 p.m. Liverymen, Freemen and Guests. E or D.
Fri. 27th Mar.	United Guilds' Service, St. Paul's Cathedral at 11.30 a.m. followed by lunch at Butchers' Hall, Bartholomew Close, EC1. Liverymen.
Mon. 30th Mar.	Inter-Livery Swimathon, RAC Club, Woodcote Park, Epsom.
Mon. 11th May	Court meeting at 5.30 p.m. Annual Service at 6.30 p.m. H.M. Tower of London, followed by Reception/Supper at Trinity House. Liverymen, Freemen and Guests. L.
Wed. 20th May	Inter-Livery Clay Shoot, Holland & Holland, Northwood, Middlesex.
Thurs. 21st May	Inter-Livery Golf - Prince Arthur Cup. Walton Heath.
Mon. 15th June	Court meeting 4.30 p.m. Annual General Meeting and Champagne Reception at 5.30 p.m. at Tallow Chandlers' Hall, Dowgate Hill, EC4. Liverymen and Freemen
Wed. 17th June	Legal Charities Garden Party, Lincoln's Inn Fields.

Wed. 24th June	Election of Sheriffs, Guildhall, noon. Followed by lunch at venue to be arranged. Liverymen.
Mon. 7th Sept.	General Purposes Committee, at the Company's offices at 4 College Hill, EC4 at 5.00 p.m.
Thurs. 24th Sept. *	Court meeting at 4.30 p.m. followed by Court Dinner at 6.30 p.m.
Tues. 29th Sept.	Election of Lord Mayor, Guildhall, 11.45 a.m. followed by lunch at venue to be arranged. Liverymen.
Thurs. 5th Nov	General Purposes Committee, at the Company's offices at 4 College Hill, EC4 at 5.00 p.m.
Sat. 14th Nov.	Lord Mayor's Show
Mon. 23rd Nov.	Livery Dinner, Drapers' Hall, Throgmorton Street, EC2. at 7.00 p.m. Liverymen and Guests. D.
Thurs. 26th Nov. *	Court meeting at 11.00 a.m. followed by luncheon at 1.00 p.m.

THE CITY OF LONDON LAW SOCIETY

Wed. 18th Feb.	† Committee of the City of London Law Society at 11.00 a.m. † Carvery Lunch at 1.00 p.m.
Wed. 22nd April	† Committee of the City of London Law Society at 11.00 a.m. † Carvery Lunch at 1.00 p.m.
Mon. 15th June.	Annual General Meeting and Champagne Reception at 5.30 p.m. at Tallow Chandlers' Hall, Dowgate Hill, EC4.
Wed. 17th June.	† Committee of the City of London Law Society at 11.00 a.m. † Carvery Lunch at 1.00 p.m.
Wed. 30th Sept.	† Committee of the City of London Law Society at 11.00 a.m. † Carvery Lunch at 1.00 p.m.
Wed. 2nd Dec	† Committee of the City of London Law Society at 11.00 a.m. † Carvery Lunch at 1.00 p.m.

* At Cutlers' Hall, Warwick Lane, EC4.
† At Butchers' Hall, Bartholomew Close, EC1.

The Wig and Pen Prize 2008

We are pleased to announce that the winner of the Wig & Pen Prize for 2008 is Gulley Shimeld of Lovells LLP. The Prize is awarded jointly by the CLLS and the City of Westminster and Holborn Law Society and now forms part of the Young Solicitors Group Annual Pro Bono Awards.

The Wig & Pen Prize (comprising the silver Wig & Pen Ink stand and £1,000 for the winner's charity or project) is awarded to individual solicitors, up to five years qualified who practice in the areas of City of London and City of Westminster and Holborn Law Societies, who judges feel have made a significant contribution to the quality of justice in their communities and in helping to ensure that the legal system is open and available to all. In particular, the judges consider the length of time involved in giving free legal advice to people who have otherwise failed to obtain access to justice and the significance of the candidate's service to their clients and their community.

Gulley was chosen as this year's winner in recognition of his work with ParalympicsGB. Despite having a demanding caseload, Gulley took on the co-ordination and delivery role of providing advice to the small commercial team at ParalympicsGB, on a pro bono basis. This became increasingly demanding in the run up to the Beijing Games.

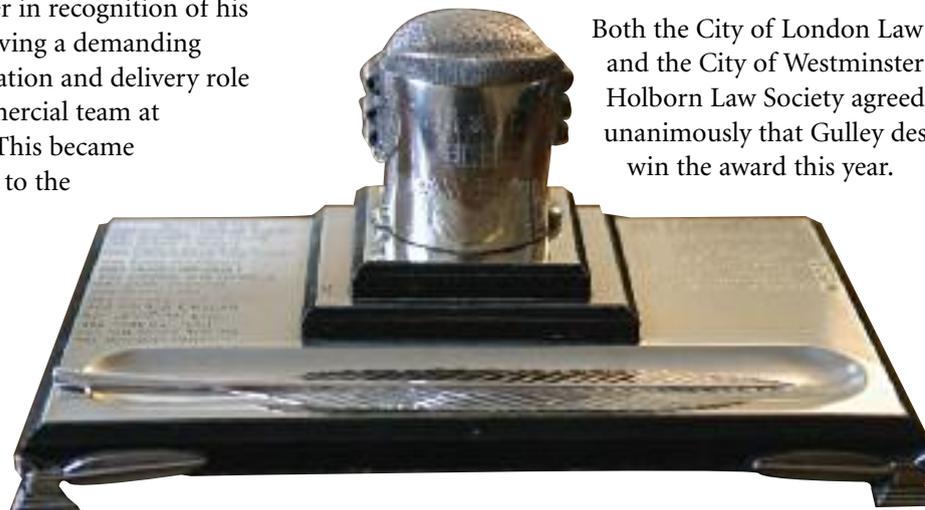
Gulley assisted on a range of different issues including documenting and negotiating a wide range of commercial agreements eg. in relation to the ParalympicGB sports kit and to their many and varied partnerships,



From Left to Right, Adrian Barham, President City of Westminster and Holborn Law Society, Gulley Shimeld and David McIntosh, Chairman City of London Law Society.

a fundraising advert with Sir Paul McCartney, as well as providing support on day to day legal matters. In addition Gulley co-ordinated a team of lawyers from Lovells and their Hong Kong and Beijing offices when specialist and local advice was required.

Gulley has worked long hours and weekends and has gone beyond what is generally expected of Pro Bono advisers. He manned the "Ask Your Lawyer" stand at the NIA in Birmingham during the ParalympicsGB Expo and also travelled out to Beijing for the Paralympic Games to provide legal support and on-site advice to the ParalympicsGB 2008 Team.



Both the City of London Law Society and the City of Westminster and Holborn Law Society agreed unanimously that Gulley deserved to win the award this year.

Livery Dinner



A Great Success!

The Livery Dinner held in the palatial Goldsmith's Hall on Thursday 27th November was, without doubt, a grand occasion. Some 190 Liverymen and their guests attended.

Having circumvented a slightly disapproving St. Dunstan, the patron saint of goldsmiths, and mounted the Grand Staircase, we were received by The Master, Alexandra Marks, and Junior Warden, Alderman David Wootton, taking champagne in a sumptuous room under the watchful eyes of Queen Anne (in oils) and Kings George III and IV (busts). Since 1300 the Goldsmiths' Company has had the responsibility of hallmarking gold and silver articles and it operates the London Assay Office today in pursuance of its statutory function. Dinner was taken in Hall with magnificent silver on display. On table C we were treated to a silver rather ornate repousse claret jug with removable finial (secured by a typical butterfly wing nut) and beautiful caryatid handle, which rather took one's mind off the first course of crispy skinned sea bass with a flavoursome saffron risotto. What made the piece more interesting was that it was accompanied by two matching silver wine cups of matching design by the same maker. The main dish was succulent rump of lamb, followed by a rendez-vous of citrus fruits, all three of which could be slowly savoured.

We were treated to somewhat nostalgic music by The Luke Freeman Trio, by kind permission of The Guildhall School of Music & Drama, who played amongst many others "You are the sweetest thing". After the usual ceremony of the Loving Cup, David Wootton proposed the toast to our guests. He said that solicitors give the best parties and the best people attend them. First he singled out Adrian Barham, President of the City of Westminster & Holborn Law Society, working in the Department of Health and on the Council of the Law Society, and then Dawn Chapman, Chairman of the Institute of Legal Cashiers and Administrators looking after the financial side of our practices.

The provision of high quality legal support was recognised in the mention of Mark Bishop, who is President of the

Institute of Legal Executives, and Major General David Howell CB CBE, who is the Director of Army Legal Services, and who was accompanied by his Chief of Staff, Lt. Colonel Richard Batty MBE. David also told us about the important work of the City Solicitors' Educational Trust and welcomed its Chairman Howard Jacobs, at the same time commenting on the high standards the profession was achieving.

The dinner was attended by an absolute bevy of invited Masters and their Clerks from the Founders (the Clerk only sadly), Fletchers, Scriveners, Apothecaries, Feltmakers, Pattenmakers, Chartered Surveyors, Chartered Accountants, Chartered Secretaries, Insurers, Arbitrators (the Master only), Environmental Cleaners, Tax Advisers and the newest Company, number 108, the Security Professionals (the Master only). The Junior Warden is to be congratulated in recording all their interesting and distinguished accomplishments at some speed. It was sad that our Chaplain the Reverend Roger Hall could not be present, but his place was well taken by the Goldsmiths' Chaplain, Reverend Dr Alan McCormack. David then welcomed the Master's principal guest, Sir Howard Davies, and his wife Lady Prue Keely Davies, the Chairman of the Sheriffs' & Recorder's Fund, a long established charity deserving of everyone's support and celebrating its bicentenary, dealing with the rehabilitation of former prisoners and their future welfare, as the Master underlined in her speech. Sir Howard is now the Director of the London School of Economics or LSE. Sir Howard in a very witty speech clearly is a student and user of abbreviations and acronyms, saying he was glad he is now at the LSE rather than the FSA! He has an outstanding record of public service, including at the Treasury, the Foreign Office, the CBI, and most recently heading up the Financial Services Authority (FSA). He reviewed the dislike and even pariah status afforded to some

Professor John Salter, *Liveryman*

bankers and the prudential regulation afforded by the FSA, in the most entertaining but unrepeatable fashion.

Finally the Master paid tribute to all the visiting Livery Company representatives, to Sir Howard and Lady Davies and to her husband Professor Steven Barnett for all his support. Being a Spurs fan, his attendance at the dinner showed where his priorities lay. She thanked our Clerk, Neil Cameron and his team and recognised the important work undertaken by the City of London Law Society under the direction of David McIntosh, its Chairman. Whilst at times a Master might feel she has wandered on to a “Yes Minister” set, and although the Clerk might well have cautioned her against making a serious speech (“that’s not how it is done, Master”), the Master then made some serious points. We are living in uniquely turbulent and uncertain times, which present solicitors with unique opportunities.

The last 25 years has witnessed continuous ratcheting up of demands by clients now operating on a global basis, with increasingly complex transactions and the consequent development of a 24/7 culture with its considerable complications. There is now pressure to cut costs and extract maximum benefit from assets, the most important of which are people. So Plan A would be to employ fewer people but working harder, thus keeping costs down but revenues up. That’s what clients are doing. But City solicitors are in control of their own financial destiny and planning for their future, at the top of their profession and influencing clients.

There was thus an alternative, Plan B, to work less and to earn less. Associates might be agreeable to earning 20% or 30% less rather than 100% less! There would be more time for families and further training. Because once the dam breaks there would be an unstoppable flow. There is value in keeping a team together. The Master referred helpfully to the Cranfield School of Management’s recent research

commissioned by the charity “Working Families” (of which she is a Trustee and Sir Howard a Patron). Their study found that contrary to popular belief, more flexible working leads to more focus, greater productivity and higher performance. She said that positive thinking was required in difficult times. There had never been a better time to embrace change. She called for consideration of the combining of our intelligence and problem solving skills so that we can look back with pride to a long lasting improvement in our working lives.

The Company was very fortunate to have the use of Goldsmiths’ Hall, itself a testimony to the success of City craftsmen in the design and production of silver and precious metal jewellery. The Hall, the third on the site in Foster Lane, was designed by Philip Hardwick and opened in 1835. A Roman Altar, now known to have been dedicated to Diana, was discovered during the excavations for foundations in 1831. This inspired a little ditty to be written:-

**“In Goldsmiths’ Hall there’s a handsome glass case,
And in it a stone figure, found on the place.
When thinking the old Hall no longer a pleasant one,
They pulled it all down and erected the present one.
If you look you’ll perceive that
this stone figure twists,
A thing like a broomstick in one of its fists.
It’s so injured by Time you can’t make out a feature,
But it’s not St. Dunstan – so doubtless it’s Peter”.**

It recalls well the happy time we spent looking around the Hall, and enjoying the Reception, an excellent dinner, inspiring speeches and a farewell stirrup cup. Here’s to the next time!



The Lord Mayor's Show 2008

Once again the Solicitors' Company entered into the spirit of the Lord Mayor's Show on 8th November, one of the wettest parades in recent years. The Company float staged "Dick Whittington – the Pantomime" for the crowds who also braved the rain. Our thanks go to everyone involved.





Committee Reports

REGULATORY

The CLLS Regulatory Committee meets monthly and from October 2008 until present has submitted the following papers.

1. A response to HM Treasury's Consultation Document: *'Modernising the insolvency protections for the operation of financial markets – proposals to reform Part 7 of the 1989 Companies Act'*.

The Committee welcomed the proposals and supported the response made by the CLLS Financial Law Committee. In particular, it highlighted: (1) the need to extend Part 7 to protect the operation of a Multilateral Trading Facility, as without such protection the risk of market disruption is potentially significantly increased; (2) that the Part 7 protection needs to reflect the developments in the clearing and settlement markets (particularly in arrangements which involve competitive clearing models) and that the interoperability provisions should be extended to any appropriately authorised UK

or overseas entity; and (3) that HM Treasury could be encouraged to review with European counterparts, the need for European level legislation on the winding up of investment firms, equivalent to that in place for credit institutions and insurance firms.

2. A response to the HM Treasury consultation paper: *'The Building Societies (Funding) and Mutual Societies (Transfers) Act 2007'*.

The Committee expressed concerns about the proposals to grant HM Treasury the power to increase wholesale funding limits from 50% to 75% in the future. The Committee supported HM Treasury's proposal to safeguard the rights of members of building societies, in relation to the proposed increase of wholesale funding limits, by changing the order of priority on insolvency, so that creditors' liabilities will not rank above those of shareholding members, but felt that such a safeguard should not depend on the pre-existence of the proposed increase in wholesale funding limits.

Margaret Chamberlain, *Chairman*, Travers Smith LLP

Inter Livery Swimathon 2009

The Chartered Surveyors' Company is organizing the seventeenth Inter-Livery Charity Swimathon on Monday 30th March 2009 at the Royal Automobile Club, Woodcote Park, Epsom, Surrey.

The Solicitors' Company has been invited again to take part in this event and in order to participate, we need a team of five or more people to swim a total distance of 5000 metres. It is not a competitive race, the simple object is to complete the course and raise money for charity. The Swimathon will start at 5.00 p.m. and will be followed by an informal dinner.

If you are interested in joining our team, please contact Liz Thomas on 020 7329 2173 or mail@citysolicitors.org.uk



Committee Reports

COMMERCIAL LAW

The end of the year provides a useful opportunity for a review of the activities of the Committee over the previous year, as well as a look ahead to what is in store next year.

The Committee has fulfilled its programme of five Committee meetings this year on a more or less bi-monthly basis. The Minutes of the meetings held in February, April, June, September and November are (or will shortly be) all available on the Society's website.

Additionally, the Committee hosted an informal workshop meeting in May with Professor Hugh Beale, a Law Commissioner (at the time) and one of the primary authors of the report issued at the close of 2007 to the European Commission on the project working towards a possible harmonisation of European contract laws. This meeting drew together representatives of a range of interested parties, including other Committees of the Society and outside concerns such as the Bank of England. It served to clear up a number of misgivings and misapprehensions about the Project, at least as regards the perspective of Professor Beale and the other contributors.

Two of the Committee's regular meetings this year were enhanced by the participation of guests. The September meeting took the form of a colloquium between the Committee and two senior representatives of the Office of Fair Trading centring on the twin set of regulations adopted in May. In both cases the regulations constitute, to a very large degree, a copy-out of the terms of the Unfair Commercial Practices Directive, giving rise to concerns as to the precise meaning of the regulations, and the OFT officials were able to provide some guidance.

The November meeting was attended by Sarah Chambers, the Director for Consumer and Competition Policy at the Department for Business Enterprise and Regulatory Reform. Ms Chambers' attendance was particularly timely, in the immediate aftermath of the publication of consultation papers by BERR on the Consumer Rights Directive, and the joint Law Commissions on Consumer Remedies for Faulty Goods.

The representatives of OFT and BERR were pleased to attend our meetings and emphasised the willingness of their respective organisations to engage with the profession in this way.

However, it is particularly worth noting that the OFT officials said that whereas they are willing to engage with traders' advisors in relation to particular problems, they are very alert to the situation where a trader is attempting to hide behind its advisors and essentially delay providing substantive attention to the particular problem the OFT is investigating.

Looking forward, the Committee has established a Working Party to suggest a response by the Society to the consultations on the Consumer Rights Directive and Consumer Remedies for Faulty Goods.

On a lighter note, although the membership of the Committee is strong and attendance at meeting is gratifyingly high, we are always happy to welcome new members and will consider particularly seriously Ms Chambers' comment that the current membership shows a distinct lack of gender balance.

We wish all our readers a Happy Christmas and a politically correct New Year.

Nick Mallet, *Chairman*, Martineau



Committee Reports



COMPETITION LAW

On 28 October 2008, representatives from the Competition Law Committee of the CLLS and the Joint Law Society and Bar Working Party (“JWP”) met with officials from the OFT to discuss a project which the OFT has recently initiated concerning the transparency of its non-merger procedures, including Competition Act cases and Market Studies.

In addition to conducting an internal review of its procedures, an important part of the OFT’s project is to canvass the views of stakeholders, and the meeting was an extremely useful setting in which the OFT could explain the background and objectives of the project, whilst at the same time obtaining valuable feedback from a number of practitioners.

The meeting was chaired by Heather Clayton (Senior Director, Infrastructure) who encouraged the CLLS and JWP participants to be as frank and open as possible regarding their experiences in dealing with the OFT, both informally and formally.

Heather Clayton provided an overview of the OFT’s project, which encompasses five broad areas, namely service standards, engagement pre-project, engagement with parties during a project, the provision of information to third parties and the scope for greater process transparency. The subsequent discussion covered a wide range of topics, including day-to-day engagement with the OFT, the provision of (or absence of) indicative timetables, engagement with parties during the early stages of a project, procedures with regard to information requests, and the OFT’s interaction with third parties and the press.

The CLLS and JWP representatives suggested a number of ways in which the OFT’s processes could be improved, ranging from simple steps such as providing contact details for all staff members on the OFT website, to more fundamental changes, for example providing indicative timetables in all cases. The OFT was encouraged to engage more openly with parties on matters of substance during the early stages in a case (i.e. prior to issuing a statement of objections), to give parties full details of case teams (and

subsequent staff changes), to provide parties with indicative timetables, to give regular updates regarding the status of a case (perhaps quarterly), and to consult with parties prior to issuing extensive information requests.

The necessity and desirability of extending the OFT’s transparency goals to third parties and the public more generally was recognised to be a difficult topic. Some concerns were expressed regarding the way in which developments in a case have become known to the public and/or interpreted by the press, which have resulted in inaccurate reporting. This may have reputational consequences for parties prior to a final decision being taken and the OFT was encouraged to tread cautiously before releasing information to the world at large, notwithstanding its desire for the public to be able to understand what cases are being pursued by the OFT.

Ultimately the discussion was extremely constructive, and the CLLS has expressed its willingness to participate in further consultation going forward. The OFT is aiming to publish a document setting out its thoughts and next steps early in 2009. Discussions will then continue on the basis of this document, and there will be further opportunity to comment in writing or in further meetings.

Tony Morris, *Chairman*, Linklaters LLP

INTELLECTUAL PROPERTY LAW

The IP Committee has considered a number of Government consultations on IP-related issues, particularly in relation to:

- Peer to Peer (P2P) file sharing and the liability of Internet Service Providers (ISPs).
- The proposed extension of copyright for recorded performances (the so-called ‘Cliff Richard’ extension).



Committee Reports

- Proposals to increase the criminal penalties for copyright infringement (especially under the Proceeds of Crime Act).

A detailed response was submitted to the UK Intellectual Property Office on the latter proposal, but it was agreed that no response was appropriate on the first two.

Much of the Committee's time has, however, been spent on the detailed negotiations with, and drafts of an agreement with, the Copyright Licensing Agency (CLA). The CLA is the collecting society that licenses the photocopying of excerpts from books and journals and most firms in the City will have a CLA photocopying licence. Following a negotiation of over two years, a new model form of Law Firm Licence has been agreed both with the CLA and with the Law Society. The old Law Firm Licence has been discontinued.

This licence now permits both reprographic (i.e. photocopying) and electronic (i.e. scanning) copying under certain conditions both as to payment and as to the terms of such copying. The licence is available from the CLA (www.cla.co.uk).

It is the view of the Committee that, whilst not ideal in a number of respects, the licence is better than that currently on offer for businesses generally, as that licence is not appropriate for law firms. It is, of course, up to individual firms to decide if they wish to take a licence on what terms. In that respect the agreed terms should be carefully considered. Amongst the key terms are:

- The licence fee is calculated by reference to 'Professional Employees' (qualified lawyers as well as others holding professional qualifications, such as accountants and HR professionals).
- Copies can be supplied not just internally but also externally to actual and prospective clients.
- Digital copies should contain appropriate copyright legends on them.
- There are limits as to how much of a book or journal can be copied.
- Digital copies can be stored on a secure network as part of a project database, but not so as to create an electronic library.
- There are rights of audit for the CLA.

Vanessa Marsland (Clifford Chance) and Richard Marke (LG) were primarily responsible for the negotiations and the drafting and my thanks goes out to them in particular.

Ian Starr, *Chairman*, Ashurst LLP



CONSTRUCTION

The Construction Committee enjoyed a busy programme of activities in the Autumn.

Two foundation level training sessions were held in September for junior construction lawyers. They attracted over 50 participants from over 20 different firms. Topics covered over the two half day events included choice of procurement routes, consultancy agreements, the Construction Act, bonds and guarantees, delay and defects and an introduction to construction insurances. Feedback was good and it is intended to repeat both sessions next October. In the meantime, a streaming video of each session is available on the Committee website.

In early October, Stephen Dennison of Atkin Chambers presented an interesting talk on the difficult subject of concurrent delay. A copy of Stephen's paper is also posted on the Committee website. It is intended to organise further talks by leading construction silks over the coming year. Further details will be posted on the Committee website when available.

The CLLS submitted their response to the latest round of the consultation on the draft Construction Contracts Bill in early September. Again, a copy of that response is on the Committee website.

The December meeting of the Committee has been cancelled as it would have followed too quickly on from our re-arranged October meeting. The dates for meetings next year will be posted on the Committee website shortly.

On behalf of all members of the Committee, happy Christmas and happy New Year.

Marc Hanson, *Chairman*, Ashurst LLP



At an average speed of around 10 miles per hour, my commute into Cornhill allows plenty of time for thought. Can I reduce my carbon footprint whilst continuing to ensure a rewarding motoring experience?



Car manufacturers have two basic approaches to saving the planet: hybrid technology – which combines an electric motor driven by large batteries with a traditional petrol engine – and pure electric cars which have no engine at all, are emission-free and are virtually silent in operation

Toyota have been pioneers in developing hybrid cars. The Toyota Prius is a familiar sight in London, partly because of the 100 per cent exemption from the congestion charge. Toyota have gradually been introducing hybrid technology to their luxury brand, Lexus. I have recently been driving the Lexus LS600hL, which costs almost £90,000 fully specified and is the flagship in the Lexus range.

Unknown 25 years ago, Lexus is now a realistic and reasonably-priced alternative to a Rolls Royce, thanks to Toyota's commitment to the highest standards of vehicle manufacture. Lexus quality standards are at least as high as those of its obvious competitors, Mercedes and BMW. Over the past few years Lexus have won over many traditional purchasers of these German marques as a result of legendary reliability and superior equipment levels. Outstanding results achieved by Lexus in the J D Power surveys of customer satisfaction bear witness to standards of customer care which border on the fanatical.

The starting point for assessing a luxury car is the amount of noise inside the car both at speed and when the car is stationary. One might expect the hybrid car to be quieter, at least when the car is at a standstill and the internal combustion engine is automatically shut down. Not so. The standards of sound insulation are so extraordinarily high that the hum of the air-conditioning fans and at speed the swish of the tyres on tarmac are usually the only significant sounds to be heard in a full-size Lexus.

I found two differences between the hybrid car and the conventional car in day-to-day driving. The first was that in the hybrid car the hill-hold feature was absent. In most automatic cars equipped with a torque converter, the car does not slip back when stopped in traffic facing uphill; in

the hybrid car, one must either apply the electric parking brake or keep one's foot on the brake pedal. The second was that there is far less room for luggage in the hybrid; the battery pack is located behind the rear seats reducing the volume of the boot from 505 to 325 litres.

There is little perceptible difference in performance between the LS 460 (the 4.6 litre V8 engine with 375 bhp takes the car from 0 – 62 in 5.7 seconds) and the LS 600h (the 5.0 litre V8 engine and electric motor have a total output of 439 bhp and power the car to 62 m.p.h. in 6.3 seconds). The explanation is presumably the weight of the battery pack and associated equipment: total weight is 2,375 kg for the 600hL compared with 2,055 kg for the long wheelbase version of the 460. The top speed of both cars is electronically limited to 155 m.p.h.

The advantage of the hybrid car is its superior fuel consumption: a combined figure 30.4 mpg for the hybrid car compared with 25.4 mpg for the conventional car. Does that justify the extra cost – more than £10,000 of the hybrid car (ignoring other specification differences)? Even taking into account the congestion charge saving of around £1,800 p.a.? Does the reduced fuel consumption help to save the planet?

I referred earlier to the equipment levels of the Lexus range. Standard equipment in the 600hL includes 5 electrically-operated blinds offering rear seat passengers complete privacy, a colour television camera mounted over the rear number plate to assist parking (given its head, the car actually parks itself) an obstacle detection system which applies the brakes automatically if cruise control is engaged and the radar system detects a slower car in the same lane and driver monitoring (which issues a warning if the driver looks away from the road ahead for too long). An optional package includes remote control for the massage functions built into the rear seat as well as a separate DVD player for passengers in the back of the car. You cannot be too rich. You cannot be too thin. You cannot have too many gadgets.

* Past Master Ronnie Fox is the Motoring Correspondent of City Solicitor and the author of "Gadget lover still seeking his Holy Grail" published in the Financial Times.