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Gough Square Chambers
6-7 Gough Square
London EC4A 3DE
Telephone: 020 7353 0924
Fax: 020 7353 2221
DX: 476 London
Email: gsc@goughsq.co.uk

CONSUMER CREDIT

Payment Protection. The Court of Appeal upheld a judgment in favour of borrowers in connection with the misselling of payment protection insurance. The Court considered ICOB and held that the sales telephone conversation and the documents that followed were not a single process so that the misselling in the telephone conversation was not corrected by the subsequent documentation (*Figurasin v. Central Capital Limited* [2014] EWCA Civ 504).

Further Advances. The High Court considered the meaning of "further advances" within Section 49(3) of the Land Registration Act 2002. It was held that the expression ordinarily meant the advance of further or additional funds. This was different from a new contract in respect of an existing advance (*In the Matter of Black Ant* [2014] EWHC 1161 (Ch)).

Unlicensed Trading. A single Lord Justice refused permission to appeal a decision in respect of loans made by an unlicensed consumer credit business and upheld the dismissal of the lenders' claim (*Ghana Commercial Finance Limited v. Sawyer* [2014] EWCA Civ 489).

Option to Purchase. In a VAT case the Upper Tribunal considered the situation of a finance lease agreement with an option to purchase and held that this was a supply of services and not a supply of goods (*Mercedes Benz Financial Services v. Revenue & Customs* [2014] UKUT 200 (TCC)).

Bankruptcy. The Court of Appeal dismissed an appeal from an Order for the payment of monies which had been lent. The basis was that, unknown to the Judge, there had been a Bankruptcy Order against the lender. The issue was the effect, if any, on the judgment (*Pathania v. Adedeji* [2014] EWCA (Civ) 681).

Statutory Demand. The High Court upheld a Registrar's decision refusing to set aside a statutory demand based on a guarantee. It was alleged that there had been a lack of capacity to enter into the guarantee (*Josife v. Summertrot Holdings Limited* [2014] EWHC 996 (Ch)).

Consumer Credit Research. The FCA issued a report on pay-day loans, log book loans and debt management (ESRO 2014), 5th June 2014.

Consumer Credit Directive. On 14th May 2014 the Commission issued a report on the implementation of the Directive in Member States.

Unfair Terms. The Court of Justice held that a provision preventing a consumer protection association from intervening in proceedings for the enforcement of a final award under a consumer credit contract was not unfair (*Pohotovost v. Vasuta Case* – 470/12).

Unfair Terms. The Court of Justice considered the question of unfairness in respect of a consumer credit contract which did not mention the effective annual percentage rate. However, the Court lacked jurisdiction because the contract at issue was concluded before the accession of the Slovic Republic (*Pohotovost v. Soroka Case* – 153/13).

Beneficial Interest. The Claimant sought redemption of its charge in circumstances where one of the defendants who was involved in property development did not know about the loan. It was therefore held that the property was held on a constructive trust (*Credit & Mercantile Plc v. Kaymuu Limited* [2014] EWHC 1746 (Ch)).

Payment Protection. The Court of Appeal upheld an award of compensation on the basis of unfair relationships in respect of the purchase of payment protection insurance in connection with the sale of home improvements (*Scotland v. British Credit Trust Limited* [2014] EWCA Civ 790).

Statutory Demand. The High Court upheld a decision refusing an extension of time to rely on an expert's report. The issue was the value of the property secured and it was held that the relevant value was the present value rather than the notional future value (*Cabillane v. National Asset Loan Management*, 6th June 2014).

Economic Duress. The defendant was the major shareholder in a property development company and unsuccessfully alleged against the bank negligent misrepresentation and economic duress in respect of personal guarantees (*Bank of India v. Riat* [2014] EWHC 1775 (Ch)).

Pay Day Lending. The CMA issued a summary of provisional findings on 11th June 2014.

Equipment Hire. The Defendants were two partners in a firm of solicitors. Judgment was awarded in respect of a hire agreement for office equipment. It was held that the dealer had an implicit agency to receive and communicate to the finance company the decision by the customers not to go ahead with the hire agreement after it had been signed in blank. The appeal was therefore allowed but if the defence of non est factum had to be relied upon this would have failed (*CF Asset Finance Ltd v. Okonji* [2014] EWCA Civ 870).

Bankruptcy. The High Court held that any right to apply to set aside a judgment on which a Bankruptcy Order had been made vested in the Trustee in Bankruptcy (*Muhammed v. Robert*, 18th June 2014).

Charging Order. The High Court refused permission to appeal on the basis of human rights because the judgment debtor had provided no evidence of a means to pay (*Whitfield v. Jones-Richards*, [2014] EWHC 2878).

Interim Injunction. An application for an interim injunction against a bank to restrain it from interfering in the applicant's domestic property was refused. The application was treated as an ex parte one and the application was very seriously deficient. In any event the bank was not in a position to take possession. In all respects the application was thoroughly misconceived (*Cole v. National Westminster Bank Plc* [2014] EWHC 992 (Ch)).

Interest. In the context of income tax the Court of Appeal considered the meaning of "interest" with regard to a sum to be paid in addition to the principal on redemption of a loan. The Court gave six characteristics of an amount payable by way of interest (*Pike v. Revenue & Customs* [2014] EWCA Civ 824).

FOOD

Code of Practice. The Food Law Code of Practice came into force on 6th April 2014.

Alcohol. The Inner House of the Court of Session referred a challenge to minimum unit pricing to the Court of Justice (*Scotch Whisky Association v. Lord Advocate* [2013] CSOH 70 (OH)).

Alcohol. In May 2014 the Home Office issued guidance on the banning of the sale of alcohol below the cost of duty plus VAT.

De-Sinewed Meat. The Court refused to grant a declaration that the Commission had acted in a manner calculated to undermine an interim order. However, the Commission had a duty of sincere cooperation and should give proper respect to orders made by the Courts of Member States although the Court of Justice had exclusive jurisdiction as to the lawfulness of the acts of the Commission (*R (On the Application of Newby Foods Limited) v. Food Standards Agency* [2014] EWHC 1340 (Admin)).

Alcohol. The Licensing Act 2003 (Mandatory Conditions) Order 2014 was made on 14th May 2014 and related to the minimum price of alcohol.

Advertising. The Advertising Standards Authority have referred two advertisers to Trading Standards in respect of health claims concerning products such as liquid oxygen drops.

Health Claims. The High Court held that glucosamine tablets were not within the Medicines Directive (*R (Blue Bio Pharmaceuticals Limited) v. Secretary of State for Health* [2014] EWHC 1679 (Admin)).

Advertising. On 4th June 2014 the independent reviewer of the Advertising Standards Authority allowed an appeal from an adjudication in respect of Kronenbourg beer.

Soup Kitchens. A decision by local authority to terminate a licence of a soup kitchen in a car park was quashed by judicial review because inadequate account had been taken of the public sector equality duty (*Blake v. London Borough of Waltham Forest* [2014] EWHC 1027 (Admin)).

FINANCIAL SERVICES

Misselling. The High Court refused to strike out a claim in respect of alleged negligent misselling of an interest rate hedge product because there was a real prospect of establishing the lack of requisite knowledge within the limitation period (*Kays Hotels Limited v. Barclays Bank*, 16th May 2014).

LIBOR Swap Agreements. Borrowers were permitted to amend their pleadings to allege that there had been an implied misrepresentation that LIBOR had not been manipulated (*Deutsche Bank v. Unitech Limited* [2013] EWCA Civ 1372).

Decision Notices. The Upper Tribunal considered a preliminary issue as to whether a decision notice identified an individual. The issue arose because of Section 393 of FSMA which gives third parties certain rights in respect of warning and decision notices (*Macris v. FCA* FS/2013/0010).

Decision Notices. The Upper Tribunal dismissed a reference in respect of a decision notice which found that there had been false and misleading actions in respect of mortgage applications (*Khan v. FCA* FS/2013/002).

Decision Notices. The Upper Tribunal dismissed a reference in respect of a decision notice in connection with a mortgage and general insurance broker and its controller (*Batra v. FCA* [2014] UKUT 0214 (TCC)).

Co-Defendants. The fact that a default judgment had been entered against one defendant did not prevent the other defendants defending a claim for alleged negligent investment advice (*Page v. Champion Financial Management* [2014] EWHC 1778 (QB)).

Expert Evidence. The Court declined to allow a company to adduce expert evidence in respect of alleged misselling of interest rate swaps (*Warners Retail Limited v. National Westminster Bank*, [2014] EWHC 2819 (Ch)).

Jurisdiction. The High Court considered the issue of jurisdiction in respect of a claim being made in Germany where there was an exclusive jurisdiction clause. Consideration was given to whether investors were consumers. It was held that the dividing line was heavily dependent on the circumstances of each individual (*AMT Futures v. Marzillier* [2014] EWHC 1085 (Comm)).

UNFAIR COMMERCIAL PRACTICES

Confiscation. The Court of Appeal dismissed an appeal against a confiscation order following a guilty plea of falsely claiming or creating the impression that a trader was not acting by way of business (*R v. King* [2014] EWCA Crim 621).

Restraint Orders. The Court of Appeal Criminal Division allowed an appeal in part in respect of the amount restrained as a result of allegations of unfair business practices such as overcharging for work done (*Ashford v. Southampton City Council* [2014] EWCA Crim 1244).

Business Protection. Injunctions were granted in respect of a telesales business and alleged breaches of the 2008 Regulations (*Oldham MBC v. World Wide Marketing Solutions Limited* [2014] EWHC 1910 (QB)).

FIREARMS

Forfeiture. The Court of Appeal Criminal Division allowed an appeal against an Order for the forfeiture of a firearm. The weapons had been in the possession of the company and not its director and there was no justification for piercing the corporate veil (*R v. Hyde* [2014] EWCA Crim 713).

TRANSPORT

Injunctions. The High Court held that a company transporting gravel for the purpose of business required an operating licence and exemptions only applied to international carriage (*Boskalis v. Department for Transport*, 2nd May 2014).

HEALTH & SAFETY

Duty of Care. A parent company was not subject to a duty of care to the employees of a subsidiary merely because it appointed someone as director of the subsidiary with responsibility for health and safety (*Thompson v. Renwick Group Plc* [2014] EWCA Civ 635).

TRAVEL

Compensation. Technical problems causing delay did not amount to extraordinary circumstances exempting the carrier from making compensation payments under Regulation 261/2004 (*Jet2.com Limited v. Huzar* [2014] EWCA Civ 791).

Compensation. The Court held that a delay compensation claim was outside of the Montreal Convention and therefore subject to a six year limitation period (*Dawson v. Thomson Airways Limited* [2014] EWCA Civ 845).

Travel Agents. In the context of a VAT case the Supreme Court held that the relevant arrangements resulted in the status of a travel agent being an intermediary within Directive 2006/112 (*Revenue & Customs v. Secret Hotels* [2014] UKSC 16).

UNFAIR TERMS

Architects. The Court of Appeal upheld a decision that a net contribution clause which limited liability in respect of domestic improvements was not an unfair term (*West v. Ian Finlay* [2014] EWCA Civ 316).

PRIVATE PROSECUTION

Proceeds of Crime. The ability to seek confiscation orders applied to private prosecutors. The issue arose in the case of a conviction for conspiracy to defraud following a prosecution brought by Virgin Media Limited concerning set top boxes (*R v. Zinga* [2014] 1 WLR 2228).

APPEALS

Competition Act. The only method to challenge the imposition of penalties was by a statutory appeal (*Lindum Construction v. OFT* (2014) EWCA 1613 (Ch)).

WARRANTS

Disclosure. An application for judicial review in respect of warrants issued in connection with the transmission of football matches was dismissed (*R (Paolo) v. City of London Magistrates' Court* [2014] EWHC 2011 (Admin)).

DECODER CARDS

Copyright. The Football Association was granted summary judgment in respect of the use of decoder cards (*Football Association v. Luxton* [2014] EWHC 253 (Ch)).

TELEPHONE SYSTEMS

Hacking. A customer was not liable to pay a bill as a result of the hacking of a computer network by unauthorised third parties (*Frontier Systems v. FRIP* [2014] EWHC 1907 (TCC)).

PLANNING

Criminal Proceedings. A defendant company appealed by case stated following a guilty plea which in turn relied on incorrect advice given by the legal advisor in the Magistrates' Court. It had not been shown there was irregularity (*Lycamobile UK v. Waltham Forest LBC* [2014] EWHC 1829 (Admin)).

Abuse of Process. An appeal by case stated was dismissed in respect of a conviction for a breach of a planning notice. Arguments concerning the date when the offence was complete, the service of the notice and abuse of process were dismissed (*Sanger v. Newham LBC* [2014] EWHC 1922 (Admin)).

Enforcement. The Court of Appeal Criminal Division held that the validity of the notice could only be challenged by way of an appeal against a notice or by judicial review and not in the criminal proceedings (*R v. Clayton* [2014] EWCA Crim 1030).

LICENCE

Entertainment. A local authority's decision not to renew a sexual entertainment venue licence was set aside because the decision had been taken by twelve councillors and not three (*R (On the Application of Bridgerow Limited) v. Cheshire West* [2014] EWHC 1187 (Admin)).

FRANCHISING

Injunctions. An injunction was granted to restrain former franchisees from breaching a non-solicitation term in cleaning franchise agreements (*Team 2 Clean v. Maftei*, 9th June 2014).