Economist perspective: recent CAT judgments highlight key considerations for using economic evidence in damages claims

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Summary

IN SUMMARY

The UK Competition and Appeal Tribunal (CAT) recently issued judgments in several important competition law matters. In this article, we discuss two of these judgments – *Le Patourel* and *Stellantis* – focusing on the key lessons as they relate to economic evidence.[1]

DISCUSSION POINTS

- Market definition with evolving consumer preferences
- Allocation of common costs to determine the reasonable profit margin for competitive benchmark calculations
- Use of competitive benchmarks for damages calculations in the context of alleged unfair pricing
- Use of behavioural economic evidence in determining the value of a product or service in the context of alleged unfair pricing
- The need for econometric analyses in litigation to reflect the theory of harm and factual evidence

REFERENCED IN THIS ARTICLE

- *Le Patourel* CAT judgment
- *Stellantis* CAT judgment

LE PATOUREL

At the end of 2024, the CAT issued the first-ever judgment in a competition law class action in the United Kingdom. The judgment addresses the class representative Mr Justin Le Patourel's claim that BT abused its dominant position by charging excessive and unfair prices to approximately 2.3 million landline (stand-alone fixed voice services or SFV) customers.[2] The claimant sought damages of £1.1 billion plus interest.[3]

The claim was triggered by concerns raised by the UK telecommunications sector regulator, Ofcom, in its 2017 review of stand-alone telephone services.[4] In response to the concerns, BT volunteered a substantial price cut for its SFV customers beginning in 2018, but these commitments did not cover all customers (excluding split-purchase customers who buy voice services with other services) and did not cover the period prior to 2018.[5]

The tribunal adopted the standard *United Brands* framework for assessing abusive pricing.[6] The *United Brands* test stipulates that pricing of a dominant firm is abusive if both of the following two limbs are met:

- Limb 1 (Excessive Price): Prices are excessive. The tribunal approached Limb 1 by examining whether the excess of the price over the relevant competitive benchmark is significant and persistent.[7]
- Limb 2 (Unfair Price): Prices are unfair in themselves or when compared with prices of competing products.[8]

The tribunal found that although BT had a dominant position and its SFV prices were persistently and significantly above the relevant competitive benchmark (ie, Limb 1 was met), prices were not unfair (ie, Limb 2 was not met), and hence the claim ultimately failed.

There are several important lessons on the use of economic evidence that emerge from this judgment, covering all the key steps: market definition and dominance, excessiveness, unfairness and damages calculations.

Market Definition And Dominance

The main question the tribunal had to consider in market definition was whether bundles of fixed line voice and broadband services should be included in the relevant market along with stand-alone voice services. The bundles should be included if they impose a sufficient competitive constraint on the pricing of SFV services (ie, if there is a sufficient degree of substitution between SFV services and bundles in response to changes in their relative price).[9]

BT pointed to a strong decline in its SFV customer base over time as customers migrated to bundles and argued that this trend was evidence of substitution, meaning that the relevant market was broader than SFV services only.

The claimant, however, argued that despite customers gradually switching to bundles, the latter do not impose competitive constraints on SFV services, because switching 'was not, in the main, a reaction to any price increases on the part of BT'.[10] As the claimant explained, the gradual decline in the number of SFV contracts was the result of customers realising the value of broadband and the convenience of receiving voice and broadband services as part of a single bundle.[11]

While the tribunal acknowledged the phenomenon of extensive level of switching away from SFV services, it agreed with the claimant that such migration only reflected a 'secular trend', driven by evolving consumer preferences for broadband services, rather than price-driven substitution. This led the tribunal to conclude that SFV services constituted a separate market. A narrowly defined market meant that BT's market share was sufficiently high for the tribunal to find BT dominant.[12]

The tribunal's approach to the secular trend in substitution bears consideration for future cases involving markets shaped by shifting or evolving consumer preferences. In such cases, to define markets properly, the economic analysis needs to disentangle structural shifts in demand (eg, due to adoption of a new technology such as broadband) from substitution driven by a change in prices (ie, the substitution considered in the hypothetical monopolist test).[13] Otherwise, it risks conflating long-term behavioural trends with competitive constraints, leading to erroneous conclusions for market definition and dominance.

Interestingly, even though the tribunal rejected BT's interpretation of the customer migration to bundles and sided with the claimant on the market definition, in the later examination of Limb 2, the same evidence on switching would prove fatal to the claimant's case. Hence, when the tribunal 'consider[ed] what the level of engagement was, on the part of those who (at some point) remained as [SFV customers]', the evidence on the secular trend was found to 'reinforce the point that the SFV customers were not captive; [as] there were no barriers to them taking alternative options'.[14] This led the tribunal to conclude that remaining with BT was a customer's conscious decision driven by 'a degree of positive value that they attached to the BT brand'.[15]

Limb 1: Excessive Prices

The tribunal's approach to the Limb 1 assessment considered whether prices were significantly and persistently above a 'workable competition' benchmark price. This involved examining how prices compared to BT's costs and considering what a reasonable rate of return and reasonable allocation of common costs would be in a workably competitive market.

The tribunal reviewed both sides' methodologies for Limb 1 and found it 'necessary to strike a balance in terms of the outcome that reflects the weight which [the Tribunal] consider[s] should be given to each methodology'.[16]

The key lessons relate to the following three areas.

Allocation Of Common Costs

Because BT is a multi-product firm, a natural question arises: how should common costs be allocated to the product of interest? A key element here was considering the margin for discretion that firms enjoy for recovering common costs in competitive markets. The tribunal also had to deal with data limitations regarding cost causation, and ultimately, it found a balance between the parties' proposed calculations.

The judgment illustrates that it may be necessary to deploy and combine several methodologies and data sources to arrive at an appropriate approach to the allocation of common costs. The claimant's methodology relied on BT's regulated financial statements (RFS) that were designed with a view to explicitly allocating common costs. The tribunal acknowledged that RFS would be the preferred approach for cost allocation, but RFS were only available for the period 2005–2009, offering no overlap with the claim period, and therefore, RFS-based calculations could not account for temporal changes in BT's cost structure.[17] Because BT's own calculations were based on the cost data available for the entire claim period, the tribunal used the claimant's cost calculations based on the RFS adjusted by a yearly index based on the defendant's cost calculations.

Defining The Appropriate Reasonable Profit Margin

The tribunal chose 13.5 per cent as the reasonable profit margin, below BT's proposal of 25 per cent and above the claimant's proposal of 8.9 per cent. BT relied on profit margins observed for a sample of companies that had similar economic characteristics to BT. BT argued that as an excessive pricing intervention by courts is an exceptional measure, the profit margin for the firms in this sample are likely to be below the threshold; otherwise, it would imply that many firms are charging excessive prices. The claimant chose BT's reported margin from 2006 (the year when Ofcom removed price controls for BT). The tribunal's preferred figure reflected both the evidence on the comparators' margins as well as the variation in BT's own margins across different years.

Defining The Threshold For Significance

The tribunal decided that this threshold should be 20 per cent above the workable competition benchmark.[18] However, the tribunal did not discuss how this number was chosen and whether it is specific to the facts of the case or a general rule that could be directly applied in other excess pricing cases. As discussed below, the 20 per cent threshold has implications not only for Limb 1, but also for quantum.

Limb 2: Unfair Prices

In Limb 2, the tribunal examined the question set out in *United Brands* of whether BT's prices bore a reasonable relation to the economic value of SFV services.[19]

The tribunal ruled that the claim did not pass the Limb 2 test, and therefore, BT had not abused its dominant position. To arrive at this conclusion, the tribunal considered evidence on BT's brand value, the 'gives' or distinctive features of BT's service compared to rivals, consumer inertia and the transparency of BT's offering.[20]

The brand value and 'gives' mainly spoke to the question of distinct economic value that BT's services provided to its customers, whereas evidence on consumer inertia and transparency also addressed the question of whether customers could and did evaluate alternatives when making their choices.

The tribunal relied on the evidence of the secular trend and the transparency of BT's offering to establish that consumers were not locked in with BT and could – and did – switch to other options (eg, bundles or competitors' SFV services).[21] Thus, if some consumers are staying with BT, it is likely because BT services provide distinctive value to these consumers.[22]

The role of behavioural economic evidence on this issue is noteworthy, and this featured primarily on the issue of whether SFV customers consciously chose to stay with BT as they valued its brand or were essentially making poor decisions because they tended to be more elderly and vulnerable.

Regarding vulnerability, the tribunal preferred the evidence of BT's behavioural economics expert who pointed to studies showing that 'older people tended to be more responsive to communications about their service because they actually have more time' and 'had a general awareness of their landline package including costs and call features'. He also argued that older people who were likely 'still paying their bills at the Post Office . . . would obviously be aware of the current prices for their landlines'.[23]

Regarding brand value, having heard both experts' views of what customers were thinking in choosing to stay with BT (and in responding to surveys), the tribunal found 'a degree of speculation' but ultimately attached some weight to these theories and again preferred the evidence of BT.[24]

This case is notable as being the first case in which the tribunal has allowed a behavioural economics expert witness. Although the behavioural evidence covered several areas that were potentially relevant to Limb 2, the above discussion illustrates that the basic factual evidence appears to have been the most influential.[25] Hence, while behavioural evidence certainly can have a role, the importance of this evidence is likely to be very case-specific.

Quantum

Despite the claim failing on liability, the tribunal dealt with the appropriate approach to damages. The key quantum question is what counterfactual price to use for calculating overcharge. The claimant argued that damages should reflect the difference between BT's actual prices and the competitive benchmark established in Limb 1. BT contended that there is a margin above the workable competition benchmark that would not render the price excessive, and therefore, the counterfactual should be the non-abusive price. The tribunal stated that if it had found that BT's prices were unfair, it would reject BT's approach to calculating overcharge.

The tribunal's approach implies that an undertaking could risk a high overcharge amount for 'marginal' infringements (ie, where prices are only just above the significance threshold).[26]

More fundamentally, given prices by dominant firms are likely to be above the workably competitive level – and need to be to incentivise the innovation and risk-taking to attempt to achieve dominance – the tribunal's approach would appear to create significant risks for dominant firms pricing above the workably competitive level, which may erode incentives to compete.

STELLANTIS

On 21 February 2025, the CAT rejected Stellantis' €770 million claim for damages against Autoliv and TRW.[27] Stellantis had brought a stand-alone claim alleging collusion in the market for occupant safety systems (OSS) components, such as seatbelts, airbags and steering wheels. The European Commission had previously found Autoliv and TRW guilty of cartel activity in the OSS market, but only in relation to specific manufacturers (eg, BMW, VW, Toyota) that did not include Stellantis. Stellantis brought its claim under two different theories.[28]

Under the first theory, Stellantis argued that Autoliv's and TRW's participation in cartels against German automakers makes it improbable they would have abstained from similar anticompetitive practices with respect to other automakers, including Stellantis. The claimant relied on econometric evidence to support this claim and alleged that Stellantis had paid an average overcharge of between 10 and 26 per cent across all suppliers for airbags, steering wheels and seatbelts. The second theory was more novel, focusing on indirect harm from umbrella effects; the theory posited that the cartel identified by the European Commission resulted in market-wide inflation of prices that affected Stellantis.[29]

The claim failed on both liability and damages. The tribunal concluded that while there was factual evidence of sporadic cartel activity against Stellantis, it was insufficient to conclude that this activity was sustained, widespread or resulted in financial harm to the Stellantis group.[30] Thus, the econometric evidence became relevant to establishing liability as well as estimating quantum. At the core of the tribunal's decision was the lack of a well-established link between the econometric findings and alleged cartel activity. While the econometric model found price differences between the supposed cartel period (2002–2011) and a subsequent 'clean' period, it could not distinguish cartel effects from normal market dynamics, and it showed inconsistent results under sensitivity tests. With little factual evidence and no prior ruling on liability to remedy some of these shortcomings, the model's reliability was called into question.

The judgment highlights the challenges of using econometric models to prove liability and compute overcharges in cartel cases. The stand-alone nature of the claim amid scarce factual evidence of cartel activity meant that the econometric evidence was essentially carrying too great a burden.

Below, we reflect on three important takeaways regarding econometric evidence in general and for quantifying damages in particular.

First, changing the design of the econometric model in light of its results is likely to undermine the credibility of the evidence. The claimant expert's model initially tested the hypothesis of cartel activity occurring from November 2002 to March 2011 for all three products. However, as the tribunal noted, the expert materially changed the alleged cartel period for the seatbelts estimation to July 2004 and March 2011 only.[31] To support this change, the expert relied upon the fact that prices during the early cartel period were not higher relative to the non-cartel period and that the model overall produced a negative overcharge for seatbelts. This led the tribunal to conclude that the 'theory of harm which is being tested should not be adjusted or revised in the light of the econometric data to ensure some desired result'.[32]

The tribunal's concerns therefore echoed the tribunal in *BT v. DAF* regarding the claimant expert's decision to change his model's approach to modelling the global financial crisis (GFC) having found his initial approach failed to produce material overcharges.[33]

Not only did the expert's approach to seatbelts undermine the credibility of that model but it also raised concerns over the reliability of the other two models, where material overcharges were found using the identical approach that found negative overcharges on seatbelts. These concerns appeared to reinforce the tribunal's thinking that alternative explanations for the results (see next point) may better explain these results: '[T]he recorded overcharges for airbags and steering wheels are equally likely to be due in whole or in part to omitted variables rather than due to the operation of a cartel.'[34]

Second, the ability to make causal inferences based on the econometric results will depend on how well the model controls for all factors. The tribunal emphasised that even if an econometric model identifies higher prices during an alleged cartel period, if there are some factors not controlled for, it clearly cannot prove causation.

The reliability of econometric models depends on controlling for all relevant factors that affect prices, such as costs, demand and product features. The tribunal criticised the claimant's model for failing to account for omitted variables, particularly costs, which could systematically impact prices during the alleged cartel period. This issue, known as omitted variable bias, occurs when higher prices are attributed solely to cartel activity when they could in fact be explained by other factors, such as cost fluctuations not controlled for. In this case, the absence of granular cost information raised concerns that the model conflated cartel effects with cost-driven price changes, undermining its reliability.

This prompted the tribunal to conclude that 'while econometric analysis can demonstrate whether prices were higher during the cartel period, it cannot prove that any overcharge was caused by the cartel as opposed to other factors not taken into account by the Model'.[35]

Third, the plausibility of econometric evidence needs to be considered given the wider factual evidence of how the market works. The overcharge results from the claimant expert econometric model were, according to the tribunal, inconsistent with Stellantis' likely response to allegedly inflated prices. The tribunal considered that given the sophisticated nature of the original equipment manufacturer purchasers who had countervailing buyer power, it was 'unlikely that overcharges in excess of 10% and up to 26% could be implemented without Stellantis taking issue with those prices'.[36] Again, a parallel can be made with the tribunal's approach to the econometric evidence in *BT v DAF*, where the tribunal considered how plausible it was to find a zero overcharge in an illegal information exchange that was found to have operated for over 14 years.[37] This suggests that experts will need to discuss the plausibility of their results given the factual evidence on the workings of the market and the alleged conduct.

Endnotes

1 *Justin Le Patourel v BT Group*, Competition Appeal Tribunal, Case No. 1381/7/7/21, 19 December 2024 (*Le Patourel* judgment); *Stellantis & Others v Autoliv & Others-*, Competition Appeal Tribunal, Case No. 1435/5/7/22, 21 February 2025 ('*Stellantis* judgment'). ^ Back to section

2 The claim was brought under Section 18 of the Competition Act 1998. *Le Patourel* judgment, para. 1. ^ Back to section

3 *Le Patourel* judgment, para. 18. ^ Back to section

4 Ofcom had historically imposed price controls on BT's retail landline rental charges. Those controls ended in 2006, with Ofcom citing reliance on '[consumers'] increased awareness of the choices available and with increasing competition engendered by appropriate wholesale regulation'; in its 2009 statement, Ofcom determined that BT no longer had 'significant market power', allowing BT to sell bundles with fixed voice services. However, in 2017, Ofcom raised concern that 'relative to those who purchase services in a bundle, [SFV] consumers have less choice of suppliers, are not benefiting from strong price competition or promotional offers and their loyalty to their suppliers is leading to ever higher prices'. Apart from triggering the litigation, prior regulatory history of BT did not feature in the tribunal's analysis of the reasonable profit margin, the threshold for excessive pricing or the source or fact of BT's dominant position. *Le Patourel* judgment, paras. 11, 146 and 156. See also 'Retail Price Controls: Explanatory Statement', Ofcom, 19 July 2006, para. 5.16; and 'The review of the market for standalone landline telephone services: provisional conclusions', Ofcom, 28 February 2017, para. 1.6. ^ Back to section

5 These commitments covered voice-only customers (ie, customers purchasing only voice services from BT) but left out split-purchase customers (ie, customers purchasing voice and other services, such as broadband, separately rather than as part of a bundle). Both types of customers are SFV customers, and both are included in the class. ^ Back to section

6 *United Brands Co v Commission of the European Communities* (27/76) EU:C:1978:22, 14 February 1978, (*United Brands*). ^ Back to section

7 *Le Patourel* judgment, para. 53 ('First, it enables the Limb 1 exercise, complex and challenging as it may be, to focus on the linear process of deciding (a) the relevant competitive benchmark, (b) the excess of the price (if any) over that benchmark, and (c) whether such excess is significant and persistent'). ^ Back to section

8 *Le Patourel* judgment, para. 44 ('Limb 1 considers whether the price is excessive and if so, Limb 2 considers whether it is unfair in itself or when compared to competing products.'). ^ Back to section

9 The standard test used to determine whether the candidate market constitutes a relevant product market is to assess whether the candidate market is worth monopolising. This hypothetical monopolist test involves considering whether a hypothetical monopolist of all products in the candidate market could profitably impose a small but significant non-transitory increase in price, because an insufficient number of customers would switch to products outside the candidate market. See European Commission revised Market Definition Notice (C/2024/1645) para. 29. ^ Back to section

10 *Le Patourel* judgment, paras. 213 and 220. ^ Back to section

11 *Le Patourel* judgment, paras. 225 and 228. ^ Back to section

12 *Le Patourel* judgment, paras. 211, 213 and 303. ^ Back to section

13 See footnote 8. ^ Back to section

14 *Le Patourel* judgment, paras. 1103 and 1104. ^ Back to section

15 *Le Patourel* judgment, para. 1135 ('Overall we consider that there is significant evidence that the SFV customers as a whole did engage with their SFV products. We cannot possibly identify the individual motivation of each and every customer, and the evidence and interpretations offered by the experts, unsurprisingly, did not yield a definitive picture. However, for those who remained BT SFV customers (or while they remained), we consider there is sufficient evidence that for at least a substantial number, their decision to do so implies a degree of positive value that they attached to the BT brand.'). ^ Back to section

16 *Le Patourel* judgment, para. 898. ^ Back to section

17 The claim period started on 1 October 2015 and ended on 1 April 2018 for the residential voice-only customers and on the date of the tribunal's final determination of the claims or the parties' earlier settlement for other members of the class. ^ Back to section

18 To illustrate how the benchmarks are calculated, consider the following hypothetical example. For the purpose of this example, we ignore the requirement of persistent excess and focus on significant excess only. Suppose that a firm was found to spend £50 in costs per unit of product or service sold to a customer. The reasonable profit margin of 13.5 per cent means that the workable competition benchmark price is £50×100\/(100-13.5)=£57.80 (ie, at a price of £57.80, the profit per unit sold would be £7.80, which is 13.5 per cent of £57.80). To determine whether the actual price charged by the firm passes the Limb 1 test (ie, whether the actual price is significantly above the workable competition benchmark), the latter is adjusted by the excess margin of 20 per cent, £57.80×(100+20)\/100=£69.36. If the actual price is above £69.36, the Limb 1 test for excessiveness is met. ^ Back to section

19 *Le Patourel* judgment, para. 43 ('In this case charging a price which is excessive because it has no reasonable relation to the economic value of the product supplied is such an abuse.'). ^ Back to section

20 Examples of the 'gives' include onshoring of customer call centres, Fault Fix Guarantee and caller display services. ^ Back to section

21 *Le Patourel* judgment, paras. 1103 and 1104. ^ Back to section

22 *Le Patourel* judgment, para. 1135. ^ Back to section

23 *Le Patourel* judgment, paras. 1120–1123. ^ Back to section

24 *Le Patourel* judgment, para. 1088 ('On the question of satisfaction levels where they were high, Professor Loomes sought to diminish their significance by saying that if a customer had been with BT for 10 or 15 years, they were unlikely to say that they were dissatisfied because of 'cognitive dissonance' i.e. their desire not to express a view which would appear to be contrary to the fact that they had stayed with BT for so long. We do not think there is anything in this, certainly not so as to render insignificant the figures on customer satisfaction.') and para. 1132 ('Here, the experts both suggested various theories. Dr Hunt suggested that customers may have deliberately chosen not to read or act upon a communication as an act of 'rational inattention'. Or perhaps to put it another way, they could not be bothered, by reason of time or other constraints. If this is what happened, we can see some force in his point. Another possibility suggested by Professor Loomes is that such customers were simply inert and gave the communications no thought at all, even if they read them. They were simply stuck in their ways and stayed with BT as a result. However, as we see it, this would not be inconsistent with such customers ascribing value to BT on the basis that they simply preferred to stay with the supplier they had known for a long time. We accept that there is a degree of speculation on the part of both experts here, but we are prepared to give some weight to what they say, with the upshot being a degree of value being ascribed to BT, however one wants to describe it. This favours BT rather than CR in this respect.'). ^ Back to section

25 Perhaps the most important evidence put forward by BT's expert was the basic fact that Ofcom had greatly underestimated switching because it had ignored switching between rival SFV providers. See ***Le Patourel*** judgment, para. 177 ('We should add that these switching rates are much higher than those quoted by Ofcom and used in its 2017 Provisional Conclusions. The explanation for this discrepancy is common ground. It is that Ofcom's analysis only captured consumers who switched landline provider away from BT and remained a stand-alone fixed voice customer. It therefore did not include BT customers who switched to a bundle, nor did it include those who stayed with BT for the landline, but then changed or added broadband from another provider.') and para. 1262 ('In fact, matters have moved on considerably from the certification stage in at least the following respects which were material so far as Ofcom was concerned: (2) Switching: Ofcom grossly underestimated the level of switching. The actual levels were far greater than the 1% of customers which Ofcom thought had switched in the previous 12 months.'). ^ Back to section

26 With a threshold of 20 per cent above the competitive benchmark for excessiveness, a price exactly at the excess threshold, involves an excess of 20×(100\/(100+20))=16.7 per cent of the revenue. Using the hypothetical example discussed in footnote 18, if the actual price were £69.37 (ie, 1 penny above the Limb 1 threshold), Limb 1 would be met. If Limb 2 were also met, the firm would be liable for £69.37-£57.80 = £11.57 per each unit sold in damages (or 16.7 per cent of total revenue). ^ Back to section

27 The Stellantis group was formed in early 2021 following the merger of Peugeot SA and Fiat Chrysler Automobiles NV. See ***Stellantis*** judgment, para. 2. ^ Back to section

28 The European Commission issued two settlement decisions: AT.39881 of 22 November 2017 and AT.40481 of 5 March 2019. ^ Back to section

29 This was the first time the Competition and Appeal Tribunal had to consider indirect umbrella effects from alleged cartel activity. The claimant alleged that even if there was no cartel against the Stellantis group, the effects of the cartels established by the European Commission would have been to increase the prices charged by cartelists to other original equipment manufacturers (OEMs) than the primary OEMs targeted by the cartel by lessening the degree of competition in the market. These indirect effects were alleged to have arisen from information spillovers around requests for quotes across the different business units within the cartelised suppliers in their negotiations with the OEMs. See***Stellantis*** judgment, paras. 17 and 240. ^ Back to section

30 *Stellantis* judgment, para. 152. ^ Back to section

31 *Stellantis* judgment, para. 193. ^ Back to section

32 *Stellantis* judgment, para. 201. ^ Back to section

33 *BT Group PLC and Others v DAF Trucks Limited and Others* and *Royal Mail Group Limited v DAF Trucks Limited and Others*, Competition Appeal Tribunal, Cases No. 1290/5/7/18 (T) and No. 284/5/7/18 (T), 7 February 2023, (*BT* judgment), para. 38 ('In summary, we have concerns about Mr Harvey's approach to the GFC problem but understand why he has done that and do not wholly reject it, as DAF invites us to do. Whilst we are unhappy with the way in which Mr Harvey changed his modelling approach only after discovering that the standard approach yielded results that were unhelpful to his client, and with the lack of transparency in the way this was done, and whilst DAF makes valid criticisms of the rather blunt methodology adopted by Mr Harvey of using the dummy variables for the full three years, 2008 to 2010, of the GFC, we consider that the GFC plausibly did have effects on pricing dynamics that would not be well captured by demand controls that work across normal demand fluctuations.'). ^ Back to section

34 *Stellantis* judgment, para. 205. ^ Back to section

35 *Stellantis* judgment, para. 198. ^ Back to section

36 *Stellantis* judgment, para. 230. ^ Back to section

37 *BT* judgment, para. 38 ('For this to have been sustained in such a concerted manner by all the Cartelists for 14 years without any of them leaving, and taking very considerable risks in the process, it would be most unlikely to think that they were not each receiving substantial benefits for continuing with it for so long.') ^ Back to section

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