

COMPETITION PRO BONO SCHEME

EXPLANATORY MEMORANDUM

September 2010

This Memorandum explains the purpose and mechanics of the Competition *Pro Bono* Scheme.

- The Competition Pro Bono Scheme ("**Scheme**") was launched on 9 October 2006. As at September 2010, there are 43 law firms and 2 sets of chambers signed up to act as Advisors. Almost 500 queries have been received, of which around two thirds have been deemed to raise competition law issues and have been allocated to advisors.
- The Scheme was designed, primarily, to provide an independent source of expert advice to those who believe that their rights under competition law have been infringed or who are concerned that they may be infringing. General enquiries made to competition regulators and appellate bodies in the United Kingdom by companies and individuals claiming to be insufficiently resourced to pay for legal advice will be introduced to the service. Enquirers, however, will not be subject to any form of means testing in order to qualify for advice under the Scheme.
- Access to this service can be gained via the Internet, using a website ("**the Pro Bono Website**") linked to the LawWorks site (formerly the Solicitors Pro Bono Group). The link to the Pro Bono Website is <http://www.probonogroup.org.uk/competition/index.php>. The website is managed by a Scheme Administrator at no cost to the participants or to users of the service. Participants will not be required to pay a registration fee or other costs. Enquiries will be made to the Scheme Administrator by email.
- Enquiries will be logged by the Scheme Administrator and contact details provided for the next Advisor "**in the queue**" (see below).
- Users of the service will be required to read and accept the Pro Bono Scheme Outline and Conditions, which explain how the scheme works, the limited scope of the advice on offer and offers advice to users on issues such as confidentiality, etc., before being provided with the access information.
- Each participant must commit to offer up to two hours of free legal advice per inquiry. Advisors who intend to impose a cap on liability in respect of advice given should make this clear to the user at the first point of contact. Any such cap should be in accordance with Law Society or Bar guidelines.
- The names of all Advisors who are participating in offering this free service will not be listed on the Pro Bono Website but may be publicised subject to their consent (see below). When an Advisor agrees to participate in the Scheme their name will be added to a list ("**the List of Advisors**"), which will be held by the Scheme Administrator. The List of Advisors will be subject to automatic rotation so that any person seeking advice will be directed to the Advisor who at that moment is at the top of the list. The purpose of the rotation system is to ensure that each Advisor has an equal opportunity to participate (and be exposed to gaining potential fee earning work) as opposed to using a static list where the top names are likely receive a disproportionate number of calls. If the selected Advisor fails to answer the inquiry, the user will be able to revert to the Scheme Administrator who will provide contact details for the next available Advisor. The Scheme Administrator will manage the rotation. Advisors are free, if they so wish, to advertise the fact that they participate in the Scheme.

- We propose to release the List of Advisors to the competition authorities to reassure them of the quality of the Advisors that have offered to participate in the Scheme. Advisors will also be asked if they consent to their name being used for publicity purposes to raise awareness of the Scheme. Should any Advisor not agree to their name being released, they will be asked to inform the Scheme Administrator via email. Contact details for the Scheme Administrator will be provided to all those who agree to participate in the Scheme. Advisors will also be asked if they are happy for the Scheme Administrator to email them as part of a "**group**" email list for administrative purposes.
- Participation will be on a firm/barrister and chambers basis. Any member who wishes for their **firm** to participate in the scheme and become an Advisor should volunteer the names and contact details (email, telephone and fax) of two persons; a pro bono *officer* and *deputy*, to the Scheme Administrator (see form attached hereto). Members of **chambers** who wish to participate are asked to nominate a senior and junior clerk, who will become the point of contact for all participating barristers in that set of chambers. When a query is received, the Scheme Administrator will contact the clerk to obtain the name and contact details of the individual barrister who will act as the Advisor. Those details will then be provided to the Advisor in the normal way. Completion of the form will be taken as confirmation that the individuals identified have read and understood the requirements of the Scheme as set out herein and in the Pro Bono Scheme Outline and Conditions.
- Under the Pro Bono Scheme Outline and Conditions, which users must read and accept before using the service, the scope of the advice is to be limited to legal advice concerning the possible impact of the European Union Competition Rules and/or national Competition Law on the user's business activities in the United Kingdom, or in other parts of the European Economic Area.
- Additional advice may of course be given on a *pro bono* or retainer basis at the sole discretion of the Advisor. The Pro Bono Scheme Outline and Conditions shall cease to apply to any additional advice given.
- Advisors are asked to adhere to the Joint Protocol for Pro Bono Legal Work when conducting work referred via the Scheme. For further information see http://lawworks.org.uk/?id=protocol_text.
- From time to time, the Scheme Administrator may request feedback on the operation of the scheme, for example, dealing with the nature of inquiries, the outcome of any consultations, etc., within the bounds of what is acceptable from the point of view of confidentiality, privilege etc. Advisors are requested to respond promptly to such enquiries. Summary reports will be circulated at regular intervals to update on the success of the initiative.
- Arrangements have already been made with the relevant regulatory and appellate bodies, for example a link to the Scheme can be found on the Office of Fair Trading's web page under the "**Where to go for help**" section. Recipients of this communication are urged to fill in the enclosed form and return it to the address provided promptly.
- Any questions about any aspect of the Scheme can be addressed to **Stephen Tupper** (direct dial: 020 3349 8729 or email: tuppers@gtmlaw.com); or **Lisa Navarro** (direct dial: 020 3349 8757 or email: navarrol@gtmlaw.com) at Greenberg Traurig Maher LLP.

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To: Stephen Tupper,
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Please complete this information in block capitals

Firm/Barrister and
Chambers Name -----

Pro Bono Officer: -----

Name -----

Direct dial -----

Email -----

Fax -----

Pro Bono Deputy: -----

Name -----

Direct dial -----

Email -----

Fax -----