

OFT drops fuel card investigation

Henry Vane
1 November 2013

The UK's Office of Fair Trading (OFT) says there is insufficient evidence to prove abuse of dominance by petrol company CH Jones in the 'bunker fuel card' market, and so has ended its three-and-a-half year investigation.

The OFT opened the case in April 2010 following a complaint from rival UK Fuels alleging CH Jones's arrangements with refuelling sites excluded UK Fuels. It issued a statement of objections in 2011.

CH Jones operates bunker fuel cards under its Keyfuels brand. Clients, typically lorry companies, buy large quantities of fuel upfront from wholesalers. Keyfuels then arranges for the fuel to be delivered to specific sites and issues drivers with cards with which they can fill up. The process is known as 'direct bunkering.'

Peter Bridgen, managing director at Keyfuels, says in a statement that he is delighted with the decision. "At no point during this process did we believe we had committed any anti-competitive behaviour," he said.

Alastair Mordaunt, at Clifford Chance and formerly of the OFT, says setbacks in the past few years and the new system of case decision groups may have made the authority more cautious.

"My guess is that the OFT's recent and somewhat chastening experience in the tobacco case weighed heavily in the case decision group's mind when looking at the evidence in this case," he says. "One wonders whether the OFT might have reached a different decision under the old process."

Last year the OFT's fine on various tobacco companies was dismissed by the Competition Appeal Tribunal. This came shortly after the OFT halved a price fixing fine on various airlines.

There have been only five abuse of dominance cases to reach a formal decision since 2008 and only two have found infringements. "This decision shows the difficulty of bringing abuse of dominance cases," says Morduant.

OFT Executive Director Sonya Branch said in a speech in July that the OFT was going to continue to be vigorous in prosecuting cases right up until it is taken over by the new Competition and Markets Authority.

Counsel to Keyfuels

Faegre Baker Daniels

Partners Gary Laitner, Robert Campbell and Melanie Wadsworth in London