

The Director
Market Investigation into Statutory Audit Services
Competition Commission
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Dear Sir

Statutory audit services market investigation - Liability, insurance and settlements

1. Introduction

Mazars, the international integrated audit and advisory organisation with 14,000 professional staff in 69 countries, is pleased to submit its comments on the above working paper.

2. Paper does not demonstrate that the risks faced in relation to professional negligence by dominant players are low

The working paper concludes in paragraph 53 that 'it appears that the low level of claims settled by firms in the last ten years and the low value of these claims (relative to the size of the firms) combined with the ability of the firms to enter into effective insurance arrangements, suggests that the risks faced by audit firms in relation to professional negligence may be regarded as low'.

We accept that you are only referring to the risks resulting directly from negligence claims rather than from reputation risk which was seen in the case of Andersens just a decade ago to be catastrophic and to lead to the firm's collapse within a very short period.

Nevertheless, care is needed not to underestimate the risk arising from negligence claims. It only requires one large successful claim to destroy a firm and thus even if it is deemed a low probability risk it may be a very high impact one and so needs to be treated with an appropriate level of seriousness especially as we have just experienced the worst global financial crisis for generations and it can take a fairly long period before one can be satisfied that no claims will emerge. Moreover, it is only a few years ago (2005) that Ernst & Young in the UK had to contest the Equitable Life case. They were successful but if the case had not gone in their favour the effect on the firm would have been likely to have been profound. It is not that long ago, from memory, that at least some of the dominant players were highlighting the real risk that one or more of them might end up leaving the market unexpectedly as they sought to push for liability reform which, as you highlight, has not occurred in practice with regards to FTSE350 audits.

In addition to claims for professional negligence, attention also needs to be paid to the risk of regulatory fines or other sanctions being levied in the event of an audit failure. There is a view that

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some regulators, at least, may already be conscious that they would need to be very circumspect before imposing penalties that threatened the existence of a key firm in one of the dominant networks as that could lead to the network's collapse and the possibility of a much enhanced risk of 'regulatory capture'. In pursuing its work on the risk of a Big 4 firm leaving the market it would be helpful for the Competition Commission to explore issues related to whether there were any firms in the UK or networks globally that were perceived as being 'too big to fail' along with the related consequences for regulatory capture and their impact on competition in the FTSE350 market.

3. Further discussion

If you would like to discuss any of the issues raised in this letter,, please do not hesitate to contact David Herbinet, Global Head of PIE Audits, on 0207 063 4419 or Anthony Carey on 0207 063 4411.

Yours faithfully



Mazars LLP