

CRF External Q&A

1 The companies that were involved in this cartel

The list below sets out the eight parties. It also outlines their parent companies, which, although not directly involved in the infringement, have been found to be jointly and severally liable for it:

A Warwick Associates Ltd (currently in liquidation)
Beresford Blake Thomas Ltd (a subsidiary of Randstad Holding NV, a Dutch company)
CDI AndersElite Ltd (a subsidiary of CDI Corp, a US corporation)
Eden Brown Ltd
Fusion People Ltd
Hays Specialist Recruitment Ltd (a subsidiary of Hays plc)
Henry Recruitment Ltd
Hill McGlynn & Associates Ltd (a subsidiary of Randstad Holding NV, a Dutch company)

2 The particular conduct that forms the infringement

The abovementioned parties were found to have engaged in the following anti-competitive conduct:

- Collective boycott – an agreement to withdraw from and/or refrain from entering into contracts with an intermediary company, Parc UK Ltd (Parc), for the supply of candidates to construction companies in the UK.
- Price fixing - an agreement and/or concerted practice to fix target fee rates for the supply of candidates to intermediaries and certain construction companies in the UK.

The OFT has concluded that this conduct forms one single overall infringement of the Competition Act 1998, which had as its object the prevention, restriction or distortion of competition in the market for the supply, by recruitment agencies, of candidates with professional, managerial, trade and labour skills required by the construction industry in the UK.

3 The level of penalties imposed by the OFT

Party (and parent company, where applicable)	Penalty payable (after discounts)
A Warwick Associates Ltd	£3,303
CDI AndersElite Ltd (Parent company CDI Corp) (30% leniency)	£7,602,789
Eden Brown Ltd (35% leniency)	£1,072,069
Fusion People Ltd (20% leniency)	£125,021
Hays Specialist Recruitment Ltd (Parent company Hays Specialist Recruitment (Holdings) Ltd) (Ultimate Parent company Hays plc) (30% leniency)	£30,359,129
Henry Recruitment Ltd (25% leniency)	£108,043
Beresford Blake Thomas Ltd Hill McGlynn & Associates Ltd (Parent company Randstad UK Holding Ltd) (Ultimate Parent company Randstad Holding NV) (100% leniency)	£0

4 Background to the infringement and the formation of the 'Construction Recruitment Forum'

In 2003, Parc entered the market to act as an intermediary between a construction company and recruitment agencies for the supply of candidates to that construction company. This threatened the margins of recruitment agencies.

Instead of competing with Parc - and each other - on price and quality, the parties to this case formed a cartel, referred to by them as 'the Construction Recruitment Forum', which met 5 times between 2004 and 2006. In this forum, they agreed to boycott Parc and also co-

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operated to fix the fee rates they would charge to intermediaries such as Parc and also certain construction companies.

5 How the OFT found out about the cartel

On 20 December 2005 the OFT received an application for leniency from Select Appointments (Holdings) Limited, the then parent company of Hill McGlynn & Associates Ltd and Beresford Blake Thomas Ltd.

At the time of its leniency application, Select's parent company was Vedior NV. On 1 July 2008 Vedior NV merged with Randstad Holding NV and ceased to exist. As the legal merger took place over two years after the end of the infringement, no part of the Randstad Group as it was constituted at the time was involved in the infringement during the period set out in section 7 below. On 4 September 2008 Select Appointments (Holdings) Ltd became Randstad UK Holding Ltd.

6 When the OFT started its investigation

The OFT commenced a formal investigation in May 2006.

7 The period covered by the infringement

The investigation covers the period from late 2004 to, variously, between late 2005 and early 2006 - the exact duration of a given recruitment agency's involvement in the infringement varied.

8 The powers that the OFT used for this investigation

This was an investigation under the Chapter I prohibition of the Competition Act.

9 The cartel participants that were granted leniency

All cartel participants apart from A Warwick Associates Ltd (currently in liquidation and due to be dissolved on 21 October 2009) were granted leniency.

Each participant's leniency discount is set out in section 3 above. Randstad Holding NV, now the parent company of Beresford Blake Thomas Ltd and Hill McGlynn & Associates Ltd (see section 5 above) received total immunity from financial penalties as they form part of the same corporate group which first provided the OFT with evidence of this cartel activity.

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The key criteria for determining the level of the reduction percentage to be applied to the other parties was the overall value added by each party. The OFT assessed the value added to the investigation according to the factors set out in the OFT's guidance¹ and in particular:

- a) The clarity and extent of admissions made
- b) Conduct which the OFT would not have been able to investigate but for the evidence provided
- c) The information provided that assisted the OFT in determining whether an infringement occurred, and the time at which this information was provided in relation to other information obtained by the OFT, and
- d) Whether the party has challenged the evidence obtained by the OFT.

10 Background market data

Industry estimates of the size of turnover in the UK's recruitment industry for construction, technical and engineering roles in 2006/07 are around £4.6 billion (source: The Recruitment and Employment Confederation (REC)).

11 The customers of recruitment agencies of particular relevance to the infringement

The customers who particularly feature in evidence gathered by the OFT in relation to the infringement were the construction companies Vinci plc, Taylor Woodrow plc and Atkins plc. They did not participate or collude in the infringing activity.

In July 2007 (after the infringement ended) Taylor Woodrow plc merged with George Wimpey plc so that the latter ceased to exist. With effect from 1st January 2009, Taylor Woodrow became a trading entity of VINCI Construction UK Limited.

¹ OFT 803 *Leniency and no-action: OFT's guidance note on the handling of applications* (December 2008) at paragraph 5.5.