

ESRC Centre for Competition Policy Annual Summer Conference 6-7 June 2013 –UEA Norwich

“Competition decision-making and judicial control – The role of the specialist tribunal”

Talk by Peter Freeman QC

#### ABSTRACT

This paper discusses the role of the courts in reviewing competition decisions and the arguments for maintaining a specialist competition court, such as the Competition Appeal Tribunal (CAT) in the UK. The paper discusses the desirable features of an effective competition law enforcement system and the need for institutions that are expert, fair, impartial, independent and accountable, principally to the courts. After discussing alternative decision making models, the paper reviews the role of the courts in private actions and in appeals against competition authority decisions. The paper discusses the advantages of a specialised tribunal and the arguments to the contrary. After a brief discussion of the standard of review that should be applied, the paper concludes strongly in favour of a specialised tribunal, but warns that the independence of a specialist tribunal can be threatened if it is seen by government as simply another part of the competition system rather than as a court upholding the law.