

Mr Denis Sylvester  
English Leasehold Reform  
128 Tollington Park Road  
London N4 3RB

Your ref	Our ref	E/E/32141	Direct line	(020) 7211 8728
Date	12 June 2008		Fax	(020) 7211 8538
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Dear Mr Sylvester

**RE: English leasehold reform (ELR)**

Thank you for your letters, with enclosures, of 23 April and 24 May 2008.

You have written on behalf of a group of leaseholders who seek the abolition of the `marriage value` provision contained in the Commonhold and Leasehold Reform Act 2002. You have complained that this provision has made it too costly for leaseholders in England to purchase the freehold of their properties, and you have provided details of the detriment which you allege leaseholders suffer as a result.

Before turning to your complaint, it may be helpful if I give some background information. The OFT is responsible for making markets work well for consumers. It achieves this by promoting and protecting consumer interests throughout the UK, while ensuring that businesses are competitive. Our primary duties include the enforcement of competition law and the application of consumer protection legislation in relation to matters which harm the *Collective* interests of UK consumers.

It may also be useful if I briefly describe the provisions of the Competition Act 1998 ("the Act"). The Act contains two prohibitions. The first (the Chapter I prohibition) prohibits anti-



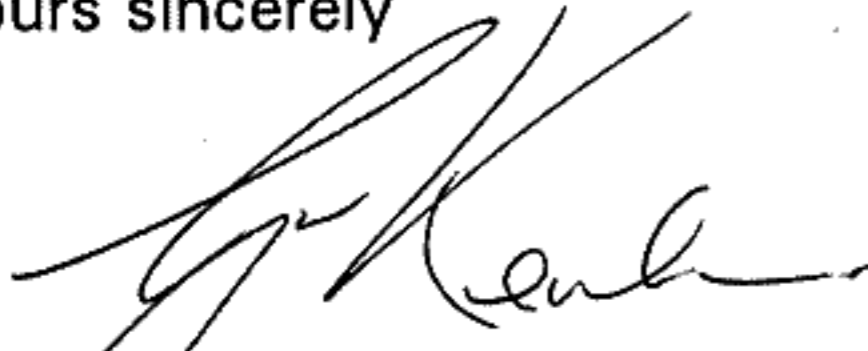
competitive agreements between undertakings, for example price fixing agreements; the second (the Chapter II prohibition) prevents the abuse by an undertaking of a dominant position in a UK product or service market. For further information on the application of the Competition Act you may wish to see the OFT guidelines available on our website<sup>1</sup>.

Under section 60 of the Act, the OFT has to ensure consistency with Community law. Since 1 May 2004, the OFT applies Articles 81 and 82 of the EC Treaty as well as the Chapter I and Chapter II prohibitions of the Act.

The term `undertaking`, is not defined in the EC Treaty or the Act, but its meaning has been set out in Community law. It covers entities engaged in economic activity, including companies, partnerships, trade associations, and, in some circumstances, public bodies offering goods or services on a given market. UK and EC competition laws do not apply to public bodies in the exercise of official authority (the public sector exception). The exercise by the government of its legislative function in enacting the Commonhold and Leasehold Reform Act 2002 falls within this exception because it forms part of the essential functions of the state and it not an economic activity. Therefore, the OFT would have no jurisdiction to take action under the Act in respect of the provisions in the legislation that relate to marriage value (or indeed the manner in which the bill was debated in Parliament).

Please note that I have responded in similar terms to Despina Mavromatti , who also raised this complaint with us on behalf of English Leasehold Reform.

Yours sincerely



Geoffrey Kenton  
Preliminary Investigations  
OFT

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<sup>1</sup> For more information on the Competition Act 1998 please see our website:  
[http://www.offt.gov.uk/advice\\_and\\_resources/publications/guidance/competition-act](http://www.offt.gov.uk/advice_and_resources/publications/guidance/competition-act)