



## Standard of proof in antitrust cases - UK

- OFT is required to prove the infringement to <u>civil</u> standard of proof balance of probabilities
- Higher civil standard than normal?
  Quasi-criminal nature of infringement finding
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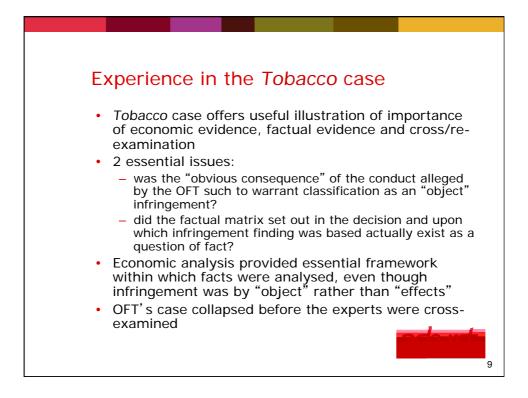


## Cogency of Evidence

• The more speculative the theory of harm, the greater the degree of evidential cogency required to establish underlying facts from which the finding is drawn

- Tetra Laval: "[where] the claims of cause and effect are





## Experience in the Tobacco case

- OFT's evidence:
  - Key correspondence
  - Corporate leniency statements
  - Witness statement from Sainsburys buyerExpert report from Prof. Greg Shaffer
- ITL's evidence:
  - 12 witness statements from 9 factual witnesses
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