

In order to correctly assess the value of a claim for financial loss following a compulsory purchase order (CPO) it is critical to identify whether the claim is being advanced on an extinguishment basis or a relocation basis (or sometimes a combination of the two) and to understand the often complex calculations and valuation methods that should be applied in different circumstances.

The overriding aim of DTE Forensic Accounting is to ensure that claims have been accurately quantified and to explain clearly the often complex financial and accountancy issues that arise in CPO cases. We will carry out an objective assessment of the claim and prepare a clear, robust and persuasive report, readily understood by non-accountants, which sets out our reasoning and conclusions. We will seek to:-

- **Critically review the claim as presented to assess whether:**
  - it is consistent with the factual circumstances of the CPO
  - it is supported by reliable and relevant accountancy evidence
  - an appropriate methodology has been used
  - the computations are accurate
  - there is any duplication between different elements of the claim.
- **Undertake research into the background of the business and the market and area in which it operates.**
- **Where possible obtain market statistics for the industry and sector in which the Claimant business operates to provide performance benchmarks.**
- **Identify possible factors, apart from the CPO, which may have affected performance in any event.**
- **Undertake a 'test for reasonableness' to assess whether the claimed losses, when looked at in the light of the history of the business and its actual results, appear credible.**
- **Provide an alternative assessment of the value of the claim.**

DTE Forensic Accounting have more than 20 years' experience of CPO, loss of profit and loss of business claims work, assessing claims for a wide range of businesses including shops, hire outlets, garages, public houses, cinemas, nurseries, clubs, hotels, car parks, golf courses, distribution centres and many others. In our experience, claims are often overstated for a variety of reasons, including:-

**Oversimplification of calculations**

**Inclusion of VAT**

**Failure to deduct cost savings**

**Double counting lost profits**

**Failure to consider relevant factors such as:**

- seasonal effects,
- capacity constraints
- market trends
- lead times
- economic environment

**Use of inappropriate comparators and cherry picking 'comparable data'**

**Changes in competition**

**Unrealistic growth assumptions**

**Management time claims**

**Mathematical and computational errors**

**Incorrect methodology**

Some examples of our experience in CPO cases are set out overleaf.

# Examples of our experience in CPO cases

## Depot Closure

We were instructed for the Acquiring Authority in a compulsory purchase order case which involved the closure of a depot of a national fuel distribution company. The claim for loss of profits was approximately £1.2 million and was supported by a report from a “Big 4” firm of accountants.

When reviewing the extinguishment claim, we noted a number of flaws in the methodology and calculations. In particular, we identified a significant duplication between the capitalised value of the claim for loss of profits, which represented, in effect, the loss in value of the company as a whole, and the separate claim for loss in value of the land and other assets abandoned on closure. We deducted the loss of assets claim and the value of net assets retained to calculate the appropriate valuation, being the loss of goodwill.

In addition, we found that the annual loss of profits and the multiplier applied to that annual loss were both overstated.

At an early stage, we advised the Acquiring Authority that the claim was significantly overstated and a sealed offer of approximately £250,000 was made. As a result of our subsequent enquiries, analysis, research and report, the accountants instructed on behalf of the Claimant had to concede that the claim could not be worth more than £250,000 and, therefore, the sealed offer was accepted, bringing significant cost benefits to the Acquiring Authority.

On conclusion of the case, the external solicitor acting for the Acquiring Authority wrote:

*“So I want to say – drawing on over 30 years post-qualification experience in these matters – what a first class job DTE has done in this case. Really first class. It is not often in forensic accountancy for [big 4 firm] to be outclassed and outgunned but it happened here.”*

## Garage Relocation

We were instructed for the acquiring Authority in a compulsory purchase order case where the purchase of land affected two related claimant businesses, a garage repair facility and a vehicle hire business for taxi drivers whose vehicles had been damaged in accidents.

The claim for the vehicle hire business was submitted on an extinguishment basis, in the range of £250,000 to £500,000.

When reviewing the claim, we discovered that the claim was based on assumed profit levels, taken from draft accounts which were significantly different from the profits disclosed in the final version of the accounts.

In addition, our research revealed that there was no need to calculate a loss on an extinguishment basis because there were no real barriers to relocation and, in fact, the business appeared to have been re-established at an alternative location, under a different name.

Following our investigations, the claim settled for a relatively modest sum comprising a small loss of profits and some relocation costs.

## Overvalued Assets

In a CPO case involving a timber merchant and building supplies business, the Claimant had calculated its losses based on a notional “Value to us” of selected individual assets of the business, compared to the value obtained on forced sale of those assets, plus a loss of goodwill. A valuation of the company as a whole, which represents the combined value of goodwill and the true economic value of the other assets of the company, established that the Claimant’s notional values were significantly overstated.

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