

**COMMERCIAL ALERT**

**10 July 2009**

**High Court rules against Foxtons**

**Foxtons, the high profile London estate agency, has been told by the High Court that some of the charges it imposed on landlords are unfair.**

The Office of Fair Trading (OFT) had asked the court to uphold the regulator's decision from 2008 that the charges imposed broke consumer regulations, stating that clauses in the small print of Foxtons' agreements for managing tenanted properties were a "trap". The clauses which the court agreed were unfair said that Foxtons could:

- continue to demand "renewal" commission from a landlord if a tenant stayed on past the initial tenancy period - even if the agency had played no further part in arranging or managing the extended tenancy
- force the landlord to continue paying commission to the agency, even after Foxtons had sold the property
- be paid full commission for selling the property to the tenant, regardless of whether or not it had had a hand in the sale

"This ruling sends out a clear and unambiguous message that businesses offering services need to ensure unexpected or surprising terms are not hidden away in small print," said OFT chief executive, John Fingleton. "Contracts need to be written in clear and straightforward language with important provisions, particularly those which may disadvantage consumers as in this case, given prominence and actively brought to people's attention," he added.

The OFT started its legal action early last year, after investigating complaints from landlords, to uphold its powers under the 1999 Unfair Terms in Consumer Contract regulations.

The agency's contracts had demanded an 11% renewal commission if a tenant stayed beyond the initial one-year tenancy, and charged 2.5% of the value of the property if the tenant went on to buy it.

The court stated that the terms had been buried in the small print of the estate agency's standard terms and conditions, which were unlikely to be read thoroughly by clients, and were also not written in "plain and intelligible" language.

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