



IN THE COURT OF APPEAL, CIVIL DIVISION

REF: C3/2011/2506



RYANAIR HOLDINGS PLC –v– OFFICE OF FAIR TRADING & ANR

ORDER made by the Rt. Hon. Lord Justice Davis

On consideration of the appellant's notice and accompanying documents, but without an oral hearing, in respect of an application for permission to appeal

Decision: granted, refused, adjourned. An order granting permission may limit the issues to be heard or be made subject to conditions.

Permission Granted.

Reasons

1. I am prepared to accept that this may be, in the OFT's phrase, a "rather particular" matter. Even so, it seems to me that the issues raised are at least capable of having an application in the competition context going beyond this "rather particular" case. Further the (specialist) Tribunal at the outset of its judgment described the proceedings as raising an "important point" (viz. as to the alleged time bar). Moreover the extent of the scope of the duty of sincere co-operation in a context such as the present and the meaning and effect of s. 122 of the Enterprise Act 2002 may benefit from a Court of Appeal decision. It is also a point of comment that the OFT's initial stance does not seem to have accorded with some of the remarks of the President of the General Court in the Aer Lingus application.

Quite apart from that, having considered the decision and the various skeleton arguments of the parties (whether on this application for PTA or for the hearing below) I take the view that realistically arguable Grounds of appeal are raised and that I should give leave on all grounds put forward.

Information for or directions to the parties

The further application for a "stay" is by no means straightforward. There is no way that I am prepared to grant it on the papers. If, in the light of my having now granted PTA, the parties are unable to agree an interim solution then an application notice is to be issued and served on the Respondents and listed for an oral hearing before the Court.

Where permission has been granted, or the application adjourned

- a) time estimate (excluding judgment)
- b) any expedition

Signed: *Nigel J. Davis*
Date: 07/11/2011

By the Court

Notes

- (1) Rule 52.3(6) provides that permission to appeal may be given only where –