



IN THE HIGH COURT OF JUSTICE

Claim No. 2012-000063

CHANCERY DIVISION

HC-2012-000063

THE HONOURABLE MR JUSTICE BARLING

1st December 2015

BETWEEN:

SAINSBURY'S SUPERMARKETS LTD

Claimant

and

(1) MASTERCARD INCORPORATED
(2) MASTERCARD INTERNATIONAL INCORPORATED
(3) MASTERCARD EUROPE S.P.R.L.

Defendants

ORDER

HAVING REGARD TO section 16 of the Enterprise Act 2002 (as amended) (“the 2002 Act”), and to the Section 16 Enterprise Act 2002 Regulations 2015 (“the 2015 Regulations”)

AND HAVING REGARD TO paragraphs 8.3-8.6 and 8.10-8.13 of Practice Direction 30, supplementing CPR Part 30 (“Practice Direction 30”)

AND HAVING REGARD TO the overriding objective in CPR Rule 1.1

AND UPON the court of its own initiative raising with the parties the question whether an order for a transfer to the Competition Appeal Tribunal (“CAT”) pursuant to subsections

16(1) and/or 16(4) of the 2002 Act and/or the 2015 Regulations should be made in respect of these proceedings

AND UPON considering the observations of the claimant in its solicitors' letter to the court dated 17 November 2015 and of the defendants in their solicitors' letters dated 12 and 23 November 2015

AND UPON the court concluding, in the light of all the circumstances of the case, including the wishes of the parties, that for the reasons set out in the judgment dated 30 November 2015 (a copy of which is attached to this Order) it is appropriate to make an order pursuant to subsection 16(4) of the 2002 Act and/or subsection 16(1) of that Act together with Regulation 2 of the 2015 Regulations in respect of these proceedings

IT IS ORDERED THAT:

1. Such part of these proceedings as relates to a claim to which section 47A of the Competition Act 1998 applies and such part of the proceedings as relates to an infringement issue (as defined in subsection 16(6) of the 2002 Act) are transferred to the CAT pursuant to subsection 16(4) of the 2002 Act and/or subsection 16(1) of that Act together with Regulation 2 of the 2015 Regulations.
2. Pursuant to paragraph 3 of Practice Direction 30, this Order shall take effect from 1st December 2015.
3. The sending of this Order to the parties and the CAT shall constitute notice to them for the purposes of paragraphs 8.5 and 8.12 of Practice Direction 30 and CPR Rule 30.4(1).
4. Unless the CAT orders otherwise:
 - a. The filing of 5 sets of the trial bundle with the CAT shall satisfy the requirements of Rule 72(2) of the Competition Appeal Tribunal Rules 2015 (the "CAT Rules");
 - b. The requirement to hold a case management conference pursuant to Rule 72(3) of the CAT Rules is dispensed with, save that it is intended that the hearing currently listed in this court for 14 December 2015 should proceed in the CAT before Mr Justice Barling as Chairman, if still required (actual venue to be determined in due course).

For the avoidance of doubt neither this Order giving effect to the said transfer, nor the transfer itself, is intended to alter, limit or exclude in any respect any element of the claimant's claim as constituted in this court prior to the transfer taking effect. If and to the extent that any element

of the claimant's claim as constituted in this court prior to the transfer taking effect is not capable of falling within the jurisdiction of the CAT on a transfer, or would be altered, limited or excluded by this Order or the transfer, it is not subject to this Order and remains within the jurisdiction of this court. This court may give such further directions or make such further order as it thinks fit in connection with the transfer and/or with any such element as referred to above.

Service of the order

The court has sent sealed copies of this order to:

The legal representative for the

Claimant:

Mishcon de Reya,
Summit House,
12 Red Lion Square,
London
WC1R 4QD

Ref: RM/SH/40708.1

The legal representative for the

Defendant

Jones Day Solicitors
21 Tudor Street,
London
EC4Y 0DJ

Ref: NPC/EJS/LMF/934740-015046