



IN THE COMPETITION
APPEAL TRIBUNAL

Case Nos: 1271/4/12/16
1272/4/12/16

B E T W E E N:

INTERCONTINENTAL EXCHANGE, INC.

Applicant

-v-

COMPETITION AND MARKETS AUTHORITY

Respondent

-and-

NASDAQ STOCKHOLM AB

Intervener

ORDER

UPON reading the applications of the Applicant by Notices of Application dated 11 November 2016 (the “First NoA”) and 17 November 2016 (the “Second NoA”, collectively the “Applications”)

AND UPON hearing submissions from Paul Harris QC and Alistair Lindsay for the Applicant and from Marie Demetriou QC and Sarah Abram for the Respondent at the hearing on 23 and 24 January 2017

AND UPON the Intervener making submissions in writing

AND UPON the Tribunal handing down its judgment on 6 March 2017 ([2017] CAT 6) (the “Judgment”)

AND UPON the parties agreeing that the Respondent will make a new direction revoking the Direction dated 10 November 2016 (the “November 2016 Direction”) and requiring the parties to the New Agreement not to implement the New Agreement pending the Respondent’s reconsideration of the question identified at paragraph 2(3) below

AND UPON the parties agreeing that the Respondent will issue a direction pursuant to the Final Order of 5 January 2017 (the “Final Order”) to direct the Applicant to refrain from commencing the Divestiture process under Article 2 of the Final Order

AND UPON the Applicant and the Respondent each applying for costs by applications dated 10 March 2017

AND UPON the Applicant applying for permission to appeal the Judgment by application dated 17 March 2017

AND UPON the Tribunal issuing its ruling on permission to appeal and costs on 24 March 2017 ([2017] CAT 8) (the “Ruling”)

IT IS ORDERED THAT:

Disposal of the First NoA and Second NoA

1. Grounds 1 to 4 of the First NoA are dismissed.
2. In relation to Ground 5 of the First NoA:
 - (1) Paragraphs 12.72 to 12.74 of the Respondent’s Report dated 17 October 2016 (the “Report”) are quashed.
 - (2) The following parts of the Final Order are quashed:
 - (a) the following words, which appear on the first and second lines and also on the fourth and fifth lines of paragraph 6.1: “*or the date for termination of the New Agreements specified in Article 10.1*”; and
 - (b) paragraph 10.
 - (3) The Tribunal remits to the Respondent the question whether the Applicant, Trayport, Inc and GFI TP Ltd. should be required to terminate the New Agreement (as defined at paragraph 6.11 of the Report). The Respondent shall reconsider that question and make a new decision in accordance with the Judgment.
3. In relation to Ground 1 of the Second NoA, the Tribunal declines to quash the November 2016 Direction.
4. It is not necessary to determine Grounds 2 or 3 of the Second NoA.

Permission to appeal and costs

5. Permission to appeal be refused.

6. The Applicant do pay the Respondent the sum of £127,800 in respect of its costs, such payment to be made within 28 days of the Ruling.

Hodge Malek Q.C.
Chairman of the Competition Appeal Tribunal

Made: 24 March 2016
Drawn: 31 March 2016