



IN THE COMPETITION
APPEAL TRIBUNAL

Case No 1036/1/1/04

BETWEEN:

ASSOCIATION OF BRITISH INSURERS

Appellant

-v-

OFFICE OF FAIR TRADING

Respondent

ORDER

UPON considering Decision CA98/04/2004 (“the Decision”) and the appellant’s notice of appeal dated 22 June 2004

AND UPON considering the correspondence of the parties including the letter of the Office of Fair Trading (the “OFT”) to the Tribunal of 26 July 2004 indicating that the OFT had decided not to contest the Appellant’s Notice of Appeal

AND UPON hearing the legal representatives of the parties at a case management conference held on 27 July 2004 and adjourned to 30 July 2004

AND UPON the OFT giving an undertaking to the Tribunal in the form attached

AND UPON the OFT consenting to this Order

IT IS ORDERED THAT:

1. By way of determination of the appeal in respect of the Decision, the Decision is set aside.
2. The OFT pay the Appellant’s costs in respect of this matter, the parties to reach agreement as to the amount of costs recoverable, failing that to be assessed pursuant to rule 55(3) of the Tribunal’s rules following an application by either party.

The Honourable Mr Justice Lindsay
Chairman of the Competition Appeal Tribunal

Made: 30 July 2004
Drawn: 30 July 2004

ASSOCIATION OF BRITISH INSURERS v. OFFICE OF FAIR TRADING
UNDERTAKING GIVEN BY THE OFFICE OF FAIR TRADING TO THE
COMPETITION APPEAL TRIBUNAL

WHEREAS:

- (a) The Office of Fair Trading (the "OFT"), following a notification from the Association of British Insurers ("the ABI"), made a decision on 22 April 2004 to grant the General Terms of Agreement (the "GTA") an exemption from the operation of the Chapter I prohibition contained in the Competition Act 1998, provided that certain conditions were met (the "Decision");
- (b) The ABI appealed against the Decision to the Competition Appeal Tribunal (the "Tribunal") on 22 June 2004;
- (c) The OFT has decided not to contest the ABI's appeal;
- (d) The Decision was set aside by the Tribunal by way of an Order dated 30 July 2004.

NOW THEREFORE the OFT hereby gives to the Tribunal the following undertaking:

- 1. The OFT will consider, for the purposes of sections 2 and 25(2) and (6) of the Competition Act 1998 (as amended) ("the Act"), whether there are reasonable grounds for suspecting that the GTA may affect (or may have affected) trade within the United Kingdom and has (or has had) as its object or effect the prevention, restriction or distortion of competition within the United Kingdom, having regard (without derogating from the generality of the foregoing) in particular to:
 - (i) the supply of replacement vehicles for not at fault drivers;
 - (ii) the effective price of credit car hire ("CCH") post-*Lovell v Dimond* and other case-law (for the purposes of this paragraph, "effective price" shall mean the settlement rate actually paid by an insurer of an at fault driver to a credit hire organisation which has supplied a vehicle to a not at fault driver);
 - (iii) the terms upon which CCH is offered;
 - (iv) the scope for the insurers of at fault drivers to reduce costs by themselves supplying replacement vehicles to not at fault drivers;
 - (v) administrative costs relevant to CCH post-*Lovell v Dimond* and other case-law;
 - (vi) late payment premiums;
 - (vii) the price of vehicle insurance;
 - (viii) the cost and availability (or not) and use of after-the-event vehicle accident insurance;
 - (ix) the use of, or the neglect to use, contingent fee arrangements in vehicle accident cases; and

- (x) such other conduct or practices in relation to the supply of replacement vehicles for not at fault drivers as to the OFT may seem relevant to the questions raised above

and accordingly decide whether it should propose to make a decision, or take such other action as it considers appropriate, and give notice (whether under section 31 of the Act or otherwise).

2. The OFT will use its best endeavours to complete the said consideration within six months of the date hereof.
3. This undertaking shall take effect from the date that, having been signed on behalf of the OFT, it is accepted and dated by the Chairman of the Tribunal.

FOR AND ON BEHALF OF THE OFFICE OF FAIR TRADING

Vincent Smith
Director of Competition Enforcement, Office of Fair Trading