



**IN THE COMPETITION  
APPEAL TRIBUNAL**

**Case: 1065/1/1/06**

**B E T W E E N:**

**PRATER LIMITED**

**Appellant**

**and**

**OFFICE OF FAIR TRADING**

**Respondent**

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**ORDER**

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**UPON** reading the appellant's request of 27 September 2006 for permission to withdraw its notice of appeal pursuant to rule 12 of the Competition Appeal Tribunal Rules 2003;

**AND UPON** the respondent agreeing to the appellant's request;

**AND UPON** considering the documents filed by the parties setting out an explanation of the circumstances giving rise to such an agreement, as summarised in the Schedule annexed hereto;

**IT IS ORDERED THAT:**

1. The appellant be granted permission to withdraw its appeal.
2. There be no order as to costs.

**Marion Simmons QC**  
Chairman of the Competition Appeal Tribunal

Made: 23 October 2006  
Drawn: 23 October 2006



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**SCHEDULE**

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1. By its decision No. CA/98/01/2006 dated 22 February 2006 (“the Decision”), the Office of Fair Trading (“the OFT”) imposed a penalty of £270,432 on the appellant, who was found to have committed two infringements of the Chapter I prohibition in respect of collusive tendering for a contract in relation to tenders for contracts at the New Bull Ring, Birmingham and Hillingdon Circus, London.
2. By its notice of appeal lodged on 24 April 2006 the appellant appealed against the penalty imposed on the grounds, *inter alia*, that:
  - (a) Insofar as the Decision did not deal with a particular contract, the appellant’s legitimate expectations have been breached.
  - (b) Insofar as the OFT had proposed, in relation to the particular contract not dealt with in the Decision, to calculate the penalty based on the gain made by the appellant but in the event did not apply the same logic to the two infringements found in the Decision, there was a material inconsistency in the OFT’s approach to penalties against the appellant.
3. The particular contract related to a certain tender process which at the time of the Decision was still under investigation (“the OFT Further Investigation”). Some of

the arguments raised by the appellant in this appeal were connected with the fact that the OFT Further Investigation was still pending when the appeal was lodged.

4. The OFT has during the course of the proceedings provided further explanations as to the way in which the penalty was calculated and has decided to close the OFT Further Investigation.
5. In the light of paragraph 4 above, the appellant decided that it wished to withdraw its appeal. The OFT consents to the withdrawal of the appeal.