



COMPETITION APPEAL TRIBUNAL

**NOTICE OF APPEAL UNDER SECTION 46 OF
THE COMPETITION ACT 1998**

CASE NO 1131/1/1/09

Pursuant to rule 15 of the Competition Appeal Tribunal Rules 2003 (S.I. 1372 of 2003) (“the Rules”), the Registrar gives notice of the receipt of an appeal dated 23 November 2009, under section 46 of the Competition Act 1998 (“the Act”), by Robert Woodhead (Holdings) Limited and Robert Woodhead Limited (together, “Woodhead”) in respect of a decision in Case CE/4327-04 dated 21 September 2009 (“the Decision”) taken by the Office of Fair Trading (“OFT”).

The OFT found that Woodhead were involved in three infringements (referred to in the Decision as Infringements 46, 78 and 178) of collusive tendering by cover pricing contrary to the Chapter I prohibition contained in section 2(1) of the Act and imposed a penalty of £411,595.

The ground of appeal upon which Woodhead relies is that the penalty of £411,595 imposed on Woodhead was inappropriately high, unjust, discriminatory and calculated by a method inconsistent with the OFT’s Guidance as to the Appropriate Amount of a Penalty (“the Guidance”). Woodhead relies on the following points:

- (a) The OFT’s approach to setting the penalty fails to take account of Woodhead’s particular situation and results in a penalty that is both excessive in terms of the objectives to be achieved by a penalty and disproportionately burdensome.
- (b) The penalty is based on the turnover figures for the year preceding the Decision rather than (as is required by the Guidance and by general considerations as to the objectives to be achieved by penalties) the year preceding the date when the infringements ended.

Woodhead seek the following relief from the Tribunal:

- (a) To reduce the penalty imposed by the Decision.
- (b) An order that the OFT pays Woodhead’s costs of and incidental to its appeal.
- (c) Such other or further relief as the Tribunal may consider appropriate.

Any person who considers that he has sufficient interest in the outcome of the proceedings may make a request for permission to intervene in the proceedings, in accordance with rule 16 of the Rules.

A request for permission to intervene should be sent to the Registrar, The Competition Appeal Tribunal, Victoria House, Bloomsbury Place, London, WC1A 2EB, so that it is received within **three weeks** of the publication of this notice.

Further details concerning the procedures of the Competition Appeal Tribunal can be found on its website at www.catribunal.org.uk. Alternatively, the Tribunal Registry can be contacted by post at the above address or by telephone (020 7979 7979) or fax (020 7979 7978). Please quote the case number mentioned above in all communications.

Charles Dhanowa OBE

Registrar

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