



COMPETITION APPEAL TRIBUNAL

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

CASE NO 1141/1/1/09

Pursuant to rule 15 of the Competition Appeal Tribunal Rules 2003 (SI 2003, No 1372) (“the Rules”), the Registrar gives notice of the receipt of an appeal dated 30 November 2009, under section 46 of the Competition Act 1998 (“the Act”), by CDI AndersElite Limited of Capital House, Houndwell Place, Southampton, SO14 1HU, United Kingdom (“AndersElite”) and CDI Corp of 1717 Arch St., 35th Floor, Philadelphia, PA 19103-2768, USA (“CDI”) (together, “the Appellants”) in respect of a decision in Case CE/7510-06 dated 29 September 2009 (“the Decision”) taken by the Office of Fair Trading (“OFT”). The Appellants are represented by Blake Lapthorn of New Kings Court, Tollgate, Chandler’s Ford, Eastleigh, Hampshire SO53 3LG (Reference: REG/JJM/BLTL/128435.72).

In the Decision the OFT found that the Appellants, together with other recruitment consultants, had infringed section 2 of the Act (“the Chapter I prohibition”) by agreeing to refuse to deal with another recruitment consulting company which was entering the market, and agreeing to fix target fee rates for the supply of certain candidates to various parties. The OFT imposed a penalty of £7,602,789 on the Appellants in respect of the infringement.

In summary the principal grounds of appeal on which the Appellants rely are that:

- (a) The inclusion of temporary wage costs within the OFT’s determination of relevant turnover is manifestly unfair and has given rise to a penalty which is disproportionate and infringes the principle of equal treatment.
- (b) Further, in the event that the Tribunal upholds the appeal on ground (a), any application of the minimum deterrence threshold (“MDT”) to increase the penalty to its original level would be manifestly unfair and give rise to a penalty which is disproportionate and infringes the principle of equal treatment.
- (c) Further or alternatively, the level of the starting percentage is so high as to give rise to a penalty which is disproportionate and manifestly unfair.
- (d) Further or alternatively, the OFT has erred in its determination of AndersElite’s relevant turnover.
- (e) Further or alternatively, the overall level of the penalty is manifestly unfair, disproportionate and in breach of the principle of equal treatment.

The Appellants seek the following relief from the Tribunal:

- (a) an order that the penalty imposed on the Appellants be quashed or substantially reduced by the Tribunal pursuant to paragraph 3(2)(b) of Schedule 8 to the Act; and
- (b) an order for costs.

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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