



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1188/1/1/11

B E T W E E N:

(1) TESCO STORES LTD
(2) TESCO HOLDINGS LTD
(3) TESCO PLC

Appellants

-v-

OFFICE OF FAIR TRADING

Respondent

ORDER

UPON the Tribunal handing down its judgment on the liability phase of this Appeal on 20 December 2012 ([2012] CAT 31), paragraph 489 of which set out two outstanding issues as to which the Tribunal determined it was appropriate to hear further submissions (the “Consequential Issues”)

AND UPON considering the Order of the Chairman made 28 January 2013 disposing of the liability phase of this Appeal and fixing a timetable for hearing submissions on the Consequential Issues (the “Consequential Issues Order”)

AND UPON the parties having reached agreement as to the disposal of the Consequential Issues following the making of the Consequential Issues Order

AND UPON reading the parties’ request for a consent order filed on 19 February 2013 pursuant to rule 57 of the Competition Appeal Tribunal Rules 2003 (S.I. No 1372 of 2003) (the “Tribunal Rules”) and having considered the terms of the draft consent order (the “Proposed Consent Order”) and the consent order impact statement lodged by the parties

AND UPON the Tribunal being satisfied that the making of an order substantially in the form of the Proposed Consent Order will not have a significant effect on competition for the purposes of rule 57(4) of the Tribunal Rules

BY CONSENT IT IS ORDERED THAT:

1. The hearing of the Consequential Issues listed for a day and a half commencing on 24 April 2013 by paragraph 3 of the Consequential Issues Order be vacated.
2. There be no further submissions or filings on the Consequential Issues as required by paragraphs 4 to 9 of the Consequential Issues Order.
3. The financial penalty imposed upon the Appellants by the Respondent's Decision in Case CE/3094-03 *Dairy retail price initiatives* dated 26 July 2011 be varied and fixed at £6.5 million.
4. The varied financial penalty imposed on the Appellants by paragraph 3 of this Order be paid within 10 working days of the date of this Order.
5. Save as ordered by the Consequential Issues Order and this Order, the Appeal be dismissed.
6. There be no order as to costs.

Lord Carlile of Berriew Q.C.
Chairman of the Competition Appeal Tribunal

Made: 26 February 2013
Drawn: 26 February 2013