



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) (the “Judgment”), paragraph 490 of which invited the parties to seek to agree a draft order disposing of this phase of the appeal and setting out a timetable for the remainder of the proceedings to address the two outstanding issues, as set out in paragraph 489 of the Judgment (the “Consequential Issues”)

AND UPON considering the terms of the draft order agreed between the parties and filed with the Tribunal on 23 January 2013

IT IS ORDERED THAT:

1. This Order adopt the same defined terms as, and be read in conjunction with, the Judgment.
2. Tesco’s appeal be allowed in part, as follows:
 - a. the OFT’s finding that Tesco infringed section 2(1) of the 1998 Act by participating in the 2002 Cheese Initiative as set out in the Decision be set aside in part as against Tesco to the extent provided for in paragraph 487 of the Judgment; and

- b. the OFT's finding that Tesco infringed section 2(1) of the 1998 Act by participating in the 2003 Cheese Initiative as set out in the Decision be set aside in its entirety as against Tesco.
3. A hearing in relation to the Consequential Issues be listed for a day and a half commencing on 24 April 2013, with half a day in reserve (the "Consequential Issues Hearing").
4. Tesco file and serve its skeleton argument (limited to 20 sides of A4, in 12 point Times New Roman font) addressing the Consequential Issues by 4pm on 27 February 2013.
5. The OFT file and serve its skeleton argument (limited to 20 sides of A4, in 12 point Times New Roman font) addressing the Consequential Issues by 4pm on 20 March 2013.
6. Tesco file and serve a Reply to the OFT's skeleton argument (limited to 10 sides of A4, in 12 point Times New Roman font) by 4pm on 3 April 2013.
7. If it appears that any of the parties' written submissions provided for in paragraphs 4-6 above will exceed the specified page limits, then the relevant party is required to seek the Tribunal's express permission for the excess pages in advance of filing its submission.
8. Tesco and the OFT agree the contents of a core bundle for the Consequential Issues Hearing (the "Consequential Issues Hearing Bundle") that should include (but is not limited to):
 - a. a copy of the Judgment;
 - b. a copy of the Decision limited, if possible, to relevant extracts;
 - c. the parties' written submissions provided for in paragraphs 4-6 above;and

- d. any authorities (with key sections flagged for reference) or other documents on which Counsel may wish to rely when making submissions at the Consequential Issues Hearing.
9. Tesco prepare the Consequential Issues Hearing Bundle:
 - a. six copies of which are to be filed at the Tribunal; and
 - b. two copies of which are to be served on the OFT,by 4pm on 10 April 2013.
10. Costs be reserved.
11. There be liberty to apply.

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

Made: 28 January 2013
Drawn: 28 January 2013