



## IN THE COURT OF APPEAL, CIVIL DIVISION

REF: ~~CA~~/2015/0628, 0628(Y) and 0628(A)

CIVIL JUSTICE  
Her Majesty's  
Court of Appeal

- 5 MAR 2015  
[SEAL]

HCA International Limited -v- Competition and Markets Authority

### ORDER made by the Rt. Hon. Lord Justice Vos

On consideration of the appellant's notice and accompanying documents, but without an oral hearing, in respect of an application for permission to appeal the ruling of the Competition Appeal Authority dated 23<sup>rd</sup> December 2014 and its order dated 12<sup>th</sup> January 2015

**Decision: granted, refused, adjourned.** An order granting permission may limit the issues to be heard or be made subject to conditions.

Permission to appeal is granted on grounds 2 and 3.

Stay of paragraph 2 of the CAT's order dated 12<sup>th</sup> January 2015 be refused.

Expedition of the hearing of the appeal is granted. The appeal should be listed for hearing, if possible, before the end of May 2015, but not before 18<sup>th</sup> March 2015.

#### Reasons

The appellant has shown that there is a real prospect of success in relation to its grounds 2 and 3. The CMA's solicitors suggested that the application for permission on these grounds should be adjourned to the substantive hearing, but it is more efficient to deal with it on paper. Without limiting the basis on which the appellant may argue grounds 2 and 3, it is at least arguable that (i) the decision as to the costs of grounds 2-5 of the original challenge created an inappropriate conflict of interest for the CMA, and (ii) the costs of the data room exercise could have been avoided altogether if the CMA had conceded ground 1 of the original challenge.

Expedition of the appeal is warranted, since the remitted insured AEC decision and the remitted divestment decision need, in the public interest, to be determined as soon as possible.

The question of whether or not the CMA wishes to start the new inquiry with the existing inquiry group and project team in advance of the determination of the appeal is one for the CMA. It is not appropriate in all the circumstances for the court to interfere with the CMA's processes by granting a formal stay, but it may be hoped that the appeal can be brought on quickly enough to make that question substantially academic.

#### Information for or directions to the parties

This case falls within the Court of Appeal Mediation Scheme automatic pilot categories\*. Yes  No

Recommended for mediation Yes  No

If not, please give reason:

#### Where permission has been granted, or the application adjourned

- a) time estimate (excluding judgment) 1 1/2 days  
b) any expedition YES



*By the Court*

**DATED 5TH MARCH 2015  
IN THE COURT OF APPEAL**

**ORDER**

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