



COMPETITION APPEAL TRIBUNAL

NOTICE OF APPEAL UNDER SECTION 46 OF THE COMPETITION ACT 1998 CASE NO 1039/1/1/04

Pursuant to rule 15 of the Competition Appeal Tribunal Rules 2003 (“the Rules”), the Registrar gives notice of the receipt of an appeal, dated 24 June 2004, under section 46 of the Competition Act 1998 (“the Act”) by Powerbond Adhesives Limited (“the appellant”) in respect of a decision (CE/3935-04) taken by the Office of Fair Trading (“the OFT”) dated 28 April 2004 (“the decision”). The decision was published in the OFT’s May 2004 competition case closure summaries

The appellant has acted as a distributor for Power Adhesives Limited (“PAL”) for many years on terms of an unsigned, draft agreement. On 8 December 2003 PAL wrote to the appellant giving notice of termination of the agreement, citing declining sales figures in their allegedly allotted area as their reason for termination. On 11 December 2003 the appellant complained to the OFT that PAL was forcing it to submit to resale price maintenance. In this respect, the appellant refers to a number of telephone conversations and letters exchanged between senior personnel at the two undertakings.

Following informal inquiries by the OFT into PAL’s relationship with its distributors, in particular whether it had attempted to prevent its distributors from competing against each other to support a resale price maintenance agreement, the OFT did not find reasonable grounds to suspect resale price maintenance. According to the decision, PAL intends to undertake internal training on compliance with the relevant competition legislation and to write to all its distributors to help educate them on PAL’s policies on compliance.

The appellant appeals against the Decision:

- The appellant was a party to the relevant distribution agreement and therefore appeals under section 46 of the Act;
- The decision is incorrect in law as PAL’s behaviour, as illustrated by, inter alia, the correspondence between the parties, was a flagrant breach of section 2 of the Act.

The appellant seeks the following relief from the Tribunal:

- That the Decision is quashed in so far as it finds that PAL has no case to answer; and
- Invites the Tribunal to make any other decision which the OFT could have made.

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

Registrar
7 July 2004