



COMPETITION APPEAL TRIBUNAL

**IN THE COMPETITION  
APPEAL TRIBUNAL**

**Case No. 1029/5/7/04**

**Before:**

**Marion Simmons QC (Chairman)**

**DEANS FOODS LIMITED**

Claimant

**-and-**

**(1) ROCHE PRODUCTS LIMITED**

**(2) F HOFFMANN-LA ROCHE AG**

**(3) AVENTIS SA**

Defendants

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**ORDER**

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**UPON** reading the written submissions of the parties

**AND UPON** hearing Counsel for the parties at a case management conference on 17 December 2004

**IT IS ORDERED THAT:**

1. The Claimants serve on the First and Second Defendants the underlying computer records from the Claimant's IT system which relate to the total amount of feed produced by the Claimant and the amounts of feed consumed on the Claimant's farms, for the period from October 1991 to February 1999 and to use best endeavours to do so by 23 December 2004.
2. The Defendants be permitted to instruct the following experts:
  - a) Dr Zoltan Biro, an expert in economics, to produce a report as to the appropriate methodology from an economist's perspective for the calculation of damages and as to the upstream and downstream passing on issues in the case; and

- b) Mr Thayne Forbes, an expert forensic accountant, to produce a report as to the calculation of damages on the basis of the methodologies relied upon by the Claimants and the Defendants in this case.
3. The Claimants be permitted to instruct an expert economist to produce a report in response to the matters contained in the report of Dr Biro produced in compliance with paragraph 2(a) above.
4. The Defendants file and serve the report of Dr Biro pursuant to paragraph 2(a) above by 5pm on 7 January 2005.
5. The Defendants file and serve the report of Mr Forbes pursuant to paragraph 2(b) above by 5pm on 14 January 2005.
6. The Claimants file and serve the report of the expert instructed pursuant to paragraph 3 above and any further report from Mr Morell in response to the report of Mr Forbes by 5pm on 21 January 2005.
7. The parties provide the following by 5pm on 26 January 2005:
  - a) a statement of facts agreed and the facts which are in issue;
  - b) a detailed statement of issues which are to be decided by the Tribunal;  
and
  - c) a draft cross-examination schedule in the form provided by the Tribunal to the parties but without completion of the column in the schedule relating to sub-issues.
8. An index for the trial bundles be agreed between the parties by 26 January 2005.
9. A meeting take place between Dr Biro and the Claimants' expert instructed pursuant to paragraph 3 above on or before 27 January 2005 to consider what can be agreed between them, what is not agreed and to the extent there is no agreement, the reasons for disagreement.
10. A meeting of all experts take place on or before 28 January 2005, and subsequent to the meeting to be held pursuant to paragraph 9 above, to consider principally with regard to the calculation of damages, what can be agreed between them, what is not agreed and to the extent there is no agreement, the reasons for disagreement.
11. The Claimants prepare and serve bundles for trial on the other parties (but not the Tribunal) by 5pm on 31 January 2005.
12. A statement of the issues agreed and not agreed between the experts and in so far as not agreed, the reasons for disagreement be prepared and filed with the Tribunal by 5pm on 2 February 2005.
13. The parties lodge the following with the Tribunal by 4pm on 11 February 2005:

- a) opening written submissions, to include submissions on the law
  - b) an agreed chronology relevant to the issues to be decided;
  - c) the trial bundles; and
  - d) a final fully completed version of the cross-examination schedule in the form provided to the parties by the Tribunal.
14. A pre-hearing review is fixed for 10.30am on 14 February 2005.
15. The main hearing commence on 21 February 2005. The time estimate for the hearing is a maximum of 7 days for factual and expert witnesses and 1 day for oral closing submissions. The parties to produce written closing submissions by 7 March 2005; oral closing submissions to be heard on 10 March 2005.
16. Costs of the case management conference be reserved.
17. There be permission to apply.

**Marion Simmons QC**  
Chairman of the Competition Appeal Tribunal

Made: 17 December 2004  
Drawn: 20 December 2004