

THURSDAY 26TH JULY 2007

IN THE COURT OF APPEAL

2727

ON APPEAL FROM THE THE COMPETITION APPEALS TRIBUNAL

10462404



Her Majesty's
Court of Appeal
-2 AUG 2007

BEFORE LORD JUSTICE RIX
And LORD JUSTICE THOMAS

BETWEEN

BETWEEN

DŴR CYMRU CYFYNGEDIG

APPELLANT/
INTERVENER

COURT 63
Application Nos.

C1/2007/0373
C1/2007/0374

- and -

ALBION WATER LIMITED

RESPONDENT/
APPELLANT

ON READING the Appellant's Notices sealed on 12th March 2007 filed on behalf of Dŵr Cymru Cyfyngedig applying for permission to appeal and an extension of time from the judgments of the Competition Appeal Tribunal dated 6th October 2006 and 18th December 2006 and the skeleton argument and statement pursuant to paragraph 4.14A(2) of the practice direction supplementing CPR Part 52 dated 19 July 2007

AND ON HEARING Mr Christopher Vajda QC of Counsel on behalf of the Appellant and Mr Rhodri Thompson QC and Mr John O'Flaherty of Counsel on behalf of the Respondent and Mr Rupert Anderson QC and Ms Valentina Sloane of Counsel on behalf of the Water Services Regulation Authority (formerly Director General of Water Services)





IT IS ORDERED that

- 1) the applications for permission to appeal and an extension of time be granted on the following two issues:
 - (a) whether the Tribunal applied the wrong legal test for a margin squeeze in its judgments of 6th October 2006 and 18th December 2006;
 - (b) whether the Tribunal erred in law in finding that paragraph 3(2) of Schedule 8 to the Competition Act 1998 conferred jurisdiction on the Tribunal to decide the issue of dominance in its judgment of 18th December 2006;
- 2) the Appellant lodge amended grounds of appeal to reflect the judgment of this Court of 26th July 2007;
- 3) costs of the permission hearing be costs in the appeal.

IT IS DIRECTED that

- 1) the appeal be listed for two days
- 2) the appeal be heard by three judges, one of whom may be a High Court judge, and with one of those judges being a competition law expert if possible
- 3) hearing of the appeal be expedited and if possible be listed for hearing during Michaelmas term 2007

IT IS FURTHER DIRECTED that

- 1) the Appellant provide a core bundle for the appeal, along the lines of the core bundle prepared for the permission hearing on 26th July 2007
- 2) the Appellant provide an introductory note for the benefit of the Court, with a reading list and relevant passages identified and marked up in the core bundle, that note to be agreed with the Respondent if possible
- 3) the Water Services Regulation Authority provide the Office of Fair Trading and regulators with concurrent powers under the Competition Act 1998 with copies of the Appellant's amended grounds of appeal and the judgment of the Court dated 26th July 2007 granting permission to appeal
- 4) written submissions from the Office of Fair Trading or any other regulator be lodged within one month from receipt of the Appellant's amended grounds of appeal and the judgment of the Court

By the Court

[The Court sat from 11.32 to 13.15 and from 14.36 to 15.35]



THURSDAY 26TH JULY 2007
IN THE COURT OF APPEAL
ON APPEAL FROM
THE COMPETITION APPEALS TRIBUNAL

DŴR CYMRU CYFYNGEDIG

And

ALBION WATER LIMITED

ORDER

Copies to:

Asylum & Immigration Tribunal
Field House
15 Breems Buildings
London EC4A 1DZ

Commissioner's Office for Social Security and Child Support
3rd Floor
Procession House
55 Ludgate Hill
London EC4M 7JW

Employment Appeal Tribunal
Audit House
58 Victoria Embankment
London EC4Y 0DS

Employment Tribunal
Clare Sanders, Presidents office
Montague Court
101 London Road
Croydon, Surrey CRO 2RF

Lands Tribunal
Procession House
55 Ludgate Hill
London EC4M 7JW

VAT & Duties Tribunal
45 Bedford Square
London WC1B 3AS

Messrs Wilmer Cutler Pickering Hale And Dorr Llp
Alder Castle
10 Noble Street
London
EC2V 7QJ
Ref: 1231950.00002

Messrs Palmers Sols
Dx 31524
Kingston Upon Thames
Ref: JSP/CC/30623

Maclay Murray & Spens Llp
151 St Vincent Street
Glasgow
G2 5NJ
Ref: MICHEAL DEAN

Pinsent Masons
Dx 703167
Birmingham 12
Ref: 20/21196696.1/JRF/633079.7001

* This order was drawn by Mr A Lee (Court Associate) to whom all enquiries regarding this order should be made. When communicating with the Court please address correspondence to Mr A Lee , Civil Appeals Office, Room E328, Royal Courts of Justice Strand London WC2A 2LL (DX44450 Strand) and quote the Court of Appeal reference number. The Associates telephone number is 0207 073 4828