



IN THE COMPETITION
APPEAL TRIBUNAL

Case No. 1048/1/1/05

B E T W E E N:

DOUBLE QUICK SUPPLYLINE LIMITED

Appellant

-v-

OFFICE OF FAIR TRADING

Respondent

ORDER OF THE TRIBUNAL

UPON the parties having reached agreement as to the disposal of these proceedings

AND UPON reading the Schedule to this order in which the parties have set out an explanation of the circumstances giving rise to such agreement

AND UPON reading the written representations of the parties

BY CONSENT IT IS ORDERED THAT:

1. The Respondent's Decision No CA 98/08/2004 of 8 November 2004 in respect of the infringement of Chapter I of the Competition Act 1998 committed by the Appellant be set aside to the extent set out in the Schedule and the penalty imposed upon the Appellant be varied by the Tribunal and be fixed at £36,210.
2. The Respondent shall pay the Appellant's reasonable costs in respect of preparing written submissions for, and attending the Case Management Conference of 8 March 2005, including the costs of complying with the OFT's disclosure requests of 10/11 February 2005 and 3 March 2005, being the costs incurred in respect of the Appellant's responses to those requests of 24/25 February 2005, 2 and 7 March 2005, together with half

of the Appellant's reasonable costs otherwise incurred in connection with the appeal; all such costs to be summarily assessed pursuant to rule 55(3) of the Tribunal Rules if not agreed.

3. Save as aforesaid, each party shall bear its own costs.
4. Subject to any application pursuant to paragraph 2 above, the appeal shall be dismissed.

Marion Simmons QC
Chairman of the Competition Appeal Tribunal

Made: 19 May 2005
Drawn: 19 May 2005

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SCHEDULE

1. By its decision No. CA98/08/2004 dated 8 November 2004, the OFT imposed a penalty upon the Appellant of £109,000 for its participation in an overall agreement and/or concerted practice designed to fix and/or maintain minimum resale prices for desiccant manufactured by UOP Limited, which infringed the Chapter I prohibition of the Competition Act 1998 (“the infringement”), together with four other undertakings during the period 1 March 2000 to at least 12 March 2003.
2. By its Notice of Appeal dated 7 January 2005, the Appellant challenged both the imposition of the penalty and its quantum.
3. By its Defence dated 22 March 2005 the OFT conceded that the penalty imposed on the Appellant for the infringement should be reduced to £59,140 in view of the fact that it had come to light that the Appellant became responsible for the undertaking involved in the infringement only in June 2001. The reduction in penalty conceded in the Defence reflected a reduction in the period

of the infringement from 1 March 2000 until 12 March 2003, as found in the Decision, to the period 12 June 2001 until 12 March 2003.

4. Having regard to the specific circumstances of this case and in particular the nature of the evidence in this case, the OFT has consented to a reduction of the penalty to be paid by the Appellant in respect of the infringement to £36,210. This figure reflects the OFT's view, which the Appellant does not contest, that the Appellant was involved in the infringement between January 2002 and March 2003, and a reduction in the starting point percentage used to calculate the penalty in the Decision. The amount maintains the increase applied in the Decision to the basic amount of the penalty of 15 per cent. to reflect the aggravating factor of the involvement of senior management of the Appellant in the infringing agreement.