



**IN THE COMPETITION
APPEAL TRIBUNAL**

Case: 1052/6/1/05

BETWEEN:

THE ASSOCIATION OF CONVENIENCE STORES

Applicant

Supported by

FRIENDS OF THE EARTH LTD

Intervener

-v-

OFFICE OF FAIR TRADING

Respondent

ORDER OF THE TRIBUNAL

UPON reading the request for permission to intervene filed on behalf of Friends of the Earth Ltd on 21 October 2005

AND UPON receiving no observations opposing the request

AND UPON considering the Respondent's decision of 3 August 2005 not to make a market investigation reference to the Competition Commission under section 131 of the Enterprise Act 2002 ("the 2002 Act") in respect of competition issues arising in connection with certain features of the market for grocery retailing in the United Kingdom ("the Decision") and the Applicant's Notice of Application dated 3 October 2005

AND UPON considering the correspondence between the parties, in particular the letter from the Respondent to the Applicant's solicitor's dated 27 October 2005 indicating that the Respondent wished to withdraw its decision

AND UPON hearing the parties' legal representatives at a case management conference on 1 November 2005

IT IS ORDERED THAT:

1. Friends of the Earth Ltd be granted permission to intervene in the proceedings.
2. The Respondent's decision of 3 August 2005 be quashed under section 179(5)(a) of the 2002 Act and referred back to the OFT with a direction to reconsider the matter and make a new decision under section 179(5)(b) of the 2002 Act.
3. The Respondent to pay the costs of the Applicant, the parties to reach agreement as to the amount of costs recoverable within 28 days, failing which costs to be assessed pursuant to rule 55(3) of the Tribunal's Rules following an application by either party.
4. There be liberty to apply.

Sir Christopher Bellamy
President of the Competition Appeal Tribunal

Made: 1 November 2005
Drawn: 7 November 2005