



**IN THE COMPETITION
APPEAL TRIBUNAL**

Case No: 1104/6/8/08

BETWEEN:

TESCO PLC

Applicant

-v-

COMPETITION COMMISSION

Respondent

- supported by -

**ASDA STORES LIMITED
MARKS AND SPENCER PLC
WAITROSE LIMITED
THE ASSOCIATION OF CONVENIENCE STORES**

Interveners

ORDER

UPON the Tribunal handing down its judgment in respect of these proceedings on 4 March 2009 ([2009] CAT 6)

AND UPON hearing counsel for the parties at a further hearing on the question of relief on 16 March 2009

AND UPON the Tribunal handing down its judgment on the issues raised at the further hearing on 3 April 2009 ([2009] CAT 9)

AND UPON the Commission undertaking that if the matter in question were to be referred back to the Commission for reconsideration and a new decision under subsection 179(5)(b) of the Enterprise Act 2002 the Commission would so reconsider and reach a new decision within a period of six months from the date of the Order referring the matter back

IT IS ORDERED THAT:

1. the decision of the Commission contained in the report dated 30 April 2008 entitled “The supply of groceries in the UK market investigation” (“the Report”) to recommend the establishment within the planning system of a competition test, as described in, *inter alia*, paragraphs 43, 11.12 to 11.16, and 11.437 to 11.441 thereof, as one of a package of remedies to address the adverse effect on competition and its detrimental effects identified in the Report, is quashed;
2. the matter be referred back to the Commission and the Commission is directed to reconsider and make a new decision in accordance with the Tribunal’s ruling.

The Honourable Mr Justice Barling
President of the Competition Appeal Tribunal

Made: 3 April 2009
Drawn: 3 April 2009