



Neutral citation [2007] CAT 14

IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1072/1/1/06

Victoria House
Bloomsbury Place
London WC1A 2EB

9 March 2007

Before:

Lord Carlile of Berriew QC (Chairman)
Dr Arthur Pryor CB
Adam Scott TD

BETWEEN:

SEPIA LOGISTICS LIMITED
(formerly known as DOUBLE QUICK SUPPLYLINE LIMITED)

and

PRECISION CONCEPTS LIMITED

Appellants

-v-

OFFICE OF FAIR TRADING

Respondent

Mr Matthew Cook (instructed by M&A Solicitors, Cardiff) appeared for the Appellants

Mr Tim Ward (instructed by the Solicitor to the Office of Fair Trading) appeared for the Respondent

Heard at Victoria House on 9 March 2007

RULING ON COSTS

THE CHAIRMAN: I shall now give the Tribunal's ruling on the issue of costs.

1. The appeal was wholly unsuccessful and followed a serious infringement that the appellants did not deny.
2. We are conscious that in *Aberdeen Journals v Director General of Fair Trading* [2002] CAT 21 the Tribunal expressed its concern about the significant resource costs to the public purse of appeals like this. That cost has to be balanced against the public interest in challenging decisions by the Office of Fair Trading about which there may be lack of clarity or uncertainty.
3. In *Argos & Littlewoods v Office of Fair Trading* [2005] CAT 15 the Tribunal reinforced the message that in price fixing cases involving substantial undertakings there might be strong grounds for considering orders in favour of the Office of Fair Trading. In this case the appellants are much smaller than a substantial undertaking like Argos or Littlewoods. We have taken this into account.
4. Unlike in *Apex Asphalt Paving v Office of Fair Trading* [2005] CAT 11 there were no novel points of law in this case. This was a facts based appeal in almost all respects. Nor have there have been any issues upon which the Office of Fair Trading can be criticised seriously.
5. In our view, the Office of Fair Trading were right to maintain the position that – in the light of what they knew of the infringement and of the circumstances of the appellants – the fine was appropriate, proportionate and fair. In maintaining their position the Office of Fair Trading have conducted themselves properly.
6. Our findings against the appellants speak for themselves. The appellants have raised many points – including issues about single economic entity that we

found without merit. In our view, this added significantly to the length and complexity of the case.

7. In the light of what the Tribunal has decided in this appeal and taking account of what we have been told of the circumstances of the group, we judge it appropriate and proportionate to award costs for the Office of Fair Trading. This is clearly a case in which the costs should follow the event. There will therefore be an order for costs to be assessed if not agreed within 90 days.