



COMPETITION APPEAL TRIBUNAL

**NOTICE OF APPEAL UNDER SECTION 46 OF THE COMPETITION ACT 1998
CASE NO 1061/1/1/06**

Pursuant to rule 15 of the Competition Appeal Tribunal Rules 2003 (“the Rules”), the Registrar gives notice of the receipt of an appeal, dated 21 April 2006, under section 46 of the Competition Act 1998 (“the Act”) by Makers UK Limited (“the appellant”) in respect of a decision (CA/98/01/2006) dated 22 February 2006 taken by the Office of Fair Trading (“the OFT”) and notified to the appellant on 23 February 2006 (“the Decision”).

In the Decision the OFT found that a number of contractors, including the appellant, colluded in relation to the making of tender bids for flat roof and car park surfacing contracts using mastic asphalt in breach of section 2 (“the Chapter I prohibition”) of the Act.

The appellant was found to have been party, with Asphaltic Contracts Limited and with Rock Asphalte Limited, to one infringement of the Chapter I prohibition in respect of collusive tendering for a contract in relation to car park works at Elliot House, London.

In respect of the infringement of the Chapter I prohibition the OFT imposed a penalty of £526,500 on the appellant.

In summary the principal grounds of appeal on which the appellant relies are that:

- the OFT erred in fact by finding that the appellant had engaged in collusion contrary to the Chapter I prohibition. The appellant denies committing any infringement as alleged or otherwise and the OFT therefore had no power to impose any penalty under section 36 of the Act.
- Alternatively, the appellant contends that the penalty imposed on it by the OFT is disproportionate, unjust and in breach of the principles of equal treatment and non-discrimination and should be revoked or reduced.

The appellant seeks the following relief from the Tribunal:

- an order to set aside the Decision in part;
- an order to revoke, or alternatively to reduce the amount of the penalty imposed on the appellant;
- such other or further relief as the Tribunal may consider appropriate.

Any person who considers that he has sufficient interest in the outcome of the proceedings may make a request for permission to intervene in the proceedings, in accordance with rule 16 of the Rules.

A request for permission to intervene should be sent to the Registrar, The Competition Appeal Tribunal, Victoria House, Bloomsbury Place, London WC1A 2EB, so that it is received within **three weeks** of the publication of this notice.

Further details concerning the procedures of the Competition Appeal Tribunal can be found on its website at www.catribunal.org.uk. Alternatively, the Tribunal Registry can be contacted by post at the above address or by telephone (020 7979 7979) or fax (020 7979 7978). Please quote the case number mentioned above in all communications.

Charles Dhanowa

Registrar
3 May 2006