



IN THE COMPETITION
APPEAL TRIBUNAL

Case Nos: 1208/1/1/13
1209/1/1/13

B E T W E E N:

(1) SOMERFIELD STORES LIMITED
(2) CO-OPERATIVE GROUP FOOD LIMITED

Appellants

- and -

OFFICE OF FAIR TRADING

Respondent

(1) GALLAHER GROUP LIMITED
(2) GALLAHER LIMITED

Appellants

- and -

OFFICE OF FAIR TRADING

Respondent

ORDER

UPON the Tribunal handing down its Ruling in Case Nos 1197- and 1200/1/1/12 on 27 March 2013 ([2013] CAT 5) (the “Ruling”) by which the Tribunal extended time for the Appellants to bring these appeals pursuant to Rule 8 of the Competition Appeal Tribunal Rules 2003 (S.I. No 1372 of 2003) (the “Tribunal Rules”)

AND UPON the Office of Fair Trading (the “OFT”) applying for permission to appeal the Ruling on 19 April 2013 (the “PtA Application”)

AND UPON the Appellants lodging their Notices of Appeal in Case Nos 1208- and 1209/1/1/13 (together, the “Appeals”) with the Tribunal on 24 April 2013 pursuant to the permission granted in the Ruling

AND UPON the Tribunal serving the Appeals upon the OFT on 25 April 2013

AND UPON the OFT applying on 29 April 2013 pursuant to Rule 19(h) and (i) of the Tribunal Rules for the appeals to be stayed until 14 days after the final determination of the PtA Application, including any renewed application for permission made to the Court of Appeal, and any subsequent appeal in the event that permission is granted (the “Stay Application”)

IT IS ORDERED THAT:

1. The Stay Application be granted.
2. There be liberty to apply.

REASONS:

In the interests of time, I have not, prior to making this Order, sought the observations of the Appellants on the Stay Application. In accordance with Rule 14(1) of the Tribunal Rules, the six-week period for the filing of the OFT’s defence began to run on 25 April 2013 when the Appeals were served on it by the Tribunal. Unless this Order is made promptly, the OFT will need to begin to expend, presumably not insubstantial, time and costs in preparing that defence. In the event that the OFT’s PtA Application is granted and the subsequent appeal allowed, however, the Appeals would fall away and those costs would be wasted.

It therefore seemed to me to be both just and appropriate in the circumstances to grant the Stay Application promptly but to also grant the Appellants liberty to apply should they wish to apply for the stay to be lifted.

The Honourable Mr Justice Barling
President of the Competition Appeal Tribunal

Made: 29 April 2013
Drawn: 29 April 2013