



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1380/1/12/21

BETWEEN:

(1) BGL (HOLDINGS) LIMITED
(2) BGL GROUP LIMITED
(3) BISL LIMITED
(4) COMPARE THE MARKET LIMITED
(together “**BGL**”)

Appellants

- v -

COMPETITION AND MARKETS AUTHORITY

(the “**CMA**”)

Respondent

ORDER

UPON reading the written representations of the parties filed in advance of a Case Management Conference held remotely on 5 March 2021 (“**CMC**”)

AND UPON the Tribunal considering the correspondence from the legal representatives of the parties on this matter

AND UPON hearing counsel for BLG (Daniel Beard, QC and Alison Berridge) and counsel for the CMA (Ben Lask and Michael Armitage)

IT IS ORDERED THAT:

Forum

1. The appeal be treated as proceedings in England and Wales for the purposes of Rule 18 of the Tribunal.

Confidentiality

2. A confidentiality ring be established by separate order in the terms agreed by the parties and the Tribunal.

Future conduct of the appeal

3. The CMA file and serve a list of all the markets that it considers to be potentially relevant to the case by 5pm on Monday 15 March 2021.
4. BGL file and serve its response to the CMA's list of the relevant market(s), articulating the extent to which it disagrees with the CMA's formulation and stating its own position by 5pm on Monday 22 March 2021.
5. The parties seek to reach agreement on and provide to the Tribunal examples of: (i) the wide most favoured nation clause(s) as used in the agreements between BGL and the subscribing insurers; and (ii) the widest permissible (i.e. not within the infringements found by the CMA) narrow most favoured nation clauses by 5pm on Wednesday 31 March 2021.
6. The CMA file and serve an indicative "theory of harm" pleading, setting out (without adducing evidence) the distortion of competition it alleges in relation to each market identified by each party (including indicating where no such distortion is alleged) by 5pm on Friday 16 April 2021. The CMA shall have permission to adjust this pleading if so advised at any time up to the service of its Defence.
7. The CMA file and serve its Defence and any supporting evidence by 5pm on Friday 23 April 2021.
8. BGL file and serve any Reply and any further supporting witness and/or expert evidence by 5pm on Friday 4 June 2021.

9. The experts of both parties shall meet on a without prejudice basis for the purpose of: (i) identifying the issues in relation to data relevant to the market and/or the grounds of appeal in dispute between them; and (ii) where possible, reaching agreement on those issues by 5pm on Monday 14 June 2021.
10. The parties' experts file and serve a joint memorandum detailing: (i) those issues in relation to the data relevant to the market and/or the grounds of appeal on which they agree; and (ii) those issues on which they disagree and a summary of their reasons for disagreeing by 5pm on Monday 5 July 2021.
11. The parties seek to reach agreement and provide written representations to the Tribunal as to whether: (i) any witness evidence at the hearing be given sequentially or on an issue-by-issue basis; and (ii) a neutral "teach-in" would be likely to assist the Tribunal by 5pm on Wednesday 14 July 2021.
12. A further case management conference be listed for two days on 19 and 20 July 2021 (which, if agreed by the parties, may be used for the purposes of delivering a neutral "teach-in" to the Tribunal as mentioned above).
13. BGL and the CMA shall agree the index for the bundle identified in para 16(1) below and file and serve a copy of the index by Friday 1 October 2021, so that the Tribunal may identify such hard copies as it may require of the documents to be lodged pursuant to paragraph 16(1) below.
14. BGL file and serve its skeleton argument by 5pm on Friday 8 October 2021.
15. The CMA file and serve its skeleton argument (to contain cross-references to the hearing bundles) by 5pm on Friday 15 October 2021.
16. BGL lodge by 5pm on Friday 22 October 2021:
 - (1) an agreed electronic bundle for the hearing;
 - (2) an agreed electronic bundle of authorities; and

- (3) such hard copies as are requested by the Tribunal in the format specified by the Tribunal.
17. The parties file and serve an updated version of their skeleton arguments to contain cross-references to the hearing and authorities bundles by 5pm on Wednesday 27 October 2021.
18. The hearing be listed for Monday 1 November 2021 with a time estimate of three weeks.

Costs and other matters

19. Costs be reserved.
20. There be liberty to apply.

The Honourable Mr Justice Marcus Smith
Chairman of the Competition Appeal Tribunal

Made: 15 March 2021
Drawn: 15 March 2021