



Claim No. CL-2013-000197

**IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
KING'S BENCH DIVISION
COMMERCIAL COURT**

CL-2013-000197

**Before: Mr Justice Foxton
Date: 03 October 2022**

BETWEEN

**(1) MARKS AND SPENCER PLC
(2) MARKS AND SPENCER (IRELAND) LIMITED**

Claimants

and

**(1) MASTERCARD INCORPORATED
(2) MASTERCARD INTERNATIONAL INCORPORATED
(3) MASTERCARD EUROPE S.A.
(FORMERLY KNOWN AS MASTERCARD EUROPE SPRL)**

Defendants

ORDER

UPON the Claimants' application for the transfer of the above proceedings (the "**Proceedings**") to the Competition Appeal Tribunal made by way of Application Notice dated 23 September 2022.

AND UPON the Proceedings involving a Claim against the Defendants regarding interchange fees paid by the Claimants, in respect of which the Competition Appeal Tribunal has developed considerable expertise by dealing with a significant number of cases arising from the same or similar facts

AND HAVING REGARD TO section 16 of the Enterprise Act 2002 (as amended) (the "**2002 Act**") and to the Section 16 Enterprise Act 2002 Regulations 2015 (the "**2015 Regulations**")

AND HAVING REGARD TO paragraphs 8.3 – 8.6 and 8.10 – 8.13 of Practice Direction 30, supplementing CPR Part 30 ("**Practice Direction 30**")

AND HAVING REGARD TO the overriding objective in CPR Rule 1.1 and to paragraph B13.6 of the Commercial Court Guide

AND UPON the parties having agreed to this Order in draft form

AND UPON the Court concluding that it is appropriate to make an Order pursuant to section 16(1) of the 2002 Act in conjunction with Regulation 2 of the 2015 Regulations in respect of the Proceedings

AND UPON noting that the Court may give such directions or make such order as it thinks fit to give effect to the determination of any issue by the Competition Appeal Tribunal pursuant to Regulation 2(b) of the 2015 Regulations

AND UPON the Court considering that it is appropriate to make this Order on the papers and without a hearing

IT IS ORDERED THAT:-

1. The Proceedings are hereby transferred to the Competition Appeal Tribunal pursuant to section 16(1) of the 2002 Act and Regulation 2 of the 2015 Regulations.
2. Pursuant to paragraph 3 of Practice Direction 30, this Order shall take effect forthwith.
3. This Order is not intended to alter, limit or exclude any element of the Claimants' Claim as constituted in this Court prior to the transfer taking effect. If and to the extent that any element of the Claimants' Claim as constituted in this Court prior to the transfer taking effect is not capable of falling within the jurisdiction of the Competition Appeal Tribunal on a transfer, or would be altered, limited or excluded by this Order or the transfer, it is not subject to this Order and remains within the jurisdiction of this Court. This Court may give such further directions or make such further order as it thinks fit in connection with the transfer and/or with any element as referred to above.
4. All matters arising out of paragraph 3 of this Order are reserved to Marcus Smith J.
5. The terms of this Order shall be notified to the parties by publication on the website of the Competition Appeal Tribunal and this shall constitute notice to the parties for the purposes of paragraphs 8.5 and 8.12 of Practice Direction 30 and CPR Rule 30.4(1).
6. Any appeal against the determination by the Competition Appeal Tribunal of the issues transferred or any order giving effect to that determination in these Proceedings shall be governed by the rules in CPR Part 52.
7. Costs in the case.
8. A sealed copy of this Order shall be served by the Claimants on the Defendants.