



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1533/5/7/22

BETWEEN:

COMMERCIAL BUYERS GROUP LIMITED

Claimant

- v -

(1) ASSOCIATED LEAD MILLS LIMITED
(2) ROYSTON SHEET LEAD LIMITED
(3) INTERNATIONAL INDUSTRIAL METALS LIMITED
(4) H.J. ENTHOVEN LIMITED
(5) ECO-BAT TECHNOLOGIES LIMITED

Defendants

REASONED ORDER

UPON the Claimant filing its Claim Form and supporting annexes (Case No. 1533/5/7/22) at the Tribunal on 30 September 2022 (the “Claim”)

AND UPON the Tribunal’s letter dated 6 October 2022 acknowledging receipt of the Claim and providing directions for service

AND UPON the Claimant serving its Claim on the First, Second, Fourth and Fifth Defendants by email to their respective solicitors on 16 December 2022

AND UPON the Claimant filing an application on 10 January 2023 for the Claim to be designated to the fast-track procedure pursuant to Rule 58 of the Competition Appeal Tribunal Rules 2015 (the “Tribunal Rules”) (the “FTP Application”)

AND UPON the First and Second Defendants making an application to the Tribunal on 13 January 2023 for an extension of time of 28 days to file their Defences

AND UPON the Fourth and Fifth Defendants making an application to the Tribunal on 13 January 2023 for an extension of time of 28 days to file their Defences

AND UPON the Claimant opposing an extension of time for the respective Defendants' Defences beyond 14 days

AND UPON the parties providing the Tribunal on 17 January 2023 their respective explanations of the pre-issuing discussions that took place

AND HAVING REGARD TO the Tribunal's powers under Rule 53(2)(i) and (j) of the Tribunal Rules

IT IS ORDERED THAT:

1. The time for the First, Second, Fourth and Fifth Defendants to file and serve their respective Defences shall be extended to 5pm on 7 February 2023.
2. The First, Second, Fourth and Fifth Defendant shall file and serve their respective responses to the FTP Application by 5pm on 7 February 2023.
3. There shall be no order as to costs of the applications for an extension of time.
4. There shall be liberty to apply.

REASONS

1. The Defendants rely on a number of reasons for requiring more time to prepare their respective Defences. These reasons include: (i) the Claim was served on the Defendants a week before the Christmas and New Year period when client and solicitor availability were limited; (ii) an extensive fact-gathering exercise is needed in order to respond to the Claim, which raises issues of fact that date back over seven years; (iii) the Defendants' Counsel who are principally responsible for drafting the Defence were not, unlike the Defendants' solicitors, involved in the CMA investigation and resulting decision on which the Claim relies; (iv) the Defendants need to consider and respond to the FTP Application in parallel with preparing their Defences; and (v) the Claimant will not suffer prejudice if a 28-day extension is granted.

2. There has been a considerable amount of pre-action correspondence between the Claimants and the Defendants and the Claim, although served a period of time after being filed, did not come to the Defendants 'out of the blue'.
3. The Claimant has explained to the Tribunal why it did not serve the Claim on the Defendants immediately after it received the Tribunal's directions for service, which I accept.
4. It is not unusual for Counsel to become involved after proceedings have commenced.
5. In light of the intervening Christmas and New Year period, I consider that a limited extension is appropriate and, as the Claimant has agreed to an extension of 14 days, I would be content to grant that and no more. However, solely for the purpose of harmonising the deadline for the Defendants' respective Defences with their responses to the FTP Application, I shall extend the time for the Defendants to file and serve their respective Defences to coincide with their responses to the FTP Application.

Sir Marcus Smith
President of the Competition Appeal Tribunal

Made: 23 January 2023
Drawn: 23 January 2023