

**IN THE COMPETITION
APPEAL TRIBUNAL**

Case No: 1574/10/12/22

AND

**IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT**

Claim No: CO/2721/2022

BETWEEN:

BAYERISCHE MOTOREN WERKE AG

Appellant

- and -

THE KING

on the application of

VOLKSWAGEN AKTIENGESELLSCHAFT

Claimant

- v -

COMPETITION AND MARKETS AUTHORITY

Respondent / Defendant

ORDER

UPON the Respondent having imposed on the Appellant (“**BMW AG**”) a penalty under section 40A of the Competition Act 1998 by notice dated 6 December 2022 (“**the Penalty Notice**”) comprising a fixed sum of £30,000 plus a continuing daily fine of £15,000

AND UPON BMW AG having requested confidential treatment of the European Commission Request for Information to BMW AG (“**the EC RFI**”), which is located at Tab 4, pages 104-112 of the confidential hearing bundle

AND UPON the Tribunal having written to the parties on 24 January 2023, confirming that it was not formally ruling on the confidentiality status of the EC RFI but that it was prepared to consider making an order obliging any third party wishing to see EC RFI to make an application on notice to BMW AG

AND UPON the parties having agreed to the Tribunal making an order in the terms set out below

IT IS ORDERED BY CONSENT THAT:

1. The continuing daily fine of £15,000 imposed by the Penalty Notice shall not continue to accrue in the period from 26 January 2023 to the date of the Tribunal's judgment in these proceedings (inclusive of both dates).
2. Pursuant to Rule 102(5) of the Tribunal's Rules, any person who wishes to see the EC RFI referred to at the hearing on 26 and 27 January 2023 shall request such access by an application to the Tribunal, upon notice to BMW AG.
3. Costs in the case.

Sir Marcus Smith

President of the Competition Appeal Tribunal
Judge of the High Court of England and Wales

Made: 31 January 2023
Drawn: 31 January 2023