



## COMPETITION APPEAL TRIBUNAL

### NOTICE OF AN APPEAL UNDER SECTION 46 OF THE COMPETITION ACT 1998

Case No: 1587/1/12/23

Pursuant to rule 14 of the Competition Appeal Tribunal Rules 2015 (S.I. No. 1648 of 2015) (the “Rules”) the Registrar gives notice of the receipt of an appeal on 22 May 2023 under s. 46 of the Competition Act 1998 (the “1998 Act”), by Squibb Group Limited (“Squibb”) against a decision of the Competition and Markets Authority (“CMA”) dated 23 March 2023 entitled *Supply of demolition and related services* (the “Decision”). Squibb is represented by TupperS Law Limited of 22 Disraeli Road, London W5 5HP (reference: Lee Chisman-Russell).

According to the Notice of Application (“NoA”), on 11 February 2022, the CMA issued a draft Statement of Objections (the “Draft SO”). Squibb, and another group, chose to challenge aspects of the draft SO and consequently chose not to admit their involvement and liability for the alleged infringements. Squibb was initially accused of three infringements – two in relation to cover bidding and one in relation to a compensation payment agreement. The CMA sought to impose a fine of £3 million in relation to those alleged infringements. Following written and oral submissions, the CMA dropped its case on the alleged compensation payment arrangement.

By its Decision, the CMA imposed a fine of £2 million on Squibb. According to the NoA, the CMA recognised that Squibb was involved in a small number of infringements when compared to the other addressees of the Decision, both of which were short in duration and in relation to a single contract, and that Squibb was neither a leader nor an instigator of the conduct in question in either infringement.

In summary, Squibb advances the following grounds of appeal:

1. The CMA did not define the relevant market for the purpose of determining the existence of the alleged infringement. It only formed a view of the relevant market to calculate relevant turnover in the market affected by the alleged infringements for the purpose of establishing the level of financial penalties. Accordingly, the CMA was wrong in law to find that no relevant market definition for the purpose of establishing the alleged infringements was required. Squibb contends that even if the alleged infringements comprised object restrictions, which is denied, the CMA was still obliged to conduct some form of context analysis for the purposes of determining the existence and status of those alleged infringements. It failed to do so and as such committed an error of law (**Ground 1**).
2. The CMA included certain services necessary to support demolition work in its relevant product market definition. Those services included basement works and remediation works. Squibb was never involved in below-the ground services including basement works and only became involved in remediation work in 2021. By its relevant product market definition, the CMA committed: (a) an error of fact by finding that Squibb provides “all demolition services” including “services necessary to support demolition work”, with basement works and remediation coming within those later services category; and (b) an error of law by going for the widest definition, instead of narrowest focal group of services, and excluding any reference to the supply side, a key criterion in market definition (**Ground 2**).
3. The CMA concluded that the relevant markets were the supply of demolition services in the UK and the supply of asbestos removal services in the UK. Squibb was not involved in the latter separate market. Squibb contends that the geographic market correctly defined could be sub-national and that there were a number of regional markets in contention (**Ground 3**).

4. By finding that the infringements with which Squibb was associated constituted by object infringements, the CMA has acted without legal authority and committed an error of law. The CMA committed a further error of law by failing to take into account the subjective intentions of the parties as to the two infringements in question (**Ground 4**).
5. The manner in which the CMA exercised its discretion to impose a penalty in the present case was seriously irregular and the penalty calculation of £2 million contains errors of law.

Squibb seeks the following relief:

- (a) the annulment of the Decision; alternatively
- (b) the partial annulment of the Decision with a reduction in the penalty imposed; and
- (c) costs.

Any person who considers that they have sufficient interest in the outcome of the proceedings may make a request for permission to intervene in the proceedings, in accordance with rule 16 of the Rules.

Please also note that a direction of the President is currently in place as to the electronic filing of documents: see paragraph 2 of the [Practice Direction](#) relating to Covid-19 published on 20 March 2020. Therefore, a request for permission to intervene should be sent to the Registrar electronically, by email to [registry@catribunal.org.uk](mailto:registry@catribunal.org.uk), so that it is received within **three weeks** of the publication of this notice.

Further details concerning the procedures of the Competition Appeal Tribunal can be found on its website at [www.catribunal.org.uk](http://www.catribunal.org.uk). Alternatively, the Tribunal Registry can be contacted by telephone (020 7979 7979) or email ([registry@catribunal.org.uk](mailto:registry@catribunal.org.uk)). Please quote the case number mentioned above in all communications.

*Charles Dhanowa OBE, KC (Hon)*  
Registrar

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