



Case No: 1579/4/12/23

**IN THE COMPETITION APPEAL TRIBUNAL**

BETWEEN:

- (1) CÉRÉLIA GROUP HOLDING SAS  
(2) CÉRÉLIA UK LIMITED

Applicants

- v -

**COMPETITION AND MARKETS AUTHORITY**

Respondent

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**REASONED ORDER**

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**UPON** the Tribunal’s judgment issued on 1 September 2023 ([2023] CAT 54) (the “Judgment”) dismissing in its entirety the Applicants’ application pursuant to s.120 of the Enterprise Act 2002 to review the Respondent’s Decision dated 20 January 2023 (the “Proceedings”)

**AND UPON** the Tribunal having received the Respondent’s application for its costs dated 22 September 2023 in respect of the Proceedings (“Application”), the Applicants’ response dated 6 October 2023 (“Response”), and the Respondent’s reply dated 13 October 2023 (the “Reply”)

**AND UPON** the parties not reaching an agreement on the level of the Respondent’s claimed costs and the Applicants agreeing to pay £225,000 to the Respondent pending a detailed assessment of the Respondent’s costs incurred in the Proceedings

**AND HAVING REGARD TO** the Tribunal’s powers pursuant to Rule 104 of the Competition Appeal Tribunal Rules 2015

## **IT IS ORDERED THAT:**

1. The Applicants shall pay the Respondent's reasonable costs incurred in the Proceedings, to be the subject of detailed assessment by a costs officer of the Senior Courts of England and Wales, if not agreed.
2. Within 14 days of the made date of this Order, the Applicants shall pay £225,000 to the Respondent on account of its costs in the Proceedings.

## **REASONS**

1. The Respondent ("CMA") submits that it is entitled to its fees and disbursements in full, which amount to £426,938.02. The CMA has provided the Tribunal with a Summary Costs Schedule and submits that the costs it incurred were entirely reasonable, proportionate and necessary. The costs incurred by the CMA include the costs of responding to Cérélia's disclosure requests (one of which was the subject of a Ruling issued by the Tribunal on 13 April 2023 ([2023] CAT 28), and of seeking and considering representations on confidentiality in relation to information gathered from third parties during the Merger inquiry. The CMA says that it applied a conservative approach in arriving at the Summary Costs Schedule with a view to reaching a reasonable and pragmatic proposal capable of agreement and seeks that its costs be assessed by the Tribunal on a summary basis. The CMA reserves the right to seek payment of a higher figure in the event of a detailed assessment.
2. I have a broad discretion as to whether I assess costs summarily or direct that they be dealt with by way of a detailed assessment. I accept that in the past the Tribunal has assessed costs summarily even where costs are substantial or relate to hearings lasting over one day. A practical approach is required.
3. I note that the Applicants ("Cérélia") accept that they should pay the CMA's reasonable and proportionate costs, and I agree with Cérélia that, in light of the difficulty in assessing the costs of disclosure which forms not an insignificant proportion of the costs claimed, coupled with the size of the CMA's costs and the length of the hearing, which took place over three days and involved a root and

branch attack on significant aspects of the CMA's Decision, a detailed assessment of the CMA's costs is more appropriate than a summary assessment.

4. As this is a matter going for a detailed assessment it may be appropriate to provide my views on the costs claimed. Having considered the costs submissions of the parties I consider that the amount claimed overall does not appear to be an unreasonable figure given the issues involved and the detailed work put into the case by the CMA's legal team. The amounts claimed for counsel are reasonable in amount and are not excessive. The position in relation to the costs of disclosure requires more detailed consideration which is best undertaken in the context of a detailed assessment. It is primarily this factor which has persuaded me to send the assessment of costs to a detailed assessment. I do not consider the length of the hearing or the size of the costs alone would have precluded me from dealing with costs on a summary basis.
5. Since Cérélia are prepared to make an interim payment on account of the CMA's incurred costs in the sum of £225,000, I am satisfied that the CMA will not be prejudiced significantly by the delay flowing from a detailed costs assessment. I appreciate that a detailed assessment may entail additional costs for the parties and no doubt they will take that into consideration in seeing whether or not the costs figure can be agreed.
6. Accordingly, I direct that the CMA's costs in the Proceedings be dealt with by the detailed assessment of a costs officer of the Senior Courts of England and Wales, as provided for in Tribunal Rule 104(5)(b).