



Neutral citation [2025] CAT 63

Case No: 1735/13/12/25 (W)

IN THE COMPETITION
APPEAL TRIBUNAL

Salisbury Square House
8 Salisbury Square
London EC4Y 8AP

17 October 2025

BETWEEN:

THE COMPETITION AND MARKETS AUTHORITY

Applicant/Respondent

- v -

GASKELLS (NORTH WEST) LIMITED

Defendant/Applicant

REASONED ORDER (COSTS)

UPON the application of the Competition and Markets Authority (“CMA”) for a warrant in respect of Gaskells (North West) Limited (“Gaskells”) being granted by the Tribunal on 13 June 2025 (the “Warrant Application”)

AND UPON the application of Gaskells for further information by way of removal of redactions, in relation to a warrant granted by the Tribunal on 13 June 2025 (the “Information Application”)

AND UPON the Tribunal’s judgment dated 8 September 2025 with neutral citation [2025] CAT 50 (the “Judgment”)

AND UPON reading the submissions and schedule of costs of the CMA filed on 12 September 2025 arising from the Information Application

AND UPON reading the letters from JMW Solicitors LLP dated 12 and 19 September 2025 setting out the submissions of Gaskells concerning costs of the Information Application

IT IS ORDERED THAT:

1. Gaskells pay the CMA's costs of the Information Application, summarily assessed as £42,089.60, within seven days of the date of this Order.

REASONS

1. This application for costs by the CMA follows from the Judgment, in which I refused the Information Application. The CMA now applies for its costs of the Information Application.
2. The CMA has limited its claim to costs to those incurred after the date on which, pursuant to a direction from the Tribunal, it disclosed a significant volume of partially redacted material the subject of the Information Application to Gaskells. From that date, Gaskells had in its possession all material the subject of the Information Application, except information in respect of which the CMA claimed public interest immunity.
3. Consistent with its stated position at that time, the CMA submits that Gaskells elected to continue with its application after that date, without (the CMA says) and meaningful or timely discrimination as to scope. As the Information Application was refused in its entirety, the CMA submits that costs should follow the event in the ordinary way.
4. The CMA has submitted a schedule of costs which amount to £45,289.60 and it seeks summary assessment of those costs under the broad powers as to costs conferred on the Tribunal by Rules 104 (2), (4) and (5) of the Competition Appeal Tribunal Rules 2015.

5. Gaskells makes a number of points about the CMA's application for its costs. It submits that:
- (a) There is no general rule that an unsuccessful party should pay the successful party's costs, citing *Merricks v Mastercard (Costs)* [2024] CAT 57. The Tribunal instead has a wide discretion as to the outcome.
 - (b) The CMA has not complied with the requirements of the Civil Procedure Rules ("CPR") Practice Direction 44, which requires a costs schedule to be prepared in a particular form and served at a particular time. The CPR is said to have relevance because the CPR Practice Direction – Application for a Warrant under the Competition Act 1998 was adopted by the Tribunal as the procedure for the Warrant Application.
 - (c) It is well-recognised that the subject of an intrusive warrant is entitled to apply to see the material underlying the grant of the warrant. This is a fundamental check on the CMA's powers and requires the CMA to justify its position in circumstances where the subject of the warrant (here, Gaskells) has insufficient visibility and knowledge of the basis for any redactions in order to be able to assess them accurately. The challenge in the Information Application was therefore a necessary and justifiable one and is not something which the Tribunal should dissuade by making large adverse costs orders.
 - (d) There is insufficient detail in the CMA's costs schedule and the figure is excessive for what was effectively seven days' work. The attendance at the hearing of the Information Application was excessive, especially by comparison with Gaskells' own representation. Counsel's brief fee of £10,690 appears excessive.
 - (e) It would be premature to award costs when the question of whether the warrant was valid remains in issue.
6. It is in my view clearly right that Gaskells should pay the CMA's costs of the failed Information Application. Contrary to the submission of Gaskells, the

usual starting point is that where a party has been wholly successful, it should generally be awarded its costs. That is plain from the full text of [18] in *Merricks v Mastercard (Costs)* [2024] CAT 57:

“First, although there is no prescribed ‘general rule’ in the CAT Rules that the unsuccessful party should pay the costs of the successful party, corresponding to CPR 44.2(2)(a), where a party has been wholly successful it should generally be awarded its costs. That is also the approach to the award of expenses in the Court of Session, and the Tribunal is of course a UK tribunal. The question of who has been the successful party should be approached as a matter of common sense, in a practical and commercially realistic way.”

7. In this case, Gaskells has pursued a broad application in the face of clear indications that the CMA had carefully reviewed the claims to public interest immunity on which the redactions were based. As noted at [40]-[42] of the Judgment, this included a failure by Gaskells to identify a more targeted subset of information over which it would maintain the Information Application following the disclosure by the CMA described at [2] above. Gaskells’ broad request for the disclosure of all material underlying the Warrant Application was maintained until Gaskells served its skeleton argument two days before the hearing of the Information Application. This conduct no doubt increased the CMA’s costs of defending the Information Application.
8. The fact that Gaskells was unable to take into account the actual detail of the redactions does not in my view entitle it to proceed with an application against a public authority without risk of an adverse costs award. I see no reason why the usual rule should be displaced, either by reference to the broader points of principle that Gaskells advances or by reference to the facts of this matter.
9. Nor should any ongoing challenge to the grant of the warrant affect the outcome of the CMA’s costs application. The regime for the summary assessment of costs is designed to deal with success and failure at interlocutory stages, rather than by reference to any final outcome. That serves to regulate the behaviour of the parties during the course of proceedings.
10. The reliance by Gaskells on the provisions of the CPR is also misplaced. The relevant rules are those of the Tribunal, not the CPR. It is undoubtedly the case that claims for costs should be properly particularised, but what is appropriate

depends on the circumstances. In respect of a hearing which lasted less than a day and for preparation that occupied about a week's work, the CMA's schedule of costs is adequate and has been provided in good time to allow Gaskells to comment on it.

11. As far as the quantum of the claim for costs is concerned, the rates and the work done seem broadly reasonable. There is a degree of duplication for some categories of work, with a Senior Litigation Director, Assistant Legal Directors and Legal Advisers all recording material time for some activities. While this is no doubt justified to some extent as efficient delegation, I will reduce the amount claimed by £3,200 (which is approximately 10% of the legal fees claimed) to reflect the possible duplication. The brief fee of Mr Sebastian seems reasonable, given his experience and the likely preparation work required to address the broad scope of the application.
12. Gaskells is therefore ordered to pay the costs of the CMA in the sum of £42,089.60, to be paid within seven days of the date of this order.

Ben Tidswell
Chair

Made: 17 October 2025
Drawn: 17 October 2025