



Case No: 1298/5/7/18

IN THE COMPETITION
APPEAL TRIBUNAL

B E T W E E N:

ACHILLES INFORMATION LIMITED

Claimant

- v -

NETWORK RAIL INFRASTRUCTURE LIMITED

Defendant

ORDER

UPON reading the claim form, which included an application for expedition

AND UPON reading the supporting witness evidence filed with the claim form

AND UPON reading written submissions by the Claimant and the Defendant ahead of a case management conference (“CMC”) on 19 October 2018

AND UPON hearing Mr Kuppen for the Claimant and Mr Flynn QC and Mr Went for the Defendant at the CMC

IT IS ORDERED THAT:

Forum

1. Pursuant to Rule 52 and Rule 18 of the Tribunal Rules, the proceedings be treated as proceedings in England and Wales.

Expedition

2. These proceedings are appropriate for expedition.
3. There be a trial as preliminary issue of whether the requirement that suppliers and persons seeking access to Network Rail’s infrastructure obtain supplier assurance only

through RISQS constitutes (i) a breach of Chapter I Competition Act 1998 and/or (ii) a breach of Chapter II Competition Act 1998, to be heard on the assumption that Network Rail holds a dominant position as alleged. (Any dispute as to the issue of dominance, loss and damage and/or quantum may be the subject of a separate trial in due course.)

Pleadings

4. The Defendant serve its defence on the issues covered by the preliminary issue trial by no later than 4 pm on Monday 5 November 2018.

Disclosure and inspection of documents

5. Standard disclosure be dispensed with. Disclosure to be dealt with through requests for specific disclosure as set out below.
6. Each party shall set out requests for specific disclosure from the other party by no later than 4 pm on Friday 16 November. Each party to respond to the other party's request by no later than 4 pm on Friday 30 November indicating whether it will provide the documents sought.
7. By no later than 4 pm on Friday 14 December 2018, each party shall (i) disclose by list and provide copies of documents on which they seek to rely; and (ii) disclose by list and provide copies of those documents requested by the other party which it is agreed should be provided.

Second CMC

8. Parties to seek to agree scope of expert evidence (if any) by no later than 4pm on Wednesday 5 December 2018.
9. There be a further CMC (if so advised) in the week commencing 10 December to consider disputed requests for disclosure (if any) and/or any disputed requests for permission to rely on expert evidence.

Witness statements and expert evidence

10. Witness statements and expert reports (if any) be served by no later than 4 pm on Friday 25 January 2019. Any reply witness statements to be served by no later than 4 pm on Friday 1 February 2019.

11. Experts meeting (if any) during week commencing 4 February 2019. Statement of points agreed and not agreed (and concise reasons for any disagreement) to be prepared by no later than 4 pm on Monday 11 February 2019.

Trial

12. Skeleton arguments be exchanged simultaneously by 4 pm on Friday 15 February 2019.
13. Trial commence on Wednesday 20 February 2019 with a time estimate of 8 days. The parties to inform the Tribunal as soon as possible if it becomes apparent that the full 8 day window will not be required.

Miscellaneous

14. Costs in the case.
15. There be liberty to apply.

Andrew Lenon Q.C.
Chairman of the Competition Appeal Tribunal

Made: 22 October 2018
Drawn: 22 October 2018