



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1337/1/12/19

BETWEEN:

FP McCANN LIMITED

Appellant

- v -

COMPETITION AND MARKETS AUTHORITY

Respondent

- and -

(1) EOIN McCANN
(2) FRANCIS McCANN

Interveners

ORDER

UPON the appeal (“the Appeal”) by FP McCann Limited (“FPM”) against the decision of the Competition and Markets Authority (“CMA”) dated 23 October 2019 in Case 50299: Supply of Products to the Construction Industry (Pre-Cast Concrete Drainage Products) (“the Decision”)

AND UPON the application of the CMA to the High Court of Northern Ireland issued by summons on 15 January 2020 for an order against Eoin McCann and Francis McCann under article 13A of the Company Directors Disqualification (Northern Ireland) Order 2002 (“the 2002 Order”) (“the CDDO Application”)

AND UPON the Order of the High Court of Northern Ireland of 29 January 2020 pursuant to section 16 of the Enterprise Act 2002 and the Section 16 Enterprise Act Regulations 2015 (“the Transfer Regulations”) having transferred to the Competition Appeal Tribunal (“the Tribunal”) the determination, in the CDDO Application, of whether the first condition in article 13A of the 2002 Order is satisfied (namely, whether FPM (being a company of which Eoin McCann and Francis McCann were and are directors) committed a breach of competition law as defined in article 13A(4) of the 2002 Order) (“the First Condition”)

AND UPON the CMA’s position in the CDDO Application being (as stated in the first affidavit of Jessica Radke dated 19 December 2019) that the First Condition is satisfied, for the reasons set out in the Decision

AND UPON Eoin McCann and Francis McCann confirming and agreeing that, in relation to the Tribunal’s determination of whether the First Condition is satisfied (“the Transferred Proceeding”), they will not raise any issue in relation to the Decision which is not already the subject of the Appeal, and will adopt the evidence and submissions of FPM

AND UPON the parties to the Appeal and the CDDO Application agreeing and confirming that, for the purposes of and to the extent of the determination of the Transferred Proceeding, it would be just and convenient for the parties to the CDDO Application to be bound by any decision of the Tribunal, or any decision on appeal from the Tribunal that is relevant to the determination of the Transferred Proceeding, and that, for that sole purpose, it is appropriate that Eoin McCann and Francis McCann have permission to intervene in the Appeal

IT IS ORDERED THAT:

1. The Transferred Proceeding shall proceed in this Tribunal under the same case number as the Appeal and shall be case managed with the Appeal.
2. Eoin McCann and Francis McCann shall have permission to intervene in the Appeal under Rule 16 of the Competition Appeal Tribunal Rules 2015 for the sole purpose of ensuring that the parties to the CDDO Application are bound by any decision of the Tribunal in the Appeal (and any decision on appeal from the Tribunal in the Appeal that is relevant to the determination of the Transferred Proceeding).
3. Eoin McCann and Francis McCann need not file a Statement of Intervention or take any other step in proceedings on the Appeal.
4. Subject to any further order of the Tribunal:
 - (a) the Tribunal shall (in the first instance) determine the Appeal only;
 - (b) the determination of the Transferred Proceeding shall be stayed pending the final determination of the Appeal and (if applicable) any further appeal against the Judgment of the Tribunal that is relevant to the determination of the Transferred Proceeding, having regard to the grounds of any such appeal; and

- (c) The Transferred Proceeding shall be determined following and in accordance with the Judgment on the Appeal (including any relevant further appeal referred to in sub-paragraph (b) above).

The Hon Mr Justice Morgan
Chairman of the Competition Appeal Tribunal

Made: 15 June 2020
Drawn: 15 June 2020